



**51<sup>st</sup> Session of the  
United Nations Commission on International Trade Law**

**Address**

**By**

**Mr. Miguel de Serpa Soares**

Under-Secretary-General for Legal Affairs  
and United Nations Legal Counsel

**New York Convention 60<sup>th</sup> Anniversary – 28 June 2018  
Convention on the Recognition and Enforcement of Foreign Arbitral  
Awards (New York, 1958) (the "New York Convention"): a beacon for  
international trade**

28 June 2018

United Nations Headquarters, New York

It is my pleasure to welcome you for this special morning session of the United Nations Commission on International Trade Law, devoted to the celebration of the 60th anniversary of the New York Convention. In June, 60 years ago, a diplomatic conference convened by the United Nations in New York concluded this Convention.

The celebration for this new decade is conceived as an interactive session among delegations for considering how the mandate of UNCITRAL has generally contributed to the successful development of the international arbitration framework, with, as a foundational instrument, the New York Convention. We are honoured that leading arbitration practitioners are also joining us today for the celebration.

Let me start by giving you some information that may not be so well-known: UNCITRAL's origin and mandate partly result from the diplomatic process that led to the adoption of the New York Convention.

Indeed, in conjunction with the consideration of the question of recognition and enforcement of foreign arbitral awards, the United Nations Conference on International Commercial Arbitration - which worked on the preparation and adoption of the New York Convention from 20 May to 10 June



1958 - underscored in its final Act the relevance of measures for increasing the effectiveness of arbitration.

The topics mentioned included the collection and publication of information on existing arbitration laws and facilities, technical assistance in the development of arbitral legislation and institutions, and the preparation of model law on arbitration. These topics found their way into the legislative work programme of UNCITRAL, at its very first sessions, and constituted a roadmap that has been followed by organizations active in the field of international arbitration.

On that basis, UNCITRAL developed Arbitration Rules, the Model Law on International Commercial Arbitration, and undertook a survey on the legislative implementation of the New York Convention with the aim to monitor its application. This project was carried out over the course of a 12 year period, in cooperation with the International Bar Association.

In UNCITRAL's early years, arbitration was not accepted in all parts of the world as an alternative to the judicial settlement of international commercial disputes. Rather, the practice was often ignored or approached with reservation or suspicion which, in turn was becoming an impediment to the development of international trade. The work of UNCITRAL - drawing in part on the expertise of the private sector - has contributed to a strong legal framework, widely accepted in many different countries, with different levels of development, and different legal traditions.

However, the Commission is not only tasked with the development of legislative instruments.

A second aspect of its mandate refers to technical assistance to law reform and the promotion of international legal instruments.

As you are all aware, UNCITRAL has developed tools such as a case law database, known as "CLOUT", as well as digests of case law on its major texts, in order to assist users of these documents. Users include Governments when they intend to adopt a convention or a text based on a legislative instrument, they also include the judiciary tasked with the application of the texts.

These texts all have an international origin and must, therefore, be understood and applied in the context of that origin. More importantly, all States and all users, where ever they are located, should have access to the same quality of information. It is against the background of those principles, that the



Secretariat of UNCITRAL was tasked in 2011 by the Commission with the development of a Guide on the New York Convention.

Work on this project started on the basis of a resolution by the General Assembly, adopted in preparation for the 50th anniversary of the Convention, and noting the efforts that should be made in order to promote a harmonized interpretation and application of the Convention. The UNCITRAL Secretariat Guide on the New York Convention is the result of truly multilateral efforts: many jurisdictions shared their case law on the New York Convention, and a number of these cases were not publicly available.

They did so as they understood that the preparation of the Guide was meant to be a reflection of how the Convention was actually applied, following a “bottom-up” approach, with the purpose of making as much information as possible on the New York Convention freely available.

Sections of the Guide have been published in advance of sessions of UNCITRAL, thereby soliciting comments from stakeholders. It is my sincere hope that the Guide and the web platform created to host the Guide - called “New York Convention 1958 . org” - will provide useful assistance to users of the Convention.

The last part of the UNCITRAL mandate refers to cooperation and coordination of activities with other organizations. The discussions later today will focus on this specific element. International organizations have developed specific expertise, and cooperation among organizations is key to strengthening the international framework that has been built over the years. In this connection please allow me to mention the close cooperation on projects focussing on the New York Convention that exists between UNCITRAL and the World Bank, the International Bar Association, the International Chamber of Commerce, and the Asian Development Bank, just to cite but a few.

Let me also mention the long and historical relation between UNCITRAL and the International Council of Commercial Arbitration, the ICCA, the ICCA guide and the ICCA New York Convention roadshow.

The New York Convention was characterized in a General Assembly resolution of 2007 as an instrument that strengthens respect for binding commitments, inspires confidence in the rule of law and ensures fair treatment in the resolution of disputes arising over contractual rights and obligations. As of today, 159 States are parties to the New York Convention. This means that in most jurisdictions in the world, courts apply the Convention provisions and recognize the awards made abroad or made following the application of a foreign law. Such quasi-universal acceptance of the recognition and



enforcement process brings legal certainty to the business operations worldwide. It is also a demonstration of a strong commitment to the rule of law.

The global acceptance of the New York Convention represents a step towards better access to justice for economic operators, in line with the 2030 Agenda for Sustainable Development, hence fostering economic growth and investment perspectives.

I wish to conclude my presentation with some forward-looking remarks. Let me encourage all of you to join efforts to ensure that States that are not yet party to the Convention will join it. I further wish to point out that initiatives undertaken by various organs and agencies within and outside the United Nations System to organize conferences, judicial workshops, and other similar events, provide a forum for exchange of views or experiences worldwide on the New York Convention. All of those all welcome.

Please, allow me to also mention the newly finalized convention on international commercial settlement agreements resulting from mediation. This Convention - which aims at facilitating the enforcement of international mediation agreements - goes together with the revised UNCITRAL Model Law on Mediation, which has also been adopted by the Commission. Those two, equally important texts have been negotiated by around 85 States and 35 International Organizations since 2015. The convention follows the same approach as the New York Convention.

Thanks to the New York Convention, arbitration has become the primary method for solving disputes in international trade, and the commonly used method for countless disputes. We can only hope that the result of the intense work within UNCITRAL on mediation may lead to the exact same result: the universal recognition of mediation as a powerful tool to solve disputes. Thank you.