

**Arbitration and Conciliation Act 1998**, Chapter 19 Laws of the Federation of Nigeria 1990

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## **Nigeria**



## **Arbitration and Conciliation Act**

### **Chapter 19**

#### **Laws of the Federation of Nigeria 1990**

#### ***Recognition and Enforcement of Awards***

**51.** (1) An arbitral award shall, irrespective of the country in which it is made, be recognised as binding and subject to this section 32 of this Act, shall, upon application in writing to the court, be enforced by the court.

(2) The party relying on an award or applying for its enforcement shall supply

(a) the duly authenticated original award or a duly certified copy thereof;

(b) the original arbitration agreement or a duly certified copy thereof; and

(c) where the award or arbitration agreement is not made in the English language, a duly certified translation thereof into the English language.

**52.** (1) Any of the parties to an arbitration agreement may request the court to refuse recognition or enforcement of the award.

(2) The court where recognition or enforcement of an award is sought or where application for refusal of recognition or enforcement thereof is brought may, irrespective of the country in which the award is made, refuse to recognise or enforce any award-

(a) if the party against whom it is invoked furnishes the court proof-

(i) that a party to the arbitration agreement was under some incapacity, or

(ii) that the arbitration agreement is not valid under the law which the parties have indicated should be applied, or failing such indication, that the arbitration agreement is not valid under the law of the country where the award was made, or

(iii) that he was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise not able to present his case, or

(iv) that the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or

(v) that the award contains decisions on matters which are beyond the scope of submission to arbitration, so however that if the decision on matters submitted to arbitration can be separated from those not submitted, only that part of the award which contains decisions on matters submitted to arbitration may be recognised and enforced, or

(vi) that the composition of the arbitral tribunal, or the arbitral procedure, was not in accordance with the agreement of the parties, or

(vii) where there is no agreement within the parties under sub-paragraph, that the composition of the arbitral tribunal, or the arbitral procedure, was not in accordance with the law of the country where the arbitration took place, or

(viii) that the award has not yet become binding on the parties or has been set aside or suspended by a court in which, or under the law of which, the award was made; or

(b) if the court finds-

(i) that the subject-matter of the dispute is not capable of settlement by arbitration under the laws of Nigeria, or

(ii) that the recognition or enforcement of the award is against public policy of Nigeria.

(3) Where an application for the recognition of an award has been made to a court referred to in subsection (2)(a)(viii) of this section, the court before which the recognition or enforcement is sought may, if it considers it proper, postpone its decision and may on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

#### ***Application of Arbitration Rules set out in the First Schedule***

**53.** Notwithstanding the provisions of this Act, the parties to an international commercial agreement may agree in writing that disputes in relation to the agreement shall be referred to arbitration in accordance with the Arbitration Rules set out in the First Schedule to this Act, or the UNCITRAL Arbitration Rules or any other international arbitration rule acceptable to the parties.

#### ***Application of Convention on the recognition and Enforcement of Foreign Arbitral Awards***

**54.** (1) Without prejudice to section 51 and 52 of this Act, where the recognition and enforcement of any award arising out of an international commercial arbitration are sought, the Convention on the Recognition and Enforcement of Foreign Awards (hereafter referred to as "the Convention") set out in the Second Schedule to this Act shall apply to any award made in Nigeria or in any contracting state:

(a) provided that such contracting state has reciprocal legislation recognising the enforcement of arbitral awards made in Nigeria in accordance with the provisions of the Convention;

(b) that the Convention shall apply only to differences arising out of legal relationship which is contractual.

(2) in this part of this Act, " the appointing authority" means the Secretary-General of the Permanent Court of Arbitral at The Hague.

### **Conciliation**

55. Notwithstanding the provisions of this Act, the parties to an international commercial agreement may agree in writing that disputes in relation to the agreement shall be settled by Conciliation Rules set out in the Third Schedule to this Act.

### PART IV

#### MISCELLANEOUS

57. ...

(2) An arbitration is international if –

(a) the parties to an arbitration agreement have, at the time of the conclusion of the agreement, their places of business in different countries; or

(b) one of the following places is situated outside the country in which the parties have their places of business-

(i) the place of arbitration if such place is determined in, or pursuant to the arbitration agreement,

(ii) any place where a substantial part of the obligation of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or

(c) the parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country; or

(d) the parties, despite the nature of the contract, expressly agree that any dispute arising from the commercial transaction shall be treated as an international arbitration. (3) For the purposes of subsection

(2) of this section-

(a) if a party has more than one place of business, the place of business shall be that which has the closest relationship to the arbitration agreement;

(b) if a party does not have a place of business, reference shall be made to his habitual residence.

(4) Where a provision of this Act, other than section 47 of this Act, leaves the parties free to determine a certain issue, such freedom include the right of the parties to authorise a third party, including an institution, to make that determination.

(5) Where a provision of this Act-

(a) refers to the fact that parties have agreed or that they may agree; or

(b) in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to In the agreement.

(6) Where a provision of this Act, other than section 21(a) or 27(2)(a) refers to a claim, such claim includes a counter-claim, and where it refers to a defence, such defence includes a defence to such counter-claim.