

Beantwoorden na Wenen

UNITED NATIONS



NATIONS UNIES

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REFERENCE:

New York, 3 September '66.

Beste Pieter,

Ik schrijf in grote haast. Ik sta op het punt naar Europa te vliegen (waar ik vijf weken zal vertoeven).

Ingesloten moge je vinden:

- (i) de Engelse versie van UNCITRAL's report (de Franse, etc. versies zijn nog niet verschenen);
- (ii) Tien exemplaren van de UNCITRAL Arbitration Rules;
- (iii) Commentaar op jouw commentaar op de UNCITRAL Arbitration Rules (dat mij zeer beviel!).

Zie eveneens
ATLCC report
in artikelen
(vandaag ingesloten)

Ik ben in den Haag van 2 tot 8 oktober en tel wel even. Hopelijk zien wij elkaar. Beste wensen, ook aan Yhan je Willem.

This is a sort of redraft you did not ask for. When I read your letter, it did not register that Howard Holzmann

Comments on Sanders' draft commentary on the UNCITRAL Arbitration Rules

would look at the language. This covers only part of your commentary but you may find it useful.
W.V.

Page 1, asterisk: does not mention Committee of the Whole II and implies that the ninth session of UNCITRAL lasted from 12 to 28 April only. Would be better to state simply" ... who participated in the Ninth Session of UNCITRAL (New York, 12 April - 7 May 1976):"

Page 1, second sentence: omits mention of the fact that the first draft (A/CN.9/97) was a report of the Secretary-General. Recommend: "A first draft of these Rules, prepared by the [United Nations]/[UNCITRAL] Secretariat in consultation with the author, was published in U.N. Document A/CN.9/97 of 4 November 1974, entitled A Preliminary Draft Set of Arbitration Rules for Optional Use in Ad Hoc Arbitration relating to International Trade. This document was circulated to the regional economic commissions of the United Nations and ..."

Page 1, last sentence: Recommend: "Following a detailed consideration of the preliminary draft, the Secretary-General was requested to prepare a revised draft, taking into account the observations made on the preliminary draft."

Page 2, third sentence: Recommend: "This revised draft was thoroughly considered during the Ninth Session of UNCITRAL and the final text of the UNCITRAL Arbitration Rules, reproduced in this Volume,

was unanimously adopted by the Commission on April 28, 1976."

Page 2, last sentence: Recommend: "the final version of the UNCITRAL Arbitration Rules, together with the Model Arbitration Clause ~~(or Separate Arbitration Agreement)~~ contained in a footnote to Article 1 of the Rules, form the subject matter of the present commentary.

Page 3, part 2.2: Recommend: "The UNCITRAL Arbitration Rules do not compete with institutional arbitration since, unlike the rules and procedures adopted by every arbitral institution, the UNCITRAL Rules do not provide for the administration of the arbitration. However, in a limited number of instances the do call for the assistance of a third party, who UNCITRAL Rules/may be either an arbitral institution or a person. Thus, such third party would be called upon for assistance when the parties are unable to agree on the choice of the sole arbitrator, or, in the case of an arbitral tribunal composed of three arbitrators, the two arbitrators appointed by the parties fail to agree on the choice of the presiding arbitrator. The help of such third party is similarly utilised when, in the case of an arbitral tribunal composed of three arbitrators, the respondent does not appoint the arbitrator he is entitled to name, when an arbitrator is challenged, and in connexion with the fixing of the fees of the arbitrators. In order to provide for the cases mentioned in the previous paragraph, the UNCITRAL Rules incorporate the concept of an