

Guide containing definitions of terms should be included not only under the entry "Meanings of terms" but also under the individual entry for each term. In addition, the Working Group requested the secretariat to reconsider the use of hyphens in the index, and to reconsider certain entries in the index which were unclear.<sup>3</sup>

<sup>3</sup>A/CN.9/289, paras. 13 and 14.

4. In accordance with the request of the Working Group the index to the Guide is reproduced as an annex to the present document in the form in which its English version was presented to the Working Group. The decisions of the Working Group with respect to the Guide and any decisions of the Commission will be implemented when the Guide is submitted for publication.

## B. International procurement

### International procurement: note by the secretariat (A/CN.9/291)

1. At its nineteenth session (1986) the Commission had before it a note by the secretariat (A/CN.9/277) setting forth possible topics that the Commission might undertake in anticipation of the completion of the UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works. After considering that note, the Commission decided to give priority to work in the area of international procurement.<sup>1</sup> It was implicit in the decision of the Commission that the preparatory work on this topic would be carried out by the Working Group on the New International Economic Order.

2. In order to engage in the necessary research and study the secretariat has been collecting materials on international procurement from a wide variety of sources. These include national procurement laws and regulations, legal texts emanating from international organizations, and guidelines issued by national and international financing institutions. Gratitude is expressed to those sources that have already made materials available to the secretariat. In order to ensure that its collection is as complete and balanced as possible, the secretariat would be grateful to receive any additional materials that Governments or institutions may wish to provide.

3. The secretariat is in the process of analyzing the materials with a view towards preparing for the tenth session of the Working Group a study of the major issues arising in international procurement along the lines set forth in document A/CN.9/277, paragraph 56. The issues to be considered will include the scope of application of national regulations governing international procurement (e.g., with respect to the types of entities and the objects of procurement covered by the regulations), the choice of procurement methods (e.g., tendering, negotiation) and the procedural and other matters involved in implementing a particular method (e.g., solicitation of tenders or offers, prequalification, documentation, specifications and standards, tender guarantees, period of validity of tenders or offers,

opening of tenders, evaluation of tenders or offers, obligations of parties during negotiations, postqualification, entering into contract). The study will include a comparison of how those issues are dealt with in the law and practice of various countries, and will consider the approaches taken by financing institutions. The study will also discuss various possible objectives that might be sought by national procurement laws and ways in which they might be addressed.

4. It is intended that the study will enable the Working Group to determine what further work, if any, would be desirable in the area of international procurement (e.g., the preparation of a model procurement code) and will provide useful background material for carrying out that work. Even if it is decided not to engage in further work for the time being, the study may itself assist parties participating in international procurement as purchasers and as suppliers by clarifying for them the issues and practices in this area. It will also provide a framework within which parties may assess their policies and practices with respect to international procurement and, if desirable, re-formulate those policies and practices, or formulate policies where none presently exist.

5. The field of international procurement is highly specialized, and one in which practice plays a significant role. In order to ensure that the study by the secretariat is sound and complete, both conceptually and practically, the secretariat intends to obtain the assistance of a group of experts in the field of international procurement. The group will be composed of persons who are conversant with the interests of purchasers, suppliers and financing institutions, respectively.

6. A meeting of the group of experts has been scheduled for 7 to 11 December 1987. The task of the group at that meeting will be to assist the secretariat in determining the precise scope of the study and in identifying and analyzing the significant issues in connection with international procurement. The secretariat will then prepare a draft of the study taking into account the discussions at the meeting of the group of experts. A second meeting of the group might be convened during the first half of 1988 in order to review the draft. The study will then be finalized by the secretariat for presentation to the Working Group.

<sup>1</sup>Report of the United Nations Commission on International Trade Law on the work of its nineteenth session, *Official Records of the General Assembly, Forty-first Session, Supplement No. 17 (A/41/17)*, para. 243.

7. In view of the scheduling of the meetings of the group of experts, and taking into account the shortage of personnel within the secretariat resulting from measures taken in response to the financial crisis of the United Nations, it is not expected that the study will be ready for presentation to the Working Group before the second half of 1988.

#### *Conclusion*

8. The Commission may wish to take note of the foregoing note and to decide that the tenth session of the Working Group on the New International Economic Order should take place at Vienna during the second half of 1988 at dates to be established by the secretariat.