Pursuant to an agreement entered into by the parties, Claimant promised to provide certain services to help Respondent to win and perform a building contract. Claimant's consideration took the form of commission, the amount of which was set in the agreement. Two payments representing almost 40% of such amount were made into a Swiss bank account. Thereafter, no further payment was made. According to Respondent, the policy of the American group of which it had become part prohibited it from making payments in a country other than that where the agent was located or the services rendered. This policy is alleged to have been introduced in connection with the USA Foreign Corrupt Practices Act (FCPA). Respondent believes the reasons for Claimant's wishing to be paid in Switzerland were related to bribery, which it considers to be an illicit purpose making the agreement void under the Swiss Code of Obligations. Claimant institutes arbitral proceedings in order to obtain his outstanding commission, plus interest and damages. Respondent contends that no commission is due owing to the agreement being void, that Claimant had not performed the agreement, and that there is no proof of the alleged harm. The sole Arbitrator considers in turn the validity of the agreement under the applicable law, the rights and obligations arising from the agreement, the damages claimed by Claimant, and the allocation of arbitration costs. He dismisses the accusation of corruption for lack of documentary evidence and indicators pointing to such corruption. He also finds there to be no evidence of the alleged non-performance, which, moreover, he considers to be based on a misinterpretation of the texts. He orders Respondent to pay commission, plus interest in accordance with Article 78 of the United Nations Convention on Contracts for the International Sale of Goods and Article 7.4.9 of the Unidroit Principles. He dismisses Claimant's request for damages, but awards him compensation to cover travel expenses. As Claimant won on the main issue, Respondent is ordered to bear the entire arbitration costs, plus all of Claimant's defence expenses.
lump sum compensation for damages in areas where the creditor need not prove the actual damages incurred. It is a long-standing practice of international arbitrators, as well as of the Iran-U.S. Claims Tribunal, to consider the interest claim as part of the general claim for damages. » (Klaus Peter Berger, « International Arbitral Practice and the

Selon l'article 104 CO, auquel la Convention est soumise, tout débiteur qui est en demeure pour le paiement d'une somme d'argent doit l'intérêt moratoire de 5% par l'an. Rien dans la Convention ne permet d'admettre que les parties avaient l'intention d'exclure le droit au paiement d'intérêts en cas de demeure. Une telle exclusion aurait du reste été difficile à réconcilier avec les usages du commerce international dont se font l'écho, entre autres, la Convention des Nations Unies sur les contrats de vente internationale de marchandises (Convention de Vienne), ou encore les Principes Unidroit pour les contrats commerciaux internationaux, évoqués par l'auteur précité.

[...]

Referring Principles:

VII.6 - Duty to pay interest