CHICAGO INTERNATIONAL ARBITRATION CENTER

Enforcement of International Arbitration Awards

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International arbitration is a widely preferred method for resolving cross-border commercial disputes due to its neutrality, flexibility, confidentiality and critically—its enforceability. Unlike court judgments, which often face procedural and jurisdictional hurdles when enforced abroad, arbitral awards benefit from a robust global framework. This makes arbitration particularly attractive for businesses engaged in international trade and investment. However, enforcement is only effective if approached strategically. Businesses must consider where the award-debtor holds assets, how local courts treat arbitral awards, and whether sovereign immunity or regulatory barriers may apply.

Enforcement of Arbitral Awards

The 1958 New York Convention is the cornerstone of international arbitration enforcement. With over 170 signatory countries, it obliges national courts to recognize and enforce arbitral awards, subject only to limited exceptions such as invalid arbitration agreements, lack of due process, or conflict with public policy.[1] These defences are interpreted restrictively, and the burden of proof lies with the party resisting enforcement.[2] Most arbitral awards are enforced without issue and even where an exception is established, courts retain discretion to enforce the arbitral award.[3] To seek recognition and enforcement, the award-creditor only needs to produce to the relevant court:

a) the duly authenticated original arbitral award or a certified copy thereof;

b) the original arbitration agreement or a certified copy thereof; and

c) certified translations of the arbitration agreement and/or arbitral award, if they are not in the official language of the enforcing jurisdiction.[4]

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1 1958 New York Convention, Articles III and V.

2 Gary Born, *International Commercial Arbitration* (Third Edition), Chapter 26: *Recognition and Enforcement of Internation Arbitral Awards* (Kluwer Law International, March 2024), §26.03 [B][3][d]

3 *Ibid*, §26.03 [B][1].

4 1958 New York Convention, Article IV.

Jurisdictions such as the Unites States, Singapore, Switzerland and the United Kingdom offer robust enforcement regimes and have court systems that generally respect and facilitate the enforcement of arbitral awards.[5] These countries adopt a pro-enforcement approach, applying a presumption of validity to arbitral awards and limiting judicial interference. In contrast, some jurisdictions apply a more cautious or restrictive approach. For example, Russia has historically interpreted public policy exceptions broadly, particularly in cases involving foreign investors or politically sensitive matters, which can lead to denial of enforcement.[6]

Enforcement is only effective if the award-debtor has assets in a jurisdiction that recognizes and upholds arbitral awards. A key distinction exists between enforcing an arbitral award in the country where the arbitration was seated and enforcing it in a foreign jurisdiction.[7] When enforcement is sought in the seat of arbitration, the process is typically straightforward and mirrors the enforcement of a domestic arbitral award.[8] However, enforcement becomes more complex when the arbitral award was rendered in a foreign-seated arbitration.[9] In such cases, local courts may apply international conventions, domestic arbitration laws, and public policy exceptions more rigorously. Therefore, asset location should be a strategic consideration not only during enforcement but also at the contract drafting stage—when selecting the seat of arbitration and structuring dispute resolution clauses. Identifying jurisdictions with a strong pro-enforcement track record and accessible assets can significantly improve the likelihood of successful recovery.

Enforcement becomes significantly more complex when the award-debtor is a state-owned entity or a government. These entities may invoke sovereign immunity defences, which can block or delay enforcement—especially in jurisdictions that offer broad protections to public assets. Additionally, disputes in heavily regulated industries such as energy, infrastructure, or natural resources often involve public

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5 Gary Born, *International Commercial Arbitration* (Third Edition), Chapter 26: *Recognition and Enforcement of Internation Arbitral Awards* (Kluwer Law International, March 2024). §26.03 [B][1]. See also, §26.03 [D][2].

6 See, *Kluwer Arbitration Blog, Russian Supreme Court's Stance Shake Up Enforcement of Foreign Arbitral Awards*, 26 August 2024, available at: https://legalblogs.wolterskluwer.com/arbitration-blog/russian-supreme-courts-stance-shakes-up-enforcement-of-foreign-arbitral-awards/

7 *Redfern and Hunter on International Arbitration* (Seventh Edition), Chapter 11: Recognition and Enforcement of Arbitral Awards (Kluwer Law International, 2024), para. 11.17.

8 *Ibid*.

9 *Ibid*.

interest considerations, regulatory approvals, or statutory constraints that further complicate enforcement. In such cases, even locating attachable assets may be difficult, as they are often shielded by legal or diplomatic protections. Parties pursuing enforcement against sovereigns or state-owned entities must carefully assess jurisdictional risks, treaty protections, immunity waivers and exceptions under domestic law and political sensitivities before proceeding.

Importantly, these challenges of enforcing arbitral awards are not unique to arbitration —similar hurdles apply when enforcing foreign court judgments. However, arbitral awards typically benefit from stronger cross-border enforceability, owing to the widespread adoption of the 1958 New York Convention.

Enforcement of Emergency Arbitrator Awards

While the 1958 New York Convention applies to both monetary and non-monetary awards (e.g., declaratory or injunction relief), the enforceability of emergency arbitrator awards remains unsettled. These awards are issued before the constitution of the full arbitral tribunal and are designed to provide urgent interim relief. Because they may be modified or reversed by the full arbitral tribunal, their status as "*final*" is often questioned.

While many leading arbitral institutions—including the ICC, SIAC, LCIA, and HKIAC—offer emergency arbitration procedures, approaches to the enforcement of emergency arbitrator awards vary significantly across jurisdictions:

- Singapore: Recognizes and enforces foreign-seated emergency arbitrator awards under its International Arbitration Act. Courts treat them as binding interim measures, reflecting Singapore's pro-arbitration stance.[10]
- China: Chinese courts generally require awards to be final and issued by a fully constituted tribunal.[11] As a result, parties often seek interim relief through

[10] Singapore amended its International Arbitration Act (IAA) and included "*emergency arbitrator*" within the definition of "*arbitral tribunal*" in Section 2(1) of the IAA. In *CVG v CVH* [2022] SGHC 249, the High Court held that an emergency award issued in a foreign-seated arbitration was enforceable under the IAA. The court held "*the term 'foreign award' in s 29 of the International Arbitration Act … includes foreign interim awards made by an emergency arbitrator and thus, the Award may be enforced in Singapore*". However, enforcement was denied in that case due to procedural irregularity.

[11] https://www.chinajusticeobserver.com/a/chinese-court-enforces-foreign-emergency-arbitrator-order-for-the-first-time

domestic courts. However, under the Supplemental Arrangement with Hong Kong, Chinese courts may enforce interim measures issued in Hong Kong-seated arbitrations.[12]

- United States: While the Federal Arbitration Act (FAA) does not explicitly address emergency arbitrator awards, U.S. courts have shown willingness to enforce them under certain conditions. If the emergency award is deemed "*final*" in the sense that it resolves a discrete issue and is binding at the time of issuance, courts may treat it as enforceable. However, there is no uniform precedent, and enforcement may depend on the specific facts of the case, the language of the arbitration agreement, and the institutional rules governing arbitration.

Time-Limits for Enforcement

The 1958 New York Convention does not prescribe time limits for enforcement. Instead, time limits are governed by domestic laws and vary significantly across jurisdictions. In the United States, for example, the FAA imposes a three-year window from the date the foreign arbitral award is made. Other countries vary: six years in the UK (12 years if arbitration agreement is made under seal)[13] and Singapore,[14] two years in China[15] and some—like Japan or the UAE—do not specify a statutory time limit. Understanding and complying with local limitation periods is essential to avoid procedural bars to enforcement.

12 https://legalblogs.wolterskluwer.com/arbitration-blog/recognition-and-enforcement-of-foreign-arbitral-awards-in-china-between-2012-2022-review-and-remarks-part-i/

13 Limitation Act 1980, sections 7 and 8; and Foreign Limitation Periods Act 1984, sections 1–4.

14 International Arbitration Act, section 8A(1); and Limitation Act 1959, section 6(1)(c).

15 Civil Procedure Law 2017, Article 239; and 2015 Supreme People's Court's Interpretation of the Civil Procedure Law, Article 547.

Additional sources:

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- GAR Review, The Guide to Challenging and Enforcing Arbitration Awards – Fourth Edition, available at: https://globalarbitrationreview.com/guide/the-guide-challenging-and-enforcing-arbitration-awards/4th-edition
- IBA Arbitration Committee, Arbitration Guide – United Stated (updated April 2024), available at: https://www.ibanet.org/document?id=United-states-country-guide-arbitration