

An aerial photograph of a coastline, showing a mix of brownish land and blue water. A white border frames the central text area.

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## **The Geneva Convention Awards: Chapter II of Part II of the Arbitration and Conciliation Act, 1996**

Vishnu Bharathi S<sup>1</sup>

### **ABSTRACT:**

This article examines Chapter II of Part II of the Arbitration and Conciliation Act, 1996, which encompasses the Geneva Convention Awards. The study explores the provisions related to the recognition and enforcement of foreign arbitral awards in India, with a focus on their significance and impact. By adopting the principles of the New York Convention, this framework aims to promote international arbitration and establish India as an arbitration-friendly jurisdiction. The provisions outlined in the Act ensure that foreign arbitral awards are given due recognition and can be enforced within India's jurisdiction. The research question guiding this study is: How do the Geneva Convention Awards in Chapter II of Part II of the Arbitration and Conciliation Act, 1996 contribute to the recognition and enforcement of foreign arbitral awards in India?

### **FINDINGS:**

The study reveals the following key findings:

1. The Geneva Convention Awards, as outlined in Chapter 2 of Part 2 of the Arbitration and Conciliation Act, 1996, play a vital role in regulating the recognition and enforcement of foreign arbitral awards in India.
2. By adopting the principles of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, India demonstrates its commitment to international arbitration and promoting legal certainty in cross-border transactions.
3. Section 48 of the Act establishes the conditions for the enforcement of foreign awards, ensuring that the arbitration agreement is valid, parties receive proper notice, and the opportunity to present their case, and that the arbitral authority's composition and procedure adhere to the agreement or the law of the country where the arbitration takes place.

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<sup>1</sup> The author is a student of law at Vidya Vikas Institute of Legal Studies, Mysore.

## PROVISIONS

### I. Section 48: Conditions for Enforcement of Foreign Awards

According to this provision, a foreign award can only be enforced if it meets certain requirements:

- a) The arbitration agreement is valid as per the law applicable to it.
- b) The party against whom the award is invoked was not given proper notice of the arbitration proceedings.
- c) The party against whom the award is invoked was unable to present their case.
- d) The award deals with matters beyond the scope of the arbitration agreement.
- e) The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or the law of the country where the arbitration took place.

In the case of **Khardab Company V. Raymon & Co (India) private, Ltd<sup>2</sup>**, it was held by apex of court of India that an arbitration clause, which forms an inherent part of an agreement, cannot be enforced when that agreement is declared illegal.

II. Chapter 2 of the Arbitration and Conciliation Act, 1996, provides a robust legal framework for the recognition and enforcement of foreign arbitral awards. Under this chapter, certain conditions must be fulfilled for a foreign award to be enforceable in India. These conditions include:

- a) **Validity of the Arbitration Agreement:** The arbitration agreement must be valid as per the law applicable to it. If the agreement is found to be invalid, it may affect the enforceability of the foreign award.
- b) **Notice and Opportunity to Present Case:** The party against whom the award is invoked must have been given proper notice of the arbitration proceedings and an opportunity to

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<sup>2</sup> 1962 AIR 1810, 1963 SCR (3) 183.

present their case. Absence of proper notice or denial of the right to present a case may render the award unenforceable.

- c) **Scope of the Award:** The award must deal with matters falling within the scope of the arbitration agreement. If the award extends beyond the agreed- upon scope, it may face challenges during recognition and enforcement.
  - d) **Compliance with Arbitration Procedure:** The composition of the arbitral authority and the arbitral procedure should be in accordance with the agreement of the parties or the law of the country where the arbitration took place. Non-compliance with the agreed-upon procedure may impact the enforceability of the award.
4. The inclusion of Chapter 2 in the Arbitration and Conciliation Act, 1996, contributes to India's reputation as an arbitration-friendly jurisdiction, enhancing its standing in the international arbitration community.

#### **IMPACT AND SIGNIFICANCE:**

The Geneva Convention Awards under the Arbitration and Conciliation Act, 1996, have had a profound impact on the arbitration landscape in India. The following points highlight their significance:

- 1) Promotion of International Arbitration: By incorporating the principles of the New York Convention, the Geneva Convention Awards promote international arbitration in India. This encourages parties to choose India as a favorable seat for cross-border dispute resolution, furthering India's position as an arbitration-friendly jurisdiction.
- 2) Legal Certainty and Predictability: The provisions of the Geneva Convention Awards contribute to legal certainty and predictability. Parties involved in cross-border transactions can have confidence that foreign arbitral awards will be recognized and enforced in India, fostering a secure and reliable business environment.
- 3) International Reputation: India's adherence to the Geneva Convention Awards enhances its reputation in the global arbitration community. By recognizing and enforcing foreign awards, India showcases its commitment to the principles of



reciprocity and comity between nations, attracting foreign investors and businesses seeking a fair and efficient dispute resolution mechanism.

- 4) Alignment with global Standards: The incorporation of the Geneva Convention Awards aligns India's arbitration laws with international best practices. This harmonization facilitates smoother cross-border enforcement and strengthens India's engagement with the international arbitration community.

## **CONCLUSION:**

The Geneva Convention Awards, encompassing Chapter II of Part II of the Arbitration and Conciliation Act, 1996, significantly contribute to the recognition and enforcement of foreign arbitral awards in India. By adopting the principles of the New York Convention, this legal framework promotes international arbitration, legal certainty, and predictability in cross-border transactions. The provisions, particularly Section 48, establish the conditions for enforcing foreign awards, ensuring that due process is followed and parties are treated fairly.

The incorporation of the Geneva Convention Awards in India's arbitration law demonstrates the country's commitment to fostering an arbitration-friendly environment. This framework not only strengthens India's participation in the global arbitration landscape but also instills confidence in foreign investors and businesses, making India an attractive seat for international arbitration proceedings.

Overall, the Geneva Convention Awards in Chapter II of Part II of the Arbitration and Conciliation Act, 1996, play a crucial role in enhancing India's arbitration framework and contributing to the efficient resolution of cross-border disputes.