

The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards is the foundation upon which the whole of international commercial arbitration stands: PART 1 – why and where did it come about?

After alternative dispute resolution was introduced and regulated by certain national legislators, it was recognised at the beginning of the 20th century that in light of expanding international trade, an international dispute resolution process was required. The International Chamber of Commerce (“ICC”) established its International Court of Arbitration in 1923 in Paris, France. The purpose was to arbitrate in business disputes of an international character.

The issue of worldwide enforcement of arbitration agreements and arbitration awards became evident. Since international treaties are the means of resolution of transnational issues, the predecessor of the United Nations, the League of Nations along with the ICC started drawing up an international convention on the enforceability of arbitration agreements. The first such convention was the “Geneva Protocol on Arbitration Clauses” (“*Geneva Protocol*”) of 1923. The purpose of the Geneva Protocol was to ensure that arbitration clauses can be enforced internationally.

According to the Geneva Protocol, the enforceability of arbitration awards however, was limited to the territory of the respective state in which the award has been made.

Only four years later, in 1927, the “Geneva Convention on the Execution of Foreign Arbitral Awards” (“*Geneva Convention*”) was created. The reason for the establishment of the Geneva Convention was to expand the enforceability of arbitration awards from the limited approach of the Geneva Protocol. The expansion related to the enforceability of arbitration awards from the country in which the arbitration award originated to the territory of any state that becomes a signatory of the Geneva

Convention.

In 1958 the “United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards” (“*New York Convention*”) was adopted by the United Nations. The New York Convention is substituting the Geneva Convention for countries that are a signatory to both, the Geneva Convention and the New York Convention.

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