

(5) In giving effect to the provisions of Article 2 of the present Agreement, the Federal Republic of Germany shall be entitled to take into account the provisions of the foregoing paragraphs of this Article.

ARTICLE 16

Discharge of Debtors

Whenever a debtor has discharged his debt as settled under the terms of the present Agreement and the Annexes thereto, he shall be deemed to have thereby also discharged all his obligations in respect of such debt as it existed before the settlement, unless such obligations have been previously extinguished by agreement.

ARTICLE 17

Enforcement of Creditors' Rights

(1) The Federal Republic of Germany will afford the creditor the right, within the limits of the present Agreement and the Annexes thereto, to enforce through German courts and authorities—

- (a) his rights with respect to a debt as they exist at the time when action is taken under this Article if the creditor and debtor do not agree on terms of settlement and the creditor declares his assent to the establishment by such courts of terms of payment and other conditions for his debt in accordance with the provisions of the present Agreement and the Annexes thereto;
- (b) his rights under the terms of settlement of the debt if the debtor fails to discharge his obligations in accordance with such terms (including such rights as under the provisions of the present Agreement and the Annexes thereto may be exercised by the creditor upon the failure of the debtor to discharge such obligations), except that the creditor shall not be entitled to the transfer in non-German currency of a principal sum which becomes due as a result of such failure sooner than would have been the case if the debtor had not failed to discharge such obligations.

(2) The creditor shall not be afforded the right provided under paragraph (1) of this Article if, under the provisions of the relevant contract or the present Agreement and the Annexes thereto, the dispute is, at the time that the right provided for under paragraph (1) of this Article is sought to be exercised, exclusively cognisable by an arbitral body or by a court in a creditor country. When such exclusive jurisdiction is provided by the terms of the relevant contract, the debtor and creditor may by agreement waive such a provision and the creditor shall, thereupon, be entitled to such right.

(3)—(a) Irrespective of whether there is reciprocity between the country in which the decision is rendered and the Federal Republic of Germany, the Federal Republic of Germany will afford the creditor the right, subject to the relevant qualifications contained in paragraph (1) and to the provisions of paragraph (4) of this Article, to enforce through German courts and authorities final decisions concerning a debt rendered by courts and arbitral bodies—

- (i) in a creditor country after the entry into force of the present Agreement;
- (ii) in a creditor country prior to the entry into force of the present Agreement, if the debtor does not contest the debt as established by such decision.