

# BUILDING AND CONSTRUCTION LAW JOURNAL

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In deciding whether a vacated award can be enforced overseas, a clear and consistent approach is required, one that takes into account the fundamental international law values of comity, party agreement, commercial certainty, and public policy. This article suggests a new “values-based” that satisfies the above, in view of the shortcomings present in approaches today. It is suggested that an enforcing court should not enforce a vacated award unless it determines that the foreign court has made an error in adjudicating, according to the <i>lex arbitri</i> , whether the parties had capacity, sufficient notice, received an award within the submission’s scope, and had proper composition and procedure for the tribunal, applying its discretion as to whether or not the above grounds were reasonably satisfied. Further, the enforcing court should enforce the award if not to do so would violate international public policy. Outside of these exhaustive grounds, the enforcing court should respect the setting aside of the award. ....	306
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