

## 6. PROTOCOL ON ARBITRATION CLAUSES

*Geneva, 24 September 1923*

**ENTRY INTO FORCE:** 28 July 1924, in accordance with article 6.  
**REGISTRATION:** 28 July 1924, No. 678.<sup>1</sup>

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### *Ratifications*

Albania	(August 29th, 1924)	His Majesty reserves the right to limit the obligations mentioned in the first paragraph of Article 1 to contracts which are considered commercial under the law of Burma.
Austria	(January 25th, 1928)	
Belgium	(September 23rd, 1924)	New Zealand
Reserves the right to limit the obligation mentioned in the first paragraph of Article 1 to contracts which are considered as commercial under its national law.		(June 9th, 1926)
Brazil	(February 5th, 1932)	India
Subject to the condition that the arbitral agreement or the arbitration clause mentioned in Article 1 of this Protocol should be limited to contracts which are considered as commercial by the Brazilian legislation.		(October 23rd, 1937)
		Is not binding as regards the enforcement of the provisions of this Protocol upon the territories in India of any Prince or Chief under the suzerainty of His Majesty.
British Empire	(September 27th, 1924)	India reserves the right to limit the obligation mentioned in the first paragraph of Article 1 to contracts which are considered as commercial under its national law.
Applies only to Great Britain and Northern Ireland, and consequently does not include any of the Colonies, Overseas Possessions or Protectorates under His Britannic Majesty's sovereignty or authority or any territory in respect of which His Majesty's Government exercises a mandate.		
<i>Southern Rhodesia</i>	(December 18th, 1924 a)	Czechoslovakia <sup>3</sup>
<i>Newfoundland</i>	(June 22nd, 1925 a)	(September 18th, 1931)
<i>British Guiana, British Honduras, Ceylon, Falkland Islands and Dependencies, Gambia (Colony and Protectorate), Gold Coast (including Ashanti and the Northern Territories of the Gold Coast and Togoland), Gibraltar, Jamaica (Turks and Caicos Islands and Cayman Islands), Kenya (Colony and Protectorate), Leeward Islands, Malta, Mauritius, Northern Rhodesia, Palestine (excluding Trans-Jordan), Trans-Jordan, Windward Islands (Grenada, St. Lucia, St. Vincent), Zanzibar</i>		The Czechoslovak Republic will regard itself as being bound only in relation to States which will have ratified the Convention of September 26th, 1927, on the Execution of Foreign Arbitral Awards, and the Czechoslovak Republic does not intend by this signature to invalidate in any way the bilateral treaties concluded by it which regulate the questions referred to in the present Protocol by provisions going beyond the provisions of the Protocol.
<i>Tanganyika</i>	(March 12th, 1926 a)	Denmark
<i>St. Helena</i>	(June 17th, 1926 a)	(April 6th, 1925)
<i>Uganda</i>	(July 29th, 1926 a)	Under Danish law, arbitral awards made by an Arbitral Tribunal do not immediately become operative; it is necessary in each case, in order to make an award operative, to apply to the ordinary courts of law. In the course of the proceedings, however, the arbitral award will generally be accepted by such courts without further examination as a basis of the final judgments in the affair.
<i>Bahamas</i>	(June 28th, 1929 a)	Estonia
<i>Burma<sup>2</sup>(excluding the Karenni States under His Majesty's suzerainty)</i>	(January 23rd, 1931 a)	(May 16th, 1929)
	(October 19th, 1938 a)	Limits, in accordance with Article 1, paragraph 2 of this Protocol, the obligation mentioned in paragraph 1 of the said article to contracts which are considered as commercial under its national law.
		Finland
		(July 10th, 1924)
		France
		(June 7th, 1928)
		Reserves the right to limit the obligation mentioned in paragraph 2 of Article 1 to contracts which are considered as commercial under its national law. Its acceptance of the

present Protocol does not include the Colonies, Overseas Possessions or Protectorates or Territories in respect of which France exercises a mandate.

Germany (November 5th, 1924)

Greece (May 26th, 1926)

Iraq (March 12th, 1926 a)

Italy (excluding Colonies) (July 28th, 1924)

Japan (June 4th, 1928)

Chosen, Taiwan, Karafuto, the leased territory of Kwantung, and the territories in respect of which Japan exercises a mandate. (February 26th, 1929 a)

Luxembourg (September 15th, 1930)

Reserves the right to limit the obligation mentioned in the first paragraph of Article 1 to contracts which are considered as commercial under its national law.

Monaco (February 8th, 1927)

Reserves the right to limit its obligation to contracts which are considered as commercial under its national law.

Netherlands (including the *Netherlands Indies, Surinam and Curaçao*)<sup>4</sup> (August 6th, 1925)

The Government of the Netherlands declares its opinion that the recognition in principle of the validity of arbitration clauses in no way affects either the restrictive provisions at present existing under Netherlands law or the right to introduce other restrictions in the future.

Norway

(September 2nd, 1927)

Poland (June 26th, 1931)

Under reservation that, in conformity with paragraph 2 of Article 1, the undertaking contemplated in the said Article will apply only to contracts which are declared as commercial in accordance with national Polish law.

Portugal (December 10th, 1930)

(1) In accordance with the second paragraph of Article 1, the Portuguese Government reserves the right to limit the obligation mentioned in the first paragraph of Article 1 to contracts which are considered as commercial under its national law.

(2) According to the terms of the first paragraph of Article 8, the Portuguese Government declares that its acceptance of the present Protocol does not include its Colonies.

Romania (March 12th, 1925)

Subject to the reservation that the Royal Government may in all circumstances limit the obligation mentioned in Article 1, paragraph 2, to contracts which are considered as commercial under its national law.

Spain (July 29th, 1926)

Reserves the right to limit the obligation mentioned in Article 1, paragraph 2, to contracts which are considered as commercial under its national law.

Its acceptance of the present Protocol does not include the Spanish Possessions in Africa, or the territories of the Spanish Protectorate in Morocco.

Sweden (August 8th, 1929)

Switzerland (May 14th, 1928)

Thailand (September 3rd, 1930)

### *Signatures not yet perfected by ratifications*

Bolivia

Chile

Latvia

Reserves the right to limit the obligation mentioned in paragraph 2 of Article 1 to contracts which are considered as commercial under its national law.

Liechtenstein<sup>5</sup>

Subject to the following reservation:

Agreements which are the subject of a special contract, or of clauses embodied in other contracts, attributing competence to a foreign tribunal, if they are concluded between nationals and foreigners or between nationals in the country, shall henceforth be valid only when they have been drawn up in due legal form.

This provision shall apply also to stipulations in articles of association, deeds of partnership and similar instruments and

also to agreements for the submission of a dispute to an arbitral tribunal sitting in a foreign country.

Any agreement which submits to a foreign tribunal or to an arbitral tribunal a dispute relating to insurance contracts shall be null and void if the person insured is domiciled in the country or if the interest insured is situated in the country.

It shall be the duty of the tribunal to ensure as a matter of routine that this provision is observed even during procedure for distraint or during bankruptcy proceedings.

Lithuania

Nicaragua

Panama

Paraguay

Peru

Salvador

Uruguay

*Actions subsequent to the assumption of depositary functions by the Secretary-General of the United Nations*

<i>Participant</i> <sup>6,7</sup>	<i>Signature</i>	<i>Ratification, Accession(a), Succession(d)</i>	<i>Participant</i> <sup>6,7</sup>	<i>Signature</i>	<i>Ratification, Accession(a), Succession(d)</i>
Antigua and Barbuda ....		25 Oct 1988 d	Montenegro <sup>8</sup> .....		23 Oct 2006 d
Bahamas .....		16 Feb 1977 d	Republic of Korea .....	4 Mar 1968	
Bangladesh .....	27 Jun 1979	27 Jun 1979	Serbia <sup>9</sup> .....		12 Mar 2001 d
Croatia .....		26 Jul 1993 d	Slovakia <sup>3</sup> .....		28 May 1993 d
Czech Republic <sup>3</sup> .....		9 Feb 1996 d	The former Yugoslav Republic of Macedonia <sup>9</sup> .....		10 Mar 1994 d
Ireland .....	29 Nov 1956	11 Mar 1957	Uganda .....	5 May 1965	
Israel .....	24 Oct 1951	13 Dec 1951	Zimbabwe .....		1 Dec 1998 d
Malta .....		16 Aug 1966 d			
Mauritius .....		18 Jul 1969 d			

*Territorial Application*

<i>Participant</i>	<i>Date of receipt of the notification</i>	<i>Territories</i>
United Kingdom of Great Britain and Northern Ireland	10 Feb 1965	Hong Kong

**Notes:**

<sup>1</sup> League of Nations, *Treaty Series*, vol. 27, p. 157.

<sup>2</sup> See note 1 under "Myanmar" in the "Historical information" section in the front matter of this volume.

<sup>3</sup> See also note 1 under "Czech Republic" and note 1 under "Slovakia" in the "Historical Information" section in the front matter of this volume.

<sup>4</sup> Further, when signing and ratifying, the Netherlands Government made a reservation which it withdrew, in respect of the Kingdom of Europe, on February 22nd, 1938 (see League of Nations, *Treaty Series*, vol. 185, p. 372) and, as regards the Netherlands Indies, Surinam and Curaçao, on April 16th, 1940 (see *ibid.*, vol. 200, p. 500). See also note 1 under "Netherlands" regarding Aruba/Netherlands Antilles in the "Historical Information" section in the front matter of this volume.

<sup>5</sup> This reservation has been submitted to the States parties to the Protocol for acceptance.

<sup>6</sup> The United Kingdom of Great Britain and Northern Ireland acceded on behalf of Hong Kong on 10 February 1965. See also note 2 under "United Kingdom of Great Britain and Northern Ireland" regarding Hong Kong in the "Historical Information" section in the front matter of this volume.

<sup>7</sup> In a notification received on 21 February 1974, the

Government of the German Democratic Republic stated that the German Democratic Republic had declared the reapplication of the Protocol as from 4 April 1958.

In this connection, the Secretary-General received, on 13 January 1976, the following communication from the Government of the Federal Republic of Germany:

With reference to the communication by the German Democratic Republic of 31 January 1974 concerning the application as from 4 April 1958, of the Protocol of 24 September 1923 on Arbitration Clauses, the Government of the Federal Republic of Germany declares that in the relation between the Federal Republic of Germany and the German Democratic Republic the declaration of application has no retroactive effect beyond 21 June 1973.

Subsequently, in a communication received on 28 April 1976, the Government of the German Democratic Republic declared:

"The Government of the German Democratic Republic takes the view that in accordance with the applicable rules of international law and the international practice of States the regulations on the reapplication of agreements concluded under international law are an internal affair of the successor State concerned. Accordingly, the German Democratic Republic was entitled to determine the date of the reapplication of the Protocol on Arbitration Clauses of 24 September 1923 to which it acceded on the basis of the succession of States."

See also note 2 under "Germany" in the "Historical Information" section in the front matter of this volume.

<sup>8</sup> See note 1 under "Montenegro" in the "Historical Information" section in the front matter of this volume.

<sup>9</sup> The former Yugoslavia had signed and ratified the Protocol on 13 March 1959. See also note 1 under "Bosnia and Herzegovina", "Croatia", "former Yugoslavia", "Slovenia", "The Former Yugoslav Republic of Macedonia" and "Yugoslavia" in the "Historical Information" section in the front matter of this volume.