



UNITED NATIONS CONFERENCE ON
INTERNATIONAL COMMERCIAL ARBITRATION

CONSIDERATION OF THE DRAFT CONVENTION ON THE RECOGNITION
AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (ITEM 4 OF
THE AGENDA)

Statement submitted by the Observer of the Hague Conference on Private
International Law

The eighth session of the Hague Conference on Private International Law adopted a Convention on the jurisdiction of the selected forum in the case of international sales of goods. This Convention was put up for signature at The Hague on 15 April 1958, and signed to date by Belgium and Greece.

Its article 2 - which in itself gives a clear idea of the object of the Convention - contains in its paragraph 2 the minimum conditions required for the formal validity of the clause in which the competent forum is designated.

Article 2

If the parties to a contract of sale expressly designate a court or courts of one of the contracting States as having jurisdiction to adjudicate disputes which have arisen or may arise from said contract between the contracting parties, the court thus designated shall have exclusive jurisdiction and any other court shall declare itself without jurisdiction, reservation made of the provisions of article 3.

When an oral sale includes designation of the forum, such designation is valid only if it has been expressed or confirmed by a declaration in writing by one of the parties or by a broker, without having been contested.

This text was the result of repeated discussions in which it was established that in many cases international trade did not in fact have recourse to an exchange of declarations on the compromissory clause.^{1/} On such occasions, the latter was stipulated by one of the parties, or the broker, and tacitly agreed upon by one or both parties.

^{1/} See Actes de la Huitième Session de la Conférence de la Haye, pp. 98 sqq. et 142 sqq. and especially the reports by Professor Fredericq and Professor Batifol, pp. 303 et 305.