

Global Arbitration Review

The Guide to Challenging and Enforcing Arbitration Awards

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United States

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Applicable requirements as to the form of arbitral awards

Applicable legislation as to the form of awards

- 1 Must an award take any particular form (e.g., in writing, signed, dated, place, the need for reasons, delivery)?

Recognition and enforcement of arbitral awards is governed in the United States chiefly by the Federal Arbitration Act (FAA), although other provisions of law can apply as well, as discussed throughout this chapter. The FAA is divided into three chapters. Chapter 1 generally governs domestic arbitration proceedings and directs courts to enforce arbitral awards unless the narrow grounds for *vacatur*, modification or correction are present. Chapter 1 also applies to foreign arbitral awards to the extent that it does not conflict with the New York Convention. Chapter 2 implements the New York Convention, and Chapter 3 implements the Inter-American Convention on International Commercial Arbitration (also known as the Panama Convention), which largely tracks the New York Convention for the purposes of recognition and enforcement.

The body of law governing the enforcement of a particular arbitral award will depend on whether the award is domestic or foreign. Awards arising out of domestic arbitrations are governed primarily by Chapter 1 of the FAA. Unless otherwise indicated, this chapter addresses the enforcement of foreign arbitral awards, which is governed by US federal law and applicable international treaties to which the United States is a party, namely the New York Convention, the Panama Convention and the Washington (ICSID) Convention (which is enforced by 22 USC Section 1650a).

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The FAA does not explicitly state what form an arbitral award must take. However, Section 13(b) of the FAA implies that an award must be in writing, as that provision requires a party moving to confirm, modify or correct an award to file a copy of the award with the court. Likewise, Article IV(1)(a) of the New York Convention requires presentation of a ‘duly authenticated original award or a duly certified copy thereof’ as a condition for recognition.

Because the FAA does not dictate the form that an award should take, strictly speaking tribunals need not provide reasons for their awards under US federal law. Even so, issuance of a ‘reasoned award’ is advisable, and will almost always be required under the parties’ arbitration agreement or the applicable rules of arbitration. Questions of whether an award is sufficiently ‘reasoned’ sometimes arise in the contexts of *vacatur* and enforcement (discussed in questions 3 and 13). While there is no bright-line rule, there appears to be a consensus in several federal courts of appeal that a reasoned award is one that provides more explanation than a simple announcement of a result, but the explanation need not provide detailed findings of fact and conclusions of law.

Applicable procedural law for recourse against an award

Applicable legislation governing recourse against an award

2 Are there provisions governing modification, clarification or correction of an award?

If an award (domestic or foreign) has been rendered in the United States, Chapter 1, Section 11 of the FAA permits a party to move to modify or correct an award if (1) the award contains ‘an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property’, (2) the arbitrators have issued a decision on a matter not submitted to them, or (3) the form of the award is imperfect, but that imperfection does not affect the merits of the controversy. Any such petition must be served within three months of the parties receiving the award.

Appeals from an award

3 May an award be appealed to or set aside by the courts? If so, on what grounds and what procedures? What are the differences between appeals and applications for set-aside?

US federal law does not permit the appeal of an arbitral award. However, it does provide for the *vacatur* or set-aside of arbitral awards rendered in the United States in certain limited circumstances. Any such petition must be served within three months of the parties receiving the award.

Under the New York Convention, a petition to vacate or set aside an award will be governed by the domestic law of the country in which the award was rendered (US courts refer to that jurisdiction as the primary jurisdiction). The US Supreme Court has held that the FAA provides the exclusive grounds for vacating an arbitral award issued in the United States (*Hall Street Associates v. Mattel*, 552 US 576 (2008)). Specifically, Chapter 1, Section 10 of the FAA states that a court may vacate an arbitral award only if it finds that

one of the following limited grounds applies: (1) the award is a result of corruption or fraud; (2) evident partiality or corruption of an arbitrator; (3) arbitrator misconduct, such as refusing to hear pertinent and material evidence; or (4) the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award was not made.

In addition to the four statutory grounds, US federal courts are split as to whether the ‘manifest disregard of the law’ doctrine remains a separate basis for *vacatur* under the FAA. The Second Circuit (which encompasses New York and therefore hears many cases relating to international arbitration proceedings) has held that ‘manifest disregard’ survives as a ‘judicial gloss’ on the FAA’s statutory grounds for *vacatur* and, so interpreted, remains a valid ground for vacating arbitration awards. Meanwhile, the DC Circuit (which hears many award enforcement proceedings involving sovereigns) has expressed scepticism about the survival of the ‘manifest disregard’ doctrine.

US courts have emphasised that they will not vacate awards lightly. In particular, under US law, showing that the tribunal committed an error, even if that error is significant, is ordinarily not sufficient to set aside the award.

Applicable procedural law for recognition and enforcement of arbitral awards

Applicable legislation for recognition and enforcement

- 4 What is the applicable procedural law for recognition and enforcement of an arbitral award in your jurisdiction? Is your jurisdiction party to treaties facilitating recognition and enforcement of arbitral awards?

Most relevantly, the United States is a party to the following treaties facilitating the recognition and enforcement of arbitral awards: the New York Convention (entered into force on 29 December 1970), the Panama Convention (entered into force on 27 October 1990) and the ICSID Convention (entered into force on 14 October 1966).

The applicable procedural law for recognition and enforcement of most foreign arbitral awards is the FAA, which requires that an action to enforce a foreign award be brought within three years.

Separately, actions to enforce an ICSID award are governed by the statute implementing the ICSID Convention (22 USC Section 1650a).

In addition, US courts may apply procedural rules set out in the Federal Rules of Civil Procedure, the local procedural rules of the judicial district in which the enforcement action is brought, and the individual practices of the judge adjudicating the enforcement action.

The New York Convention

- 5 Is the state a party to the 1958 New York Convention? If yes, what is the date of entry into force of the Convention? Was there any reservation made under Article I(3) of the Convention?

The New York Convention entered into force in the United States on 29 December 1970. Although the United States did not make any reservations upon ratifying the treaty, it did make two declarations: the Convention only applies to the recognition and enforcement

of awards made in the territory of another contracting state, and the Convention only applies to differences arising out of legal relationships that are considered commercial (whether or not they are contractual) under national law.

As noted in question 1, the Convention is incorporated into US law through Chapter 2 of the FAA. Chapter 2, Section 202 of the FAA clarifies the scope of 'non-domestic' awards that fall under the Convention: the Convention will govern the enforcement of an arbitration award between citizens of the United States if 'that relationship involves property located abroad, envisages performance or enforcement abroad or has some other reasonable relation with one or more foreign states'. Further, US courts consider that awards rendered in the United States qualify as non-domestic if they are issued in accordance with foreign law or involve parties domiciled, property located or contractual performance outside the United States.

Recognition proceedings

Competent court

6 Which court has jurisdiction over an application for recognition and enforcement of arbitral awards?

There is no one specific court with jurisdiction over all recognition and enforcement proceedings in the United States. Any court with subject-matter jurisdiction over the dispute and personal jurisdiction over the defendant may hear an application for recognition and enforcement of arbitral awards, whether domestic or foreign.

In general, the FAA gives federal district courts subject-matter jurisdiction over recognition and enforcement of foreign awards that fall under the New York Convention. For recognition and enforcement of ICSID awards, 22 USC Section 1650a is the source of a federal district court's subject-matter jurisdiction.

Whether a court adjudicating an action to enforce an arbitral award has personal jurisdiction over the award debtor is a question of US constitutional law and will depend on the facts of a particular case. Historically, there has been some question as to whether a party seeking to enforce an ICSID award is required to make a showing of personal jurisdiction. This debate appears to have been put to rest in 2017, when the Second Circuit ruled in *Mobil Cerro Negro v. Venezuela* that a jurisdictional showing under the Foreign Sovereign Immunities Act (FSIA) will be required to obtain enforcement of an ICSID award.

Jurisdictional issues

7 What are the requirements for the court to have jurisdiction over an application for recognition and enforcement of arbitral awards? Must the applicant identify assets within the jurisdiction of the court that will be the subject of enforcement for the purpose of recognition proceedings?

As noted in question 6, to have jurisdiction over an application for recognition and enforcement of arbitral awards, a US court must have personal jurisdiction over the award debtor. Personal jurisdiction in award enforcement cases can generally be satisfied by

showing that the award debtor is either headquartered or incorporated in the forum in which proceedings are brought, or has sufficient claim-related contacts or assets within that forum. While the presence of assets within the jurisdiction may provide a basis for a court to exercise quasi *in rem* jurisdiction, a party seeking recognition and enforcement of an arbitral award need not identify such assets if it can establish that a court has personal jurisdiction over the award debtor based on the award debtor's claim-related contacts with the forum.

In an action to enforce an arbitral award against a sovereign, a US federal court will have jurisdiction if the petitioner has effected service in accordance with the FSIA; the court will not need to undertake a minimum contacts analysis required by the Due Process Clause in the Fifth Amendment to the US Constitution.

Form of the recognition proceedings

8 **Are the recognition proceedings in your jurisdiction adversarial or *ex parte*?**

Recognition proceedings are adversarial.

Form of application and required documentation

9 **What documentation is required to obtain the recognition of an arbitral award?**

Recognition of an arbitral award is usually sought by filing a petition to confirm or recognise an arbitral award. Both the FAA and the New York Convention require a party seeking confirmation or recognition of an award to submit to the court a copy of the award and the parties' arbitration agreement (9 USC Section 13; New York Convention, Article IV). In addition to these required filings, parties seeking confirmation of an arbitral award will routinely submit a memorandum of law in support of their petition, with factual and legal support. All foreign language documents should include a certified translation into English. Typically the award and related documents are authenticated through a short affidavit from counsel confirming that the copies are true and correct. Local court rules may contain additional requirements.

Translation of required documentation

10 **If the required documentation is drafted in a language other than the official language of your jurisdiction, is it necessary to submit a translation with an application to obtain recognition of an arbitral award? If yes, in what form must the translation be?**

US federal courts require that documents be submitted in English and that foreign language documents be accompanied by a certified English translation. A translator must provide a certification that he or she is competent to translate the documents and that the translation is true and accurate to the best of the translator's abilities.

Other practical requirements

11 What are the other practical requirements relating to recognition and enforcement of arbitral awards?

A party commencing an action in federal court – including an action to confirm or recognise an arbitral award – is required to pay a US\$400 filing fee. Furthermore, in addition to the substantive legal documents described in question 9, a party commencing an action will need to submit certain ministerial forms, including a civil cover sheet and a corporate disclosure statement, and will be required to obtain a summons. Finally, some courts have additional requirements, such as submission of separate affidavits that set out the facts of the arbitration agreement, hearing and award. It is therefore important to check the local rules of the judicial district in which enforcement will be sought.

Recognition of interim or partial awards

12 Do courts recognise and enforce partial or interim awards?

US courts generally recognise the right of arbitrators to issue partial or interim awards prior to the final award. Although in general only a final award is enforceable under the FAA, a number of federal courts will recognise and enforce a partial award when it conclusively disposes of a separate and independent claim.

Grounds for refusing recognition of an award

13 What are the grounds on which an award may be refused recognition? Are the grounds applied by the courts different from the ones provided under Article V of the Convention?

The FAA implements all seven of the non-enforcement grounds in the New York Convention, explicitly stating that ‘the court shall confirm the award’ unless it determines that one of the grounds for non-recognition under the Convention has been met. US courts generally interpret these exceptions strictly, and will limit rather than expand their discretion to refuse recognition of an award.

In addition, as a matter of US constitutional law, a US court could decline to recognise an arbitral award because it does not have jurisdiction over the defendant.

US courts are even more limited in their power to refuse to recognise an ICSID award and will generally only refuse to do so if they lack personal jurisdiction over the award debtor.

Effect of a decision recognising an award

14 What is the effect of a decision recognising an award in your jurisdiction? Is it immediately enforceable? What challenges are available against a decision recognising an arbitral award in your jurisdiction?

Once a party’s petition to confirm an arbitral award is granted, the court enters a judgment for the relief provided in the award. The award creditor may then seek to execute upon the award by attaching, garnishing or seizing the award debtor’s assets necessary to discharge

the debt owed under the award. The procedure for executing a judgment in federal court is governed by Rule 69 of the Federal Rules of Civil Procedure (FRCP), which provides that a judgment is enforced in accordance with the law of the appropriate state, which is usually the state in which the assets sought to be executed against are located.

Typically, courts in the United States do not permit immediate execution of a judgment. For example, FRCP 62(a) provides for an automatic stay of 30 days, during which a party may seek to appeal the judgment. In addition, if the judgment is rendered against a sovereign or a state-owned entity, the party seeking to enforce the judgment will need to comply with the FSIA.

Decisions refusing to recognise an award

15 What challenges are available against a decision refusing to recognise an arbitral award in your jurisdiction?

A party may contest a court's decision refusing to recognise an arbitral award by filing an appeal. The Federal Rules of Appellate Procedure provide that a party should file a notice of appeal within 30 days of entry of a judgment refusing to recognise an award.

Stay of recognition or enforcement proceedings pending annulment proceedings

16 Will the courts adjourn the recognition or enforcement proceedings pending the outcome of annulment proceedings at the seat of the arbitration? What trends, if any, are suggested by recent decisions? What are the factors considered by courts to adjourn recognition or enforcement?

US courts have the discretion to stay proceedings seeking to recognise an arbitral award when an annulment proceeding is pending at the seat of the arbitration. In considering whether to stay enforcement proceedings, the court will generally consider six criteria enumerated by the Second Circuit in *Europcar Italia v. Maiellano Tours* (156 F.3d 310 (2d Cir. 1998)): (1) the general efficiency objectives of arbitration; (2) the status of, and estimated time required to resolve, the foreign proceedings; (3) whether the award will be subject to greater scrutiny in the foreign proceedings; (4) the characteristics of the foreign proceedings; (5) a balance of possible hardships to each party; and (6) any other relevant circumstances.

While the *Europcar* decision is only binding on courts in the Second Circuit, a number of other courts in the United States have adopted these same factors.

Security

- 17 If the courts adjourn the recognition or enforcement proceedings pending the annulment proceedings, will the defendant to the recognition or enforcement proceedings be ordered to post security? What are the factors considered by courts to order security? Based on recent case law, what are the form and amount of the security to be posted by the party resisting enforcement?

A US court has the power to order security pursuant to Article VI of the New York Convention, including in circumstances when an enforcement action is stayed pending a foreign annulment.

There is no clear guidance on (1) what specific factors a court will consider in determining whether to order the posting of security or (2) the appropriate form and amount of the security to be posted if security is ordered. A court has broad discretion over these matters.

Recognition or enforcement of an award set aside at the seat

- 18 Is it possible to obtain the recognition and enforcement of an award that has been fully or partly set aside at the seat of the arbitration? If an award is set aside after the decision recognising the award has been issued, what challenges are available against this decision?

The Second Circuit's decision in the *Pemex* case confirms that US courts may recognise and enforce an award that has been set aside at the seat of arbitration if giving effect to the set-aside decision would be 'repugnant to fundamental notions of what is decent and just' in the United States (*Corporación Mexicana de Mantenimiento Integral v. Pemex-Exploración y Producción*, 832 F.3d 92 (2d Cir. 2016)).

In the event that a decision setting aside an award is issued after a US court has recognised or enforced an award, a party can file a motion for relief from judgment under FRCP 60 (see, for example, *Thai-Lao Lignite (Thailand) Co. v. Government of the Lao People's Democratic Republic*, 864 F.3d 172 (2d Cir. 2017)).

Service

Service in your jurisdiction

- 19 What is the applicable procedure for service of extrajudicial and judicial documents to a defendant in your jurisdiction?

For a suit in federal court, service must accord with Rule 4 of the FRCP. If the award debtor is located within the district in which enforcement proceedings are brought, then service can usually be effected by delivering copies of the relevant documents to the defendant or a person of suitable age at the defendant's home or place of business. There are additional ways to effect service, which may vary by court.

Service out of your jurisdiction

20 What is the applicable procedure for service of extrajudicial and judicial documents to a defendant out of your jurisdiction?

The United States is a party to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the Hague Service Convention). Accordingly, if the defendant is located in a state that has ratified the Hague Service Convention, then the procedures provided in that treaty will apply. The US Supreme Court has confirmed that unless the state within which service is being made has objected to service by mail, the Hague Service Convention permits service of process by this means (*Water Splash, Inc. v. Menon*, 137 S. Ct. 1504 (2017)).

If the defendant is an individual and is located in a state that has not ratified the Hague Service Convention (and if no other treaty or agreement between the parties applies), then the defendant must be served according to FRCP 4(f)(2), which may require compliance with the foreign country's service requirements. If the defendant is a corporation, partnership or association, and is located in a state that has not ratified the Hague Service Convention, then the defendant must be served according to FRCP 4(h), which may require compliance with the foreign country's service requirements.

If the defendant is a state or a state-owned entity, the FSIA contains a hierarchy of methods of service to which plaintiffs must strictly adhere (28 USC Section 1608).

Identification of assets

Asset databases

21 Are there any databases or publicly available registers allowing the identification of an award debtor's assets within your jurisdiction?

There are several publicly available registries that can be used to identify an award debtor's assets within the United States. They include real estate property registries, motor vehicle registries, watercraft registries, aircraft registries, Uniform Commercial Code (UCC) filings (to determine whether the debtor has disclosed any collateral in UCC filings), state and federal civil litigation filings (to determine whether the debtor has previously received, or may soon expect, an award or settlement), Securities and Exchange Commission filings (to determine whether a debtor that is a publicly traded company has made disclosures concerning assets), and intellectual property registries.

Many of these registries are only available on a state-wide (as opposed to nationwide) basis and a fee may be payable for use. Parties can also use specialist tracing services to help identify assets.

Information available through judicial proceedings

22 Are there any proceedings allowing for the disclosure of information about an award debtor within your jurisdiction?

An award creditor may ask a US court to authorise discovery so as to identify and attach assets to satisfy an award. Rule 69 of the FRCP allows for post-judgment discovery from any

person, including the award debtor. This rule is often interpreted broadly, and means that an award creditor will be able to request documents from the debtor (and any institution that may hold the debtor's assets), and to depose people with relevant information.

In addition, 28 USC Section 1782 may allow for the disclosure of information about an award debtor. Section 1782 authorises a district court to 'order [a person residing in the district] to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal' if the request is made by an 'interested person'. Generally, Section 1782 allows litigants to obtain evidence for use in litigations and arbitrations abroad, but at least one appellate-level court in the United States has applied Section 1782 to aid in asset recovery.

Enforcement proceedings

Availability of interim measures

- 23 Are interim measures against assets available in your jurisdiction? May award creditors apply such interim measures against assets owned by a sovereign state?

As a general rule, US courts may grant interim relief, including freezing orders, by granting a temporary restraining order or a preliminary injunction. However, there is a high bar to obtaining such interim relief.

Under the FSIA, the property of a foreign sovereign is generally immune from attachment, and can only be attached once an award has been recognised (28 USC Section 1610(a)).

Procedure for interim measures

- 24 What is the procedure to apply interim measures against assets in your jurisdiction? Is it a requirement to obtain prior court authorisation before applying interim measures? If yes, are such proceedings *ex parte*?

Provisional relief can be obtained by applying to a US court for either a preliminary injunction, which may be done only through an *inter partes* hearing, or for a temporary restraining order, which may be obtained *ex parte*.

To succeed on an application for a preliminary injunction, an applicant must show irreparable harm plus a likelihood of success on the merits. Alternatively, the applicant may succeed by showing irreparable harm, plus sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in the applicant's favour. The standard to obtain an *ex parte* temporary restraining order is higher still, and requires that: (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

FRCP 65 requires that the movant for either a preliminary injunction or a temporary restraining order post as security an amount the court deems fit to indemnify the adverse party in the event the order is later found to be improper.

Interim measures against immovable property

25 What is the procedure for interim measures against immovable property within your jurisdiction?

See questions 23 and 24.

Interim measures against movable property

26 What is the procedure for interim measures against movable property within your jurisdiction?

See questions 23 and 24.

Interim measures against intangible property

27 What is the procedure for interim measures against intangible property within your jurisdiction?

See questions 23 and 24.

Attachment proceedings

28 What is the procedure to attach assets in your jurisdiction? Is it a requirement to obtain prior court authorisation before attaching assets? If yes, are such proceedings *ex parte*?

Post-judgment attachment proceedings in the United States are generally governed by the law of the state where the court is located, but a federal statute governs to the extent it applies (see FRCP 69). There is no uniform rule in the states as to the procedure for attaching assets.

Attachment against immovable property

29 What is the procedure for enforcement measures against immovable property within your jurisdiction?

See question 28.

Attachment against movable property

30 What is the procedure for enforcement measures against movable property within your jurisdiction?

See question 28.

Attachment against intangible property

- 31 What is the procedure for enforcement measures against intangible property within your jurisdiction?

See question 28.

Enforcement against foreign states

Applicable law

- 32 Are there any rules in your jurisdiction that specifically govern recognition and enforcement of arbitral awards against foreign states?

The Foreign Sovereign Immunities Act, 28 USC Section 1602 et seq. (1976), provides the sole jurisdictional basis for bringing claims in the United States against a foreign state, including actions to recognise and enforce arbitral awards. The FSIA provides an exception for state immunity in an action to confirm an arbitral award if the arbitration agreement or award is governed by a treaty such as the New York, Panama or ICSID Conventions (see 28 USC Section 1605(a)(6)).

Service of documents to a foreign state

- 33 What is the applicable procedure for service of extrajudicial and judicial documents to a foreign state?

Under US law, service on foreign states (or state-owned entities) must be effected pursuant to the FSIA, which provides a four-step process for service in descending order of preference: (1) pursuant to a special arrangement between the plaintiff and the foreign state; (2) as prescribed in an applicable international convention (such as, for example, the Hague Service Convention); (3) via mail from the clerk of court to the head of the foreign state's ministry of foreign affairs; or (4) via diplomatic channels (28 USC Section 1608(a)). The FSIA provides a similar process for serving state-owned entities (28 USC Section 1608(b)).

Immunity from enforcement

- 34 Are assets belonging to a foreign state immune from enforcement in your jurisdiction? If yes, are there exceptions to such immunity?

Under the FSIA, the property of a foreign sovereign is generally immune from attachment or execution. However, certain exceptions exist. For example, when the attachment or execution is based on a judgment confirming an arbitral award rendered against the foreign state, the FSIA allows for execution on the property of a foreign sovereign if the property is located within the United States and used for commercial activity in the United States (28 USC Section 1610(a)(6)). To execute upon non-immune sovereign assets, an award creditor will also need to comply with other requirements of the FSIA, including 28 USC Section 1610(c).

To distinguish between sovereign and commercial property, courts will examine whether the particular actions that the foreign state performs are the types of actions

by which a private party engages in trade or commerce. For example, in the words of one frequently cited decision, even a contract to buy military equipment, including ‘army boots or even bullets’, constitutes ‘commercial activity’ under the FSIA ‘because private companies can similarly use sales contracts to acquire goods’ (*NML Capital v. Argentina*, 680 F.3d 254 (2d Cir. 2012) [citing *Republic of Argentina v. Weltover*, 504 US 607 (1992)]).

Waiver of immunity from enforcement

35 Is it possible for a foreign state to waive immunity from enforcement in your jurisdiction? If yes, what are the requirements of such waiver?

Under the FSIA, a foreign state can waive immunity from execution (28 USC Section 1610(a)(1)). An explicit waiver can take the form of a contractual provision (see, for example, *Karaha Bodas v. Pertamina*, 313 F.3d 70 (2d Cir. 2002)). Further, the FSIA provides an exception to a foreign state’s immunity from attachment if the judgment in satisfaction of which execution is sought is based on an order confirming an arbitral award and where the assets sought to be executed against are used for commercial activity in the United States (28 USC Section 1610(a)(6)).

Appendix 1

About the Authors

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Elliot Friedman is a partner in Freshfields' international arbitration practice based in New York. He focuses on international arbitration (investor-state and commercial) and international litigation, with a particular emphasis on disputes in the pharmaceutical and energy sectors.

Elliot also represents companies in transnational litigation in US courts, including the enforcement of arbitral awards. Elliot was part of the team that represented BG Group in its victory before the Supreme Court of the United States, in the very first case concerning a bilateral investment treaty to be considered by the Supreme Court. Elliot also has extensive experience in enforcing arbitral awards in the United States, including awards issued under the New York and ICSID Conventions.

Elliot was recently named a rising star in international arbitration by *Law360* and *New York Law Journal*. He is a graduate of the University of Melbourne, Australia (LLB) and Harvard Law School (LLM).

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David Y Livshiz is a counsel in Freshfields' dispute resolution group, based in New York. He frequently represents clients in a wide array of complex cross-border litigations pending before federal and state courts in the United States, and in criminal, regulatory and internal investigations. David has extensive experience in arbitration-related litigation in US courts, including actions to enforce or vacate arbitral awards. He also has substantial experience of representing, and litigating against, sovereigns and sovereign-owned entities in US courts.

David has been recognised as a rising star by the *New York Law Journal* and has been recommended by *The Legal 500* for general commercial disputes.

David received his JD from New York University School of Law in 2005, where he was a member of the Annual Survey of American Law. In 2002, he graduated with the highest distinction from the University of Michigan. David previously worked as a legal adviser to the Permanent Mission of the Republic of Palau to the United Nations and in 2006 clerked for Judge Theodor Meron of the International Criminal Tribunal for the former Yugoslavia.

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Enforcement used to be an irrelevance in international arbitration. Most losing parties simply paid. Not so any more. The time spent on post-award matters has increased vastly.

The Guide to Challenging and Enforcing Arbitration Awards is a comprehensive volume that addresses this new reality. It offers practical know-how on both sides of the coin: challenging, and enforcing, awards. Part I provides a full thematic overview, while Part II delves into the specifics seat by seat. It covers 29 seats.

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