



## 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 cultures.

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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 law as well as private law. In addition to our expertise in investment arbitration, we offer a range of dispute resolution and advisory services to government and corporate clients facing public international law issues. Our team of international law experts have advised states, multinational corporations and international organisations on issues such as boundary disputes, law of the sea, treaty negotiations, cross-border resource development, sanctions, and human rights law.

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## 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).
- Advise on the strategy for resolving complex international disputes, using legal and other pressure points to achieve overall objectives.
- Advise sovereign states on issues of public international law, such as law of the sea, land and maritime boundaries, and treaty interpretation.

## EXPERIENCE

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### Energy

- Representing Gazprom in a series of SCC arbitrations against the Ukrainian gas company Naftogaz involving multi-billion dollar claims relating to the supply, transit and pricing of gas.
- Representing an international crude oil trading company in English, Nigerian and Dutch proceedings against a major Nigerian importer of oil products relating to amounts owed for the sale and conversion of an oil tanker.
- Representing an oil and gas major in an English law London seated LCIA arbitration in respect of a significant gas pricing dispute.
- Representing a major Italian gas company in an ICC arbitration claim valued at USD 250 million concerning a gas pricing dispute in Libya in the context of changes in the European gas price market.

### Mining

- Representing the Republic of Guinea in its investigation of corruption in the acquisition of rights to one of the world's most important iron ore deposits, and defense of parallel multi-billion dollar ICSID arbitrations brought by the investor alleging expropriation of a mining concession and related rights. (BSG Resources Limited, BSG Resources (Guinea) Limited and BSG Resources (Guinea) SÀRL v. Republic of Guinea (ICSID Case No. ARB/14/22)).
- Successfully representing the Republic of Kenya in the defence of ICSID proceedings brought by an investor active in the mining sector,

Cortec. This claim was the highest value and most strategically important investment treaty claim Kenya has ever faced. (Cortec Mining Kenya Limited, Cortec (Pty) Limited and Stirling Capital Limited v. Republic of Kenya (ICSID Case No. ARB/15/29)).

- Representing CCX Colombia in an ICC arbitration concerning the sale of the largest coal reserves in Latin America.
- Successfully representing the Sultanate of Oman in the defense of the first ever claim brought under the US Oman Free Trade Agreement. The claims were valued at USD 275 million and arose out of various concession and lease agreements relating to mining rights. (Adel A Hamadi Al Tamimi v. Sultanate of Oman (ICSID Case No. ARB/11/33)).

## Life Sciences

- Representing a leading pharmaceutical company in ICC arbitration proceedings against a US biopharmaceutical company with respect to breaches of a licensing agreement for the development and sale of a medicinal product.
- Successfully representing a seed-stage venture fund partnering in the creation of medical technology companies and an international biotechnology company in an Orlando seated AAA arbitration against a US consulting services company arising from the breach by the latter of a license agreement with our client.
- Successfully defending a leading provider of innovative medical devices against a EUR 3.125m claim resulting from an acquisition in the Netherlands, and securing a full cost order for our client.
- Representing a US pharmaceuticals company as Respondent in an SCC arbitration involving a dispute over milestones in share purchase agreement related to commercial development of pharmaceutical drug.

## Banking

- Representing Lithuania in the defence of UNCITRAL arbitration proceedings brought by an investor in the banking sector.
- Acting for Standard Chartered Bank in both litigation in the Commercial Court in London and potential arbitration with a London seat under ICC Rules in relation to the recovery of over US\$130 million connected to the insolvency of a major middle eastern oil trader with far reaching repercussions.
- Acting for a major British bank against significant European financial institutions and a European State in claims arising from the takeover and restructuring of another major European bank in 2007.
- Acting for major British bank in an ICC arbitration in Paris in respect of EUR 135 million in relation to the restructuring of a consortium arrangement.

## Intellectual Property and Technology

- Acting for a subsidiary of a leading multinational conglomerate in a HKIAC arbitration against a Singapore-based subcontractor in relation to the disputes arising from the IT sub-contract package for a construction project in Saudi Arabia.
- Representing the privatised telecommunications operator in Albania in its defense of a EUR 120 million ICC arbitration relating to an Albanian law claim brought by a rival telecommunications operator regarding an interconnection agreement.
- Representing a major US software and hardware company in an AAA arbitration seated in London and related litigation proceedings brought in California and Delaware in relation to a dispute with a Swiss mobile software company regarding the unlicensed use of its intellectual property, breach of contract and copyright, and anti-competitive behavior.
- Representing a large Asian technology service provider in a NOK 1.2 billion institutional arbitration subject to Norwegian law concerning a long term comprehensive redesign of key communication services offered by a major European telecommunications company.

## Construction, Engineering and Infrastructure

For our arbitration experience in Construction, Engineering and Infrastructure please refer to the dedicated page.

## Investment Arbitration and Public International Law

- Representing Lithuania in the defence of UNCITRAL arbitration proceedings brought by an investor in the banking sector.
- Successfully representing the Republic of Kenya in the defence of ICSID proceedings brought by an investor active in the mining sector, Cortec. This claim was the highest value and most strategically important investment treaty claim Kenya has ever faced. (Cortec Mining Kenya Limited, Cortec (Pty) Limited and Stirling Capital Limited v. Republic of Kenya (ICSID Case No. ARB/15/29)).
- Successfully representing Belgian investors in a multi-million dollar ICSID arbitration against the Republic of Madagascar relating to an

investment in the textile manufacturing sector ((DS)2, S.A., Peter de Sutter and Kristof De Sutter v. Republic of Madagascar (ICSID Case No. ARB/17/18)).

- Successfully representing the Sultanate of Oman in the defense of first ever claim brought under the US Oman Free Trade Agreement. The claims were valued at USD 275 million and arose out of various concession and lease agreements relating to mining rights. (Adel A Hamadi Al Tamimi v. Sultanate of Oman (ICSID Case No. ARB/11/33)).
- Representing the Republic of Moldova in an ICSID arbitration brought under the bilateral investment treaty between France and Moldova. The Claimant sought damages in excess of USD 55 million for alleged mistreatment of investments in duty free stores on the Romania Moldova border and at the Chisinau airport. (Franck Charles Arif v. Republic of Moldova (ICSID Case No. ARB/11/23)).
- Representing the Republic of Timor Leste in ICSID proceedings brought by an investor in the energy sector. (Lighthouse Corporation Pty Ltd and Lighthouse Corporation Ltd, IBC v. Democratic Republic of Timor Leste (ICSID Case No. ARB/15/2)).
- Advising Timor-Leste on its strategy for securing maritime boundaries with Australia, including representing Timor-Leste in a case before the International Court of Justice and the first compulsory conciliation on maritime boundaries under the UN Convention on the Law of the Sea, resulting in an historic maritime boundary treaty with Australia. Currently advising a number of other countries on maritime boundary negotiations, and countries and companies regarding petroleum interests in disputed areas and strategies to overcome differences and obstacles to development.

## INSIGHTS

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### Publications

#### **Africa, In The Vanguard: Africa's Role In Shaping The Future Of Investor-State Arbitration**

12 April 2022

DLA Piper is delighted to have collaborated with Nairobi Centre for International Arbitration to produce an article regarding "Africa, In The Vanguard: Africa's Role In Shaping The Future Of Investor-State Arbitration" in its Alternative Dispute Resolution Journal. The journal provides a platform for scholarly dialogue on pertinent issues relating to the reform of the investor-state dispute settlement regime.

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#### **Reduction of French solar tariffs – how can investors protect their rights**

10 March 2022

In this briefing, we summarize the key regulatory changes which will impact solar projects and identify the avenues available to investors to protect their interests, and the long-term returns on their investments.

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#### **France Investment Treaty Arbitration**

16 December 2021

DLA Piper is delighted to have collaborated with Lexology Getting The Deal Through to produce the chapters on France and Spain in its Investment Treaty Arbitration 2022 publication.

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#### **Spain Investment Treaty Arbitration**

16 December 2021

DLA Piper is delighted to have collaborated with Lexology Getting The Deal Through to produce the chapters on Spain and France in its Investment Treaty Arbitration 2022 publication.

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#### **Disclosure dos and don'ts – ICSID Tribunal's reminder to parties of document production principles**

13 December 2021

This article outlines the dos and don'ts of document production issued in a recent procedural order from the ICSID Tribunal.

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### **Law applicable to arbitration agreements: UK Supreme Court confirms law of the contract generally prevails**

22 November 2021

In the eagerly anticipated judgment of *Kabab-jj v Kout*, the English Supreme Court upheld the Court of Appeal's 2020 decision in the same matter that when English law is expressly chosen by the parties to govern a contract, English law will also usually govern the arbitration agreement contained in that contract.

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### **New developments in the Mexican energy sector generate uncertainty**

17 November 2021

A discussion of relevant measures, criticisms and comments.

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### **Successful asset preservation application in Mainland China prior to the recognition of Hong Kong arbitral award**

17 November 2021

Following a victory in an arbitration at the HK International Arbitration Centre lead by DLA Piper Hong Kong, we have recently succeeded in assisting the Israeli client in obtaining an order from the Ningbo Intermediate People's Court for asset preservation prior to the recognition and enforcement of the HKIAC arbitral award in Ningbo, China.

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### **An interview with Aldersgate Funding**

11 October 2021

In this podcast, DLA Piper partner Henry Quinlan interviews Jim Holding and Matthew Lo at Aldersgate Funding Limited, who shed some light on the advantages of litigation and arbitration funding; the types of claims eligible for funding; the process of funding a case; and the jurisdictional constraints on this type of financing.

DLA Piper · Aldersgate Funding on how litigation funding can help your business

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### **President of Mexico files constitutional reform bill on electricity**

7 October 2021

The result may include serious consequences for private investors in the energy sector in Mexico.

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### **Vale v. Steinmetz: The Court of Appeal re-emphasizes the consensual nature of arbitration and says "no" to third-party application of arbitral awards**

4 October 2021

On 16 July 2021 the Court of Appeal handed down its judgment in *Vale SA & Ors v. Steinmetz & Ors*, dismissing an appeal to have litigation proceedings against the appellants summarily struck out on the basis of a determination in an arbitral award to which they were not parties.

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## The ICC's 2020 Dispute Resolution Statistics

22 September 2021

The International Chamber of Commerce has recently published its annual Dispute Resolution Statistics for 2020. This article offers a summary of the key takeaways despite challenges posed by COVID-19.

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## Virtual Hearings 2021

21 September 2021

### VIRTUAL HEARINGS

In this latest report in the Virtual Hearings series we set out a summary of data-driven conclusions and personal observations from clients and litigators from around the globe.

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## Chambers International Arbitration 2021 Global Practice Guide – Trends and Development in China

15 September 2021

China encompasses a number of arbitral jurisdictions, the most popular of which are in Hong Kong and China. In the past year, we continued to see a significant rise in the number of arbitration cases seated in Mainland China and Hong Kong and strong development of the arbitration market despite the pandemic.

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## New VIAC Arbitration and Mediation Rules Enter into Force

26 July 2021

On 1 July 2021, new Arbitration and Mediation Rules of the Vienna International Arbitration Centre (VIAC and VIAC Rules) entered into force.<sup>1</sup> The revised VIAC Rules will apply to arbitrations commenced after 30 June 2021.

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## The LCIA 2020 Annual Casework Report

21 June 2021

The LCIA published its annual casework report for 2020, the report showed that during the COVID-19 pandemic the LCIA has continued to thrive, with more disputes being referred to the LCIA in 2020 than in any previous year. We have summarised below some of the key trends which emerge from the Report.

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## GAR guide to challenging and enforcing arbitration awards – Second edition

15 June 2021

The Global Arbitration Review's Guide to Challenging and Enforcing Arbitration Awards addresses the applicable standards for challenging and enforcing awards globally. We have authored a chapter outlining the challenges that may arise when trying to secure the awards.

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## Investment Arbitration in Africa

15 June 2021

Working with the Global Arbitration Review, we have published a new chapter on Investment Arbitration in Africa. Providing an overview of recent trends and developments in investment arbitration, the rise of investment disputes and the various initiatives to reform the ISDS system.

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## Reforms in the energy legal framework in Mexico and challenge mechanisms

4 June 2021

The Energy Counter-Reform includes variations which aim to restore the monopoly power of CFE and Pemex.

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## ICC and SIAC Receive “Permanent Arbitration Institution” Status in Russia

20 May 2021

On 19 May 2021, it was reported that the International Court of Arbitration of the International Chamber of Commerce (ICC) and the Singapore International Arbitration Centre (SIAC) have received from the Russian Ministry of Justice the right to act in Russia as permanent arbitration institutions (PAI).

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## Mexico's Hydrocarbons Law Reform Bill: A controversial new measure in the Mexican energy sector

8 April 2021

The reform seeks to give Pemex the same monopoly control it had over the national market before the 2013 energy reform.

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## Paris Court of Appeal finds PCA lacked power to intervene in OIC investor-state arbitration

6 April 2021

The decision of the Paris Court of Appeal casts uncertainty on arbitrations under the OIC Agreement for which the PCA Secretary-General has agreed to act as appointing authority.

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## Revised IBA Rules on the Taking of Evidence in International Arbitration

17 March 2021

The International Bar Association has released its revised Rules on the Taking of Evidence in International Arbitration (**2020 IBA Rules**). The 2020 IBA Rules were formally adopted on 17 December 2020 and mark the first update to the rules since the 2010 edition (**2010 IBA Rules**). The revisions to the rules reflect developments in global arbitration practice, including the emergence of remote hearings and the growing need for data protection and confidentiality.

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## Reform to the Electric Industry Law: a new risk for energy projects in Mexico

10 March 2021

Foreign investors involved in energy projects in Mexico may wish to consider their rights and potential remedies under applicable investment treaties.

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## Investment protection falls victim to Brexit - Analysis of the EU-UK Trade and Cooperation Agreement

26 January 2021

On 1 January 2021, the Trade and Cooperation Agreement concluded between the EU and the UK (the TCA) entered into force. The TCA marks the end of a controversial Brexit process and sets out the framework for trading relations going forward.

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## Current trends in investor state disputes in the telecommunications sector

9 November 2020

The telecommunications sector is one of the fastest growing sectors globally, and has played a critical role during the on-going Covid-19 pandemic in keeping the world interconnected. The high levels of activity in this sector have given rise to a corresponding increase in telecoms-related #disputes, including under investment treaties.

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## Asia Pacific Arbitration Virtual Hearings

2 November 2020

### VIRTUAL HEARINGS

In this edition, we take an in-depth look at the various procedural rules and guidance on virtual/online hearings published by major arbitration institutions within the Asia Pacific region and the practical aspects of virtual hearings being carried out in the region.

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## Argentina: The year in review

26 October 2020

The last year has been a time of significant change in Argentina, including for international arbitration.

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## Brazil: Will COVID-19 mean more arbitrations against public entities?

26 October 2020

Recent legislative initiatives have created greater certainty for potential and existing parties looking to do business with Brazilian states or their instrumentalities.

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## Canada: Third-party litigation funding, enforcement of arbitral awards, admissibility of fresh evidence during court review

26 October 2020

Three recent decisions.

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## Chile: Drafting arbitration clauses in international contracts – practical aspects

26 October 2020

International arbitration has expanded considerably in recent years in Chile.

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## Peru: Top developments in international arbitration

26 October 2020

Major arbitration-related developments and cases recently decided in Peru.

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## Puerto Rico: Legal and practical aspects of international arbitration



26 October 2020

Parties benefit from this legal framework to solve their disputes when conducting business in Puerto Rico.

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## **Replacing NAFTA: What the USMCA means for the future of North American trade and investment – a Q&A**

26 October 2020

Contributors from the US, Mexico and Canada discuss several key considerations.

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## **US: Four significant developments in arbitration case law**

26 October 2020

US-style discovery; compelling arbitration on the basis of equitable estoppel; class-wide arbitration when the arbitration agreement is ambiguous; ongoing use of the US DDCC for ICSID award enforcement.

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## **USMCA investor-state dispute settlement provisions: Key differences for Mexico**

26 October 2020

For ISDS claims, only after the local litigation requirement is fulfilled or 30 months have elapsed may certain substantive claims be brought against a state.

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## **Venezuela: Recent, significant commercial arbitration developments include several Supreme Tribunal cases**

26 October 2020

Recent significant developments in Venezuela's arbitration landscape.

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## **Online Arbitration Hearings: A review of key developments in response to COVID-19**

28 September 2020

### **VIRTUAL HEARINGS**

In this second report, we focus on arbitration and look at how arbitral institutions have adapted in response to COVID-19. We draw out some of the key legal as well as practical challenges faced, and we offer some observations on what the future may look like.

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## **The landscape after Bresco: John Doyle Construction Ltd v Erith Contractors Ltd**

21 September 2020

The Supreme Court's decision in *Bresco v Lonsdale* has been hailed by some as opening the floodgates to adjudications by insolvent companies. But as a series of recent judgments show, there remain a number of obstacles that will need to be overcome by insolvent entities seeking to enforce an adjudication award.

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## **English High Court allows rare appeal of arbitral award on point of law**

21 August 2020

The recent decision of *Tricon Energy Ltd v MTM Trading LLC* [2020] EWHC provides a rare example of the English High Court allowing an

appeal against the decision of an arbitral tribunal on a point of law.

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## **New Rules for a New Normal: The LCIA announces changes to its Arbitration Rules and Mediation Rules**

14 August 2020

On 11 August 2020, the LCIA released an update to its LCIA Arbitration Rules and LCIA Mediation Rules (the “Rules”). The updates to the Rules will become effective on 1 October 2020, marking six years since the arbitration rules currently in force came into effect.

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## **The end of Intra-EU BITs. Now what?**

4 August 2020

In this second article, we will explore in more detail the fate of pending intra-EU arbitrations affected by the termination treaty and how States and claimants should deal with these arbitrations.

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## **Court of Appeal confirms mining company is not liable for human rights abuses in Sierra Leone**

17 July 2020

Earlier this year, the Court of Appeal handed down its judgment in the case of *Kalma v (1) African Minerals Limited, (2) African Minerals (SL) Limited and (3) Tonkolili Iron Ore (SL) Limited*. In this case review, we consider the Court’s findings in relation to (i) accessory liability and (ii) companies’ duty of care when operating abroad.

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## **Global Class Actions Briefing: Major developments in European consumer protection laws: Product safety and consumer class actions in Europe**

15 July 2020

The EU’s proposals for a revised EU General Product Safety Directive (the GPSD) and the EU’s deal for a Collective Redress Directive (the CRD) point the way to a future of heightened novel risk in Europe of collective redress or, as these claims are popularly known, “class actions”.

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## **One less gadget in the arbitration toolbox: International and offshore arbitrations are not entitled to US discovery in aid of foreign proceedings**

13 July 2020

A ruling that is highly relevant to the private funds and offshore dispute practice areas.

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## **A successful s67 challenge: Silence did not confer authority to enter into an arbitration agreement**

7 July 2020

The case *MVV Environment Devonport Ltd v NTO Shipping GmbH & Co. KG MS ‘MV Nortrader’* was one of the few successful challenges to an arbitral award which we have seen before the English courts in recent years.

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## **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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### **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

### **Global International Arbitration Training Day 2020 – Disputes arising from Sino-US tensions**

29 October 2020

Webinar

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### **Online hearings: balancing justice and efficiency for clients**

20 July 2020

Webinar

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