



# General Assembly

Distr.: General  
21 April 2017

Original: English

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## United Nations Commission on International Trade Law

Fiftieth session

Vienna, 3-21 July 2017

### 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 United Nations Commission on International Trade Law 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.<sup>1</sup> 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.<sup>2</sup>
3. This report, prepared in response to resolution 34/142 and in accordance with UNCITRAL's mandate,<sup>3</sup> provides information on the activities of other international organizations active in the field of international trade law in which the UNCITRAL secretariat has participated. Most of such 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) and conferences. The purpose of that participation has been to ensure coordination of the related activities of the different organizations, share information and expertise and avoid duplication of work and the resultant work products.
4. The Commission may wish to note the increasing involvement of the Secretariat in initiatives of other organizations. This is a recurrent pattern in recent years, consistent with the increase in the Secretariat's technical assistance activities,<sup>4</sup> and is expected to continue and even increase in the future.

## II. Coordination activities

### 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)*

5. The Secretariat attended the Unidroit Governing Council and the Conference on "The United Nations Conventions on Contracts for the International Sales of Goods CISG and Unidroit Principles of International Commercial Contracts: Contrast and Convergence", which was held as part of the Governing Council (Rome, 18-20 May 2016).
6. The Secretariat participated in the First Session of the Committee of Governmental Experts on the Mining, Agriculture and Construction Equipment Protocol of the Cape Town Convention on International Interests in Mobile Equipment (Rome, 20-24 March 2017).

#### *Hague Conference on Private International Law (HcCH)*

7. The Secretariat participated in the following activities of the HcCH:
  - (a) The HcCH Special Commission on the Judgments Project for purposes of coordinating the work being done by UNCITRAL on recognition and enforcement of insolvency-related judgments, which draws on work being done by the HcCH, in

<sup>1</sup> *Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 17 (A/36/17)*, paras. 93-101.

<sup>2</sup> *Ibid.*, para. 100.

<sup>3</sup> See General Assembly resolution 2205 (XXI), sect. II, para. 8.

<sup>4</sup> See [A/CN.9/905](#).

order to ensure consistency between the two instruments (The Hague, the Netherlands, 6-9 June 2016 and 20-24 February 2017);

(b) A conference organized by the HccH and the University of Lucerne at which the relevance of The Hague principles on choice of law in international commercial contracts was discussed (Lucerne, Switzerland, 8-9 September 2016); and

(c) The Council on General Affairs and Policy (The Hague, the Netherlands, 14-16 March 2017).

*Joint activities with Unidroit and HccH*

8. At its fiftieth session, the Commission will hear a report on the Secretariat's cooperation in the area of international commercial contract law (with a focus on sales) with the secretariats of the HccH and Unidroit (see also [A/CN.9/892](#) and [A/CN.9/875](#)).

## **B. Other organizations**

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

### **1. General**

10. In the context of a potential collaboration with the UNALEX project, which is sponsored by the European Commission, the Secretariat participated in a round table (Zagreb, 29 September 2016) and a conference (Genoa, Italy, 24 February 2017) organized by that project. At both events, the collection and sharing of uniform case law were discussed, among other topics. The UNALEX project is quite similar in nature and structure to CLOUT. Although it emphasizes collecting and sharing decisions on private international and civil procedural law, mainly from European jurisdictions, the project also includes in its database several cases on the United Nations Convention on Contracts for the International Sale of Goods (CISG, 1980) as a result of an informal collaboration with CLOUT.

11. The Secretariat continued its involvement in the Inter-Agency Cluster on Trade and Productive Capacity and took part (remote participation) in the annual meeting of the Cluster (17 October 2016) at which follow-up actions in relation to the establishment of a Global Multi Donor Trust Fund on Trade and Productive Capacity were further discussed (see also [A/CN.9/875](#), para. 11).

12. The Secretariat attended meetings at the World Bank and International Law Institute and, as in the previous years, participated in the annual meeting of the United States State Department Advisory Committee on Private International Law (Washington, D.C., 14-17 November 2016).

13. The Secretariat participated in the 2016 United Nations Forum on Business and Human Rights hosted by the Office of the High Commissioner for Human Rights (OHCHR), at which it presented on UNCITRAL experience in public procurement (Geneva, Switzerland, 16 November 2016).

14. The Secretariat continued to be involved in the Global Forum on Law, Justice and Development (GFLJD), a permanent global forum, established at the initiative of the World Bank that aims to exchange and disseminate innovative legal solutions for development.<sup>5</sup> As in previous years (see also [A/CN.9/875](#)), the Secretariat

<sup>5</sup> As explained in [A/CN.9/838](#) para. 11, GFLJD is intended to spur both South-South and North-South collaboration and its multidisciplinary activities address economic, legal and technical dimensions of the targeted issues. The UNCITRAL secretariat was appointed as co-leader of the Law and Economy Working Group, with effect from September 2014 (see also [A/CN.9/875](#), para. 12).

attended the Law, Justice and Development Week organized by GFLJD at which it appeared as a panelist in a session on sustainable procurement and moderated two sessions, one on public procurement and development and one on public-private partnerships contracts and the Sustainable Development Goals (Washington, D.C., 5-9 December 2016).

#### *Rule of Law*

15. 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 2017 IATF report (in a draft format at the date of this Note).

16. The web page on the Sustainable Development Goals, available on the UNCITRAL website,<sup>6</sup> became operational in all six official United Nations languages (see also [A/CN.9/875](#), para. 20).

17. The Secretariat brought to the attention of the United Nations Legal Counsel the Guidance Note on strengthening United Nations support to States, upon their request, to implement sound commercial law reforms, endorsed by the Commission at its forty-ninth session, in 2016.<sup>7</sup> The Secretariat requested the Legal Counsel to make the Guidance Note a subject of discussion at such United Nations coordination mechanisms as: the United Nations System Chief Executives Board for Coordination (CEB); Rule of Law Coordination and Resource Group (ROLCRG); United Nations Development Group (UNDG); United Nations regional coordinator system and country teams (UNRC and UNCTs) and the United Nations Peacebuilding Commission. The Secretariat also requested the Legal Counsel to bring the Guidance Note to the attention of participants at coordination meetings of legal advisers hosted by the Legal Counsel (e.g. annual meetings of Field Legal Officers; of Legal Advisors and Legal Liaison Officers of the United Nations Offices, Funds and Programs and of Legal Advisors of the Specialised, Related and other Organisations of the United Nations System). This request was made pursuant to the request of the Commission and the General Assembly to the Secretary-General to circulate the Guidance Note as broadly as possible to its intended users.<sup>8</sup> In that respect, the General Assembly recalled its resolutions stressing the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building and welcomed the efforts of the Secretary-General to ensure greater coordination and coherence among United Nations entities and with donors and recipients. The Guidance Note was also made available on the UNCITRAL website in all six official United Nations languages.<sup>9</sup>

## **2. Micro, small and medium-sized enterprises (MSMEs)**

18. The Secretariat continued to encourage participation and dialogue in respect of UNCITRAL work on micro, small and medium-sized enterprises (MSMEs, Working Group I) through its participation in the 2017 Corporate Registers Forum (CFR) as well as presenting the latest developments of UNCITRAL work on business registration at such Conference. The Conference is an important annual event that

<sup>6</sup> See [http://www.uncitral.org/uncitral/en/about/SDGs/Sustainable\\_Development\\_Goals.html](http://www.uncitral.org/uncitral/en/about/SDGs/Sustainable_Development_Goals.html).

<sup>7</sup> *Official Records of the General Assembly, Seventy-first session, Supplement No. 17 (A/71/17)*, Annex II.

<sup>8</sup> See *Official Records of the General Assembly, Seventy-first session, Supplement No. 17 (A/71/17)*, para. 262 and General Assembly resolution 71/135, para. 8 (e).

<sup>9</sup> See [www.uncitral.org/uncitral/en/technical\\_assistance\\_coordination.html](http://www.uncitral.org/uncitral/en/technical_assistance_coordination.html) under the heading Integration with United Nations operations.

gathers business registrars from all over the world (Hong Kong SAR, China, 7-10 March 2017).

### 3. Procurement

19. The Secretariat was actively involved in a policy dialogue between the WTO GPA Secretariat and the member States of the Eurasian Economic Union (EAEU) (Armenia, Belarus, Kazakhstan, the Kyrgyz Republic and the Russian Federation) under the EBRD GPA Technical Cooperation Facility<sup>10</sup> established for the purpose of facilitating accession of those countries to the WTO GPA. The Secretariat was requested to provide the expert input on aspects of harmonization of procurement-related provisions of the EAEU Treaty,<sup>11</sup> the CIS Protocol on Public Procurement and procurement legislation of the EAEU member States with the WTO GPA. The Secretariat participated at technical expert meetings on that matter (Podgorica, 6 May 2016,\*<sup>12</sup> Geneva, Switzerland, 20 June 2016, and London, 19 April 2017. The Secretariat continues being engaged in EBRD-led coordination with UNCITRAL, the WTO GPA Secretariat, the European Commission and the Open Contracting Partnership<sup>13</sup> on standardizing procurement data collection in electronic procurement systems. In that context, the Secretariat was requested to provide expert input to the discussion of the need for harmonization of requirements for the minimum content of procurement notices and records of procurement proceedings. The Secretariat participated at coordination meetings on that matter (Paris, 5 December 2016 and London, 20 April 2017).

20. At its forty-ninth session, in 2016, the Commission instructed the Secretariat to consider updating where necessary all or parts of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects, involving experts.<sup>14</sup> Therefore, the Secretariat hosted two in-person meetings, one in Washington, D.C., (5-7 December 2016 (contemporaneously with the Global Forum on Law, Justice and Development, see para. 14 above)) and one held in Vienna (6-7 March 2017). At those meetings, it was concluded that the recommendations of the existing text reflects good policy and practices, and remains relevant. However, limited revisions to update the PFIPs texts are considered necessary, in order to take account of developments in practice since the existing Legislative Guide was issued in 2000 (for further detail, see [A/CN.9/912](#)).

21. The Secretariat also issued the second *Call2Action* for the promotion of the UNCITRAL Model Law on Public Procurement (2011) on the occasion of the International Anti-Corruption Day (9 December 2016), joining the global United Nations campaign #UnitedAgainstCorruption, and considering that the Model Law was specifically designed to implement the procurement-related provisions in the United Nations Convention against Corruption (UNCAC, New York, 2003). The campaign was launched in English, Korean, Chinese and Bahasa Indonesia on all RCAP's social media platforms.

22. In addition, the Secretariat participated in the following coordination meetings:

(a) The Conference of the States Parties to UNAC organized by the United Nations Office on Drugs and Crimes (UNODC) (Vienna, 22-23 August 2016); and

(b) The World Bank 2016 E-Procurement Forum on "Moving Forward with E-Procurement". The main objective of the Forum was to provide an opportunity to public procurement agencies from participating developing countries in Europe and

<sup>10</sup> See <http://ebrd-gpa-facility.com/?id=2>.

<sup>11</sup> See <http://www.eaeunion.org/?lang=en#about>.

<sup>12</sup> Activities denoted with an asterisk were funded by the UNCITRAL Trust Fund for Symposia.

<sup>13</sup> See <http://www.open-contracting.org/>.

<sup>14</sup> See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17 (A/71/17)*, paras. 359-360 and 362.

Central Asia to share their latest experiences and practices in E-Procurement (Berlin, 13-15 December 2016).

23. The Secretariat reviewed or provided comments on: (a) public-private partnerships in procurement to UNECE (ongoing, April 2016 and January 2017); (b) the UNDP Bangkok Hub Guidance Note on Integrity Risk management in Public Procurement (August-September 2016); and (c) an OECD taxonomy of trade affecting measures in government procurement processes (ongoing since autumn 2016). The Secretariat also provided inputs to UNODC publications and activities related to article 9 of UNCAC.<sup>15</sup>

#### 4. Dispute settlement

24. In line with the decision of the Commission that the Secretariat should continue to coordinate with organizations in relation to the various types of arbitration to which UNCITRAL standards were applicable, and to closely monitor developments, further exploring areas for cooperation and coordination, the Secretariat activities in the area of international commercial arbitration and conciliation included participation in various meetings, and consultation with international organizations, in particular in relation to the preparation of possible future work topics on the agenda of the Commission. As mentioned in document [A/CN.9/916](#), the Secretariat coordinated with the International Council for Commercial Arbitration (ICCA) regarding possible work on ethics in international arbitration. The Secretariat also consulted with the International Court of Arbitration of the International Chamber of Commerce on the topic. The Secretariat organized consultations with intergovernmental organizations in relation to possible work on a reform of investor-State dispute settlement, which included consulting UNCTAD, OECD, ICSID, the Permanent Court of Arbitration (PCA), as highlighted in document [A/CN.9/917](#). The Secretariat also took part in meetings of the subcommittee of the International Bar Association (IBA) on investment arbitration.

25. In addition, the Secretariat coordinated with arbitral institutions which expressed interest in using the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration in conjunction with their own rules.

26. The Secretariat continued its coordination with the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)<sup>16</sup> GmbH to support a new project, “Application of International Arbitration Standards in South-East Europe” within the Framework of the Open Regional Fund for South-East Europe-Legal Reform (ORF-LR). The project aims both at facilitating increased participation of selected South-East Europe States in UNCITRAL work on dispute resolution and to promote the use of the recently adopted UNCITRAL Transparency Rules in Treaty-based Investor-State Arbitration (Transparency Rules) in the region.

27. The Secretariat also took part in the following meetings:

(a) An informal meeting with ICCA to consider further collaboration with that organization in particular for the promotion of arbitration in Africa (New York, 8 July 2016);

(b) A round table jointly organized by the World Economic Forum and International Centre for Trade and Sustainable Development (ICTSD) on the new G20 Guiding Principles for Global Investment Policy-making (Geneva, Switzerland, 7 November 2016); and

(c) A meeting to discuss the scope of substantive investment protection standards under the Energy Charter Treaty (Brussels, 26-27 January 2017).

<sup>15</sup> E.g. the preparation of the publication “Procurement and Corruption in Small Island Developing States” (available at <https://www.unodc.org/documents/corruption/Publications/2016/V1608451.pdf>) and retreats and other events organized by UNODC in the context of the review of the implementation of article 9 of UNCAC.

<sup>16</sup> On behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ).

## 5. Electronic commerce

28. UNCITRAL became a partner of the UNCTAD “eTrade for All” initiative. eTrade for All is a multi-stakeholder initiative aimed to improve the ability of developing countries and countries with economies in transition to use and benefit from e-commerce. It is a demand-driven mechanism in which leading development partners cooperate with the private sector to pool capabilities and resources. The goals of the initiative are: to raise awareness of opportunities, challenges and solutions related to leveraging e-commerce; to mobilize and rationalize financial and human resources to implement e-commerce projects in developing countries; and to strengthen coherence and synergies among partners’ activities with a view to avoiding duplication of work and enhancing aid efficiency. The main tool of the initiative is the eTrade for All Online Platform,<sup>17</sup> which aims to help developing countries and donors navigate the supply of and demand for support to e-commerce development, to learn about trends and best practices, and to raise visibility for the various partners’ initiatives and resources.

29. In addition:

(a) The Secretariat attended (remote participation) the first meeting of the Working Group on E-Commerce (WGEC) of the World Customs Organization (WCO) participating in the panel “E-commerce: perspectives from other international bodies” (Brussels, 21-23 September 2016); and

(b) In the context of the 29th UN/CEFACT Forum, the Secretariat co-organized with the UN/CEFACT Bureau a Mini Conference on “Ensuring Legally Significant Trusted Transboundary Electronic Interaction”, at which it presented on UNCITRAL texts relevant to cross-border recognition of e-signatures and electronic identity management as well as the ongoing work of Working Group IV (Geneva, Switzerland, 29 March 2017).

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<sup>17</sup> Available at [http://unctad.org/en/Pages/DTL/STI\\_and\\_ICTs/eTrade-for-All.aspx](http://unctad.org/en/Pages/DTL/STI_and_ICTs/eTrade-for-All.aspx).