

CHỦ TỊCH NƯỚC  
Số: 453/QĐ-CTN

CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM  
Độc lập - Tự do - Hạnh phúc  
Hà Nội, ngày 28 tháng 7 năm 1995

**QUYẾT ĐỊNH**  
**CHỦ TỊCH NƯỚC CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM**

*Căn cứ vào Điều 103 và Điều 106 của Hiến pháp nước Cộng hoà Xã hội chủ nghĩa Việt Nam năm 1992;*

*Căn cứ vào Pháp lệnh về ký kết và thực hiện Điều ước quốc tế của nước Cộng hoà Xã hội chủ nghĩa Việt Nam ngày 17 tháng 10 năm 1989;*

*Theo đề nghị của Chính phủ tại Tờ trình số 4250/PC ngày 02 tháng 8 năm 1994;*

**QUYẾT ĐỊNH:**

**Điều 1.** - Tham gia Công ước về công nhận và thi hành quyết định của trọng tài nước ngoài của Liên hợp quốc đã được thông qua tại Niu-oóc ngày 10 tháng 6 năm 1958.

**Điều 2.** - Công ước chỉ áp dụng đối với việc công nhận và cho thi hành tại Việt Nam quyết định của trọng tài nước ngoài được tuyên tại lãnh thổ quốc gia là thành viên của Công ước này. Đối với quyết định của trọng tài nước ngoài được tuyên tại lãnh thổ của quốc gia chưa ký kết hoặc tham gia Công ước, Công ước được áp dụng tại Việt Nam theo nguyên tắc có đi có lại.

Sẽ chỉ áp dụng Công ước đối với tranh chấp phát sinh từ các quan hệ pháp luật thương mại.

Mọi việc giải thích Công ước trước Toà án hoặc cơ quan có thẩm quyền của Việt Nam phải theo quy định của Hiến pháp và pháp luật Việt Nam.

**Điều 3.** - Bộ trưởng Bộ Ngoại giao có trách nhiệm làm thủ tục đối ngoại về việc tham gia Công ước này theo quy định tại Điều 1 và Điều 2, và thông báo cho các cơ quan hữu quan ngày bắt đầu có hiệu lực của Công ước.

**Điều 4.** - Thủ tướng Chính phủ, Chủ nhiệm Văn phòng Chủ tịch nước chịu trách nhiệm thi hành Quyết định này./.

**THE NEW YORK CONVENTION**  
**ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN**  
**ARBITRAL AWARDS (JUNE 10, 1958)**

**Article I**

This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons. Whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it 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 State making such declaration.

**Article II**

1. Each Contracting State shall recognise an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen of which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

### **Article III**

Each Contracting State shall recognise arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

### **Article IV**

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 duly authenticated original award or a duly certified copy thereof;
- (b) The original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying 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 V**

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 parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the

parties have subjected it or, failing any indication thereto, under the law of the country where the award was made; or

(b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable 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 recognised and enforced; 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; or

(e) The award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

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 finds that:

(a) The subject-matter of the difference is not capable of settlement by arbitration under the law of that country; or

(b) The recognition or enforcement of the award would be contrary to the public policy of that country.

## **Article VI**

If an application for the setting aside or suspension of the award has been made to competent authority referred to in article V(1) (c), the 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.

## **Article VII**