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Progress report of Working Group II

Proposal by the government of Belgium

Note by the Secretariat

The government of Belgium submitted a proposal with regard to the progress report of Working Group II (Dispute Settlement). The proposal was received by the Secretariat on 20 June 2020. The text received by the Secretariat is reproduced as an annex to this note in the form in which it was received with minor formatting changes.



Annex

At its last two sessions (70th session, 23–27 September 2019 and 71st session, 3–7 February 2020), Working Group II (Dispute Settlement) considered the draft provisions on expedited arbitration (the “Provisions”).

As mentioned in the provisional agenda of the 53rd session of the Commission (A/CN.9/1001/Rev.1), the Secretariat was requested to revise the Provisions as they would appear as an appendix to the UNCITRAL Arbitration Rules (the “Rules”) and also to address the interaction between the Provisions and the Rules.

This issue of the interaction between the two texts will be considered by the Working Group at its seventy-second session (tentatively scheduled for 21–25 September 2020) and it could include consideration of the proper placement of some of the Provisions – should they be placed in the appendix to apply only to expedited arbitration or would it be better to place them in the Rules?

Indeed, some of the Provisions bring very valuable improvements which could possibly also be useful for non-expedited arbitration and which could therefore be placed preferably in the Rules, so that they would be applicable to both types of arbitration.

For example, one of the Provisions on expedited arbitration provides for the possibility for the arbitral tribunal of holding a case management conference either through a meeting in person, or by videoconference or other modern means of communication.

It would be useful, and even more so in the context of the current COVID-19 pandemic, for the Working Group to consider whether this possibility should also apply to non-expedited arbitration and therefore be placed in the Rules rather than in the appendix to the Rules.

Therefore, the Belgian Government proposes that the Commission invites the Working Group to continue its deliberations on the revised set of Provisions on expedited arbitration being prepared by the Secretariat and, if necessary, to propose possible changes to the Rules, should the Working Group consider it appropriate in this context.
