



GOWLING WLG

KIEV ARBITRATION DAYS

SHOW ME THE MONEY – COLLECTION AND ENFORCEMENT

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ENFORCEMENT OF AN INTERNATIONAL ARBITRATION AWARD IN THE ENGLISH COURTS

- Enforcement is possible under the New York Convention with the usual defences

COLLECTION IN ENGLAND UNDER A RESULTING JUDGMENT

- Third Party Debt Orders
- Charging Orders
- Seizure of assets
- Appointment of Receiver
- Winding up or Bankruptcy

WAYS TO IMPROVE THE COLLECTION PROSPECTS; OBTAINING SECURITY

- Usually obtained from the tribunal.
- LCIA (Art 25.1) and ICC Rules (Art 28) permit the Tribunal to order a party to provide security

WAYS TO IMPROVE THE COLLECTION PROSPECTS; FREEZING ORDERS (THE COURT)

- English court has power to grant a freezing injunction in support of an arbitration – see Section 44 of the Arbitration Act 1996

WAYS TO IMPROVE THE COLLECTION PROSPECTS, FREEZING ORDERS (THE TRIBUNAL)

- LCIA and ICC rules permit the Tribunal to grant a freezing order under their Interim and Conservatory Measures powers

WAYS TO IMPROVE THE COLLECTION PROSPECTS; FREEZING ORDERS (THE EMERGENCY ARBITRATOR)

- Both the 2012 ICC rules (Art 29) and the 2014 LCIA rules (Art 9B) provide for the appointment of an Emergency arbitrator

WHAT TO DO IN THE LIGHT OF RECENT AUTHORITY?

- Preferable to obtain a freezing injunction from the court because:
 - it binds third parties,
 - notice to the opponent is un-necessary and
 - enforcement of it is generally easier.
- Emergency arbitrator provisions impinge on that.
- *Gerald Metals SA v The Trustees of the Timis Trust* [2016] EWHC 2327



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