



## International Arbitration

Cross-border disputes are ever more significant in international business.

International arbitration has increasingly become the preferred method of resolving such disputes, offering the benefits of greater flexibility, confidentiality and crucially, prospects for enforcement, than national court based litigation. The right advice in relation to incorporating optimum international arbitration agreements in commercial deals can pay dividends not only in terms of ultimate success if a full-blown dispute arises, but also in allowing for the negotiation and settlement of disputes from the strongest possible position. Given the multitude of options in terms of arbitral institutions, seat and governing law, it is often not straightforward to make the right choices in an arbitration agreement and therefore getting tailored advice from experienced international arbitration lawyers all the way from the contract drafting stage to the resolution of any disputes can be critical.

International arbitration offers flexibility in procedures and rules of evidence; flexibility as to who will determine the dispute; a greater ease of enforcement worldwide under international conventions; and increased levels of confidentiality and neutrality.

Our leading international arbitration practice has lawyers located worldwide. Many of our lawyers are acknowledged as leaders in the field of international arbitration and serve on the institutions that administer international arbitration across the world such as the ICC International Court of Arbitration, the American Arbitration Association, the Singapore International Arbitration Association and the London Court of International Arbitration.

Our global team has vast experience in conducting international arbitration including acting as counsel or sitting as arbitrator under all the major institutional and procedural rules, including those of the AAA, CIETAC, DIAC, HKIAC, ICC, ICSID, LCIA, Milan Chamber of Commerce, SCC, SIAC and UNCITRAL. The global reach of our team leaves us especially well placed to put together teams that speak the 'right language' - not just literally, but also in the sense of understanding first hand the key business, political and cultural issues that may be in play. We deliberately do not adopt a 'fly-in/fly-out' model but pride ourselves on our ability to put together teams with both international arbitration experience and an understanding of applicable local laws and

### KEY CONTACTS

#### **Kate Brown de Vejar**

Partner  
Mexico City  
T: +52 55 5261 1886  
kate.browndevejar@dlapiper.com

#### **Michael Ostrove**

Partner  
Paris  
T: +33 (0)1 40 15 24  
94  
michael.ostrove@dlapiper.com

#### **Gitanjali Bajaj**

Partner  
Sydney  
T: +61 2 9286 8440  
gitanjali.bajaj@dlapiper.com

#### **Alexander Brabant**

Partner  
Paris  
T: +33 (0)1 40 15 25  
65  
alexander.brabant@dlapiper.com

#### **Philip Chong**

Partner  
London  
T: +44 (0)20 7153  
7378  
philip.chong@dlapiper.com

#### **Henry Quinlan**

Partner

cultures.

We represent parties in international arbitrations arising in a broad range of industry sectors, including aviation, banking, construction, energy, insurance and reinsurance, international finance, international trade and investments, intellectual property, maritime, media and communications, technology and telecommunications.

We have extensive experience in handling arbitration disputes involving sovereign states, including claims brought under bilateral investment treaties (BITs) and multilateral investment treaties (MITs), such as the Energy Charter Treaty, involving the application of public international as well as private law.

Dubai  
T: +971 4 438 6350  
Henry.Quinlan@dlapiper.com

**Ernest Yang**  
Partner  
Hong Kong  
T: +852 2103 0768  
ernest.yang@dlapiper.com

## CAPABILITES

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- Advise on the management of risk through the drafting of arbitration agreements, including the selection of arbitration rules, choice of law and jurisdiction.
- Conduct arbitral proceedings.
- Enforce and resist the enforcement of arbitral awards worldwide.
- Litigate before domestic courts in connection with arbitration, including obtaining emergency injunctions and orders.
- Provide guidance on the incorporation of specific arbitration rules, choices of law and jurisdiction.
- Advise on the protection of investments through the application of BITs and MITs incorporating arbitration procedures.
- Advise on other effective dispute resolution mechanisms, such as alternative dispute resolution (ADR).

## EXPERIENCE

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- Acting as lead counsel for Turkcell in a US \$2 billion expropriation case against the Islamic Republic of Iran arising from the loss of the first private nationwide GSM license.
- Advising on all relevant aspects of a multi-billion dollar dispute arising out of a shareholders' agreement related to the world's largest company in its sector, including two LCIA arbitrations (London seat) concerning shareholder rights in relation to three contracts together with related company and competition law issues.
- Representing a Central European country in an investment treaty arbitration and related international commercial arbitration under the UNCITRAL Rules involving US \$5 billion worth of claims arising out of the failure of one of the largest banks in the country.
- Representing a South-East European Government in its defence of a €250 million ICC arbitration dispute concerning a multi-billion Euro Project to design and construct more than 70 kilometres of commuter railway including a new tunnel and all associated infrastructure (including over 40 new railway stations).
- Representing a European gas seller in eight consolidated arbitrations under the Stockholm Charter of Commerce Rules relating to the supply, transit and storage of gas through Ukraine, resulting in securing an award that was the largest obtained in international arbitrations in 2010, according to American Lawyer Magazine.
- Acting for an Italian energy company in ICC arbitration proceedings regarding the re-negotiation of pricing in various long-term gas supply agreements.
- Representing the Government of Georgia in consolidated ICSID arbitration claims totalling more than US \$700 million under the Greece/Georgia and Israel/Georgia bilateral investment treaties and the Energy Charter treaty arising from a trans-Caucasus pipeline project.
- Representing Oman in the first claim totalling US \$500 million brought under the US-Oman Free Trade Agreement, arising out of a concession and lease agreements for mining rights.
- Representing a global energy company in ICC arbitration proceedings with seats in Paris and Milan, in relation to a US \$120 million dispute with a Middle Eastern LNG supplier under long-term gas contracts involving Libya and Norway in the context of the application of economic change of circumstance review provisions.
- Acting for a global telecoms business in LCIA arbitration proceedings brought by an Israeli company relating to a 3G telephony project conducted in Russia.

- Advising a Forbes Rich List family in relation to several high value disputes for the last two years, including a US \$1billion LCIA (India) arbitration seated in New Delhi, concerning a joint venture dispute involving 19 real estate projects in India, and a US \$400 million dispute involving parallel proceedings in the London Commercial Court, the Isle of Man Courts, the BVI Courts and five LCIA arbitrations seated in Singapore concerning real estate projects pursued in association with a London AIM-listed company.

## INSIGHTS

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### Publications

#### **DC Circuit issues opinion on sovereign immunity defenses to the enforcement of arbitration award against foreign states**

1 July 2020

Foreign states might not only be able to rely on the doctrine of sovereign immunity to protect themselves from final judgments, but also to avoid the burdens of litigation itself.

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#### **A jurisdiction too far: The English Commercial Court declines to continue freezing injunctions in support of foreign and English seated arbitrations**

26 June 2020

In *Petrochemical Logistics Ltd & Axel Krueger v PSB Alpha AG & Konstantinos Ghertsos*, the English Commercial Court declined to continue two freezing injunctions against the Defendants in support of both a London-seated LCIA arbitration and a Swiss-seated arbitration.

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#### **Top five factors for firms to consider when conducting remote investigations: new realities?**

8 June 2020

The COVID-19 pandemic has forced many businesses to overhaul their working practices, as normal modes of working once taken for granted. These new modes of working raise novel practical issues with traditional investigative methods such as document collection/review and interviewing witnesses.

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#### **Just deserts: English court grants conditional anti-suit injunction on “quasi-contractual” basis**

5 June 2020

*Times Trading Corporation v National Bank of Fujairah (Dubai Branch)*, the English Commercial Court granted an anti-suit injunction (ASI) restraining the National Bank of Fujairah (Dubai Branch) (NBF) from pursuing Singaporean court proceedings. The judgment contains a helpful summary of general principles applicable to “contractual” ASIs.

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#### **LCIA annual casework report shows continued growth and diversity in both its caseload and its choice of arbitrators in 2019**

25 May 2020

On 19 May 2020 the LCIA published its annual casework report for 2019. The report provides a useful summary of trends in the LCIA caseload during last year, and demonstrates the global nature and variety of disputes referred to the LCIA, in particular the continued increase in the international appeal of the LCIA.

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## Virtual hearings report

14 May 2020

This document presents the first global, empirical study on the use of virtual hearings during the COVID-19 confinement. This just one in a series of paradigm shifts that will affect the disputes market.

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## State defences to investment claims arising from COVID-19

29 April 2020

In response to the COVID-19 pandemic, States have been taking emergency measures to limit the impact of the virus. In our first article, we considered whether these emergency measures could give rise to claims by foreign investors for breaches of international law.

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## COVID-19: ¿Una base legítima para reclamos de inversión?

21 April 2020

Si las medidas tomadas por diferentes estados en respuesta a COVID-19 podrían representar una base legítima para potenciales reclamos en virtud de los tratados bilaterales de inversión.

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## COVID-19 – a legitimate basis for investment claims?

16 April 2020

This article considers whether measures taken by States in response to the COVID-19 pandemic could provide a legitimate basis for claims under bilateral investment treaties (BITs) or other investment protection instruments, and identifies some of the defences that may be available to States.

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## The English Court of Appeal confirms that a non-signatory can enforce an arbitration agreement under common law agency

10 April 2020

In the case of *Filatona Trading Ltd and Ors v Navigator Equities Ltd and Ors*, the English Court of Appeal recently upheld the decision of the English Commercial Court, finding that a disclosed and identified principal was entitled to rely on a contract entered into by their agent, including the arbitration agreement contained in that contract.

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## The Court of Appeal broadens the Courts' powers in aid of arbitration

7 April 2020

The Court of Appeal has handed down its judgment in *A v C*, in which it has confirmed that section 44(2) of the Arbitration Act 1996 gives the English Court jurisdiction to make orders against non-party witnesses for the taking of evidence in aid of foreign or domestic arbitrations.

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## English courts release latest statistics on arbitration related applications

7 April 2020

On 27 February 2020, the English Commercial Court (the Court) published its annual report for 2018-2019 (the Report). The Report confirms that despite the relatively high number of arbitration related applications handled by the Court, the Court rarely allows challenges to arbitral awards. The statistics reinforce the view that England remains an arbitration friendly jurisdiction and that the Court is reluctant to interfere in the arbitral process.

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## **Coronavirus (COVID-19): ten practical steps for global employers, right now (Global)**

13 March 2020

These steps are not based on laws of any one jurisdiction but rather are designed to provide a global employer with themes to consider, understanding that what may be suitable for each employer may vary greatly depending on the employer's unique circumstances.

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## **Asia Pacific Arbitration Roundup 2019**

12 March 2020

Welcome to the first edition of our new Asia-Pac Arbitration Roundup.

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## **Singapore deposits instrument of ratification for the Singapore Convention**

5 March 2020

Ambassador Satyendra Prasad of Fiji became the first two countries to deposit their instrument to ratify the Singapore Convention (also known as the United Nations Convention on International Settlement Agreements Resulting from Mediation).

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## **ADGM Courts issue first arbitration-related judgements**

3 March 2020

2019 saw the Abu Dhabi Global Market Court (ADGM Court) publish two arbitration-related judgments, the first published since its launch in December 2018. The first case related to the validity of an ADGM arbitration agreement (A3 v B3 [2019] ADGMCFI 0004) and the second related to the recognition and enforcement of a New York Convention award in the ADGM (and included an insight into the court's approach to the "conduit jurisdiction" question) (A4 v B4 [2019] ADGMCFI 0007).

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## **Update: The Hague Rules on Business and Human Rights Arbitration**

18 February 2020

The recently released Hague Rules on Business and Human Rights Arbitration may assist and encourage the widening of the ambit of arbitration beyond commercial disputes to those concerning the effect of commercial activities on human rights.

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## **Novel coronavirus (2019-nCoV) – potential effects on international arbitration, sale of goods, shipping and shipbuilding (AsiaPac)**

10 February 2020

The current outbreak of novel coronavirus (2019-nCoV) is causing widespread concern. This article will discuss the potential impact on international arbitration, sales of goods, shipping and shipbuilding contracts.

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## **Construction delays arising out of the Novel Coronavirus outbreak (AsiaPac)**

7 February 2020

Since the first case of coronavirus was confirmed in Hong Kong in early February 2020, the government has imposed various measures in an attempt to contain the spread of the coronavirus. The resulting impact of the novel coronavirus is far-reaching and affects every industry and business in Hong Kong. This alert considers some of the key issues that construction contractors and developers in Hong Kong may face. If you need any specific advice, please contact May Ng or Sandy Au for further details.

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## **P v D arbitration claims under section 68 and 33 of the Arbitration Act 1996**

29 January 2020

The decision from the English Commercial Court highlights the consequences for parties if they fail to interrogate fully opponent witnesses on key points of evidence, and for Tribunals of issuing awards inconsistent with unchallenged evidence or predicated upon a case that has not been advanced.

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## **Brazil's new Franchising Law allows parties to settle their disputes by arbitration**

27 January 2020

The new framework aims to allow the expansion of franchising in Brazil through more legal certainty, transparency and simplification.

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## **Genocide Case Against Myanmar in the ICJ**

24 January 2020

The International Court of Justice (ICJ) yesterday delivered an historic Order for provisional measures with respect to the application brought by The Gambia against Myanmar for allegations of genocide.

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## **Arbitrating climate change disputes**

20 January 2020

Climate change is a high priority on the global political and business agendas. As States and private parties become subject to increasing regulation to limit carbon emissions, existing commercial relationships in a range of sectors will be affected, giving rise to the potential for disputes.

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## **Updates on Interim Measures from the PRC Courts in Support of Hong Kong Arbitration**

27 December 2019

On 16 December 2019, the HKIAC published information on its practice of processing applications under the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region (the Arrangement).

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## **Arbitrators who were imprisoned in Peru have been released, but remain subject to significant restrictions on their freedom pending corruption investigations**

5 December 2019

As has been widely reported, on 4 November 2019 the Peruvian Preparatory Investigation Court ordered the "preventative detention" of fourteen arbitrators who sat as arbitrators in cases between Odebrecht - the Brazilian construction company at the centre of the Operation Carwash corruption scandal in Brazil - and the Peruvian government.

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## **Interim Measures now available for Hong Kong arbitrations from the PRC courts**

21 October 2019

On 1 October 2019, the Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings by the Courts of the Mainland and of the Hong Kong Special Administrative Region (the Arrangement) came into force. This is a significant development because interim measures are now available in the PRC for arbitrations seated in Hong Kong.

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## **Brazilian federal government issues decree regulating arbitration in disputes between Public Administration and transport and logistics sectors**

1 October 2019

The Brazilian federal government recently issued a decree regulating arbitration of disputes involving the Public Administration and relating to infrastructure projects – ports, roads, railways, waterways and airports.

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## **Saudi Arabian courts take a robust approach in upholding arbitration agreement**

4 APR 2019

We acted on a successful strike-out application in the Commercial Court in Dammam, which was made by reference to an arbitration agreement contained in a contract between our contractor client and one of its subcontractors. This is an important reminder of the robust approach the Saudi courts take when upholding private arbitration agreements.

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## **Modernisation of Sweden's Arbitration Act**

26 MAR 2019

As of 1 March 2019, a number of changes have been made to the Swedish Arbitration Act (the Act) in an effort to modernise the Act. One significant change is that Swedish courts hearing challenge proceedings may allow oral evidence to be given in the English language, without translation to Swedish.

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## **Russia's Supreme Court demonstrates a pro-arbitration approach**

15 FEB 2019

On 26 December 2018, the Russian Supreme Court issued a review of Russian court practice relating to international and domestic arbitration, and the enforcement and recognition of awards (Review).

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## **The Prague Rules: "Civil" War On The Evidence In International Arbitration**

24 JAN 2019

Efficiency has been a buzzword in international arbitration for a number of years. In response to concerns expressed by users about perceived spiralling cost and delays, practitioners and institutions have been keen to take steps to ensure that international arbitration remains fit for purpose.

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## **ICC update - Conduct of Arbitration**

22 JAN 2019

On 1 January 2019, new updates to the Note to the Parties and Arbitral Tribunals on the Conduct of the Arbitration under the ICC Rules of Arbitration (the Note) became effective.

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## **EU Member States issue a joint declaration on the legal consequences of the *Achmea* decision**

18 JAN 2019

On January 15, 2019, the Member States of the European Union (EU) issued several declarations on the legal consequences of the

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Achmea decision on the regime of investment protection and, in particular, investment arbitration.

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### **Inconsistent dispute resolution clauses - when should the "one-stop shop" give way to gravity?**

27 DEC 2018

Where, in complex commercial arrangements, there is a multiplicity of agreements, problems associated with inconsistencies between them abound. That can have significant consequences, particularly where there is an inconsistency between dispute resolution provisions in different but related contracts.

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### **APPs en América Latina: resolución de disputas a través de arbitraje inversor-estado**

18 DEC 2018

Medidas de protección de la inversión pueden encontrarse en los contratos de APP, pero también en el derecho internacional.

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### **The Standard ICC Arbitration Clause - Invalid in Russia?**

29 NOV 2018

On 26 September 2018 the Russian Supreme Court upheld the decisions of two lower instances rejecting the recognition and enforcement of an ICC arbitral award in the Dredging and Maritime Management SA v. InjTransStroy AO dispute.

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### **Ecuador reforms investment law**

24 SEP 2018

On 21 August 2018, Ecuador took a major step in the promotion of foreign investment with the entry in force of the Ley de Fomento Productivo (Law for the Promotion of Economic Development, or hereinafter the **Law**).

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### **US courts affirm expansive discovery under 28 U.S.C. § 1782**

29 SEP 2015

There is increasingly clear consensus among US courts giving § 1782 expansive reach.

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## **Events**

### **Previous**

#### **DLA Piper Global Vis Pre-Moot 2020 St Petersburg**

10-11 March 2020

DLA Piper Global Vis Pre-Moots Series 2020

St Petersburg

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### **CIArb Australia Vis Pre-Moot hosted by DLA Piper**

5-6 March 2020  
DLA Piper Global Vis Pre-Moots Series 2020  
Melbourne

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### **DLA Piper Global Vis Pre-Moot 2020 Frankfurt**

4 March 2020  
DLA Piper Global Vis Pre-Moots Series 2020  
Frankfurt

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### **DLA Piper Global Vis Pre-Moot 2020 Rio de Janeiro**

13-14 February 2020  
DLA Piper Global Vis Pre-Moots Series 2020  
Rio de Janeiro, RJ

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### **DLA Piper Global Vis Pre-Moot 2020 São Paulo**

13-14 February 2020  
DLA Piper Global Vis Pre-Moots Series 2020  
São Paulo, SP

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### **The Seventh International Pre-Moot Amsterdam**

6-9 February 2020  
DLA Piper Global Vis Pre-Moots Series 2020  
Amsterdam

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### **DLA Piper Global Vis Pre-Moot 2019 (Madrid)**

9 APR 2019  
DLA Piper Global Vis Pre-Moots Series 2020  
Madrid

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### **DLA Piper Global Vis Pre-Moot 2019 (Paris)**

8 APR 2019  
DLA Piper Global Vis Pre-Moots Series 2020  
Paris

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### **DLA Piper Global Vis Pre-Moot 2019 (St. Petersburg)**

27-28 MAR 2019  
DLA Piper Global Vis Pre-Moots Series 2020

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St. Petersburg

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### **DLA Piper Global Vis Pre-Moot 2019 (Rio de Janeiro)**

14-15 FEB 2019  
DLA Piper Global Vis Pre-Moots Series 2020  
Rio de Janeiro, RJ

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### **DLA Piper Global Vis Pre-moot 2019 (Amsterdam)**

8-10 FEB 2019  
DLA Piper Global Vis Pre-Moots Series 2020  
Amsterdam

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## **NEWS**

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### **DLA Piper announces partnership promotions for 2020**

30 April 2020

DLA Piper is proud to announce that 67 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2020 in the United States and May 1, 2020 for EMEA and Asia Pacific. The promotions have been made across many of the firm's practice areas in 35 different offices throughout 13 countries.

Across the firm's practices globally, Corporate saw the largest intake of new partners with 19 promotions, followed by Litigation and Regulatory with 15. Intellectual Property and Technology and Finance and Projects had ten and eight promotions respectively, while there were six in Real Estate. Tax and Employment both had four, and there was one in Restructuring.

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### **DLA Piper lawyers named Acritas Stars**

10 March 2020

Acritas has named over 200 DLA Piper lawyers as 2020 Acritas Stars. Now in its fourth year, Acritas Stars highlights the stand-out lawyers in private practice as nominated by clients around the world. More than 3,000 senior in-house counsel feed into the nomination process to give a comprehensive view of highly recommended lawyers across the globe.

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### **DLA Piper appoints Head of Global Government Affairs team**

6 March 2020

DLA Piper announces the strengthening of its Global Government Affairs team with the appointment of Richard Sterneberg who will head up the team in its Brussels office. Richard brings with him over 20 years of experience working in Brussels as a global government affairs expert.

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### **DLA Piper launches its Global Litigation Guide**

3 December 2019

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DLA Piper has launched its 'Global Litigation Guide', which covers aspects of civil litigation in 30 jurisdictions worldwide.

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### **DLA Piper announces launch of Artificial Intelligence practice**

14 MAY 2019

DLA Piper announced today the launch of its Artificial Intelligence practice, which will focus on assisting companies as they navigate the legal landscape of emerging and disruptive technologies, while helping them understand the legal and compliance risks arising from the creation and deployment of AI systems.

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### **DLA Piper announces partnership promotions for 2019**

1 APR 2019

DLA Piper is proud to announce that 77 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2019 in the United States and May 1, 2019 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 43 different offices throughout 20 countries.

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### **DLA Piper announces launch of Blockchain and Digital Assets practice**

26 FEB 2019

DLA Piper announced today the launch of its Blockchain and Digital Assets practice, which will offer strategic advice on a global basis to address the needs of companies implementing blockchain technology solutions and creating and deploying digital assets.

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### **Kate Brown de Vejar joins DLA Piper as global co-chair of International Arbitration**

22 JAN 2019

DLA Piper announced today that Kate Brown de Vejar has joined the firm's Litigation practice as a partner in Mexico City and New York.

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### **International Arbitration lawyers selected by Who's Who Legal**

7 Jan 2019

We are delighted that Who's Who Legal, a directory of the "foremost legal practitioners in business law, based upon comprehensive, independent research among general counsel and private practice lawyers worldwide," has selected fifteen DLA Piper lawyers for its latest edition covering arbitration and construction.

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### **DLA Piper and IKM Advocates secure victory for the Republic of Kenya defeating a US\$2 billion ICSID claim**

24 OCT 2018

In a decisive victory for the Republic of Kenya, DLA Piper and DLA Piper Africa member firm, IKM Advocates, have successfully defeated the claim estimated to be worth US\$2 billion in arbitration proceedings brought by a mining investor, Cortec Mining Kenya Limited. The claim was brought under the bilateral investment treaty (BIT) between the UK and Kenya dated 13 September 1999. The arbitration took place under the auspices of the World Bank's International Centre for Settlement of Investment Disputes (ICSID), with

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the hearing taking place in Dubai in January 2018. The Tribunal issued its award on 22 October 2018.

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### **DLA Piper launches guide to navigating dispute resolution in the Middle East**

22 OCT 2018

DLA Piper has today launched Dispute Resolution in the Middle East, an interactive online guide designed to assist clients in navigating the disputes process in the Middle East region.

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### **DLA Piper hosts inaugural Afghanistan-UK Business Conference**

18 SEP 2018

DLA Piper's London office yesterday hosted the first Afghanistan-UK Business Conference, organised by the Embassy of the Islamic Republic of Afghanistan in London and the International Chamber of Commerce in Afghanistan. The event, aimed at further enhancing Afghanistan-UK bilateral business, trade and investment relations, was attended by over 100 participants including public and private sector leaders, potential investors, NGOs and consultants, amongst others.

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