

Public Law 100-669
100th Congress

An Act

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

Nov. 16, 1988
[S. 2204]

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

SECTION 1. Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

“§ 15. Inapplicability of the Act of State doctrine

“Enforcement of arbitral agreements, confirmation of arbitral awards, and execution upon judgments based on orders confirming such awards shall not be refused on the basis of the Act of State doctrine.”

SEC. 2. Section 1605(a) of title 28, United States Code, is amended by—

- (1) striking out “or” at the end of paragraph (4);
- (2) striking out the period at the end of paragraph (5) and inserting in lieu thereof “; or”; and
- (3) adding at the end thereof the following:

“(6) in which the action is brought, either to enforce an agreement made by the foreign State with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.”

SEC. 3. Section 1610(a) of title 28, United States Code, is amended by—

- (1) striking out the period at the end of paragraph (5) and inserting in lieu thereof “; or”; and
- (2) adding at the end thereof the following:

“(6) the judgment is based on an order confirming an arbitral award rendered against the foreign State, provided that attach-

ment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement.”.

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 2204:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 30, considered and passed Senate.

Oct. 20, considered in House.

Oct. 21, considered and passed House, amended. Senate concurred in House amendment.