



Sino Channel Asia Ltd v Dana Shipping & Trading Pte Singapore & Another [2017] EWCA Civ 1703

Background

In 2016, the High Court demonstrated the significance of valid service, when it set aside Dana Shipping's \$1.68 million-dollar arbitration award on the basis that the notice of arbitration had been incorrectly served on Sino Channel's agent.

Decision

Following an appeal by Dana Shipping, the Court of Appeal recently overturned the High Court's ruling, holding that Sino Channel's agent had implied actual authority and ostensible authority to accept service of the arbitration notice on its behalf. [[Click here to read a review of the High Court decision](#)]

In overturning the High Court's decision, the Court of Appeal focused on the relationship between Sino Channel and its agent which it considered '*remarkable*'. The Court noted Sino Channel's complete lack of involvement in the negotiation and performance of the relevant contract and in this sense its apparent subservience to its agent's actions.

Given the active and dominant role Sino Channel's agent played, the Court of Appeal considered it would be farcical to suggest that Sino required notice to be served on it, rather than its agent.

COMMENT

These cases demonstrate the importance of procedural accuracy for arbitration as well as other private dispute resolution processes. The Court of Appeal's decision in the *Sino Channel* case demonstrates especially the fine line in determining parties on which service will be effective, particularly in the common context of commercial arrangements involving numerous parties and/or agents.

I set out below several steps to consider which, although may not be contractually required, may be useful in taking a proactive approach to minimising the risk of procedural issues that can affect enforcement of arbitral awards. These should be considered in addition to contractual requirements and may also be more widely relevant to private dispute resolution processes.



- When serving documents on parties where multiple languages are involved, provide a translation of the notice of arbitration (and other key documents) where possible.
- Where translation of long and/or complex documents may be difficult/cost sensitive, at a minimum ensure documents contain at least headings/statements in the defendant's language which identify what the documents relate to e.g. arbitration.
- When serving documents by email, ensure the recipient has actual or ostensible authority to accept service. Enquire with the organisation if uncertain.
- Where there is any uncertainty as to email service and authority of the recipient to accept service, effect service by sending the documents by post to the registered/principal address for the recipient.
- In contractual arrangements involving an agent, be clear in defining each party's role and responsibilities in relation to the contract. Be aware of the liability agents take on on behalf of the contracting party/ies they act for and ensure appropriate reporting channels are in place for when documents are served.
- Where a counterparty has engaged an agent, consider sending relevant documentation to both the agent and counterparty for completeness.



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ABOUT THE AUTHOR

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