

SYMPOSIUM

Introduction

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A diplomatic conference met in Vienna in March-April 1980 to consider a draft convention governing international sales contracts. Sixty-two delegations were present, as well as numerous observers from interested international organizations. At the end of five weeks of intense debate the conference adopted, without dissent, a Final Act to which was annexed the text of the U.N. Convention on Contracts for the International Sales of Goods.¹ The convention governs the formation of international sales contracts and the rights and obligations of the parties to these contracts. Although the parties remain free to exclude or vary the convention's provisions, the text fills gaps in the parties' agreement.

As of August 1, 1983 six states—Argentina, Egypt, France, Hungary, Lesotho, and Syria—had ratified or acceded to the Vienna Convention. At that time other states were seriously considering ratification. The convention will come into force months after the tenth state adopts the convention and, given the interest in the convention expressed by states from all sectors of the world, there have been informed predictions that it will come into force in 1984 or early 1985.

The United States signed the convention in August 1981, indicating that it intended to seek ratification of the convention. On September 21, 1983 President Ronald Reagan submitted the convention to the Senate for its advice and consent to ratification.² Although the convention is not as controversial as public policy debates about the role of the United States in Lebanon and Central America, interested groups of lawyers and trade

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¹United Nations Convention on Contracts for the International Sale of Goods (A/CONF. 97/18, Annex I). The official text of the convention is reprinted as part of the official records of the Vienna conference (A/CONF. 97/19; U.N. Sales No. E.82.V.5) (1981). See also 19 INT'L LEGAL MATERIALS 668 (1980).

²Message from the President of United States transmitting the United Nations Convention on Contracts for the International Sale of Goods, Treaty Doc. 98-9, 98th Cong., 1st Sess., (Sept. 21, 1983). The president's letter is accompanied by an analysis of the convention which may be obtained from Frederick S. Tipson, Esq., Counsel, Senate Foreign Relations Committee Staff, Suite 4229, United States' Senate, Washington, D.C. 20510.

associations have pressed for prompt consideration of the convention. Many other nations, we are told, await action by the United States.

In his letter of transmittal to the Senate, President Reagan noted that the House of Delegates of the American Bar Association had recommended ratification at its annual meeting in August 1981. ABA interest in the convention antedates the Vienna conference. In the early 1970s the private international law committee within the Section on International Law appointed a subcommittee on international sales conventions of which I became chairman in 1977. At that time the draft convention was being prepared by a working group within the U.N. Commission on International Trade Law. In 1978 the commission approved the working group's text and recommended that the U.N. General Assembly convoke a diplomatic convention to adopt a convention based on the text. After studying the 1978 UNCITRAL text and the relatively few changes to that text made at the Vienna conference, the ABA subcommittee prepared a favorable report. With the support of Professor Stephen C. McCaffrey, chairman of the private international law committee, and M. Sean McMillan, vice-chairman of the comparative law division, the subcommittee report was submitted to the section's council in May 1981. After council approval of the subcommittee report, Lyon L. Brinsmade, chairman of the section, forwarded the recommendation and report to the ABA House of Delegates for consideration at its 1981 annual meeting in New Orleans. The recommendation appeared on the consent calendar at the annual meeting and the House of Delegates adopted the recommendation without dissent.³

To provide further information about the Vienna convention to members of the bar, the council of the Section of International Law and Practice decided in January 1983, at the suggestion of Arthur T. Downey, to organize a symposium presentation at the 1983 annual meeting. After reviewing the proposed program, Morris Harrell, then president of the American Bar Association, designated it as a "presidential showcase" program. The presentation was scheduled for August 1, 1983 in Atlanta.

As program chairman I was fortunate to gather a very distinguished panel. With financial support approved by the council, the section invited Kazuaki Sono, secretary of the U.N. Commission on International Trade Law, to travel from Vienna, Austria, to present a paper on the work of UNCITRAL. In addition, Professors Allan Farnsworth and John Honold, who had participated actively in the work of UNCITRAL and had represented the United States at the Vienna Conference, agreed to speak about the background and scope of the Vienna conference and how its provisions compared with the Uniform Commercial Code. Last, but by no means least, I was able to persuade Henry Landau, who had been an active

³The A.B.A. Section recommendation and report are reprinted at pp. 39-51 *infra*.

member of the ABA international sales subcommittee from the beginning, to make some comments about the preparatory work within the United States before UNCITRAL meetings.

In addition to the scheduled speakers, short presentations were made by Peter H. Pfund, assistant legal advisor for Private International Law of the U.S. Department of State, and Peter H. Kaskell, vice-president of Olin Corporation. Mr. Pfund spoke about the status of the convention and plans to seek Senate approval. As chairman of the Lawyers' Committee for the Convention on Contracts for the International Sales of Goods, Mr. Kaskell informed the audience of the efforts of that committee to mobilize support for the convention among lawyers, especially among chief legal officers of the corporation engaged in international trade.⁴

The texts of the papers presented in Atlanta, with the exception of these short presentations by Messrs. Pfund and Kaskell, have been collected in this symposium issue. Editing and annotating have been kept to a minimum. To supplement the papers of the Atlanta panelists, I have written a brief note on the unofficial UNCITRAL Secretariat's Commentary on the Convention to call the reader's attention to this potentially very useful source of information about the reasons behind the Vienna Convention's provisions. The original ABA recommendation and report, which has not been published elsewhere, sets out those considerations thought important by members of the ABA who studied the convention as its text evolved. Finally, a bibliography of writings about the convention published in English is presented for the reader whose interests are aroused by the following materials.

⁴A summary of the Atlanta proceedings is published in 8 U.S. IMPORT WEEKLY (BNA) 737 (1983).

