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Report of the United Nations Commission on International Trade Law

**Fifty-fifth session
(27 June–15 July 2022)**

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Supplement No. 17**

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Note

Symbols of United Nations documents are composed of letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

[3 August 2022]

Contents

	<i>Page</i>
I. Introduction	1
II. Organization of the session	1
A. Opening of the session	1
B. Membership and attendance	1
C. Election of officers	2
D. Agenda	3
E. Establishment of the Committee of the Whole	3
F. Adoption of the report	3
III. Summary of the work of the Commission at its fifty-fifth session	3
IV. Finalization and approval of the draft convention on the international effects of judicial sales of ships	5
A. Introduction	5
B. Consideration of the draft convention	6
C. Explanatory note	15
D. Approval of the draft convention	15
V. Finalization and adoption of recommendations to assist mediation centres under the UNCITRAL Mediation Rules	16
A. Background	16
B. Consideration of the draft recommendations	17
C. Adoption of the recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules	17
VI. Finalization and adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services	18
A. Background	18
B. Consideration of the draft model law and explanatory note	19
C. Adoption of the UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services	24
VII. Electronic commerce and other legal issues related to the digital economy: progress report of Working Group IV	26
A. Background	26
B. Guidelines for future work	27
1. General remarks	27
2. Automated contracting	27
3. Data transactions	28
4. Legal taxonomy of emerging technologies and their applications	29
5. Legal guide on the use of distributed ledger systems	29
VIII. Micro-, small and medium-sized enterprises: progress report of Working Group I	29
IX. Dispute settlement: progress report of Working Group II	30

X.	Investor-State dispute settlement reform: progress report of Working Group III	31
XI.	Insolvency law: progress report of Working Group V	32
XII.	Work programme	34
	A. Legislative programme under consideration by working groups	34
	B. Additional topics considered at earlier sessions of the Commission	35
	1. Warehouse receipts	35
	2. Negotiable multimodal transport documents	35
	3. Impact of the coronavirus disease (COVID-19) on international trade law	36
	4. Climate change mitigation, adaptation and resilience	37
	5. Dispute settlement	39
	C. Consideration of the role of UNCITRAL in promoting the rule of law at the national and international levels	41
	D. Working methods of UNCITRAL	42
XIII.	Endorsement of texts of other organizations: the International Standard Demand Guarantee Practice for URDG 758 of the International Chamber of Commerce	43
XIV.	Coordination and cooperation	44
	A. General	44
	B. Reports of other international organizations	45
	1. Hague Conference on Private International Law	45
	2. UNIDROIT	45
	3. Organization of American States	46
	C. International governmental and non-governmental organizations invited to sessions of UNCITRAL and its working groups	46
XV.	Technical assistance to law reform	46
	A. General	46
	B. Technical cooperation and assistance activities	47
	1. Report on past activities	47
	2. Panel on technical assistance activities in the field of insolvency	48
	C. Dissemination of information on the work and texts of UNCITRAL	48
	1. General	48
	2. Forthcoming activities	49
	3. International commercial law moot competitions	49
	D. Overall picture of technical assistance to law reform	49
	E. Resources and funding	49
	1. Voluntary contributions to UNCITRAL trust funds	49
	2. Internship programme	50
	F. UNCITRAL presence in the Asia-Pacific region	50
XVI.	Promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts	52
XVII.	Status of conventions and model laws and the operation of the Transparency Registry	53

A.	General discussion	53
B.	Operation of the Transparency Registry	54
C.	Bibliography of recent writings related to the work of UNCITRAL	54
XVIII.	Current role of UNCITRAL in promoting the rule of law	55
A.	Introduction	55
B.	UNCITRAL comments to the General Assembly	56
XIX.	Relevant General Assembly resolutions	58
XX.	Other business: evaluation of the role of the UNCITRAL secretariat in facilitating the work of the Commission	59
XXI.	Date and place of future meetings	59
A.	Fifty-sixth session of the Commission	59
B.	Sessions of working groups	59
Annexes		
I.	Draft convention on the international effects of judicial sales of ships	60
II.	UNCITRAL Model Law on the Use and Cross-border Recognition of Identity Management and Trust Services	71
III.	Recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021)	81
IV.	List of documents before the Commission at its fifty-fifth session	89

(j) Requested the secretariat to consult with interested States with a view to developing a more detailed proposal on the topic of climate change mitigation, adaptation and resilience, for consideration by the Commission at its next session in 2023, and to organize a colloquium or an expert group meeting to be held at that same session;

(k) Noted that the Working Group on a Model Law on Warehouse Receipts, convened by UNIDROIT in consultation with the UNCITRAL secretariat, might need more than two sessions before it could submit a preliminary draft for consideration by the Governing Council of UNIDROIT, possibly in 2023, and subsequent transmittal to the first available UNCITRAL working group.

23. With respect to agenda item 12 (Date and place of future meetings), the Commission approved the holding of its fifty-sixth session in Vienna, from 3 to 21 July 2023, and the schedule for working group sessions to be held in the second half of 2022 and first half of 2023.

IV. Finalization and approval of the draft convention on the international effects of judicial sales of ships

A. Introduction

24. The Commission recalled the decision made at its fifty-first session (New York, 25 June–13 July 2018), to assign the topic of the judicial sale of ships to Working Group VI,² which commenced its deliberations on the topic at its thirty-fifth session (New York, 13–17 May 2019). At its fifty-second session (Vienna, 8–19 July 2019),³ the Commission expressed its satisfaction with the progress that had been made by the Working Group at its thirty-fifth session. At its resumed fifty-third session, (Vienna (online), 14–18 September 2020), the Commission considered the work of the Working Group at its thirty-sixth session and confirmed that the Working Group should continue its work to prepare an international instrument on the topic.⁴ At the fifty-fourth session of the Commission (Vienna, 28 June–16 July 2021), satisfaction was expressed with the progress made by the Working Group at its thirty-seventh and thirty-eighth sessions.⁵

25. At the present session, the Commission had before it the reports of Working Group VI on the work of its thirty-ninth session (Vienna, 18–22 October 2021) (A/CN.9/1089) and its fortieth session (New York, 7–11 February 2022) (A/CN.9/1095). It also had before it the text of the draft convention on the international effects of judicial sales of ships (A/CN.9/1108, annex) and a compilation of comments submitted by States and relevant international organizations on the draft convention (A/CN.9/1109, A/CN.9/1109/Add.1, A/CN.9/1109/Add.2 and A/CN.9/1109/Add.3).

26. The Commission heard that the secretariat had prepared a draft explanatory note on the draft convention (A/CN.9/1110, A/CN.9/1110/Add.1 and A/CN.9/1110/Add.2), which was before the Commission for its information. It was emphasized that, in accordance with UNCITRAL practice, the Commission would not be called upon to approve the explanatory note. The explanatory note was a secretariat document that would be updated to reflect the deliberations of the Commission and text of the draft convention as approved.

² *Official Records of the General Assembly, Seventy-third session, Supplement No. 17 (A/73/17)*, para. 252.

³ *Ibid.*, *Seventy-fourth session, Supplement No. 17 (A/74/17)*, para. 189.

⁴ *Ibid.*, *Seventy-fifth session, Supplement No. 17 (A/75/17)*, part two, paras. 47 and 51 (f).

⁵ *Ibid.*, *Seventy-sixth session, Supplement No. 17 (A/76/17)*, para. 211.

B. Consideration of the draft convention

27. The Commission agreed to proceed with an article-by-article read-through of the draft convention, starting with article 1.

Article 1

28. The Commission heard a proposal to amend article 1 by inserting the word “international” before “effects”. It was acknowledged that the amendment aligned article 1 with the title of the draft convention and better reflected its focus. It was explained that the amendment did not mean that the provisions of the convention could not apply in domestic cases; for instance, it did not mean that, for a judicial sale of a ship that was registered in the State of judicial sale, no certificate of judicial sale would be issued under article 5, that no action was required to be taken by the registrar under article 7 or that the prohibition on arrest under article 8 did not apply. On that understanding, which would be clarified in the explanatory note, the Commission approved article 1 with that amendment.

29. The Commission did not take up a proposal to incorporate article 1 into article 3, noting that the interaction between article 1 and article 3 had been considered at length by the Working Group.

Article 2

30. The Commission heard several proposals to amend the definition of “judicial sale” in article 2, subparagraph (a). The Commission did not agree to insert the words “conducted in accordance with the law of the State of judicial sale” at the end of the chapeau of article 2, subparagraph (a), confirming the decision of the Working Group to avoid dealing with substantive issues in the definitions. A proposal to refer not only to sale by public auction but also to sale by public tender was also not taken up. While it was noted that an auction was different to a tender process, and that the convention applied to both means of sale, it was felt that it was sufficient for the explanatory note to state that the reference in article 2, subparagraph (a) (i), to a sale by “public auction” included a sale by public tender. The Commission did not take up a proposal to amend the definition of “judicial sale” to incorporate a requirement that the judicial sale result from a claim asserted against the ship (and not against the shipowner in personam).

31. In response to a query as to the exact meaning of the term, the Commission noted that “private treaty sales” ordinarily resulted from arrangements normally between the mortgagee and the prospective purchaser that were approved by the court of judicial sale, and that the name and procedure for such sales differed among the States whose law accommodated them.

32. The Commission heard a proposal to include a new definition of “completion of judicial sale” to clarify that it meant that the sale “is not subject to a review in the State of judicial sale and that, according to the law of that State, the time limit for seeking ordinary review has expired”. While some support was expressed for the proposal, several concerns were raised. First, it was recalled that the Working Group had considered the issue at length and had concluded that the convention should not define the term in deference to the law of the State of judicial sale. Second, it was noted that the proposal was not about finding a harmonized understanding of when a judicial sale was “completed”, but rather about helping to determine when the certificate of judicial sale would be issued in the State of judicial sale. It was further observed that the wording of the proposal was drawn from article 4, paragraph 4, of the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019), where it was used to determine when a foreign judgment was amenable to recognition and enforcement. It was noted that the review of a judicial sale was substantively different to the review of a judgment, particularly insofar as it concerned a measure to enforce a judgment, and that there was likely greater disparity between the kinds of recourse available to challenge a judicial sale, many of which might have long limitation periods.

33. The Commission approved article 2 without amendment.

Article 3

34. The Commission agreed to amend article 3, paragraph 1, by formulating subparagraphs (a) and (b) in the present tense. Accordingly, it agreed to replace the words “was” with “is”. It also agreed to refer to the time of “that” sale.

35. The Commission heard a proposal to insert the words “as determined by the law of the State of judicial sale” at the end of article 3, paragraph 1 (b). It was explained that the proposal was designed to find a more appropriate place for the existing requirement in article 4, paragraph 1, for the time of judicial sale to be determined in accordance with the law of the State of judicial sale. However, it was observed that the proposed words might give rise to ambiguity insofar as it was not clear whether it was the physical location of the ship or the time of judicial sale that would be determined by the law of the State of judicial sale or whether the ship would need to be physically located in the State of judicial sale at the time of the judicial sale and not only at an earlier stage (e.g. at the time of arrest). The Commission did not take up the proposal.

36. The Commission approved article 3 with the amendments outlined above (para. 34).

Article 4 and annex I

37. The Commission approved article 4, paragraph 1, without amendment.

38. The Commission did not take up a proposal to include a requirement for the notice of judicial sale to be given “in due time”. It also heard that requiring the notice to be given prior to the judicial sale could be problematic if the judicial sale were understood to be a process that commenced at the beginning of the procedure, before the time at which notices were ordinarily given. The Commission did not take up a proposal to amend article 4, paragraph 2, to refer instead to giving notice prior to the public auction or conclusion of the private treaty and instead approved article 4, paragraph 2, without amendment.

39. The Commission did not take up a drafting suggestion to recast paragraphs 3 to 7 of article 4 as subparagraphs of article 4, paragraph 3, so as to reinforce that those provisions did not serve as stand-alone obligations but rather as conditions for the issuance of the certificate of judicial sale under article 5.

40. The Commission agreed to amend article 4, paragraph 3, to refer to the “registry” on the basis that the registry is the entity that is capable of receiving notice. The Commission approved article 4, paragraph 3, with that amendment. It confirmed that article 4, paragraph 3 (d), as well as article 5, paragraph 2 (h), and item 5 of the model certificate of judicial sale contained in annex II to the draft convention, should refer to “owner” in the singular, on the basis that: (a) according to United Nations drafting style, the singular included the plural; and (b) the definition of “owner” made it clear that more than one person may be the owner of a ship. The Commission did not take up a proposal to include a requirement to notify the embassy or consulate of the State of registration. It was stressed that article 4 imposed minimum requirements and did not prevent the law of the State of judicial sale from specifying other persons to be notified.

41. For consistency, the Commission agreed to amend article 4, paragraph 4, to delete the words “to this Convention” and approved the paragraph as amended. The Commission approved article 4, paragraph 5, without amendment.

42. The Commission engaged in a detailed discussion about the language requirement in article 4, paragraph 6. It was recalled that the provision originated in a proposal to apply a language requirement to the notice of judicial sale whenever given, but that the subsequent revision of the text to specify the target language as one of the working languages of the repository had shifted focus to applying the language requirement only when the notice was given to the repository. There was broad support for the view that, if the intention was to apply the language requirement only when the notice was given

to the repository, the words “for the purpose of communicating the notice to the repository” should be inserted to article 4, paragraph 6. The Commission agreed that the language requirement should be so applied and accordingly agreed to insert the proposed words. The Commission approved article 4, paragraph 6, as amended. It also agreed that the explanatory note should be revised to encourage the person giving notice, as a matter of good practice, to consider translating the minimum information for the purpose of giving the notice under article 4, paragraph 3, particularly given that that information would eventually need to be translated for the purposes of transmitting the notice to the repository.

43. The Commission heard a proposal to delete the word “exclusively” in article 4, paragraph 7, out of concern that the provision would otherwise limit the sources of information that the person giving notice could use. There was broad agreement that that was not the intention of the provision. As an alternative, it was suggested to replace the words “reliance may exclusively be placed on” with words such as “it is sufficient to place reliance on”. The Commission agreed to the alternative formulation “it is sufficient to rely on” and approved article 4, paragraph 7, without further amendment.

44. The Commission did not take up a proposal to require confirmation of receipt by the person being notified.

45. The Commission agreed to amend annex I to the draft convention to clarify that all references to a “sale” were to the “judicial sale” and approved annex I without further amendment. The Commission did not take up a proposal to insert a requirement for a follow-up notice to be given if, at the time that the original notice is given, only the anticipated date, time or place of public auction is known. It also did not take up a proposal to revise annex I to accommodate sales by public tender, for the reasons given above (para. 30) or to supplement item 12 to provide more explicit information about challenging the judicial sale (including information on the court competent under article 9), a matter on which the Working Group had previously deliberated.

Article 5 and annex II

46. The Commission agreed to amend article 5, paragraph 1, to refer to the “other” public authority. It did not take up a suggestion to address situations in which two certificates of judicial sale were circulating for the same ship. It agreed to amend article 5, paragraph 2 (b), to refer to “a statement that the judicial sale has conferred clean title to the ship on the purchaser” and to amend subparagraph (b) of the model certificate of judicial sale contained in annex II to align it with article 5, paragraph 2 (b).

47. The Commission engaged in a detailed discussion as to whether article 5, paragraph 2 (e), should refer to the court or other public authority “ordering, approving or confirming” the judicial sale rather than the court “conducting” the sale. It was recalled that annex I and annex II were relevant at different times and that, while it might be relevant to distinguish between the court or other authority “ordering, approving or confirming” the judicial sale at the time at which notice is given, it was not necessary to do so at the time that the certificate of judicial sale is issued, which only occurred upon completion of the judicial sale. At the same time, it was also observed that the authority conducting the judicial sale might be different to the authority ordering, approving or confirming the sale. After discussion, the Commission agreed to keep the reference to “conducted” in article 5, paragraph 2 (e), and to amend item 3.1 of the model certificate of judicial sale contained in annex II to align it with article 5, paragraph 2 (e). The Commission also agreed to replace the words “ordered, approved or confirmed” with “conducted” in article 5, paragraph 1.

48. A query was raised about the meaning of article 5, paragraph 2 (k). It was explained that “other confirmation of authenticity of the certificate” included a seal but could also cover the means used to issue electronic certificates.

49. The Commission accepted a proposal to amend article 5, paragraph 4, to insert the words “and any translation thereof” after the words “judicial sale”.

50. Recalling its deliberations on the word “owner” (see para. 40 above), the Commission approved article 5 and annex II without further amendment.

Article 6

51. The Commission approved article 6 without amendment.

Article 7

52. Recalling its earlier deliberations on article 4, paragraph 3 (see para. 40 above), the Commission agreed to refer to “registry” rather than “registrar” throughout the convention, but to retain references to the “register” as the record maintained by the registry.

53. The Commission considered a proposal to amend the chapeau of article 7, paragraph 1, with respect to requests by subsequent purchasers by (a) deleting the words “or subsequent purchaser” and (b) inserting, after “article 5”, the words “or at the request of the subsequent purchaser and upon production of the certificate and further documentation on the transfer of ownership from the purchaser to the subsequent purchaser”. There was general agreement that a subsequent purchaser should be required to demonstrate its entitlement to request any particular action by the registry and, for that purpose, also be required to submit such additional documents or evidence as the registry may require under its regulations and procedures. However, several concerns were expressed about the proposal. First, it was stated that the requirement was already covered by the allowance for the registry (or other competent authority) to take action “in accordance with its regulations and procedures”. Second, it was stated that, for those jurisdictions in which a transfer of ownership occurred upon registration of the new owner, it made no sense to require production of documentation on the transfer of ownership. It was added that, in any case, such a requirement would be problematic, as the draft convention did not address ownership.

54. The Commission agreed that it was preferable to address the issue in the explanatory note and invited the secretariat to revise the draft explanatory note to acknowledge that the regulations and procedures of the registry extended to the manner in which an applicant established that it had purchased the ship from the purchaser, and thus qualified as a “subsequent purchaser”.

55. The Commission agreed to amend article 7, paragraph 1 (a), by inserting the words “from the register” after “delete”. It also agreed to delete the word “or” at the end of article 7, paragraph 1 (c), as the non-cumulative nature of the actions to be taken by the registry was already established by the words “as the case may be” in the chapeau of article 7, paragraph 1, and the requirement for the registry to act “at the request of the purchaser or subsequent purchaser”.

56. The Commission approved article 7, paragraph 1, without any further amendment.

57. The Commission approved article 7, paragraphs 2 and 3. It was proposed to delete article 7, paragraph 4, on the basis that the registry could readily make its own copy of the certificate of judicial sale for its records. The Commission decided to retain the provision and approved article 7, paragraph 4, without amendment.

58. The Commission agreed to amend article 7, paragraph 5, by inserting the words “of the” before “other competent authority” to clarify that the provision was concerned only with the determination by a court, and then only with the court in the State in which the action under article 7, paragraphs 1 or 2, was taken (i.e. action by the registry or other competent authority). The Commission approved article 7, paragraph 5, with that amendment.

Article 8

59. The Commission agreed to amend article 8, paragraphs 1 and 2, by replacing “an earlier judicial sale” with “a judicial sale” and approved those paragraphs with those

amendments. The Commission approved article 8, paragraphs 3 and 4, without amendment.

Article 9

60. The Commission heard that the Working Group had previously considered, but not taken up, a proposal to amend article 9 to require the State of judicial sale to provide for adequate remedies to challenge a judicial sale. The importance of such a provision as a means to safeguard the legitimate interests of creditors by affording them the opportunity to assert their rights was stressed. It was conceded that the provision should be separated from article 9 so that the latter would deal solely with jurisdiction.

61. In response, it was pointed out that the notion of “adequacy” was vague and that the provision went against the objective of the convention to leave matters of procedure related to judicial sales to domestic law. Moreover, it raised questions about the consequences of breach. Specifically, a concern was raised that the provision could support the argument that the adequacy of remedies in the State of judicial sale was a matter of public policy in any State asked to give effect to a foreign sale, which in turn could lead to foreign courts seized under article 10 scrutinizing foreign judicial acts and ultimately standing in judgment of the courts of the State of judicial sale. In that regard, it was suggested that the provision might be more problematic than an alternative proposal put to the Commission to amend article 10 so as to state that public policy included circumstances in which “the specific proceedings leading to the issuance of the certificate were incompatible with fundamental principles of procedural fairness” of the State addressed.

62. As a compromise, the Commission heard a proposal to amend article 4, paragraph 1, to refer to procedures for challenging the judicial sale. Broad support was expressed for the proposal, and the Commission agreed to recast article 4, paragraph 1, as follows:

“The judicial sale shall be conducted in accordance with the law of the State of judicial sale, which shall also provide procedures for challenging the judicial sale prior to its completion and determine the time of the sale for the purposes of this Convention.”

63. It was understood that the provision did not require a State party to introduce or devise new legislation providing specific procedures for challenging a judicial sale, and that it would be sufficient for the State to point to procedures under existing law, whether provided for in legislation, rules of civil procedure, or case law, and whether or not specific to judicial sales. The secretariat was invited to revise the draft explanatory note to explicitly state that understanding and to indicate that the requirements of article 4, paragraph 1, would be met whenever a State seeking to become party to the Convention satisfied itself that adequate procedures were in place consistent with its constitutional framework. It was added that most States would ordinarily have procedures in place for challenging a judicial sale.

64. Returning to article 9, the Commission agreed to delete the comma before “for which a certificate has been issued in accordance with article 5, paragraph 1” as those words qualified the decisions that were to be transmitted to the repository. The Commission approved article 9 with that amendment.

Article 10

65. A proposal to delete the word “manifestly” in article 10 was not taken up, and the Commission noted that the issue had been considered at length by the Working Group.

Article 11

66. The Commission agreed to amend article 11, paragraph 3, to specify that it applies only prior to the entry into force of the Convention for the State concerned. The Commission approved article 11 with that amendment, for which the secretariat was invited to prepare a concrete drafting proposal.

Article 12

67. The Commission approved article 12, paragraph 1, without amendment. It was explained that one consequence of article 12, paragraph 1, was that the authorities of States parties could correspond directly without needing to resort to diplomatic channels.

68. The Commission agreed to amend article 12, paragraph 2, and other provisions of the convention by replacing “international convention, treaty or agreement” with “international agreement”. It also agreed to replace “affects” with “shall affect the application of” in order to maintain consistency with the formulation used in article 13, paragraph 1. The Commission approved article 12 with those amendments to paragraph 2.

Article 13

69. The Commission accepted a proposal to use lower case when referring to another convention other than by its full title. The Commission approved article 13, paragraph 1, without further amendment. The Commission did not take up a proposal to delete article 13, paragraph 2, and approved it without further amendment. The secretariat was invited to revise the explanatory note to state that a State party may need to amend its laws to divert the notice of judicial sale from the channels of transmission provided under the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965).

Article 14

70. The Commission agreed to amend article 14 by replacing the words “preclude any basis for giving effect in one State” with the words “preclude a State Party from giving effect”. It was observed that the amendment did not change the substance of the provision. Recalling its deliberations on using the words “international agreement” (see para. 68 above), the Commission approved article 14 with those amendments.

Article 15

71. The Commission approved article 15 without amendment.

Article 16

72. The Commission approved article 16 without amendment.

Article 17

73. The Commission heard an offer from the Government of China to organize a ceremony for the signing of the convention in Beijing, once adopted, and a proposal to refer to the convention as the “Beijing Convention” in an abbreviated form. The Commission was informed that the Government of China was prepared to assume the additional costs that might be incurred by the convening of a signing ceremony outside the premises of the United Nations so that the organization of the signing ceremony would not require additional resources under the United Nations budget.

74. The Commission expressed its gratitude for the offer of the Government of China to host a signing ceremony and there was wide support for recommending that the General Assembly accept that offer and that the convention be known as the “Beijing Convention on the Judicial Sale of Ships”. Concerns were expressed about the possible impact of the COVID-19 pandemic, as well as the measures that the host country might take to combat it, on the organization and timing of the signing ceremony, in particular on the ability of foreign representatives to travel to Beijing without being subject to quarantine. It was noted that a fallback option would be to have the convention open for signature at United Nations Headquarters only. In response, it was observed that the Government of China monitored closely the evolution of the pandemic and adjusted its strategies accordingly. It was noted that, in any event, several months would be needed after the adoption of the convention by the General Assembly, to allow for appropriate arrangements to be made as between the depositary and the host Government to address

concerns about the impact of the pandemic on the signing ceremony. It was noted that it was not necessary for the Commission to have agreed on a date for the signing ceremony prior to transmitting the draft convention to the General Assembly.

75. The Commission agreed to amend article 17, paragraph 1, by inserting the word “Beijing” within the first set of square brackets and to leave the second set of square brackets blank. The Commission approved article 17, paragraph 1, with that amendment, as well as the remainder of article 17.

Article 18

76. The Commission agreed to amend the final sentence of article 18, paragraph 1, by correcting the cross references to the articles of the convention on entry into force and amendment, respectively, and by inserting at the end of the sentence the words “in addition to the instruments deposited by its member States”.

77. The Commission approved article 18, paragraph 2, subject to consequential amendments resulting from the insertion of the common clause on declarations (see the section on art. 21 below). The Commission approved article 18, paragraph 3, without amendment.

78. The Commission approved the insertion of the following “disconnection clause” as a new paragraph 4:

“This Convention shall not affect the application of the rules of a regional economic integration organization, whether adopted before or after this Convention:

(a) In relation to the transmission of a notice of judicial sale between member States of such an organization; or

(b) In relation to the jurisdictional rules applicable between member States of such an organization.”

Article 19

79. The Commission approved article 19, paragraph 1, subject to consequential amendments resulting from the insertion of the common clause on declarations (see the section on art. 21 below). The Commission also agreed to delete article 19, paragraph 2, on the basis that amendments to declarations were addressed in that clause. The Commission approved the remainder of article 19 without amendment.

Article 20

80. The Commission heard that article 20 was a new provision that had been drafted by the secretariat in response to a request by the Working Group at its fortieth session ([A/CN.9/1108](#), para. 6). It was explained that the provision, which gave States parties the option to apply the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (1961) (Apostille Convention) with respect to foreign certificates of judicial sale, represented a compromise between article 5, paragraph 4, which exempted the certificate of judicial sale from legalization or similar formality, and concerns about the willingness of registry officials in some States to take action on a foreign certificate of judicial sale without assurances of its authenticity, which in turn might limit the appeal of the convention to those States.

81. Some support was expressed for retaining the provision. It was noted that the Apostille Convention was in force in over 120 States, which meant that the formality under the Convention, that is, the addition of an apostille certificate, was widely accepted as a means to authenticate the certificate of judicial sale. Several arguments were advanced for deleting the provision. First, it was noted that the addition of an apostille did not itself authenticate the underlying document or guarantee that the underlying document was not fraudulent. Second, it was noted that the authority to which a certificate of judicial sale was provided had other means to satisfy itself as to the authenticity of the certificate, including by verifying the issuance of the certificate

in communication with the issuing authority under article 12 or by consulting the repository. Third, it was noted that the provision went against the trend in recent treaties of including the formality under the Apostille Convention within the scope of the legalization exemption. Fourth, it was noted that the provision would have the peculiar effect of subjecting States that were party to the Apostille Convention to more onerous formalities regarding legalization than States that were not party thereto, which was at odds with the very objective of the Apostille Convention to simplify those formalities. The view was also expressed that the Apostille Convention did not apply to public documents in electronic form; another view was that article 20 might undermine the acceptance of electronic certificates, as mandated by article 5, paragraph 7.

82. After discussion, the Commission agreed to delete article 20 and to renumber the remaining articles of the convention accordingly.

Article 21 (renumbered as article 20)

83. The Commission heard that article 21 was another new provision that had been drafted by the secretariat to provide a common clause dealing with how declarations under the convention were made and took effect. It was explained that the provision was based on similar clauses in other conventions prepared by the Commission.

84. The Commission agreed to retain the new provision and therefore to delete the words in square brackets in articles 18, paragraph 2, and 19, paragraph 1, which dealt with the timing and receipt of declarations. It further agreed to amend article 21, paragraphs 1 and 4, to specify the declarations to which they applied.

85. A query was raised as to whether the second sentence of article 21, paragraph 3, was needed, given that article 21, paragraph 1, provided for declarations to be made only prior to entry into force of the convention in respect of the State concerned. The Commission agreed to delete the sentence and approved the paragraph without further amendment.

86. The Commission accepted a proposal for the time periods specified in articles 21, 22, 23 and 24 to be measured in days rather than months, for added certainty, and therefore agreed to retain the corresponding option presented in square brackets in each of those articles.

87. The Commission heard a proposal to amend article 21, paragraph 4, to specify that a modification or withdrawal of a declaration notified before the entry into force of the convention for the declaring State took effect simultaneously with the entry into force of the convention for that State. It was noted that, under the treaty practice of some States, there was a possibility that the Government might wish to extend the convention to additional territorial units after depositing the instrument of ratification and initial declaration under article 19, paragraph 1, but before the convention entered into force for the State, and that a delayed entry into force for the additional territorial units could pose difficulties. Noting that the so-called “federal clause” was of particular relevance to a limited number of States, the Commission agreed to amend article 21, paragraph 4, by inserting the following sentence at the end of the paragraph:

“If the depositary receives the notification of the modification or withdrawal before entry into force of this Convention in respect of the State concerned, the modification or withdrawal shall take effect simultaneously with the entry into force of this Convention in respect of that State.”

Article 22 (renumbered as article 21)

88. The Commission agreed to retain the requirement for the deposit of three instruments of ratification, acceptance, approval or accession to bring the convention into force. It was added that a higher number was not necessary, as the convention could already start fulfilling its objective once it was in force in the State of judicial sale and in any other State expected to give effect to the judicial sale. It was therefore agreed to remove the square brackets around the word “third” in article 22, paragraph 1. The Commission approved article 22, paragraph 1, without further amendment.

89. The Commission agreed to amend the first sentence of article 22, paragraph 2, to refer to the “third” instrument of ratification, acceptance, approval or accession, and approved the provision with that amendment. Subsequently, the Commission agreed to delete the final sentence of article 22, paragraph 2, on the basis that the matter was now sufficiently addressed in article 21 as amended.

90. The Commission heard that the word “conducted” was vague and considered alternative proposals, such as to refer to when the sale was “initiated” or when the certificate of judicial sale was issued. The former proposal was considered imprecise, as it might extend back to the time of the initial arrest of the ship leading to the judicial sale. The latter proposal, in turn, was felt to be inappropriate, as it might create an obligation for States parties to give effect even to judicial sales wholly conducted prior to the entry into force of the convention, and to which the safeguards of article 4, for instance, did not apply. After discussion, the Commission agreed to focus on the specific court action triggering the judicial sale, as specified in the definition in article 2, subparagraph (a), and decided to replace “conducted” with the words “ordered or approved”. The Commission approved article 22, paragraph 3, with that amendment. It was added that it was unnecessary to refer to a sale that was “confirmed”, as the provision was concerned with the early stages of the judicial sale procedure and not with the final stages.

Article 23 (renumbered as article 22)

91. The Commission approved article 23, paragraphs 1, 2, 3 and 5, without amendment.

92. The Commission agreed to remove the square brackets around the word “third” and to delete the words “to the Convention” in article 23, paragraph 4. It heard a proposal to insert the word “only” after the word “binding”. It was explained that the insertion was not necessary, as, in the current wording of the provision, the adopted amendment would only be binding on those States parties that had expressed consent to be bound by it. Accordingly, the Commission did not take up the proposal and approved article 23, paragraph 4, without further amendment.

Article 24 (renumbered as article 23)

93. The Commission agreed to amend the heading of article 24 to refer to “denunciation” (in the singular) and to amend the final sentence of article 24, paragraph 2, to refer to “this Convention”. The Commission approved the provision with those amendments.

Preamble

94. The Commission approved the first and third paragraphs of the preamble without amendment.

95. The Commission heard several proposals to amend the second paragraph of the preamble. The first proposal was to refer to claims “against ships” or to claims “against shipowners”. It was noted that judicial sales were used to enforce claims against other parties (e.g. bareboat charterers) and that it was not desirable in the preamble to limit the scope of claims. The second proposal was to refer to “claims” instead of “maritime claims”. While it was acknowledged that the term “maritime claims” was widely understood and used in maritime law conventions, it was pointed out that judicial sales could be used for other claims, such as claims in insolvency. The third proposal was to refer to judicial sales not only as a means to enforce, but also as a means to “secure”, a claim, as exemplified by the use of judicial sales pendente lite to maximize the proceeds available for a deteriorating asset. However, it was queried whether it was appropriate to characterize a judicial sale as “securing” a claim, which might lead to confusion with the concept of “security”.

96. After discussion, the Commission agreed to refer to “claims” instead of “maritime claims” and approved the second paragraph of the preamble in the following terms:

“*Mindful* of the crucial role of shipping in international trade and transportation, of the high economic value of ships used in both seagoing and inland navigation, and of the function of judicial sales as a means to enforce claims,”.

97. The Commission agreed to amend the fourth paragraph of the preamble to use terms defined in the convention, and approved the paragraph in the following terms:

“*Wishing*, for that purpose, to establish uniform rules that promote the dissemination of information on prospective judicial sales to interested parties and give international effects to judicial sales of ships sold free and clear of any mortgage or *hypothèque* and of any charge, including for ship registration purposes,”.

C. Explanatory note

98. The Commission exchanged views on the content of the draft explanatory note, on the understanding that the explanatory note was a secretariat document that the Commission was not called on to approve or adopt. The Commission expressed its appreciation to the secretariat for having prepared the draft explanatory note, recalling that the secretariat would update it to reflect the deliberations during the present session and the text of the draft convention as approved. The Commission requested the secretariat to publish the revised text of the explanatory note in all official languages of the United Nations, both in electronic and printed form, and to circulate it widely, along with the text of the convention.

D. Approval of the draft convention

99. At its 1164th meeting, on 30 June 2022, the Commission adopted by consensus the following decision and recommendation to the General Assembly:

“*The United Nations Commission on International Trade Law*,

“*Recalling* its mandate under General Assembly resolution 2205 (XXI) of 17 December 1966 to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

“*Mindful* of the crucial role of shipping in international trade and transportation, of the high economic value of ships used in both seagoing and inland navigation, and of the function of judicial sales as a means to enforce claims,

“*Considering* that adequate legal protection for purchasers may positively impact the price realized at judicial sales of ships, to the benefit of both shipowners and creditors, including lienholders and ship financiers,

“*Wishing*, for that purpose, to establish uniform rules that promote the dissemination of information on prospective judicial sales to interested parties and give international effects to judicial sales of ships sold free and clear of any mortgage or *hypothèque* and of any charge, including for ship registration purposes,

“*Convinced* that the adoption of a convention on the international effects of judicial sales of ships that is acceptable to States with different legal, social and economic systems would complement the existing international legal framework on shipping and navigation and contribute to the development of harmonious international economic relations,

“*Noting* that the preparation of the draft convention on the international effects of judicial sales of ships was the subject of due deliberation in the Commission and that the draft convention benefited from consultations with

Governments and interested intergovernmental and international non-governmental organizations,

“*Noting also* that the text of the draft convention was circulated for comment before the fifty-fifth session of the Commission to all Governments invited to attend the meetings of the Commission and its Working Group VI (Judicial Sale of Ships) as members and observers,

“*Having considered* the draft convention and the comments submitted by Governments and international organizations at its fifty-fifth session, in 2022,

“1. *Submits* to the General Assembly the draft convention on the international effects of judicial sales of ships, as it appears in annex I to the report of the United Nations Commission on International Trade Law on the work of its fifty-fifth session;

“2. *Recommends* that the General Assembly, taking into account the extensive consideration given to the draft convention by the Commission and its Working Group VI (Judicial Sale of Ships), consider the draft convention with a view to: (a) adopting, at its seventy-seventh session, on the basis of the draft convention approved by the Commission, the United Nations Convention on the International Effects of Judicial Sales of Ships; (b) authorizing a signing ceremony to be held as soon as practicable in 2023 in Beijing, upon which occasion the Convention would be open for signature; and (c) recommending that the Convention be known as the “Beijing Convention on the Judicial Sale of Ships”;

“3. *Requests* the Secretary-General to publish the Convention, upon adoption, including electronically and in the six official languages of the United Nations, and to disseminate it broadly to Governments and other interested bodies.”

V. Finalization and adoption of recommendations to assist mediation centres under the UNCITRAL Mediation Rules

A. Background

100. The Commission recalled that, at its fifty-fourth session, in 2021, it had adopted the UNCITRAL Mediation Rules⁶ (the Mediation Rules) and mandated the secretariat to prepare recommendations to assist mediation centres on how to adjust the rules for their use, which would facilitate the Mediation Rules serving as a model for institutional rules.⁷

101. The Commission was informed that, pursuant to that mandate, the secretariat, in consultation with mediation centres and experts from various parts of the world, had prepared draft recommendations to assist mediation centres and other interested bodies with regard to mediation under the UNCITRAL Mediation Rules (2021). The Commission noted that the draft recommendations followed an approach similar to the one taken in the recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules (as revised in 2010), which were adopted by the Commission at its forty-fifth session, in 2012.⁸

⁶ *Official Records of the General Assembly, Seventy-sixth Session, Supplement No. 17 (A/76/17)*, para. 101.

⁷ *Ibid.*, para. 100.

⁸ *Ibid.*, *Sixty-seventh Session, Supplement No. 17 (A/67/17)*, para. 64.

Annex I

Draft convention on the international effects of judicial sales of ships

The States Parties to this Convention,

Reaffirming their belief that international trade on the basis of equality and mutual benefit is an important element in promoting friendly relations among States,

Mindful of the crucial role of shipping in international trade and transportation, of the high economic value of ships used in both seagoing and inland navigation, and of the function of judicial sales as a means to enforce claims,

Considering that adequate legal protection for purchasers may positively impact the price realized at judicial sales of ships, to the benefit of both shipowners and creditors, including lienholders and ship financiers,

Wishing, for that purpose, to establish uniform rules that promote the dissemination of information on prospective judicial sales to interested parties and give international effects to judicial sales of ships sold free and clear of any mortgage or *hypothèque* and of any charge, including for ship registration purposes,

Have agreed as follows:

Article 1. Purpose

This Convention governs the international effects of a judicial sale of a ship that confers clean title on the purchaser.

Article 2. Definitions

For the purposes of this Convention:

- (a) “Judicial sale” of a ship means any sale of a ship:
 - (i) Which is ordered, approved or confirmed by a court or other public authority either by way of public auction or by private treaty carried out under the supervision and with the approval of a court; and
 - (ii) For which the proceeds of sale are made available to the creditors;
- (b) “Ship” means any ship or other vessel registered in a registry that is open to public inspection that may be the subject of an arrest or other similar measure capable of leading to a judicial sale under the law of the State of judicial sale;
- (c) “Clean title” means title free and clear of any mortgage or *hypothèque* and of any charge;
- (d) “Mortgage or *hypothèque*” means any mortgage or *hypothèque* that is effected on a ship and registered in the State in whose register of ships or equivalent register the ship is registered;
- (e) “Charge” means any right whatsoever and howsoever arising which may be asserted against a ship, whether by means of arrest, attachment or otherwise, and includes a maritime lien, lien, encumbrance, right of use or right of retention but does not include a mortgage or *hypothèque*;
- (f) “Registered charge” means any charge that is registered in the register of ships or equivalent register in which the ship is registered or in any different register in which mortgages or *hypothèques* are registered;
- (g) “Maritime lien” means any charge that is recognized as a maritime lien or *privilège maritime* on a ship under applicable law;
- (h) “Owner” of a ship means any person registered as the owner of the ship in the register of ships or equivalent register in which the ship is registered;

- (i) “Purchaser” means any person to whom the ship is sold in the judicial sale;
- (j) “Subsequent purchaser” means the person who purchases the ship from the purchaser named in the certificate of judicial sale referred to in article 5;
- (k) “State of judicial sale” means the State in which the judicial sale of a ship is conducted.

Article 3. Scope of application

1. This Convention applies only to a judicial sale of a ship if:
 - (a) The judicial sale is conducted in a State Party; and
 - (b) The ship is physically within the territory of the State of judicial sale at the time of that sale.
2. This Convention shall not apply to warships or naval auxiliaries, or other vessels owned or operated by a State and used, immediately prior to the time of judicial sale, only on government non-commercial service.

Article 4. Notice of judicial sale

1. The judicial sale shall be conducted in accordance with the law of the State of judicial sale, which shall also provide procedures for challenging the judicial sale prior to its completion and determine the time of the sale for the purposes of this Convention.
2. Notwithstanding paragraph 1, a certificate of judicial sale under article 5 shall only be issued if a notice of judicial sale is given prior to the judicial sale of the ship in accordance with the requirements of paragraphs 3 to 7.
3. The notice of judicial sale shall be given to:
 - (a) The registry of ships or equivalent registry with which the ship is registered;
 - (b) All holders of any mortgage or *hypothèque* and of any registered charge, provided that the register in which it is registered, and any instrument required to be registered under the law of the State of registration, are open to public inspection, and that extracts from the register and copies of such instruments are obtainable from the registry;
 - (c) All holders of any maritime lien, provided that they have notified the court or other public authority conducting the judicial sale of the claim secured by the maritime lien in accordance with the regulations and procedures of the State of judicial sale;
 - (d) The owner of the ship for the time being; and
 - (e) If the ship is granted bareboat charter registration:
 - (i) The person registered as the bareboat charterer of the ship in the bareboat charter register; and
 - (ii) The bareboat charter registry.
4. The notice of judicial sale shall be given in accordance with the law of the State of judicial sale, and shall contain, as a minimum, the information mentioned in annex I.
5. The notice of judicial sale shall also be:
 - (a) Published by announcement in the press or other publication available in the State of judicial sale; and
 - (b) Transmitted to the repository referred to in article 11 for publication.

6. For the purpose of communicating the notice to the repository, if the notice of judicial sale is not in a working language of the repository, it shall be accompanied by a translation of the information mentioned in annex I into any such working language.
7. In determining the identity or address of any person to whom the notice of judicial sale is to be given, it is sufficient to rely on:
 - (a) Information set forth in the register of ships or equivalent register in which the ship is registered or in the bareboat charter register;
 - (b) Information set forth in the register in which the mortgage or *hypothèque* or the registered charge is registered, if different to the register of ships or equivalent register; and
 - (c) Information notified under paragraph 3, subparagraph (c).

Article 5. Certificate of judicial sale

1. Upon completion of a judicial sale that conferred clean title to the ship under the law of the State of judicial sale and was conducted in accordance with the requirements of that law and the requirements of this Convention, the court or other public authority that conducted the judicial sale or other competent authority of the State of judicial sale shall, in accordance with its regulations and procedures, issue a certificate of judicial sale to the purchaser.
2. The certificate of judicial sale shall be substantially in the form of the model contained in annex II and contain:
 - (a) A statement that the ship was sold in accordance with the requirements of the law of the State of judicial sale and the requirements of this Convention;
 - (b) A statement that the judicial sale has conferred clean title to the ship on the purchaser;
 - (c) The name of the State of judicial sale;
 - (d) The name, address and the contact details of the authority issuing the certificate;
 - (e) The name of the court or other public authority that conducted the judicial sale and the date of the sale;
 - (f) The name of the ship and registry of ships or equivalent registry with which the ship is registered;
 - (g) The IMO number of the ship or, if not available, other information capable of identifying the ship;
 - (h) The name, address or residence or principal place of business of the owner of the ship immediately prior to the judicial sale;
 - (i) The name, address or residence or principal place of business of the purchaser;
 - (j) The place and date of issuance of the certificate; and
 - (k) The signature or stamp of the authority issuing the certificate or other confirmation of authenticity of the certificate.
3. The State of judicial sale shall require the certificate of judicial sale to be transmitted promptly to the repository referred to in article 11 for publication.
4. The certificate of judicial sale and any translation thereof shall be exempt from legalization or similar formality.
5. Without prejudice to articles 9 and 10, the certificate of judicial sale shall be sufficient evidence of the matters contained therein.

6. The certificate of judicial sale may be in the form of an electronic record provided that:

(a) The information contained therein is accessible so as to be usable for subsequent reference;

(b) A reliable method is used to identify the authority issuing the certificate; and

(c) A reliable method is used to detect any alteration to the record after the time it was generated, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display.

7. A certificate of judicial sale shall not be rejected on the sole ground that it is in electronic form.

Article 6. International effects of a judicial sale

A judicial sale for which a certificate of judicial sale referred to in article 5 has been issued shall have the effect in every other State Party of conferring clean title to the ship on the purchaser.

Article 7. Action by the registry

1. At the request of the purchaser or subsequent purchaser and upon production of the certificate of judicial sale referred to in article 5, the registry or other competent authority of a State Party shall, as the case may be and in accordance with its regulations and procedures, but without prejudice to article 6:

(a) Delete from the register any mortgage or *hypothèque* and any registered charge attached to the ship that had been registered before completion of the judicial sale;

(b) Delete the ship from the register and issue a certificate of deletion for the purpose of new registration;

(c) Register the ship in the name of the purchaser or subsequent purchaser, provided further that the ship and the person in whose name the ship is to be registered meet the requirements of the law of the State of registration;

(d) Update the register with any other relevant particulars in the certificate of judicial sale.

2. At the request of the purchaser or subsequent purchaser and upon production of the certificate of judicial sale referred to in article 5, the registry or other competent authority of a State Party in which the ship was granted bareboat charter registration shall delete the ship from the bareboat charter register and issue a certificate of deletion.

3. If the certificate of judicial sale is not issued in an official language of the registry or other competent authority, the registry or other competent authority may request the purchaser or subsequent purchaser to produce a certified translation into such an official language.

4. The registry or other competent authority may also request the purchaser or subsequent purchaser to produce a certified copy of the certificate of judicial sale for its records.

5. Paragraphs 1 and 2 do not apply if a court in the State of the registry or of the other competent authority determines under article 10 that the effect of the judicial sale under article 6 would be manifestly contrary to the public policy of that State.

Article 8. No arrest of the ship

1. If an application is brought before a court or other judicial authority in a State Party to arrest a ship or to take any other similar measure against a ship for a claim

arising prior to a judicial sale of the ship, the court or other judicial authority shall, upon production of the certificate of judicial sale referred to in article 5, dismiss the application.

2. If a ship is arrested or a similar measure is taken against a ship by order of a court or other judicial authority in a State Party for a claim arising prior to a judicial sale of the ship, the court or other judicial authority shall, upon production of the certificate of judicial sale referred to in article 5, order the release of the ship.
3. If the certificate of judicial sale is not issued in an official language of the court or other judicial authority, the court or other judicial authority may request the person producing the certificate to produce a certified translation into such an official language.
4. Paragraphs 1 and 2 do not apply if the court or other judicial authority determines that dismissing the application or ordering the release of the ship, as the case may be, would be manifestly contrary to the public policy of that State.

Article 9. Jurisdiction to avoid and suspend judicial sale

1. The courts of the State of judicial sale shall have exclusive jurisdiction to hear any claim or application to avoid a judicial sale of a ship conducted in that State that confers clean title to the ship or to suspend its effects, which shall extend to any claim or application to challenge the issuance of the certificate of judicial sale referred to in article 5.
2. The courts of a State Party shall decline jurisdiction in respect of any claim or application to avoid a judicial sale of a ship conducted in another State Party that confers clean title to the ship or to suspend its effects.
3. The State of judicial sale shall require the decision of a court that avoids or suspends the effects of a judicial sale for which a certificate has been issued in accordance with article 5, paragraph 1, to be transmitted promptly to the repository referred to in article 11 for publication.

Article 10. Circumstances in which judicial sale has no international effect

A judicial sale of a ship shall not have the effect provided in article 6 in a State Party other than the State of judicial sale if a court in the other State Party determines that the effect would be manifestly contrary to the public policy of that other State Party.

Article 11. Repository

1. The repository shall be the Secretary-General of the International Maritime Organization or an institution named by the United Nations Commission on International Trade Law.
2. Upon receipt of a notice of judicial sale transmitted under article 4, paragraph 5, certificate of judicial sale transmitted under article 5, paragraph 3, or decision transmitted under article 9, paragraph 3, the repository shall make it available to the public in a timely manner, in the form and in the language in which it is received.
3. The repository may also receive a notice of judicial sale emanating from a State that has ratified, accepted, approved or acceded to this Convention and for which the Convention has not yet entered into force and may make it available to the public.

Article 12. Communication between authorities of States Parties

1. For the purposes of this Convention, the authorities of a State Party shall be authorized to correspond directly with the authorities of any other State Party.
2. Nothing in this article shall affect the application of any international agreement on judicial assistance in respect of civil and commercial matters that may exist between States Parties.

Article 13. Relationship with other international conventions

1. Nothing in this Convention shall affect the application of the Convention on the Registration of Inland Navigation Vessels (1965) and its Protocol No. 2 concerning Attachment and Forced Sale of Inland Navigation Vessels, including any future amendment to that convention or protocol.
2. Without prejudice to article 4, paragraph 4, as between States Parties to this Convention that are also parties to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965), the notice of judicial sale may be transmitted abroad using channels other than those provided for in that convention.

Article 14. Other bases for giving international effect

Nothing in this Convention shall preclude a State from giving effect to a judicial sale of a ship conducted in another State under any other international agreement or under applicable law.

Article 15. Matters not governed by this Convention

1. Nothing in this Convention shall affect:
 - (a) The procedure for or priority in the distribution of proceeds of a judicial sale; or
 - (b) Any personal claim against a person who owned or had proprietary rights in the ship prior to the judicial sale.
2. Moreover, this Convention shall not govern the effects, under applicable law, of a decision by a court exercising jurisdiction under article 9, paragraph 1.

Article 16. Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.

Article 17. Signature, ratification, acceptance, approval, accession

1. This Convention is open for signature by all States in [Beijing], on [...], and thereafter at United Nations Headquarters in New York.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. This Convention is open for accession by all States that are not signatories as from the date it is open for signature.
4. Instruments of ratification, acceptance, approval or accession are to be deposited with the depositary.

Article 18. Participation by regional economic integration organizations

1. A regional economic integration organization that is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The regional economic integration organization shall in that case have the rights and obligations of a State Party, to the extent that that organization has competence over matters governed by this Convention. For the purposes of articles 21 and 22, an instrument deposited by a regional economic integration organization shall not be counted in addition to the instruments deposited by its member States.
2. The regional economic integration organization shall make a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States. The regional economic integration organization shall promptly notify the depositary of any changes to the

distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a “State”, “States”, “State Party” or “States Parties” in this Convention applies equally to a regional economic integration organization where the context so requires.
4. This Convention shall not affect the application of rules of a regional economic integration organization, whether adopted before or after this Convention:
 - (a) In relation to the transmission of a notice of judicial sale between member States of such an organization; or
 - (b) In relation to the jurisdictional rules applicable between member States of such an organization.

Article 19. Non-unified legal systems

1. If a State has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may declare that this Convention shall extend to all its territorial units or only to one or more of them.
2. Declarations under this article shall state expressly the territorial units to which this Convention extends.
3. If a State makes no declaration under paragraph 1, this Convention shall extend to all territorial units of that State.
4. If a State has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention:
 - (a) Any reference to the law, regulations or procedures of the State shall be construed as referring, where appropriate, to the law, regulations or procedures in force in the relevant territorial unit;
 - (b) Any reference to the authority of the State shall be construed as referring, where appropriate, to the authority in the relevant territorial unit.

Article 20. Procedure and effects of declarations

1. Declarations under article 18, paragraph 2, and article 19, paragraph 1, shall be made at the time of signature, ratification, acceptance, approval or accession. Declarations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.
2. Declarations and their confirmations shall be in writing and formally notified to the depositary.
3. A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned.
4. Any State that makes a declaration under article 18, paragraph 2, and article 19, paragraph 1, may modify or withdraw it at any time by a formal notification in writing addressed to the depositary. The modification or withdrawal shall take effect 180 days after the date of the receipt of the notification by the depositary. If the depositary receives the notification of the modification or withdrawal before entry into force of this Convention in respect of the State concerned, the modification or withdrawal shall take effect simultaneously with the entry into force of this Convention in respect of that State.

Article 21. Entry into force

1. This Convention shall enter into force 180 days after the date of the deposit of the third instrument of ratification, acceptance, approval or accession.
2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the third instrument of ratification, acceptance, approval or accession, this

Convention shall enter into force in respect of that State 180 days after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

3. This Convention shall apply only to judicial sales ordered or approved after its entry into force in respect of the State of judicial sale.

Article 22. Amendment

1. Any State Party may propose an amendment to this Convention by submitting it to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within 120 days from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. The conference of States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus are exhausted and no consensus is reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the conference. For the purposes of this paragraph, the vote of a regional economic integration organization shall not be counted.

3. An adopted amendment shall be submitted by the depositary to all States Parties for ratification, acceptance or approval.

4. An adopted amendment shall enter into force 180 days after the date of deposit of the third instrument of ratification, acceptance or approval. When an amendment enters into force, it shall be binding on those States Parties that have expressed consent to be bound by it.

5. When a State Party ratifies, accepts or approves an amendment following the deposit of the third instrument of ratification, acceptance or approval, the amendment shall enter into force in respect of that State Party 180 days after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 23. Denunciation

1. A State Party may denounce this Convention by a formal notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a non-unified legal system to which this Convention applies.

2. The denunciation shall take effect 365 days after the date of the receipt of the notification by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take effect upon the expiration of such longer period after the date of the receipt of the notification by the depositary. This Convention shall continue to apply to a judicial sale for which a certificate of judicial sale referred to in article 5 has been issued before the denunciation takes effect.

DONE at [Beijing] this [...] day of [...], in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

Annex I

Minimum information to be contained in the notice of judicial sale

1. Statement that the notice of judicial sale is given for the purposes of the United Nations Convention on the International Effects of Judicial Sales of Ships
2. Name of State of judicial sale
3. Court or other public authority ordering, approving or confirming the judicial sale
4. Reference number or other identifier for the judicial sale procedure
5. Name of ship
6. Registry
7. International Maritime Organization (IMO) number
8. *(If IMO number not available)* Other information capable of identifying the ship
9. Name of the owner
10. Address or residence or principal place of business of the owner
11. *(If judicial sale by public auction)* Anticipated date, time and place of public auction
12. *(If judicial sale by private treaty)* Any relevant details, including time period, for the judicial sale as ordered by the court or other public authority
13. Statement either confirming that the judicial sale will confer clean title to the ship, or, if it is not known whether the judicial sale will confer clean title, a statement of the circumstances under which the judicial sale would not confer clean title
14. Other information required by the law of the State of judicial sale, in particular any information deemed necessary to protect the interests of the person receiving the notice

Annex II

Model certificate of judicial sale

Issued in accordance with the provisions of article 5 of the United Nations Convention on the International Effects of Judicial Sales of Ships

This is to certify that:

(a) The ship described below was sold by way of judicial sale in accordance with the requirements of the law of the State of judicial sale and the requirements of the United Nations Convention on the International Effects of Judicial Sales of Ships; and

(b) The judicial sale has conferred clean title to the ship on the purchaser.

- 1. State of judicial sale**
- 2. Authority issuing this certificate**
 - 2.1 Name
 - 2.2 Address
 - 2.3 Telephone/fax/email, if available
- 3. Judicial sale**
 - 3.1 Name of court or other public authority that conducted the judicial sale
 - 3.2 Date of the judicial sale
- 4. Ship**
 - 4.1 Name
 - 4.2 Registry
 - 4.3 International Maritime Organization (IMO) number
 - 4.4 *(If IMO number not available) Other information capable of identifying the ship* *(Please attach any photos to the certificate)*
- 5. Owner immediately prior to the judicial sale**
 - 5.1 Name
 - 5.2 Address or residence or principal place of business
- 6. Purchaser**
 - 6.1 Name

6.2 Address or residence or principal place of business

At.....
(place)

On
(date)

.....
Signature and/or stamp of issuing authority or other confirmation of authenticity of the certificate