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E/CONF.26/L.43
3 June 1958

ORIGINAL: ENGLISH

UNITED NATIONS CONFERENCE ON INTERNATIONAL
COMMERCIAL ARBITRATION
Working Party No.3

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

Text of Articles III, IV and V of the draft Convention proposed by
the Working Party for adoption of the Conference

ARTICLE III

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 original award or a duly certified copy thereof;
- (b) the original arbitration agreement or the arbitral clause in the contract, or duly certified copies thereof.

2. If the award and arbitration agreement or arbitral clause in a contract are not made in an official language of the country in which the award is relied upon, the party apply 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 IV

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 arbitration agreement or the arbitral clause is not valid under the law applicable to it; or

(b) the party against whom the award is invoked was not given notice of the appointment of the arbitrator or of the arbitration proceedings in sufficient time to enable him to present his case; or

(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;^{1/} 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.

(e) or the award, recognition and enforcement of which is sought, has not yet become binding on the parties, or has been set aside in the country in which it was made.^{2/}

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 considers that:

(a) the subject matter of the difference is not capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon; or

(b) the recognition or enforcement of the award would be incompatible with the public policy of the country in which the award is sought to be relied upon;

(c) or the award, recognition and enforcement of which is sought, has not yet become binding on the parties, or has been set aside in the country in which it was made.^{2/}

^{1/} The additions of the text in brackets did not obtain the approval of all the members of the Working Party.

^{2/} While all members of the Working Party agreed on the text of this provision, some members preferred this provision to be included in Article IV (i), while others preferred its inclusion in Article IV (2).

ARTICLE V

1. If an award has been suspended in the country where it was given, the competent authority before which the award is sought to be relied upon shall adjourn the decision on its enforcement.
2. If an application for the setting aside or suspension of the award has been made in the country where the award was given, the competent 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.
