



United Nations
UNCITRAL

Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards

New York, 1958

UNCITRAL Secretariat

Emmanuel Gaillard and George A. Bermann, Editors



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UNCITRAL Secretary Foreword

The New York Convention is rightly celebrated as the most significant international instrument for the recognition and enforcement of arbitral awards. For the past fifty years, UNCITRAL, whose origin and mandate partly result from the diplomatic process that culminated in the adoption of the New York Convention, has adopted several important legal standards that offer a comprehensive substantive-law framework for out-of-court settlement of business and investment disputes. UNCITRAL has also crafted a number of tools to facilitate a thorough understanding of the legal standards it develops and promotes, and to assist with their uniform interpretation and application. The project of preparing such a tool in relation to the New York Convention has been on the agenda of UNCITRAL since 2007, when the General Assembly requested the Secretary-General to increase efforts to promote wider adherence to the Convention, its uniform interpretation and effective implementation. The UNCITRAL Secretariat Guide on the New York Convention has been prepared to fulfil that request.

I would like to express my deep gratitude to the experts, Professors Emmanuel Gaillard and George Bermann for their essential contributions to the UNCITRAL Secretariat Guide on the New York Convention, and to their research teams, who assembled and reviewed a wealth of materials, including the vast bibliography and numerous court decisions available on the Convention. A special word of thanks is also well deserved by Ms. Yas Banifatemi for developing an online platform in support of the Guide.

This ambitious project would not have been brought to fruition without the participation of large numbers of contributors in many parts of the world, who keep us abreast of developments in their region. Our Secretariat is grateful for their continued support to the work of UNCITRAL, and to that project in particular. It is anticipated that the online platform associated with the Guide will be regularly updated through the addition of new materials, and the coverage of new jurisdictions in the project.

May the launch of this edition of the Guide at a time when UNCITRAL celebrates its 50th anniversary contribute to increased awareness of the New York Convention, and better understanding of the benefits which modern trade law, including means for the peaceful settlement of disputes,

may yield as tools for development, peace and security, in line with the sustainable development agenda pursued by the United Nations.

Renaud Sorieul, The Secretary of UNCITRAL



NEW YORK CONVENTION GUIDE

Experts' Foreword

We are delighted to see the publication of the UNCITRAL Secretariat Guide on the New York Convention, which is the culmination of years of dedicated research on the Convention's interpretation and application in its Contracting States. The New York Convention has served as the cornerstone of the international arbitration system from its signature in 1958 until the present day and continues to structure international arbitration on a worldwide basis.

This Guide was conceived with no particular views on how courts of the Contracting States should apply the New York Convention. The goal of the Guide was instead to canvass the richness of national case law on the Convention in an objective manner. To lay the groundwork for the Guide, research teams at Shearman & Sterling and Columbia University gathered, analyzed and translated Convention case law in order to identify the key trends in how each of its articles has been interpreted and applied in practice. The materials gathered from an initial 15 civil law and common law jurisdictions grew as contributors to the project provided case law and information on the implementation of the Convention from a further 30 jurisdictions.

The final version of the Guide provides a detailed analysis of the judicial interpretation and application of the New York Convention by reference to case law from 45 Contracting States. The Guide, and the newyorkconvention1958.org website which supplements it, will become an essential tool that benefits all those involved in the interpretation and application of the New York Convention, including judges, arbitrators, practitioners, academics and Government officials.

The following pages of the Guide give clear expression to the principal finding of our research, namely, that the Contracting States have interpreted and applied the New York Convention in an overwhelmingly consistent manner and that courts have diverged from the general trends in the case law in only isolated instances. As such, the Convention continues to fulfill its

purpose of facilitating the worldwide recognition and enforcement of arbitral awards to the greatest extent possible.

**Emmanuel Gaillard, Head of International Arbitration,
Shearman & Sterling;
Visiting Professor of Law, Yale Law School**

George Bermann, Professor of Law, Columbia Law School

The NewYorkConvention1958.org website

In 2012, Shearman & Sterling and Columbia Law School launched, in cooperation with UNCITRAL, the newyorkconvention1958.org website. It is the product of a coordinated effort to create an interactive online platform that makes information gathered during the preparation of the Guide on the New York Convention publicly available.

The new version of the website, launched on 8 July 2016, complements the Guide through its sophisticated global legal database. Today, this website goes beyond its initial objective and endeavors to collect and share new data published worldwide on the application and interpretation of the New York Convention.

Thanks to our numerous and dedicated contributors, the website makes accessible more than 1200 cases from a wide number of common law and civil law jurisdictions. It offers free access to those decisions in their original language, as well as more than a hundred English translations.

The 23 chapters of the Guide are available in all official languages of the United Nations and include direct links from the Guide to the original case law and *travaux préparatoires* discussed therein.

The website also offers access to the largest bibliography ever consolidated on the New York Convention. The bibliography has more than 800 references, over 200 of which have links to publicly accessible online versions.

Additionally, the website includes jurisdiction briefs providing essential information relating to the implementation of the New York Convention in its Contracting States. It also provides an interactive signatories' map and the latest news on the New York Convention.

The website's design has been upgraded into an intuitive user-friendly interface. It allows better compatibility with search engines and devices, including tablets and smartphones.

The newyorkconvention1958.org website is a unique tool that puts technology at the service of scientific research and legal analysis to the benefit of its users. The search engine allows users to tailor their research to any parameters they wish. By making all of the above material fully searchable by key words run through the entirety of the platform's data, users can conduct a variety of searches by jurisdiction(s) and by New York Convention article(s) through its case law, *travaux préparatoires*, bibliography and chapters of the Guide.

In the months to come, the website will offer information on the application of the New York Convention in additional jurisdictions in order to offer users as wide and representative a view of judicial practice in this field as possible and increase opportunities to perform personal tailored research on that basis.

The newyorkconvention1958.org website strives to become an essential efficient tool to every judge, arbitrator, practitioner, academic, student and Government official interested in the interpretation and application of the New York Convention.

We encourage each and every one to participate in this universal Project. Documents, decisions, or any other relevant information on signatory States to the New York Convention can be shared with our research assistants' team through the "Contribute" page of the website, for the benefit of all.

**Dr. Yas Banifatemi, Executive Director and Coordinator
Head of Public International Law, Shearman & Sterling**

Contents

UNCITRAL Secretary Foreword xiii

Experts’ Foreword..... xv

The NewYorkConvention1958.org website xvii

Preface..... 1

Introduction 5

Article I..... 9

Article I (1) 13

 A. Meaning of “recognition and enforcement” 13

 B. Meaning of “arbitral awards” 16

 C. Arbitral awards falling within the scope of the
 Convention 23

 D. Meaning of “arising out of differences” 33

Article I (2) 33

Article I (3) 34

 A. Reciprocity reservation 35

 B. Commercial reservation..... 39

Article II..... 43

Article II (1)..... 49

 A. The obligation to recognize an agreement in
 writing 49

 B. Meaning of “agreement” 49

 C. Scope of the “agreement in writing” 55

Article II (2).....	58
A. “Arbitral clause in a contract” versus “arbitration agreement”	59
B. The signature requirement	60
C. An arbitral clause or an arbitration agreement included in an exchange of documents	62
Article II (3).....	65
A. General principles.....	65
B. Enforcement of arbitration agreements under article II (3)	69
Article III	83
A. General principle	86
B. Rules of procedure of the territory where the award is relied upon	91
C. There should not be imposed substantially more onerous conditions or higher fees or charges than are imposed on the recognition or enforcement of domestic arbitral awards	98
Article IV	103
A. <i>Prima facie</i> right to recognition and enforcement	107
B. An exhaustive set of requirements.....	107
C. Whether applicants can supply some, but not all, article IV documents.....	109
D. “[A]t the time of the application”	111
Article IV (1)(a).....	113
A. The requirement that the applicant provide the “award”	113

B.	Authentication and certification.....	117
Article IV (1)(b).....		122
A.	The requirement that the applicant provide the arbitration agreement “referred to in article II”	122
B.	No requirement to prove the validity of the arbitration agreement	124
C.	No requirement to authenticate the arbitration agreement	125
Article IV (2).....		125
A.	Governing law	126
B.	Certification “by an official or sworn translator or by a diplomatic or consular agent”	126
C.	The object of translation	127
Article V		129
A.	Court discretion under article V.....	133
B.	Exhaustive character of grounds under article V	134
C.	Burden of proof under article V.....	137
Article V (1)(a)		139
Incapacity of the parties		142
A.	Meaning of “the parties to the agreement referred to in article II”	142
B.	Concept of incapacity	143
C.	Meaning of the “law applicable to them”	146
D.	Relevant time for incapacity	148
Invalidity of the arbitration agreement		149

A.	The choice of law rule under article V (1)(a)	149
B.	Meaning of “invalidity”	152
C.	Formal validity of an arbitration agreement	153
	Procedural issues arising in connection with article V (1)(a)...	155
A.	Burden of proof	155
B.	Relevance of the findings of arbitral tribunals or courts	156
C.	Preclusion	158
	Article V (1)(b)	161
A.	The requirement that the parties be given “proper notice”	165
B.	Evidence that a party was “unable to present his case”	171
C.	Procedural hurdles to showing a breach of article V (1)(b)	177
	Article V (1)(c)	181
A.	General principles.....	184
B.	Partial recognition of an award.....	191
C.	Relationship with other articles in the Convention.....	193
D.	Procedural aspects	194
	Article V (1)(d)	199
	General principles.....	204
A.	Prevalence of party autonomy	204
B.	Subsidiary role of the law of the country where the arbitration took place	205

Application	207
A. The requirement that the composition of the arbitral tribunal accord with the governing rules	207
B. The requirement that the arbitral procedure accord with the governing rules	211
C. Procedural issues in raising a challenge based on article V (1)(d)	216
Article V (1)(e)	219
A. The “binding” nature of an award.....	223
B. What is a “competent authority” of the country “in which, or under the law of which”, the award was made?	232
C. Award set aside or suspended	235
Article V (2)(a)	239
A. Concept	242
B. Application	245
Article V (2)(b)	251
A. Concept	254
B. Application	262
C. Procedural issues in raising the defence of article V (2)(b)	272
Article VI.....	279
A. General principles.....	282
B. The decision to grant or deny adjournment	287
C. The decision to order suitable security	296
Article VII.....	305

Article VII (1)	306
A. General principles.....	308
B. Interaction of the Convention with other treaties	310
C. Interaction of the Convention with domestic law	315
Article VII (2)	325
Article VIII	329
Article VIII (1).....	330
Article VIII (2).....	331
A. Procedure for becoming a party.....	331
B. Depositary	331
Article IX	333
Article X	335
Article XI	337
Article XII.....	341
Article XIII	347
Article XIV	349
Article XV	353
Article XVI	355
ANNEX I Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958).....	359
ANNEX II External Resources (Interactive Guide, Bibliography, Case Law, Jurisdiction Briefs, Travaux Préparatoires, General Index)	367
Editorial Board	369

UNCITRAL Secretariat.....375

Research Assistants377

Acknowledgement of Contributions379

Preface

**From the Final Act of the United Nations
Conference on International Commercial
Arbitration of 10 June 1958
to General Assembly resolution 62/65
of 6 December 2007**

1. The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention” or the “Convention”) is one of the most important and successful United Nations treaties in the area of international trade law. Although the Convention, adopted by diplomatic conference on 10 June 1958, was prepared by the United Nations prior to the establishment of the United Nations Commission on International Trade Law (UNCITRAL), promotion of the Convention is an integral part of the work programme of UNCITRAL. The Convention is widely recognized as a foundational instrument of international arbitration and requires courts of Contracting States to give effect to an agreement to arbitrate when seized of an action in a matter covered by an arbitration agreement and also to recognize and enforce awards made in other States, subject to specific limited exceptions. The Convention entered into force on 7 June 1959, and there are to date 156 States parties to the Convention.

2. The General Assembly adopted on 6 December 2007 resolution 62/65 in which it recognized the value of arbitration as a method of settling disputes in international commercial relations in a manner that contributes to harmonious commercial relations, stimulates international trade and development, and promotes the rule of law at the international and national levels. The General Assembly expressed its conviction that the New York Convention strengthens respect for binding commitments, inspires confidence in the rule of law and ensures fair treatment in the resolution of disputes arising over contractual rights and obligations. It emphasized the necessity for further national efforts to achieve universal adherence to the Convention, together with its uniform interpretation and effective implementation. The General Assembly expressed its hope that States that are not yet parties to the Convention would soon become parties to it, which would ensure that the legal certainty afforded by the Convention is universally enjoyed, and would decrease the level of risk and transactional costs associated with doing business, thus promoting international trade.

3. The General Assembly requested the Secretary-General to increase efforts to promote wider adherence to the Convention and its uniform interpretation and effective implementation. The UNCITRAL Secretariat Guide on the New York Convention (the “Guide on the New York