

Arbitration (Protocol and Convention) Act, 1937

Section 10 - RULE making powers of the High Court.- The High Court may make rules consistent with this Act as to

a) the filing of foreign awards and all proceedings consequent thereon or incidental thereto; (b) the evidence which must be furnished by a party seeking to enforce a foreign award under this Act; and (c) generally, all proceedings in Court under this Act.

SCHEDULE 01: PROTOCOL ON ARBITRATION CLAUSES

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 a 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 applied and including an arbitration Agreement whether referring to present as 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 ratification 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.

SCHEDULE 02: CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS

Article 1.- In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement whether relating to existing or future differences (hereinafter called "a submission to arbitration") covered by the Protocol on Arbitration

Clauses opened at Geneva On September 24th, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties, To obtain such recognition or enforcement, it shall, further, be necessary- (a) That the award had been made in pursuance of a submission to arbitration which is valid under the law applicable thereto; (b) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon; (c) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure; (d) That the award has become final in the country in which it has been made in the sense that it will not be considered as such if it is open to opposition, appeal or pourvoi en cassation (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending; (e) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon. Article 2.- Even if the conditions laid down in Article I hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied: (a) That the award has been annulled in the country in which it was made; (b) That the party against whom it is sought to use the award was not given notice of the arbitration proceeding in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented; (c) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration. If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.. Article 3.- If the party against whom the award has been made proves that under the law governing the arbitration procedure, there is a ground other than the grounds referred to in Article 1(a) and (c), and Article 2(b) and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal. Article 4.- The party relying upon an award or claiming its enforcement must supply, in particular: (1) The original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made-, (2) Documentary or other evidence to prove that the award has become final, in the sense defined in Art. 1 (d), in the country in which it was made; (3) When necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph 1 and paragraph 2(a) and (c), have been fulfilled. A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translations must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon. Article 5.- The provisions of the above Article shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon