

Report on the 39th Session of the UNCITRAL Working Group VI (Judicial Sale of Ships)

by

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On 18 to 22 October 2021, UNCITRAL Working Group VI held its 39th Session in Vienna

Executive summary

The thirty-ninth (39th) Session of the United Nations Commission on International Trade Law (the “**UNCITRAL**” or the “**Commission**”) Working Group VI (Judicial Sale of Ships) (the “**Working Group**”) was held in a hybrid form, both in Vienna and virtually, from 18 to 22 October 2021. Its main object was to deliberate upon the 4th revision of the International Instrument on Judicial Sale of Ships (the “**Beijing Draft**”) and its international recognition. Once again, the Working Group highlighted the importance of ensuring that State parties give effect to the clean and unencumbered title of purchasers of ship in properly held judicial sale of ships for international trade. After a week of intense deliberations, several important decisions were made. The Working Group will continue working on a 5th revision of the Beijing Draft in its next session to be held in New York on 7 to 11 February 2022.

Report

Already during its thirty-eighth (38th) Session, held on 19 to 23 April 2021, the Working Group had considered several outstanding issues pending since its thirty-seventh (37th) Session and concerning a 3rd revision of the Beijing Draft as well as the grounds for avoidance and defining the time of judicial sale. During its fifty-fourth (54th) Session, held in Vienna on 28 June to 16 July 2021, the Commission had expressed its satisfaction with the progress made by the Working Group VI. At the same time, it urged the Working Group to try and finalize its work before next year’s Plenary Session.

During the Working Group’s 39th Session, significant progress was made. The Working Group discussed a new annotated revision of the Beijing Draft on the International Effects of Judicial Sale of Ships, mainly thanks to the combined efforts of its Chair, Prof. Beata Czerwenka, the Secretariat, led by Dr. Jose Angelo Estrella, and a great number of State and NGOs delegations (also with the continuous support of the CMI and the Swiss Delegations, as two of the Instrument’s sponsors).

At the end of its first day of work, the Working Group agreed to begin considering the main issues arising out of this revision. It decided to proceed to an article-by-article analysis of the Instrument’s text. Its work was divided as follows:

On Monday, 18 October 2021, the Working Group deliberated upon the following articles: (a) Article 1 (Purpose); and (b) Article 2 (Definitions). The deliberations concerned mainly the definition of the following terms: charge, clean title, maritime lien, mortgage, and judicial sale.

On Tuesday, 19 October 2021, the Working Group deliberated upon the following article: Article 3 (Scope of application). The deliberations concerned mainly the time of the judicial sale, the “extension”

of the Convention (under the reciprocity principle, only between states parties to the Convention) and the role of a clean title in defining the scope of application.

On Wednesday, 20 October 2021, the Working Group deliberated upon the following article: Article 4 (Notice of Judicial Sale). The deliberations concerned mainly the function of the notice requirements, to whom persons must notify the sale, the application of the law of the state of judicial sale and the publication of the notice.

On Thursday, 21 October 2021, the Working Group deliberated upon the following articles: (a) Appendix I (Notice of Judicial Sale). The deliberations concerned mainly the format and content of the relevant form; (b) Article 12 (Repository). It is noteworthy that a representative of the International Maritime Organization (the “**IMO**”) was present during the deliberations and he went on to explain the function of IMO’s Global Integrated Shipping Information System (the “**GISIS**”); and (c) Article 5 (Certificate of Judicial Sale).

On Friday, 22 October 2021, the Working Group deliberated upon the following articles: (a) Appendix II (Certificate of Judicial Sale); and (b) (*cont.*) Article 5 (Certificate of Judicial Sale). The deliberations concerned mainly the conditions for the issuance of the Certificate, the matters that must be certified, the contents and the effect of the Certificate.

Conclusion

At the end of the last day of the work sessions, the Chair, Prof. Beata Czerwenka and the Secretariat, led by Mr. Jose Angelo Estrella, summarized the decisions which were adopted and discussed during the sessions. The Chair concluded by summoning the delegates to the next work session that will take place - most probably in person - in New York in February 2022.