

BRIEFING NOTE

Finality and Enforceability of Arbitral Awards in Singapore**- *Singapore Courts Continue to Uphold Policy of Minimal Curial Intervention for Arbitral Awards***

Sinyee Ong

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Introduction

Singapore is known to be pro-arbitration and boasts one of the world's preferred seats for international arbitration. Since *Tjong Very Sumito v Antig Investments Pte Ltd* [2009] 4 SLR(R) 732, the Singapore Courts have maintained that “*there will be minimal curial intervention in arbitration proceedings*”.

In this briefing note, we touch on two recent judgments – *CJA v CIZ* [2022] SGCA 41 and *CEF v CEH* [2022] SGCA 54 – which confirmed the policy of minimal curial intervention.

Finality and Binding Nature of Arbitral Awards

In *CJA v CIZ*, the Singapore Court of Appeal had to decide whether to set aside an award on the grounds that the tribunal: (a) exceeded its jurisdiction; and (b) breached natural justice.

- As to (a), instead of taking a narrow approach in ascertaining what issues have been submitted to arbitration, the Court of Appeal adopted a broad approach of looking at the parties' pleadings, list of issues, opening statements, evidence adduced and closing submissions to determine that the tribunal had not exceeded its jurisdiction.
- As to (b), the Court of Appeal determined that although natural justice dictates that each party shall have full opportunity in presenting their case, this opportunity was not unlimited in scope. In circumstances where the tribunal had adopted a chain of reasoning different from that submitted by the parties, there was no breach of natural justice. This was because tribunals are entitled to make reasonable inferences to arrive at conclusions different from the views adopted by the parties.

In *CEF v CEH*, the Singapore Court of Appeal had to decide whether to set aside an award on the grounds that the award was: (a) uncertain, ambiguous and/or unenforceable; (b) beyond the scope of the submission to arbitration; and/or (c) in breach of natural justice.

- As to (a), the Court of Appeal did not recognise this as a ground for setting aside. This is because the grounds for setting aside are exhaustive. In any event, the Court recognised that it was not feasible to set aside for reasons of enforceability because no tribunal can guarantee the enforceability of arbitral awards (which is subject to the discretion of the judicial authority of each jurisdiction where enforcement is sought).

- As to (b), the Court of Appeal again took a broad approach in examining the parties' pleadings, submissions and evidence adduced during the proceedings to determine that the tribunal had not exceeded its jurisdiction.
- As to (c), the Court of Appeal elaborated on the chain of reasoning point in *CJA v CIZ*. A chain of reasoning must be "*capricious*" or "*irrational*" to breach natural justice. Here, it was determined that parties could not have foreseen the random percentage figure in the award. Hence, there was a breach of justice as the tribunal's chain of reasoning did not have sufficient nexus to the parties' arguments.

Takeaways

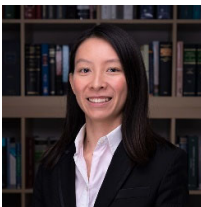
Given the policy of minimal curial intervention by the Singapore Courts, parties to international arbitration should:

- ensure that all "live" issues are addressed and challenged during the proceedings (because review of substantial issues are not permitted during enforcement);
- mount excess of jurisdiction challenges at the earliest opportunity (i.e., during the arbitration proceedings); and
- look at the totality of the arguments raised during arbitral proceedings before bringing a breach of natural justice challenge at enforcement.

Commentary

Our lawyers have advised clients on domestic and international arbitration proceedings. We firmly believe in advancing our clients' commercial interests efficiently and effectively such that outcomes are commercially sensible for all parties to the arbitration. To find out how we can help, please feel free to reach out to any member of our team.

Sinyee Ong



sinyee.ong@sjlaw.com.sg

65 6694 7281 | 65 9148 5059