Enforcement of Arbitral Awards Issued by the Additional Facility of the International Centre of Settlement of Investment Disputes (ICSID)

Diane Orentlicher
ENFORCEMENT OF ARBITRAL AWARDS
ISSUED BY THE ADDITIONAL FACILITY
OF THE INTERNATIONAL CENTRE OF
SETTLEMENT OF INVESTMENT DISPUTES
(ICSID)

Edward R. Leahy*
Diane F. Orentlicher**

I. INTRODUCTION

The rapid expansion of international trade following World War II heightened the need for an effective means of resolving disputes arising out of international transactions. During the past several decades, international arbitration facilities have proliferated and have found a ready market for their services. The business world has increasingly opted for the relative certainty and simplicity of arbitration over the perils, complexities and delays associated with litigating in a foreign court.

Recognizing the vital role arbitration now plays in international trade, the United States has concluded a number of bilateral treaties providing for the enforcement of arbitral awards based on transactions between nationals of the party states.1 Similarly, Congress has enacted several laws providing for the enforcement of foreign arbitral awards.2 A former hostility by U.S. courts toward international arbitration has given way to a decisive preference for arbitration as a means of resolving disputes.3

Despite these trends, it is not always clear whether U.S. law provides a basis for enforcement of arbitral awards rendered under the auspices of specialized tribunals. This issue was pointedly raised by the creation in 1978 of the Additional Facility of the International Centre for Settlement of Investment Disputes ("ICSID"). The Additional Facility was established to administer certain proceedings between States

*Partner in Steptoe & Johnson, Washington, D.C.
**Deputy Director, The Lawyers' Committee for International Human Rights, New York, N.Y.

and nationals of other States that fall outside the scope of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States.\(^4\) Thus, existing legislation providing for enforcement of awards rendered pursuant to that convention\(^5\) cannot be relied upon for enforcement of awards rendered by the Additional Facility, raising the question whether other laws can be relied upon for enforcement of Additional Facility awards.

This question has significant practical implications, especially with regard to the bilateral investment treaties presently being negotiated between the United States and other nations. For example, the Treaty Between the United States and the Republic of Panama Concerning the Treatment and Protection of Investments ("Panama Treaty"), signed October 27, 1982, provides for arbitration before the Additional Facility of investment disputes between a treaty party and a national or company of the other party.\(^6\) The treaty obligates each party to provide for the enforcement within its territory of arbitral awards rendered in arbitration proceedings administered by the Additional Facility.\(^7\) Similar provisions will likely appear in future bilateral investment treaties. This article examines the issue posed by the Panama Treaty: whether awards rendered in arbitration proceedings administered by the Additional Facility and conducted in the United States can be enforced by courts in the United States under existing legislation, or whether new legislation is needed.

2. Limitations on the Scope of Additional Facility Proceedings

The Rules of the Additional Facility impose two limitations upon the scope of its proceedings that are relevant to the enforcement of its awards. First, the Rules provide that arbitration proceedings may be held only in States that are parties to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("New York Convention").\(^8\) The Rules provide further that the arbitral tribunal shall select the place of arbitration.\(^9\) Since the United States is a party to the

---

\(^4\) International Centre for Settlement of Investment Disputes: Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings, 21 I.L.M. 1443 (1982). Proceedings administered by the Additional Facility would include conciliation or arbitration of investment disputes between parties, one of which is not a Contracting State or a national of a Contracting State, and the conciliation or arbitration of disputes that do not directly arise out of an investment, where at least one party is a Contracting State or a national of a Contracting State.


\(^6\) Panama Treaty, art. VII, §§ 2, 3.

\(^7\) Id., art. VII, § 3 (d).

\(^8\) Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes (Additional Facility Rules), Arbitration Rules, art. 20, 21 I.L.M. 1458, 1461 (1982).

\(^9\) Id., art. 21, 21 I.L.M. at 1461.
New York Convention, arbitration under the auspices of the Additional Facility could take place in the United States, as well as in any other country that is a party to the New York Convention.\(^{10}\)

Second, the Rules provide that the Additional Facility is authorized to administer proceedings for the settlement of certain legal disputes arising out of an investment,\(^{11}\) as well as other disputes that do not arise directly out of an investment, provided the underlying transaction has features that distinguish it from an "ordinary commercial transaction".\(^{12}\)

3. **Chapter 2 of the United States Arbitration Act**

Chapter 2 of the United States Arbitration Act provides, *inter alia*, for the enforcement by U.S. courts of arbitral awards "falling under the [New York] Convention".\(^{13}\) For reasons developed below, it appears likely that awards rendered by the Additional Facility would "fall under" the New York Convention within the meaning of Chapter 2, and would thus be enforceable under that statute.

Article I(1) of the New York Convention establishes two potential bases for enforcement of arbitral awards. That paragraph provides:

> "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 differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought".\(^{14}\)

Article I (3) of the New York Convention authorizes Contracting States to limit these bases for enforcement on two separate grounds. First, when signing, ratifying or acceding to the Convention, a State "may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State". Second, a State "may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration".

When the United States acceded to the New York Convention, it entered both of these reservations. The discussion below considers the extent to which each of these

---

\(^{10}\) Panama is not a party to the New York Convention. Accordingly, arbitration under the auspices of the Additional Facility undertaken pursuant to the Panama Treaty could not take place in Panama.

\(^{11}\) Additional Facility Rules, art. 2 (a), 21 I.L.M. 1445 (1982).

\(^{12}\) Id., arts. 2 (b), 4 (3), 21 I.L.M. at 1445, 1446.

\(^{13}\) 9 U.S.C. § 207 (1982).

\(^{14}\) 21 U.S.T. 2517, 2519, T.I.A.S. No 6997, 330 U.N.T.S. 3. Hereinafter, these two bases for enforcement are referred to as the "territorial" and "non-territorial" bases, respectively.

Copyright © 2007 by Kluwer Law International. All rights reserved.
No claim asserted to original government works.
reservations affects the question whether Chapter 2 can be relied upon for enforcement of awards that may be rendered under the auspices of the Additional Facility.

a. The Reciprocity Reservation and the "travaux préparatoires"

The first reservation entered by the United States provides:

"The United States of America will apply the Convention, on the basis of reciprocity, to the recognition and enforcement of only those awards made in the territory of another Contracting State".\(^{15}\)

This reservation can be read two ways. On the one hand, it can be read to provide that the United States will enforce only awards rendered in the territory of a Contracting State other than the United States, thereby making the non-territorial basis for enforcement unavailable in the United States. This construction would necessitate passage of new legislation for enforcement of Additional Facility awards rendered in the United States. Alternatively, the reservation can be understood to provide that, when enforcement in the United States is premised on the territorial basis for enforcement set forth in the New York Convention, the award must have been rendered in the territory of another contracting State. Under this construction, the United States reservation would leave intact the non-territorial basis for enforcement set forth in the Convention, thus permitting enforcement in the United States of Additional Facility awards rendered in the United States that are not considered "domestic" under the law of the United States.

The latter construction of the reservation has substantial support in the travaux préparatoires of the New York Convention. The initial draft of the Convention provided for enforcement of awards rendered anywhere outside the State where enforcement is sought unless a State expressly limited its adherence to the Convention by declaring that it would enforce only awards rendered in the territory of another Contracting State or to awards relating to Commercial disputes.\(^{16}\) At the time this draft was prepared, the non-territorial basis for enforcement of awards had not yet been proposed. Necessarily, then, the early provision allowing States to limit enforcement to awards rendered in the territory of another Contracting State could not have been intended to preclude enforcement of "non-domestic" awards rendered in the enforcing State.

The implications of the legislative history of Chapter 2 are less clear, but that history tends to support the construction suggested by the travaux préparatoires of the

\(^{15}\) 21 U.S.T. at 2366.

ENFORCEMENT OF ICSID AWARDS

New York Convention. When the proponents of Chapter 2 discussed the United States' intention to enter the reservation described above, they indicated that the sole purpose of the reservation was to make reciprocity the criterium for enforcement of awards rendered in a State other than the one in which enforcement is sought. For example, one Senate report noted that

"[t]he administration recommends that accession to the convention be accompanied by declarations that the United States, on the basis of reciprocity, would not be required to recognize and enforce awards made in states not parties to the Convention or awards made in another contracting state with respect to matters excluded by that state..." 

In entering the reservation, the United States thus seemed concerned only with limiting the reach of the territorial basis for enforcement of awards set forth in the New York Convention and not with excluding the non-territorial basis.

Read in conjunction with relevant portions of the travaux préparatoires of the New York Convention, the text of Chapter 2 itself also suggests that the United States' reservation was not meant to exclude the non-territorial basis for enforcement of awards set forth in the Convention. The second sentence of section 202 of Title 9 specifies that an award arising out of a relationship that is entirely between U.S. citizens does not fall under the Convention unless the relationship has sufficient foreign elements. For reasons outlined below, the travaux préparatoires of the New York Convention suggest that this provision should be understood to limit the scope of the non-territorial basis for enforcement set forth in the Convention. Such a limitation would be unnecessary if Chapter 2 authorized enforcement of only those awards in the territory of a Contracting State other than the United States.

As noted above, the preliminary draft of the New York Convention provided for enforcement of only those awards rendered in a country other than the one in which enforcement was sought. Once the non-territorial basis for enforcement was

---

17 Presumably, this limitation was thought to promote acceptance of the New York Convention by States.


"[t]he convention permits a declaration to be made which limits granting benefits under the convention to States which have assumed the obligations of the convention. We plan to make such a declaration".

19 That sentence provides:

"An agreement or award arising out of [a legal relationship that is considered commercial] which is entirely between citizens of the United States shall be deemed not to fall under the Convention unless that relationship involves property located abroad, envisages performance or enforcement abroad, or has some other reasonable relation with one or more foreign states". 9 U.S.C. § 202 (1982).

conceived, the drafting Conference explicitly rejected a proposal by several countries to allow States to refuse to enforce awards that are rendered abroad, but are nonetheless considered "domestic" under the law of the State in which enforcement is sought.\(^{21}\) It chose instead to adopt a text that allowed countries to enforce awards that are considered "not domestic" even though they are rendered in the enforcing State, but which did not allow countries to refuse to enforce awards rendered abroad on the ground that such awards were considered "domestic" under the law of the enforcing State.\(^{22}\) Consistent with this decision, the Conference rejected several proposed reservations that would have excluded enforcement of awards rendered abroad but considered "domestic" under the laws of certain countries.\(^{23}\) Thus, the scope of the territorial basis for enforcement set forth in the Convention could not be narrowed by an enforcing State’s law defining what awards are considered "not domestic", and no reservation to this effect could be entered.\(^{24}\)

Consistent with this history, the provisions of Chapter 2 requiring foreign elements as a condition to the enforcement of arbitral awards should not be read merely to qualify application of the territorial basis for enforcement of awards. The drafters of the Convention apparently rejected the right of Contracting States to limit the territorial basis in this manner. Absent evidence that a contrary intention motivated the drafters of section 202, its second sentence should thus be read to contemplate enforcement of awards based upon the non-territorial basis set forth in the New York Convention. Awards rendered in the United States would be enforceable, therefore, except in those instances where all parties were U.S. citizens and there was no reasonable foreign relationship.

While this construction of Chapter 2 is seemingly mandated by the drafting history of the New York Convention, it has little direct support in the legislative history of Chapter 2 itself. Proponents of Chapter 2 explained that the purpose of the second sentence of section 202 was to

"[m]ake it quite clear that arbitration arising out of relationships in interstate commerce...is excluded from the operation of the proposed chapter 2".\(^{25}\)

To this end, section 202 was drafted to exclude enforcement of awards arising out of a transaction between U.S. citizens that lacked a reasonable relationship with a foreign

\(^{21}\) See id. at 292-93.

\(^{22}\) Id. at 293.

\(^{23}\) Id. at 295.

\(^{24}\) But see Aksen, supra note 1, at 13 (draftsmen of New York Convention "understood that a country could decline to have the Convention apply to disputes solely between two of its own citizens. This would prevent local citizens from avoiding their state law with respect to a contract involving interstate commerce by merely providing for arbitration in a foreign country").

ENFORCEMENT OF ICSID AWARDS

state. This legislative history raises the possibility that the second sentence of section 202 was designed to discourage U.S. citizens engaged in a purely domestic transaction from avoiding the jurisdiction of U.S. courts by submitting to arbitration abroad. This possibility is, of course, difficult to reconcile with the view that the second sentence of section 202 was designed to effectuate the non-territorial basis for enforcement of arbitral awards set forth in the New York Convention.

This legislative history, however, is not decisive. It is quite plausible that, in considering how it would delimit the scope of awards rendered in the United States that would be enforceable under Chapter 2, Congress chose to exclude awards that lacked a sufficient international basis. Indeed, such concerns would be particularly relevant with respect to awards rendered in the United States.


Only one case has squarely addressed the question whether awards rendered in the United States can be enforced under Chapter 2. In Bergesen v. Joseph Muller Corp., 710 F. 2d 928 (2d Cir. 1983), the Second Circuit held that Chapter 2 empowers U.S. courts to enforce arbitral awards that are “not considered as domestic awards” under U.S. law, even if the award is rendered in the United States. The court reviewed the negotiating history of the New York Convention and noted that the drafters rejected the proposal that would allow States to exclude certain categories of awards rendered abroad on the basis that those awards are nonetheless considered “domestic”. Without explicitly addressing the question, the court apparently assumed, on the basis of this history, that the United States’ reservation was not intended to narrow

26 See id.
27 The drafters of the New York Convention may have contemplated such a limitation upon the scope of the Convention. See supra note 24.
28 710 F. 2d at 931.
29 This issue was thoroughly briefed by the appellee. Brief for Petitioner-Appellee at 8-12, Bergesen v. Joseph Muller Corp., 710 F. 2d 928 (2d Cir. 1983). Nevertheless, the court merely stated that “the treaty language should be interpreted broadly to effectuate its recognition and enforcement purposes”, and that the declaration of reservations by the United States “provides little reason for us to construe the accession in narrow terms”. 710 F. 2d at 933.

The district court had apparently assumed that the language of the reservation permitted by Article I (3) of the New York Convention would exclude the non-territorial basis for enforcement of awards under that Convention, but concluded that Congress had not acted on the power of reservation when it enacted Chapter 2. 518 F. Supp. 650, 656-57 (S.D.N.Y. 1982). The court based this conclusion on the fact that Chapter 2 provides for enforcement of awards “falling under” the New York Convention and, in delineating the scope of awards “falling under” the New York Convention, makes no mention of a territorial restriction. Id. at 653.

The district court’s legislative intent argument, not addressed by the court of appeals, is difficult to reconcile with the legislative history of Chapter 2. Proponents of the legislation repeatedly expressed the United States’ intention, for reciprocity reasons, to declare that it would recognize only those awards rendered “in the territory of another Contracting State”. See, e.g., Exec. Rep.No.10, 90th Cong. 2d Sess.
the scope of the territorial basis for enforcement set forth in the New York Convention.

The court's analysis proceeded on the assumption that, instead, section 202 was drafted to delimit the scope of awards that would be considered "not domestic" and therefore enforceable pursuant to the non-territorial basis set forth in the New York Convention. The court reasoned:

"In as much as it was apparently left to each state to define which awards were to be considered non-domestic..., Congress spelled out its definition of that concept in section 202".30

Based on this view of section 202, the court concluded that arbitral awards involving two foreign parties rendered within the United States were enforceable:

"Had Congress desired to exclude arbitral awards involving two foreign parties rendered within the United States from enforcement by our courts it could readily have done so. It did not".31

As additional support for its holding, the court cited other provisions of Chapter 2 allowing courts to direct that arbitration be held in the United States.32 The court reasoned that

"[i]t would be anomalous to hold that a district court could direct two aliens to arbitration within the United States under the statute, but that it could not enforce the resulting award under legislation which, in large part, was enacted for just that purpose".33

Under the Bergesen holding, Chapter 2 seems to obviate the need for new legislation authorizing enforcement of Additional Facility awards rendered in the United States.34 A dispute subject to arbitration under the auspices of the Additional

---

30 710 F.2d at 933 (citation omitted).
31 Id.
32 Section 203 provides jurisdiction for disputes between two aliens; § 204 supplies venue. Section 206 states that "a court having jurisdiction under this chapter may direct that arbitration be held ... at any place therein provided for, whether that place is within or without the United States". 710 F. 2d at 933 (emphasis in opinion).
33 Id. The court also reasoned:
"That this particular award might also have been enforced under the Federal Arbitration Act is not significant. There is no reason to assume that Congress did not intend to provide overlapping coverage between the Convention and the Federal Arbitration Act".

Id. at 934.
34 The view of at least one commentator, however, suggests that the Bergesen decision may be incorrect. In the 1982 Yearbook of Commercial Arbitration, Dr. van den Berg states categorically that "[t]he Convention does not apply to the enforcement of an arbitral award which is rendered in the country in which enforcement of such award is sought". (van den Berg, Commentary Volume VII, 1982 Y.B. Com. Arb. 290, 201). It does not appear from the text of van den Berg's commentary, however, that the author considered the travaux préparatoires in arriving at this conclusion.
Facility would almost certainly contain sufficient "foreign" elements to qualify as a "non-domestic" award entitled to enforcement under Article I(1), as implemented by Chapter 2, since the parties to the dispute would include one State and a national or another State.

c. Commercial Matters Reservation

The second reservation to the New York Convention entered by the United States provides:

"The United States of America will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the United States".

This reservation is reflected in section 202 of Chapter 2, which begins:

"An arbitration agreement or arbitral award arising out of a legal relationship, whether contractual or not, which is considered as commercial, including a transaction, contract, or agreement described in section 2 of this title, falls under the [New York] Convention".

Although "commercial" is not defined in either the New York Convention or Chapter 2, the term probably encompasses most disputes capable of arbitration under the auspices of the Additional Facility. The Additional Facility is authorized to administer arbitration proceedings involving two types of disputes: (1) "legal disputes arising directly out of an investment" that do not satisfy the jurisdictional requirements ratione personae of ICSID; and (2) certain legal disputes that "do not arise directly out of an investment", provided the "underlying transaction has features which distinguish it from an ordinary commercial transaction". Thus, Additional Facility arbitration disputes must involve either an investment matter or, apparently, a non-ordinary commercial transaction.

---

37 Additional Facility Rules, art. 2(a), 21 I.L.M. at 1445 (1982).
38 Id., art. 2(b) I.L.M. at 1445.
39 Id., art. 4(3), 21 I.L.M. at 1446.
40 The comment on Article 4(3) to the Additional Facility Rules explains:

"This provision guards against the use of the Additional Facility for disputes arising out of an "ordinary commercial transaction". While the term is not defined, and hardly capable of precise definition, the Administrative Council in approving the provision recorded the following: "Economic transactions which (a) may or may not, depending on their terms, be regarded by the parties as investments for the purposes of the Convention, which (b) involve long-term relationships or the commitment of substantial resources on the part of either party, and which (c) are of special importance to the economy of the State party, can be clearly distinguished from ordinary commercial transactions. Examples of such transactions may be found in various forms of industrial cooperation agreements and major civil works contracts"." 21 I.L.M. at 1446.
These two types of disputes appear to be encompassed by the term "commercial", as used in both Chapter 2 and the New York Convention, since that term is "broad enough under United States law to include almost all known transactions". One court has speculated that the term, as used in the reservation and Chapter 2, was intended "to exclude matrimonial and other domestic relations awards, political awards, and the like".

While the "commercial matter" limitation of Chapter 2 thus seems to encompass all disputes capable of arbitration under the auspices of the Additional Facility, clarifying legislation may nonetheless be desirable to ensure the enforcement of arbitral awards resulting from an expropriation. In *Libyan American Oil Co. v. Socialist People's Libyan Arab Jamahirya*, 482 F. Supp. 1175 (D.D.C. 1980), vacated, (D.C.Cir. May 6, 1981), the court held that it could not enforce an arbitration award designed to afford compensation for an expropriation because the subject matter of the dispute—viewed by the court as an act of state—was "not capable of settlement by arbitration" under United States law. 482 F. Sup. at 1178. This decision has been strongly criticized, and was vacated on appeal. Nevertheless, its existence as the only decision on the enforceability under U.S. law of awards based on foreign expropriation suggests the possible need for clarifying legislation.

---


42 Island Territory of Curacao v. Solitron Devices, Inc., 356 F. Supp. 1, 13 (S.D.N.Y.), aff'd on alternate ground, 489 F.2d 1313 (2d Cir. 1973), cert. denied, 416 U.S. 986 (1974). Cf. Section-by-Section Analysis of a Bill [S. 1638] to Implement the Inter-American Convention on International Commercial Arbitration: "The incorporation of section 202, which provides that an arbitration agreement or arbitral award arising out of a legal relationship "which is considered as commercial" falls under the Convention..." provides the basis for a broad definition of the term "commercial" for purposes of the Convention. The Convention itself provides no definition of the term, but it is the understanding of the United States that trade investment, and other business and financial activities which bear on "foreign commerce" are considered "commercial" and are thus within purview of the Convention". 129 Cong. Rec. S10603 (daily ed. July 21, 1983).


44 The enforcement of such awards is required by the Panama Treaty. Investment disputes referable to arbitration before the Additional Facility under the Panama Treaty include a dispute involving "an alleged breach of any right conferred or created by this treaty with respect to an investment". Panama Treaty, art. VII, paras. 1(c). The treaty further provides that neither party shall expropriate the investment of a national or company of the other party without providing for prompt, adequate and effective compensation. Id., art. IV.
4. **Chapter I of the United States Arbitration Act**

Another potential basis for enforcement of Additional Facility awards is Chapter I of the United States Arbitration Act.\(^{45}\) Chapter I provides, *inter alia*, for enforcement of arbitral awards rendered pursuant to a written agreement to submit to arbitration a controversy arising out of either a maritime transaction or a contract evidencing a transaction involving interstate or foreign commerce.\(^{46}\)

Because Chapter I contemplates enforcement of awards rendered both in the United States and abroad,\(^{47}\) it can be used to enforce many of the awards that could result from Additional facility arbitration procedures. Nevertheless, limitations on the scope of the Act render it an inadequate basis for enforcement of arbitral awards rendered by the Additional Facility. The Act contemplates enforcement of awards only with respect to disputes arising out of a contract or a maritime transaction, while no such limitation applies to disputes referable to arbitration under the auspices of the Additional Facility. Moreover, the Act is expressly inapplicable to awards based on disputes arising out of contracts for the employment of workers engaged in foreign or interstate commerce.\(^{48}\) Such a dispute conceivably could constitute an aspect of a dispute referable to arbitration under the auspices of the Additional Facility.

Other factors render reliance on the Federal Arbitration Act undesirable. For example, a party desiring to invoke the Act must satisfy the federal jurisdictional amount-in-controversy requirement.\(^{49}\) Additionally, a party desiring to enforce an award under the Act must bring an enforcement action within one year of the entry of the award.\(^{50}\) This contrasts with a three-year period for bringing an enforcement action allowed by Chapter II.\(^{51}\)

Finally, Chapter I empowers the court enforcing an arbitral award to modify or correct the award under certain circumstances.\(^{52}\) This is a function that a foreign party who agrees to submit to arbitration under the Additional Facility Rules may not be prepared to entrust to United States courts. Under the Additional Facility Rules, an


\(^{46}\) 9 U.S.C. §§ 1, 2, 9 (1982).

\(^{47}\) An arbitral award rendered outside the United States can be confirmed by U.S. court pursuant to Chapter I only if the parties specified a U.S. court in their agreement to arbitrate. 9 U.S.C. § 9 (1982).


arbitral award “shall be final and binding on the parties”, although the arbitral tribunal may correct errors.

5. Conclusion

The most logical construction of Chapter 2 suggested by the travaux préparatoires of the treaty it implements supports the conclusion that an award rendered in the United States under the auspices of the Additional Facility would be enforceable under Chapter 2. The fact that Additional Facility proceedings are conducted only between States and nationals of other States would clearly seem to bring such proceedings within the Bergesen rule on non-domestic awards and thus permit enforcement under the non-territorial criterion.

54 Id., art. 57(1), 25 I.L.M. at 1466-67.