



BELIZE

**ARBITRATION ACT
CHAPTER 125**

REVISED EDITION 2000
SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-	Page
ARRANGEMENT OF SECTIONS	3
ARBITRATION ACT	5
Amendments in force as at 31st December, 2000.	



BELIZE

**ARBITRATION ACT
CHAPTER 125**

REVISED EDITION 2000
SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-	Page
ARRANGEMENT OF SECTIONS	3
ARBITRATION ACT	5
Amendments in force as at 31st December, 2000.	

CHAPTER 125

ARBITRATION

ARRANGEMENT OF SECTIONS

PART I

Preliminary

1. Short title.

PART II

Arbitration (Local Awards)

2. Interpretation in Part II.
3. Submission to be irrevocable and to have effect as an order of court.
4. Provisions implied in submissions.
5. Power to stay proceedings where there is a submission.
6. Power of the court in certain cases to appoint an arbitrator, umpire or third arbitrator.
7. Power of parties in certain cases to supply vacancy.
8. Powers of arbitrator.
9. Witnesses may be summoned by *subpoena*.
10. Power to enlarge time for making award.
11. Power to remit award.
12. Power to set aside award.

13. Enforcing award.

General

14. Statement of case pending arbitration.
15. Costs.
16. Crown to be bound.

PART III

Arbitration (Protocol and Foreign Awards)

17. Staying of court proceedings in respect of matters to be referred to arbitration.
18. Application of sections 19 to 23 inclusive.
19. Effect of foreign awards.
20. Conditions for enforcement of foreign awards.
21. Evidence.
22. Meaning of “final award”.
23. Saving.
24. Definition.

PART IV

Arbitration (New York Convention on Recognition and Enforcement of Foreign Arbitral Awards 1973)

25. Interpretation in Part IV.

26. Staying court proceedings where party proves arbitration agreement.
27. Replacement of former provisions.
28. Method of enforcement.
29. Documents necessary.
30. Refusal of enforcement.
31. Savings.

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

FOURTH SCHEDULE

CHAPTER 125

ARBITRATION

[PART I, 22nd September, 1926]

[PART II, 23rd April, 1932]

PART I

Preliminary

1. This Act may be cited as the Arbitration Act.

Ch. 13,
R.L., 1958.
CAP. 69,
R.E. 1980-1990.
21 of 1980.
Commencement.

Short title.

PART II

Arbitration (Local Awards)

- Interpretation in Part II.
2. In this Part, unless the context otherwise requires-
- “court” means the Supreme Court of Belize or a judge thereof sitting in court or in chambers;
- “rules of court” means the rules of the Supreme Court for the time being in force under the Supreme Court of Judicature Act;
- “submission” means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.
- CAP. 91.
3. A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the court, and shall have the same effect in all respects as if it had been made an order of the court.
4. A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule to this Act so far as they are applicable to the reference under the submission.
- Submission to be irrevocable and to have effect as an order of court.
- Provisions implied in submissions. First Schedule.
5. If any party to a submission, or any person claiming through or under him, commences any legal proceedings in the court against another party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleading or taking any other steps in the proceedings, apply to the court to stay the proceedings, and the court if satisfied that there is not sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.
- Power to stay proceedings where there is a submission.
- 6.-(1) In any of the following cases-
- (a) where a submission provides that the reference be to a single arbitrator, and all the parties do not after differences have arisen concur in the appointment of an arbitrator;
- Power of the court in certain cases to appoint an arbitrator, umpire or third arbitrator.

- (b) if an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;
- (c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;
- (d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy,

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the court or a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

7. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless the submission expresses a contrary intention-

Power of parties in certain cases to supply vacancy.

- (a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place;
- (b) if, on such reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his 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 his award shall be binding on both parties as if he had been appointed by consent:

Provided that the court may set aside any appointment made in pursuance of this section.

- Powers of arbitrator. 8. The arbitrators or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power-
- (a) to administer oaths to or take the affirmations of the parties and witnesses appearing; and
 - (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and
 - (c) to correct in an award any clerical mistake or error arising from any accidental slip or omission.
- Witnesses may be summoned by *subpoena*. 9. Any party to a submission may sue out a writ of *subpoena ad testificandum*, or a writ of *subpoena duces tecum*, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.
- Power to enlarge time for making award. 10. The time for making an award may from time to time be enlarged by order of the court whether the time for making the award has expired or not.
- Power to remit award. 11-(1) In all cases of reference to arbitration the court may from time to time remit the matters referred, or any of them, for the re-consideration of the arbitrators or umpire.
- (2) Where an award is remitted, the arbitrators or umpire shall, unless the order otherwise directs, make their award within three months after the date of the order.
- Power to set aside award. 12.-(1) Where an arbitrator or umpire has misconducted himself, the court may remove him.
- (2) Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the court may set the award aside.

13. An award on a submission may, by leave of the court, be enforced in the same manner as a judgment or order to the same effect. Enforcing award.

General

14. Any arbitrator or umpire may at any stage of the proceedings under a reference, and shall, if so directed by the court, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference. Statement of case pending arbitration.

15. Any order made under this Part of this Act may be made on such terms as to costs, or otherwise, as the authority making the order thinks just. Costs.

16. This Part of this Act shall, except as in this Part of this Act expressly mentioned, apply to any arbitration to which the Crown is a party, but nothing in this Part of this Act shall affect the law as to costs payable by the Crown. Crown to be bound.

PART III

Arbitration (Protocol and Foreign Awards)

17. Notwithstanding anything contained in Part I of this Act, if any party to a submission made in pursuance of an agreement to which the Protocol set out in the Second Schedule to this Act applies, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleadings or taking other steps in the proceedings, apply to that court to stay the proceedings, and that court, or a judge thereof, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings. Staying of court proceedings in respect of matters to be referred to arbitration. Second Schedule.

18. Sections 19 to 23 inclusive of this Act apply to any award made after 28th July, 1924- Application of sections 19 to 23 inclusive.

(a) in pursuance of an agreement for arbitration to which the Protocol set out in the Second Schedule to this Act applies; Second Schedule.

- Third Schedule.
- (b) between persons of whom one is subject to the jurisdiction of some one of such Powers as the Attorney-General, being satisfied that reciprocal provisions have been made, may by Order declare to be parties to the Convention set out in the Third Schedule to this Act, and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid; and
- (c) in one of such countries as the Attorney-General, being satisfied that reciprocal provisions have been made, may by Order declare to be countries to which the said Convention applies,

and an award to which the said sections apply is therein referred to as “a foreign award”.

Effect of foreign awards.

19.-(1) A foreign award shall, subject to the provisions of the said sections, be enforceable in Belize either by action or under the provisions of section 13 of this Act.

(2) Any foreign award which would be enforceable under the said sections 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 any legal proceedings in Belize, and any references in the said sections to enforcing a foreign award shall be construed as including references to relying on an award.

Conditions for enforcement of foreign awards.

20.-(1) In order that a foreign award may be enforceable under the said sections it must have-

- (a) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed;
- (b) been made by the tribunal provided for in the agreement or constituted in a manner agreed upon by the parties;
- (c) been made in conformity with the law governing the arbitration procedure;

- (d) become final in the country in which it was made;
- (e) been in respect of a matter which may lawfully be referred to arbitration under the law of Belize,

and the enforcement thereof must not be contrary to public policy or the law of Belize.

(2) Subject to the provisions of this subsection, a foreign award shall not be enforceable under the said sections if the court dealing with the case is satisfied that-

- (a) the award has been annulled in the country in which it was made; or
- (b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented; or
- (c) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration:

Provided that, if the award does not deal with all the questions referred, the court may, if it thinks fit, either postpone the enforcement of the award or order its enforcement subject to the giving of such security by the person seeking to enforce it as the court may think fit.

(3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in paragraphs (a), (b) and (c) of subsection (1) of this section, or the existence of the conditions specified in paragraphs (b) and (c) of subsection (2) of this section, entitling him to contest the validity of the award, the court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

- Evidence. 21.-(1) The party seeking to enforce a foreign award must produce-
- (a) the original award or a copy thereof duly authenticated in the manner required by the law of the country in which it was made;and
 - (b) evidence proving that the award has become final; and
 - (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in section 20 (1), (a), (b) and (c) are satisfied.
- (2) In any case where any document required to be produced under subsection (1) of this section is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation certified as correct by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the law of Belize
- CAP. 91. (3) Subject to the provisions of this section, rules of court may be made under section 95 of the Supreme Court of Judicature Act, with respect to the evidence which must be furnished by a party seeking to enforce an award under the said sections.
- Meaning of “final award.” 22. For the purposes of the said sections, an award shall not be deemed final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.
- Saving. 23. Nothing in the said sections shall-
- (a) prejudice any rights which any person would have had of enforcing in Belize any award or of availing himself in Belize of any award if the said sections had not been enacted; or
 - (b) apply to any award made on an arbitration agreement governed by the law of Belize.
- Definition. 24. The expression “said sections” in this Part of this Act means sections 19 to 23 inclusive of this Act.

PART IV

21 of 1980.

Arbitration (New York Convention on Recognition and Enforcement of Foreign Arbitral Awards 1973)

25.-(1) In this Part of this Act-

Interpretation in Part IV

“arbitration agreement” means an agreement in writing (including an agreement contained in an exchange of letters or telegrams) to submit to arbitration present or future differences capable of settlement by arbitration;

“Convention award” means an award made in pursuance of an arbitration agreement in the territory of a country, other than Belize, which is a party to the New York Convention; and “the New York Convention” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on 10th June 1958, and set out in the Fourth Schedule hereto.

Fourth Schedule.

(2) If the Attorney General by Order declares that any State specified in the Order is a party to the New York Convention, the said Order shall, while in force, be conclusive evidence that that state is a party to that Convention.

(3) An Order under this section may be varied or revoked by a subsequent order.

26.-(1) If any party to an arbitration agreement, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the agreement, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to the proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to the court to stay the proceedings; and the court, unless satisfied that the arbitration agreement is null and void, inoperative or incapable of being performed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

Staying court proceedings where party proves arbitration agreement.

(2) Subsection (1) of this section does not apply in relation to a domestic arbitration agreement.

(3) In this section “domestic arbitration agreement” means an arbitration agreement which does not provide, expressly or by implication, for arbitration in a state other than Belize and to which neither-

- (a) an individual who is a national of or habitually resident in, any State other than Belize; nor
- (b) a body corporate which is incorporated in, or whose central management and control is exercised in, any State other than Belize,

is a party at the time the proceedings are commenced.

Replacement of former provisions.

27.-(1) Sections 28 to 31 of this Act shall have effect with respect to the enforcement of Convention awards; and where a Convention award would, but for this section, be also a foreign award within the meaning of Part III of this Act, that Part shall not apply to it.

Method of enforcement.

28.-(1) A Convention award shall be enforceable either by action or in the same manner as an award by an arbitrator is enforceable by virtue of section 13.

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

Documents necessary.

29. The party seeking to enforce a Convention award must produce-

- (a) the duly authenticated original award or a duly certified copy of it; and
- (b) the original arbitration agreement or a duly certified copy of it; and

- (c) where the award or agreement is in a foreign language, a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

30.-(1) Enforcement of a Convention award shall not be refused except in the cases mentioned in this section.

Refusal of enforcement.

(2) Enforcement of a Convention award may be refused if the person against whom it is invoked proves-

- (a) that a party to the arbitration agreement was (under the law applicable to him) under some incapacity; or
- (b) that the arbitration agreement was not valid under the law to which the parties subjected it or, failing any indication thereon, under the law of the country where the award was made; or
- (c) that he was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or
- (d) (subject to subsection (4) of this section) that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration; or
- (e) that the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country where the arbitration took place; or
- (f) that 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, it was made.

(3) Enforcement of a Convention award may also be refused if the award is in respect of a matter which is not capable of a settlement by arbitration, or if it would be contrary to public policy to enforce the award.

(4) A Convention award which contains decisions on matters not submitted to arbitration may be enforced to the extent that it contains decisions on matters submitted to arbitration which can be separated from those on matters not so submitted.

(5) Where an application for the setting aside or suspension of a Convention award has been made to such a competent authority as is mentioned in subsection (2)(f) of this section, the court before which enforcement of the award is sought may, if it thinks fit, adjourn the proceedings and may, on the application of the party seeking to enforce the award, order the other party to give security.

Savings.

31. Nothing in this Part of the Act shall prejudice any right to enforce or rely on an award otherwise than under this Part or Part III of this Act.

FIRST SCHEDULE

[Section 4]

Provisions to be implied in Submissions

1. If no other mode of reference is provided, the reference shall be to a single arbitrator.
2. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.
3. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

4. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, 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.

5. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

6. The parties to the reference, and all parties claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

7. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

8. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

9. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between attorney and client.

SECOND SCHEDULE

[Sections 17 and 18]

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 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 United 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 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 seised of a dispute regarding a contract made between persons to whom Article 1 applies and

including an arbitration agreement whether referring to present or future differences which is valid by 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 United Nations*, who shall notify such deposit to all the signatory States.

6. The present Protocol shall 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 United Nations, 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 under-mentioned 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 United 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.

*References to "Secretary-General of the United Nations" were previously references to the "Secretary-General of the League of Nations" in the original Protocol, and were changed to reflect the succession made by the United Nations to the League of Nations.

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.

THIRD SCHEDULE

[Section 18]

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 twenty-fourth, nineteen hundred and twenty-three, shall be so 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 has 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, appel 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 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 proceedings 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 think 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 Article 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 translation 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 Articles 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.

Article 6

The present Convention applies only to arbitral awards made after the coming-into-force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

Article 7

The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the United Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratifications shall be deposited as soon as possible with the Secretary-General of the United Nations, who will notify such deposit to all the signatories.

Article 8

The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the United Nations.

Article 9

The present Convention may be denounced on behalf of any Member of the United Nations or non-Member State. Denunciation shall be notified in writing to the Secretary-General of the United Nations, who will immediately send a copy thereof, certified to be in conformity with the notification, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the United Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, *ipso facto*, the denunciation of the present Convention.

Article 10

The present Convention does not apply to the Colonies, Protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such Colonies, Protectorates or territories to which the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923, applies, can be effected at any time by

means of a declaration addressed to the Secretary-General of the United Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the Colonies, Protectorates or territories referred to above.

Article 9 hereof applies to such denunciation.

Article 11

A certified copy of the present Convention shall be transmitted by the Secretary-General of the United Nations to every Member of the United Nations and to every non-Member State which signs the same.

21 of 1980.

FOURTH SCHEDULE

[Section 25 (1)]

New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Article 1

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 2

1. Each Contracting State shall recognize 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 shall, when seised of an action in a matter in respect of which the parties have made an agreement within the meaning of this Article, 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 3

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the awards are 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 4

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 2 or a duly certified copy thereof.

2. If the said award or agreement is not made in an 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 such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

Article 5

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 2 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; or
- (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; or
- (c) 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, 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 recognized and enforced; or

- (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 6

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in Article 5 (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 7

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 awards are 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 to the extent that they become bound, by this Convention.

Article 8

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 ratifications shall be deposited with the Secretary-General of the United Nations.

Article 9

1. This Convention shall be open for accession to all States referred to in Article 8.

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

Article 10

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 11

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 12

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 13

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 10 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 14

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 15

The Secretary-General of the United Nations shall notify the States contemplated in Article 8 of the following:

- (a) signatures and ratifications in accordance with Article 8;
- (b) accessions in accordance with Article 9;
- (c) declarations and notifications under Articles 1, 10 and 11;
- (d) the date upon which this Convention enters into force in accordance with Article 12;

- (e) denunciations and notifications in accordance with Article XIII.

Article 16

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 8.