

305th Meeting

Monday, 3 June 1985, at 10.30 a.m.

Chairman: Mr. LOEWE (Austria)

The discussion covered in the summary record began at 11.45 a.m.

International commercial arbitration (A/CN.9/263 and Add.1-2, A/CN.9/264)

1. Mr. HERRMANN (International Trade Law Branch) reminded the Commission that the Secretary-General had transmitted the draft text of a Model Law on international commercial arbitration to all Governments and interested international organizations for comment. Their observations were reproduced in documents A/CN.9/263 and Add.1-2, except for those comments which referred to only one language version of the draft and which it was thought would best be submitted directly to a drafting group. The report containing the secretariat's commentary on the draft text (A/CN.9/264) explained the origin of certain provisions and sought to provide guidance in interpreting the text.

2. Mr. WAGNER (German Democratic Republic) said that the draft text was capable of making a major contribution to the Commission's goal of encouraging international trade relations by increasing the compatibility of national legal systems. His country looked forward to the Model Law being finalized at an early date.

3. Mr. STALEV (Observer for Bulgaria) said that his Government had had no comments to make on the draft text.

4. Lord WILBERFORCE (Observer for the Chartered Institute of Arbitrators) said that although the expertise represented on the Commission would ensure that jurisprudence and legal procedure received due attention in the consideration of the draft text, it was important to remember

that arbitrators would be the people actually using the Model Law. Specialized arbitrators had been suitably represented in the Working Group on International Contract Practices. His organization looked forward to making suggestions which it hoped would increase the practicality of the draft text and ensure that it catered properly for the requirements of arbitrators of that kind.

5. Mrs. RATIB (Egypt) said that the proposed Model Law would form a basis for effective legislation in many countries. Her delegation would comment on individual articles later.

6. Mr. EYZAGUIRRE (Observer for Chile) said that his Government had had no general comments to make on the draft. It found it generally acceptable but might ask for certain points to be clarified.

7. Mr. de HOYOS GUTIERREZ (Cuba) said that his delegation intended to make proposals during the discussion of the draft text which would consolidate suggestions already before the Commission in the written comments.

8. Sir Michael MUSTILL (United Kingdom) said that the theoretical foundation of the Model Law should not be emphasized at the expense of its practical function, which was to promote the efficient conduct of international commercial arbitration. The Commission should bear in mind the need

for parties to a commercial dispute to be free to solve it in the manner which suited them best. He therefore felt sure that it would not try to lay down hard-and-fast rules and that members of the Commission would not propose changes to the draft text unless they would improve the working of the Model Law.

9. Mr. SEKHON (India) said that his country's participation in the work on a Model Law on international commercial arbitration was in the best spirit of its Constitution, which contained a directive principle calling for international disputes to be settled by arbitration. He intended to supplement his Government's written observations during the discussion of the draft.

10. Mr. SAMI (Iraq) said that the Model Law would play an important role in standardizing international commercial arbitration procedure and would be a useful legislative guide for all countries. He hoped it would be adopted at the present session.

11. Mr. KIM (Observer for the Republic of Korea) said that the draft text was generally acceptable to his Government and many of its provisions were already part of his country's arbitration law.

The meeting rose at 12.20 p.m.