



Malta Maritime Law Association
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1st March 2020

Mr. Chris Davis
President
Comite Maritime International

Dear Chris

Re: International Effects of Judicial Sales

Following the successful meeting of the UNCITRAL Working Group V1 on Judicial Sales in Vienna a full report of which went out with our latest Newsletter and can be found on the CMI Website, UNCITRAL Secretariat published this week the 2nd Revised Draft of the Instrument together with some Accompanying Notes. Again I would like to stress the excellent relationship we have with the Secretariat with whom we have worked extremely well and most productively. The Secretariat has done some exceptional work. This second draft is an example of very effective drafting and showcases the Secretariat's ability to absorb all the diverse comments made during an entire week by the dozens of delegations that attended, putting them together and producing a document which retains the fundamental importance and purpose of the instrument whilst being sensitive to the concerns expressed.

I would like to bring both the draft and accompanying notes to the attention of our members so that they can assist their state delegates and prepare for the meeting in New York in April.

As can be seen from the draft and accompanying notes, a number of difficult issues have been thrashed out with numerous recommendations and suggestions being made.

To start with this 2nd revised draft has acknowledged the near unanimous preference for a Convention over a Model law informally expressed by the delegates during the Vienna meeting. As a result this draft has lost all the square brackets as in the previous first revised draft catering for the possibility of a model law. Instead this 2nd draft is drafted like a Convention and incorporates all the articles one would typically find in a Convention.

In addition the previous work done by the CMI continues to be recognised with this draft still being referred to as the Beijing Draft.

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In substance, this draft has provided much more certainty and clarity in that it is clear that it will relate to judicial sales held in states which are indeed free and unencumbered. All references to qualified sales and sales subject to qualifications assumed by the purchaser have been eliminated altogether.

It is also to be noted that the exclusive jurisdiction of the state where the judicial sale has been held has been underlined, with the criteria of the physical presence and the service of the notice becoming much more prominent in various articles such as article 3 (1) and 5)1) (a) as well as in the Notice of Judicial Sale and in the Certificate of Judicial sale.

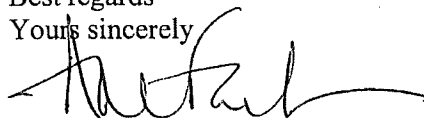
Naturally there are a number of other matters which still need to be further analysed and discussed and as we did for the meeting in Vienna, our IWG intends to prepare a set of meeting notes which will be referred to as the New York 2020 meeting notes. Through these meeting notes CMI will share some thoughts on the current draft open for discussing in New York which may be of assistance and which may prove useful to the delegations attending New York.

May I encourage all national maritime law associations to consider the draft and accompanying note and come forward with any ideas they may have which they may send me directly on ann.fenech@fenlex.com

Finally, this project would not have gotten so far if it were not for the sterling work being done by all the members of the IWG and if it were not for the co-operation and hard work of a number of NMLAs who are acting as the perfect conduit between the CMI and the national governments represented at UNCITRAL. ***It is vital however that all NMLAs keep up their contact with the respective government departments responsible for this work at UNCITRAL and to ensure that prior to the April meeting that they again reach out to them offering any assistance they may be able to give, including accompanying government delegations to UNCITRAL as maritime law experts.*** We will circulate the New York 2020 Meeting Notes as soon as these are ready.

Best regards

Yours sincerely



Ann Fenech

Co-Chair ~~IWG on~~ Judicial Sales

Co-Ordinator for CMI for the project at UNCITRAL