

mission, held at Bogotá, Colombia, from 4 to 6 December 1974, with particular reference to the draft rules prepared for UNCITRAL on *ad hoc* arbitration relating to international trade.

First, our Executive Committee decided that, in principle, the UNCITRAL rules should be adopted as its own, just as if the draft had been approved by the United Nations. In the meantime, the draft that was forwarded to us has been distributed to the National Sections and to the Commission for information.

A formal resolution in line with the views of the Executive Committee was submitted to, and adopted by, the Conference. A copy of this resolution is annexed hereto.

We are convinced that this draft contains the best rules which have been elaborated for international commercial arbitration. We therefore wish to express to you and to UNCITRAL our congratulations on your initiative, and we hope that both UNCITRAL and the United Nations will take appropriate action to adopt the draft as soon as possible.

#### ANNEX IV

##### Observations by the Inter-American Development Bank

[Original: English]

I refer to your letter of 21 November 1974 with which you forwarded document A/CN.9/97 containing a preliminary draft set of arbitration rules for optional use in *ad hoc* arbitration relating to international trade.

We have reviewed these UNCITRAL Arbitration Rules which take into account important international conventions held in 1958, 1961 and 1965, and also are based on Rules of the Economic Commission for Europe and of the Economic Commission for Asia and the Far East.

These proposed Rules seem to be well-organized and demonstrate a solid foundation in the commercial law field. I do not believe that we can make any improvements, and I therefore wish merely to offer my congratulations to your office for its useful work in this field.

#### 5. Report of the Secretary-General (addendum): observations on the preliminary draft set of arbitration rules for optional use in *ad hoc* arbitration relating to international trade (UNCITRAL Arbitration Rules) (A/CN.9/97/Add.4)\*

##### NOTE BY THE SECRETARIAT

The annex to this note contains the observations received from the Commission of the European Communities.

#### ANNEX I

##### Observations by the Commission of the European Communities

You were kind enough to transmit to the Commission of the European Communities, by letter dated 18 November 1974, the English text of the UNCITRAL arbitration rules (A/CN.9/97 of 4 November 1974), and some days ago you sent us the French version of the same draft rules.

I thank you for sending these documents, on which we have tried to obtain the opinions of member States and the observations of interested circles.

Unfortunately, it has not been possible to obtain all the information requested within the time-limit specified and on the basis of the English text only. In view of the importance of the draft and its undoubted value for business relations, it is highly desirable that the adoption of the UNCITRAL arbitration rules should be preceded by extensive consultation not only of centres

of international commercial arbitration, but also of organizations representing the enterprises involved. Such a wish was also expressed by the Fifth International Arbitration Congress (see resolution No. IV). In order to ensure the success of these consultations, it would seem that more time should be allowed.

Two main considerations emerge from the positive reactions we have thus far received. The first relates to the optional nature of the uniform rules, and the second to the need to limit the application of these rules to non-administered arbitration. It has, in fact been highly appreciated that, in principle, the proposed rules leave the parties free to choose the rules governing the organization of the arbitration procedure. On the other hand, it was observed that the proposed rules should enable the parties to know, with the maximum possible certainty, all the rules to which the arbitral proceedings would be subject. However, the reference simultaneously both to the UNCITRAL arbitration rules and to an international arbitral institution might give rise to some confusion, in that an institution of this kind normally applies its own rules. The rules of the institution and the manner in which they are applied might not be known to the parties and might not be in keeping with the spirit of the proposed UNCITRAL rules.

Until the current consultations have been completed, these observations can be considered only as provisional. I nevertheless wished to communicate them to you before the opening of the eighth session of UNCITRAL on 1 April.

\* 7 April 1975.