

CLOUT Bulletin

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CLOUT and UNCITRAL

UNCITRAL has a new Secretary: Mr. Renaud Sorieul. Mr. Sorieul succeeds Mr. Jernej Sekolec, who retired from service on 31 July 2008. Mr. Sorieul is the eighth Secretary of UNCITRAL since the Commission was established in 1966. Mr. Sorieul has taken up his duties on 1 October 2008.

Since he joined the UNCITRAL Secretariat in 1989, Mr. Sorieul was actively involved in the UNCITRAL Working Group on International Payments, which prepared the UNCITRAL Model Law on International Credit Transfers. He then served as Secretary of the UNCITRAL Working Group on Electronic Commerce, which drafted the UNCITRAL Model Law on Electronic Commerce and the UNCITRAL Model Law on Electronic Signatures. Since 2002, he was the Secretary of the UNCITRAL Working Group on Arbitration and Conciliation. In addition, he served as Principal Legal Officer, Head of the Legislative Branch of the International Trade Law Division, in charge of supervising the Secretariat support to the standard-making activities of UNCITRAL since 1 February 2005.

A French national, Mr. Sorieul holds degrees in private law from the University of Paris (Paris II). He is also a graduate of the Institut d'études politiques de Paris and the École Nationale de la Magistrature. A member of the French judiciary since 1981, he served as a magistrate in first-degree law courts (1981-1985), and was subsequently appointed a member of the International Criminal Law Division at the Ministry of Justice (1985-1987). He was then seconded to serve as Head of the Legal Office of the Directorate-General of Energy and Mines at the Ministry of Industry (1987-1989). He is married with three children.

UNCITRAL Secretariat

The Text in Focus *(MLCBI)*

The UNCITRAL Legislative Guide on Secured Transactions (2007)

In December 2007, the Commission finalized and adopted the UNCITRAL Legislative Guide on Secured Transactions. The Guide provides an efficient legal regime for security interests in all types of movable assets, whether tangible or intangible, with the exception of securities, to secure the widest possible array of obligations. The main objective of the Guide is to remove legal obstacles to secured financing, a result that is likely to have a beneficial impact on the availability and the cost of the credit. The Guide contains a full set of recommendations to the legislator as to how issues relating to security interests in movable assets are to be addressed in legislation. The recommendations are separated in general recommendations that are applicable to all types of movable asset and asset-specific recommendations that are applicable to specific types of asset, such as negotiable instruments, negotiable documents, letters of credit, independent guarantees and rights to receive the payment of funds credited to bank accounts. The recommendations are accompanied by an extensive commentary that explains the recommendations but also discusses the advantages and disadvantages of other workable approaches, thus combining certainty with flexibility. The Guide deals with all issues that need to be addressed in legislation, including the treatment of security interests in the case of insolvency (in line with the UNCITRAL Legislative Guide on Insolvency Law) and the law applicable to security interests. The Guide is available on the UNCITRAL website in a pre-edited version. The final edited text will be published soon.

CLOUT Document Database users may now search case law on UNCITRAL texts in the newly-developed search engine available at www.uncitral.org/clout/showSearchDocument.do

- Spain National Correspondent for CLOUT, Ms. Viscasillas, has kindly informed us that the web page of the MOOT Court in Madrid is now available under: <http://www.mootmadrid.es>
- **UNCITRAL Digest of Case Law on the United Nations Convention on the International Sale of Goods** – The upgraded version of the Digest is now available. The 2008 Digest has been fine tuned in the language, the structure of the various chapters and the cross-references. It includes reference to selected CLOUT abstracts published after 2004 and an index of the case law cited in the commentary of the various articles. The Digest is currently published in hard copy in English and its electronic version will be posted on the UNCITRAL website. Translations in the other UN official languages are being completed.
- **New York Convention, New State Party: Rwanda** - Rwanda has become the 143rd State Party to the New York Convention, as a result of accession. The treaty will enter into force in the country on 29 January next year.
- **CISG – New State party: Lebanon** – With its accession to the CISG, Lebanon has become the 72nd State party to the Convention. The Convention will enter into force on 1 December 2009.
- **CLOUT abstracts from the Philippines** – The first abstracts from the Philippines were received last summer and have now been published in CLOUT 79. Three cases concern the application of MAL and one refers to the UNCITRAL Model Law on Electronic Commerce.
- **UNCITRAL Model Law on Electronic Commerce (1996, MLEC)** – The Secretariat would like to appeal to all the National Correspondents from countries having adopted the Model Law to provide abstracts. The Secretariat is in fact trying to improve the information available on the application and interpretation of MLEC. Voluntary contributions will also be welcome.
- **UNCITRAL MAL (1985, as amended in 2006)**– Legislation based on the Model Law with amendments as adopted in 2006 has been enacted in New Zealand (2007), Ireland (2008), Mauritius (2008), Peru (2008) and Slovenia (2008).

Annex to the UNCITRAL Legislative Guide dealing with security interests in intellectual property

The law recommended in the UNCITRAL Legislative Guide on Secured Transaction generally applies to security interests in intellectual property except to the extent its provisions are inconsistent with law relating to intellectual property. In order to ensure coordination between secured transactions and intellectual property law, the Commission decided that an annex to the Guide specific to security interests in intellectual property should be prepared and entrusted that work to Working Group VI (Security Interests).

The Annex builds on the Guide and discusses how the principles of the Guide apply where the encumbered assets consist of intellectual property. Where necessary, the Annex adds new commentary and recommendations modifying or supplement the general commentary and recommendations of the Guide.

Working Group VI has devoted so far two sessions to the preparation of the Annex (May and December 2008). The next session of Working Group VI on the Annex will be in New York from 27 April to 1 May 2009.

* Brochures “Facts about CLOUT” are being reprinted and will soon be available again. All those who would like to get some for distribution to students and resource centres can request them at clout@uncitral.org. It is also possible to obtain the brochures in e-format.

Technical Assistance Activities in a Nutshell

<p>Egypt: International Conference on the New York Convention: 50 years, Practical Perspectives on the Recognition and Enforcement of Foreign Arbitral Awards, 10-11 November 2008</p> <p>The Conference, organized under the auspices of the Cairo Regional Centre for International Arbitration and UNCITRAL, celebrated the 50th anniversary of the adoption of the Convention. The Conference discussed the impact of the implementation of the Convention on the growth of international trade and investment in the Arab region on one hand; and the means and mechanisms for improving its implementation on the other hand.</p>	<p>GTZ - Open Regional Fund for South East Europe – Legal Reform, Kopaonik School of Natural Law, 12-17 December 2008</p> <p>Activities of the Project continue to be carried out. A CD-ROM with information on the application of the CISG and the legislative arbitration framework in the region is being prepared. The CD-ROM will be presented in the context of the annual international conference "Kopaonik School of Natural Law", organized by the Association of Jurists of Serbia in December 2008.</p>
<p>International Conference on "International Commercial Arbitration and Sale of Goods: UNCITRAL Perspective", New Delhi, India, October 2008</p> <p>The Conference discussed issues relating to the implementation of UNCITRAL texts on arbitration in India and their uniform interpretation. Further discussion included the case for the adoption of the CISG in India in light of that country's influence in the regional and global economy. The UNCITRAL Secretariat provided lectures on both topics.</p>	<p>International Conference on "Institutional Arbitration in Infrastructure & Construction", New Delhi, India, October 2008</p> <p>The conference discussed issues of arbitration in the construction sector and recent developments as well as the interpretation of UNCITRAL texts on arbitration in India. The UNCITRAL Secretariat offered the inaugural lecture on UNCITRAL works in the field of construction and arbitration. In addition, a panel was held on the CISG with focus on its provisions and on the possible benefits arising from its adoption in India.</p>
<p>The Spirit and Interpretation of the CISG, Tokyo, Japan, November 2008</p> <p>The Conference was organized by the Steering Committee for the CISG Tokyo Congress, University of Tokyo Law School and the Institute of International Commercial Law of the Pace University, School of Law and co-sponsored by the Ministry of Foreign Affairs and the Ministry of Justice of Japan and the UNCITRAL Secretariat. Various lectures were held by prominent CISG experts on unification of the law and the CISG, and remedies for breach of contract under the Convention. It was also the occasion of broad and high level discussion on the interpretation of the CISG. The Conference was attended by legal scholars from Japan and other countries of the region. In view of the interest elicited by the recent accession of Japan to the Convention, it is expected that CISG and other UNCITRAL legal standards will benefit from increased attention in the region.</p>	<p>VIAC-UNCITRAL 2009 Conference, Vienna, 2-3 April 2009</p> <p>The Conference is organized by the UNCITRAL Secretariat and the VIAC (the International Arbitral Centre of the Austrian Federal Economic Chamber). The first day of the Conference is dedicated to the topic of revision of the UNCITRAL Arbitration Rules and the second day to issues of international arbitration, including the impact of the financial crisis on international arbitration and electronic evidencing. The UNCITRAL Secretariat will also provide lectures at that conference.</p>

World Bank Insolvency and Creditors Rights Task Force – Working Group on Insolvency of Non-Bank Financial Institutions First Meeting, Washington, DC, USA, 12-13 January 2009

UNCITRAL will collaborate with the World Bank, as part of the broader effort to bring together best practice guidance on modernizing the legal infrastructure of the finance sector in emerging markets, to reconvene the World Bank's Insolvency and Creditor-Debtor Regimes Task Force. The Task Force will examine the legal and institutional issues confronting insolvency administrators and courts in various jurisdictions as they address the insolvency of non-bank financial institutions involving complex financial instruments and vehicles, in the wake of the current financial crisis.

UNCITRAL Model Law on International Commercial Conciliation - Meeting with the Permanent Missions of the EU countries in Vienna – 6 October 2008

Following the EU Directive 2008/52/EC of 21 May 2008 on certain aspects of mediation in civil and commercial matters, the UNCITRAL Secretariat has strengthened its efforts for the promotion of the MLICC. The MLICC is highly consistent with the scope and the provisions of the EU Directive. A meeting to discuss the Model Law and how it can be used to implement the Directive was organized with representatives of the EU countries in Vienna.

Terminology

CISG – 1980 United Nations Convention on Contracts for the International Sale of Goods

MAL - 1985 UNCITRAL Model Law on International Commercial Arbitration, with amendments as adopted in 2006

New York Convention – 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Selection of Recent Publications on UNCITRAL and its Work

Reminder: All UNCITRAL booklets can be requested by contacting uncitral@uncitral.org.

UNCITRAL frequently receives notice of publications on its legal texts. The UNCITRAL web site offers a regularly updated list of these publications. Some of the most recent publications include:

- Bazinas S.V., UNCITRAL, In Security over receivables: an international handbook, W. Johnston, ed., New York, Oxford University Press, 2008
- Girsberger D. and Voser N., International arbitration in Switzerland, Zurich, Basel, Geneva, Schulthess, 2008
- Gunter P.-Y., Transnational rules on the taking of evidence. In Towards a uniform international arbitration law? Gaillard E.P., ed., New York, Juris Publishing, 2005
- Mason, S., Electronic signatures in law. 2nd ed. West Sussex, Tottel Publishing, 2007
- Schwenser I. and Fountoulakis C., eds. International sales law, Abingdon, UK, New York, Routledge-Cavendish, 2006
- Uzal Elsa M., Procesos de Insolvencia en el Derecho Internacional Privado. Buenos Aires, La Ley, 2008;
- Wach K. and Meckes F., eds., Tactics in M&A arbitration, Frankfurt am Main, German Law Publishers, 2008
- Zumbansen P. and Panezi M., United Nations Commission on International Trade Law (UNCITRAL), Max Planck Encyclopedia of Public International Law, June 2007.

The complete list is available on our web site at:

<http://www.uncitral.org/uncitral/en/publications/bibliography.html>