

## PREFACE

One cannot help being extremely cautious in assessing the work of a young international institution. The United Nations Commission on International Trade Law (UNCITRAL) established in 1968, shows considerable promise—compared to its sister organisations. Though initially there was some scepticism amongst parallel institutions of a private character it appears the UNCITRAL has now come to be recognised as the premier body concerned with the codification of international trade law. That in itself is no mean achievement considering the fact that there were, and are, several bodies engaged for decades in the task of codification of one or the other aspect of international trade law. The four aspects selected in this study for intensive scrutiny have all been subjects of such efforts. It is equally true that none of the efforts were successful in the sense that none evoked the same response that they were expected to from either the sovereign states or from the international trading community they were intended to help. That partly was the reason for entrusting the job to a public body where states and not individuals were members. The states, of course, were expected to depute such men to the UNCITRAL who were not only conversant with the law as it existed but also were quite familiar with the customs, usages and practices of the trading community, which finding the inadequacies of the existing laws, had found their own means of managing their trade transactions by modern methods.

Yet another achievement of the UNCITRAL lay in that it has brought together varied instruments dealing with a number of aspects of international trade law for careful scrutiny and improvement. It is possible now to identify the corpus and content of this branch of law which hitherto was regarded as part of either Private International Law or Comparative Law. The documentation of the UNCITRAL and the special reports it has so thoughtfully commissioned from established authorities in the field would be invaluable for any one wishing to master this subject.

The above observations should not lead the reader to the belief that what is attempted in the following pages is an evaluation of the work of the UNCITRAL. It was far from our aim. The idea was merely to take the major items on the agenda of UNCITRAL and to submit the topics to independent examination. The authors were actively encouraged to draw upon the debates and reports of the UNCITRAL, and some of them have done so heavily. But the main scheme of the volume has been to place the 'international' aspect of each of the subjects selected in its right setting, bring out the issues, and examine (not suggest) the solutions, and then posit similar issues in the frame work of the law as it obtains in India separately. The objective is obvious: comparative study. It would be presumptuous to suggest that the design was meant either to enlighten

those wrestling with these problems in the UNCITRAL or those called upon to offer answers at the national level. It would be more accurate to describe the whole exercise as an attempt at self-clarification by a set of beginners.

Lastly, the somewhat strange, though not entirely new, authorship arrangement calls for an explanation. The editorship consists only in ensuring stylistic uniformity and thematic homogeneity. The authors of each piece are responsible for the contents and views expressed in their writings. This method has been adopted from Max Sorensen's *Manual of Public International Law*. This is, it is felt, a very sensible arrangement. No one can claim knowledge, leave alone expertise, on all the aspects of international trade law dealt with in this volume, even for the limited purpose of editing. And the traditional method of editorship also would have been inadequate for the present purpose. For, the contributors, being junior colleagues, charmingly efficient at that, have had the disadvantage (!) of working under the constant, sometimes exasperating supervision of the editor, often pursuing the lines of enquiry or even (at the risk of being presumptuous) the line of thought suggested by the editor. For almost the same reasons joint authorship was ruled out.

It is customary for the editor to express his gratitude and appreciation of all those who have collaborated on the book and those who have encouraged and assisted in its completion. It is no formality with the present one. I have really enjoyed working with my associates, and my appreciation of the help and encouragement given by the Director of the Indian Law Institute, Dr. S.N. Jain, is genuinely heartfelt.

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