

this article because of its relation to the articles on the territorial sea which have not yet been adopted by the Commission.

Speeches indicated that representatives were divided upon the issue whether the articles adopted by the Commission should be finally decided upon by the General Assembly before other articles on the Regime of the High Seas and those on the Regime of Territorial Waters were made available. Canada strongly urged that governments be given a further period to study the effect and implication of the various articles adopted by the Commission, which in many cases represented a radical departure from international practice, and accordingly co-sponsored a resolution postponing consideration of the articles on the Continental Shelf and International Regulation of Fisheries until the tenth session of the Assembly in 1955. The resolution eventually adopted decided "not to deal with any aspect of the Regime of the High Seas or the Regime of Territorial Waters until all problems have been studied by the International Law Commission and submitted to the General Assembly".

### **Arbitral Procedure**

At its first session in 1949 the International Law Commission selected arbitral procedure as one of the topics for codification. At its first session the Commission adopted a final draft Convention on Arbitral Procedure and proposed that the General Assembly recommend the draft to member states with a view to the conclusion of a convention.

According to the Commission, the term "arbitral procedure" refers to procedure in its wider sense, that is provisions for safeguarding the effectiveness of arbitration engagements accepted by parties, as well as clauses relating to the constitution and powers of the tribunal, the general rules of evidence and procedure and the award of the arbitrators. In the Commission's view the draft is no more than a codification of existing law so far as the basic features of the law of arbitral procedure are concerned, though it proceeds by way of developing international law with regard to certain procedural safeguards for securing the effectiveness, in accordance with the original common intention of the parties, of the undertaking to arbitrate. The Commission emphasized its desire to preserve what it considers to be the essential feature of international arbitration — the autonomy of the will of the parties in regard to the choice of arbitrators, the law to be applied and the procedure of the arbitral tribunal, — subject only to the limitations, first, that the procedure adopted both before and after the beginning of the proceedings, must not be such as to frustrate the common intention of the parties (as expressed in the original undertaking to arbitrate) to settle the dispute by arbitration, and second, that there must be no impairment of the binding character of the award. At the eighth session of the General Assembly, few governments were yet prepared to take a definite position on the subject, and a resolution, co-sponsored by Canada, was adopted which referred the draft Convention back to governments for "whatever comments they may deem appropriate, if possible, before January 1955". The Canadian Delegation thought it advisable to postpone a decision on this important Convention, the