

UNCITRAL Model Law

United Nations Commission on International Trade Law, established in 1966 is related to International Commercial Arbitration and Conciliation, International Sale of Goods (CISG), international security and so on.

With the emergence of Global & liberal trade worldwide, there has been tremendous increase in the exchange of goods & services on the global level. With such emergence, comes the disputes amongst people & businesses & an inevitable need was felt to introduce a mechanism for resolution of disputes.

The domiciliary courts were over burdened with the number of increasing conflicts amongst participating people on the international forum. For the speedy disposal of conflicts, Arbitration Dispute Resolution has come into existence for the amicable settlement between the parties & countries.

The UNCITRAL Model law on Arbitration is an international legal framework that provides the set of provisions on international commercial arbitration conduct & management. It came into being on 21st June, 1985. It is one of the three pillars of arbitration created by the UN to assist countries with different legal system in harmonizing their arbitration laws. As the model law is not a treaty, government are free to copy or modify it. Over 70 jurisdictions have already accepted it.

The model law consists of 36 Articles classified in 9 chapters covering all the stages of arbitration from limitation of court intervention to the recognition and imposition of the award by balancing b/w the parties freedom to choose their own procedure & the need to provide default rules to fill potential gaps.

Relevance of UNCITRAL Model law

The UNCITRAL is the vital legal part of the UN in the field of international trade law. Every nation has very contrasting laws in general. However, arbitration has an international connotation to it with often being international in nature. Thus, it needs uniformity of states & in that regard domestic laws of arbitration that has been included b/w different countries needs to be in uniformity. If not so, would result in creating hurdles to the smooth flow of trade.

Hence, it plays an vigorous role in scrapping out the hardships. It has been

formulated to assist the nations to set up their domiciliary law & modernize their arbitration laws while keeping in mind the needs of international commercial arbitration

The aim & objective of modern law was to majorly eliminate the concern for inadequacy of national laws & disparity b/w the states concerned.

Lately, UNCITRAL Expedited Arbitration Rules have come into existence as were being adopted on 21st July, 2021 & entered into effect on 19 th September, 2021. These rules function as discretionary preference of parties.

Uncetral Law & Uncitral Rules

UNCITRAL Rules are the exhaustive bunch of rules requiring the party to give consent for the conduct of arbitral proceedings b/w the participating parties. It pursue to provide competency in the procedures by laying out requirement of the reasonableness of cost & review mechanism.

On the contrary, Model laws dispense bunch of patterns legislation of different nations can alter by being a part of their domiciliary legislation on arbitration.

Both plays an indispensable role in international commercial arbitration in order to harmonize the global trade.

Principles of Model law on International Commercial Arbitration

It empowers the parties to freely choose their rules applicable on the arising conflicts. Majorly, the principles are agreeable and adaptable.

Following are the binding principles:

Party Autonomy:

It lays down the parties with unprejudiced platform to have substantial control over the process for the removal of disputes. Parties are also provided with the option to alter the needs & requirements.

Separability:

The arbitration clause in the contract is liberated and stays stand even if the

substantial contract get invalid or becomes void. As per the Arbitration & Conciliation Act, 1996, an arbitration maybe in the form of as a clause in a contract or a separate agreement.

Competence:

competence: Competency of an arbitral tribunal is of utmost importance to rule in its own jurisdiction. This principle is given recognition by numerous convention on international arbitration.

Territorial Principle:

As the name suggests, it facilitates the tribunal to regulate people & events within its jurisdiction, with barring the tribunal to regulate the people & events outside its borders.

Enforceability:

It takes care & mandates that the decision resolving the dispute the executed in all the nation concerning the mention dispute in hand. Also, to accommodate the winning party to credit the assets of losing party based in & around the world.