



**United Nations Commission
 on International Trade Law**
Forty-fifth session

New York, 25 June-6 July 2012

**Settlement of commercial disputes: Recommendations to
 assist arbitral institutions and other interested bodies with
 regard to arbitration under the UNCITRAL Arbitration
 Rules, as revised in 2010**
Compilation of comments by Governments
Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1-3	2
II. Comments received from Governments		3
Spain.		3

* Submission of this note was delayed because of its late receipt.



I. Introduction

1. At its forty-third session (New York, 21 June-9 July 2010), the Commission recalled that, at its fifteenth session, in 1982, it had adopted “Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules”.¹ The preparation of the Recommendations had been undertaken by the Commission to facilitate the use of the 1976 UNCITRAL Arbitration Rules in administered arbitration and to deal with instances where the Rules were adopted as institutional rules of an arbitral body or when the arbitral body was acting as appointing authority or provided administrative services in ad hoc arbitration under the Rules. After discussion, the Commission agreed that similar recommendations to arbitral institutions and other relevant bodies should be issued with respect to the UNCITRAL Arbitration Rules, as revised in 2010, in view of the extended role granted to appointing authorities. The Commission also agreed that the recommendations on the revised Rules should follow the same pattern as the Recommendations adopted in 1982. The Commission entrusted the Secretariat with the preparation of that document, for consideration by the Commission at a future session.²

2. In preparation for the forty-fifth session of the Commission (New York, 25 June-6 July 2012), the text of the draft Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules, as revised in 2010 (contained in document A/CN.9/746 and its Addendum), was circulated to all Governments for comment.

3. The present document reproduces the comments received by the Secretariat on the draft Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules, as revised in 2010, in the form in which they were received by the Secretariat. Comments received by the Secretariat after the issuance of the present document will be published as addenda thereto in the order in which they are received.

II. Comments received from Governments

Spain

[Original: Spanish]
[Date: 11 May 2012]

Settlement of commercial disputes: Recommendations to assist arbitral institutions and other interested bodies with regard to arbitration under the UNCITRAL Arbitration Rules, as revised in 2010

The Kingdom of Spain thanks the Secretariat of the United Nations Commission on International Trade Law (UNCITRAL) for the documents prepared in connection with the draft Recommendations to assist arbitral institutions and other interested

¹ *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 17* and corrigenda (A/37/17 and Corr.1 and 2), paras. 74-85 and annex I.

² *Ibid.*, *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 188 and 189.

bodies with regard to arbitration under the UNCITRAL Arbitration Rules, as revised in 2010 (A/CN.9/746 and Add.1). These documents will be extremely useful for arbitral institutions and the various functions that they may perform in accordance with the UNCITRAL Arbitration Rules.

The comments by the Kingdom of Spain refer to the proposed Spanish text of the draft model clause contained in document A/CN.9/746, paragraph 26. The English text is not affected.

In the view of the Kingdom of Spain, the proposed texts are not in conformity with the text of the model clause appearing in the annex to the UNCITRAL Arbitration Rules, as revised in 2010, inasmuch as there are some small linguistic divergences that should be avoided.

The Kingdom of Spain therefore proposes that the draft model clauses contained in document A/CN.9/746, paragraph 26, should be replaced by the following in the Spanish version:

“Todo litigio, controversia o reclamación que resulte del presente contrato o se refiera a su texto, o que resulte de su incumplimiento, su resolución o su nulidad, se resolverá por arbitraje de conformidad con el Reglamento de Arbitraje de la CNUDMI administrado por [nombre de la institución]. [Nombre de la institución] actuará como autoridad nominadora.”

“Todo litigio, controversia o reclamación resultante de este contrato o relativo a este contrato, su incumplimiento, resolución o nulidad, se resolverá mediante arbitraje de conformidad con el Reglamento de Arbitraje de la CNUDMI. [Nombre de la institución] actuará como autoridad nominadora y prestará servicios administrativos de conformidad con sus procedimientos administrativos en los casos en que se aplica el Reglamento de Arbitraje de la CNUDMI.”

“Nota. Las partes deberían estudiar la posibilidad de agregar lo siguiente:

- a) El número de árbitros será de ... (uno o tres);
- b) El lugar del arbitraje será ... (ciudad y país);
- c) El idioma que se utilizará en el procedimiento arbitral será ...”