

Agreement relating to application of the European Convention on International Commercial Arbitration

The signatory Governments of the member States of the Council of Europe,

Considering that a European Convention on International Commercial Arbitration was opened for signature at Geneva on 21st April 1961;

Considering, however, that certain measures relating to the organisation of the arbitration, provided for in Article IV of the Convention, are not to be recommended except in the case of disputes between physical or legal persons having, on the one hand, their habitual place of residence or seat in Contracting States where, according to the terms of the Annex to the Convention, there exist National Committees of the International Chamber of Commerce, and, on the other, in States where no such Committees exist;

Considering that under the terms of paragraph 7 of Article X of the said Convention the provisions of that Convention shall not affect the validity of multilateral or bilateral agreements concerning arbitration entered into by States which are Parties thereto;

Without prejudice to the intervention of a Convention relating to a uniform law on arbitration now being drawn up within the Council of Europe,

Have agreed as follows:

Article 1

In relations between physical or legal persons whose habitual residence or seat is in States Parties to the present Agreement, paragraphs 2 to 7 of Article IV of the European Convention on International Commercial Arbitration, opened for signature at Geneva on 21st April 1961, are replaced by the following provision:

"If the arbitral Agreement contains no indication regarding the measures referred to in paragraph 1 of Article IV of the European Convention on International Commercial Arbitration as a whole, or some of these measures, any difficulties arising with regard to the constitution or functioning of the arbitral tribunal shall be submitted to the decision of the competent authority at the request of the party instituting proceedings."

Article 2

1. This Agreement shall be open for signature by the member States of the Council of Europe. It shall be ratified or accepted. Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.

2. Subject to the provisions of Article 4, this Agreement shall come into force thirty days after the date of deposit of the second instrument of ratification or acceptance.

3. Subject to the provisions of Article 4, in respect of any signatory Government ratifying or accepting it subsequently, the Agreement shall come into force thirty days after the date of deposit of its instrument of ratification or acceptance.

Article 3

1. After the entry into force of this Agreement, the Committee of Ministers of the Council of Europe may invite any State which is not a member of the Council and in which there exists a National Committee of the International Chamber of Commerce to accede to this Agreement.

2. Accession shall be effected by the deposit with the Secretary-General of the Council of Europe of an instrument of accession, which shall take effect, subject to the provisions of Article 4, thirty days after the date of its deposit.

Article 4

The entry into force of this Agreement in respect of any State after ratification, acceptance or accession in accordance with the terms of Articles 2 and 3 shall be conditional upon the entry into force of the European Convention on International Commercial Arbitration in respect of that State.

Article 5

Any Contracting Party may, in so far as it is concerned, denounce this Agreement by giving notice to the Secretary-General of the Council of Europe. Denunciation shall take effect six months after the date of receipt by the Secretary-General of the Council of such notification.

Article 6

The Secretary-General of the Council of Europe shall notify member States of the Council and the Government of any State which has acceded to this Agreement of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or accession;
- (c) any date of entry into force;
- (d) any notification received in pursuance of the provisions of Article 5.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Paris, this 17th day of December 1962 in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General shall transmit certified copies to each of the signatory and acceding Governments.