

# Supreme Court Holds That The New York Convention Permits The Use Of Equitable Estoppel To Enforce An Arbitration Agreement Among Nonsignatories

Client Alert | June 1, 2020

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Decided June 1, 2020

***GE Energy Power Conversion France SAS v. Outokumpu Stainless USA, LLC*, No. 18-1048**

**Today, the Supreme Court unanimously held that the New York Convention permits the use of state-law equitable estoppel doctrines to compel arbitration between parties that did not sign the arbitration agreement.**

**Background:**

ThyssenKrupp entered into a series of contracts with F.L. Industries to buy three cold rolling mills for use in the manufacture of steel products. Each contract contained a clause calling for arbitration of all “disputes arising between both parties” to be arbitrated in Germany. The contracts defined “Parties” to include the “Buyer” (ThyssenKrupp) and “Seller” (F.L. Industries). They further defined “Seller” and “Parties” to include subcontractors.

F.L. Industries subcontracted with GE Energy to supply motors for the mills. The motors allegedly failed, and Outokumpu (who purchased the manufacturing plant from ThyssenKrupp) sued GE Energy in Alabama state court. After removing the case to federal court, GE Energy moved to compel arbitration in Germany under the arbitration agreement in the ThyssenKrupp-F.L. Industries contracts and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“New York Convention”). The district court compelled arbitration, ruling that the contracts were signed, written agreements between ThyssenKrupp and F.L. Industries and that GE Energy, as a subcontractor, was not excluded from the arbitration provision.

The Eleventh Circuit reversed, holding that because the New York Convention applied only to parties that actually sign the arbitration agreement the Convention precluded the use of equitable estoppel doctrines to compel arbitration among parties that did not sign the arbitration agreement.

**Issue:**

Whether the New York Convention permits the use of equitable estoppel to compel arbitration between parties that did not actually sign the arbitration agreement.

**Court's Holding:**

Yes. The New York Convention does not preclude parties who did not sign an arbitration agreement from seeking to compel arbitration under state-law equitable estoppel

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*"[T]he Convention requires courts to rely on domestic law to fill the gaps; it does not set out a comprehensive regime that displaces domestic law."*

Justice Thomas, writing for the unanimous Court

## What It Means:

- The Court's analysis focused on the text of the New York Convention, a 1958 treaty designed to facilitate the recognition and enforcement of international arbitration agreements. Because the New York Convention is silent on whether parties who did not sign an arbitration agreement can compel arbitration, the Court concluded that nothing in the Convention's text prohibits the application of equitable estoppel. The Court's decision therefore aligned the enforcement of international arbitration agreements under the New York Convention with the enforcement of domestic arbitration agreements under the Federal Arbitration Act, which permits parties to use equitable estoppel and other state-law doctrines when seeking to enforce arbitration agreements.
- The Court's decision is consistent with the Court's broader trend of favoring the resolution of disputes through arbitration. The Court also noted that its decision is consistent with the weight of authority from other countries that have signed the New York Convention and that permit enforcement of arbitration agreements by nonsignatories.
- The Court did not elaborate on the conditions that must be satisfied to compel arbitration under equitable estoppel, or the body of law governing those conditions. Instead, the Court remanded the case for the lower courts to determine those issues.

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The Court's opinion is available [here](#).

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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