**Enforcement of arbitration awards**

International and domestic enforcement of arbitration awards

**Enforcement of arbitration awards**

The vast majority of arbitral awards are complied with voluntarily. However, if the unsuccessful party does not voluntarily comply with the award, the successful party will have to take steps to enforce it through national courts. It will be necessary to determine where an appropriate place is to seek to enforce the award (see below).

If the successful party is looking to enforce an award outside the jurisdiction in which the arbitration was seated, the New York Convention provides an international legal framework through which awards made in one signatory state can be enforced in another state subject only to very limited exceptions.

If enforcing in England and Wales, sections 100-103 of the Arbitration Act 1996 implement the provisions of the New York Convention into domestic legislation, providing for the enforcement of foreign arbitral awards. Section 66 of the Arbitration Act 1996 (which cannot be excluded by the parties) provides for the enforcement of all domestic awards and offers another alternative for foreign awards. It allows a party to apply to the High Court for permission to ‘convert’ the arbitration award into a court judgment. The result of s. 66 is that the successful party can enforce the award in the same way as if it were a court judgment. It is also possible to enforce an award at common law.

**Enforcement through the New York Convention**

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (‘the New York Convention’) is arguably one of the most successful United Nations treaties in the area of international trade law. The New York Convention provides an extensive enforcement regime for international arbitration awards. The effect is that an arbitration award rendered in a Convention state is enforceable, without re-examination of the merits (subject to limited grounds of appeal mentioned below), in the approximately 170 countries that have ratified the New York Convention. These include some countries which do not have existing reciprocal arrangements with England and Wales in relation to the enforcement of court judgments resulting in easier enforcement of arbitral awards in those countries than of court judgments. It is worth noting that even though the New York Convention requires the national courts of signatory states to recognise and enforce arbitral awards made in other states, each domestic court may have additional local laws and procedures which apply to the enforcement of an award. Some countries may also make their signature of the Convention subject to certain reservations. Local legal advice on enforcement will therefore be critical.

**Limited Grounds for resisting enforcement**

The New York Convention allows limited grounds for resisting enforcement. The enforcement of an award from a convention state can be refused by courts on seven limited grounds (Article V), such as a public policy exception. 'Public policy' is not defined under the Convention, and will be subject to how the law of the enforcing country defines it. In England and Wales the threshold required to establish a violation of public policy is high.

**Enforcement in England and Wales**

**Sections 100-103 Arbitration Act 1996**

An award issued in an arbitration seated in a New York Convention signatory state can be enforced in England & Wales under sections 100-103 of the Act. These sections implement the New York Convention into domestic law and set out the evidence required for enforcement.

**Section 66 Arbitration Act 1996**

If enforcing an English arbitration award , section 66 of the Arbitration Act (a mandatory provision) allows a party to apply to the High Court for permission to ‘convert’ the arbitration award into a court judgment. The result of s. 66 is that the successful party can enforce the award in the same way as if it were a court judgment. It is also possible to adopt this same procedure for any foreign arbitral award.

**Common Law**

It is also possible to enforce an award in England at common law by bringing an action on the award.

**Where to enforce?**

A perennial difficulty for clients is deciding where they should enforce their arbitration awards. While the New York Convention streamlines enforcement, widely disparate implementing national laws can complicate enforcement. Parties should carefully consider the procedures and attitudes of the national courts not only when initiating enforcement proceedings but also at the time of drafting the contract. For instance, in China, enforcement of a foreign arbitral award under the New York Convention can be delayed by the Prior Report System and that process can be extremely time consuming.

**Summary**

- Arbitral award will be enforced internationally under the provisions of the New York Convention.

- The New York Convention provides for the recognition of an arbitration award rendered in a Convention state without re-examination of the merits in the approximately 150 countries that have ratified the New York Convention.

In England and Wales arbitral awards issued in an arbitration seated in a New York Convention stare can be enforce under sections 100-103 of the Arbitration Act.

- Section 66 of the Arbitration Act allows a successful party to enforce an arbitral award in England and Wales in the same way as if it were a court judgment. It can be used for domestic and international awards.