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ARBITRATION ACT, 1961

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ACT 38
ARBITRATION ACT, 1961(1)

AN ACT to regulate the settlement of differences by arbitration to provide for the enforcement of awards and for related matters.

1. Arbitration

An arbitration is the reference of a difference between two or more parties to a person other than the High Court, for determination after hearing the parties in a judicial manner.

2. Arbitrator

A person to whom a reference to arbitration is made is called an arbitrator.

3. Umpire

Where a reference is to two arbitrators and it is provided that, in the event of disagreement between them the difference is to be referred for decision to a third person, that person is called the umpire.

4. Award

The decision of the arbitrator or umpire is called the award.

5. Arbitration agreement

(1) An arbitration agreement is a contract in writing to refer present or future differences to arbitration, whether an arbitrator is named in the contract or not.

(2) An arbitration agreement may relate to an issue arising between the parties to it which is capable of being the subject of a civil action, but an arbitrator is not entitled to make an award in the nature of a judgment *in rem*, that is, a decision affecting the status of a person or thing or determining an interest in property except as between the parties themselves.

Domestic Awards

6. Authority of arbitrators and umpires irrevocable

The authority of an arbitrator or umpire appointed by or by virtue of an arbitration agreement is irrevocable except by leave of the High Court, unless a contrary intention is expressed in the agreement.

7. Death of party

(1) An arbitration agreement is not discharged by the death of a party to the agreement, as respects the deceased or any other party, but is in that event enforceable by or against the legal representatives of the deceased.

(2) The authority of an arbitrator is not revoked by the death of a party by whom the arbitrator was appointed.

(3) This section is subject to an enactment of a rule of law by virtue of which a particular right of action is extinguished by the death of a person.

8. Staying court proceedings on reference to arbitration

(1) Where a party to an arbitration agreement, or a person claiming through that party, commences legal proceedings in a court against any other party to the agreement, or a person claiming through that party, in respect of a matter agreed to be referred, a party to those legal proceedings may apply to that court to stay the proceedings.

(2) The court, if satisfied that a sufficient reason does not exist why the matter should not be referred in accordance with the agreement, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do the things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

(3) For the purposes of this section, “**court**” means a court of competent jurisdiction.

9. Reference of interpleader issues to arbitration

Where relief by way of interpleader is granted and it appears to the High Court that the claims in question are matters to which an arbitration agreement, to which the claimants are parties, applies, the Court may direct the issue between the claimants to be determined in accordance with the agreement.

Arbitrators and Umpires

10. Reference to a single arbitrator

For the purposes of this Act an arbitration agreement includes, if another mode of reference is not provided, a provision that the reference shall be to a single arbitrator, unless a contrary intention is expressed in the agreement.

11. Power of parties to supply vacancy

(1) Where an arbitration agreement provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a contrary intention is expressed in the agreement,

- (a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed that arbitrator may appoint a new arbitrator; and
- (b) if, on the reference, one party fails to appoint an arbitrator, originally or by way of substitution, for seven clear days after the other party, having appointed an arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and the award shall be binding on both parties as if the arbitrator had been appointed by consent.

(2) The High Court may set aside an appointment made in pursuance of subsection (1).

12. Appointment of umpires

(1) Unless a contrary intention is expressed in the agreement, an arbitration agreement includes, where the reference is to two arbitrators, a provision that the two arbitrators shall appoint an umpire

immediately after they are themselves appointed.

(2) Unless a contrary intention is expressed in the agreement, an arbitration agreement includes where that provision is applicable to the reference, a provision that if the arbitrators have delivered to a party to the arbitration agreement, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(3) At any time after the appointment of an umpire, however appointed, the High Court may, on the application of a party to the reference and despite anything to the contrary in the arbitration agreement, order that the umpire shall enter on the reference in lieu of the arbitrators and as if the umpire were a sole arbitrator.

13. Agreements for reference to three arbitrators

Where an arbitration agreement provides that the reference shall be to three arbitrators, however appointed, the award of any two of the arbitrators is binding.

14. Appointment of arbitrator or umpire by the High Court

A party may serve the other parties, or the arbitrators, with a written notice to appoint, or concur in appointing, an arbitrator, umpire or third arbitrator, and if the appointment is not made within seven clear days after the service of the notice, the High Court may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator who shall have the same powers to act in the reference and make an award as if appointed in the manner provided in the agreement

- (a) where an arbitration agreement provides that the reference shall be to a single arbitrator to be appointed by agreement between the parties, and the parties do not, after differences have arisen agree on the appointment of an arbitrator, or
- (b) where an arbitration agreement provides that an arbitrator or an umpire is to be appointed by a person other than the parties to the agreement, and in the case of an umpire, other than the arbitrators, and that person does not or cannot appoint the arbitrator or the umpire, or
- (c) if an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy, or
- (d) where the parties or two arbitrators are at liberty to appoint an umpire or a third arbitrator and do not make that appointment or where two arbitrators are required to appoint an umpire and do not appoint the umpire, or
- (e) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy.

Conduct and Proceedings

15. Evidence

(1) Unless a contrary intention is expressed in the agreement, an arbitration agreement contains, where that provision is applicable to the reference, a provision that the parties to the reference, and the persons claiming through them, shall, subject to legal objection

- (a) submit to be examined by the arbitrator or umpire, on oath, in relation to the matter in

dispute,

- (b) produce before the arbitrator or umpire all documents within their possession or power respectively which may be required or called for, and
- (c) do all other things which during the proceedings on the reference, the arbitrator or umpire may require.

(2) Unless a contrary intention is expressed in the agreement, an arbitration agreement contains, where the provision is applicable to the reference, a provision that the witnesses on the reference shall, if the arbitrator or umpire thinks fit, be examined on oath.

16. Powers of the High Court

(1) The High Court, may, on the application of a party to an arbitration, order the attendance before an arbitrator or umpire of a witness who is in the Republic, or that a prisoner be brought for examination before an arbitrator or umpire, but a person shall not be compelled to produce a document which that person could not be compelled to produce on the trial of an action in the High Court.

(2) The Court may, for the purpose of and in relation to a reference, make orders in respect of

- (a) security for costs;
- (b) discovery of documents and interrogatories, subject to article 135 of the Constitution;
- (c) the giving of evidence by affidavit;
- (d) examination on oath of a witness before an officer of the High Court, or any other person, and the issue of a commission or request for the examination of a witness out of the jurisdiction;
- (e) the preservation, interim custody or sale of goods which are the subject matter of the reference;
- (f) securing the amount in dispute in the reference;
- (g) the detention, preservation or inspection of property or a thing which is the subject of the reference or as to which a question may arise in the reference, and authorising for any of those purposes any persons to enter on or into a land or building in the possession of a party to the reference, or authorising samples to be taken or an observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence; and
- (h) interim injunctions or the appointment of a receiver.

(3) This section is without prejudice to a power which may be vested in an arbitrator or umpire to make orders with respect to a matter under reference.

Provisions as to Awards

17. Time for making award

(1) The time limited for making an award, whether under this Act or otherwise, may be enlarged by order of the High Court whether that time has expired or not.

(2) Subject to subsection (1) and to the arbitration agreement, an arbitrator or umpire may make an award at any time.

(3) The High Court may, on the application of a party to a reference, remove an arbitrator or umpire who fails to use reasonable dispatch in entering on and proceeding with the reference and making an award.

(4) An arbitrator or umpire who is removed by the Court under subsection (3) is not entitled to receive remuneration as an arbitrator or umpire.

(5) For the purposes of subsection (3) the expression “**proceeding with the reference**” includes in a case where two arbitrators are unable to agree, giving notice of that fact to the parties and to the umpire.

18. Interim awards

Unless a contrary intention is expressed in the agreement, an arbitration agreement contains, where that provision is applicable to the reference, a provision that the arbitrator or umpire may make an interim award, and a reference to an award includes a reference to an interim award.

19. Specific performance, injunction and rectification

Unless a contrary intention is expressed in the agreement, an arbitration agreement contains, where that provision is applicable to the reference, a provision that the arbitrator or umpire has the same power as the High Court to order specific performance of the contract, other than a contract relating to land, or to grant an injunction or to rectify a written contract.

20. Final awards

Unless a contrary intension is expressed in the agreement, an arbitration agreement contains, where that provision is applicable to the reference, a provision that the award to be made by the arbitrator or umpire is final and binding on the parties and the persons claiming through the parties.

21. Power to correct slips

The arbitrator or umpire may correct in an award a clerical mistake or error arising from an accidental slip or omission, unless a contrary intension is expressed in the arbitration agreement.

Costs and Fees

22. Costs

(1) Unless a contrary intention is expressed in the agreement, an arbitration agreement includes a provision that the costs of the reference and award shall be at the discretion of the arbitrator or umpire, who may direct to and by whom, and in what manner those costs or a part of the costs shall be paid and may tax or settle the amount of costs to be paid, or a part of the costs, or may direct that the costs directed to be paid are taxable by a taxing officer of the High Court.

(2) A provision in an arbitration agreement to the effect that the parties or any of the parties to the agreement shall in any event pay their respective costs of the reference or award or a part of the costs is void, unless the provision is part of an agreement to submit to arbitration a dispute which arose before the making of that agreement.

(3) Where a provision is not made by an award with respect to the costs of the reference, a party to the reference may apply within one month of the publication of the award or a further time, directed by the Court to the arbitrator, for an order directing and these costs shall be paid, and the arbitrator shall, after

hearing a party who may desire to be heard, amend the award by adding to it the appropriate directions with respect to the payment of the costs of the reference.

23. Arbitrator's or umpire's fees

(1) Where an arbitrator or umpire refuses to deliver an award except on payment of the fees demanded by the arbitrator or umpire, the High Court may, on an application for the purpose, order the arbitrator or umpire to deliver the award to the applicant on payment by the applicant to the arbitrator or umpire of a fee determined by the High Court.

(2) An application for the purposes of subsection (1) may be made by a party to the reference unless the fees demanded have been fixed by a written agreement between that party and the arbitrator or umpire.

(3) The arbitrator or umpire is entitled to appear and be heard on an application under this section.

Case Stated, Remission and Other Relief

24. Statement of case

(1) An arbitrator or umpire may, and shall if so directed by the High Court, state, in the form of a special case for the decision of the High Court

- (a) a question of law arising in the course of the reference, or
- (b) an award or a part of an award.

(2) A special case with respect to an interim award or with respect to a question of law arising in the course of a reference may be stated, or may be directed by the High Court to be stated, although proceedings under the reference are still pending.

(3) A decision of the Court under this section is a decision of the Court sitting in its original jurisdiction within the meaning of an enactment relating to appeals from its decisions.

25. Power to remit awards

(1) In all cases of reference to arbitration the High Court may remit the matters referred, or any of them, to the reconsideration of the arbitrator or umpire.

(2) Where an award is remitted, the arbitrator or umpire shall, unless the order otherwise directs, make the award within three months after the date of the order.

26. Removal of arbitrator and setting aside of an award

(1) The High Court may remove an arbitrator or umpire or set aside an award, or both, where there has been a misconduct on the part of the arbitrator or umpire or in the proceedings.

(2) Where an award has been improperly procured the Court may set it aside.

(3) Where an application is made to set aside an award, the Court may order that money made payable by the award shall be brought into the Court or otherwise secured pending the determination of the application.

27. Relief where arbitrator is not impartial or there is fraud

(1) Where an agreement between the parties provides that differences which may arise in the future between them shall be referred to an arbitrator named or designated in the agreement, and after a difference has arisen a party applies, on the grounds that the arbitrator so named or designated is not or may not be impartial, for leave to revoke the authority of the arbitrator or an injunction to restrain any other party or the arbitrator from proceeding with the arbitration, an application shall not be refused on the grounds that that party at the time when the agreement was made knew, or ought to have known, that the arbitrator, by reason of a relationship towards any other party to the agreement, or of connection with the subject referred, might not be capable of impartiality.

(2) Where an agreement between the parties provides that differences which may arise in the future between them shall be referred to arbitration, and a difference which arises involves the question whether a party has been guilty of fraud, the High Court may, so far as may be necessary to enable that question to be determined by the Court,

- (a) order that the agreement shall cease to have effect, and
- (b) give leave to revoke the authority of an arbitrator or umpire appointed by or by virtue of the agreement.

28. Removal of arbitrator or authority of arbitrator

(1) Where an arbitrator who is not a sole arbitrator or two or more persons all of whom are not arbitrators or an umpire who has not entered on the reference, is or are removed by the High Court, the Court may, on the application of a party to the arbitration agreement, appoint a person or persons to act as arbitrator or arbitrators or umpire in place of the person or persons so removed.

(2) Where the authority of an arbitrator or arbitrators or umpire is revoked by leave of the Court, or a sole arbitrator or all the arbitrators or an umpire who has entered on the reference is or are removed by the High Court, the Court may, on the application of a party to the arbitration agreement,

- (a) appoint a person to act as sole arbitrator in place of the person or persons removed, or
- (b) order that the arbitration, agreement shall cease to have effect with respect to the difference referred.

(3) A person appointed under this section by the High Court as an arbitrator or umpire may act in the reference and make an award as if that person had been appointed in accordance with the terms of the arbitration agreement.

(4) Where it is provided, whether in the arbitration agreement or otherwise, that an award under an arbitration agreement is a condition precedent to the bringing of an action with respect to a matter to which the agreement applies, the High Court, if it orders that the agreement shall cease to have effect as regards a particular difference, may further order that the provision making an award a condition precedent to the bringing of an action, shall cease to have effect as regards that difference.

29. Enforcement of award

An award on an arbitration agreement may be enforced, by leave of the High Court in the same manner as a judgment or order of the Court and, where leave is given, judgment may be entered in terms of the award.

30. Extension of time for commencing arbitration proceedings

Where the terms of an agreement to refer future differences to arbitration provide that the claims to

which the agreement applies shall be barred unless notice to appoint an arbitrator is given or an arbitrator is appointed or some other step to commence arbitration proceedings is taken within a time fixed by the agreement, and a difference arises to which the agreement applies, the High Court, if it is of opinion that in the circumstances of the case undue hardship would otherwise be caused, and although the time fixed has expired, may extend the time for that period as it thinks proper, but without prejudice to the law relating to the limitation of actions.

31. Terms as to costs

An order under this Act may be made on the terms as to costs or otherwise that the authority making the order thinks just.

32. Awards by consent

(1) At any time after the commencement of an arbitration and before an award is made, an award by consent may be made for money due, or to become due on a specified date.

(2) An award by consent is enforceable in accordance with section 29 if the provisions of this section are complied with.

(3) A written statement shall be made and signed by each party to the arbitration stating

- (a) the amount for which an award may be made,
- (b) whether the money is due and if not, the date on which it will become due, and
- (c) briefly, the facts on which the liability is based, which shall show that the money is legally due or will become due on the date specified.

(4) At any time within three months after a written statement made under subsection (3) has been signed by the parties, it may be submitted to the arbitrator who may make an award of the money stated in the statement to be due or to become due.

(5) Where the arbitrator is not appointed and the arbitration agreement provides that the arbitrator is to be appointed by a person other than the parties to the agreement, a written statement made under subsection (3) may be submitted to the person who is given the power to appoint the arbitrator by the agreement and that person may make an award by consent as an arbitrator.

(6) Where a difference is submitted to two arbitrators who are unable to agree on an award and the difference is to be submitted to an umpire, an award by consent may be made by the umpire if one has been appointed, or by the arbitrators in any other case.

Application and Extent

33. Application of sections 6 to 32

Subject to section 34, sections 6 to 32 apply to an arbitration under any other enactment, whether made before or after this Act, as if the arbitration were pursuant to an arbitration agreement and as if that enactment were an arbitration agreement, except in so far as this Act is inconsistent with any other enactment or with the rules or procedure authorised or recognised thereby.

34. Operation of sections 6 to 32

(1) Sections 6 to 32 apply to an arbitration commenced after the commencement of this Act under an

agreement made before such commencement but does not apply to an arbitration commenced before the commencement of this Act.

- (2) For the purposes of sections 6 to 32 an arbitration commences
 - (a) when one party to the arbitration agreement serves on the other party or parties a notice requiring that party or them to appoint or concur in appointing an arbitrator, or
 - (b) when the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring that party or them to submit the dispute to the person so named or designated.

35. Extent of section 6 to 32

Sections 6 to 32 apply to an arbitration agreement governed by the law of the Republic and to an award made in the Republic in pursuance of that agreement, but without prejudice to the power of an arbitrator or umpire to determine whether an arbitration agreement is governed by the law of the Republic or not.

Foreign Awards

36. Awards to which sections 37 to 41 apply

(1) This section and sections 37 to 41 apply to an award made after the commencement of this Act in a reciprocating State, and to an award made in the Republic in pursuance of an arbitration agreement not governed by the law of the Republic, and an award to which those sections apply is referred to as “a foreign award.”

(2) In subsection (1) “**reciprocating State**” means a State declared by the President by legislative instrument to be a party to the Convention set out in the Schedule or any other State to which sections 37 to 41 are, by legislative instrument, applied by the President on the basis of reciprocity.

37. Effect of foreign awards

(1) A foreign award, subject to this Act, is enforceable, by action or in the same manner as the award of an arbitrator is enforceable by virtue of section 29.

(2) A foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set-off or otherwise in legal proceedings, and references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

38. Evidence

- (1) The party seeking to enforce a foreign award shall produce
 - (a) the original award or a copy of that award duly authenticated in the manner required by the law of the country in which it was made, and
 - (b) the agreement pursuant to which the award was made or a copy of that agreement duly authenticated in the manner required by the law of the country in which it was made or in any other manner which is sufficient according to the law of the Republic.
- (2) Where a document required to be produced under subsection (1) is not in the English language,

the party seeking to enforce the award shall produce a translation in the English language certified as correct by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in any other manner sufficient according to the law of the Republic.

39. Defences to foreign awards

The High Court may refuse to enforce a foreign award in the circumstances and subject to the conditions specified in Articles V and VI of the Convention set out in the Schedule.

40. Staying court proceedings

(1) Where a party to an agreement to which the Convention set out in the Schedule applies, or a person claiming through that party, commences legal proceedings in a court against any other party to the agreement, or a person claiming through that party in respect of a matter agreed to be referred, a party to those legal proceedings may at any time after service of the writ of summons and before the date fixed for hearing, apply to that court to stay the proceedings.

(2) The court, unless satisfied that the agreement is void, inoperative or incapable of being performed, shall make an order staying the proceedings.

(3) For the purpose of this section, “**court**” means a court of competent jurisdiction.

41. Saving for other rights

Sections 30 to 40 do not prejudice the rights which a person would have had of enforcing an award or personally profiting from an award if neither those sections nor the Arbitration (Foreign Awards) Act²⁽²⁾ had been enacted.

Miscellaneous

42. “Court”

*Omitted.*³⁽³⁾

43. Repeals

*Spent.*⁴⁽⁴⁾

44. Construction of instruments

An agreement or any other instrument which refers to an enactment hereby repealed shall, in regard to matters arising after the passing of this Act, be construed, unless provision is made to the contrary, as if the reference were to this Act.

45. Commencement

*Spent.*⁵⁽⁵⁾

THE UNITED NATIONS CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF
FOREIGN ARBITRAL AWARDS ADOPTED AT THE HEADQUARTERS OF THE UNITED
NATIONS IN NEW YORK ON JUNE 10, 1958

[Sections 39 and 40]

ARTICLE I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term “arbitral awards” shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under Article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

ARTICLE II

1. Each Contracting State shall recognise an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term “**agreement in writing**” shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

ARTICLE III

Each Contracting State shall recognise arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

ARTICLE IV

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply

- (a) the duly authenticated original award or a duly certified copy thereof;
- (b) the original agreement referred to in article 11 or a duly certified copy thereof.

2. If the said award or agreement is not made in the official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into the English language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

ARTICLE V

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that

- (a) the parties to the agreement referred to in Article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made;
- (b) the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case;
- (c) the award deals with a difference not contemplated by or not falling within the term's of the submission to arbitration, or it contains decisions on matter's beyond the scope of the submission to arbitration, provided that, 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 recognised and enforced;
- (d) 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
- (e) the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that

- (a) the subject matter of the difference is not capable of settlement by arbitration under the law of that country; or
- (b) the recognition or enforcement of the award would be contrary to the public policy of that country.

ARTICLE VI

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V (1) (e), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

ARTICLE VII

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail 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.

2. The Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 shall cease to have effect between Contracting States on their becoming bound and to the extent that they become bound, by this Convention.

ARTICLE VIII

1. This Convention shall be open until 31 December, 1958 for signature on behalf of any Member of the United Nations and also on behalf of any other State which is or hereafter becomes a member of any specialised agency of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.

2. This Convention shall be ratified and the instrument of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE IX

1. This Convention shall be open for accession to all States referred to in article VIII.

2. Accession shall be affected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE X

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

ARTICLE XI

1. In the case of a federal or non-unitary State, the following provisions shall apply

- (a) with respect to those articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;
- (b) with respect to those articles of this Convention that come within the legislative jurisdiction of constituent states or provinces which are not, under the constitutional system of the federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;

- (c) a federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE XII

1. This Convention shall come into force on the ninetieth day following the date of deposit of the third instrument of ratification or accession.
2. For each State ratifying or acceding to this convention after the deposit of the third instrument of ratification or accession, this Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE XIII

1. Any Contracting State may denounce this Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Any State which has made a declaration or notification under Article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.
3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

ARTICLE XIV

A Contracting State shall not be entitled to avail itself of the present Convention against other Contracting States except to the extent that it is itself bound to apply the Convention.

ARTICLE XV

The Secretary-General of the United Nations shall notify the States contemplated in article VIII of the following

- (a) signature and ratifications in accordance with article VIII;
- (b) accessions in accordance with article IX;
- (c) declarations and notifications under articles 1, X and XI;
- (d) the date upon which this Convention enters into force in accordance with article XII;
- (e) denunciations and notifications in accordance with article XIII.

ARTICLE XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit a certified copy of this Convention to the States contemplated in article VIII.

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on 16 March, 1961.

2 (Popup - Footnote)

2. Cap. 17.

3 (Popup - Footnote)

3. The section defines “Court” as the High Court. The appropriate references have been made in the text.

4 (Popup - Footnote)

4. The section provided for the repeal of the Arbitration Ordinance (Cap. 16) and the Arbitration (Foreign Awards) Ordinance (Cap. 17).

5 (Popup - Footnote)

5. The section provided that the Act would come into force on a day ordered by legislative instrument by the President. The Arbitration Act, 1961 (Commencement) Order, 1961 (L.I. 152) provided that the Act shall come into force on the 7th day of October, 1961.