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## UNCITRAL regional presence

### Note by the Secretariat

### Activities of the UNCITRAL Regional Centre for Asia and the Pacific

1. The General Assembly, in its resolutions 67/89 of 14 December 2012, 68/106 of 16 December 2013, 69/115 of 10 December 2014, 70/115 of 14 December 2015 and 71/135 of 13 December 2016, welcomed the activities of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific (RCAP or Regional Centre) in the Republic of Korea, towards reaching out and providing technical assistance with international trade law reforms to developing countries in the region.
2. RCAP has carried out its activities in accordance with the priority lines of action identified in the UNCITRAL Secretariat's strategic framework for technical assistance ([A/66/17](#), para. 255 and [A/CN.9/724](#), paras. 10-48), as well as with the specific mandate identified for the Regional Centre, which was revised in the 49th Commission session, namely as to (a) support public, private and civil society initiatives to enhance international trade and development by promoting certainty in international commercial transactions through the dissemination of international trade norms and standards, in particular those elaborated by UNCITRAL; (b) provide capacity-building and technical assistance services to States in the region, including to international and regional organizations, and development banks; (c) build and participate in regionally-based international trade law partnerships and alliances, including with other appropriate United Nations funds, programmes and specialized agencies; (d) strengthen information, knowledge and statistics through briefings, workshops, seminars, publications, social media, and information and communications technologies, including in regional languages; and (e) function as a channel of communication between States and UNCITRAL for non-legislative activities of the Commission.
3. The activities undertaken in the region covered by RCAP in relation to dissemination of UNCITRAL standards, capacity-building and technical assistance activities on specific topics are incorporated in the relevant Note by the Secretariat ([A/CN.9/905](#), part II). This note provides an overview of the other activities undertaken by RCAP.



## Flagship events

4. The Regional Centre has continued to deliver its four flagship events during the reporting period with the objective of streamlining activities to promote UNCITRAL texts and establishing regular opportunities for substantive regional contributions to support the present and possible future legislative work of UNCITRAL:

(a) The Incheon Trade Law Forum, 16-18 May 2016 (third edition) (previously named “UNCITRAL Asia Pacific Spring Conference”), a regional conference held in the host city of Incheon, Republic of Korea, co-hosted with the Hague Conference on Private International Law, Ministry of Justice of the Republic of Korea, the International Bar Association (IBA), the Korea Legislation Research Institute and the Korea International Trade Law Association, comprehensively covering UNCITRAL topics encompassing a Flagship conference, three seminars and a capacity-building workshop, featuring 69 speakers and bringing together more than 230 participants from 41 jurisdictions including representatives from international, regional and national organizations, government officials, judges, general counsels, legal officers, academics, entrepreneurs, experts and practitioners;

(b) The Asia Pacific ADR Conference, 12-13 October 2016 (fifth edition), a regional conference held in Seoul, promoting UNCITRAL standards on arbitration and conciliation, and designed to attract not only experts and practitioners from around the world, but also officials, researchers and scholars from 56 Asia Pacific States, to share their opinions and research findings related to the conference themes. The conference was supported by the International Chamber of Commerce — International Court of Arbitration (ICC-ICA), the Ministry of Justice of the Republic of Korea, the Korean Commercial Arbitration Board (KCAB) and the Seoul International Dispute Resolution Centre. The conference assembled experts, researchers, scholars, practitioners, representatives from arbitration centres and officials from the region, attracting over 270 participants from 32 jurisdictions;

(c) The UNCITRAL Emergence Conference, 13-14 December 2016 (second edition), held in Macau, China, co-hosted with the University of Macau, supported by the World Trade Centre Macau, ICC-ICA and Asia Business Law Institute and the media partner the Asian Business Law Journal, aimed at promoting academic engagement with UNCITRAL’s mandate and future work, based on an academic call for papers. Entitled “Regional Perspectives on Contemporary and Future Harmonization Agenda in International Trade Law”, 36 papers were presented and the conference attracted more than 134 participants from 20 jurisdictions. It explored new development areas that UNCITRAL may take note of in the coming years, and several speakers were selected to present their research findings at the UNCITRAL Congress on “Modernizing International Trade Law to Support Innovation and Sustainable Development”; and

(d) The UNCITRAL Asia Pacific Day, during the last quarter of 2016 (third edition), aimed at promoting awareness, encouraging the study, discussion and implementation of UNCITRAL texts and celebrating the establishment of UNCITRAL by the General Assembly on 17 December 1966. Every year, universities from across the region are invited to join the celebrations by proposing a programme that can range from lectures and seminars to public conferences. In 2016, seven universities joined the celebrations, namely: National Law University Delhi, which organized a stakeholder consultation round table, public lecture and symposium focusing on the United Nations Convention on Contracts for the International Sale of Goods (CISG) (New Delhi, 17 October 2016); Gujarat National Law University, which delivered a special lecture series on “Issues of Harmonization of Laws on International Trade from the Perspective of UNCITRAL: The Past and The Current Work” (Gujarat, India, 11 November 2016); the University of Hong Kong, which held a panel discussion on Cross-Border Insolvency (Hong Kong, China, 5 December 2016); Singapore Management University and City University of Hong Kong, which organized a conference on

“Towards an Asian Legal Order: Conversations on Convergence” (Singapore, 8-9 December 2016); KIIT University, which held the seminar “Quest Towards Harmonization of Global Trade Rules” (Odisha, India, 20-21 December 2016); and Kobe University, which organized arbitration moot practice sessions and special lectures on “Beyond CISG: Harmonization of contract law for globalizing market societies” and “UNCITRAL’s contribution to transparency in Investor-State Arbitration” (Kobe, Japan, 23-24 December 2016).

## **National Coordination Committees**

5. RCAP has continued its support to the UNCITRAL National Coordination Committees for Australia (UNCCA), India (UNCCI) and the Global Private Law Forum (GPLF) of Japan. The UNCITRAL National Coordination Committees are private sector initiatives aimed at disseminating international trade norms and coordinating national promotional activities, allowing the Regional Centre to allocate more resources to dissemination of UNCITRAL texts in Least Developed Countries (LDCs), Landlocked Developing Countries (LLDCs) and Small Island Developing States (SIDSs) in the region. During the reporting period, the Regional Centre collaborated with the National Coordination Committees in the following activities:

- (a) Second Annual UNCITRAL Australia Seminar organized with the UNCCA which focused on the relationship between UNCITRAL texts and other international instruments (Canberra, 20 May 2016);
- (b) “Celebrating UNCITRAL’s 50 Years: Global Standards for Rule-based Commerce”, organized by UNCITRAL and UNCC for India, with the support of the Permanent Court of Arbitration (New Delhi, 28-29 November 2016);
- (c) Regional conference on the 50th anniversary of UNCITRAL, organized by UNCCA (Brisbane, Australia, 2-3 December 2016); and
- (d) A book “Emerging Rules of International Commercial Law: Bilingual (English-Japanese)”, published jointly by RCAP and GPLF (February 2017).

## **Supporting attendance of judges and government officials**

6. The Regional Centre has supported the attendance of government officials, legal officers and judges from regional LDCs, LLDCs and SIDSs at various activities aimed at capacity-building:

- (a) One judge from Timor-Leste and one delegate from the Ministry of Industry and Commerce of the Lao People’s Democratic Republic to attend the Incheon Trade Law Forum (Incheon, Republic of Korea, 16-18 May 2016);
- (b) Delegates from Fiji, Palau and Vanuatu to attend the Second UNCITRAL South Pacific Seminar on “Access to Justice for Better Trade in PSIDS” (Port Moresby, 20-21 September 2016);
- (c) Two judges from the Supreme Court of Bangladesh to attend the International Dispute Resolution Masterclass (Beijing, 24-25 October 2016);
- (d) One delegate from the Attorney-General’s Department of Sri Lanka to attend the conference “The CISG as a Model for Harmonisation, Convergence and Law Reform” (Singapore, 6-7 January 2017);
- (e) One judge from Nepal and one judge from Cambodia to attend the 12th Multinational Judicial Colloquium organized by UNCITRAL, INSOL International and the World Bank (Sydney, Australia, 18-19 March 2017); and
- (f) One delegate from the Ministry of National Economy of Kazakhstan to attend the International Conference on CISG and the Convention on the Limitation Period (Prague, 24 March 2017).

## Channel of communication between States

7. The Regional Centre has consolidated the function it serves on behalf of the UNCITRAL Secretariat as a channel of communication for non-legislative activities of the Commission between States in the region and UNCITRAL, setting up contact points within governments in the region and engaging in regular consultations with government officials from Australia, Bahrain, China (including the Special Administrative Regions of Hong Kong and Macau), Fiji, India, Indonesia, Iran (Islamic Republic of), Japan, Kazakhstan, Lao People's Democratic Republic, Malaysia, Myanmar, Mongolia, Nauru, New Zealand, Pakistan, Papua New Guinea, Philippines, Qatar, Republic of Korea, Singapore, Sri Lanka, Thailand, Timor-Leste, Turkmenistan, United Arab Emirates and Viet Nam.

## New treaty action and enactment of model laws

8. The status of adoption of UNCITRAL texts is regularly updated and available on the UNCITRAL website. It is also compiled annually in a note by the Secretariat entitled "Status of conventions and model laws" (for the Commission's fiftieth session, see [A/CN.9/909](#)).

9. In the context of its communication with States, RCAP has monitored progress towards, and assisted States with, the adoption of the following UNCITRAL texts:

(a) In the area of dispute resolution:

UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006: legislation based on the Model Law has been adopted in Mongolia, the Republic of Korea and in the Australian Capital Territory (Australia);

UNCITRAL Model Law on International Commercial Arbitration (1985): legislation based on the Model Law has been adopted by Turkmenistan;

UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (2014) (the "Rules"): the following concluded agreements provide for investor-state arbitration under the UNCITRAL Arbitration Rules, including the Transparency Rules;

- i. Bilateral investment treaty between the United Arab Emirates and Greece signed on 6 May 2014;
- ii. Bilateral investment treaty between Iran (Islamic Republic of) and Slovakia signed on 19 January 2016;
- iii. Bilateral investment treaty between the United Arab Emirates and Mexico signed on 19 January 2016;
- iv. Bilateral investment treaty between Iran (Islamic Republic of) and Singapore signed on 29 January 2016;
- v. Bilateral investment treaty between Japan and Iran (Islamic Republic of) signed on 5 February 2016;
- vi. Bilateral investment treaty between Kyrgyzstan and Austria signed on 22 April 2016;
- vii. Bilateral investment treaty between Mongolia and Canada signed on 8 September 2016;
- viii. Agreement to amend the Free Trade Agreement between Singapore and Australia signed on 13 October 2016; and
- ix. Investment protection agreement between Hong Kong, China, and Chile signed on 18 November 2016;

(b) In the area of electronic commerce:

UNCITRAL Model Law on Electronic Commerce (1996): legislation based on the Model Law has been adopted in Fiji; and

(c) In the area of insolvency:

UNCITRAL Model Law on Cross-Border Insolvency (1997): legislation based on the Model Law has been adopted in Singapore.

## Coordination Activities

10. Following its systematic coordination and cooperation efforts with institutions active in trade law reform, the Regional Centre has, during the reporting period, built and participated in regionally-based international trade law partnerships and alliances, including with other United Nations funds, programmes and agencies:

(a) United Nations Delivering as One: UNCITRAL signed the Lao People's Democratic Republic-United Nations Partnership Framework 2017-2021, as a non-resident agency, being tasked, through RCAP, to contribute in "Outcome 7: Institutions and policies at national and local level support the delivery of quality services that better respond to people's needs" and "Outcome 8: People enjoy improved access to justice and fulfilment of their human rights" (Vientiane, 7 September 2016); RCAP agreed to join the preparation of the United Nations Development Assistance Framework (UNDAF) Papua New Guinea (2018-2022) and provided inputs for Country Analysis, the Strategic Prioritization and the UNDAF drafting (25 August 2016); RCAP is engaged with United Nations Development Programme Pacific in preparation of the United Nations Pacific Strategy 2018-2022 (Suva, 30 August 2016);

(b) United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) (see [A/CN.9/905](#), para. 27);

(c) World Bank: with respect to the 12th Multinational Judicial Colloquium (Sydney, Australia, 17-18 March 2017) (see para. 6(e) above and [A/CN.9/905](#), para. 31(e));

(d) Asian Development Bank (ADB): RCAP co-hosted the Second UNCITRAL South Pacific Seminar on "Access to Justice for Better Trade in PSIDS" with the support of ADB (Port Moresby, 20-21 September 2016). On 26 January 2017, ADB and UNCITRAL concluded an exchange of letters aimed at reforming arbitration laws in the South Pacific, focusing on accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). UNCITRAL, through RCAP, in coordination with ADB, will (a) assist States in the preparation and deposit of instruments of accession to the New York Convention; (b) review existing or draft new arbitration laws based on the UNCITRAL Model Law on International Commercial Arbitration, including ensuring conformity with the provisions of the New York Convention; and (c) deliver capacity-building through tailored training programmes for stakeholders (government and judicial officials, arbitration practitioners as well as scholars);

(e) Asia Pacific Economic Cooperation (see [A/CN.9/905](#), paras. 16-19);

(f) Greater Tumen Initiative (GTI) (see [A/CN.9/905](#), para. 27(c));

(g) Hague Conference of Private International Law and its Asia Pacific Regional Office (see para. 4(a) above and [A/CN.9/905](#), para. 41(c));

(h) International Chamber of Commerce — International Court of Arbitration (ICC-ICA): RCAP has continued its close coordination with ICC Arbitration and ADR North Asia and South Asia offices. In that framework, ICC became co-organizer of the Asia Pacific ADR Conference and of the UNCITRAL Emergence Conference, and the Regional Centre supported ICC capacity-building activities in the region; and

(i) Pacific Islands Forum: delivered technical briefing on the activities and mandate of UNCITRAL and discussed further coordination with the Pacific Islands Law Office Forum and the Pacific Legislative Drafter Technical Forum (Suva, 30 August 2016).

## **Strengthening information, knowledge and statistics**

11. To fulfil its objective of strengthening information, knowledge and statistics through briefings, workshops, seminars, publications, social media, and information and communications technologies, including in regional languages, RCAP engaged in the following activities:

(a) Compilation and publication of selected UNCITRAL texts in Japanese (in some cases for the first time) and English, entitled “Emerging Rules of International Commercial Law: Bilingual (English-Japanese) Selected UNCITRAL Texts”, in cooperation with GPLF, made available for free online and in hard copies distributed to Japanese law school’s libraries;

(b) Publication of the first annual report by the ISDS Asia Pacific Transparency Observatory (Observatory), in support of the activities of the Transparency Registry. RCAP and the Asia Pacific Law Institute of the Seoul National University, with the support of KCAB, established a cooperation framework to monitor transparency in Asia Pacific treaty-based investor-State dispute settlements through the establishment of the Observatory;

(c) Publication of the RCAP website in regional languages, namely Japanese and Korean; and

(d) Managing the Incheon Trade Law Digest, dedicated to Incheon, the host of the first UNCITRAL Regional Centre, an annual online publication of articles on international trade law, which are selected following calls for papers or presented at RCAP events. The publication aims at stimulating interest, research and study on UNCITRAL and its texts. All papers considered for publication must be relevant to the Asia Pacific.

## **Outreach**

12. To expand the reach of its mandate, both within the hosting community and with regional academia, the Regional Centre continued its national outreach and regional educational programmes to maintain regular dialogue with non-governmental organizations, local and national political stakeholders, other international organizations, academia, the media and the general public on various aspects of RCAP, to enhance cooperation and community support, and increase awareness of UNCITRAL activities:

(a) For the national outreach programme, the Regional Centre has actively participated in the Incheon International Organizations Consultative Partnership and related events held by the Incheon Metropolitan City. In addition, RCAP has opened its doors to visitors including representatives of the Incheon Municipal Council, local students and interns from the Ministry of Justice of the Republic of Korea. Various lectures were delivered to local students on UNCITRAL and its work;

(b) RCAP has continued supporting international trade law moot competitions held in the region, namely: the International ADR Mooting Competition (Hong Kong, China, 8-9 July 2016); the Shanghai Pre-Moot 2017 (21-24 March 2017); and the 14th Vis East Moot (Hong Kong, China, 26 March-2 April 2017); and

(c) Academic engagement was fostered by delivering lectures at a number of universities, including: China University of International Business and Economics, Beijing Normal University, Dankook University, East China University of Political

Science, Gachon University, Hitotsubashi University, Incheon National University, National Law University of Delhi, Renmin University of China, Shanghai University of Political Science and Law, Seoul National University and University of Macau.

## **Resources and Funding**

13. RCAP is staffed with one professional, one programme assistant, one team assistant and two legal experts. During this reporting period, 17 interns were hosted at the Regional Centre. The core project budget allows for the occasional employment of experts and consultants. RCAP relies on the annual financial contribution from the Incheon Metropolitan City to the UNCITRAL Trust Fund for symposia to meet the cost of operation and programme. It further relies on the contribution of two non-reimbursable loans of legal experts by the Ministry of Justice of the Republic of Korea and the Government of Hong Kong, China, both of which were extended.

14. According to article 13.3 of the Memorandum of Understanding signed on 18 November 2011, between the United Nations and the Ministry of Justice and Incheon Metropolitan City of the Republic of Korea, the Incheon Metropolitan City extended its financial contribution over a 5-year period (2017-2021) for the operation of the Regional Centre, revising the annual contribution to US\$ 450,000.

15. It is expected that interest in UNCITRAL texts in the region will grow with additional requests for technical assistance. Such increase will call for a corresponding increase in available resources. Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals are actively encouraged to make voluntary contributions to the UNCITRAL Trust Fund for symposia and, where appropriate, for the financing of special projects and otherwise to assist the UNCITRAL Secretariat in carrying out technical cooperation and assistance activities. Additional contributions to the RCAP project from member States, or from interested private and public entities recommended by member States, are required to further respond to regional expectations.

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