

**Address to the Sixth Committee
of the General Assembly
by H.E. Ivan Šimonović (Croatia)
Chairperson of the fifty-fifth session of
the United Nations Commission on International
Trade Law
(UNCITRAL)
17 October 2022**

[I. INTRODUCTION]

Mr. Chairperson, distinguished delegates of the Sixth Committee,

I am pleased to appear before you and your Committee to present the work carried out by the United Nations Commission on International Trade Law (UNCITRAL) at its 55th session, from 27 June to 15 July and give you an introduction to its report.

Croatia has been an active member of UNCITRAL for many years and it was a great honour for me personally and for my country to have been elected Chair of the Commission at the past session. Unlike the previous two sessions of the Commission, the 55th session took place fully in person here in New York.

At the outset, and before turning to the report, let me thank the members of the Bureau of the 55th session for their cooperation and support. The Vice-Chair Ms. Beate Czerwenka, from Germany, chaired the deliberations concerning the draft convention on the international

effects of judicial sales of ships. A Committee of the Whole was established in accordance with the rules and procedures of UNCITRAL to consider the draft *Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services*. Ms. Giusella Finocchiaro, from Italy, chaired the Committee of the Whole. The Vice-Chair Ms. Eva Isabelle Eliette Niamke, from Côte d'Ivoire, chaired the session adopting the report of the Committee of the Whole. Let me also thank the session's rapporteur Mr. Felipe Augusto Ramos for his efficient support to the adoption of the report.

A word of thanks also goes to my predecessor, Ambassador Philbert Abaka Johnson, from Ghana, who has prepared the ground and the conditions that have allowed us to hold our 55th session.

Mr. Chairperson, distinguished delegates,

We had three legislative texts before us to be adopted, several future legislative projects to be discussed, and a number of non-legislative activities to be reported upon. Since you have before you the full report of the session, I

will focus my remarks on some of the key achievements and issues for your kind attention.

Mr. Chairperson, distinguished delegates,

As the core legal body of the United Nations in the field of international trade law, UNCITRAL finalized three legislative texts:

- A draft convention on the international effects of judicial sales of ships;
- *Recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021); and*
- *A Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services.*

When adopting or approving those texts, the Commission highlighted their expected contribution to the achievement of the Sustainable Development Goals, an endeavour that is high on the Commission's agenda as you can see from chapter XVIII, section B of the report.

Please allow me to give you an overview of the texts finalized at the 55th session.

[II. TEXTS APPROVED OR ADOPTED BY THE COMMISSION]

Judicial sales of ships

The Commission approved a draft convention on the international effects of judicial sales of ships. Considering the crucial role of shipping in international trade and transportation, and the high economic value of ships, the harmonized regime established by the draft convention will be significant within its sphere of application. The draft convention offers adequate legal certainty and protection for purchasers, which can positively impact the price realized by a judicial sale to the benefit of both shipowners and creditors, provided that adequate safeguards are implemented and enforced in the conduct of the sale.

The convention complements other international efforts to harmonize private law aspects of maritime law

within the international law framework reflected in the *United Nations Convention on the Law of the Sea* (including its provisions relating to the nationality and status of ships). It also promotes institutional cooperation with the International Maritime Organization, which will assume the role of “repository” under the convention.

Mediation

The Commission also adopted *Recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules* (2021), which provide a comprehensive set of procedural rules upon which parties may agree for the conduct of mediation proceedings arising out of their relationship. These recommendations are intended to inform and assist mediation centres and other interested bodies that envisage using the UNCITRAL Mediation Rules in the institutional context.

Electronic Commerce

In the area of electronic commerce, the Commission adopted the *Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services*, which highlights the importance of digital identity and authentication of the actors of digital trade and trust services in the digital age. It also provides an opportunity to validate the principles and approaches that UNCITRAL has applied in this space for several decades now, namely non-discrimination, technology neutrality and functional equivalence.

[III. FUTURE WORK BY WORKING GROUPS]

In addition to finalizing these texts, the Commission also took note of the progress made by its working groups during the last cycle, always working under the difficult hybrid conditions. It confirmed the work programme of six working groups:

- Working Group I will continue working on access to credit for micro, small and medium-sized enterprises;
- Working Group II will start working on the topics of technology-related dispute resolution and adjudication, and develop a guidance text on early dismissal and preliminary determination;
- Working Group III will continue its work on the reform of investor-State dispute settlement ;
- Working Group IV will begin new work on automated contracting (and smart contracts) and will also start working on data provision contracts;
- Working Group V will continue its work on civil asset tracing and recovery as well as applicable law in insolvency proceedings; and
- Working Group VI will take up new work towards the development of a new instrument on negotiable multimodal transport documents.

[IV. OTHER FUTURE WORK]

As regards future work not assigned to any working group, the Commission requested the secretariat to continue to work on legal issues related to digital economy and digital trade through the development of a guidance document on legal issues relating to the use of distributed ledger systems in trade, in cooperation with other concerned organizations, as appropriate. The Commission also authorized the secretariat to publish the revised legal taxonomy of emerging technologies and their applications in the six official languages of the United Nations. This will further establish the Commission's central and coordinating role within the United Nations system in addressing legal issues related to the digital economy and digital trade.

The Commission further requested the secretariat to continue to implement the stocktaking project on dispute resolution in the digital economy, for which it has received support by the Government of Japan and to continue to take part in the Inclusive Global Legal

Innovation Platform on Online Dispute Resolution with the Department of Justice of Hong Kong Special Administrative Region.

The Commission noted that the preparatory work being carried out by the joint UNIDROIT/UNCITRAL Working Group on a Model Law on Warehouse Receipts could be substantially completed within two more sessions, with a view to its approval by the Governing Council of UNIDROIT in 2023, and subsequent transmittal to a UNCITRAL working group.

The Commission requested the secretariat to continue exploratory work of legal issues related to the impact of the coronavirus disease (COVID-19) on international trade law by holding expert group meetings and other events with interested stakeholders to further advance such work, with a view to developing a toolkit that States can use when confronted to crisis and disruptions similar to the one we are still experiencing with the pandemic.

The Commission also requested the secretariat to conduct further research and to organize a colloquium or

an expert group meeting on the various legal issues surrounding climate change mitigation, adaptation and resilience, in conjunction with relevant and interested international organizations. Acknowledging that global efforts to combat climate change were an integral part of the agenda of the United Nations, it was noted during the session that UNCITRAL, as a subsidiary body of the General Assembly, was well placed – I would even say that it is *ideally* placed – to undertake work on those aspects of climate change falling within its mandate, and it would indeed be expected that UNCITRAL would provide its own contribution to support the efforts of other United Nations bodies and Secretariat units in that respect.

[V. COORDINATION AND COOPERATION]

In a general context, the Commission reiterated the importance of coordinating the activities of organizations active in the field of international trade law, which was a core element of the mandate that UNCITRAL had received from the General Assembly, as a means of

avoiding duplication of efforts and promoting efficiency, consistency and coherence in the unification and harmonization of international trade law.

When formulating or considering proposals for future work and when taking up new projects, the Commission emphasized the importance of closer coordination among the organizations concerned, in order not only to prevent inconsistency but also to avoid unduly burdening their respective secretariats with commitments to participate in and follow up on concurrent projects carried out simultaneously by other organizations. This issue, central to UNCITRAL's mandate, was extensively discussed during the session.

[VI. NON-LEGISLATIVE ACTIVITIES]

Mr. Chairperson, distinguished delegates,

UNCITRAL's work programme consists not only of legislative activities, but also a wide range of non-legislative activities aiming at raising awareness and promoting the effective understanding of UNCITRAL

texts; providing legislative advice and assistance to States on the adoption and use of those texts; and building capacity to support their effective use, implementation and uniform interpretation.

While a complete status of these activities was reported to the Commission by the secretariat, I would like to highlight a few key achievements:

- the secretariat's adaptation to an online format greatly facilitated participation in technical cooperation and assistance activities, and the proportion of participants from Africa and from Latin America and the Caribbean also increased;
- a focus on enhancing delivery through collaboration with its partners. I would like to emphasize the expansion of engagement with partners from the academic sphere, including the UNCITRAL Asia-Pacific Day, the UNCITRAL Latin America and the Caribbean Day and the inaugural UNCITRAL Africa Day. The launch

event for the UNCITRAL Africa Day was held in Accra, Ghana in May;

- the expanded online and social media presence and the greater use of videoconferences and webinars which increased the interest in UNCITRAL from a broader audience; and
- the issuance of the Chinese-language version of an online training course entitled “Introduction to the United Nations Commission on International Trade Law” (also called “online modules”). The additional modules on public-private partnerships and public procurement, on arbitration and on mediation will be issued shortly.

Acknowledging that the ability of the secretariat to carry out technical assistance and capacity-building activities depended on the support of all stakeholders, the Commission expressed its gratitude to States and organizations that made voluntary contributions to the UN trust funds for UNCITRAL activities:

- China, France and Japan for contributing to the trust fund for UNCITRAL symposia, and
- Austria for contributing to the trust fund for granting travel assistance to developing States members of UNCITRAL.

With respect to the transparency repository established under the Rules on Transparency in Treaty-based Investor-State Arbitration, the Commission also expressed its gratitude to the European Union, the OPEC Fund for International Development and Germany for their contributions.

During the 55th session, virtual panel discussions on technical assistance activities in the field of insolvency law were also organized. The Commission welcomed the discussion on lessons learned, the perspectives of stakeholders on the available assessment tools and knowledge-sharing and capacity-building platforms, and the role of UNCITRAL legislative, guidance and reference materials and events.

Emphasizing the benefits of the Case Law on UNCITRAL Texts (CLOUT) system as a tool to support continued and sustained capacity-building in the use and implementation of UNCITRAL texts, the Commission noted with interest the progress made in the effort towards a rejuvenation of the CLOUT system, and expressed its gratitude for the compilation of cases and the establishment of CLOUT partnerships. The Commission expressed appreciation to the secretariat for its continued efforts to update the existing digests of case law on UNCITRAL texts and ensure their wide dissemination.

As has been the practice since 2008, the Commission, in response to the General Assembly's invitation, transmits to the Assembly comments on the Commission's current role in promoting the rule of law. They draw on a note by the secretariat on the subject and the deliberations at the session on the UNCITRAL legislative and non-legislative programmes. Those materials explain the contribution of UNCITRAL texts and its ongoing work to the promotion of the rule of law

and the implementation of the Sustainable Development Goals, as I mentioned at the outset of my report to you.

[VII. WORKING METHODS]

In the light of the experience accumulated from the holding of UNCITRAL sessions during the COVID-19 pandemic, the Commission considered possible adjustments to its methods of work.

The Commission decided to allow Working Group III (and any other working group, when the need arose) to use the final meeting of its sessions for substantive deliberations, rather than for the adoption of the session report, and to continue the practice of adopting the report by a written procedure.

The Commission further agreed to continue to arrange for the meetings of its working groups to be made available on a streaming or videoconferencing platform, which would allow delegates participating remotely to listen to the deliberations but not make active interventions.

In addition, working groups were encouraged to avail themselves of various tools in order to enhance the efficiency and productivity of deliberations during the formal sessions, including by holding informal consultations between or in conjunction with working group sessions.

[VIII. CONCLUDING REMARKS]

Mr. Chairperson, distinguished delegates,

UNCITRAL is the core United Nations body in the field of commercial law. For over half a century, it has been committed to providing a legal environment that supports and fosters international trade. Its impact on the harmonization and modernization of international trade law has been repeatedly acknowledged by the General Assembly.

I am very pleased to have been able to chair the fifty-fifth session of the Commission and to preside over a very productive session, which would not have been possible without the hard work and dedication of delegates,

observers and the secretariat. I would also like to commend the secretariat's team working with me in New York and supporting the session from Vienna. The secretariat of UNCITRAL has once again discharged its duties professionally and efficiently to the Commission.

We in UNCITRAL are grateful to this Committee for its continued support to our activities and for its repeated expressions of satisfaction with the work carried out by UNCITRAL. It is indeed an honour for us to serve this body, where all our governments are assembled.

With that, I would like to conclude my address to you on the work carried by UNCITRAL during its 55th session.

I thank you for your attention!
