

## REPORT ON THE 37<sup>th</sup> SESSION OF THE UNCITRAL WORKING GROUP (JUDICIAL SALE OF SHIPS) ON 14-18 DECEMBER 2020, VIENNA (VIRTAUAL)

**Juan Pablo Rodriguez Delgado**  
Assistant Professor in Commercial Law  
Universidad Carlos III de Madrid (Spain)

### **Executive summary**

The thirty-seventh session of the UNCITRAL Working Group VI (Judicial sale of ships) was held in Vienna (virtually) from 14 to 18 December 2020 to deliberate the 2nd Draft of the International instrument on the effect of Judicial Sale of Ships. After a week of intense deliberations, the WG will continue its work in April 2021 in New York.

### **Report**

The past session of the Working Group has made a great progress towards a simple, practical and ratifiable Convention, thanks to the combined effort and hard work of the Chair Prof. Beata Czerwenka, the Secretariat led by Dr. Jose Angelo Estrella and a great number of State and NGO delegations (with a continuous work and support of the CMI, as one of the sponsors of the Instrument).

However, at this stage, there are still a certain number of points and alternatives worthy of consideration. The Working Group agreed to begin its deliberations by considering the Convention as the Form of the international instrument relating to the judicial sale of ships.

The Instrument remains an international Convention is recognised by all State parties to guarantee that the asset fetches the maximum price in a judicial sale proceeding for the benefit of the creditors guaranteeing by virtue of which the free and unencumbered title (designated as "clean title") in a ship purchased in a judicial sale. At the same time the peaceful possession and use of the newly purchased ship by the bona fide purchaser also guaranteed by te parties. (opting for new registration and deregistration of the ship in the previous Registrar and the release the ship in case of the recognition of the international effects).

After the first day of the session, the WG agreed to proceed to discuss main issues addressed in the second Draft. The WG decided to deal with the text analyzing the following articles:

#### Monday

- a. Article 1. Purpose
- b. Article 3. Scope of application: Deliberations: Time of the judicial sale, physical presence of the ship “within the jurisdiction”, definitions of term “ship” and “judicial sale” in the article

#### Tuesday

- c. Article 3. Scope of application (*continued*): The role of clean title in defining the scope of application, the exclusion of State-owned ships and the preservation of *in personam* claims
- d. Article 4. Notice of judicial sale: Function of the notice requirements and to whom persons must be notified the sale

### Wednesday

- e. Article 4. Notice of judicial sale (*continued*): Application of the law of the State of judicial sale and the publication of notice
- f. Article 5. Certificate of judicial sale: Conditions for issuance the Certificate and what matters must be certified and the contents of the certificate

### Thursday

- g. Article 5. Certificate of judicial sale (*continued*): Effect of the certificate
- h. Article 12. Repository: The Working Group took note of the work carried out by the Secretariat to explore options for hosting a centralized online repository of notices and certificates of judicial sale as an additional module within IMO's Global Integrated Shipping Information System (GISIS).
- i. Articles 6 and 10. International effects of a judicial sale: Conditions for giving international effect to the sale and the grounds for refusing to give international effect

### Friday

- j. Article 7. Action by registrar: Registration and deregistration of the ship in the Registrar and the grounds for its refusal
- k. Article 8. No arrest of the ship: Arrest and release the ship in case of international effects and the grounds for its refusal
- l. Article 9. Jurisdiction to avoid and suspend judicial sale: The Working Group was reminded of the view that avoiding a judicial sale rendered the sale null and void

At the end of the last day of the work sessions, the Chair Prof. Beata Czerwenka and the Secretariat led by Dr. Jose Angelo Estrella summarized the decisions adopted and discussed during the sessions and the chairman summoned us to the next work session that will take place in New York in April 2021.