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Perspectives From the Field

“No doubt, enforceability of a final award is a key factor for parties selecting international arbitration for commercial disputes. But parties have increasingly recognized the need for interim relief to insure the ultimate award is collectible and to support the arbitration proceeding itself. The decision as to where to pursue that relief depends, in large part, on the nature of the ultimate relief sought, applicable law, and the terms of the underlying arbitral rules or institution.

For example, courts have issued a variety of relief in support of arbitration proceedings, including procuring and preserving evidence, entering injunctive relief, attaching assets or equipment or mandating fulfillment of the terms of an arbitration agreement by compelling

arbitration or entering an anti-suit injunction.

Courts continue to support arbitration despite the development and evolution of procedures within the arbitration process itself, like emergency or interim relief ordered by tribunals. While the enforceability of emergency and interim orders is a matter of some dispute among jurisdictions, these orders are becoming more common. Voluntary compliance with such orders appears relatively high given the potential impact noncompliance can have in a pending arbitration. The treatment of these measures in both courts

and tribunals will be of interest to practitioners as their use continues to develop.” ♦

Arbitration

