

## COMMENTARY

### THE UNCITRAL MODEL LAW—INTERNATIONAL COMMERCIAL ARBITRATION. AUSTRALIA MOVES QUICKLY TO ADOPT

In 1985 the United Nations Commission on International Trade Law (UNCITRAL) adopted a model law which can be used by countries to provide an efficient and easily understood method of arbitration of disputes arising out of international commercial transactions. The UN Model Law provides a standard for a country to enact a law which is internationally acceptable as part of its own. On the other hand a UN Convention requires ratification by a number of member States before it becomes operative.

With the introduction of the International Arbitration Amendment Bill 1988, which is expected to pass through both Houses of Parliament early in 1989, Australia is one of the first major trading and commercial countries to adopt the law and is showing the lead to the rest of the world.

It is very pleasing to record the initiatives of the Commonwealth Attorney-General's Department and the work of a Working Group established by the Attorney-General, the Hon Lionel Bowen MP, in 1986 in quickly reviewing the Model Law as soon as it was adopted by the United Nations. This committee included Mr John Dorter, the Institute's President, and fellow director of the Australian Centre for International Commercial Arbitration (ACICA), Mr David Bailey representing the Law Council of Australia and Dr Clyde Croft, Foundation Vice-President of ACICA. This Committee's findings led to a recommendation being made to, and accepted by, the Standing Committee of Attorneys-General and, in a very short period of time, the subsequent legislation.

Equally importantly, the Bill was supported by both major political parties in Parliament. Co-operation between the parties in an important matter such as this is to be applauded. It is in Australia's interest that matters vitally affecting the country's economic well-being are dealt with quickly and always on a co-operative basis wherever possible.

During the second reading speech, and following debate in the House of Representatives, reference was made to the work which has already been done by The Institute of Arbitrators Australia and the Australian Centre for International Commercial Arbitration, since its establishment in 1985, in promoting Australia as a venue for international dispute resolution, and to the facilities provided by ACICA for this purpose.

The substantial benefits which will accrue to Australia are threefold—firstly, the invisible exports which will flow to Australia will increase and become very significant; secondly, Australian arbitrators and other professionals involved in dispute resolution will continue to be sought after in greater numbers to take part in international disputes both here

and overseas; and thirdly, the adoption of the Model Law will confirm Australia as a leader in this field and a country in which an appropriate legal framework is in place which will appeal to those involved in disputes as being a desirable venue to have such disputes settled.

## Institute Publications

- Practice Note 1.** The Arbitration Process by R. D. Fitch, M. ARCH, F.I. ArbA (August 1988)
- Practice Note 2.** Contract Law for Arbitrators by L. E. James, LL.B. A.I. ArbA (August 1988)
- Practice Note 5.** Costs by H. C. Ambrose FCIS, A.I. ArbA (June 1988)

(Copies of the above Notes were enclosed with Vol. 7, No. 2 issue of "The Arbitrator" August 1988).

- Practice No. 3A** The Preliminary Conference by John A. Morrissey, F.I. ArbA (September 1985)
- Practice Note 4** The Expert Witness by E. E. Morris, A.M. F.I. ArbA (August 1986)

### **Rules for the Conduct of Commercial Conciliations and Notes to the Rules. (February 1988)**

(A full text of these Rules was published in Vol. 6, No. 4 issue of "The Arbitrator").

### **Expedited Commercial Arbitration Rules. (August 1988).**

(Copy enclosed with Vol. 7 No 2 issue of "The Arbitrator" August 1988)

### **Rules for the Conduct of Commercial Arbitrations and Notes to the Rules—1981.**

**Lists of Graded Arbitrators—Parts 1 and 2.**

**List of Conciliators and Mediators, Edition 1. November 1988.**

**Policy Statement on the Register of Practising Arbitrators.**

And the following information brochures:—

—Information Pamphlet—January 1988

—Professionals in Commercial Arbitration—January 1987

—Commercial Arbitration Guide for Lawyers—September 1987.

Copies of all the above publications are freely available on request.