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UNITED NATIONS CONFERENCE ON INTERNATIONAL  
COMMERCIAL ARBITRATION

SUMMARY RECORD OF THE TWENTY-SECOND MEETING

Held at Headquarters, New York,  
on Monday, 9 June 1958, at 12 p.m.

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President:

Mr. SCHURMANN

Netherlands

Executive Secretary:

Mr. SCHACHTER

CONSIDERATION OF OTHER POSSIBLE MEASURES FOR INCREASING THE EFFECTIVENESS OF  
ARBITRATION IN THE SETTLEMENT OF PRIVATE LAW DISPUTES (E/CONF.26/4 and 26/6;  
E/CONF.26/L.60) (continued)

The PRESIDENT invited the Conference to consider the report of the Committee on Other Measures (E/CONF.26/L.60) and, more particularly, the draft recommendation set out in the annex to the report. It was the intention of the Committee that the draft recommendation, if adopted by the Conference, should be included in the Final Act of the Conference and should not form part of the Convention on the Recognition and Enforcement of Foreign Arbitral awards.

Mr. SULLIVAN (United States of America), speaking for the Rapporteur of the Committee on Other Measures, said that the Committee had drafted its recommendation after a careful study of the note by the Secretary-General (E/CONF.26/6) which provided a most useful survey and analysis of other possible measures for increasing the effectiveness of arbitration in the settlement of private law disputes. The recommendation reflected the Committee's ideas on the relative significance and urgency of the measures considered in the Secretary-General's note. The Committee had felt that a further study of those measures was desirable. Its draft recommendation, if adopted, was intended to constitute a recommendation to the United Nations. No effort had been made to specify a particular method of approach in conducting the further study. As a result, the United Nations and its organs would have considerable flexibility in the matter. He agreed with the President that the recommendation should form part of the Final Act of the Conference.

Mr. MALOLES (Philippines) proposed the deletion of the whole of the first operative paragraph of the draft recommendation. The Conference was primarily interested in the recommendations set out in the last three operative paragraphs.

The proposal was rejected by 27 votes to 1, with 5 abstentions.

Mr. KORAL (Turkey) and Mr. KANAKARARATNE (Ceylon) supported the draft recommendation and hoped that it would be adopted by the Conference.

Mr. HERMENT (Belgium) expressed disappointment with the draft recommendation which merely expressed the wish that the United Nations, through appropriate organs, should take such steps as it deemed feasible to encourage

(Mr. Herment, Belgium)

further study of measures for increasing the effectiveness of arbitration in the settlement of private law disputes. That was not a constructive recommendation and fell short of what was expected of the Conference.

The PRESIDENT put to the vote the whole preamble of the draft recommendation.

The preamble was adopted unanimously.

Mr. MAURTUA (Peru), referring to sub-paragraph 1 of the first operative paragraph, noted that recognition was given to the Economic Commission for Europe for its contribution to progress in commercial arbitration. In Latin America, where the concept of arbitration as a means of settling private law disputes was deeply rooted, much valuable work had been done by the Inter-American Council of Jurists of the Organization of American States. The Conference should give due recognition to the contribution which the Council had made. He therefore proposed that the words "Inter-American Council of Jurists of the Organization of American States" should be inserted after "Economic Commission for Europe".

Mr. PEARSON (United Kingdom) proposed the deletion of the names of specific bodies in the text of the draft recommendation and their inclusion in footnotes to sub-paragraphs 1 and 5.

Mr. MAURTUA (Peru) accepted the United Kingdom representative's proposal.

The United Kingdom proposal was adopted by 24 votes to 6, with 10 abstentions.

The PRESIDENT suggested that the best course might be to have the Secretariat draft a single footnote which would apply to the two relevant sub-paragraphs.

Mr. MATTEUCCI (Italy) pointed out that sub-paragraph 1 of the first operative paragraph referred to the diffusion of information on arbitration, a sphere in which the Economic Commission for Europe had done important work, whereas sub-paragraph 5 dealt specifically with the need for greater uniformity of national laws on arbitration, a field in which the International Institute

(Mr. Matteucci, Italy)

for the Unification of Private Law and the Inter-American Council of Jurists had made greater contributions than any other organizations. Accordingly, the ECE should be mentioned in a footnote to sub-paragraph 1, and the two inter-governmental organizations in a footnote to sub-paragraph 5.

Mr. BAKHTOV (Union of Soviet Socialist Republics) agreed. The ECE, as a United Nations body, should not be grouped with the other organizations.

Mr. MAURTUA (Peru) opposed the suggestion for separate footnotes. The Inter-American Council of Jurists was a permanent organ of the Organization of American States, which was linked to the United Nations by virtue of the provisions of the Charter relating to regional organizations. Moreover, it engaged in all of the activities mentioned in the five sub-paragraphs of the first operative paragraph.

Mr. KANAKARATNE (Ceylon) asked whether it was really necessary to mention the three organizations by name. There were a number of other United Nations inter-governmental and non-governmental organizations which had made important contributions in the sphere of arbitration. It would be quite unfair to omit them if others were mentioned. A tribute in general terms to all of the organizations would suffice and would avoid a debate on the merits of individual organizations.

Mr. BAKHTOV (Union of Soviet Socialist Republics) and Mr. SANDERS (Netherlands) agreed with the representative of Ceylon.

Mr. MATTEUCCI (Italy) said that while he did not insist on mentioning organizations by name, he felt that that should be done as a matter of courtesy in the case of those which had done more than any others in the spheres dealt with in the sub-paragraphs.

Mr. MAURTUA (Peru) pointed out that sub-paragraph 2 referred to the need to avoid duplication of effort. That was an additional reason for mentioning the three organizations in question, which worked in different sectors.

Mr. KORAL (Turkey), Mr. URQUÍA (El Salvador) and Mr. ILLUECA (Panama) pointed out that under the rules of procedure the Ceylonese suggestion could not be considered without a reconsideration of the decision that had just been taken to mention the three organizations in a footnote.

Mr. KANAKARATNE (Ceylon) said that he had not made a formal proposal. However, he reserved the right to propose that additional organizations should be mentioned.

The PRESIDENT suggested that the Secretariat might be asked to prepare a footnote referring to the three organizations and such other organizations as it saw fit. The Secretariat could base itself on the consolidated report by the Secretary-General (E/CONF.26/4).

Mr. GURINOVICH (Byelorussian Soviet Socialist Republic) objected that delegations were not as familiar with the work of some organizations as they were with that of the ECE, and it would be difficult to decide which should and which should not be mentioned. For example, he did not think that all delegations knew as much as his own about the good work that had been done by the Institute of Law of the Soviet Academy of Sciences in the sphere of arbitration. Consequently, he saw certain practical difficulties that would be raised by the President's suggestion, particularly if the Secretariat decided to include such controversial organizations as the Council of Europe.

Mr. URQUÍA (El Salvador) proposed that the President's suggestion should be put to the vote.

The suggestion was rejected by 13 votes to 11, with 10 abstentions.

Mr. GEORGIEV (Bulgaria) and Mr. GURINOVICH (Byelorussian Soviet Socialist Republic) pointed out that while it had been decided to have a footnote, the text of the footnote to be prepared by the Secretary would, as an integral part of the resolution, have to be put to the vote.

The PRESIDENT said that the draft footnote would be before the Conference at the afternoon meeting.

The meeting rose at 1.15 p.m.