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THE UNITED NATIONS CONVENTION OF 1958 ON THE RECOGNITION
AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

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I. INTRODUCTION

1. The United Nations Commission on International Trade Law at its first session decided to include in its work programme, as a priority item, the subject "international commercial arbitration".^{1/}
2. With respect to the United Nations Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, the Commission decided to draw the attention of Member States of the United Nations to the existence of the Convention and to invite States to consider the possibility of adhering to it.^{2/}
3. Pursuant to the decision of the Commission, the Secretary-General, in a note verbale dated 24 July 1968, invited States Members of the United Nations to indicate whether they intended to adhere to the Convention.
4. The note contained the list of the thirty-four States which, as of that date, had become parties to the Convention.^{3/} Since that date Italy has acceded to the Convention.
5. The position of the States that have replied to the Secretary-General's communication may be summarized as follows:

States which have expressed the intention to accede to the Convention:

Iran, Jordan, United States of America;

States which have not yet made a final decision:

Australia, Belgium, Brazil, Canada, Denmark, Guyana, Luxembourg, Sweden, United Kingdom of Great Britain and Northern Ireland;

States which do not intend to accede:

Singapore.

^{1/} See report of the United Nations Commission on International Trade Law on the work of its first session, Official Records of the General Assembly, Twenty-third Session, Supplement No. 16 (A/7216), para. 2 (c), p. 15.

^{2/} Ibid., para. 33, p. 24.

^{3/} Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Central African Republic, Ceylon, Czechoslovakia, Ecuador, Federal Republic of Germany, Finland, France, Ghana, Greece, Hungary, India, Israel, Japan, Madagascar, Morocco, Netherlands, Niger, Norway, Philippines, Poland, Romania, Switzerland, Syria, Thailand, Trinidad and Tobago, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania.

6. The text of the replies received by the Secretary-General is reproduced in chapter II.

II. TEXT OF THE REPLIES

AUSTRALIA

Original: English
16 December 1968

"Australia has had the Convention under consideration for some time, and domestic legislation is being prepared so as to enable the Convention to be implemented in Australia should Australia accede to it. The question whether Australia should accede will be submitted to the Government for decision at an early date."

BELGIUM

Original: French
16 January 1969

"Belgium has not yet been able to ratify this Convention because the Code of Civil Procedure is in the process of revision. Provisions concerning arbitration, and particularly the recognition and enforcement of foreign arbitral awards, are to be added to the Code of the Judiciary, which was recently adopted. This work is now being carried out and the procedure for approval of the Convention cannot be initiated until it has been completed.

"It should, however, be pointed out that in the present state of Belgian law it has been established by precedent that an order authorizing the enforcement of a foreign arbitral award shall be executed in accordance with the same procedure as that applied in the case of awards made in Belgium. Hence as far as the order of enforcement is concerned, foreign awards are treated in the same way as awards made in Belgium. It is not required that an order of enforcement shall already have been issued in the country in which the award was made.

(See International Association of Lawyers - Arbitrage international commercial, T.I., p. 148.)

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"In view of these precedents, ratification of the New York Convention is not of paramount importance as regards the recognition and enforcement in Belgium of foreign arbitral awards."

BRAZIL

Original: English
3 December 1968

"The Brazilian Government, before taking a final decision on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, is waiting for the Interamerican Juridical Commission to complete the examination of the item 'international commercial arbitration'."

CANADA

Original: English
9 January 1969

"The question whether or not Canada will adhere to this Convention is still being considered by the Canadian Government authorities."

DENMARK

Original: English
29 November 1968

"The Danish Government is agreeable in principle to adhering to the above-mentioned Convention. Such adherence will, however, necessitate legislative action and a bill to that effect cannot be tabled in Parliament until the autumn of 1969 at the earliest."

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GUYANA

[Original: English]
2 January 1969

"The Government of Guyana is giving active consideration to the question of adhering to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958."

IRAN

[Original: French]
6 September 1968

"The Government of Iran intends to accede to the Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards, and draft legislation to that effect will shortly be introduced in Parliament."

JORDAN

[Original: English]
4 February 1969

"The Jordan Government intends to adhere to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958."

LUXEMBOURG

[Original: French]
14 January 1969

"On 11 November 1958 Luxembourg signed the Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

"However, the procedure for parliamentary approval of ratification of this Convention has not yet been initiated.

"Several multilateral conventions dealing with the same subject as the New York Convention have been concluded since 1958, including the European Convention on International Commercial Arbitration, done at

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Geneva on 21 April 1961, and the Agreement relating to the Application of the European Convention on International Commercial Arbitration, done at Paris on 17 December 1962. In addition, the Council of Europe has adopted a draft convention providing a uniform law on arbitration.

"Consequently, a decision should be taken as to which international instrument should be given preference."

SINGAPORE

Original: English
4 December 1968

"The Singapore Government does not intend to adhere to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958."

SWEDEN

Original: English
8 January 1969

"The Swedish Government intends in principle to ratify the Convention. A Government Commission is at present inquiring into the modifications of Swedish law which would be necessary for ratification of the Convention by Sweden. The question of Swedish ratification of the Convention will be taken up for final consideration as soon as the Commission has completed its work."

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Original: English
3 January 1969

"The Government of the United Kingdom are giving active consideration to the question whether the United Kingdom should accede to this Convention and their decision will be conveyed to the Secretary-General at the earliest opportunity."

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UNITED STATES OF AMERICA

Original: English
16 October 1968

"On 4 October 1968, the United States Senate gave its advice and consent to the United States accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards accompanied by two declarations, to read as follows:

"1. The United States of America will apply the Convention, on the basis of reciprocity, to the recognition and enforcement of only those awards made in the territory of another contracting State.

"2. The United States of America 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 United States.

"The Representative of the United States wishes to further inform the Secretary-General that the United States Government intends to await the enactment of necessary implementing legislation before depositing its instrument of accession to the Convention."
