

EUROPEAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

THE UNDERSIGNED,

DULY authorized,

CONVENED under the auspices of the Economic Commission for Europe of the United Nations,

HAVING NOTED that on 10th June 1958 at the United Nations Conference on International Commercial Arbitration has been signed in New York a Convention on the Recognition and Enforcement of Foreign Arbitral Awards,

DESIROUS of promoting the development of European trade by, as far as possible, removing certain difficulties that may impede the organization and operation of international commercial arbitration in relations between physical or legal persons of different European countries,

HAVE AGREED on the following provisions:

Article I

Scope of the Convention

1. This Convention shall apply:

(a) to arbitration agreements concluded for the purpose of settling disputes arising from international trade between physical or legal persons having, when concluding the agreement, their habitual place of residence or their seat in different Contracting States;

(b) to arbitral procedures and awards based on agreements referred to in paragraph 1 (a) above.

2. For the purpose of this Convention,

(a) the term "arbitration agreement" shall mean either an arbitral clause in a contract or an arbitration agreement, the contract or arbitration agreements being signed by the parties, or contained in an exchange of letters, telegrams, or in a communication by teleprinter and, in relations between States whose laws do not require that an arbitration agreement be made in writing, any arbitration agreement concluded in the form authorized by these laws;

(b) the term "arbitration" shall mean not only settlement by arbitrators appointed for each case (**ad hoc** arbitration) but also by permanent arbitral institutions;

(c) the term "seat" shall mean the place of the situation of the establishment that has made the arbitration agreement.

Article II

Right of legal persons of public law to resort to arbitration

1. In the cases referred to in Article I, paragraph 1, of this Convention, legal persons considered by the law which is applicable to terms as "legal persons of public law" have the right to conclude valid arbitration agreements.

2. On signing, ratifying or acceding to this Convention any State shall be entitled to declare that it limits the above faculty to such conditions as may be stated in its declaration.

Article III

Right of foreign nationals to be designated as arbitrators

In arbitration covered by this Convention, foreign nationals may be designated as arbitrators.

Article IV

Organization of the arbitration

1. The parties to an arbitration agreement shall be free to submit their disputes:

(a) to a permanent arbitral institution; in this case, the arbitration proceedings shall be held in conformity with the rules of the said institution;

(b) to an **ad hoc** arbitral procedure; in this case, they shall be free inter alia

(i) to appoint arbitrators or to establish means for their appointment in the event of an actual dispute;

(ii) to determine the place of arbitration; and

(iii) to lay down the procedure to be followed by the arbitrators.

2. Where the parties have agreed to submit any disputes to an **ad hoc** arbitration, and where within thirty days of the notification of the request for arbitration to the respondent one of the parties fails to appoint his arbitrator, the latter shall, unless otherwise provided, be appointed at the request of the other party by the President of the competent Chamber of Commerce of the country of the defaulting party's habitual place of residence or seat at the time of the introduction of the request for arbitration. This paragraph shall also apply to the replacement of the arbitrator(s) appointed by one of the parties or by the President of the Chamber of Commerce above referred to.

3. Where the parties have agreed to submit any disputes to an **ad hoc** arbitration by one or more arbitrators and the arbitration agreement contains no indication regarding the organization of the arbitration, as mentioned in paragraph 1 of this article, the necessary steps shall be taken by the arbitrator(s) already appointed, unless the parties are able to agree thereon and without prejudice to the case referred to in paragraph 2 above. Where the parties cannot agree on the appointment of the sole arbitrator or where the arbitrators appointed cannot agree on the measures to be taken, the claimant shall apply for the necessary action, where the place of arbitration has been agreed upon by the parties, at his option to the President of the Chamber of Commerce of the place of arbitration agreed upon or to the President of the competent Chamber of Commerce of the respondent's habitual place of residence or seat at the time of the introduction of the request for arbitration. Where such a place has not been agreed upon, the claimant shall be entitled at his option to apply for the necessary action either to the President of the competent Chamber of Commerce of the country of the respondent's habitual place of residence or seat at the time of the introduction of the request for arbitration, or to the Special Committee Whose composition and procedure are specified in the Annex to this Convention. Where the claimant fails to exercise the rights given to him under this paragraph the respondent or the arbitrator(s) shall be entitled to do so.

4. When seized of a request the President or the Special Committee shall be entitled as need be:

(a) to appoint the sole arbitrator, presiding arbitrator, umpire, or referee;

(b) to replace the arbitrator(s) appointed under any procedure other than that referred to in paragraph 2 above;

(c) to determine the place of arbitration, provided that the arbitrator(s) may fix another place of arbitration;

(d) to establish directly or by reference to the rules and statutes of a permanent arbitral institution the rules of procedure to be followed by the arbitrator(s), provided that the arbitrators have not established these rules themselves in the absence of any agreement thereon between the parties.

5. Where the parties have agreed to submit their disputes to a permanent arbitral institution without determining the institution in question and cannot agree thereon, the claimant may request the determination of such institution in conformity with the procedure referred to in paragraph 3 above.

6. Where the arbitration agreement does not specify the mode of arbitration (arbitration by a permanent arbitral institution or an **ad hoc** arbitration) to which the parties have agreed to submit their dispute, and where the parties cannot agree