



**United Nations Commission
 on International Trade Law**
**CASE LAW ON UNCITRAL TEXTS
 (CLOUT)**
User Guide
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I. Scope and purposes of the information system

1. Based on a decision by the United Nations Commission on International Trade Law (“UNCITRAL”) at its twenty-first session in 1988 (A/43/17, paras. 98-109), the Secretariat has established a system for collecting and disseminating information on court decisions and arbitral awards relating to Conventions and Model Laws that have emanated from the work of the Commission. The acronym for the system is “CLOUT” (“Case law on UNCITRAL texts”).

2. The purpose of the system is to promote international awareness of such legal texts elaborated or adopted by the Commission, to enable judges, arbitrators, lawyers, parties to commercial transactions and other interested persons to take decisions and awards relating to those texts into account in dealing with matters within their responsibilities and to promote the uniform interpretation and application of those texts.

3. The system is intended to cover current and future UNCITRAL Conventions and Model Laws that have either entered into force or been implemented by the States and on which there is relevant case law. At present, the following legal texts are covered:

- United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)
- United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg)
- United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980)
- UNCITRAL Model Law on International Commercial Arbitration (1985)
- UNCITRAL Model Law on Electronic Commerce (1996)
- UNCITRAL Model Law on Cross-Border Insolvency (1997).

4. The system relies on a network of national correspondents designated by those States that are parties to a Convention or have enacted legislation based on a Model Law (hereinafter referred to as “implementing States”). There is no limit to the maximum number of national correspondents that a State can appoint. Ideally each Convention and, or, Model Law implemented by a State should be entrusted to at least one correspondent. Following the decision of the Commission at its forty-second session, 29 June-17 July 2009 (document A/64/17), the appointment of national correspondents should be reconfirmed every five years with a view to enabling those correspondents who wish to remain actively involved to continue their work and to providing an opportunity for new correspondents to join the network. A list of national correspondents, which is regularly updated (under the identifying symbol: A/CN.9/SER.C/Correspondents/1) will be made available to the public upon individual request.

5. The national correspondents monitor and collect court decisions and arbitral awards, and prepare abstracts of those considered relevant in one of the official languages of the United Nations (i.e. Arabic, Chinese, English, French, Russian, Spanish). The Secretariat stores the decisions and awards in their original language.

The abstracts are translated by the Secretariat into the other five United Nations languages and are published in all six languages as part of the regular documentation of UNCITRAL (under the identifying symbol: A/CN.9/SER.C/ABSTRACTS/...). Documents containing collections of abstracts are published whenever a sufficient number of abstracts have been received to justify publication on the basis of their contribution to the interpretation of the UNCITRAL text. The abstracts are thus published at irregular intervals.

6. The UNCITRAL Secretariat will monitor, with the assistance of the national correspondents, available case law on any Convention and Model Law that is not yet covered by the system and will include the relevant information as it becomes available. The User Guide will be revised accordingly.

7. It should be noted that, in view of the nature of the system, neither a national correspondent nor anyone else directly or indirectly involved in the operation of the system assumes any responsibility for errors or omissions that may occur in relation to any aspect of the system or its execution.

II. Collection of decisions and awards

8. The system aims at decisions and arbitral awards that are relevant to the interpretation or application of an UNCITRAL legal text. This includes those decisions and awards that interpret or apply a specific provision or provisions, as well as those that do not refer to a specific provision but relate to the legal text in general. For instance, decisions to the effect that a text is not applicable to the case at hand would be included.

9. The primary task of national correspondents is to collect decisions issued by courts of their respective implementing States. National correspondents may also collect other relevant decisions or awards, including those relating to a national law that is closely modelled on the text of a Convention elaborated by UNCITRAL even if the State is not party to the Convention. Priority will be given to collection of final decisions of courts and arbitral tribunals; where a decision that is subject to appeal or review is included in the collection, the abstract would indicate that status. Where there is both an appellate decision and a decision by a lower court, the preparation of an abstract of the decision by the lower court will not be considered a priority. However, where the reasoning at both levels is of legal value to the interpretation of an UNCITRAL legal text, abstracts may be prepared in respect of both decisions.

10. Special considerations apply to the collection of arbitral awards. The accessibility of arbitral awards varies considerably and is, as a rule, rather limited. Often, their availability is restricted by requirements of confidentiality. Their accessibility may also be restricted by the general usage of an arbitral institution. The availability of awards issued by tribunals in arbitration proceedings that are not administered by an arbitral institution is likely to be even more limited. Thus, arbitral awards are included in the collection only in so far as they come to the attention of national correspondents and in the form in which they are made available to them. Direct collaboration of arbitration centres in the collection of abstracts may be requested by the Secretariat. The general guidance provided in these Guidelines is fully applicable to arbitration centres. A list of arbitration centres

cooperating with the Secretariat will be added to the list of national Correspondents mentioned in paragraph 5 above.

11. Generally, the complete court decision or arbitral award, in its original language, should be forwarded to the Secretariat. In exceptional cases, however, a certain portion of a decision or arbitral award may be omitted for reasons, for example, of confidentiality (in such cases an abridged decision or arbitral award might be provided to the Secretariat) or because the portion omitted is not relevant to an UNCITRAL text, or because the portion is not available to the national correspondent.

12. The Secretariat stores the decisions and awards received from the national correspondents. They are made available, subject to possible copyright restrictions, to any interested person for individual use upon request.

III. Structure and purpose of abstracts

13. Each abstract bears a case number, based upon the order in which the abstracts are published, irrespective of the legal text to which the decision or award relates or of the country of its origin. After the case number, the provisions of the relevant convention or model law dealt with in the decision or award are listed, using the short title presented in the list of short titles in the annex to this guide (e.g., “CISG 1 (l)(a), (b); 99 (6); 100 (2)”).

14. Thereafter, further identification data is given, indicating the court or arbitral tribunal, the date of the decision or award, the names of the parties where these are available and any other means of identifying the decision or arbitral award using the official or customary means of expressing that data in a given jurisdiction.

15. Reference is also made to the source from which a decision or award that has been published was obtained. If the decision or award included in the collection is a copy of the original decision or award, the notation “original” will be given. If the decision or award is taken from a publication, the notation is “published in: ...”. After the reference to the source, the language of the decision or award is indicated.

16. Finally, additional information is given on the following points: the author of the abstract, where the author is a person other than the national correspondent of the country of origin; whether the original case is stored by the Secretariat, including any reference to its storage in any outside database; references to reproductions of the decision or arbitral award subsequent to its original issuance or publication; any translation of the decision or award into languages other than its original language; and published notes or commentaries on the decision or award. Any later publications on the decision or arbitral award are referenced in subsequent documents under the original case number. It may be noted that generally, in references to publications, abbreviations of such publications are not used.

17. The abstracts are intended to provide sufficient information to enable readers to decide whether it is worthwhile to examine the complete decision or arbitral award that is the subject of the abstract. They are usually no longer than one-half of a page, given the large number of decisions and arbitral awards to be collected. Exceptions may be made where a decision or award is particularly complex, or deals with several provisions of the relevant UNCITRAL text or represents a landmark

ruling. In view of the necessity for brevity, the substantive part of the abstract is ordinarily not a complete summary of the full decision or award, but should suffice as a “pointer” to the specific issues concerning the application and interpretation of the relevant UNCITRAL text in a given decision or arbitral award.

18. Guided by that purpose, the following points are usually included in an abstract: the reasons for applying or interpreting the provision of the UNCITRAL text in the way that it is interpreted, including any specific reliance on a principle or other provision of that text, on previous case law or on relevant contract clauses and particular facts; the claim or relief sought by the claimant and any other factor describing the procedural context within which the case was decided; the countries of the parties and the type of trade or other transactions involved.

IV. Possible copyright restrictions and confidentiality

19. As indicated above (para. 11), all decisions and arbitral awards stored by the Secretariat will be made available to the public upon individual request, subject to any copyright restrictions applicable to the decisions and awards. The national correspondents should inform the Secretariat of any restrictions existing in their jurisdictions that would prevent the reproduction of the full texts of court decisions or arbitral awards. Where, exceptionally, the source or publisher of the original decision or award does not allow the distribution of copies of the original decision to the public, the Secretariat would not make available any copy of the original case. The abstract would indicate the restriction and refer the user to the source of publication of the case.

20. Arbitral awards stored by the Secretariat will be made available to the public under the same conditions mentioned in paragraph 20. They will be subject to any requirements of confidentiality applicable to the awards. The national correspondents should inform the Secretariat of the existence of any confidentiality agreements concerning the arbitral awards that would prevent the reproduction of the texts of such awards.

21. Copyright protection is provided for the abstracts, the indices (discontinued)¹ and the Digests from the United Nation Publications Board in accordance with the United Nations regulations governing copyright in United Nations publications. Every publication of such materials bears a copyright notice.

22. As stated in the copyright notice, Governments and governmental institutions may reproduce or translate the copyrighted material without permission, but are requested to inform the United Nations of such reproduction or translation. All requests by others for permission to reproduce or translate copyrighted publications

¹ With a view to enhancing the usefulness of the system, the Secretariat published separate indices for the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the UNCITRAL Model Law on International Commercial Arbitration, under the identifying symbol: A/CN.9/SER.C/INDEX/.../. The purpose of such indices was to assist users of CLOUT in identifying cases relevant to a given issue by listing cases under the provision or sub-issue with which they dealt. With the development of the CLOUT Search Engine, available online, the publication of the indices has been discontinued. The indices already published can be found, in all six United Nations languages, at http://www.uncitral.org/uncitral/en/case_law/thesauri.html.

or parts thereof should be referred to the Secretary of the United Nations Publications Board, United Nations Headquarters, New York, N.Y. 10017. Before deciding on such requests, the Publications Board normally consults with the UNCITRAL Secretariat. The national correspondents and the UNCITRAL Secretariat, when advising the Publications Board, are guided by the objectives of the information system to provide worldwide awareness of the application of UNCITRAL legal texts and are thus favourably disposed to requests for reproducing or translating abstracts or indices.

V. Administrative procedures for individual CLOUT-users

23. As indicated above (para. 11), copies of decisions and arbitral awards available to the public are sent to interested persons upon request. Users will be required to comply with any copyright restrictions as to the use of the copies and other materials.

VI. Internet address

24. All published abstracts, indices, Digests and other information in connection with CLOUT are available at the following UNCITRAL website: http://www.uncitral.org/uncitral/en/case_law.html.

Annex I

Abbreviations and short titles for UNCITRAL legal texts covered by the CLOUT system

CISG	United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (Short title: United Nations Sales Convention)
HR	United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules, 1978)
MAL	UNCITRAL Model Law on International Commercial Arbitration (1985) (Short title: UNCITRAL Model Arbitration Law)
MLCBI	UNCITRAL Model Law on Cross-Border Insolvency (1997)
MLEC	UNCITRAL Model Law on Electronic Commerce (1996)
NYC	United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards

Annex II

Checklist for drafting CLOUT abstracts

The following guidelines are recommended for consideration when drafting abstracts.

- Parties should be referred to as claimant and defendant, seller and buyer or similar applicable general terms, but not with their real names.
- When pronouns are used to indicate a party, the gender-neutral “it” instead of “she/he” should be used.
- Exact dates of contracts, submissions, litigation etc. are usually unnecessary. If time is important for the understanding of a case, the dates should be included in the abstract, otherwise a more general indication might be preferable (e.g. two months later, later on etc).
- Detailed locations of the courts, parties, transactions is generally unnecessary. Usually, a general reference suffices (e.g. a German court, a Spanish seller, etc.).
- Reference to the UNCITRAL text should be made in the following way:
 - If the UNCITRAL text is quoted by the court (e.g. the United Nations Convention on Contracts for the International Sale of Goods), then the abstract will quote the UNCITRAL text.
 - If the court refers to the domestic enactment of the UNCITRAL text, the abstract should refer to the relevant article of domestic law and the corresponding article of the UNCITRAL text will be included in square brackets (e.g. 11 U.S.C. § 1521 [corresponding to Art. 21 MLCBI]).
- If the court’s reasoning relates to an article of an UNCITRAL text, but does not cite that article expressly, the article should be included in square brackets to indicate its relevance to the case.
- Reference to country names and abbreviations should be in accordance with the UN editorial rules; see <http://unterm.un.org/>.
 - For example, the USA should be referred to, when first mentioned, as “the United States of America [“the United States”]” and afterwards as the United States.
- References to the court name can be replaced, when possible, with “lower court”, “appellate court”, “court of appeals”, according to cases.
- Legal terms should be used in the same way as in the UNCITRAL text to which the abstract refers and not according to the domestic legal context so that readers of other jurisdictions can clearly understand.
 - E.g. in the case of the UNCITRAL Model Law on Cross-Border Insolvency, “insolvency representative” should be used instead of “receiver” or “liquidator”, “insolvency proceedings” instead of “winding-up” and so on.