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UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW
Working Group on the New International
Economic Order
Eighth session
Vienna, 17-27 March 1986

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 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 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 or damage", "Insurance", "Sub-contracting" and "Security for performance". 15/

At its seventh session the Working Group discussed draft chapters on "Price", "Consulting Engineer", "Transfer of technology", "Transfer of ownership of property", "Applicable law", "Construction on site" 16/ and "Procedure for concluding contract" 17/, 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". 18/

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 the "Introduction" to the legal guide and draft chapters on "Pre-investment studies", "General remarks on drafting", "Supply of equipment and materials", "Supply of spare parts and services after construction" and "Settlement of disputes" (A/CN.9/WG.V/WP.17 and Add.1-6) together with proposed additions to the chapters on "Procedure for concluding contract" and "Delay, defects and other failures to perform". 19/ The Working Group will also have before it revised draft chapters on "Choice of contracting approach", "Transfer of technology" and "Termination of contract". 20/

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/WG.V/WP.15/Add.1-6.

17/ A/CN.9/WG.V/WP.15/Add.10.

18/ A/CN.9/WG.V/WP.15/Add.7-9.

19/ A/CN.9/WG.V/WP.17/Add.2.

20/ A/CN.9/WG.V/WP.17/Add.7-9.

Item 5. Adoption of the report

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

Meetings

The session of the Working Group will take place at the Vienna International Centre. Meetings will be scheduled from 17 to 21, 24, 25 and 27 March 1986. No meeting will be scheduled for 26 March to allow for the preparation of the report. Meeting hours will be from 9.30 a.m. to 12.30 p.m. and from 2.00 p.m. to 5.00 p.m., except on Monday, 17 March when the meeting will commence at 10.30 a.m.