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UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW

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INTERNATIONAL COMMERCIAL ARBITRATION

Progress report on the preparation of a model
law on arbitral procedure

Note by the Secretariat

1. The United Nations Commission on International Trade Law, at its twelfth session, considered a report of the Secretary-General entitled "Study on the application and interpretation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)" and a note by the Secretariat on further work in respect of international commercial arbitration. ^{1/} The note suggested that the Commission commence work on a model law on arbitral procedure which could help to overcome most of the problems identified in the above study.

2. There was wide agreement in the Commission to request the Secretariat to undertake the necessary preliminary studies and to prepare a preliminary draft of such a law. ^{2/} It was further agreed that it would be useful to prepare an analytical compilation of provisions of national laws pertaining to arbitration procedure, setting forth the major differences between such provisions as well as possible conflicts between national laws and the UNCITRAL Arbitration Rules.

3. Accordingly, the Commission decided, on 25 June 1979, to request the Secretary-General

"(a) To prepare an analytical compilation of provisions of national laws pertaining to arbitration procedure, including a comparison of such laws with the UNCITRAL Arbitration Rules and the 1958 Convention;

(b) To prepare, in consultation with interested international organizations, in particular the Asian-African Legal Consultative Committee and the International Council for Commercial Arbitration, a preliminary draft of a model law on arbitral procedure, taking into account the conclusions reached by the Commission, and in particular:

(i) That the scope of application of the draft uniform rules should be restricted to international commercial arbitration;

(ii) That the draft uniform law should take into account the provisions of the 1958 Convention and of the UNCITRAL Arbitration Rules;

(c) To submit this compilation and the draft to the Commission at a future session." ^{3/}

4. Pursuant to that request, the Secretariat - as a necessary initial step in the preparation of an analytical compilation - began collecting materials on national laws pertaining to arbitral procedure. Due to the limited holdings of such materials available in Vienna, the Secretariat relied on the collections of such institutions as the T.M.C. Asser Institute for International Law at the Hague and the American Arbitration Association at New York. The Secretariat is indebted to both institutions for their generous assistance and co-operation.

^{1/} The report is contained in document A/CN.9/168 and the note in document A/CN.9/168

^{2/} Report of the United Nations Commission on International Trade Law on the work of its twelfth session, Official Records of the General Assembly, Thirty-fourth Session, Supplement No.17 (A/34/17), paras. 78-80.

^{3/} Ibid., para.81.

5. At present, the Secretariat holds materials on the legislation of about sixty States. However, in respect of a number of States these materials appear to be fragmentary and, in some instances, out-dated. As every effort should be made to prepare a complete and up-to-date compilation of the laws of as great a number of States as possible, the Commission may wish to invite the Governments of Member States of the United Nations to provide the Secretariat with relevant materials on national legislation and on case law, together with pertinent treatises where available.

6. This would enable the Secretariat to prepare the requested analytical compilation for submission to the fourteenth session of the Commission. This compilation would not only form a useful basis for the preparation of a model law on arbitral procedure; it would also be useful in itself as a guide for lawyers, arbitrators and businessmen.

7. In order to achieve a practice-oriented analysis and to prepare a draft model law which the Commission could consider at its fourteenth session and, if it so wishes, refer to a Working Group, the Secretariat deems it desirable to obtain the assistance of a consultant. Thus, the Commission may wish to authorize the Secretary-General to engage a consultant for the above purpose, in addition to the consultations with interested international organizations already included in its decision of 25 June 1979. 4/

4/ See above, para.3