

III. INTERNATIONAL COMMERCIAL ARBITRATION

1. *Report of the Secretary-General: summary of comments by members of the Commission on the proposals of the Special Rapporteur on international commercial arbitration (A/CN.9/79) **

INTRODUCTION

1. The United Nations Commission on International Trade Law, at its first session, included international commercial arbitration among the priority items on its work programme.

2. At its second session, the Commission appointed Mr. Ion Nestor (Romania) as Special Rapporteur on problems concerning the application and interpretation of the existing conventions on international commercial arbitration and other related problems.¹ The Special Rapporteur submitted his final report to the Commission at its fifth session.²

3. At the fifth session, the Commission considered the above report and adopted the following decision:

"The United Nations Commission on International Trade Law

"1. Requests the Secretary-General: to transmit to States members of the Commission the proposals made by the Special Rapporteur in his report and to invite them to submit to the Secretariat:

"(a) Their comments on the proposals made by the Special Rapporteur, and

"(b) Any other suggestions and observations they may have regarding unification and harmonization of the law of international commercial arbitration;

"2. Also requests the Secretary-General: to submit a report to the Commission at its sixth session summarizing the comments, suggestions and observations of States members of the Commission and setting out proposals regarding steps which the Commission may wish to consider with regard to unification in the field of international commercial arbitration."

4. Pursuant to the request contained in paragraph 1 of the above decision, the Secretary-General, in a *note*

verbale of 23 June 1972, informed the States members of the Commission of the proposals made by the Special Rapporteur in his report and invited them to communicate their comments and proposals thereon by replying to a questionnaire annexed to the *note verbale*.

5. The following members of the Commission have replied to the questionnaire: Egypt, Australia, Belgium, France, Hungary, Japan, Poland, Romania, Tunisia and the USSR.

6. Part I of the report reproduces the proposals of the Special Rapporteur, the questions relating thereto in the questionnaire mentioned in paragraph 4 above, and summaries of the replies to those questions including the comments, suggestions and observations contained therein.

7. Part II of the report sets forth proposals of the Secretary-General regarding further work in this field of unification, as requested in paragraph 1 of the above decision.

I. SUMMARY OF THE COMMENTS AND PROPOSALS ON THE PROPOSALS OF THE SPECIAL RAPPORTEUR

Promotion of the ratification of the 1958 United Nations Convention

8. *Proposal A:*

UNCITRAL should recommend that States which have not yet ratified, or adhered to, the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, should do so.

9. *Question (1): Should UNCITRAL make a recommendation as to the ratification of the 1958 United Nations Convention?*

10. All countries which answered the questionnaire agreed with the proposal.

11. *Question (2): If so, in what form should this recommendation be made in order to make it as effective as possible?*

* 9 March 1973.

¹ *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 18 (A/7618), para. 112; UNCITRAL Yearbook, Vol. I: 1968-1970, part two, II, A.*

² *Document A/CN.9/64; UNCITRAL Yearbook, Vol. III: 1972, part two, III.*

12. The following proposals were made:

Belgium: The Secretary-General should draw the attention of the interested States to the advantages presented by the Convention.

France: Recommendation by the General Assembly.

Hungary: The Secretary-General should inform the States concerned of the benefits of adhesion to the Convention for the promotion of international trade.

Poland: Resolution of the General Assembly or, at least, resolution of the Commission approved by the General Assembly.

Romania: Resolution of the General Assembly.

Tunisia: Resolution by UNCITRAL.

USSR: Appeal by the United Nations.

*Promotion of ratification
of the 1961 European Convention*

13. *Proposal B:*

UNCITRAL should recommend that States which have not yet ratified, or adhered to, the 1961 European Convention on International Commercial Arbitration, should do so.

14. *Question (3): Should UNCITRAL make a recommendation as to the ratification of the 1961 European Convention?*

15. Belgium, Egypt, France, Hungary, Poland and the USSR supported the proposal of the Special Rapporteur. Australia expressed the view that a recommendation as to the ratification of the 1961 European Convention should not be made at this stage, while Japan suggested that UNCITRAL should consider the proposal only if it would conclude that unification of the rules of international commercial arbitration is not feasible.

16. *Question (4): If so, in what form should this recommendation be made in order to make it as effective as possible?*

17. Belgium, France, Hungary, and Poland gave the same reply to this question as to Question (3) in paragraph 14 above. Romania suggested that the recommendation should be made by a resolution of the United Nations Economic Commission for Europe. According to the USSR the recommendation should be formulated by UNCITRAL either alone or in co-operation with other United Nations bodies, such as the United Nations Economic Commission for Europe.

*Establishment of a study group for the unification
of arbitration rules*

18. *Proposal C:*

UNCITRAL should establish a study group or working group which, alone or in co-operation with the representatives of interested arbitration centres, would examine:

1. The desirability of drawing up a model set of arbitration rules containing basic provisions, which arbitration centres could incorporate into their rules, and

2. The feasibility of unification and simplification of national rules on arbitration and the enforcement of arbitral awards, with a view to limiting judicial control over arbitral awards and reducing the means of recourse against enforcement orders. In the view of the Special Rapporteur, this aim could be best achieved by the drawing up of a uniform or model law applicable to disputes arising from international trade, which would contain certain basic norms with regard to such matters as the form of the arbitration agreement and its effects, principles for the establishment of the arbitral tribunal, the possibility of choosing a foreign arbitrator, the finality of arbitral awards, and the possibility of choice between arbitration according to the rules of law and arbitration according to equity.

19. *Question (5): Should UNCITRAL include in its programme of work the drawing up of a model set of arbitration rules for the purpose suggested in Proposal C?*

20. Austria, Belgium, Hungary, Japan, Poland, Romania and Tunisia gave a positive answer to this question. According to the USSR, the Commission should include in its programme of work not the drawing up of a model set of arbitration rules but the consideration of the desirability of such work. France objected to the proposal and suggested that, in accordance with resolution 708 (XXVII) of the Economic and Social Council, the task of preparation of arbitration rules should be carried out on a regional basis.

21. Australia and the USSR in their replies emphasized the need for co-operation with existing arbitration centres in the work mentioned above. Belgium noted that, in view of national legislation applicable to arbitration, a set of uniform arbitration rules should only have the character of a recommended text for optional use by persons who have recourse to arbitration.

22. *Question (6): Should UNCITRAL include in its programme of work the examination of the feasibility of unification and simplification of national rules on arbitration as suggested in Proposal C?*

23. Australia, Egypt, Hungary, Japan, Poland, Romania and Tunisia gave positive answers to this question; the answers of Belgium and France were in the negative. The USSR expressed the view that the problems to which Proposal C was addressed could in large measure be met by an increase in the number of States parties to the 1958 and 1961 Conventions mentioned in paragraphs 8 and 13 above.

24. Australia suggested that the feasibility study should examine existing uniform laws to ascertain whether they were acceptable to the countries for whom they were prepared and, if not, why not. At the same time, it pointed out that any limitation of judicial control, as suggested by the Special Rapporteur, might meet with some resistance

in Common Law countries. As noted in the reply, it was a general principle in those countries that the arbitrator had to judge in accordance with the rules of law and, consequently, if so directed by the Court, he had to submit any question of law for the opinion of the Court; furthermore, it was a principle of public policy in those countries that the jurisdiction of the Court could not be ousted by an arbitration clause.

25. In opposing the proposal, France expressed the view that unification of national rules on arbitration could not be achieved on a world-wide level and pointed out that attempts at unification even at a regional level often were unsuccessful. In this connexion it referred to the delay in ratification of the European Convention providing a Uniform Law on Arbitration, drawn up by the Council of Europe in 1966. Belgium also pointed out that the above Convention was signed by only two States and ratified by one.

26. *Question (7): If the answer to either question (5) or (6) is yes, and it is considered that interested arbitration centres should co-operate in the work, which of such centres in the country or the region of the respondent should be invited to co-operate?*

27. The following information was provided in response to this question:

- Australia: Australian Chamber of Commerce
Commercial Practices Committee of the Australian Council of the International Chamber of Commerce
ECAFE Commercial Arbitration Centre
- Belgium: Centre belge pour l'étude de la pratique de l'arbitrage national et international (CEPANI)
- Hungary: Presidium of the Court of Arbitration constituted at the Hungarian Chamber of Commerce
- Poland: Polish Chamber of Foreign Trade
- Romania: Romanian Chamber of Commerce
- USSR: Chamber of Commerce and Industry of the USSR

Promotion of co-operation among arbitration centres and other organizations concerned

28. *Proposal D:*

UNCITRAL should invite Governments, and governmental and non-governmental organizations, to support and encourage the establishment of regular and systematic bilateral and multi-lateral co-operation among arbitration centres and other organizations concerned, with a view to advancing the balanced use of arbitration facilities in both developed and developing countries and in trade between countries having different economic systems. With respect to regions where there are no arbitration organizations or where the existing organizations are insufficiently developed, the United Nations should provide the technical and material assistance needed for establishing or strengthening of such organizations.

29. *Question (8): Should UNCITRAL set itself the task suggested by the Special Rapporteur of promoting a balanced use of arbitration facilities?*

30. All countries which replied to the questionnaire, except France, gave a positive answer to this question. Poland, while agreeing with the proposal that the Commission should set itself the task of promoting a balanced use of arbitration facilities, expressed the view that "UNCITRAL should be the Protector and Co-ordinator in this respect whereas the organizations concerned should be immediately engaged therein". The USSR noted that the development of co-operation among arbitration centres could contribute to a wider use of arbitration for the settlement of disputes arising in international trade.

31. France objected to the proposal on the ground that UNCITRAL did not appear to be the most appropriate organ for the advancement of a more balanced use of arbitration facilities. Co-operation among arbitration centres should basically be the task of, and promoted by, the arbitration centres themselves. UNCITRAL could recommend to these centres that they should recall and give effect to the resolution incorporated in the Final Act of the 1958 United Nations Conference on International Commercial Arbitration³ and the resolution of the

³ The resolution reads:

"The Conference,

"Believing that, in addition to the convention on the recognition and enforcement of foreign arbitral awards just concluded, which would contribute to increasing the effectiveness of arbitration in the settlement of private law disputes, additional measures should be taken in this field.

"Having considered the able survey and analysis of possible measures for increasing the effectiveness of arbitration in the settlement of private law disputes prepared by the Secretary-General (document E/CONF.26/6),

"Having given particular attention to the suggestions made therein for possible ways in which interested governmental and other organizations may make practical contributions to the more effective use of arbitration,

"Expresses the following views with respect to the principal matters dealt with in the note of the Secretary-General:

"1. It considers that wider diffusion of information on arbitration laws, practices and facilities contributes materially to progress in commercial arbitration; recognizes that work has already been done in this field by interested organizations, and expresses the wish that such organizations, so far as they have not concluded them, continue their activities in this regard, with particular attention to co-ordinating their respective efforts;

"2. It recognizes the desirability of encouraging where necessary the establishment of new arbitration facilities and the improvement of existing facilities, particularly in some geographic regions and branches of trade; and believes that useful work may be done in this field by appropriate governmental and other organizations, which may be active in arbitration matters, due regard being given to the need to avoid duplication of effort and to concentrate upon those measures of greatest practical benefit to the regions and branches of trade concerned;

"3. It recognizes the value of technical assistance in the development of effective arbitral legislation and institutions; and suggests that interested Governments and other organizations endeavour to furnish such assistance, within the means available, to those seeking it;

"4. It recognizes that regional study groups, seminars or working parties may in appropriate circumstances have productive results; believes that consideration should be given to the advisability of the convening of such meetings by the appro-

(Continued on next page.)

Economic and Social Council referred to in paragraph 20 above.

32. *Question (9): If the answer to question (8) is yes, is the promotion of co-operation among arbitration organizations an appropriate means to the furtherance of a more balanced use of arbitration facilities?*

33. Except for France, whose reply is referred to in paragraph 31 above, all countries gave a positive answer to this question. Hungary noted that co-operation among arbitration centres could be usefully promoted by organizing the exchange of information and experience.

34. *Question (10): Is there an existing arbitration centre or other organization concerned with international trade arbitration in the country or region of the respondent whose co-operation would be useful for the above purpose? If so, which is that organization?*

35. The following answers were given:

Australia: ECAFE Commercial Arbitration Centre

Belgium: Centre belge pour l'étude de la pratique de l'arbitrage national et international (CEPANI)

France: International Chamber of Commerce

Hungary: Presidium of the Court of Arbitration constituted at the Hungarian Chamber of Commerce

Japan: Japan Commercial Arbitration Association

Poland: Polish Chamber of Foreign Trade

Romania: Romanian Chamber of Commerce

USSR: Chamber of Commerce and Industry of the USSR

36. *Question (11): If there is no such existing organization would it be useful to establish such an organization? If so, should that organization be established on a national level or on a regional level?*

37. Egypt stated that there was no existing arbitration centre concerned with international trade arbitration in that country.

38. *Question (12): What, if any, assistance could UNCITRAL give to the Governments concerned in the establishment of new arbitration centres or the strengthening of existing centres if such strengthening is needed?*

39. Australia suggested that it might be possible for UNCITRAL to give assistance by advising on the setting up of a model as well as on operations, procedures and previous experience of similar centres in other countries. France expressed the view that in addition to the important role that the Economic Commissions had to play in this field, the United Nations should give technical assistance and material to the countries concerned and promote the above tasks also by dissemination of documentation, organization of seminars for arbitrators and establishment of fellowships at major arbitration centres. It noted further that the International Chamber of Commerce could also help the countries concerned by establishing a greater number of national committees and furnishing assistance to its international secretariat. The rendering of technical assistance by the United Nations was also suggested by Belgium and Romania. Romania further suggested that the Commission and, in a more general way, the United Nations might recommend to Governments that they should encourage regular and systematic co-operation among existing arbitration centres and the establishment of new arbitration centres in countries where no such centres existed.

Establishment of an International Organization of Commercial Arbitration

40. *Proposal E:*

UNCITRAL should encourage and sponsor the establishment by non-governmental organizations of an International Organization of Commercial Arbitration. The organization would have for its main object the promotion, on a universal scale, of co-operation among organizations concerned with international commercial arbitration; its tasks would include the creation of a permanent framework for such co-operation, the establishment of a documentation and information centre, the publication of an international journal, the preparation of draft laws on international commercial arbitration for submission to UNCITRAL, the organization of congresses and symposia and the standardization of the rules of procedure of permanent arbitration centres. The organization would not have executive power with regard to its member organizations and would not interfere with bilateral or regional multilateral co-operation.

41. *Question (13): Should UNCITRAL take steps to promote co-operation among arbitration organizations?*

42. Australia, Belgium, Egypt, Hungary, Japan, Poland and Romania gave a positive answer to this question. France held that the Commission's activity should be limited to encouraging co-operation among arbitration organizations. The USSR held that, in principle, the proposal to study various methods of promoting co-operation among arbitration organizations was worthy of attention.

(Foot-note 3 continued.)

appropriate regional commissions of the United Nations and other bodies, but regards it as important that any such action be taken with careful regard to avoiding duplication and assuring economy of effort and of resources;

"5. It considers that greater uniformity of national laws on arbitration would further the effectiveness of arbitration in the settlement of private law disputes, notes the work already done in this field by various existing organizations, and suggests that by way of supplementing the efforts of these bodies appropriate attention be given to defining suitable subject matter for model arbitration statutes and other appropriate measures for encouraging the development of such legislation;

"Expresses the wish that the United Nations, through its appropriate organs, take such steps as it deems feasible to encourage further study of measures for increasing the effectiveness of arbitration in the settlement of private law disputes through the facilities of existing regional bodies and non-governmental organizations and through such other institutions as may be established in the future;

"Suggests that any such steps be taken in a manner that will assure proper co-ordination of effort, avoidance of duplication and due observance of budgetary considerations;

"Requests that the Secretary-General submit this resolution to the appropriate organs of the United Nations."

43. *Question (14): If the answer to question (13) is yes, would the establishment of an International Organization of Commercial Arbitration by non-governmental organizations be an appropriate means to this end?*

44. Egypt, Hungary, Romania and Tunisia gave positive answers to this question. Australia also agreed, in principle, with the concept of the establishment of an International Organization of Commercial Arbitration subject, however, to the comment that before taking a final position it would have to consider the questions of financing the organization and whether the organization should be governmental, non-governmental, or a combination of both.

45. Poland expressed the view that the organizations concerned should be encouraged to create an International Organization of Commercial Arbitration. The USSR pointed out that at the Fourth International Congress on Arbitration, which was held in Moscow in October 1972, an International Organizing Committee was created in order to prepare for the Fifth Congress; this Committee was instructed to prepare, *inter alia*, a report on the most effective forms of co-operation among arbitration organizations and other organizations concerned with arbitration as regards exchanging information and knowledge on the development of international commercial arbitration.⁴

46. Belgium objected to the creation of an International Organization of Commercial Arbitration. France held that the Commission should not directly promote, nor patronize the creation of a world-wide organization. In case, however, that such an international organization would be created, it should be a non-governmental organization similar to those existing organizations which would create it and which would become the parties thereof.

47. *Question (15): If the answer to question (14) is affirmative, should the functions of such an organization be those set out in Proposal E, or should the organization have other functions?*

48. Egypt, Hungary, Poland and Tunisia agreed that the functions of the International Organization should be those suggested by the Special Rapporteur in Proposal E as set out in paragraph 40 above. Romania expressed the view that the organization should be confined to those functions referred to above only at the beginning of its activity; later it should carry out tasks which the participating non-governmental organizations might confer on it in the light of the experience they have gained in the meantime. According to the comments made by Australia, the functions suggested by the Special Rapporteur seemed to be appropriate but they required further consideration. In France's opinion the International Organization might be given the task of being a permanent centre of documentation and information.

49. *Question (16): If the establishment of an International Organization does not seem to be the most appropriate means for the promotion of co-operation among arbitration centres, should some other means or approach be considered?*

50. Belgium suggested that the Congresses on Arbitration (see the comments of the USSR in paragraph 45 above) should be held under the auspices of UNCITRAL and the decisions of the Congresses should be submitted to the Commission. France pointed out that the problems which the Special Rapporteur had brought to light in his report, seemed to be the result of disparities and deficiencies which existed in certain regions in respect of international arbitration. In the view of France, these disparities and deficiencies might best be studied at the level of the regional economic commissions and other regional organizations. Romania suggested that UNCITRAL should examine the possibility of carrying out itself some of the tasks attributed to the International Organization.

Publication of Arbitral Awards

51. *Proposal F:*

The United Nations should publish a compilation of those arbitral awards having the greatest significance for international trade.

52. *Question (17): Should the United Nations publish arbitral awards in the field of international trade?*

53. Egypt, Hungary, Poland, Romania and Tunisia gave positive answers to this question. France expressed the view that publication of arbitral awards by the United Nations or by the suggested world-wide organization would be desirable. Belgium and Japan also agreed that the United Nations should publish arbitral awards rendered in the field of international trade only in cases where the interested parties do not object to such publication. The USSR suggested that the question of publication of arbitral awards should be considered in the light of the answers given to the questions in paragraphs 29, 30, 33 and 34 above. Australia noted that it could only express its final views after resolution of the problems: (a) who would pay for the publication and (b) how would the awards be obtained by the United Nations.

54. *Question (18): If the answer to question (17) is affirmative, could the respondent's Government provide, or arrange to provide, the United Nations with the text of such awards rendered in its country?*

55. Belgium agreed to submit awards rendered through the intermediary of CEPANI (Centre belge pour l'étude de la pratique de l'arbitrage national et international). France stated that it could only submit the text of those judgements which were made by French courts in deciding appeals brought against arbitral awards and the text of those arbitral awards which institutionalized arbitral tribunals would be willing to communicate to it. Hungary stated that the Court of Arbitration constituted at the Hungarian Chamber of Commerce was willing to provide the United Nations with a review of publishable awards. Romania expressed its agreement that arbitral awards be communicated to the United Nations.

⁴ It is noted in this connexion that the Secretariat of the Congress, with the agreement of the UNCITRAL Secretariat, circulated the Report of the Special Rapporteur to participants of the Congress. The Special Rapporteur introduced the Report to the Congress.

Questions regarding other activity of UNCITRAL in the field of international commercial arbitration

56. *Question (19): Are there other steps not mentioned in the proposals of the Special Rapporteur which UNCITRAL should undertake in order to promote unification and harmonization of the law of international commercial arbitration?*

Question (20): What other suggestions and observations has His Excellency's Government regarding unification and harmonization of law in this field?

57. Belgium expressed the view that the United Nations should undertake all appropriate steps for the promotion and facilitation of international arbitration but should not prepare new international instruments. France was also of the opinion that there were already sufficient international instruments in this field and, therefore, it did not seem advisable, at least for the time being, to propose the preparation of further such instruments. Furthermore, France expressed the view that institutionalization of arbitration has changed the original contractual character of arbitration and the free choice of arbitrators; it should, therefore, be considered whether it would not be a more appropriate task for UNCITRAL to encourage the use and promote the role of national courts in the settlement of international commercial disputes. Romania suggested consideration of the feasibility and desirability of further extension of the geographical sphere of the 1961 European Convention on International Commercial Arbitration.

II. FURTHER WORK

58. As appears from part I of this report, all the proposals of the Special Rapporteur were supported by the majority of the States which replied to the questionnaire referred to in paragraph 4 above. However, the Commission might wish to consider whether the attempt to implement simultaneously all of the proposals of the Special Rapporteur would call for an amount of preparatory and substantive work by the Commission and its secretariat that could not be carried out in view of the other priority items on the Commission's agenda. Therefore, the Commission might wish to consider which proposals should be implemented at the present time.

59. One of the proposals of the Special Rapporteur that the Commission might wish to consider at this stage is the promotion of the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (proposal A). It will be recalled (para. 10 above) that this proposal was supported by all States which replied to the questionnaire.

60. In this connexion, the Commission may wish to recall that pursuant to its decision at the first session⁵ the Secretary-General, by a *note verbale* addressed to States Members of the United Nations, drew attention to the 1958 Convention and invited such States to consider

⁵ *Official Records of the General Assembly, Twenty-third Session, Supplement No. 16 (A/7216), para. 33, UNCITRAL Yearbook, vol. I: 1968-1970, part two, I, A.*

the possibility of adhering to the Convention. Consequently, a recommendation by the Secretary-General to adhere to the Convention, as suggested by some States, would only be a repetition of this previous action. In view of the favourable impact which a wider acceptance of the 1958 Convention may have on the unification of the law of international commercial arbitration, the Commission might wish to suggest to the General Assembly that it pass a resolution at its next session, recommending that States which have not yet ratified, or adhere to, the 1958 Convention should do so.

61. The Special Rapporteur also proposed promotion of the 1961 European Convention on International Commercial Arbitration (proposal B). This proposal (para. 13 above) was supported in all the replies from States belonging to the region. It may be doubtful whether the procedure suggested in respect of the 1958 United Nations Convention would be equally appropriate to the promotion of the acceptance of the 1961 European Convention. The latter Convention was drawn up under the auspices of the Economic Commission for Europe; the countries which may accede to it are the members of that Commission and those States which have been admitted in a consultative capacity to the Commission or which may participate in certain of its activities.

62. Consequently, it would seem more appropriate to invite the Economic Commission for Europe to recommend that States which may accede to the 1961 European Convention on International Commercial Arbitration should do so by ratifying or adhering to it, or to take any other appropriate steps directed to this objective.

63. The Special Rapporteur, in proposal C (para. 18 above) suggested that the Commission should establish a study group (or working group) to examine the desirability of drawing up a set of basic arbitration rules which arbitration centres would incorporate into their rules. The Secretary-General in his questionnaire invited the members of the Commission to comment on the possibility of including the preparation of such rules in the Commission's programme of work. As reported in paragraph 20 above, all but two of the countries replying agreed with that proposal, one country supported the proposal of the Special Rapporteur that the desirability of such rules be considered, and one suggested that the task of drawing up uniform rules should be entrusted to the regional economic commissions.

64. It ought to be mentioned in this connexion that there are two existing sets of arbitration rules drawn up by regional economic commissions: the European Arbitration Rules prepared by the Economic Commission for Europe in 1966 and the ECAFE Rules prepared by the Economic Commission for Asia and the Far East in 1966. Neither of these sets of uniform rules was intended to replace, or to be incorporated into, the rules of existing arbitration centres; instead, they were drawn up for use in *ad hoc* arbitration cases, if chosen by the parties.⁶

⁶ It may be noted that the 1972 trade agreements between the United States of America and the USSR and between the United States of America and Poland provide that disputes between parties to a contract should be settled by arbitration on the basis of the European Rules.

65. In view of the experience gained in respect of the above regional uniform rules, the Commission might wish to consider whether the drawing up of a set of arbitration rules for world-wide use in *ad hoc* arbitration would not be the most appropriate method for the realization of the Special Rapporteur's proposal C.1. It would seem that such a set of rules could immediately be used, if chosen by the parties, in *ad hoc* arbitration. In addition, such uniform rules for *ad hoc* arbitration might be found useful if it should be decided at a later stage to give further attention to the harmonization of the rules of existing arbitration centres. Thus, such uniform rules could, even before their acceptance by existing arbitration centres, contribute to the unification of commercial arbitration, not only in those regions where uniform arbitration rules and appropriate arbitration centres already exist but also in other countries and regions and in inter-regional trade.

66. Should the Commission agree with the considerations in paragraph 65 above, it may wish to request the Secretary-General, in consultation with the regional economic commissions of the United Nations and existing international arbitration centres, and giving due consideration to the European and ECAFE Arbitration Rules, to prepare a draft set of uniform arbitration rules for optional use in international trade. On completion of such a draft, the Commission might wish to consider

the establishment of a working group on international commercial arbitration to review the draft and to make its recommendations to the Commission.

67. The drawing up of a set of uniform rules for world-wide use, as suggested in paragraphs 65 and 66 above, may also contribute to the realization of the Special Rapporteur's further proposal that the Commission should promote the balanced use of arbitration facilities in both developed and developing countries and in trade involving countries having different economic systems (see proposal D in para. 28 above). Such a set of uniform rules, like the European and ECAFE Rules, presumably would include provisions (in the absence of agreement by the parties) on the venue of arbitration and the appointment of arbitrators by paying due attention to the use of existing appointing authorities and international arbitration centres concerned with disputes arising from international trade. It may be expected that recourse to such rules prepared for world-wide use would result in a more balanced use of arbitrators from the various regions of the world and may contribute to a more balanced use of existing arbitration facilities.

68. In view of the considerations in paragraph 58 above, the Commission may wish to consider at a later session what further work it should undertake in this field.

2. List of relevant documents not reproduced in the present volume

<i>Title or description</i>	<i>Document reference</i>
International commercial arbitration: proposal of the Drafting Group	A/CN.9/VI/CRP.2