

SADELMİ

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SAE SADELMİ S.p.A.,

Petitioner,

94 Civ. 2959 (SS)

-against-

PAPUA NEW GUINEA ELECTRICITY  
COMMISSION

Respondent.

Appearances:

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Memorandum Opinion and Order

SOMIA BOTO MAYOR, U.S.D.J.

Petitioner Sae Sadelmi S.p.A. seeks to confirm partial and final arbitral awards, rendered respectively on May 28, 1993 and September 1, 1994. Curiously, to achieve this result, counsel for petitioner has filed two separate actions, docket numbers 94 Civ. 2959 (SS) and 94 Civ. 2802 (SS). The only difference between the actions is that 94 Civ. 2959 (SS) seeks to confirm the awards pursuant to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 9 U.S.C. §§ 201-207 (1958 and 1988), while 94 Civ. 2802 (SS) seeks confirmation based on the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (1988 and Supp. 1994).

By later dated November 4, 1994, respondent Papua New Guinea Electricity Commission notified the Court that it "neither opposes nor consents to Petitioner SAE Sadelmi S.p.A.'s Amended Petition for Confirmation of Arbitration Tribunal's Partial and Final Awards in the above actions (94 Civ. 2959 (SS) and 94 Civ. 2802 (SS))." For the reasons discussed below, petitioner's motion to confirm the arbitral awards is granted.

BACKGROUND

Petitioner Sae Sadelmi S.p.A., an Italian Corporation with its principle place of business in Milan, Italy, provides electrical engineering services. On March 9, 1989, petitioner entered into a contract (the "Contract") to construct an overhead power line with respondent Papua New Guinea Electricity Commission,

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which is a statutorily created power authority organized and existing under the laws of Papua New Guinea. During the construction, a dispute arose with each party alleging that the other repudiated the Contract.

On September 21, 1990 petitioner demanded arbitration pursuant to clauses 49.1-49.3 of the Contract. In accordance with the terms of the Contract, the arbitration was initiated under the auspices of the International Chamber of Commerce (ICC). Because the parties failed to agree on the venue of the proceedings, the ICC Court, pursuant to article 12 of its rules of arbitration, designated New York, New York as the venue of the arbitration. Arbitration hearings took place in October and December 1991. On May 24, 1993, an arbitration panel (the "Tribunal") issued a partial award (the "Partial Award") in favor of petitioner. Further hearings held in May and April 1994, resulted in the issuance of a final award (the "Final Award"), dated September 1, 1994, in favor of petitioner.

Petitioner seeks to confirm both the Partial and Final Awards. Petitioner also requests judgment on the Tribunal's awards for damages and costs. These awards were rendered in three currencies. The first award is in the amount of 3,752,306.14 U.S. Dollars. The second award is for 551,320.01 PNG Kina, the currency of Papua New Guinea. The final award is in the amount of 3,675.76 British Pounds Sterling.

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#### Discussion

The Court has jurisdiction to hear this dispute pursuant to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "Convention"), 9 U.S.C. § 201. See Hargrave v. Joseph Muller Corp., 710 F.2d 928, 932 (2d Cir. 1983) (jurisdiction under Convention appropriate where both parties have their principle place of business outside United States, even if arbitration proceedings held in New York). Because there is jurisdiction under the Convention, I do not consider petitioner's alternative argument that jurisdiction exists under the Federal Arbitration Act.

As respondent does not contest the confirmation of the arbitral awards in the instant case, the only issues that remain to be resolved concern how judgment should be entered.

As noted, some of the damages and costs awards were expressed in foreign currencies. An American court, however, can only enter a money judgment in U.S. dollars. File et Cables D'Achier de Lens v. Midland Metals Corp., 584 F. Supp. 240, 245 (S.D.N.Y. 1984) (citations omitted). Therefore, I will enter judgment directing the parties to convert the foreign currencies into U.S. dollars as of the date judgment is entered by the Clerk of the Court.

Petitioner maintains that under New York law, it is entitled to have judgment entered with interest running from the date of the Final Award. Courts are divided on whether state or federal law controls such interest questions. Moran v. Arcand,

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1990 WL 113121 at \*3 (S.D.N.Y. July 27, 1990) (Maight, J.) (citing Fort Hill Builders v. National Granite Mut. Ins., 866 F.2d 11, 14 (1st Cir. 1989)). In the instant case, it does not matter whether New York or federal law is applied because both follow the rule that interest runs from the date of the arbitral award. Id. (citations omitted). Therefore, I find that petitioner is entitled to interest from the date of the Final Award.

**Conclusion**

For the reasons discussed above, the Clerk of the Court is directed to enter judgment granting petitioner's motion to confirm the Partial and Final Awards, respectively dated May 28, 1993, and September 1, 1994, and awarding petitioner the amount of 3,753,306.14 U.S. dollars. The Clerk is also directed to enter judgment for petitioner in the U.S. dollar equivalent of 551,320.01 PNG Kina and 1,675.76 British Pounds Sterling. The conversions are to be calculating using the applicable rates that exist as of the date judgment is entered. The parties are to submit their calculations of the appropriate conversions from PNG Kinas and British Pounds Sterling to U.S. dollars to the Clerk. In addition, the Clerk is to calculate prejudgment interest at a rate of nine percent per annum running from the date of the Final Award, which is September 1, 1994.

SO ORDERED.

Dated: New York / New York  
8/25/94, 1994

*[Signature]*  
SONIA SCHMAYOR  
U.S.D.J.

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