International Arbitration

March 2013

INTERNATIONAL ARBITRATION QUARTERLY

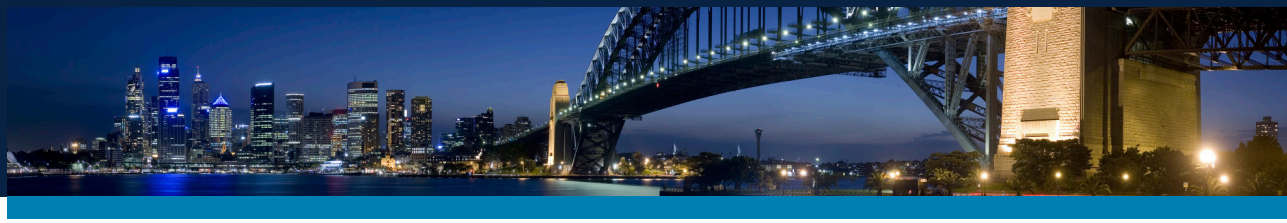
International arbitration in Australia in limbo

The Australian arbitration community eagerly anticipates a judgment of the High Court in a case which has sought to strike at the heart of international arbitration in Australia. If the High Court application is successful, it will have the effect of preventing Federal Court judges from enforcing international arbitration awards made in Australia under the UNCITRAL Model law on International Commercial Arbitration (the Model Law) as presently enacted. Legislative amendment would be required. That amendment would necessitate the courts engaging in a merits review of each award before enforcement. This runs contrary to the intention of the New York Convention on the Recognition and Enforcement of Foreign Awards 1958 (the Convention).

The case, *TCL Air Conditioner (Zongshan) Co Ltd v The Judges of the Federal Court of Australia & Anor*, concerns a PRC company (TCL) which entered into a distributorship agreement with an Australian company (Castel). A dispute arose between the parties and arbitration proceedings were commenced. TCL participated in the arbitration and pursued a counter-claim. The tribunal made two awards (the Awards) in favour of Castel: damages of AUD$2.4 million and over AUD$700,000 in costs. Castel commenced enforcement proceedings in the Federal Court under the International Arbitration Act 1974 (Cth) (the Act).

In January 2012, Mr Justice Murphy held that the Federal Court had jurisdiction to determine the application for enforcement pursuant to Articles 35 and 36 of the Model Law and Section 16 of the Act when read alongside the Judiciary Act 1903 and the Federal Court of Australia Act 1976 (Cth).

In July 2012, TCL filed an application for an Order to Show Cause, seeking orders restraining Castel from enforcing the Awards and/or quashing the judgment of Mr Justice Murphy. At the same time a notice was filed by TCL under S78B of the Judiciary Act. The



final hearing took place in November 2012. Judgment was reserved.

TCL argued that any judgment enforcing the Awards should be quashed because:

1. Articles 35 and 36 of the Model Law, when read with Section 7 of the Act, purport to confer the judicial power of the Commonwealth upon arbitral tribunals, contrary to the Australian Constitution (the Constitution).

2. It is impermissible to interfere with the judicial power of the Commonwealth contrary to the requirements of the Constitution.

3. Articles 35 and 36,when read with Section 7 of the Act, undermine the integrity of the Courts and are invalid.

Why is the case important?

It has been said that *"Australia's system of arbitration under the* [Act] *is part of an interconnected global system of dispute resolution"* and that framework is *"of paramount importance to the international economic system"*[1]. Further, the Model Law and the Act do not comprise judicial power but give the courts the recognised function of upholding the parties' contractual bargain to arbitrate and to be bound by the subsequent award, subject to a well recognised number of exceptions ensuring procedural fairness, provided that the tribunal acts within its mandate and that the courts do not allow an award to compromise their own integrity, processes or the public policy of the State.

In 1988, Australia led the way by giving the force of law to the Model Law under the Act. It has since been adopted by over 60 countries. The Model Law's fundamental objective is to facilitate the enforcement of contractual agreements to arbitrate and to therefore establish a statutory framework around the contractual agreement. An important part of this is to give courts supervisory jurisdiction of the process that allows for the challenge of an award on limited grounds[2].

TCL has sought to attack the structure of the Model Law, arguing not only that the arbitration regime in Australia purports to confer *"judicial power"* on arbitral tribunals, but also that the Act interferes with the judicial power of the Commonwealth because it limits the courts' power to exercise it. In effect, the courts are left simply *"rubber stamping"* arbitral awards for the purposes of enforcement, with very limited grounds for review. TCL argued this was against the Constitution and the power vested in the court to review a decision where an error of law was present. Further, they argued that the current regime impairs the institutional integrity, independence and impartiality of the courts.

If these arguments are upheld, it is suggested that the outcome will be a *"disaster"*, putting Australian law at odds with every other major legal system around the world[3]. Some commentators have suggested that it could seriously undermine the efforts made to promote Australia as a venue for international arbitration. It has also been said that, in seeking to impugn the validity of the Act, TCL's attack on the essential structure of the Model Law invites a constitutional conclusion that would have the consequence of disrupting an international dispute resolution infrastructure of wider importance[4].

Is Australian arbitration unfriendly?

By contrast, in August 2011 the Supreme Court of Victoria handed down a decision in relation to a Mongolian arbitral award, refusing to enforce it[5]. The claim arose out of a mining operations agreement between Altain Khuder (Altain) and IMC Mining Inc (IMC) under which disputes were to be referred to arbitration in Mongolia. A sister company of IMC, IMC Mining Solutions (IMCS), was not named in the mining operations agreement or dispute resolution clause.

An award in favour of Altain was made by a Tribunal sitting in Mongolia. IMCS was ordered to pay money to Altain *"on behalf of IMC"*. Altain sought to enforce the award against IMC and IMCS in the Supreme Court of Victoria. IMCS applied to have the enforcement order set aside as it was not a party to the arbitration agreement. Their application was dismissed at first instance and they appealed.

The appeal raised an important question under the Act, as to which party bears the burden of proof of establishing that a debtor under an award is not bound by the arbitration agreement. The Court of Appeal agreed with Altain that the burden is upon the debtor, rejecting IMCS's submission that the burden was on Altain. The Court of Appeal did however accept that Altain had first to satisfy a threshold test: it had to prove to a prima facie standard that the debtor (IMCS) was a party to the

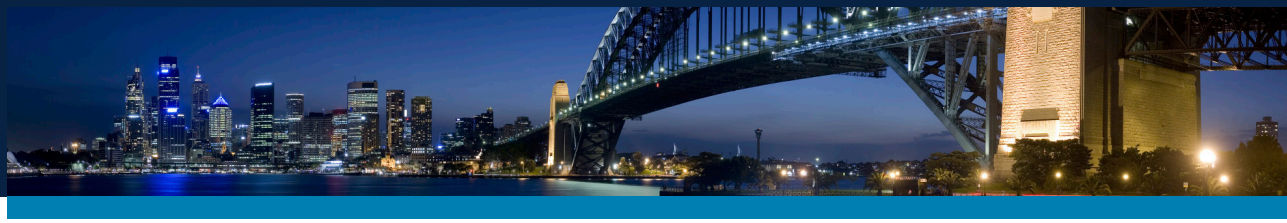
1. Joint Submissions as Amici Curiae by the Australian Centre for International Commercial Arbitration Limited (ACICA) to the High Court. See also *Comandate Marine Corp v Pan Australia Shipping Pty Ltd* (2006) 157 FCR 45.

2. See *Soh Beng Tee & Co Pte Lte v Fairmount Development Pte Ltd* [2007] 3 SLR 86 and the UNCITRAL commentary on the Model Law.

3. Professor Luke Nottage: International Commercial Arbitration - Australia in the Asian Century (16 November 2012).

4. Joint Submissions as Amici Curiae by ACICA, IAMA and CIArb (see 1 above).

5. *IMC Aviation Solutions Pty Ltd v Altain Khuder* (2011) 282 ALR 717 [2011] VSCA 248.



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arbitration agreement. Altain had not satisfied that test.

The threshold test set off alarm bells in some quarters because in most other jurisdictions this is not treated as a threshold issue but as a defence.

The majority in the Court of Appeal commented that in enforcement proceedings, the Court will not act simply as a "rubber stamp". They said: *"at all stages of the enforcement process, courts perform a judicial function and accordingly must act judicially. To act robotically is not to act judicially."*

The general principle therefore remains that in all but the most unusual cases (it is suggested Altain is such a case) an application to enforce a foreign award will involve a summary procedure and that a creditor will have little difficulty in satisfying the threshold test. It is suggested that an Australian court will always start with a strong presumption of regularity in respect of a tribunal's decision and the means by which it was reached[6]. In particular, the pro-enforcement bias of the Convention and the Act requires the Australian court to weigh carefully all relevant factors when considering whether to depart from the enforcement procedure in the Convention and the Act[7].

In the TCL case, ACICA, as intervenor, submitted that enforcement is not automatic and not a form of registration mechanism. Rather the process involves an application by a party and the use of rules of procedure, evidence and onus of proof. It was therefore submitted that the court is not an automaton bound to enforce the award, nor is it performing an administrative act. It is exercising independent judicial power.

In Australia, reform of the law governing arbitral procedure and amendments to the Act passed in 2010 have been directed towards facilitating the conduct of international arbitration, including enforcement and recognition. Before the TCL case, the combination of the Act, the Model Law and the Convention, arbitral awards were thought to be enforceable in Australia subject to supervision by the Courts, in keeping with the pro-enforcement preference under the Convention and the Act.

Indeed, Chief Justice Keane stated recently: *"the crucial question for the prospects of international arbitration in Australia remains as to where the balance is to be struck between the maintenance of necessary standards of fairness and competence on the one hand and the respect for the manifest desire of commercial parties for speed, expertise and economy on the other"*[8].

Hopefully the High Court in the TCL case will find that the Federal Court's discretion in enforcing an international award is not limited under the Model Law and that it can enforce international arbitration awards made in Australia without legislative amendment to require a merits review.

The arbitration community is certainly looking for the High Court to give much anticipated guidance on its approach and attitude to international arbitration and is willing it to hand down a decision which will not be a retrograde step, which some believe will prompt parties to choose alternative venues for arbitration where the enforceability of awards is more certain.

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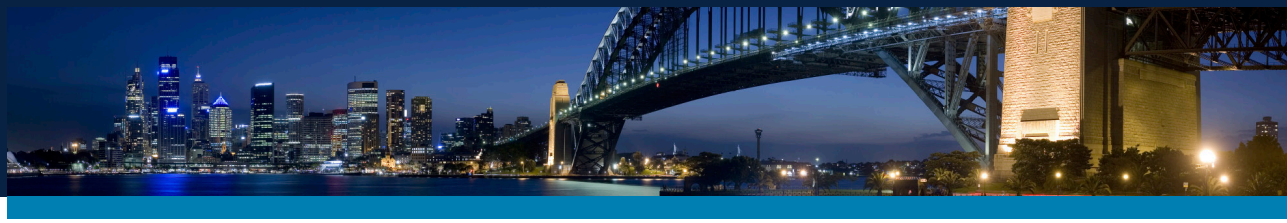
6. "Australia as a safe and neutral arbitration seat" The Hon Marilyn Warren AC ACICA 6 June 2012.

7. See *ESCO v Bradken* [2011] FCA 905.

8. "The Prospects for international arbitration in Australia" - 25 September 2012.



Incorporating arbitration agreements and following multi-tiered dispute resolution clauses

The Singapore High Court's decision in *International Research Corp PLC v Lufthansa Systems Asia Pacific Pte Ltd and another (27 November 2012)* is a timely reminder of the rules on incorporation of arbitration agreements and the application of multi-tiered dispute resolution clauses.

There are two main points to take from the case:

1. If parties intend to incorporate an arbitration clause from one contract into another, clear wording must be used. Failure to do so can result in potentially lengthy and costly arguments, as it did in this case, or in a tribunal with no jurisdiction to resolve the dispute.

2. If a dispute resolution clause provides for a multi-tiered procedure, it must be clear and certain. The procedure should then be followed as closely as possible. Failure to do so may affect the tribunal's jurisdiction.

Background

Lufthansa Systems Asia Pacific Pte Ltd (Lufthansa) and Datamat Public Company Ltd (Datamat) entered into a Cooperation Agreement under which Lufthansa agreed to supply certain technology services to Datamat. International Research Corp PLC (IRCP) and Datamat entered into a Sale and Purchase Agreement relating to certain aspects of the technology covered by the Cooperation Agreement.

When Datamat encountered financial difficulties, all three parties entered into two Supplemental Agreements. Under these, IRCP undertook certain obligations in respect of payments due to Lufthansa under the Cooperation Agreement.

A dispute arose between Lufthansa and IRCP over payments which IRCP contested. Lufthansa terminated the Cooperation Agreement and the Supplemental Agreements and commenced arbitration under Clause 37 of the Cooperation Agreement. IRCP was not an original party to the Cooperation Agreement and was only a party to the Supplemental Agreements. However, the Supplemental Agreements did not contain any dispute resolution clauses.

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IRCP disputed the tribunal's jurisdiction on two grounds:

1. IRCP was not a party to the arbitration agreement as it was not a party to the Cooperation Agreement.

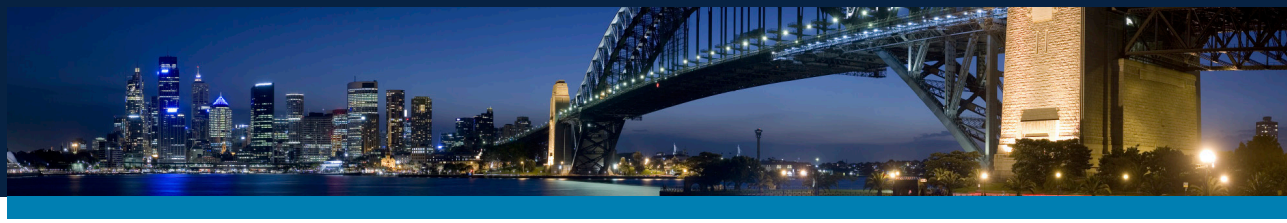
2. Lufthansa had in any event failed to comply with the escalation procedure set out in Clause 37 of the Cooperation Agreement.

Was IRCP a party to the arbitration agreement?

Both Supplemental Agreements contained clauses stating that all other provisions of the Cooperation Agreement "shall remain effective and enforceable". The Singapore Court was quick to hold that these words were insufficient to incorporate the arbitration clause into the Supplemental Agreements. Following previous authorities, the Court held that an arbitration clause in a contract between A and B cannot be incorporated into a contract between B and C unless clear words of incorporation are used. The Court observed that a general reference to "all rights" is insufficient to incorporate an arbitration agreement found in a separate contract.

The Court then considered whether the Cooperation Agreement and the Supplemental Agreements could be considered a composite agreement, as the Tribunal had found. It concluded that this approach was of little assistance. Instead, the correct approach was to ascertain the parties' objective intentions.

To do so, the Court considered 2 main issues:



1. The object and purpose of the Supplemental Agreements.

2. The plain language used in the Supplemental Agreements.

In transferring Datamat's payment obligations under the Cooperation Agreement to IRCP, the object and purpose of the Supplemental Agreements was to enforce Lufthansa's right to payment under the Cooperation Agreement. The Court concluded that *"IRCP's payment obligations to Lufthansa are inextricably tied to Datamat's obligations under the Cooperation Agreement"* and *"there is no doubt that the Supplemental Agreements can only be understood in connection with the Cooperation Agreement".*

Both Supplemental Agreements stated that *"This Supplemental Agreement… is hereby annexed to and made a part of the [Cooperation Agreement]"*. Clause 5 of Supplemental Agreement No. 1 provided that *"Lufthansa and Datamat agree that IRCP shall have no other obligations than those provided in this Supplemental Agreement"*. The Court held that this was inserted to erase any doubts as to IRCP's limited role in the arrangement. It was not a reflection of the parties' objective intention that the dispute resolution mechanism would only bind Lufthansa and Datamat, not IRCP.

The proper contextual interpretation was that the parties had intended the same dispute resolution mechanism in the Cooperation Agreement to bind all three parties to the Supplemental Agreements. The Court gave four principal reasons for this:

1. The Supplemental Agreements were entered into as a consequence of Datamat's non-performance of its obligations and to support the payment obligations. All three parties were aware of this context.

2. The obligations in the Supplemental Agreements and in the Cooperation Agreement are inter-dependent. The three agreements were intended by the parties to function as one and should be read as a whole.

3. IRCP did not dispute that it was aware of the terms of the Cooperation Agreement when entering the Supplemental Agreements.

4. If a similar dispute as to payment had arisen between Lufthansa and Datamat, there would be no argument that the dispute was not subject to the procedure set out in the Cooperation Agreement. It would make little commercial sense for Lufthansa, Datamat and IRCP to have payment disputes determined in different fora, depending on the parties involved.

The only commercially sensible and rational conclusion for including language in the Supplemental Agreements which stressed that they were annexed to and made part of the Cooperation Agreement was that the parties' objective intention was for the Cooperation Agreement to be binding on them all.

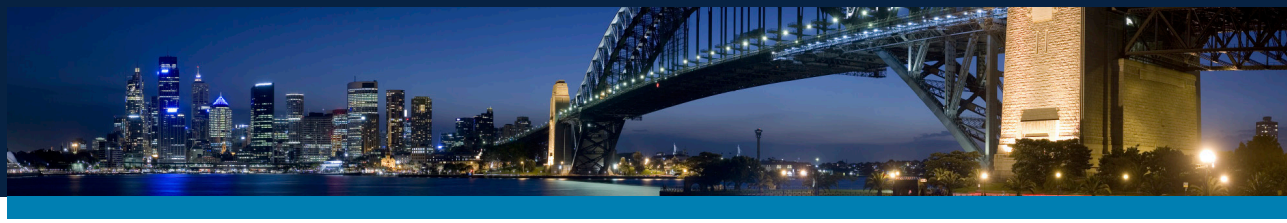
Had Lufthansa failed to comply with the escalation procedure?

Clause 37.2 of the Cooperation Agreement provided that any dispute *"shall be referred"* to a series of specified committees for resolution before going to arbitration.

The Court held that the provision was sufficiently certain to be enforceable as there was an unqualified reference to mediation and the process was clear and defined. Clause 37.2 operated as a condition precedent to the commencement of arbitration given its mandatory wording and the fact that both parties had proceeded on that basis. Accordingly, if Clause 37.2 had not been complied with, the Tribunal did not have jurisdiction to resolve the dispute.

The Court took a fairly broad approach and, based on the evidence provided, concluded that there had been several rounds of high level meetings between the parties to resolve the dispute. The Court was therefore satisfied that they had attempted to negotiate and that the object of Clause 37.2 had been met. Accordingly, the Tribunal had jurisdiction to resolve the dispute.

"If a dispute resolution clause provides for a multi-tiered procedure, it must be clear and certain. The procedure should then be followed as closely as possible. Failure to do so may affect the tribunal's jurisdiction."



Conclusions

The main issue in this claim could have been avoided had the Supplemental Agreements specifically identified and incorporated the arbitration agreement from the Cooperation Agreement. Where parties intend that an arbitration agreement will apply to a separate contract, clear words should be used. Conversely, if they intend that some terms of a contract will be incorporated into another but the arbitration agreement will not apply, clear words to this effect should be included, too.

There are a number of risks implicit in failing to specify whether a particular arbitration agreement is or is not intended to apply. At best, it can lead to potentially costly and time consuming arguments about jurisdiction before an arbitral tribunal and/or court. At worst, it could lead to an award being overturned because the tribunal lacked jurisdiction.

Parties should bear in mind that an arbitration agreement is a separate and severable agreement and therefore should be referred to expressly, particularly in cases where one of the parties is not a party to the original arbitration agreement.

"The Court observed that a general reference to "all rights" is insufficient to incorporate an arbitration agreement found in a separate contract."

The Court considered the potential ramifications of not following the strict rule that express words are required to incorporate an arbitration agreement into another agreement. It concluded that the rule did not circumscribe its power to give effect to the parties' intentions. However, it is generally difficult to show that parties intended to incorporate an arbitration agreement contained in a separate agreement in the absence of clear words and the rule should continue to apply in the majority of cases.

It is worth bearing in mind that having succeeded on the issue of incorporation, Lufthansa still had a significant hurdle to overcome in establishing first that the multi-tiered procedure in Clause 37.2 was sufficiently certain to be enforceable and second, that it had been properly followed. In a recent decision of the English Court, *Wah (Aka Alan Tang) & Another v Grant Thornton International Ltd & Others (14 November 2012)*, a multi-tiered clause was rejected as being too equivocal and not sufficiently clear on the parties' respective obligations to be enforceable.

The broader and more relaxed approach of the Singapore Court, which ultimately held that the parties had complied with the object of the relevant clause without looking in any great detail as to whether the individuals identified in Clause 37.2 attended the relevant meetings, or at the order in which those meetings were held, was a conscious reflection of cultural and commercial practice in the region, promoting consensus and negotiated solutions wherever possible. In adopting this approach, the Court referred to a recent decision by the Singapore Court of Appeal in which it specifically held that it was in the wider public interest in Singapore to promote consensus in this way.

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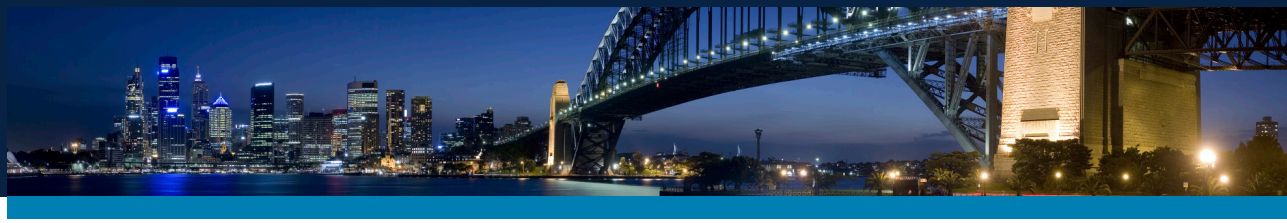

Enforcement of arbitration awards in China and Hong Kong

Currently, a total of 148 countries have ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the New York Convention, or the Convention), which provides for mutual recognition and enforcement of arbitral awards in contracting states. China's accession to the New York Convention took effect in 1987 and, following the return of Hong Kong to Chinese sovereignty, China's membership was extended to Hong Kong in 1997. This article provides an overview of the enforcement of arbitral awards in these two jurisdictions.

China

For the purposes of enforcement in China, arbitral awards can be divided into four main categories:

1. A domestic award (one made in China with no trace of a foreign element).

2. A foreign-related award (one made in China but with foreign element(s), for example one party to the dispute is foreign).

3. A foreign award, made outside China, which can be further divided into:

    - Convention.

    - Non-Convention awards.

    - Awards made in Hong Kong, Macau or Taiwan.

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Domestic awards

Arbitration in China is governed by the PRC Arbitration Law, which came into effect on 1 September 1995. Whilst this does not expressly prohibit *ad hoc* arbitration, it provides that an arbitration agreement shall clearly specify the arbitration commission chosen by the parties. If the arbitration agreement fails to specify clearly the choice of arbitration commission, the parties may conclude a supplementary agreement. Failing this, the arbitration agreement will be void.

It is unclear whether the term "arbitration commission" refers only to those established pursuant to the Arbitration Law (e.g. CIETAC or CMAC), or whether it also covers foreign arbitration institutions with a seat in China (e.g. ICC). Recent court cases in China involving applications for the enforcement of ICC awards made in China suggest that such awards may be regarded as "non-domestic" awards, enforceable under the New York Convention. However, since China is not a common law country, these decisions are not legally binding and the position remains unclear.

It will therefore be prudent to ensure that an arbitration agreement which provides for domestic arbitration in China clearly specifies the choice of an arbitration commission established pursuant to the Arbitration Law.

The pre-reporting system (see below) does not apply to domestic awards and, since no foreign element is involved, there is usually less concern about issues such as local protectionism. However, pursuant to the Arbitration Law and

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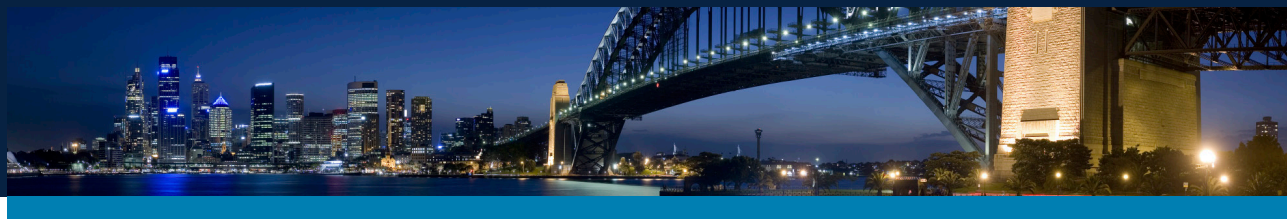

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the relevant Article in the PRC Civil Procedure Law, the Court may examine the merits of the award (and not just its procedural nature).

Foreign awards and foreign-related awards

Convention awards, whether *ad hoc* or instutional, should be recognised and enforced in China pursuant to the New York Convention. In 1987, the Supreme People's Court in China issued a *Circular on Implementing Convention on the Recognition and Enforcement of Foreign Arbitral Awards Entered by China* (the 1987 Circular) which states that China will recognise and enforce awards made in other contracting states.

Arbitral awards rendered in non-Convention states may be enforced if there are appropriate agreements in place between China and such non-Convention states.

The grounds for refusing to enforce Convention and foreign-related awards are substantially procedural in nature and are in line with international practice. For Convention awards, they are set out in Article 5(1) and (2) of the New York Convention; for foreign-related awards, they are set out in Article 274 of the Civil Procedure Law (2012 Amendments). They include the lack of a valid arbitration agreement; lack of proper notice of arbitration; an exceeding of authority by the arbitral tribunal; irregularity in the composition of the tribunal or arbitral procedure; and contravention of public policy. Unlike domestic awards, the Court may not review the merits of the underlying award.

In order to ensure strict implementation of the enforcement procedure for foreign and foreign-related awards, the Supreme People's Court issued a *Circular on Issues in the People's Courts' Handling of Foreign-related Arbitrations and Foreign Arbitrations* in 1995 (the 1995 Circular). This establishes a pre-reporting system for non-enforcement of foreign and foreign-related awards.

Under this pre-reporting system, if any Intermediate People's Court intends to refuse enforcement of a foreign award, or to set aside or refuse enforcement of a foreign-related award, it is required to report to the Higher People's Court within its jurisdiction for review. If the Higher People's Court agrees, it is required to report this to the Supreme People's Court. The ultimate decision will be made by the Supreme People's Court.

This pre-reporting system is generally welcomed as helpful in avoiding local protectionism (whether actual and/or perceived). Unofficial figures suggest that about 80% of awards referred to the Supreme People's Court are remitted to the lower courts for enforcement.

In practice, the process of multiple layers of review can mean significant delays in the enforcement process. Steps have been taken to try to prevent or limit delays – in 1998, the Supreme People's Court issued a ruling that for Convention awards, the Intermediate People's Court must rule on recognition and enforcement and report any refusal to do so within two months of acceptance of the case. Save in exceptional circumstances, the enforcement of an award must be completed within 6 months. This ruling does not, however, apply to foreign-related awards. In practice, enforcement can nevertheless be a

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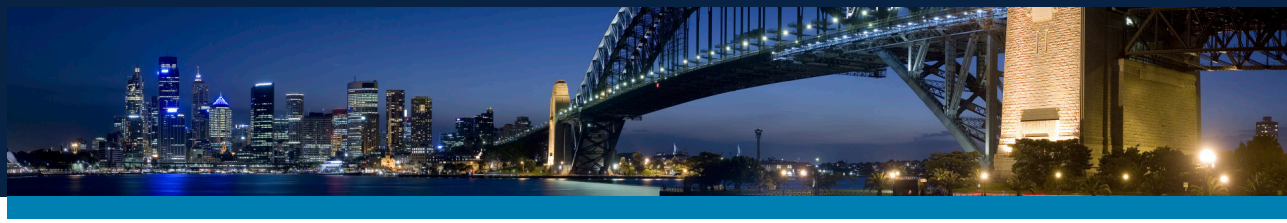

long and somewhat drawn out process.

Hong Kong, Macau and Taiwan awards

Awards made in Hong Kong, Macau and Taiwan are governed by the respective arbitration arrangements between these regions and China. Hong Kong awards are enforceable in China pursuant to the *Memorandum of Understanding Concerning the Mutual Enforcement of Arbitral Awards between the Mainland and Hong Kong* issued by the Supreme People's Court in January 2000 (the Memorandum). Grounds for refusing enforcement, in Article 7 of the Memorandum, mirror those for refusing enforcement of Convention awards.

In 2009, the Supreme People's Court issued a *Notice of Relevant Issues on the Enforcement of Hong Kong Arbitral Awards in the Mainland*, clarifying that where an application has been made for enforcement of an ad hoc award made in Hong Kong, or an award made in Hong Kong by the ICC or other foreign arbitration institution, the People's Court should examine it in accordance with the provisions in the Memorandum.

China appears to be more receptive to the enforcement of Hong Kong awards, compared with awards from other foreign jurisdictions, perhaps as a consequence of the "one country, two systems" relationship between the two.

In China, an enforcement application must be made within two years from the last permissible date of performance under the award; or if no date for performance is stipulated, within two years from the date when the award becomes effective.

Hong Kong

Enforcement in Hong Kong differs from enforcement in China because, although Hong Kong became part of China on the handover in 1997, the Basic Law (the constitutional document of Hong Kong) provided that the judicial system previously practised in Hong Kong would be maintained.

A new Arbitration Ordinance (Cap.609) (the Ordinance) came into effect in Hong Kong on 1 June 2011. The key feature of this new Ordinance is the unification of the previously separate regimes for domestic and international arbitrations into a single regime, substantially based on the UNCITRAL Model Law. This has made arbitration law in Hong Kong more efficient and user friendly.

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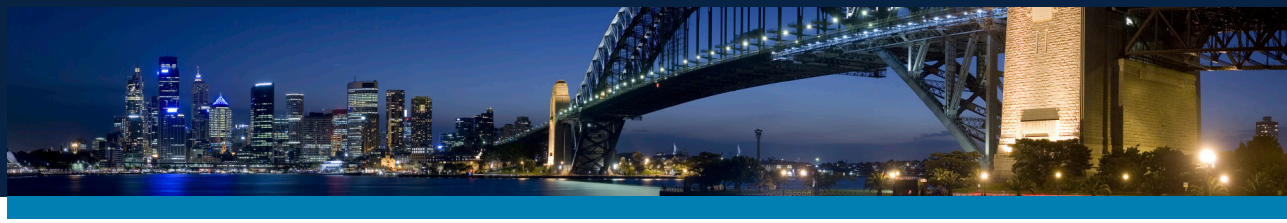
Part 10 of the Ordinance divides enforcement of arbitral awards into three categories:

1. Awards made in or outside Hong Kong (including non-Convention awards) (s82-86).
2. Convention awards (s87-91).
3. Mainland awards (s92-98).

For the first two categories, awards have the same effect and are enforceable in the same manner as a judgment of the Court, but only with the leave of the Court. The grounds for refusing enforcement are essentially the same as those under the New York Convention and are procedural in nature. An additional ground under the first category is provided for under section 86(2)(c), which states that enforcement may be refused *"for any other reason the court considers it just to do so"*. This reserves a residual power to the Court to refuse enforcement for non-Convention awards.

Mainland awards are also enforceable in the same manner as a judgment of the Court, with the leave of the Court.



"Mainland awards are also enforceable in the same manner as a judgment of the Court, with the leave of the Court. There is no reservation of a residual power to refuse enforcement, and the grounds for refusal are essentially the same as those under the New York Convention."

There is no reservation of a residual power to refuse enforcement, and the grounds for refusal are essentially the same as those under the New York Convention.

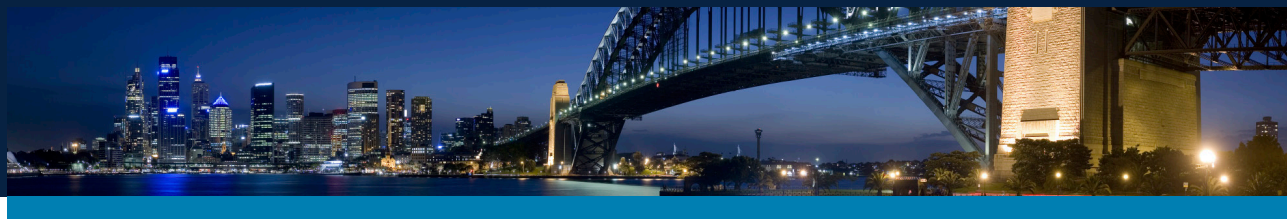
The definition of a "Mainland award" is *"an arbitral award made in the Mainland by a recognised Mainland arbitral authority in accordance with the Arbitration Law of the People's Republic of China"*. This can be significant because it means that an arbitral award made in China but by a foreign arbitration institution (e.g. ICC) is not a "Mainland award". It will instead fall within the first category for the purposes of enforcement under the Ordinance, allowing the Court a residual power to refuse enforcement.

The time limit for enforcing an award in Hong Kong is 12 years from the time when the award becomes enforceable.

It is worth noting that in practice, the Hong Kong Courts are unwilling to set aside or refuse to enforce awards unless there are serious irregularities. Since Hong Kong has a common law system, the Court's judgments are binding, so Hong Kong will continue to adopt a pro-enforcement attitude.

For more information, please contact Peter Murphy (pictured below), Partner, on +852 3983 7700 or peter.murphy@hfw.com, or Amanda Cheung, Associate, on +852 3983 7702 or amanda.cheung@hfw.com, or your usual contact at HFW.

"This can be significant because it means that an arbitral award made in China but by a foreign arbitration institution (e.g. ICC) is not a "Mainland award"."



Global Arbitration Review (GAR)

Global Arbitration Review has just launched the 6th edition of its GAR 100 listing and HFW is delighted that its International Arbitration practice has been included for the first time. GAR 100 is a global guide to the international arbitration capabilities of law firms. Head of International Arbitration at the firm, Partner Damian Honey (pictured below), commented "I am extremely pleased that Global Arbitration Review has recognised the capabilities of HFW's international arbitration practice. We have enhanced our capabilities in this field extensively over the last few years and our listing in the GAR 100 is testament to that."

HFW International Arbitration Seminars

HFW will be hosting a series of seminars in the coming months for in-house lawyers and others with an interest in International Arbitration.

Sydney (Tuesday 19 March 2013)
Melbourne (Wednesday 20 March 2013)
Perth (Friday 22 March 2013)
Hong Kong (Tuesday 16 April 2013)
Singapore (Friday 19 April 2013)
London (Thursday 23 May 2013)

If you would like further details, please contact events@hfw.com.

Conferences & Events

HFW Dispute Resolution Seminars
HFW London
(30 April and 14 May 2013)

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