

## Annex I

### IBA – UNCITRAL Questionnaire

#### Implementation of the New York Convention

*Note:* Please provide copies of all relevant laws and regulations that relate to the implementation of the Convention in your country, in original language and, if possible, translations into English, French or Spanish. Whenever appropriate, please answer the questions below by referring to those laws and regulations.

#### A. Implementation of the Convention

1. How did the Convention gain the force of law in your country, binding your courts to apply it?

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1.1 Please specify whether the legislative action was limited to authorizing ratification or accession to the Convention, or whether that action included legislation implementing the Convention. (In case that the relevant action was not taken by the legislature but by another governmental body, please specify the action).

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1.1.1 Does the implementing legislation incorporate the text of the Convention or merely refer to it?

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1.1.2 If the text is incorporated, does the implementing legislation reproduce the text of the Convention or does it paraphrase it?

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1.1.3 In the event that the text of the Convention is paraphrased in the implementing legislation, what is the legal significance of the text of the Convention? For example, may, or must, the courts in your country rely on the text of the implementing legislation where it differs from the text appearing in the Convention?

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1.1.4 Does the text of the Convention, as implemented in your country, stand alone or is it incorporated into a larger text (e.g., a code of civil procedure)?

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1.1.5 If the implementing legislation is part of a broader legislative text, does this affect the practical implementation or interpretation of the Convention?

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1.1.6 Generally, what rules of interpretation would the courts apply in interpreting the Convention and/or the implementing legislation (*travaux préparatoires* of the Convention; court cases from other signatory countries)?

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1.1.7 In your view, does the method of implementation result in any substantial differences between the implementing legislation and the provisions of the Convention, and if so, in which respect? If feasible, please indicate the places where the implementing legislation is different from the text of the Convention.  
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1.2 If your country has made use of the first (reciprocity) reservation, or the second (commercial) reservation contained in article I(3), is this referred to or reflected in your implementing legislation, and if so, in which manner?  
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1.3 Does your implementing legislation define the scope of article II of the Convention, and, for example, specify which arbitration agreements qualify for the referral to arbitration under the Convention. (e.g., international arbitration agreement, and/or agreement between nationals of different States)?  
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1.4 Have any procedural requirements or conditions for enforcement been established by a court decision? If so, please indicate the cases.  
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**B. Court or Authority Competent to Decide on Recognition and Enforcement**

2. Which court or authority is competent to decide on a request for enforcement? Is it one particular court or authority for the entire country or is it one type of court or authority? What criteria determine the competence of the court or authority?  
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**C. Procedural Rules**

3. Please describe the procedures or requirements applicable to a request for enforcement of a Convention award. Is the applicant required to present anything else than the arbitral award and the arbitration agreement as provided in article IV of the Convention?  
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3.1 Are there any legislative provisions, rules of court, or regulations, detailing the procedure applicable to the enforcement of a Convention award? (see articles III and IV of the Convention). (For example, is it stated what “duly authenticated” means in article IV, which requires the applicant to supply “the duly authenticated award or a duly certified copy thereof”?)  
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3.2 What are the fees, levies, taxes or duties that are to be paid in connection with the application for enforcement of a Convention award, and on which bases are they

calculated? Please specify whether any such payment is to be made irrespective of the success of the application or only for an act granting the enforcement of the award.

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3.2.1 In comparison, what are the fees, levies, taxes, or duties applicable to the request for enforcement of an award made in your country or of an award otherwise considered as domestic in your country?

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3.3 May an applicant subsequently cure any defect in the documents submitted at the time of the application for enforcement of a Convention award?

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3.4 Should a translation of the arbitration agreement and arbitral award always be provided by the applicant, even if the court can be deemed to be fully familiar with the foreign language in which these documents are expressed?

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3.5 Is there a limited time period for applying for recognition and enforcement of a Convention award? Which is the period? Please clarify whether the period is the same for any award or Convention award or does the period depend on the type of claim incorporated in the award?

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3.6 Please describe the procedures that the party against whom enforcement is sought can use to raise objections against the request for enforcement with a view to preventing enforcement.

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3.7 Please describe the procedures and competent court for any appeal or other possible recourse against a decision refusing to enforce an award.

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3.8 Please describe the procedures and competent court for any appeal or other possible recourse against a leave for enforcement.

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3.8.1 Does the lodging of the appeal or other recourse suspend automatically the enforcement of the award? Or may, upon request, suspension be ordered by the court or authority?

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**D. Comments**

Do you have any additional comments with regard to the rules governing the implementation of the Convention in your country?

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