
1. At its second session the Working Group on the New International Economic Order decided to request the secretariat to commence the preparation of a legal guide on contracts for the supply and construction of large industrial works. The Commission at its fourteenth session approved this 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.1

2. The secretariat prepared two studies on clauses related to contracts for the supply and construction of large industrial works2 and the Working Group considered these studies at its second and third sessions.3 In its second session the Working Group agreed to request the secretariat to commence drafting the legal guide.

3. In the light of the discussion on the studies the secretariat prepared draft chapters of the guide and submitted them for the consideration of the Working Group.

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1/ A/CN.9/198, para. 92.
Group. The Working Group considered the draft chapters submitted by the secretariat at its fourth, fifth, sixth, seventh and eighth sessions.

4. At its eighth session the Working Group asked the secretariat to revise the Introduction and all draft chapters of the Guide and submit them to a further session of the Working Group. In accordance with this mandate the secretariat has revised the Introduction and draft chapters of the Guide in the light of the discussion of the Working Group during previous sessions. The Foreword and Introduction as revised are found in document A/CN.9/WG.V/WP.20 and draft chapters I to XXIX are found in Add. 1 to 29 of that document.

5. The contents of the revised draft Guide are as follows:

Foreword and Introduction
Chapter I: Pre-contract studies
Chapter II: Choice of contracting approach
Chapter III: Procedure for concluding contract
Chapter IV: General remarks on drafting
Chapter V: Description of works
Chapter VI: Transfer of technology
Chapter VII: Price and payment conditions
Chapter VIII: Supply of equipment and materials
Chapter IX: Construction on site
Chapter X: Consulting engineer
Chapter XI: Subcontracting
Chapter XII: Inspections and tests during manufacture and construction
Chapter XIII: Completion, take over and acceptance
Chapter XIV: Passing of risk
Chapter XV: Transfer of ownership of property
Chapter XVI: Insurance
Chapter XVII: Security for performance
Chapter XVIII: Delay, defects and other failures to perform
Chapter XIX: Liquidated damages and penalty clauses
Chapter XX: Damages
Chapter XXI: Exemption clauses
Chapter XXII: Hardship clauses
Chapter XXIII: Variation clauses
Chapter XXIV: Suspension clauses
Chapter XXV: Termination of contract
Chapter XXVI: Supply of spare parts and services after construction
Chapter XXVII: Transfer of contractual rights and obligations
Chapter XXVIII: Choice of law
Chapter XXIX: Settlement of disputes


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*This document contains the draft Foreword and Introduction to the UNCTAD Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works considered by the Working Group on the New International Economic Order at its ninth session (see this Yearbook, part two, II, A, I). Due to their length, the remaining draft chapters of the UNCTAD Legal Guide considered by the Working Group (A/CN.9/WG.V/WP.20/Add. 1-29) are not reproduced in this Yearbook. The UNCTAD Legal Guide has been published by the United Nations under Sales No. E.87.V.10, document A/CN.9/SER.B/2.

The preparation of this Guide was carried out within the Working Group on the New International Economic Order of the United Nations Commission on International Trade Law (UNCTAD), which is composed of all 36 member States of UNCTAD. In drafting chapters of the Guide for consideration by the Working Group, the secretariat consulted with practitioners and other experts in the field of international works contracts. In addition, the secretariat consulted numerous materials, including books, articles and other