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.

CONTENTS
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)

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. Kanarakaratne (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
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. MAURUTA (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. MAURUTA (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.