

Public Law 101-369
101st Congress

An Act

Aug. 15, 1990
[H.R. 4314]

To implement the Inter-American Convention on International Commercial Arbitration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 9, UNITED STATES CODE.

Title 9, United States Code, is amended by adding at the end the following:

“CHAPTER 3. INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

“Sec.

“301. Enforcement of Convention.

“302. Incorporation by reference.

“303. Order to compel arbitration; appointment of arbitrators; locale.

“304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity.

“305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.

“306. Applicable rules of Inter-American Commercial Arbitration Commission.

“307. Chapter 1; residual application.

“§ 301. Enforcement of Convention

“The Inter-American Convention on International Commercial Arbitration of January 30, 1975, shall be enforced in United States courts in accordance with this chapter.

“§ 302. Incorporation by reference

“Sections 202, 203, 204, 205, and 207 of this title shall apply to this chapter as if specifically set forth herein, except that for the purposes of this chapter ‘the Convention’ shall mean the Inter-American Convention.

“§ 303. Order to compel arbitration; appointment of arbitrators; locale

“(a) A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. The court may also appoint arbitrators in accordance with the provisions of the agreement.

“(b) In the event the agreement does not make provision for the place of arbitration or the appointment of arbitrators, the court shall direct that the arbitration shall be held and the arbitrators be appointed in accordance with Article 3 of the Inter-American Convention.

“§ 304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity

“Arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforced under this chapter only if that State has ratified or acceded to the Inter-American Convention.

“§ 305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958

“When the requirements for application of both the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, are met, determination as to which Convention applies shall, unless otherwise expressly agreed, be made as follows:

“(1) If a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organization of American States, the Inter-American Convention shall apply.

“(2) In all other cases the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall apply.

“§ 306. Applicable rules of Inter-American Commercial Arbitration Commission

“(a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on July 1, 1988.

“(b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of that Commission, the Secretary of State, by regulation in accordance with section 553 of title 5, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.

“§ 307. Chapter 1; residual application

“Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States.”

SEC. 2. CLERICAL AMENDMENT.

The table of chapters at the beginning of title 9, United States Code, is further amended by adding at the end the following new item:

“3. Inter-American Convention on International Commercial Arbitration 301”.

9 USC 301 note.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 4314 (S. 1941):

HOUSE REPORTS: No. 101-501 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 136 (1990):

June 5, considered and passed House.

Aug. 4, considered and passed Senate.