HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY

BETWEEN:

CCDM Holdings, LLC
First Appellant

Devas Employees Fund US, LLC
Second Appellant

Telcom Devas, LLC
Third Appellant

and

The Republic of India
Respondent

RESPONDENT'S CHRONOLOGY[1]

Part I: This chronology is in a form suitable for publication on the Internet.

Part II:

[1] The Respondent appears conditionally in proceeding S90/2025 only for the purposes described in s10(7)(b) of the *Foreign States Immunities Act 1985* (Cth), namely for the purpose or in the course of its assertion of immunity.

A. NEW YORK CONVENTION AND ASSOCIATED MATERIALS

Item	Date	Event	PJ / FC Ref[2]	Citation / ABFM / RBFM Ref[3]
A.1	**Geneva Treaties**			
1.	24 September 1923	Geneva Protocol on Arbitration Clauses opened for signature.		27 L.N.T.S. 157
2.	26 September 1927	Geneva Convention on the Execution of Foreign Arbitral Awards opened for signature (**1927 Geneva Convention**).		1927, 92 L.N.T.S. 301
A.2	**ICC Report and Draft Convention (1953)**			
3.	1951	At its Lisbon Congress, the International Chamber of Commerce (**ICC**), a world federation of business organisations and businessmen, adopts a resolution critical of the 1927 Geneva Convention as "*no longer entirely meet*[ing] *modern economic requirements*". The ICC later establishes a Committee on International Commercial Arbitration to propose a "*new system of enforcement, limited to awards made in respect of international commercial disputes*".		UN Doc E/C.2/373 (28 October 1953), Foreword and Report p. 7.
4.	13 March 1953	The ICC's Committee on International Commercial Arbitration adopts a Report (**ICC Report**) and Preliminary Draft Convention on the Enforcement of International Arbitral Awards (**ICC Draft Convention**). The aim is "*more particularly to facilitate the enforcement of awards relating to international commercial disputes*" (at p. 8). Article I of the ICC Draft provides: *"The present Convention shall apply to the enforcement of arbitral awards arising out of commercial disputes between persons subject to the jurisdiction of different States or involving legal relationships arising on the territories of different States*" (at p. 12).	PJ[63]	UN Doc E/C.2/373 (28 October 1953), pp. 8 and 12.
5.	28 October 1953	The Secretary General of the United Nations Economic and Social Council (**ECOSOC**) circulates the ICC Report and ICC Draft Convention.		

[2] *CCDM Holdings, LLC v The Republic of India (No. 3)* [2023] FCA 1266 (**PJ**); *The Republic of India v CCDM Holdings, LLC* [2025] FCFCA 2 (**FC**).

[3] Authorities referenced in this chronology are identified by citation and internal page number references. Documents provided in the Appellants Book of Further Materials (**ABFM**) and the Respondent's Book of Further Materials (**RBFM**) are given ABFM and RBFM references.

Item	Date	Event	PJ / FC Ref[2]	Citation / ABFM / RBFM Ref[3]
A.3	**Establishment and Meetings of the Ad Hoc Committee (1954-1956)**			
6.	6 April 1954	ECOSOC adopts **Resolution 520 (XVII)**). The resolution takes note of the ICC Draft Convention and: "*1. Establishes an Ad Hoc Committee composed of representatives of eight Member States, to be designated by the President of the Council;* *2. Invites each of the governments represented on the Ad Hoc Committee to designate as its representative a person having special qualifications in that field;* *3. Instructs the Ad Hoc Committee to study the matter raised by the International Chamber of Commerce in the light of all the relevant considerations and to report its conclusions to the Council, submitting such proposals as it may deem appropriate, including, if it sees fit, a draft convention.*"	PJ[64]	UN Doc E/2596 (30 March – 30 April 1954) at p. 6. UN Doc E/2704, E/AC.42/4/Rev.1 (28 March 1955), at p. 1.
7.	15 January 1955	The Ad Hoc Committee receives comments from governments regarding the ICC Draft Convention (**Comments from Governments on ICC Draft**).	PJ[64]	UN Doc E/AC.42/1 (21 January 1955) at p. 2.
8.	21 January 1955	The Ad Hoc Committee publishes the Comments from Governments on ICC Draft.	PJ[64]	UN Doc E/AC.42/1(21 January 1955), p.2.
8.1		**Greece** states that the ICC Draft Convention should only be applied if "*all the parties concerned are nationals of States which are bound by the Convention*".	PJ[64]	Above, at p. 3.
8.2		**Luxembourg** states that the rules of a particular country would be relevant to the classification of the dispute as a civil or as a commercial matter: "*The validity of the award for internal purposes, which has to be determined before an enforcement order can be made, will depend on other circumstances the existence of which cannot be ascertained without reference to the rules borrowed from the legislation, or at least the customary law, of a particular country. This is true as regards questions relating to the composition of the arbitral authority and the arbitral procedure, but above all as regards the question of validity and the interpretation of the arbitration clause (including the question whether the dispute in general is within the scope of the arbitration clause), and more particularly as regards the classification of the dispute as a civil or as a commercial matter, for the prevailing trend is to restrict the application of arbitration treaties to commercial disputes only*" (emphasis in original).	PJ[64]	Above, at p. 7.

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8.3		**Sweden** states the 1927 Geneva Convention was applicable only to arbitral awards affecting parties which are respectively subject to the jurisdiction of different contracting States; the provision was not clear and may mean either that the parties must be "*citizens of different contracting States or that they must be domiciled in different contracting States*" (p.9). Sweden also states that Article I of the ICC Draft sought to remove at least some of the limitations of the 1927 Geneva Convention in this respect, but it was still not sufficiently clear what the proper interpretation should be (pp. 9 and 10).	PJ[64]	Above, at pp. 9 and 10.
9.	1 March 1955	**First Meeting of the Ad Hoc Committee** held.	PJ[65]	UN Doc E/AC.42/SR.1 (23 March 1955), p. 1.
9.1	1 March 1955	The **Acting Chairman** opens the meeting and welcomes non-State representatives from: • The ICC at whose initiative the Ad Hoc Committee had taken up the question of the enforcement of international arbitral awards; • The International Law Association; and • The International Association for the Unification of Private Law.		Above, at p. 3.
9.2	1 March 1955	The Ad Hoc Committee elects Mr Loomes of Australia as Chairman. **Mr Loomes** states that "*although the members of the Committee were Government representatives, they had, pursuant to Council resolution 520 (XVII), been designated by reason of their special qualifications"* and *"in keeping the precedent set by similar bodies, the members of the Committee, in approaching their task, should regard themselves primarily as experts, with the understanding that the votes they cast and the conclusions they reached would not bind their respective Governments.*"		Above, at p. 4.
9.3	1 March 1955	**Mr Rosenthal** (a representative of the ICC) states in relation to the establishment of the Ad Hoc Committee: "*Businessmen the world over felt that arbitration provided a fair, speedy, effective and economical method of settling the many disputes which arose over the interpretation of trade contracts between firms situated in different countries. As such disputes usually related to technical details, they were virtually unavoidable, even when every care was taken and there was good will on both sides.*"		Above, at p.5.

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10.	2 March 1955	**Second Meeting of the Ad Hoc Committee** held.	PJ[65]	UN Doc E/AC.42/SR.2 (23 March 1955), p. 1.
10.1		The **USSR's delegate** states that the Convention: "*would facilitate the enforcement of arbitral awards relating to disputes arising in international commerce and so would promote the development of international trade ... The implication in article I that the convention would apply not only to arbitral awards in commercial disputes but also generally to those made in disputes involving legal relationships arising on the territories of different States was not in conformity with the purposes of the convention. The application of the convention should be limited to the enforcement of arbitral awards in disputes arising out of commercial dealings, and any provision suggesting that it had a larger scope should therefore not be included...*" (p. 3) The **USSR's delegate** notes that the USSR had various treaties with other countries and stated: "[u]*nder those agreements the contracting parties assumed the obligation to enforce arbitral awards made in commercial disputes between persons or institutions of the contracting parties if such arbitration was stipulated in the particular transaction or in a separate agreement governing the particular transaction. He cited as an example the Exchange of Goods and Payments Agreement of 7 September 1940 between the USSR and Sweden, article 14 of which provided for possible arbitral settlement of commercial disputes between the USSR trade delegation in Sweden or Soviet economic organizations, on the one hand, and Swedish institutions, firms or persons, on the other*" (p. 4). In conclusion, the **USSR delegate** states that: "*his delegation maintained its view in favour of limiting the operation of the convention to commercial disputes*" (p 8).	PJ[65]	Above, at pp. 3, 4 and 8.
10.2		The **United Kingdom's delegate** states: "*As common law countries had no separate commercial code and no statutory definition of the person described in French as commerçant, difficulties might arise in the application of the convention*" (p.5) and "[a]*s to the problem involved in the limitation of the convention to awards in commercial disputes, it had been solved in the 1927* [Geneva] *Convention by the inclusion of a permissive*	PJ[65]	Above, at pp. 5 and 8.

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		clause allowing reservations limiting its application to commercial disputes" (p. 8).		
10.3		**The Chairman** invites members to consider if the ICC Draft Convention should apply to commercial disputes only.	PJ[65]	Above, at p. 7.
10.4		**Sweden's delegate** states that he saw: "*no need for the limitation, which might cause difficulties in countries having no commercial code. In only a few countries were commerçants and commercial disputes governed by special legislation. The best solution would be to follow the example of the 1923* [Geneva] *Protocol* [on Arbitration Clauses]*, which provided in the second sentence of its paragraph 1 that each contracting State reserved the right to limit its obligation to contracts considered as commercial under its national law.*" (emphasis in original)	PJ[65]	Above, at p. 8.
10.5		**Belgium's** delegate states that: "*his delegation would prefer the operation of the proposed convention to be limited to commercial disputes, but if the idea did not have the support of the majority, it could accept the Swedish proposal.*"	PJ[65]	Above, at p. 8.
11.	2 March 1955	**Third Meeting of the Ad Hoc Committee** held.	PJ[66]	UN Doc E/AC.42/SR.3 (23 March 1955), p. 1.
11.1		The **United Kingdom's** delegate states: *"it would be better to keep the word "persons" in the convention and to give the necessary explanations in the report. With reference to the other point raised by the Belgian representative, the bodies to which the convention would apply should be clearly stated so that the Parties might know the exact extent of their obligations; in particular, it should be made clear whether semi-State agencies would be able to claim immunity*".	PJ[66]	Above, at p. 4.
11.2		**India's delegate** states in respect of the United Kingdom's comment (above) that he "*shared that view*".		Above, at p. 4
11.3		The **USSR's delegate** states that "*the use of the term commerçants…should be avoided" and that he "preferred the expression 'individuals or bodies corporate'*". He agrees with the United Kingdom's delegate "*that the categories of persons to which* [Article I] *applied should be enumerated both in article I and in the Committee's report.*"	PJ[66]	Above, at p. 4.

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11.4		**The Chairman** noted that "*all members of the Committee agreed on the substance, and proposed that the drafting sub-committee should settle the final wording of article I*".	PJ[66]	Above, at p. 7.
12.	3 March 1955	**Fourth Meeting of the Ad Hoc Committee** held.		UN Doc E/AC.42/SR.4 (29 March 1955), p. 1.
13.	3 March 1955	**Fifth Meeting of the Ad Hoc Committee** held.		UN Doc E/AC.42/SR.5 (29 March 1955), p. 1.
14.	4 March 1955	**Sixth Meeting of the Ad Hoc Committee** held.		UN Doc E/AC.42/SR.6 (29 March 1955), p. 1.
15.	7 March 1955	**Seventh Meeting of the Ad Hoc Committee** held.		UN Doc E/AC.42/SR.7 (29 March 1955), p.1.
16.	8 March 1955	**Eighth Meeting of the Ad Hoc Committee** held.		UN Doc E/AC.42/SR.8 (4 April 1955), p. 1
17.	28 March 1955	The Ad Hoc Committee publishes its **Report** (UN Doc E/2704; (**Ad Hoc Committee's Report**), containing as an Annex a new draft convention prepared by the Ad Hoc Committee (**Ad Hoc Committee Draft Convention**). The Ad Hoc Committee recommends to the ECOSOC that it transmit the Ad Hoc Committee's Report and Ad Hoc Committee Draft Convention to Governments of Member and non-member States for consideration and comments with respect to the text of the draft and desirability of convening a conference to conclude a convention (**recommendation 1**, at p. 18). Recommendation is also made to send the Ad Hoc Committee's Report and Ad Hoc Committee Draft Convention to the ICC and other NGOs, as well as the International Institute for the Unification of Private Law (**recommendation 2**, at p. 18).	PJ[67]-[71]	UN Doc E/2704; E/AC.42/4/Rev.1 (28 March 1955), pp. 1, 18 and the Annex. UN Doc 2704; UN Doc E/AC.42/4/Rev.1 (Corr.1) (1 April 1955)
17.1		The Ad Hoc Committee's Report relevantly states: "***E. GENERAL CONSIDERATIONS*** *11. In view of the technical nature of the subject matter, the members of the Committee while being aware that they had been appointed as Government representatives, considered themselves as acting essentially as technical experts with the understanding that the view expressed by them, in the course of the Committee's deliberations would not*	PJ[67], [69], [71]	Above, pp. 4 to 8.

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		necessarily constitute the position of their respective Governments. *12. The Committee noted the view of the International Chamber of Commerce expressed by its representative that in the interest of developing international trade it is important to further means to obtain the enforcement in one country of arbitral awards rendered in another country in settlement of commercial disputes. It was also aware that within the United Nations, the Economic Commission for Europe and the Economic Commission for Asia and the Far East recently have been giving considerable attention to the development of arbitration facilities, including the enforcement of arbitral awards. Furthermore, the Committee noted the interest of other inter-governmental organizations on this subject, as indicated for example by the "Draft of a Uniform Law on Arbitration in Respect of International Relations of Private Law" prepared by the International Institute for the Unification of Private Law in Rome.* *13. Two multilateral conventions specifically dealing with commercial arbitration were concluded under the auspices of the League of Nations. The Protocol on Arbitration Clauses of 24 September 1923 (ratified by thirty States) and the Convention on the Execution of Foreign Arbitral Awards of 26 September 1927 (ratified by twenty-four States) which supplemented and expanded the scope of the 1923 Protocol. The International Chamber of Commerce expressed the view (E/C.2/373, page 7) that the system established by the Geneva Convention of 1927 no longer met the requirements of international trade. For this reason, the International Chamber of Commerce prepared a Preliminary Draft Convention which was before the Committee (E/C.2/373).* *14. Having considered the general aspects of the question, the Committee concluded that it would be desirable to establish a new convention which while going further than the Geneva Convention in facilitating the enforcement of foreign arbitral awards, would at the same time maintain generally recognized principles of justice and respect the sovereign rights of States.* *15. Although the Committee differed in several respects with the proposals made by the International Chamber of Commerce, it decided to use the ICC Preliminary Draft as a working paper for its deliberations.*		

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		… ***F. THE DRAFT CONVENTION*** ***Title*** *17. The Committee considered that the expression "International Arbitral Awards" used by the International Chamber of Commerce (E/C.2/373) normally referred to arbitration between States. Since this Draft Convention does not deal with arbitration between States, but with the recognition and enforcement in one country of arbitral awards made in another country, the Committee adopted the title "Draft Convention on the Recognition and Enforcement of Foreign Arbitral Awards" which reflects more accurately the object of the Convention.* … ***Article I*** *20. The Committee carefully noted the differences between Article I of the ICC Draft and the corresponding provisions of the Geneva Convention of 1927 (Article I, 1st paragraph). The latter applies to arbitral awards which are made (i) in the territory of a Contracting State, and (ii) between persons subject to the jurisdiction of one of the Contracting States. The ICC Draft, on the other hand, would apply to arbitral awards which are made (i) in disputes between persons subject to the jurisdiction of different States, or (ii) involving legal relationships arising on the territory of different States.* … *23. The Committee did not include in the Draft Convention the other requirement of the Geneva Convention that the arbitral award must have been made between persons who are subject to the jurisdiction of one of the Contracting States. This expression being rather vague and ambiguous, might be subject to different interpretations in different countries.* *24. Article I provides that the Convention would apply to arbitral awards arising out of differences "between persons, whether physical or legal". The Representative of Belgium had proposed that the article should expressly provide that public enterprises and public utilities should be deemed to be legal persons for purposes of this article if their activities were governed by private law. The Committee was of the opinion that such a provision would*		

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		be superfluous and that a reference in the present report would suffice. *…* *26. The Committee considered whether the Convention should be limited to arbitral awards arising out of commercial disputes, as was envisaged in the ICC draft (Article I). While in some countries the word "commercial" and "commerçant" has a clear legal meaning, the law of other countries does not specifically differentiate between civil and commercial matters. For this reason the Committee decided not to include any qualification in paragraph 1 of Article I. However, paragraph 2 would enable any Contracting State to declare that it would apply the Convention only to disputes arising out of contracts considered as commercial under the law of that State. A similar provision is contained in the 1923 Protocol on Arbitration Clauses.* ***Article II*** *27. This article is the same as Article II of the ICC draft. A similar provision is contained in Article 1 of the Geneva Convention*" (emphasis in original).		
17.2		**Relevant provisions of Ad Hoc Committee Draft Convention:** "*Article I* *1. Subject to paragraph 2 of this Article, this Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State in which such awards are relied upon, and arising out of differences between persons whether physical or legal.* *2. Any Contracting State may, upon signing, ratifying or acceding to this Convention, declare that it will apply the Convention only to the recognition and enforcement of arbitral awards made in the territory of another Contracting State. Similarly, any Contracting State may declare that it will apply the Convention only to disputes arising out of contracts which are considered as commercial under the national law of the Contracting State making such declaration.* *Article II* *In the territories of any Contracting State to which the present Convention applies, an arbitral award shall be recognized as binding and shall be enforced in accordance*	PJ[68]	Above, Annex p. 1.

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		with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles."		
18.	20 May 1955	The **Secretary-General** transmits the Ad Hoc Committee's Report and the Ad Hoc Committee Draft Convention to the Governments of Members and non-Members of the United Nations.	PJ[72]	UN Doc E/2822 (31 January 1956), at p. 1.
19.	31 January 1956	The **Secretary-General** receives and publishes Comments by Governments as to the Ad Hoc Committee's Report and Ad Hoc Committee Draft Convention (**1956 Report**).	PJ[72]	UN Doc E/2822 (31 January 1956), at p. 1.
19.1		**Austria** states: "*Since the term 'legal persons' includes States, the draft convention seems admittedly to cover arbitral awards made in their favour or against them in cases of disputes with subjects of private law. Nevertheless, it would be desirable to provide expressly that the convention is also applicable in cases in which corporate bodies under public law, and particularly States, in their capacity as entities having rights and duties under private law, have entered into an arbitration convention for the purpose of the settlement of disputes*" (emphasis in original).	PJ[73]	Above, Annex I at p. 11.
19.2		**Lebanon** states (having already expressed general approval for the draft convention (Annex I, p. 7)): "*Nevertheless, it [the Lebanese Government] considers it necessary to maintain the reservation contained in article I, paragraph 2, to the effect that the Convention will apply only to the recognition and enforcement of arbitral awards made in the territory of another Contracting State and to disputes arising out of contracts which are considered as commercial under national law.*" (Annex I, p. 12)		Above, Annex I at pp. 7 and 12.
19.3		**Mexico** states: "*The Mexican Government further considers that it would be advisable to include in the draft Convention the stipulation contained in the [1927] Geneva Convention that the arbitral award must have been made in a dispute between persons who are subject to the jurisdiction of one of the Contracting States. The Mexican Government takes this view because Mexican law regards arbitral awards as acts which in themselves are private, since they are made pursuant to compromis concluded between private persons, and which become enforceable only when the logic of the*	PJ[73]	Above, Annex I at pp. 12 to 13.

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		award is, in addition supported by the authority of a judicial decision" (emphasis in original).		
19.4		**Switzerland** states: "***Title of the Convention*** *"The draft of the International Chamber of Commerce (ICC) was entitled, 'Convention on the Enforcement of International Arbitration Awards'. The Ad Hoc Committee set up by the United Nations Economic and Social Council (ECOSOC) nevertheless considered it necessary to include in its draft the phase "foreign arbitral awards", taken from the 1927 Convention, on the grounds that the expression, "international arbitral awards" normally referred to arbitration between States.* *"It should be noted, however, that an arbitral award differs from a judicial decision in that its does not acquire a national character by virtue of State sovereignty; on the contrary, the arbitral award is the outcome of an agreement between private parties and is shaped by that agreement. It is therefore permissible to speak of international awards. Moreover, there can be international awards in private law as well as international awards in public law."* *"To remove doubt and to preserve the essential notion of international awards, while taking into account the objection of the ECOSOC Committee, the following title might be used: "Convention on the Recognition and Enforcement of International Arbitral Awards in Private Law.*" (Annex I, pp. 8 to 9) (emphasis in original). "*The text proposed by the United Nations experts is broader in scope than the ICC's text.* *"In the first place – a feature which we welcome – it does not automatically limit the application of the convention to commercial disputes only. Since the different legal systems vary considerably in their idea of what "commercial law" embraces, it is wise not to invite difficulties by restricting the application of the Convention to disputes arising out of relations governed by commercial law."* *"In the second place, article I, paragraph 2, is so drafted as to enable States to accede which might have been discouraged from ratifying the Convention by the departure from the principle of reciprocity.*" (Annex I, p. 13).	PJ[73]	Above, Annex I at pp. 8 to 9 and 13.
19.5		The **Society of Comparative Legislation** supports the inclusion of the clause proposed by the Belgian delegate,	PJ[74]	Above, Annex II at p. 9

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		referred to in para. 24 of the Ad Hoc Committee's Report (at Annex II, p. 9) and states: "*The following words should be added after the words 'persons whether physical or legal' at the end of paragraph 1: 'this expression to include States, public bodies and undertakings (collectivitiés publiques), public establishments and establishments serving the public interest, on the condition that the said difference arose out of a commercial contract or a private business operation (acte de gestion privée)*". (emphasis in original) "*[N.B. It should be noted at this point that there have been cases in the past in which even States and public bodies or undertakings – State Railways and municipalities – have undertaken to refer disputes arising out of international contracts to private arbitration, have resorted to the prescribed arbitral procedure and have given effect to the arbitral awards made. This has happened several times, for example in cases dealt with by the Court of Arbitration of the International Chamber of Commerce. In our view it would be wholly desirable to encourage this practice by including the clause proposed, as the Belgian representative has requested (paragraph 24 of the report).]*"		
19.6		The **ICC** states, on draft Article I: "*The dissimilarity of the titles chosen by ICC and by ECOSOC for the Draft Conventions framed by them respectively, rather indicate that the two drafts do not quite aim at the same ends.*" (Annex II, p. 5) "*Article I of the Preliminary Draft of the ICC and paragraph 1 of article I of the ECOSOC draft agree only in so far as they both restrict the Convention's scope to the recognition and enforcement of awards containing a foreign element. But the ECOSOC Committee of Experts proposed to retain as sole criterion of what constituted a foreign element the fact that recognition and enforcement of the award are demanded in a country other than the one in which the award was made. The ICC, however, wished to allow for two other possibilities: first, cases where the parties had their principal establishments or usual residences in different countries; secondly, cases where disputes referred to arbitration arose from contracts qualified as international, not because of the nationalities or residences of the parties, but because the contracts were*	PJ[73]	Above, Annex II at pp. 5 to 7.

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		likely to produce effects in a country foreign to both parties." (Annex II, pp.5-6) "*Since all national systems of law do not provide for a distinct commercial law, their dissimilarity makes it difficult to limit the scope of the Convention to commercial disputes. Consequently, abandoning the position taken in the ICC's Preliminary Draft, the Commission agreed to the solution recommended in ECOSOC Committee's Draft of article 1, para. 2, which allows Contracting States the possibility of limiting their commitments to disputes considered as commercial under their national laws.*" (Annex II, p7).		
20.	14 March 1956	The **Secretary-General** receives and publishes **Comments by Greece** as to the Ad Hoc Committee Draft Convention		UN Doc E/2822/Add.2 (14 March 1956), p. 1.
21.	3 April 1956	The **Secretary-General** receives and publishes **Comments by the Netherlands and the United Kingdom** as to the Ad Hoc Committee Draft Convention	PJ[75]	UN Doc E/2822/Add.4 (3 April 1956), p. 1.
21.1		The **United Kingdom comments** that: "*Her Majesty's Government recognize that the Draft Convention on the Recognition and Enforcement of Foreign Arbitral Awards embodies a number of detailed improvements on the current 'Convention on the Execution of Foreign Arbitral Awards' ('the Convention of 1927'). There appears, however, to be no demand from commercial interests in the United Kingdom for the conclusion of a new Convention; the international enforcement of arbitral awards is not found in practice to be a pressing problem, and existing arrangements appear to be working reasonably well. Her Majesty's Government do not, therefore, regard the preparation of a new Convention as a matter of urgent practical importance, but, if a substantial number of other Governments consider that a Conference should be convened to prepare a new Convention on the lines of the Draft Convention on the Recognition and Enforcement of Foreign Arbitral Awards, they would be prepared to take part in such a Conference.*" (Annex I, p. 3) "*Awards on 'Commercial' Agreements* "*The right reserved to a Contracting State to limit its obligations to awards on disputes arising from agreements regarded as 'commercial' under the law of that State is more questionable. It is not new; the Convention of 1927 does not expressly deal with this matter, but the reference already noted to the Protocol of 1923 has the same effect, since each Contracting State was permitted to limit its*	PJ[75]	Above, Annex I, pp. 3 to 4.

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		obligations under the Protocol to contracts 'considered commercial under its national law'. A number of Contracting States did not in fact take advantage of this provision. A formal distinction between 'commercial' and 'civil' law is unknown to the laws of the United Kingdom, but Her Majesty's Government recognize that it is familiar to many other legal systems and that it is therefore unlikely that this reservation could be omitted. It seems, however, to be unreasonable for a State whose law does not distinguish between "commercial" and "civil" law to be allowed to restrict its obligations to "commercial" matters without at the same time indicating precisely what it understands by "commercial". Failing some such restriction of this right, there would be constant uncertainty about the scope of the obligations undertaken by the Contracting Parties who make the reservation. The United Kingdom is unwilling to be bound to enforce awards on "civil" agreements made in a country which is bound to enforce United Kingdom awards only if they are made on "commercial" agreements and it is thought that some reservation to this effect should be possible and that provision should be made accordingly." (Annex I, p. 4)		
A.4	**Establishment and Meetings of the United Nations Conference on International Commercial Arbitration (1958)**			
22.	3 May 1956	**ECOSOC Resolution 604 (XXI)**. The recitals include the following: *"Taking into account the activities of the regional economic commissions of the Council and of other inter-governmental and non-governmental organizations aiming at furthering the development of arbitration in private law disputes as a measure beneficial to international trade"* (p.6) The resolution: "*1. Decides:* *(a) To call a conference of plenipotentiaries with the following terms of reference:* *(i) To conclude a convention on the recognition and enforcement of foreign arbitral awards on the basis of the draft Convention prepared by the Committee on the Enforcement of International Arbitral Awards, taking into account the comments and suggestions made by Governments and non-governmental organizations, as well as the discussion at the twenty-first session of the Council;*		ECOSOC Resolution 604 (XXI) (17 April – 4 May 1956), pp. 5 to 6.

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		(ii) To consider, if time permits, other possible measures for increasing the effectiveness of arbitration in the settlement of private law disputes and to make such recommendations as it may deem desirable; *(b) To invite:* *(i) States Members of the United Nations or members of any of its specialized agencies, and also any other State which is a party to the Statute of the International Court of Justice, to participate in the conference;* *(ii) The interested specialized agencies and non-governmental organizations having consultative status with the Council, as well as The Hague Conference on Private International Law and the International Institute for the Unification of Private Law, to participate without vote in the conference…*"		
23.	6 March 1958	The Secretary-General provides a note on comments and suggestions received from Governments and NGOs on the Ad Hoc Committee Draft Convention (UN Doc E/CONF.26/2).		UN Doc E/CONF.26/2 (6 March 1958), p. 1.
23.1		**Secretary-General notes** that whilst no attempt will be made to summarise all comments and suggestions submitted, there were four "major problems" identified, including the following: "*I. Scope of the application of the Convention* *3. With a few exceptions, the relevant comments indicate that the definition of the scope of application of the new Convention contained in Article I of the Committee's draft is considered preferable to the requirements under the 1927 Geneva Convention that, in order to be enforceable, an award must have been rendered not only in the territory of the Contracting States but also between persons subject to their Jurisdiction. Some of the comments pointed out, however, that the provision in the Committee's draft limiting the application of the new Convention solely to awards made outside the territory of the State of enforcement might still be too restrictive, and favoured a further broadening of the scope of application of the Convention so as to include also certain other classes of arbitral awards relating to international commercial transactions.* *4. Thus, it was suggested that the new Convention should apply also to arbitral awards rendered in the territory of the State in which the award is being enforced, provided that the dispute submitted to arbitration arose between parties domiciled (or having their main establishments) in the*		Above, at pp. 2 to 3 and 13.

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		territories of different States (2/). An extension of the scope of applicability of the new Convention to this class of awards would not be novel, as such awards were enforceable under the 1927 Convention, provided that they were made between persons subject to the jurisdiction of the Contracting States. *[2/ Official Records ECOSOC, 21st session, agenda item 8, annexes: Document E/2822, pp. 5 (Switzerland), 11-12 (International Chamber of Commerce).]* *5. It was also suggested that the scope of the application of the Convention should be further extended to a third class of arbitral awards, comprising all arbitral awards "made in disputes involving legal relationships implemented in whole or in part in the territories of different states", irrespective of whether or not such awards were rendered abroad, and regardless of the domicile of the parties between which arbitration took place (3/). In the ECE Working Group on Arbitration, several delegations expressed their preference for a similar proposal providing in arbitration cases for an exemption from ordinary national jurisdiction "for all disputes relating to foreign trade, on the understanding that foreign trade would be taken to mean a movement of goods, services or currencies across frontiers". The ECE Working Group on Arbitration felt, however, that this proposal should first be given close examination by Governments (4/). The Conference may wish to consider the respective merits of these alternatives both from the point of view of best satisfying the requirements of international commerce and of compatibility with the existing principles of relevant national procedural laws.* *[3/ ibid., p. 12 (International Chamber of Commerce)]* *[4/ "Report of the Working Group on its Fourth Session", ECE document TRADE/55, paragraph 16.]* *6. The comments on the provisions of the second paragraph of Article I indicate that several countries would be prepared, to accede to the Convention only if they could apply it on the basis of reciprocity (5/). On the other hand, several Governments and organizations pointed out that the place where the arbitral tribunal meets is often chosen without relevance to the object of arbitration but only as a matter of convenience, and stressed the desirability of a provision which would make it possible to apply the Convention to arbitral awards rendered in any State, regardless of whether it was a Party to the Convention or not. (6/) In view of these differences of opinion, the solution*		

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		proposed in the draft Convention, namely, to open the way for enforcement of awards rendered in the territory of any foreign State but at the same time to provide expressly for the possibility of reservations limiting the application of the Convention on a reciprocal basis, may be the one which would receive most general acceptance." *[5/Official Records, ECOSOC, 21st session, agenda item 8, annexes, Document E/2822, pp. 4 (Lebanon, Mexico), 18 (Egypt), 21 (United Kingdom) and 25 (Yugoslavia).* *6/ Ibid., pp. 4 (Austria, Japan), 5 (Switzerland), 12 (International Chamber of Commerce, Society Beige d'Etudes et d'Expansion); see also Report of Committee on the Enforcement of International Arbitral Awards, document E/2701, paragraph 22.]* At page 13, the **Secretary-General notes:** "*IV. Relationships between any new multilateral convention and other treaties or laws relating to the same subject* *25. The 1927 Geneva Convention on the Execution of Foreign Arbitral Awards, in force at present, applies only to awards made pursuant to arbitration agreements covered by the 1923 Protocol on Arbitration Clauses which in turn provides for the recognition of validity of arbitral agreements and for the exemption of disputes subject to such agreements from the normal jurisdiction of courts. Moreover, the 1927 Convention is open for signature solely to parties to the 1923 Protocol. The new draft Convention does not contain any express reference to the 1923 Protocol, and some Governments commented on the omission in the draft Convention of a provision which would recognize the validity of arbitration agreements or which would prevent a party to an arbitration agreement from "sabotaging" that agreement by bringing the dispute before a regular court of justice. (16/). There might, however, be some difficulty in including a clause containing provisions along these lines into the context of the draft of the new Convention. It may be recalled that a proposal to reproduce in the draft Convention the substance of the provision contained in Article I of the 1923 Protocol had been placed before the Ad Hoc Committee on the -Recognition and Enforcement of Arbitral Awards, and that the Committee was divided on this issue (17/)"* *[16/ Official Records ECOSOC; 21st session; agenda item 8, annexes, document E/2822, pp. 3 (Japan), 9 (Austria),*		

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		18 (Sweden), 19 (Greece), 23 (United Kingdom, 24 (Norway). *[17/ Report of the Committee on Enforcement of International Arbitral Awards", Official Records ECOSOC, 19th session, agenda item 14, annexes, document, E/2704, paragraphs 18-19.]*		
24.	20 May 1958	**First Meeting of the Conference** held.	PJ[76]	UN Doc E/CONF.26/SR.1 (12 September 1958), p. 1.
24.1		The Conference elected Mr Schurmann (Netherlands) as President, who immediately after thanking representatives for their expression of confidence in him is recorded as saying: "*A successful conference would constitute some small progress towards the rule of law and to the smoother settlement of private law disputes*".		Above, at p. 2.
25.	21 May 1958	**Second Meeting of the Conference** held.	PJ[76]	UN Doc E/CONF.26/SR.2 (12 September 1958), p. 1.
25.1		**Italy's delegate** states: "*The draft [Convention] offered an intermediate and realistic solution that would make it possible to meet the needs of the business community while safeguarding the jurisdictional prerogatives of States*". (p. 7) **Italy's delegate** also states that the conference should seek criteria by which to define the awards to which the Convention would apply which were: "*better suited to the purpose of the Convention, which was intended to facilitate the settlement of international commercial disputes*." (p. 8).	PJ[76]	Above, at pp. 7 to 8.
25.2		**USA's delegate** states that: "*his Government was aware that it was necessary to improve both the law and practice of arbitration if it was desired that that institution should play its part properly in the settlement of disputes arising out of international trade". It was the first time that the Government of the United States was taking part in an important conference on commercial arbitration. Such participation showed that the United States realized the full benefit which countries could derive from the swift and inexpensive settlement in an atmosphere of goodwill of private disputes arising out of international trade.*"	PJ[76]	Above, at p.8.

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		"*The Government of the United States was happy to note that the agenda of the Conference (E/CONF.26/1) included consideration of measures for increasing the effectiveness of international commercial arbitration. In view of the differing interpretations in different countries of the idea of arbitration and differences in legislation and practice, flexibility should be shown in seeking a wide range of solutions to meet the diverse questions which arose.*"		
25.3		**Ecuador's delegate** states that it would be desirable to adopt "*universal rules dealing both with the substance and the procedure of international commercial arbitration*".	PJ[76]	Above, at p. 9.
26.	21 May 1958	**Third Meeting of the Conference** held.	PJ[76]	UN Doc E/CONF.26/SR.3 (12 September 1958)
26.1		**Japan's delegate** is recorded as stating: "*…Japan, whose economy and prosperity were greatly affected by the manner in which international trade flowed, was always ready to assist in removing obstacles to such trade and thus to facilitate business intercourse…*" "*While the Convention to be concluded should be sufficiently progressive to satisfy the requirements of international trade, it must not be so revolutionary as to discourage potential signatories*".	PJ[77]	Above, at p. 2.
26.2		The **ICC's delegate** refers to its efforts over 40 years in urging "*the adoption of measures that would facilitate the arbitration of international commercial disputes and the international enforcement of awards*", referring to problems and changes in "*the development of trade*", "*international business*" and "*international trade*". (pp. 4 to 5) The **ICC's delegate** also states: "*Great changes had occurred in international trade since 1927. Not only had the volume of such trade greatly increased, but business could now be transacted all over the world in much the same way as had previously been possible only within the borders of one country. At the same time, the emergence of new nations in less developed parts of the world had greatly increased the complexities of trade…*" "*Essentially, what the ICC was seeking was acceptance of the principle of freedom of contract and of the right of businessmen to arbitrate their differences and enforce awards in accordance with their own contractual*	PJ[77]	Above, at pp. 4 to 6.

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		commitments. In their view, one of the best ways to promote international trade was to interfere with contractual liberty as little as possible… *It was the task of the Conference to encourage recourse to the friendly arbitration of disputes and to simplify the procedures for the enforcement of awards. On behalf of the international business community, the ICC urged the Conference to adopt a simple and flexible system for the enforcement of arbitral awards which would (1) cover the widest possible area of private international disputes…*" (pp. 5 to 6)		
27.	22 May 1958	**Fourth Meeting of the Conference** held.	PJ[78]	UN Doc E/CONF.26/SR.4 (12 September 1958), p. 1.
27.1		**Iran's delegate** states: "*that the development of foreign trade required the adoption of procedures for rapid settlement of commercial disputes by arbitration and prompt enforcement of arbitral awards. Naturally, in cases of a dispute, the parties to a contract were free to bring the matter before a court, but the fear of being involved in a lawsuit might stop businessmen from engaging in some commercial transactions. By furnishing another means of settling disputes arbitration promoted world trade. Moreover, the conclusion of a multilateral convention on the subject would further the unification of private international law. For all those reasons, his Government supported in principle the adoption of such an instrument. Arbitration was one of the basic elements of the Iranian legal system – in particular of commercial law – and foreign arbitral awards were enforced in Iran. The 1955 Treaty between the United States and Iran made broad provision for arbitration as a means of settling disputes between the nationals of the two countries. In that connexion, article 3 of the Treaty was of special interest. Moreover, arbitral clauses were usually included in contracts between the Iranian Government and foreign firms relating to the country's economic development programmes. Moreover, the Convention should be limited to arbitral awards arising out of commercial disputes, as recommended by the International Chamber of Commerce in its preliminary draft. Such a provision would meet the objections of States which drew a distinction between commercial and civil disputes. It should be stated in the Convention that it applied only to arbitral*	PJ[78]	Above, at pp. 2 to 3.

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		awards which concerned persons subject to the jurisdiction of one of the Contracting States."		
27.2		**Germany's delegate** states it was: "*customary to distinguish between awards of a purely internal nature and others which were generally described as foreign. The Committee's draft excluded awards of the former category. The Government of the Federal Republic of Germany approved of that exclusion, which made it possible to avoid any interference with national laws on arbitral procedure governing purely internal awards.* *It was still necessary to find some criterion for defining the awards to which the Convention was to apply. That raised the whole question of determining factors… If it was agreed that the place where the award was made should not be considered a determining factor – an opinion which he shared with the French representative – whether an award was to be regarded as national or foreign could be made dependent on the nationality of the parties, the subject of the dispute, or the rules of procedure applied. The last seemed to constitute the most appropriate determining factor. The nature, and hence the nationality, of an arbitral award would then be derived from the rules of procedure under which it had been made*".	PJ[78]	Above, at p. 4.
27.3		**Czechoslovakia's delegate** made reference to improving the Draft Convention to meet "*the needs of international trade*".	PJ[78]	Above, at p. 6
27.4		**Poland's delegate** made reference to "*trade*" and "*the growth of trade*".	PJ[78]	Above, at pp. 6 to 7.
27.5		The **Netherlands' delegate** made reference to the Convention serving the interests of those engaged in "*international trade*".	PJ[78]	Above, at p. 7.
27.6		**Switzerland's delegate** referred to his government's comments (E2822, annex I) and made reference to "*foreign trade*".	PJ[78]	Above, at p. 9.
27.7		**International Law Association and International Association of Legal Science** made reference to "*meeting the needs of the business world*". He noted that the Conference "*would not only study the draft Convention before it, but would also examine other measures designed to make arbitration a more efficient means of settlement of private law disputes*".	PJ[78]	Above, at p. 9.
28.	22 May 1958	**Fifth Meeting of the Conference** held.	PJ[79]	E/CONF.26/SR.5 (12 September 1958), p. 1.

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28.1		The **USSR's delegate** states: "*the Soviet Union attached considerable significance to the expansion and strengthening of international trade relations, which helped to promote world peace and co-operation among States irrespective of their social and economic systems. The Soviet Government had proposed that measures to expand international trade relations should be one of the questions considered at a summit conference … he said that commercial disputes involving Soviet foreign trade organs were rare and that provisions had been made for their settlement by arbitration, a procedure which was both speedy and inexpensive for the parties concerned.*"	PJ[79]	Above, at p. 4.
28.2		**India's delegate** notes: "*As India had in recent years embarked upon extensive economic development schemes, the Government, official agencies and businessmen were acutely conscious of the importance of the arbitral procedure as a convenient and speedy method of resolving commercial disputes … [and sought] a successful conclusion to what essentially was a matter of promoting better relations in international trade … [and that] commerce knew no boundaries and was not for long shut out by political barriers.*"	PJ[79]	Above, at p. 4.
28.3		**Argentina's delegate** states: "*that his Government attached particular importance to arbitration as a means of settling international commercial disputes.*"	PJ[79]	Above, at p. 5.
29.	23 May 1958	**Sixth Meeting of the Conference** held.		UN Doc E/CONF.26/SR.6 (12 September 1958), p. 1.
29.1		**Ceylon's delegate** states: "*…The scope of application of the Convention had rightly been made very flexible, so as to ensure acceptance by the largest possible number of States. However, its provisions must not be made too vague. His delegation would support any draft which introduced clearly defined legal concepts, while taking account of the special difficulties of some States.*"		Above, at p. 2.
29.2		The **Bulgarian delegate states:** "*The primary purpose of the Convention should be to institute rapid, simplified, clear and efficient procedures for*		Above, at p. 3.

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		the elimination of the consequences of differences and disagreements in business transactions. The Convention should therefore be as widely applicable as possible; political discrimination should be avoided".		
30.	23 May 1958	**Seventh Meeting of the Conference** held.	PJ[80]	UN Doc E/CONF.26/SR.7 (12 September 1958), p. 1.
30.1		**Czechoslovakia's delegate** states: "*His delegation did not object to the fact that article I did not expressly limit the application of the Convention to commercial disputes, inasmuch as his country did not have a separate commercial code.* *As to the suggestions of the Austrian Government concerning the term 'legal person' ..., although his delegation considered them superfluous it would not object to an express provision to the effect that the Convention was also applicable in cases in which corporate bodies under public law, in their capacity as entities having rights and duties under private law, had entered into an arbitration agreement.*"	PJ[80]	Above, at p. 3.
30.2		**Ceylon's delegate** states: "[A] *working group might consider removing the clause "and arising out of differences between persons whether physical or legal" from paragraph 1 and including it in a separate article on definitions. In the matter of reservations, while he would prefer the deletion of paragraph 2 [of Article I], he realised that some Governments would not sign the Convention unless the paragraph was included. He would therefore not press for its deletion. Nevertheless he believed that the second sentence of the paragraph should be deleted because it opened the door to lengthy discussion on the question whether an award could be considered as commercial under the national law of the Contracting State concerned.*"		Above, at pp. 5 to 6.
30.3		**El Salvador's delegate** states that difficulties might be encountered in the application of the second sentence of Art I, paragraph 2, although the provision seemed logical: *"Difficulties might also be encountered in the application of the second sentence of article I, paragraph 2. The provision seemed logical, as not every State recognized the possibility of arbitration in non-commercial matters, but serious problems could arise in instances where, for*	PJ[80]	Above, at p. 10.

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		instance, a claim and counter-claim were both upheld and enforcement of each was then sought in a different State [and a solution] might perhaps be found by adopting another principle and stating that the commercial or non-commercial nature of the contract would be determined by the law under which that contract had been concluded".		
30.4		**Ceylon's delegate** expresses a desire for Sweden to delete the words in its proposal "*on any matter susceptible of arbitration*", and said that he "*shared the misgivings of the representative of El Salvador*".	PJ[80]	Above, at p. 10.
30.5		**Japan's delegate** states that he hoped that the second sentence of Art I, paragraph 2, would be deleted, as many contracts were "*on the borderline between commercial and civil agreements*" and "*an artificial demarcation could often operate unfairly*".	PJ[80]	Above, at p.12.
31.	26 May 1958	**Eighth Meeting of the Conference** held.		UN Doc E/CONF.26/SR.8 (12 September 1958), p. 1.
32.	27 May 1958	**Tenth Meeting of the Conference** held.	PJ[81]	UN Doc E/CONF.26/SR.10 (12 September 1958), p. 1.
32.1		For this meeting, the **United Kingdom's delegate** submitted an amendment to Art II, the purpose of which was described by the UK representative as being: "*to ensure that no additional restrictions were imposed which might impede the free enforcement of the arbitral award, for instance in countries in which the Convention, in order to be given effect, would have to be translated into legislation*".	PJ[81]	Above, at p.2.
32.2		**USA's delegate** regarded the principle of national treatment embodied in the UK proposal as deserving serious consideration: "*in any situation in the arbitral process in which discrimination based on nationality was possible*".	PJ[81]	Above, at p.3.
33.	27 May 1958	**Eleventh Meeting of the Conference** held.	PJ[82]	UN Doc E/CONF.26/SR.11 (12 September 1958), p. 1.
33.1	27 May 1958	**United Kingdom's delegate** states that *"delegations seemed to agree that enforcement should be governed by domestic procedure and that higher fees and*	PJ[82]	Above, at p. 4.

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		charges should not be demanded for foreign than for domestic awards" and tentatively supported the following formula proposed by Israel: *"in accordance with rules of procedure not substantially more onerous than those applied to domestic awards".*		
34.	28 May 1958	**Thirteenth Meeting of the Conference** held.		UN Doc E/CONF.26/SR.13 (12 September 1958)
35.	29 May 1958	**Fourteenth Meeting of the Conference** held.		UN Doc E/CONF.26/SR.14 (12 September 1958)
36.	2 June 1958	**Fifteenth Meeting of the Conference** held.		UN Doc E/CONF.26/SR.15 (12 September 1958)
36.1		**The USSR's delegate** stated: "*It seemed to him appropriate, however, to leave States free to apply the Convention only to disputes arising out of commercial contracts, as provided for in article I, paragraph 2 of the Committee's draft.*"		Above, at p. 7.
36.2		**Australia's delegate:** "*remarked that the States of Australia did not distinguish between civil and commercial law. He therefore did not see the need for a clause limiting the application of the Convention to disputes arising out of commercial contracts. If such a clause was adopted, however, the States making reservations should at least define what they understood by "commercial contracts", so that other Contracting States might know the exact extent of their obligations.*"		Above, at p. 8.
37.	2 June 1958	**Considerations of the ECOSOC Draft by Working Party No. 1 established by the Conference**.		UN Doc E/CONF.26/L.42 (2 June 1958)
37.1		"*5. ... the Working Party submits the following proposed text of article I, paragraph 1 for consideration by the Conference:* *"This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of disputes or differences between physical or legal persons. It shall also*		Above, at p.2.

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		apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought." *6. The foregoing text is presented on the understanding that: (a) the scope of application of the Convention may be qualified by such provisions as the Conference may adopt enabling Contracting States to exclude certain categories of arbitral awards from the application of the Convention; (b) the Convention will include a clause providing that it will apply not only to arbitral awards made by arbitral bodies appointed for each case but also to those made by permanent arbitral bodies to which the parties have voluntarily submitted …*"		
38.	3 June 1958	**Sixteenth Meeting of the Conference** held.	PJ[83]	UN Doc E/CONF.26/SR.16 (12 September 1958)
38.1		**Philippines' delegate** states that *"the English expression 'physical or legal persons' … had no specific legal meaning and should be replaced by 'natural or juridical persons'".*	PJ[83]	Above, at p.2.
38.2		**Israel's delegate** proposed the deletion of the phrase "*and arising of disputes or differences between physical or legal persons,".*		Above, at p. 2.
38.3		**Austria's delegate:** *"supported the Israel representative's proposal to delete the words "and arising out of disputes or differences between physical or legal persons' in the Working Party's text for article I (1)…".*		Above, at p.4.
38.4		**Australia's delegate** states: Australia *"was a priori in favour of the Israel proposal. However, as that proposal had first been submitted to Working Party No 1, he wished to know what objections the members of the Party had raised to it."*		Above, at p. 5.
38.5		**Italy's delegate** states: *"He wondered whether the words 'arising out of disputes … between … legal persons' might not furnish grounds for invoking the Convention in a dispute between States submitted to the Permanent Court of Arbitration in The Hague."*		Above, at p. 5.
38.6		In response to Italy's statement, **the President** stated he "*thought that the Ad Hoc Committee had had no such intention when it had prepared the draft Convention*".		Above at p. 5.

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38.7		The amendment proposed by Israel was rejected.		Above, at p. 6.
39.	9 June 1958	**Twenty Third Meeting of the Conference** held.		UN Doc E/CONF.26/SR.23 (12 September 1958)
39.1		As to the Title of the draft Convention: The **Italian** delegate "*observed that the title referred to 'foreign' arbitral awards although the word 'foreign' did not appear in the body of the Convention. He thought it would be sufficient to speak simply of the recognition and enforcement of 'arbitral awards'".* The **Swiss** delegate "*agreed with the representative of Italy that the title of the Convention should be in keeping with its text. He would have preferred the phrase 'arbitral awards in private law'".* The **UK** delegate "*did not like the term 'in private law' since the Convention might apply to public arbitral bodies".* The **Indian** delegate proposed that the title should refer to "*Certain"* instead of "*foreign*" arbitral awards. The delegate from **Ceylon** felt India's suggestion was "*somewhat vague*" and preferred not to modify the title. The **El Salvador** representative suggested that "*the title should speak of 'some' arbitral awards, rather than of arbitral awards in general*". The **USSR** delegate "*thought it best to keep the title that had been approved by the Drafting Committee*". On a vote, the Italian proposal was rejected 26 votes to 7 with 2 abstentions.		Above, at pp. 5 and 6.
40.	10 June 1958	**Twenty Fourth Meeting of the Conference** held.		UN Doc E/CONF.26/SR.24 (12 September 1958)
40.1		**Norway's delegate** states "[s]*ome provision had already been made for reciprocity in the first sentence of article I, paragraph 3, and in article XI, paragraph, but no corresponding words had been inserted in the second sentence of article I, paragraph 3…*[a] *general caluse, contained in a separate article…would remedy all those defects*".		Above, at p.6
41.	10 June 1958	**Final Act and Convention on the Recognition and Enforcement of Foreign Arbitral Awards**	PJ[84] [85]	UN Doc E/CONF.26/8/Rev.1, p 5 - 7

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41.1		The Final Act of the United Nations Conference on International Commercial Arbitration (UN Doc E/CONF.26/8/Rev.1): **At [1]:** refers to the terms of ECOSOC Resolution 604 (XXI) (item 22 above) **At [13]** notes that the Conference "*prepared and opened for signature*" the NY Convention "*annexed to this Final Act*". **At [16]:** records the following resolution adopted by the Conference: "*in addition to the convention on the recognition and enforcement of foreign arbitral awards just concluded, which would contribute to increasing the effectiveness of arbitration in the settlement of private law disputes, additional measures should be taken in this field*".	PJ[84] [85]	Above, at pp. 5 and 6.
42.	10 June 1958	New York Convention opened for signature.		UN Doc E/CONF.26/8/Rev.1, p. 5.
43.	13 July 1960	India deposits an instrument of ratification of the New York Convention with the Secretary-General. The instrument of ratification contains the reservations under Article 1(3) of the New York Convention.	FC[24]	ABFM 906 (Tab 13)
44.	11 October 1960	New York Convention enters into force for India.	FC[24], [33]	ABFM 906 (Tab 13)
45.	24 April 1964	The Netherlands deposits an instrument of ratification of the New York Convention with the Secretary-General. The instrument of ratification contains the first reservation under Article 1(3) of the New York Convention.		
46.	23 July 1964	The New York Convention enters into force for the Netherlands.		
47.	30 September 1970	The United States of America deposits an instrument of accession to the New York Convention with the Secretary-General. The instrument of accession contains the reservations under Article 1(3) of the New York Convention.		
48.	29 December 1970	The New York Convention enters into force for the Unites States of America.		
49.	9 December 1974	The *Arbitration (Foreign Awards and Agreements) Act 1974* (Cth) commences (now titled *International Arbitration Act 1974* (Cth) (**IAA**)).		

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50.	26 March 1975	Australia deposits an instrument of accession to the New York Convention without reservation.	PJ[58]; FC[24]	
51.	24 June 1975	The New York Convention enters into force for Australia.	PJ[43]; FC[24], [33]	
52.	19 June 1996	Mauritius deposits an instrument of accession to the New York Convention with the Secretary-General. The instrument of accession contains the first reservation under Article 1(3) of the New York Convention.		
53.	17 September 1996	The New York Convention enters into force for Mauritius.		
54.	24 May 2013	Mauritius notifies the Secretary-General of its decision to withdraw the declaration made upon accession to the New York Convention with respect to reciprocity per Article 1(3).		

B. AUSTRALIA'S FOREIGN STATES IMMUNITIES LEGISLATION

Item	Date	Event	PJ / FC Ref	ABFM / RBFM Ref
55.	10 October 1984	The Australian Law Report Commission tables Report No. 24 on Foreign State Immunity.		
56.	1 April 1986	Foreign States Immunities Act 1985 (Cth) (FSIA) commences.		

C. THE BIT AND THE ARBITRATION

Item	Date	Event	PJ / FC Ref	ABFM / RBFM Ref
C.1	**Bilateral Investment Treaty**			
57.	4 September 1998	The Republic of India and Mauritius sign a bilateral investment treaty known as the *Agreement between the Government of the Republic of India and the Government of the Republic of Mauritius for the Promotion and Protection of Investments* (**BIT**).	PJ[3]; FC[6]	ABFM 6-16 (Tab 1)
58.	20 June 2000	The BIT enters into force.	PJ[3]	
59.	22 March 2017	The **BIT** is **terminated** by the Republic of India.	PJ[3]	
C.2	**Matters Relevant to the Arbitration**[4]			
60.	17 December 2004	Devas Multimedia Private Limited (**DEMPL**) **incorporated**.	PJ[10]; FC[9]	
61.	28 January 2005	Agreement for the lease of Space Segment Capacity on ISRO/ANTRIX S-Band Spacecraft (**Antrix Agreement**) entered into by DEMPL and Antrix).	PJ[10]; FC[9]	ABFM 17-69 (Tab 2)
62.	10 February 2006	CC/Devas (Mauritius) Ltd. incorporated in Mauritius.	PJ[3]	
63.	20 February 2006	Telecom Devas Mauritius Limited incorporated in Mauritius.	PJ[3]	
64.	16 April 2009	Devas Employees Fund Mauritius Pvt. Ltd. incorporated in Mauritius.	PJ[3]	

[4] Documents marked with an asterisk in this sub-section C.2 were admitted in Federal Court Proceedings No. NSD 347 of 2021 subject to a s 136 limitation that this document is admitted only as evidence that the document was in those terms and formed part of the arbitration record but not as proof of the truth of any statement within the document.

Item	Date	Event	PJ / FC Ref	ABFM / RBFM Ref
65.	17 February 2011	Decision of Cabinet Committee on Security which is impugned in the arbitration.*	PJ[11]; [115]; FC[10]	
66.	25 February 2011	Antrix terminates the Antrix Agreement by letter to DEMPL.*	PJ[115]	
C.3	**Arbitration proceedings (PCA Case No. 2013-09)[5]**			
67.	3 July 2012	**Notice of Arbitration** submitted by CC/Devas (Mauritius) Ltd., Devas Employees Mauritius Private Limited and Telecom Devas Mauritius Limited against The Republic of India.	PJ [12]; FC[8], [11]	ABFM 70-112 (Tab 3)
68.	15 May 2013	Terms of Appointment for PCA Case No.2013-09 (the **Arbitration**) are issued.	PJ[12]	ABFM 113-122 (Tab 4)
69.	1 July 2013	**Statement of Claim** submitted by the Claimants.	PJ[9]	
70.	16 October 2013	**Procedural Order No. 1** issued.	-	ABFM 123-129 (Tab 4)
71.	2 December 2013	**Statement of Defence** submitted by the Respondents.	-	ABFM 130 – 263 (Tab 7)
72.	17 March 2014	**Statement of Reply** submitted by the Claimants.	-	
73.	1 July 2014	**Statement of Rejoinder** submitted by the Respondents.	-	ABFM 264 – 388 (Tab 7)
74.	25 July 2016	*CC/Devas (Mauritius) Ltd and Ors v The Republic of India*, PCA Case No. 2013-09 (**Award on Jurisdiction and Merits**) rendered.	PJ[13]; FC[12]	ABFM 389-591 (Tab 8)
75.	13 October 2020	*CC/Devas (Mauritius) Ltd and Ors v The Republic of India (Award on Quantum)*, PCA Case No. 2013-09 (**Award on Quantum**) rendered.	PJ[1]; [13]; FC[12]	ABFM 592-819 (Tab 9)

[5] All documents in this sub-section C.3 were admitted in Federal Court Proceedings No. NSD 347 of 2021 subject to s 136 limitations that: (a) (in respect of items 68 to 74), each document may be used as proof that the document was so filed or issued in the arbitration and that it contains statements recorded therein, but not admitted as proof of any of the underlying matters in dispute, whether as to jurisdiction, merits or quantum, in (i) the arbitration between the parties; (ii) the ICC arbitration between Devas India and Antrix, or (iii) any proceedings in other jurisdictions; and (b) (in respect of items 75 and 76), each document may be used as proof that the Tribunal made the award (with all of its content) but not as proof of: (i) any of the underlying matters in dispute; or (ii) the existence of any fact or conclusion of law that was in issue in the arbitration.

D. AUSTRALIAN PROCEEDINGS

Item	Date	Event	PJ / FC Ref	ABFM / RBFM Ref
D.1	**First Instance Proceedings in the Federal Court of Australia**			
76.	21 April 2021	Applicants[6] file an originating application to enforce the Award on Quantum under the *International Arbitration Act* 1974 (Cth) (**Originating Application**).	PJ[16]; FC[83]	
77.	3 June 2021	India files an interlocutory application seeking (1) an order that the Originating Application be set aside, (2) a declaration that the Originating Application had not been duly served on the Respondent, and other relief.	PJ[16]	
78.	12 July 2021	Applicants seek leave to file an amended Originating Application and to serve that application on India through diplomatic channels.	PJ[16]	
79.	29 July 2021	The Honourable Justice Stewart orders that the Applicants have leave to amend the Originating Application, and leave to serve India by means of diplomatic service.	PJ[16]	
80.	13 August 2021	Applicants file the **Amended Originating Application**.	PJ[1]; [16]; FC[83]	ABFM 820-827 (Tab 10)
81.	31 January 2022	The Department of Foreign Affairs and Trade effects service of the Amended Originating Application on India.		
82.	12 April 2022	India files an interlocutory application seeking orders to set aside the Amended Originating Application, and other relief, on the basis of foreign state immunity (**Immunity Application**).	FC[1]; [16]	ABFM 828-830 (Tab 11)
83.	8 July 2022	Applicants file submissions (with annexure) on the Immunity Application.		Extract at RBFM 34 – 37 (Tab 2)
84.	9 September 2022	India files submissions in support of the Immunity Application.		
85.	2 December 2022	Applicants file reply submissions in opposition to the Immunity Application.		Extract at RBFM 44 – 50 (Tab 4)

[6] The applicants were later substituted, refer to orders on 16 May 2023. See also *CC/Devas (Mauritius) Ltd v Republic of India (No 2)* 1120231 FCA 527.

Item	Date	Event	PJ / FC Ref	ABFM / RBFM Ref
86.	12 April 2023	The High Court of Australia hands down its judgment in *Kingdom of **Spain** v Infrastructure Services Luxembourg S.A.R.L* [2023] HCA 11.		
87.	8 May 2023	India files rejoinder submissions in support of the Immunity Application.		Extract at RBFM 51 – 56 (Tab 5)
88.	16 May 2023	The Honourable Justice Jackman orders that CCDM Holdings, LLC; Devas Employees Fund US, LLC; and Telecom Devas, LLC be joined and substituted as Applicants.	PJ[2]; [16]	
89.	7 June 2023	Applicants file submissions on *Kingdom of Spain v Infrastructure Services Luxembourg S.A.R.L* [2023] HCA 11.		
90.	26 June 2023	India files responsive submission on *Kingdom of Spain v Infrastructure Services Luxembourg S.A.R.L* [2023] HCA 11.		
91.	25 – 28 September 2023	Hearing on the Immunity Application before the Honourable Justice Jackman.		ABFM 836 – 905 (Tab 12)
92.	24 October 2023	**Primary Judgment**: CCDM Holdings, LLC v Republic of India (No 3) [2023] FCA 1266		
D.2	**Appeal Proceedings in the Full Federal Court of Australia**			
93.	7 November 2023	India files an Application for Leave to Appeal.	FC[3]	
94.	10 November 2023	Leave to Appeal granted (Jackman J)	FC[3]	
95.	8 December 2023	India files Notice of Appeal.	FC[46]-[48]	
96.	21 December 2023	Respondents (now Appellants) file Notice of Contention.	FC[49]-[51]	ABFM 907 – 910 (Tab 14)
97.	26 February 2024	India files outline of submissions on the Notice of Appeal.		ABFM 911 – 933 (Tab 15)
98.	28 March 2024	The Respondents (now Appellants) file submissions in response to the Notice of Appeal. The submissions indicate that the Respondents (now Appellants) do not press Ground 2 of the Notice of Contention dated 21 December 2023.		ABFM 934 – 954 (Tab 16)
99.	22 April 2024	India files submissions in reply.		ABFM 991 – 1002 (Tab 19)

Item	Date	Event	PJ / FC Ref	ABFM / RBFM Ref
100.	23 May 2024	Hearing before the Honourable Justices S. Derrington, Stewart and Feutrill.		ABFM 1003 – 1071 (Tab 19)
101.	31 January 2025	Judgment and Orders made allowing India's appeal (*The Republic of India v CCDM Holdings, LLC* (2025) 307 FCR 308; [2025] FCFCA 2).		
D.3	**Proceedings in the High Court of Australia**			
102.	28 February 2025	The Applicants (now Appellants) file an Application for Special Leave to Appeal.		RBFM 101 – 132 (Tab 8)
103.	12 June 2025	Special leave to appeal is granted: (*CCDM Holdings, LLC & Ors v The Republic of India* [2025] HCADisp 120).		
104.	26 June 2025	The Appellants file a Notice of Appeal.		
105.	3 July 2025	India files a Conditional Appearance and Notice of Contention		
106.	31 July 2025	The Appellants file their submissions (with Annexure) on the Notice of Appeal.		

Dated 28 August 2025

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