

Arbitration Law Bulletin

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A Dutch Court Set Aside an Arbitration Award

A Dutch court has ruled in its favour and set aside an arbitration award the jeweller was ordered to pay in 2013 related to its failed partnership with Swiss watchmaker Swatch Group AG.

In the Arbitral Decision rendered in December 2013, Tiffany was ordered to pay Swatch Group the equivalent of \$449.5 million in damages related to the failed partnership.

Tiffany was also ultimately ordered to pay roughly 402 million Swiss francs and 66% of the expense of the arbitration proceeding, among other costs.

Netherlands' Judicial Court:

Tiffany appealed to the court Dutch Court over the arbitration award, which Dutch law allows to be set aside in specific situations. A hearing was held in January, and a three-judge panel issued its ruling in favour of Tiffany to set aside the arbitral decision.

Swatch said in an announcement Wednesday that it the company will appeal the decision, which it described as "purely formal." The organization said that the decision was made in district court and is unenforceable until the Netherlands' Supreme Court makes a final decision.

Background of the case

- Swatch took the matter to arbitration in the Netherlands, referring a breach on the contract and affirming that Tiffany moved too slowly to launch and promote the products. Tiffany filed a counterclaim, blaming Swatch for not getting the watches onto the shelves of different retailers.
- The two companies formed an alliance in 2007 to spur the development, production and global distribution of Tiffany brand watches. Despite being hailed by both companies as a historic agreement, the alliance never really took off, ending in 2011.

The Mongolian government must pay Khan Resources \$100 million in compensation

The Mongolian government must pay Khan Resources \$100 million in compensation for its 2009 cancellation of the company's uranium licenses, an international arbitration tribunal has decided.

The arbitration proceeding was administered by the Permanent Court of Arbitration in Holland, closes the arbitration case launched by Khan in January 2011. In the event that the Mongolian government and state uranium exploration and mining company Monatom fail to make the settlement as directed by the court, Khan says it will take steps to collect the payment under a multilateral treaty on arbitration awards of which Mongolia is a signatory.

In respect of the merits of the claim, the Tribunal agreed with virtually all of Khan's arguments and concluded that Mongolia had breached their obligations towards Khan under Mongolia's Foreign Investment Law. As a consequence, Mongolia had also breached the multi-lateral Energy Charter Treaty to which Mongolia is a signatory.

The final damages awarded were therefore based on a July 2009 value of \$80 million, plus interest. The tribunal also awarded Khan full arbitration and counsel costs of \$9.1 million.

ICSID Award - Venezuela's request of annulment

Venezuela has requested the annulment of a World Bank arbitral tribunal (ICSID) award that orders it pay Exxon Mobil Corp \$1.6 billion in compensation for nationalizations, both sides said on Wednesday.

"The application alleges that, in issuing the ICSID award, the Tribunal exceeded its powers, failed to state reasons on which the ICSID award was based, and departed from a fundamental rule of procedure,"

ICSID says on its website that "annulment is an exceptional recourse to safeguard against the violation of fundamental legal principles relating to the process."

Venezuela had also requested revisions to the award because it argues a previous decision from Paris-based International Chamber of Commerce for \$908 million should be deducted from the ICSID award.

Background of the case

- The tribunal of the International Centre for Settlement of Investment Disputes (Icsid) rendered its ruling "unanimously" on the case related to the expropriation of oil projects Cerro Negro and La Ceiba.
- According to the arbitration decision Venezuela has to pay damages worth a little over USD 9 million "for production and export cuts imposed on the Cerro Negro Project in 2006 and 2007." In addition, Venezuela shall pay USD 1.41 billion "in damages for the expropriation of its (Exxon Mobil's) investments in the Cerro Negro Project," plus additional USD 179 million for the takeover of La Ceiba Project.

Lance Armstrong ordered to pay \$10-million by a arbitration decision

An arbitration panel ordered Lance Armstrong and Tailwind Sports Corp. to pay \$10 million in a fraud dispute with a promotions company for what it called an "unparalleled pageant of international perjury, fraud and conspiracy" that covered up his use of performance-enhancing drugs.

SCA Promotions sued Armstrong to recover its money after Armstrong's cheating was uncovered by a report from the U.S. Anti-Doping Agency and a broadcast admission interview with Oprah Winfrey.

India aims to amend arbitration law to attract foreign investment

The plan to amend India's arbitration law, setting time limits for courts and relaxing judicial rules to settle corporate disputes, as it strives to attract more foreign investment.

The World Bank rates India 186th out of 189 countries for its enforcement of contracts. Prime Minister Narendra Modi has promised judicial reforms and other steps to lift India up the World Bank's Doing Business Index.

Billions of dollars are blocked in legal disputes in India," Gowda told an industry event. "There is a need to establish a speedy, cost-effective and efficient disputes resolution mechanism."

Projects worth over 4tn rupees (\$64bn, £42bn, €57bn) are under litigation in different Indian courts and tribunals, trade body Assocham said in a report.

The government also plans to set up separate commercial courts to speed the resolution of corporate disputes, a move that could unlock billions of dollars in investment.

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