

N° 1903.

LETTONIE ET
UNION DES RÉPUBLIQUES
SOVIÉTISTES SOCIALISTES

Convention d'arbitrage en matière commerciale et civile avec protocole final, signés à Riga, le 10 octobre 1927, et protocole additionnel, signé à Riga, le 18 mai 1928.

LATVIA AND
UNION OF SOVIET
SOCIALIST REPUBLICS

Convention regarding Arbitration in Commercial and Civil Matters, with Final Protocol, signed at Riga, October 10, 1927, and Additional Protocol, signed at Riga, May 18, 1928.

TEXTE RUSSE. — RUSSIAN TEXT.

№ 1903. — КОНВЕНЦИЯ ¹ О ТРЕТЕЙСКИХ СУДАХ ПО ТОРГОВЫМ И ГРАЖДАНСКИМ ДЕЛАМ МЕЖДУ ЛАТВИЕЙ И СОЮЗОМ СОВЕТСКИХ СОЦИАЛИСТИЧЕСКИХ РЕСПУБЛИК, ПОДПИСАННАЯ В Г. РИГЕ 10-го ОКТЯБРЯ 1927 ГОДА.

Latvian and Russian official texts communicated by the Latvian Minister for Foreign Affairs. The registration of this Convention took place December 26, 1928.

Латвийская Республика с одной стороны и Союз Советских Социалистических Республик с другой стороны решили заключить Конвенцию о третейских судах по торговым и гражданским делам и назначили по этой цели своими уполномоченными:

Правительство Латвийской Республики :

Феликса Циеленса, Министра Иностранных Дел, и

Центральный Исполнительный Комитет Союза Советских Социалистических Республик :

Ивана Леопольдовича Лоренца, Полномочного Представителя Союза Советских Социалистических Республик в Латвии,

которые, по взаимном пред'явлении своих полномочий, найденных в добром и надлежащем виде, пришли к соглашению о нижеследующем :

Статья 1.

Письменные соглашения о третейском суде, заключаемые по торговым и другим гражданским делам — будь то в общем договоре или в особом соглашении — между Латвийскими сторонами и сторонами Союза Советских Социалистических Республик для разрешения правовых споров, возникающих из договорных правовых отношений, и удовлетворяющие требованиям статьи 2 настоящей Конвенции, признаются действительными без дальнейшего оформления, поскольку до заключения третейского соглашения не вступило в законную силу вынесенное по тому же делу и по тому же правоотношению судебное решение. Такое третейское соглашение исключает возможность разрешения правового спора государственными судами или другими государственными учреждениями в пределах срока, назначенного для вынесения решения, а буде такого срока не назначено — в пределах срока, установленного законами страны, на территории которой третейский суд имеет местопребывание, если только между сторонами письменно не условлено что что-либо иное.

¹ The exchange of ratifications took place at Riga, August 29, 1928.

¹ TRANSLATION.

No. 1903. — CONVENTION BETWEEN LATVIA AND THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING ARBITRATION IN COMMERCIAL AND CIVIL MATTERS. SIGNED AT RIGA, OCTOBER 10, 1927.

THE REPUBLIC OF LATVIA, of the one part, and THE UNION OF SOVIET SOCIALIST REPUBLICS, of the other part, have decided to conclude a Convention concerning arbitration in commercial and civil matters and have to this effect appointed as their Plenipotentiaries :

THE GOVERNMENT OF THE REPUBLIC OF LATVIA :

M. Félix CIELENS, Minister for Foreign Affairs ;

THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS :

M. Ivan Leopoldovitch LORENZ, Plenipotentiary Representative of the Union of Soviet Socialist Republics in Latvia ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following Articles :

Article I.

Written agreements to arbitrate concluded with regard to commercial and other civil matters in accordance with the provisions of Article 2 of the present Convention — whether in a general treaty or in a particular agreement — between parties of Latvian nationality and parties belonging to the Union of Soviet Socialist Republics for the settlement of legal disputes arising out of the legal relations in contracts shall be recognised as valid without further formality in so far as a judicial decision concerning the same matter has not been given legal effect before the conclusion of the agreement to arbitrate. Such an arbitration agreement excludes the possibility of settling a legal dispute before a Court of the State or other State authority within the time-limit laid down for giving the award, or if such a time-limit was not fixed, within the time-limit laid down by the laws of the State in whose territory the seat of the arbitral tribunal is situated, unless otherwise agreed between the parties.

Proceedings which have been begun before a Court of the State or other State authority and are not yet concluded shall be adjourned upon the conclusion of the agreement to refer the matter to an arbitral tribunal for the whole period of its examination by the arbitral tribunal or until the expiration of the time-limit mentioned above. If the arbitral tribunal has given an award, the affair shall be disposed of.

The provisions of the present Article shall not apply to questions connected with personal situation or legal status, disputes regarding relations arising out of a labour contract (staff), matters otherwise connected with crimes or offences, disputes concerning rights of ownership over immovable property and buildings and disputes regarding the utilisation of land in accordance with the legislation of the Contracting Parties.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

Article 2.

Agreements to arbitrate shall contain :

- (1) Statement of a definite legal situation.
- (2) Particulars regarding the manner of constituting the arbitral tribunal. If the arbitration agreement merely indicates the State in which the seat of the arbitral tribunal shall be situated, and in the absence of a subsequent additional agreement between the parties, Riga shall be considered the seat of the arbitral tribunal in Latvia, and Moscow in the Union of Soviet Socialist Republics.
- (3) In the case of disputes regarding immovable property and buildings, the seat of the arbitral tribunal shall be fixed according to the situation of the subject of the dispute.
- (4) Statement of the time-limit within which the arbitral tribunal's award shall be given ; should such a time-limit not be laid down, the case shall be decided within the time-limit fixed for arbitral tribunals by the laws of the State in whose territory the arbitral tribunal is situated.

Article 3.

In the absence of agreement between the parties, the arbitral tribunal shall be constituted as follows :

(1) The plaintiff shall, by registered letter, for which a receipt is given, communicate to the other party the name and address of the person appointed as arbitrator and shall request the other party to name an arbitrator in the same manner. The other party shall furnish this information not later than two weeks after receiving the above request.

If this time-limit should expire without effect being given to the above request, the arbitrator shall be appointed at the request of the plaintiff within two weeks from the receipt of such request :

(a) If the arbitral tribunal has its seat in Latvia, by the President of the Civil Department of the Senate.

(b) If the arbitral tribunal has its seat in the Union of Soviet Socialist Republics, by the President of the highest Court of the Soviet Republic in the territory of which the arbitration proceedings take place.

The two parties and the arbitrator who has been designated shall immediately be informed of this appointment.

(c) If the arbitral tribunal has its seat in another State, the plaintiff shall apply to the President of the highest Court of the capital of that State to appoint an arbitrator and communicate his name immediately to the two parties. Should the President of such Court refuse to make the appointment, the plaintiff may request a University or a Chamber of Commerce in that State to appoint the arbitrator.

(2) The arbitrators shall elect the umpire by joint agreement. Should they reach no agreement within two weeks from the receipt of the notice of their appointment, the umpire shall, at the request of one of the arbitrators, be appointed by the authority responsible for the appointment of the arbitrators in accordance with paragraph 1, No. 2. of the present Article.

The judicial assistance rendered under the above provisions shall be granted by the Contracting Parties free of taxes, judicial costs and stamp duties.

Article 4.

Should an arbitrator die or leave for any reason, the party that has appointed him or on whose behalf he has been appointed in accordance with Article 3, paragraph 1, shall at the request of the opposing party within two weeks after the receipt of this request appoint another arbitrator in the manner provided for in Article 3, paragraph 1 (1). If on the expiration of this period the arbitrator has not been appointed, he shall be selected in accordance with Article 3, paragraph 1 (2).

Should the umpire die or for any reason leave, the arbitrators shall immediately choose another umpire. Failing agreement, the provisions of Article 3, paragraph 2, shall be duly applied in the manner laid down.

The provisions of the present Article shall only apply in the absence of any agreement to the contrary.

Article 5.

The mandates of the arbitrators shall be revoked in accordance with the laws of the State in which the arbitral tribunal has its seat.

The competent authority referred to in Article 3 shall decide the question of revocation.

The provisions of the last paragraph of Article 3 shall be applied in the manner laid down.

Article 6.

The award of the arbitral tribunal, which shall mention the date and place at which it was given and the composition of the Court of arbitration, and state that the parties were given an opportunity of being heard, shall be signed by the arbitral tribunal and a copy signed by the tribunal shall be delivered to each party.

Should one of the parties so request the arbitral tribunal shall mention in the award the claims advanced by the parties and the evidence and grounds admitted in deciding the case.

All deeds and documents submitted by the parties shall be exempt from all taxes and duties.

Article 7.

In the absence of any of the reasons mentioned in Article 9 of the present Convention for refusing to execute the arbitration awards, these shall, as between the parties, have the effect of a judicial decision, legally put into force and they shall be executed in the territory of either State.

Article 8.

Each of the Contracting Parties shall ensure the execution of arbitral awards through its courts unless any of the reasons for refusing to execute the awards mentioned in Article 9 of the present Convention apply.

Failing any provision to the contrary in the arbitration agreement, the Court which is to hear the case shall be competent to decide as to the execution of the award.

Article 9.

The award of the arbitral tribunal and the grounds on which it was based shall not be examined as to their substance. With respect to all other matters the decision concerning the execution and the execution of the arbitral award shall be carried out in accordance with the laws of the State.

Nevertheless, the order for the execution of the arbitral award may be refused in the following cases :

- (1) If the award has been given in violation of the provisions regarding competence laid down in Article 1, paragraph 3 of the present Convention ;
- (2) If the award has been given by an arbitral tribunal not constituted in conformity with the arbitration agreement between the parties or with the provisions of Articles 2 to 5, or if one of the parties was not represented when the arbitration agreement was drawn up or at the examination of the case by the arbitral tribunal in accordance with the laws of the State of which that party is a national, unless the party in question has given its express consent to the examination of the case ;
- (3) If in the course of the proceedings one of the parties has not been given the legal possibility of being heard ;
- (4) If any one of the following conditions is present :
 - (a) If in the case concerning which the award was given it has been found by judicial decision that the witnesses have committed perjury, or the parties, or their representatives, or the experts, or the members of the court engaged in the examination of the case have been guilty of criminal offences ;
 - (b) If the award is based on documents which have subsequently been pronounced by sentence of a criminal court to be forgeries, or if the judicial decision on which the award of the arbitral tribunal was based has been annulled ;
- (5) If the execution of the award of the arbitral tribunal involves the performance of an act which is contrary to the laws of the State in which the award is to be executed.

Article 10.

The Contracting Parties undertake to facilitate in every way all procedural acts carried out in their territories by courts of arbitration. Should a court of arbitration hold to be indispensable certain legal action which it is not itself competent to take, such action, in so far as it is not contrary to the laws of the State concerned, shall at the request of the court of arbitration be effected by the court which, in accordance with Article 8, paragraph 2, is competent to take the measures necessary for putting such procedure into effect.

Article 11.

In hearing the questions referred to them, the arbitral tribunals shall take into consideration the facts brought to light in the judicial proceedings and the evidence submitted by the parties, as well as local laws and international commercial usage.

Article 12.

Arbitration agreements concluded before the coming into force of the present Convention shall be subject as regards the conduct of the procedure and the execution of the award of the arbitral tribunal to the provisions of the present Convention in so far as the parties give their consent thereto in writing before the examination of the case by the arbitral tribunal.

If the arbitral award was given on the basis of an agreement to arbitrate concluded before the entry into force of the present Convention, it shall be executed in accordance therewith.

Article 13.

The Contracting Parties shall make every effort to facilitate the conclusion between their economic organs of arbitration agreements in conformity with the provisions of the present Convention, as well as the giving effect to such agreements.

Article 14.

The present Convention is drawn up in the Latvian and Russian languages and both texts shall be authentic for purposes of interpretation.

Article 15.

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Riga.

The Convention shall remain in force for five years from the date of the exchange of the instruments of ratification.

If neither of the Contracting Parties denounces the Convention six months before the expiration of the said period of five years, the Convention shall be renewed by tacit agreement for the following twelve months and similarly thereafter, until it has been denounced at least six months before the expiration of the said period of twelve months.

Nevertheless, when the Convention has been in force for one year, the two Parties shall be entitled to denounce it before the expiration of the said period of five years. In that case the Convention shall remain in force for a further six months from the date when one of the Parties has given notice of its intention to denounce it.

In faith whereof the above-mentioned Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate at Riga on October 10, 1927.

(L. S.) (*Signed*) F. CIELENS.

(L. S.) (*Signed*) LORENZ.

FINAL PROTOCOL

TO THE CONVENTION REGARDING ARBITRATION IN COMMERCIAL AND CIVIL MATTERS.

Ad Article 1.

1. For the purposes of the present Convention the term "parties" shall be taken to mean the nationals of either Contracting Party, as well as companies and legal entities of every kind having their headquarters in the territory of one of the Contracting Parties.

2. The provisions of the present Convention shall also be applied where one of the Contracting Parties is the plaintiff in a case.

3. An exchange of letters shall be considered sufficient evidence of the fact that there has been communication in writing between the two parties.

Ad Articles 1 and 2.

The time-limit fixed in the agreement to arbitrate or by the laws of either of the Contracting Parties for the examination of a case by the arbitral tribunal shall begin to run from the date when the parties were notified of the appointment or election of the umpire.

Ad Article 2.

If the seat of the arbitral tribunal is situated in a State with which one of the Contracting Parties does not maintain diplomatic relations at the time when the parties applied to the arbitral tribunal, or if the said relations are broken off before the arbitral tribunal has given its award, or if a national of the State in question has been designated or is acting as arbitrator or umpire, the arbitration agreement shall cease to have effect unless the parties have provided for such a possibility in the agreement to arbitrate or have agreed to transfer the seat of the arbitral tribunal to another country or to alter its composition.

Ad Article 4.

1. In the absence of any agreement to the contrary with respect to the examination of a case by the arbitral tribunal, the arbitration agreement shall be cancelled by the death of one of the parties if such death took place before the arbitral tribunal gave its award.

2. If a party concerned in the arbitration agreement ceases to be a party as a result of a re-organisation following upon the cessation of its activities or for any other reason, the Contracting Party of which this party is a national shall, in so far as such a case is not provided for under its legislation, inform the other party, if it so requests, as to the competent body before which arbitration proceedings can be continued.

3. In the cases provided for under Article 4 of the present Convention, the time-limit fixed in Article 2, paragraph 4, shall commence as from the date when the parties were notified of the election or appointment of a new arbitrator or umpire.

(Signed) F. CIELENS.

(Signed) LORENZ.

ADDITIONAL PROTOCOL

TO THE CONVENTION BETWEEN LATVIA AND THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING ARBITRATION IN COMMERCIAL AND CIVIL MATTERS.

The Governments of the Republic of Latvia and the Union of Soviet Socialist Republics have agreed to make the following corrections in the Latvian text of the Convention between Latvia and the Union of Soviet Socialist Republics, concerning arbitration in commercial and civil matters, signed on October 10, 1927 :

Article 3 : In the first line the words " Ja puses nav vienojušās par citu kārtību " shall be substituted for " pusēm nevienojoties ".

Article 6 : The first paragraph shall read as follows : " šķīrējtiesas spriedumam ar norādījumu par tā sastādīšanas dienu un vietu, šķīrējtiesas sastāvu un pusēm doto iespēju isteikties, jābūt parakstītam no šķīrējtiesas, pie kam pusēm izsniedz pa vienam šķīrējtiesas parakstītam sprieduma eksemplāram ".

In the second paragraph the word " spriedumā " shall be substituted for " lēmumā ".

Article 7 : The words " spriedumiem " and " spriedumu " shall be substituted for " lēmumiem " and " lēmumu ".

Article 8 : The words " spriedumu ", " spriedumu " and " spriedumu " shall be substituted for " lēmumu ", " lēmumu " and " lēmumu ".

Article 9 : In the first sentence of paragraph 1 the word " spriedums " shall be substituted for the word " lēmums ". In the second sentence the word " sprieduma " shall be substituted for the word " lēmuma ". In the first sentence of the second paragraph the words " šķirējtiesas lēmuma " shall be substituted for the words " šķirējtiesas lēmuma ".

In paragraphs 1, 2, 4-a, 4-b and 5 the words " spriedums ", " spriedumu ", " spriedums ", " spriedums ", " spriedumam ", " spriedums ", " spriedums " and " spriedums " shall be substituted for " lēmums ", " lēmumu ", " lēmums ", " lēmums ", " lēmumam ", " lēmums ", " lēmums " and " lēmums ".

Article 12 : The words " sprieduma " and " spriedums " shall be substituted for " lēmuma " and " lēmums ".

In the Final Protocol : The word " atkrit " shall be substituted for the word " izstājas " in the first sentence of paragraph 2 of Article 4.

The present Protocol shall be ratified and shall enter into force on the same date as the Convention between Latvia and the Union of Soviet Socialist Republics concerning arbitration in commercial and civil matters.

In faith whereof the Plenipotentiaries duly authorised to this effect have signed the present Protocol in duplicate in the Latvian and Russian languages and have affixed their seals thereto.

Done at Riga, May 18, 1928.

(L. S.) (Signed) A. BALODIS.

(L. S.) (Signed) N. KULABKO.