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UNCITRAL rules of procedure and methods of work

Comments received from Member States and interested international organizations

Note by the Secretariat*

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* This document transmits comments by Belgium. It was submitted during the session, upon receipt of the comments.



I. Introduction

1. The background information relevant to the present note may be found in paragraphs 1-4 of document A/CN.9/676/Add.1.
2. The present document reproduces the comments from Belgium on document A/CN.9/676, received by the Secretariat on 2 July 2009.

IV. Comments received from Member States

B. Observer States

Belgium

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[2 July 2009]

Belgium thanks the Secretariat for the note, of high quality, submitted in response to the request made by the Commission, at its forty-first session, for the preparation of a reference document concerning the methods of work of UNCITRAL.

It would like, in particular, to stress the importance that it attaches to consensus as the preferred method for decision-making in the Commission.

It would seem to be in the Commission's interests that the quest for such a consensus should have as broad a basis as possible.

In this connection, the Commission noted, during its 2008 session, that under existing practice States not members of the Commission usually participated in the formation of a consensus.

This practice seems conducive to the participation of non-member States in the Commission's work and thus likely to enhance the acceptability of the texts drawn up by it.

Paragraph 21 of the Secretariat's note might, however, seem to represent something of a retreat from this position, since it states, inter alia, that decision-taking by consensus or without a vote is commonly interpreted "*as meaning decision-taking with participation of only members of the organ concerned*".

The wording of this paragraph could perhaps be reviewed so as to avoid a contradiction with existing practice and the exclusion of non-member States from the quest for a consensus, even though, at the end of the day, it is clearly the member States that will have the last word in deciding on the existence of a consensus or otherwise.

As to organizations enjoying observer status, the importance of their contribution is not in doubt and has been affirmed by the General Assembly on several occasions.

That being the case, while it is clear that, as stated in paragraph 31 of the note, observer organizations do not participate in decision-making, the possibility for them to participate fully in the deliberations of the Commission might be expressly affirmed – for example, in paragraph 30 of the note.

Again, it would seem desirable not to call into question the existing practice, based on broad participation by observer organizations in the Commission's deliberations.