

Inter-American Convention on International Commercial Arbitration - Panama Convention, January 30 1975

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1 **Inter-American Convention on International Commercial
Arbitration (Panama Convention, January 30
1975)**

[Pre]

2 The Governments of the Member States of the Organization of
American States, desirous of concluding a convention on interna-
tional commercial arbitration, have agreed as follows:

3 **Article 1**

4 An agreement in which the parties undertake to submit to arbitral
decision any differences that may arise or have arisen between
them with respect to a commercial transaction is valid. The agree-
ment shall be set forth in an instrument signed by the parties, or in
the form of an exchange of letters, telegrams, or telex communica-
tions.

5 **Article 2**

6 Arbitrators shall be appointed in the manner agreed upon by the
parties. Their appointment may be delegated to a third party,
whether a natural or juridical person. Arbitrators may be nationals
or foreigners.

7 **Article 3**

8 In the absence of an express agreement between the par-
ties, the arbitration shall be conducted in accordance with the
rules of procedure of the Inter-American Commercial Arbitration
Commission.

Article 4

An arbitral decision or award that is not appealable under the appli-
cable law or procedural rules shall have the force of a final judicial
judgment. Its execution or recognition may be ordered in the same
manner as that of decisions handed down by national or foreign or-
dinary courts, in accordance with the procedural laws of the coun-
try where it is to be executed and the provisions of international
treaties.

Article 5

1. The recognition and execution of the decision may be refused, at
the request of the party against which it is made, only if such party
is able to prove to the competent authority of the State in which
recognition and execution are requested:

a. That the parties to the agreement were subject to some inca-
pacity under the applicable law or that the agreement is not valid
under the law to which the parties have submitted it, or, if such law
is not specified under the law of the State in which the decision was
made; or

b. That the party against which the arbitral decision has been made
was not duly notified of the appointment of the arbitrator or of the
arbitration procedure to be followed, or was unable, for any other
reason, to present his defense; or

c. That the decision concerns a dispute not envisaged in the agree-
ment between the parties to submit to arbitration; nevertheless, if
the provisions of the decision that refer to issues submitted to ar-
bitration can be separated from those not submitted to arbitration,
the former may be recognized and executed; or

d. That the constitution of the arbitral tribunal or the arbitration pro-

cedure has not been carried out in accordance with the terms of the 25
agreement signed by the parties or, in the absence of such agree-
ment, that the constitution of the arbitral tribunal or the arbitration
procedure has not been carried out in accordance with the law of
the State where the arbitration took place; or

17 e. That the decision is not yet binding on the parties or has been an-
nulled or suspended by a competent authority of the State in which,
or according to the law of which, the decision has been made.

18 2. The recognition and execution of an arbitral decision may also
be refused if the competent authority of the State in which the
recognition and execution is requested finds:

19 a. That the subject of the dispute cannot be settled by arbitration
under the law of that State; or

20 b. That the recognition or execution of the decision would be con-
trary to the public policy ("ordre public") of that State.

21 **Article 6**

22 If the competent authority mentioned in Article 5.1.e has been re-
quested to annul or suspend the arbitral decision, the authority be-
fore which such decision is invoked may, if it deems it appropriate,
postpone a decision on the execution of the arbitral decision and,
at the request of the party requesting execution, may also instruct
the other party to provide appropriate guaranties.

23 **Article 7**

24 This Convention shall be open for signature by the Member States
of the Organization of American States.

Article 8

This Convention is subject to ratification. The instruments of ratifi- 26
cation shall be deposited with the General Secretariat of the Orga-
nization of American States.

27 **Article 9**

This Convention shall remain open for accession by any other 28
State. The instruments of accession shall be deposited with the
General Secretariat of the Organization of American States.

29 **Article 10**

This Convention shall enter into force on the thirtieth day following 30
the date of deposit of the second instrument of ratification.

For each State ratifying or acceding to the Convention after the de- 31
posit of the second instrument of ratification, the Convention shall
enter into force on the thirtieth day after deposit by such State of
its instrument of ratification or accession.

32 **Article 11**

If a State Party has two or more territorial units in which different 33
systems of law apply in relation to the matters dealt with in this Con-
vention, it may, at the time of signature, ratification or accession,
declare that this Convention shall extend to all its territorial units or
only to one or more of them.

Such declaration may be modified by subsequent declarations, 34
which shall expressly indicate the territorial unit or units to which the
Convention applies. Such subsequent declarations shall be trans-
mitted to the General Secretariat of the Organization of American

States, and shall become effective thirty days after the date of their receipt.

35 **Article 12**

36 This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

37 **Article 13**

38 The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States. The Secretariat shall notify the Member States of the Organization of American States and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession, and denunciation as well as of reservations, if any. It shall also transmit the declarations referred to in Article 11 of this Convention.

[Post]

39 IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

40 DONE AT PANAMA CITY, Republic of Panama, this thirtieth day of January one thousand nine hundred and seventy-five.

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