

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

INTERNATIONAL ARBITRATION AMENDMENT BILL 1988

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Amendment to be moved on behalf of the Government)

The proposed amendment is to delete proposed new s.29 from the Bill, with the effect that the UNCITRAL Model Law on International Commercial Arbitration will be implemented in Australia by Commonwealth legislation alone. Proposed s.29 would have enabled the States and Northern Territory to enact mirror legislation.

The Government has decided to move the amendment following representations criticising proposed s.29 as undermining one of the primary purposes of the Bill, which is to attract international arbitrations to Australia. Overseas parties considering arbitration in Australia would be deterred by having to investigate which States had enacted relevant legislation, and while the concept of mirror legislation might appear straightforward to Australians, overseas parties would understand neither the concept nor its practical effects.

The deletion of proposed s.29 will ensure that a single Australian (Commonwealth) law will govern all international commercial arbitrations conducted in Australia, unless the parties themselves choose otherwise.

(Circulated by Authority of the Minister representing the Attorney-General, Senator the Honourable Michael Tate)

