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COMMITTEE ON THE ENFORCEMENT OF
INTERNATIONAL ARBITRAL AWARDS

Protocol on Arbitration Clauses
Geneva, 24 September 1923

Note by the Secretariat

Document E/C.2/373/Add.1, dated 25 February 1954 contained the text of the Convention on the Execution of Foreign Arbitral Awards signed at Geneva on 26 September 1927. The text of the Protocol on Arbitration Clauses signed at Geneva on 24 September 1923,^{1/} is attached for the further information of the members of the Committee.

^{1/} League of Nations Treaty Series, Vol. 27, p. 157.

Protocol on Arbitration Clauses
Geneva, 24 September 1923

Entered into force on 28 July 1924

The undersigned, being duly authorised, declare that they accept, on behalf of the countries which they represent, the following provisions:

(1) Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations, in order that the other Contracting States may be so informed.

(2) The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

(3) Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

(4) The tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article I applies and including an Arbitration Agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

(5) The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the Signatory States.

(6) The present Protocol will come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

(7) The present Protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other Signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

(8) The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territories: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all Signatory States. They will take effect one month after the notification by the Secretary-General to all Signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

A certified copy of the present Protocol will be transmitted by the Secretary-General to all the Contracting States.

Done at Geneva on the twenty-fourth day of September, one thousand nine hundred and twenty-three, in a single copy, of which the French and English texts are both authentic, and which will be kept in the archives of the Secretariat of the League.

1. Ratifications: 30

AUSTRIA (January 25th, 1928)

ALBANIA (August 29th, 1924)

BELGIUM (September 23rd, 1924)

Reserves the right to limit the obligation mentioned in the first paragraph mentioned in the first paragraph of Article I to contracts which are considered as commercial under its national law.

BRAZIL (February 5th, 1932)

Subject to the condition that the arbitral agreement or the arbitration clause mentioned in Article I of this Protocol should be limited to contracts which are considered as commercial by the Brazilian legislation.

BRITISH EMPIRE (September 27th, 1924)

Applies only to Great Britain and Northern Ireland, and consequently does not include any of the Colonies, Overseas Possession or Protectorates under His Britannic Majesty's sovereignty or authority or any territory in respect of which His Majesty's Government exercises a mandate.

Southern Rhodesia (December 18th, 1924 a)

Newfoundland (June 22nd, 1925 a)

British Guiana, British Honduras

Ceylon

Falkland Islands and Dependencies

Gambia (Colony and Protectorate), Gold Coast (including

Ashanti and the Northern Territories of the Gold

Coast and Togoland), Gibraltar

Jamaica (Turks and Caicos Islands and Cayman Islands)

Kenya (Colony and Protectorate)

Leeward Islands

Malta, Mauritius

Northern Rhodesia

Palestine (excluding Trans-Jordan)

Trans-Jordan

Windward Islands (Grenada, St. Lucia, St. Vincent)

Zanzibar

(March 12th, 1926 a)

Tanganyika (June 17th, 1926 a)

St. Helena (July 29th, 1926 a)

Uganda (June 28th, 1929 a)

Bahamas (January 23rd, 1931 a)

Burma (excluding the Karenni States under His Majesty's suzerainty)
(October 19th, 1938 a)

His Majesty reserves the right to limit the obligations mentioned in the first paragraph of Article I to contracts which are considered commercial under the law of Burma.

NEW ZEALAND (June 9th, 1926)

INDIA (October 23rd, 1937)

Is not binding as regards the enforcement of the provisions of this Protocol upon the territories in India of any Prince or Chief under the suzerainty of His Majesty.

India reserves the right to limit the obligation mentioned in the first paragraph of Article I to contracts which are considered as commercial under its national law.

CZECHO-SLOVAKIA (September 18th, 1931)

The Czecho-Slovak Republic will regard itself as being bound only in relation to States which will have ratified the Convention of September 26th, 1927, on the Execution of Foreign Arbitral Awards, and the Czecho-Slovak Republic does not intend by this signature to invalidate in any way the bilateral treaties concluded by it which regulate the questions referred to in the present Protocol by provisions going beyond the provisions of the Protocol.

DENMARK (April 6th, 1925)

Under Danish law, arbitral awards made by an Arbitral Tribunal do not immediately become operative; it is necessary in each case, in order to make an award operative, to apply to the ordinary courts of law. In the course of the proceedings, however, the arbitral award will generally be accepted by such courts without further examination as a basis of the final judgments in the affair.

FREE CITY OF DANZIG (through the intermediary of Poland) (April 26th, 1938)
ESTONIA (May 16th, 1929)

Limits, in accordance with Article I, paragraph 2, of this Protocol, the obligation mentioned in paragraph 1 of the said article to contracts which are considered as commercial under its national law.

FINLAND (July 10th, 1924)

FRANCE (June 7th, 1928)

Reserves the right to limit the obligation mentioned in paragraph 2 of Article I to contracts which are considered as commercial under its own national law. Its acceptance of the present Protocol does not include the Colonies, Overseas Possessions or Protectorates or Territories in respect of which France exercises a mandate.

GERMANY (November 5th, 1924)

GREECE (May 26th, 1926)

IRAQ (March 12th, 1926 a)

ITALY (excluding Colonies) (July 28th, 1924)

JAPAN (June 4th, 1928)

Chosen, Taiwan, Karafuto, the leased territory of Kwantung, and the territories in respect of which Japan exercises a mandate
(February 26th, 1929 a)

LUXEMBURG (September 15th, 1930)

Reserves the right to limit the obligation mentioned in the first paragraph of Article I to contracts which are considered as commercial under its national law.

MONACO (February 8th, 1927)

Reserves the right to limit its obligations to contracts which are considered as commercial under its national law.

THE NETHERLANDS (including the Netherlands Indies, Surinam and Curaçao)
(August 6th, 1925)

The Government of the Netherlands declares its opinion that the recognition in principle of the validity of arbitration clauses in no way affects

either the restrictive provisions at present existing under Netherlands law or the right to introduce other restrictions in the future.^{1/}

NORWAY (September 2nd, 1927)

POLAND (June 26th, 1931)

Under reservation that, in conformity with paragraph 2 of Article I, the undertaking contemplated in the said Article will apply only to contracts which are declared as commercial in accordance with national Polish law.

PORTUGAL (December 10th, 1930)

- (1) In accordance with the second paragraph of Article I, the Portuguese Government reserves the right to limit the obligation mentioned in the first paragraph of Article I to contracts which are considered as commercial under its national law.
- (2) According to the terms of the first paragraph of Article 8, the Portuguese Government declares that its acceptance of the present Protocol does not include its Colonies.

ROMANIA (March 12th, 1925)

Subject to the reservation that the Royal Government may in all circumstances limit the obligation mentioned in Article I, paragraph 2, to contracts which are considered as commercial under its national law.

SPAIN (July 29th, 1926)

Reserves the right to limit the obligation mentioned in Article I, paragraph 2, to contracts which are considered as commercial under its national law.

Its acceptance of the present Protocol does not include the Spanish Possessions in Africa, or the territories of the Spanish Protectorate in Morocco.

^{1/} Further, when signing and ratifying, the Netherlands Government made a reservation which it withdrew, in respect of the Kingdom in Europe, on February 22nd, 1937 (Treaty Series, Vol. 135, p. 372) and, as regards the Netherlands Indies, Surinam and Surapao, on April 16th, 1940 (Treaty Series, Vol. 200, p. 500).

SWEDEN (August 8th, 1929)
SWITZERLAND (May 14th, 1928)
THAILAND (September 3rd, 1930)
ISRAEL (December 13th, 1951)

2. Signatures not yet perfected by Ratification: 11

BOLIVIA
CHILE
LATVIA

Reserves the right to limit the obligation mentioned in paragraph 2 of Article 1 to contracts which are considered as commercial under its national law.

LIECHTENSTEIN

Subject to the following reservation:

Agreements which are the subject of a special contract, or of clauses embodied in other contracts, attributing competence to a foreign tribunal, if they are concluded between nationals and foreigners or between nationals in the country, shall henceforth be valid only when they have been drawn up in due legal form.

This provision shall apply also to stipulations in articles of association, deeds of partnership and similar instruments and also to agreements for the submission of a dispute to an arbitral tribunal sitting in a foreign country.

Any agreement which submits to a foreign tribunal or to an arbitral tribunal a dispute relating to insurance contracts shall be null and void if the person insured is domiciled in the country or if the interest insured is situated in the country.

It shall be the duty of the tribunal to ensure as a matter of routine that this provision is observed even during procedure for distraint or during bankruptcy proceedings.^{1/}

^{1/} This reservation has been submitted to the States parties to the Protocol for acceptance.

LITHUANIA
NICARAGUA
PANAMA
PARAGUAY
PERU
SALVADOR
URUGUAY

3. Open to Signatures by:

AFGHANISTAN
UNION OF SOUTH AFRICA
UNITED STATES OF AMERICA
ARGENTINE REPUBLIC
AUSTRALIA

BULGARIA
CANADA
CHINA
COLOMBIA
COSTA RICA

CUBA
DOMINICAN REPUBLIC
ECUADOR
EGYPT
ETHIOPIA

GUATEMALA
HAITI
HONDURAS
HUNGARY
IRAN

IRELAND
LIBERIA
MEXICO
TURKEY
UNION OF SOVIET SOCIALIST
REPUBLICS
VENEZUELA
YUGOSLAVIA
