

Case Law Update: Yugraneft Corp. v. Rexx Management Corp.

June 1, 2010

By Mandy Seidenberg

2010 SCC 19, released 20 May 2010

Enforcement of Foreign Judgments – Arbitration Awards – Limitation Periods

Yugraneft, a Russian corporation, purchased materials for its oilfields operations from Rexx, an Alberta corporation. A contractual dispute led to Yugraneft commencing arbitration proceedings before the International Commercial Arbitration Court in Russia. The tribunal ordered Rexx to pay nearly \$1M USD to Yugraneft in September 2002. In January 2006, Yugraneft applied to the Alberta Court of Queen's Bench for recognition and enforcement of the award. The court dismissed the application, ruling it was time-barred under the two-year statutory limitation period in Alberta. The Court of Appeal and the Supreme Court of Canada both dismissed Yugraneft's appeals.

The Supreme Court of Canada held that, under international arbitration law, the matter of limitation periods is left to local procedural law of the jurisdiction where recognition and enforcement is sought. The grounds set out in the New York Convention and the Model Law on which recognition and enforcement of awards can be refused are silent on limitation periods. However, the Convention stipulates recognition and enforcement shall be in accordance with local rules of procedure. It permits, but does not require, a jurisdiction to make enforcement of an award subject to a time limit.

As an arbitral award is not a judgment or court order for the payment of money, the two-year limitation period that applies to most causes of action in Alberta applied. The argument by an intervenor that no time limit may be imposed that is more onerous than the most generous time limit available anywhere in Canada was rejected. This position is at odds with the federalism principles embodied in Canada's Constitution.

WeirFoulds^{LLP}

www.weirfoulds.com

Toronto Office

4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Tel: 416.365.1110
Fax: 416.365.1876

Oakville Office

1320 Cornwall Rd., Suite 201
Oakville, ON L6J 7W5

Tel: 416.365.1110
Fax: 905.829.2035