

Arbitration (International Investment Disputes) Bill

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Bill No: 30/1968

Read the first time: 11th July 1968

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**THE SCHEDULE Convention on the Settlement of Investment Disputes
Between States and Nationals of Other States Preamble**

Explanatory Statement

Expenditure of Public Money

Arbitration (International Investment Disputes) Bill

Bill No. 30/1968

Read the first time on 11th July 1968.

An Act to implement the International Convention on the Settlement of Investment Disputes between States and Nationals of other States.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows: —

Short title and commencement

1. This Act may be cited as the Arbitration (International Investment Disputes) Act, 1968, and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2.—(1) In this Act, unless the context otherwise require —

“award” includes any decision interpreting, reversing or annulling an award, being a decision pursuant to the Convention, and any decision as to costs which under the Convention is to form part of the award;

“Centre” means the International Centre for Settlement of Investment Disputes established by the Convention;

“Convention” means the Convention on the Settlement of Investment Disputes between States and Nationals of other States which was opened for signature in Washington on 18th March, 1965, and set out in the Schedule to this Act.

(2) An award shall be deemed to have been rendered pursuant to the Convention on the date on which certified copies of the award were pursuant to the Convention despatched to the parties.

Binding on the Government

3. Sections 4 and 5 of this Act shall bind the Government (but not so as to make an award enforceable against the Government in a manner in which a judgment would not be enforceable against the Government).

Registration of Convention awards

4.—(1) Any person seeking recognition or enforcement of an award rendered pursuant to the Convention shall be entitled to have the award registered in the High Court subject to proof of any matters that may be prescribed and to the other provisions of this Act.

(2) Where any pecuniary obligation imposed by the award is expressed in a currency other than the currency of Singapore, the award shall be registered as if that obligation were expressed in the currency of Singapore converted on the basis of the rate of exchange prevailing at the date when the award was rendered pursuant to the Convention.

(3) In addition to the pecuniary obligations imposed by the award, the award shall be registered for the reasonable costs of and incidental to registration.

(4) If at the date of the application for registration the pecuniary obligations imposed by the award have been partly satisfied, the award shall be registered only in respect of the balance, and accordingly if those obligations have been wholly satisfied, the award shall not be registered.

Effect of registration

5. Subject to the provisions of this Act, an award registered under section 4 of this Act, shall as respects the pecuniary obligations which it imposes, be of the same force and effect for the purposes of execution as if it had been a judgment of the High Court given when the award was rendered pursuant to the Convention and entered on the date of registration under this Act, and, so far as relates to such pecuniary obligations —

- (a) proceedings may be taken on the award;
- (b) the sum for which the award is registered shall carry interest; and
- (c) the High Court shall have the same control over the execution of the award,

as if the award had been such a judgment of the High Court.

Power to make rules

6. The Judges of the High Court, or any three of them, of whom the Chief Justice shall be one, may make rules —

- (a) to prescribe the procedure for applying for registration of an award under this Act, and to require the applicant to give prior notice of his intention to register to other parties;
- (b) to prescribe matters to be proved on the application and the manner of proof, and in particular to require the applicant to furnish a copy of the award certified pursuant to the Convention;
- (c) to provide for the service of notice of registration of the award by the applicant on other parties; and
- (d) to provide for the stay of execution (whether provisionally or otherwise) of any award registered under this Act in accordance with the provisions of the Convention.

Government contribution to expenses under the Convention

7. Any sums required to meet any obligations of the Government arising out of Article 17 of the Convention (which obliges the Contracting States to meet any deficit of the Centre) shall be charged on and paid out of the Consolidated Fund.

Exclusion of Arbitration Ordinance

8. The provisions of the Arbitration Ordinance (Cap. 10) shall not apply to proceedings pursuant to the Convention.

Certain provisions of Convention to have force of law

9.—(1) Notwithstanding anything to the contrary in any written law, the provisions of Articles 18, 19, 20, 21(a) (with Article 22 as it applies to Article 21(a)), 23(1) and 24 shall have the force of law.

(2) Nothing in Article 24(1) of the Convention shall be construed as —

- (a) entitling the Centre to import into Singapore goods free of any customs duty without restriction on their subsequent sale therein;
- (b) conferring on the Centre any exemption from taxes or duties which form part of the price of goods sold; or
- (c) conferring on the Centre any exemption from taxes or duties which are in fact no more than charges for services rendered.

(3) For the purposes of Article 20 and Article 21(a) of the Convention as given the force of law by this section, a statement to the effect that the Centre has waived an immunity in the circumstances specified in the statement, being a statement certified by the Secretary-General of the Centre, or by the person acting as Secretary-General, shall

be conclusive evidence of such waiver.

Power of Minister to amend Schedule

10. The Minister may, by notification in the *Gazette*, amend the Schedule to this Act in conformity with any amendments to the provisions of the Convention set out therein which may hereafter be duly made and adopted.

THE SCHEDULE

(Section 2(1)).

CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES PREAMBLE

The Contracting States

Considering the need for international cooperation for economic development, and the role of private international investment therein;

Bearing in mind the possibility that from time to time disputes may arise in connection with such investment between Contracting States and nationals of other Contracting States;

Recognizing that while such disputes would usually be subject to national legal processes, international methods of settlement may be appropriate in certain cases;

Attaching particular importance to the availability of facilities for international conciliation or arbitration to which Contracting States and nationals of other Contracting States may submit such disputes if they so desire;

Desiring to establish such facilities under the auspices of the International Bank for Reconstruction and Development;

Recognizing that mutual consent by the parties to submit such disputes to conciliation or to arbitration through such facilities constitutes a binding agreement which requires in particular that due consideration be given to any recommendation of conciliators, and that any arbitral award be complied with; and

Declaring that no Contracting State shall by the mere fact of its ratification, acceptance or approval of this Convention and without its consent be deemed to be under any obligation to submit any particular dispute to conciliation or arbitration,

Have agreed as follows:

CHAPTER I

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES