



Enforcement & Challenges to Arbitration Awards

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A Final & Conclusive Award

The Award is generally final and fully conclusive of the parties' rights and obligations with respect to the dispute at issue

Not subject to appeal

Res judicata (claim preclusion) effect

Collateral estoppel (issue preclusion) effect?

Enforceable in all New York Convention signatory States



A Final & Conclusive Award

An award may be challenged or resisted upon a few limited grounds



Challenges & Enforcement

The validity of an award may be challenged:

In direct action to vacate or set aside the award in the place of arbitration (see, e.g., Model Law Article 34)

This is an offensive action to invalidate the award

If successful, it largely renders the award ineffective

Exceptions: Chromalloy and French approach



Challenges & Enforcement

The validity of an award may be challenged:

By raising an exception to enforcement under the New York Convention Article V in the place of enforcement

This is a defensive action to resist enforcement

Effective only as to specific place enforcement resisted



Challenges & Enforcement

Model Law

Article 34 – actions to set aside

Articles 35 & 36 – actions to enforce
(like New York Convention)



Challenges & Enforcement

New York Convention

Article III, IV and V – actions to enforce



Challenges & Enforcement

Grounds for set aside/non-enforcement are virtually identical under Article 34 and Article V

Except law applied to arbitrability and public policy



