

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL

UN. LIBRARY

JUN 1958



Distr.
LIMITED

E/CONF.26/L.40
2 June 1958
ENGLISH
ORIGINAL: FRENCH

UNITED NATIONS CONFERENCE ON INTERNATIONAL
COMMERCIAL ARBITRATION

CONSIDERATION OF THE DRAFT CONVENTION ON THE RECOGNITION AND
ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (ITEM 4 OF THE AGENDA)

France, Federal Republic of Germany and Netherlands: working
paper on articles III, IV and V of the draft convention

Article III: delete

Article IV: Recognition and enforcement of an arbitral award may only be refused
if:

- (a) the award was not made pursuant to a submission to arbitration valid under the law applicable thereto; or
- (b) the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration. However, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- (c) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- (d) the party against whom the award is invoked was not given notice of the appointment of the arbitrator or of the arbitration proceedings in sufficient time to enable him to present his case or, being under a legal incapacity, was not properly represented; or

- (e) the recognition or enforcement of the award would be incompatible with the public policy of the country in which the award is relied upon;
- or
- (f) the award has been annulled.

Article V

1. The party applying for recognition or enforcement shall supply:
 - (a) the original award or a duly authenticated copy thereof;
 - (b) documentary evidence showing that the award was made pursuant to an agreement to submit to arbitration.
2. If the application for recognition or enforcement is not made in an official language of the country in which the award is relied upon, the party applying for recognition or enforcement of the award shall produce a translation in such language of the application and other documentary evidence required. The translation shall be duly certified by a sworn translator or by a diplomatic or consular agent.

Article V bis

1. The judicial authority of the country in which the award is relied upon shall reserve its decision on the recognition or enforcement thereof if the party against whom the award is invoked produces evidence that he has initiated an ordinary procedure of recourse against that award.
2. The judicial authority of the country in which the award is relied upon may reserve its decision on the recognition and enforcement thereof if the party against whom the award is invoked produces evidence that he has submitted an application for the annulment of that award.
3. Even where the party against whom the award is invoked fails to claim the existence of any of the grounds for refusal set forth in article IV, the judicial authority of the country in which the award is relied upon may of its motion refuse the recognition or enforcement of the award if it establishes that any of those grounds exist.