

Introduction

The effectiveness of international arbitration ultimately rests on the enforceability of arbitral awards across jurisdictions. This enforceability is anchored in the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which remains the central instrument governing recognition and execution of foreign arbitral awards globally.

In India, enforcement is governed by Part II of the Arbitration and Conciliation Act, 1996. Once the statutory conditions are satisfied, a foreign arbitral award becomes enforceable as a decree of an Indian court.

While this framework is structurally stable, the broader environment within which arbitration operates is undergoing change. The current geopolitical climate has introduced new considerations into the enforcement landscape, particularly where disputes intersect with sanctions regimes, state entities, or strategic sectors of the economy.

Limited Grounds for Refusal

Indian arbitration jurisprudence has steadily aligned with the pro-enforcement philosophy of the New York Convention. Under Section 48 of the Arbitration and Conciliation Act, enforcement of a foreign award may be refused only on limited grounds. These include incapacity of parties, invalidity of the arbitration agreement, procedural unfairness, jurisdictional excess by the tribunal, or conflict with the public policy of India.

INDIA'S PRO- ENFORCEMENT APPROACH



Judicial Restraint in Enforcement Proceedings

Indian courts have consistently interpreted these grounds narrowly.

In *Renusagar Power Co. Ltd. v General Electric Co*, MANU/SC/0195/1994, the Supreme Court of India held that the public policy exception applies only where enforcement would violate the fundamental policy of Indian law, the interests of India, or justice and morality.

Similarly, in *Vijay Karia v Prysmian Cavi e Sistemi SRL*, MANU/SC/0171/2020 the Court emphasised that enforcement proceedings cannot be used to re-examine the merits of an arbitral award.



Legislative Reinforcement

Legislative reform has reinforced this judicial position. The 2015 amendment to the Arbitration and Conciliation Act clarified the scope of the public policy exception and narrowed its application in enforcement proceedings.

THE GEOPOLITICAL DIMENSION

Sanctions and Cross-Border Enforcement

Recent geopolitical developments illustrate how international disputes increasingly intersect with economic policy tools.

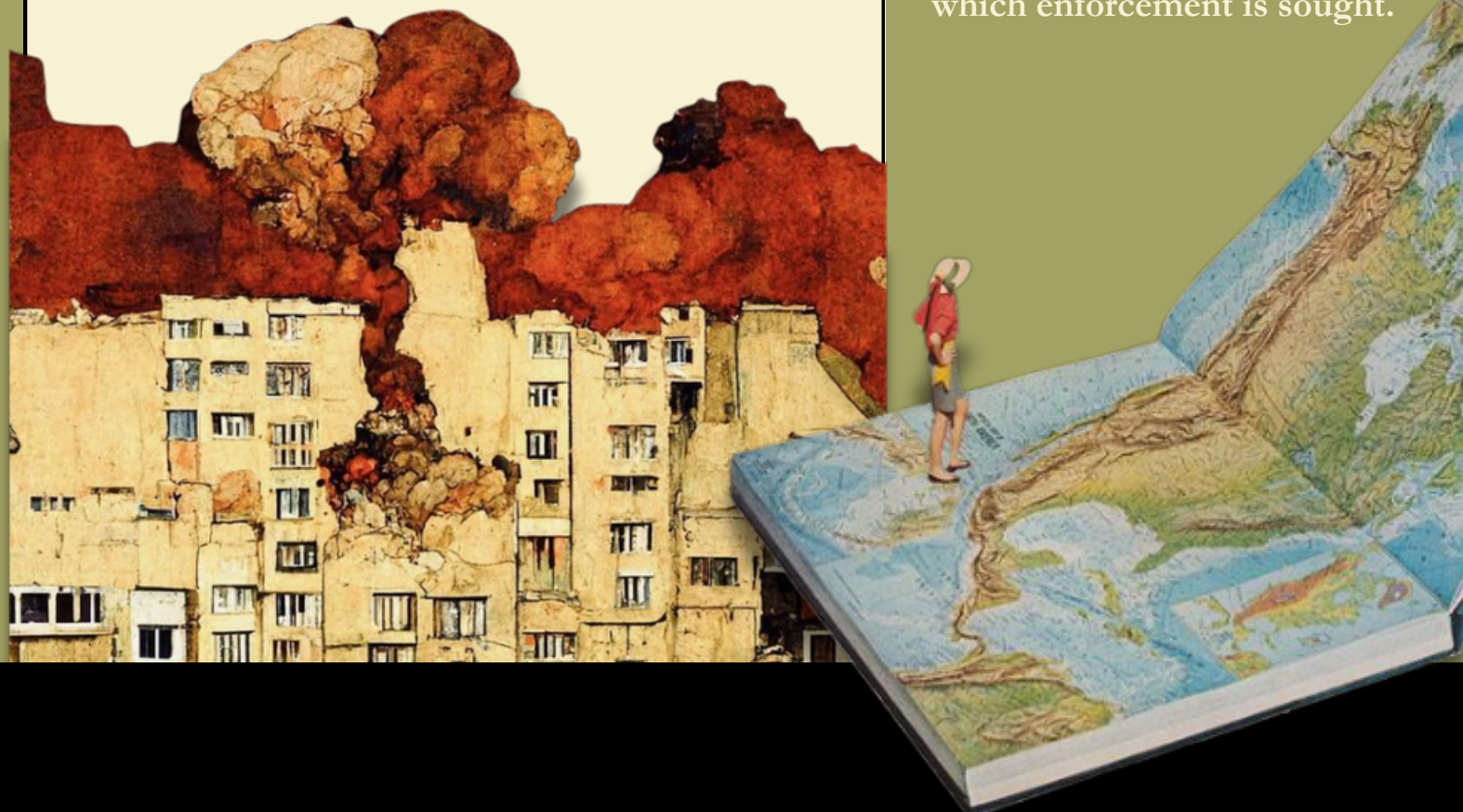
The Russia–Ukraine War, for example, triggered extensive sanctions regimes imposed by bodies such as the European Union and the United States Department of the Treasury.

Sanctions, financial restrictions, and regulatory controls may affect the availability of assets against which arbitral awards can be enforced.

Strategic Sectors and State Entities

Disputes involving state-owned entities or sectors of strategic importance may raise additional considerations. Courts may encounter questions relating to sovereign immunity, national interest, or public policy during enforcement proceedings.

Consequently, the enforceability of arbitral awards may depend not only on their legal validity but also on the jurisdictional and political environment in which enforcement is sought.



PRACTICAL ENFORCEMENT STRATEGY

Jurisdictional Considerations

In the present environment, parties increasingly assess enforcement prospects at the contract drafting stage.

Key considerations include:

- the seat of arbitration and the supervisory jurisdiction of its courts
- the enforcement track record of potential jurisdictions
- the location of counterparty assets
- potential sanctions or regulatory restrictions affecting financial transfers

Asset Location and Enforcement Planning

Where disputes involve state entities or politically sensitive industries, enforcement strategy often centres on identifying jurisdictions where assets are accessible and legal barriers are limited.



Conclusion

International arbitration continues to provide an effective mechanism for resolving cross-border commercial disputes. India's jurisprudence reflects a clear commitment to the pro-enforcement principles of the New York Convention.

However, the evolving geopolitical environment has introduced additional considerations into the enforcement landscape. Sanctions regimes, economic policy measures, and strategic national interests increasingly influence the practical execution of arbitral awards.

For parties engaged in international commerce, arbitration remains indispensable. Yet the intersection of geopolitics and enforcement suggests that careful planning at the contracting stage has become equally critical to safeguarding the ultimate value of an arbitral award.