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Draft addendum to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects

Note by the Secretariat

**Compilation of comments by Governments and international
organizations**

Addendum

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* Revised dates.



II. Compilation of comments

A. States

Spain

[Original: Spanish]

1. The Secretary-General invited the Government of Spain to comment on the model legislative provisions on privately financed infrastructure projects. The delegation of Spain would like to make the following comments.

(a) *Model provision 18.* In paragraph (d), the words “secretos comerciales”, the equivalent of which appears in the English version as “trade secrets”, are omitted. Moreover, the words “u otro derecho exclusivo” should be in plural as in the English version (“or other exclusive rights”);

(b) *Model provision 36.* The title of the provision contains the word “traspaso”. On 13 September 2002, however, the delegation of Colombia made the unopposed suggestion that “traspaso” be replaced by “cesión”;

(c) *Model provision 42.* The word “inicial” should be deleted as its equivalent does not appear in the English version;

(d) *Chapter IV, section 2, of the model provisions.* The title of section 2 is currently “Rescisión del proyecto de acuerdo” but should be “Rescisión del contrato de concesión”.

2. The Secretary-General also invited the Government of Spain to comment on the various alternatives for coordinating and presenting the recommendations and text of the model legislative provisions.

3. According to paragraph 2 of document A/CN.9/522/Add.1, three options are available to the Commission. The delegation of Spain is in favour of the first option mentioned in the document, namely to retain both the recommendations and the model provisions as separate but connected texts. The delegation of Spain considers that the connection between the two could be made by including a preamble or preface explaining the legislative procedure adopted and the relationship between the model provisions and the recommendations. A connection could also be made by retaining the references to the recommendations and corresponding paragraphs in the Guide as they currently exist in brackets in each of the model provisions, or by including a concordance table of model legislative provisions and legislative recommendations, as in document A/CN.9/522/Add.2.

4. In the opinion of the delegation of Spain, a different solution should be found if it is decided to transform the model provisions into a model law, in which case the second and third options mentioned in paragraph 2 of document A/CN.9/522/Add.1 might, we feel, be preferable. If the second option of replacing the legislative recommendations in their entirety with the model legislative provisions is chosen, we believe that the content and terminology used in the Legislative Guide should be brought into line with the Model Law.