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UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW
Working Group on the New International
Economic Order
Seventh session
New York, 8-19 April 1985

PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda
3. Consideration of draft chapters of the legal guide on drawing up international contracts for construction of industrial works
4. Other business
5. Adoption of the report

Notes on the provisional agenda

The Working Group on the New International Economic Order was established at the eleventh session of the Commission. 1/ Its membership was decided at the twelfth session of the Commission. 2/ At the thirteenth session of the Commission, the membership was increased to include all other States members of the Commission. 3/ The Working Group consists, therefore, of the following States:

1/ Report of the United Nations Commission on International Trade Law on the work of its eleventh session, Official Records of the General Assembly, Thirty-third Session, Supplement No. 17 (A/33/17), para. 71.

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), para. 100.

3/ Report of the United Nations Commission on International Trade Law on the work of its thirteenth session, Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 17 (A/35/17), para. 143.

Algeria, Australia, Austria, Brazil, Central African Republic, China, Cuba, Cyprus, Czechoslovakia, Egypt, France, German Democratic Republic, Germany, Federal Republic of, Guatemala, Hungary, India, Iraq, Italy, Japan, Kenya, Mexico, Nigeria, Peru, Philippines, Senegal, Sierra Leone, Singapore, Spain, Sweden, Trinidad and Tobago, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Yugoslavia.

The Working Group at its first session, held in New York in January 1980, recommended to the Commission for possible inclusion in its work programme, inter alia, the harmonization, unification and review of contractual provisions commonly occurring in international contracts in the field of industrial development. 4/ The Commission, at its thirteenth session, agreed to accord priority to work related to contracts for the supply and construction of large industrial works and requested the Secretary-General to carry out a study concerning clauses used in these contracts. The study was prepared by the Secretariat in two parts 5/, and was examined by the Working Group at its second and third sessions. 6/

At its second session, the Working Group decided to request the Secretariat to commence the preparation of a legal guide on contracts for the supply and construction of large industrial works. 7/ The Commission, at its fourteenth session, approved the decision by the Working Group and decided that the guide should identify the legal issues involved in such contracts and suggest possible solutions to assist parties, in particular from developing countries, in their negotiations. 8/ The Working Group at its third session requested the Secretariat to submit to the Working Group an outline of the structure of the guide and some sample draft chapters. 9/ At its fourth session the Working Group discussed the "Draft outline of the structure" of the legal guide and draft chapters on "Choice of contract type", "Exemptions" and "Hardship clauses". 10/

4/ A/CN.9/176, para. 31.

5/ A/CN.9/WG.V/WP.4 and Add.1-8, A/CN.9/WG.V/WP.7 and Add.1-6.

6/ A/CN.9/198, paras. 11-88, A/CN.9/217, paras. 13-129.

7/ A/CN.9/198, para. 92.

8/ Report of the United Nations Commission on International Trade Law on the work of its fourteenth session, Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 17 (A/36/17), para. 84.

9/ A/CN.9/217, paras. 132-133.

10/ A/CN.9/WG.V/WP.9 and Add.1-4.

At its fifth session the Working Group discussed draft chapters on "Termination", 11/ "Inspection and tests", "Failure to perform", 12/ "Variation clauses", "Assignment", and "Suspension of construction", and a note on the "Format of the legal guide". 13/ At its sixth session the Working Group discussed draft chapters on "Damages", "Liquidated damages and penalty clauses", 14/ "Scope and quality of works", "Completion, acceptance and take-over", "Allocation of risk of loss and damage", "Insurance", "Sub-contracting" and "Security for performance". 15/

The Secretary of the Commission stated at the sixth session that the Secretariat would submit to the seventh session of the Working Group, in addition to further draft chapters, a revision of the "Draft outline of the structure" of the legal guide, in which the deliberations of the Working Group and some re-arrangement and amalgamation of certain chapters would be reflected. Revised draft chapters on "Completion, acceptance and take-over" and on "Choice of contract type" would also be submitted, since the original draft chapters required substantial revision in the light of the deliberations of the Working Group. 16/

Item 1. Election of officers

The Working Group, in accordance with its normal practice, may wish to elect a Chairman and a Rapporteur.

Item 3. Consideration of draft chapters of the legal guide on drawing up international contracts for construction of industrial works

The Working Group will have before it draft chapters on "Price", "Consulting Engineer", "Transfer of technology", "Transfer of ownership of property", "Applicable law", and "Construction on site" (A/CN.9/WG.V/WP.15 and Add.1-6), together with a revised "Draft outline of the structure" of the legal guide, and revised draft chapters on "Choice of contracting approach" and "Completion, take-over and acceptance" (A/CN.9/WG.V/WP.15/Add.7-9). 17/ In addition, the Working Group may also have before it a draft chapter on the procedure for concluding contracts.

Item 5. Adoption of the report

A progress report on the seventh session of the Working Group is to be submitted to the Commission.

11/ A/CN.9/WG.V/WP.9/Add.5.

12/ A/CN.9/WG.V/WP.11/Add.1 and 3.

13/ A/CN.9/WG.V/WP.11/Add.6-9.

14/ A/CN.9/WG.V/WP.11/Add.4 and 5.

15/ A/CN.9/WG.V/WP.13/Add.1-6.

16/ A.CN.9/259, para. 154.

17/ Documents A/CN.9/WG.V/WP.15/Add.1 to 5 have already been submitted to the Department of Conference Services for issuance. The remaining documents will be submitted within a short period of time.

Meetings

The session of the Working Group will take place at United Nations Headquarters, New York. Meetings will be scheduled from 8 to 12 April, from 15 to 17 April and on 19 April 1985. Meeting hours will be from 10.00 a.m. to 1.00 p.m. and from 3.00 p.m. to 6.00 p.m., except on Monday, 8 April 1985 when the meeting will commence at 10.30 a.m.