

RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

A PRACTICAL INSIGHT ON THE APPLICATION OF THE 1958 NEW YORK CONVENTION IN VIETNAM

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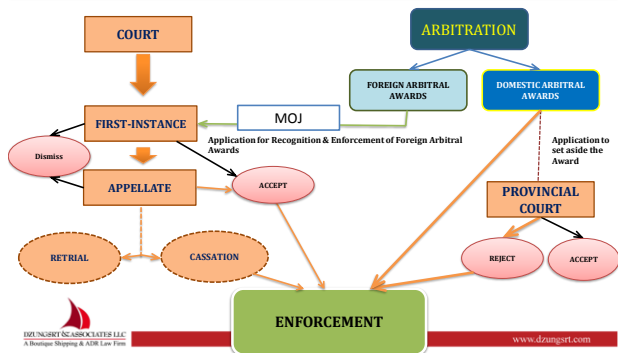
Vietnam International Arbitration Center (VIAC)

Hanoi- 25/10/2013



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1. Settlement of Dispute by Arbitration



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2. Courts' approach

- No review of substantive issues
- Heavy burden of proof on the award creditor.
- *Ex Parte* award: lack of proper notices



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3. Application dossier

- Corporate papers of award creditor;
- Arbitral Procedural Law and Arbitration Rules;
- Contract law and arbitration law issues
- Corporate law issues
- Evidentiary documents



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4. Procedural issues

- Applicable limitation period: the general 1 year time-limit may apply;
- Enrollment process: MOJ to Court
- General procedure is applicable;
- Once leave to enforce has been granted: still subject to appeal!
- Estimated time: 6-12 months or longer!
- Means of Execution



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5. Grounds for resisting enforcement

- Common Grounds:
 - Incapacity of contracting party;
 - Lack of proper notices;
 - Invalid arbitration agreement;
- Public policy:
 - Fundamental Principles of Vietnamese Law
 - Narrower interpretation



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6. Positive Improvements

- A common understanding of the downside and its consequences;
- A pending Supreme Court's Guidance.
- Active Promotion by Vietnam International Arbitration Center.



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Thank you for your kind attention!

Q & A

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