



Litigation, Arbitration and Investigations

DLA Piper's lawyers are skilled in litigation, arbitration, investigations and ADR and will deploy that experience to help you devise the best strategies.

We have the local knowledge to apply the regulatory, economic, political and cultural context to legal issues and develop case strategies. We regularly handle technically challenging and complex multi-jurisdictional matters. Our global reach allows us to provide you with fully integrated teams and consistent quality wherever you do business. We work with you to manage potential risk and implement the most effective solutions to reduce costly escalation. We aim to solve complex business disputes as swiftly and effectively as possible and provide solutions which are aligned with your business objectives.

DLA Piper's global team of disputes and regulatory lawyers is the largest dedicated disputes practice globally as recognized by *The Lawyer's Top 50 Litigation* survey.

In an environment where regulation and its enforcement will only increase, we recognize that effective compliance and avoidance of regulatory intervention are business critical issues.

Globalization of world markets has brought limitless commercial opportunities. However, it has also increased the potential for legal liability by exposing corporations around the world to financial and reputational risk across multiple jurisdictions. Mitigation of those risks requires early engagement with experienced lawyers who understand the cultural as well as the legal and regulatory landscapes but who will also drive relentlessly to deliver results for their clients when a dispute or regulatory intervention is unavoidable.

CAPABILITES

We manage every type of dispute or contentious problem, quickly marshalling national and international teams.

- Antitrust and competition
- Banking and finance litigation
- Class Actions
- Contentious M&A
- Commercial contract disputes
- Cross-border litigation
- Employment litigation and dispute resolution
- Energy disputes

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- Corporate
- Employment
- Finance
- Intellectual Property and Technology
- Regulatory and Government Affairs
- Projects, Energy and Infrastructure
- Real Estate
- Tax
- International Corporate Reorganizations

- Energy and Natural Resources
- Financial Services
- Insurance
- Life Sciences
- Industrials

- Environmental, health and safety disputes
- Infrastructure and construction disputes
- Insurance and reinsurance disputes
- International arbitration
- IT and telecoms disputes
- Marine and aviation disputes
- Patent and IP litigation
- Product Liability, Mass Torts and Product Stewardship
- Public international law
- Administrative law
- Real estate litigation and planning disputes
- Securities and enforcement litigation
- Tax disputes
- White collar and corporate crime

- Technology
- Infrastructure, Construction and Transport

INSIGHTS

Publications

Episode 2: EU Whistleblowing Directive – the key issues to know

25 May 2022

[GLOBAL COMPLIANCE AND INVESTIGATIONS PODCAST](#)

A podcast covering key global issues relating to compliance and investigations.

Blockchain and Digital Assets News and Trends

23 May 2022

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

OECD releases public consultation document on crypto tax reporting in effort to increase transparency.

Caught between a rock and a hard place: Dealing with blocking statutes when conducting investigations in Asia

23 MAY 2022

Dealing with “blocking statutes” has become the harsh reality for multinational corporates when conducting cross-border investigations. These statutes may apply to a corporate by virtue of their “home” jurisdiction (ie where they are incorporated or have their principal place of business), where the investigation takes place, or even where pieces of evidence may be located.

Defining 'cyber crisis': The new Thai guidelines on cyberthreat levels

23 MAY 2022

Following our last article on the rights and obligations of Organizations of Critical Information Infrastructure (OCII), at the end of 2021, the Thai government issued guidelines intended to assist these organizations in classifying cyber threats they face. In this piece, we examine what these guidelines mean for OCII, and how OCII may appropriately consider these guidelines when conducting cybersecurity reviews or when responding to regulators.

In the hot seat: Climate change litigation risk in Australia

23 MAY 2022

This article takes a look at trends in Australia as it has the second largest number of climate cases globally. These trends are likely to emerge throughout Asia, and Asian companies investing in Australia also need to understand these trends.

SEACHange Issue IV: May 2022

23 MAY 2022

SEACHANGE

Our latest covers various developments in the disputes and cybersecurity space, touching on Australia, Singapore and Thailand.

We also examine how corporates can tackle the challenges posed by “blocking statutes” to the conduct of internal and regulatory investigations in Asian markets. This has become a hot issue given the trend of regulators and governments enforcing and enacting legislation to limit the sharing of evidence out of their respective jurisdictions.

Watch where you seat: Singapore High Court clarifies that Law of Seat governs subject matter arbitrability at the pre-award stage

23 MAY 2022

Subject matter arbitrability refers to the power of an arbitrator to hear certain categories of disputes as a matter of public policy. Naturally, national laws vary in the extent to which they limit arbitrable subject matter. Generally, disputes or claims relating to commercial or contractual matters are arbitrable, whereas criminal, family, bankruptcy, and insolvency matters are not.

Case Note - *Tushita Technologies Ltd v MJ Protective Services Group Pty Ltd* [2022] NSWSC 413

10 May 2022

DLA Piper's Insurance team in Sydney successfully defended an application by a plaintiff in the Supreme Court of New South Wales to join the insurer of a named defendant (which was in liquidation) to the proceedings under the *Civil Liability (Third Party Claims Against Insurers) Act 2017*.

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.

Fast fraud facts: News from *Occupational Fraud 2022: A Report to the Nations*

7 April 2022

Did you know that organizations worldwide lose five percent of their revenue each year, for an estimated total of \$4.7 trillion dollars, to occupational fraud on an annual basis? In the recently published 2022 version of the *Occupational Fraud Report*, the most comprehensive global study by The Association of Certified Fraud Examiners to date, the true cost of fraudulent schemes for organizations is addressed.

Episode 1: Key trends across the globe in compliance and investigations

5 April 2022

GLOBAL COMPLIANCE AND INVESTIGATIONS PODCAST

A podcast covering key global issues relating to compliance and investigations.

Asia Pacific Arbitration Roundup 2021

30 March 2022

Welcome to the third edition of our Asia Pacific Arbitration Roundup where we review significant case updates and key developments in international arbitration across various Asia Pacific jurisdictions in the past year.

Australia

30 March 2022

This case concerned an application by Beijing Jishi Venture Capital Fund (Limited Partnership) (Jishi Fund) in the Federal Court of Australia for enforcement of an award under the International Arbitration Act 1974 (Cth) (IAA) with respect to a 2018 China International Economic and Trade Arbitration Commission (CIETAC) award.

China

30 March 2022

On 31 July 2021, the PRC Ministry of Justice published a draft of the revised PRC Arbitration Law (Revised Draft) for public consultation, along with an explanatory note

Hong Kong, China

30 March 2022

On 25 May 2021, the Hong Kong Court of First Instance ruled in the case of C v D that non-compliance with a precondition to arbitration set out in contracts (for instance, a condition that the parties should engage in good-faith negotiation before arbitration) does not affect the jurisdiction of the tribunal unless expressly provided by the parties.

Japan

30 March 2022

In the case of Shintoyo Enterprises, the Tokyo District Court dismissed a case in favour of an arbitration agreement.

New Zealand

30 March 2022

The Arbitration Act 1996 contains two primary schedules: a mandatory Schedule 1, closely based upon the Model Law; and an optional Schedule 2, incorporating additional procedural rules including the possibility of an appeal on a question of law.

Singapore

30 March 2022

Subject matter arbitrability refers to the power of an arbitrator to hear certain categories of disputes as a matter of public policy.

South Korea

30 March 2022

In a recent decision, the Seoul Central District Court upheld an arbitration clause that referred to a non-existent arbitration institution.

Thailand

30 March 2022

Amidst the COVID-19 pandemic, arbitration practice in Thailand has seen progressive development where technology is being consistently integrated into arbitrations and court-related procedures to ensure expediency and practicality.

Six ways the construction industry is innovating to deliver ESG demands

21 March 2022

Following COP26, national governments are enacting legislation to combat the effect of the climate crisis. The world's industries, construction among them, are reflecting and assessing how they can adapt to deliver the environmental, sustainability and governance (ESG) demands of the marketplace.

Singapore imposed sanctions on Russia

11 March 2022

On 5 March 2022 the Ministry of Foreign Affairs of Singapore announced the imposition of sanctions against Russia.

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.

Aiscension: an AI tool to ensure effective risk management by detecting anti-competitive practice

24 February 2022

Anti-competitive activity has been rife in companies for centuries and there are many who like to take the ostrich approach and bury their head in the sand. However, it is known that this approach to risk management is ineffective should the regulators come looking, and with fines of up to 10% of global turnover, it is a big risk to take.

A Corporate Governance “Boost” – The MAS Revises Guidelines for Financial Institutions and Insurers*

22 February 2022

On 9 November 2021, the Monetary Authority of Singapore issued revised Guidelines on Corporate Governance for Designated Financial Holding Companies, Banks, Direct Insurers, Reinsurers and Captive Insurers which are Incorporated in Singapore. The revised Guidelines will take effect throughout 2022 and are designed to provide Singapore with a further improved business environment, coupling high governance standards and greater corporate management flexibility.

Getting Real “Bite” in the Year of the Tiger: The New Singapore Workplace Discrimination Guidelines*

22 February 2022

During 2022, the Singapore Government looks set to enshrine into law some or all of the principles currently contained in the Tripartite Guidelines on Fair Employment Practices in relation to workplace discrimination. With the introduction of Singapore’s first workplace discrimination legislation and a newly formed discrimination tribunal, the TGFEF will finally receive their missing teeth – find out what it means for your business operations in Singapore.

No Win, No Fee: Singapore Embraces Conditional Fee Arrangements*

22 February 2022

Boosting its popularity as a global arbitration seat, Singapore has passed a law that allows conditional fee arrangements (CFA) in international and domestic arbitration proceedings, certain proceedings of the Singapore International Commercial Court and related court and mediation proceedings. A CFA is an agreement between the client and legal counsel which provides for the whole or part of the lawyer’s fees and costs in dispute resolution proceedings to be payable only in specified circumstances, such as where the client succeeds in the claim, or where certain agreed outcomes are achieved. The introduction of the CFA framework aligns Singapore with other jurisdictions, such as England & Wales, Australia, and Canada, each of which have allowed CFAs in various forms for some time.

Raising the Bar on Blowing the Whistle: China’s New Whistleblower Rewards Measures Provide Additional Incentives (and Controls) for Whistleblowing

22 February 2022

China’s new *Whistleblower Rewards Measures* provides up to RMB1 million (approx. USD157,000) in rewards for the reporting of major violations of China’s various market conduct regulations. The regulations aim to provide greater incentives to whistleblowers and deter illegal activities in the market more effectively, particularly in light of the increased importance of whistleblowing across different industries in China in recent years. In light of these new measures, companies with operations in China should implement or strengthen their internal controls and reporting mechanisms.

SEACHange Issue III: February 2022

22 February 2022
SEACHANGE

Our third issue focuses on significant developments in Singapore, cutting across corporate governance, dispute resolution and employment issues.

We also look at stronger steps being taken in China to enhance whistleblower frameworks by (amongst other things) incentivizing the reporting of misconduct. These changes are consistent with changes we are seeing in other Asian jurisdictions.

Our articles look at:

China's *Interim Measures for Rewards for Whistleblower Reports of Major Violations in the Field of Market Regulation* and what it means for corporates and their compliance systems in China;

Conditional fee arrangements, and how Singapore's latest law permitting these arrangements will continue to strengthen its position as a leading disputes hub;

Proposed legislation in Singapore, expected to be tabled in 2022, that will give greater bite to existing workplace discrimination guidelines; and

Guidelines issued by the Monetary Authority of Singapore that will heighten corporate governance standards expected of financial institutions.

- **Digital Markets Update**

1 February 2022

It's easy to think that effective competition in digital markets requires new laws and sector specific regulation. A public consultation on that issue and on the ACCC's proposals for amendments to the *Competition and Consumer Act 2010 (CCA)* will be published in March, with recommendations to the Treasury in September. Significant resources have already been spent on progressing the new regime — with three market inquiries and seven detailed reports so far, a further two this year, and eight more until 2025.

- **Tortious claims and climate change: Where are we now?**

31 January 2022

What should be the response of tort law to climate change? That starkly put is the key issue raised by this appeal.

- **Mauritius - Global bribery offenses guide**

11 January 2022

- **Angola - Global bribery offenses guide**

11 January 2022

- **Argentina - Global bribery offenses guide**

11 January 2022

- **Australia - Global bribery offenses guide**

11 January 2022

- **Austria - Global bribery offenses guide**

11 January 2022

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Bahrain - Global bribery offenses guide
11 January 2022
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Belgium - Global bribery offenses guide
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China - Global bribery offenses guide
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Colombia - Global bribery offenses guide
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Czech Republic - Global bribery offenses guide
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Denmark - Global bribery offenses guide
11 January 2022

- **Ethiopia - Global bribery offenses guide**

11 January 2022

- **Finland - Global bribery offenses guide**

11 January 2022

- **France - Global bribery offenses guide**

11 January 2022

- **Germany - Global bribery offenses guide**

11 January 2022

- **Global bribery offenses guide**

11 January 2022

In recent decades, improved standards in the identification and enforcement of international bribery offenses have provided the backdrop to a growing appreciation and management of bribery risk within the business community.

- **Hong Kong - Global bribery offenses guide**

11 January 2022

- **Hungary - Global bribery offenses guide**

11 January 2022

- **Ireland - Global bribery offenses guide**

11 January 2022

- **Italy - Global bribery offenses guide**

11 January 2022

- **Japan - Global bribery offenses guide**

11 January 2022

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- **Kenya - Global bribery offenses guide**

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- **Kuwait - Global bribery offenses guide**

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- **Luxembourg - Global bribery offenses guide**

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- **Mexico - Global bribery offenses guide**

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- **Morocco - Global bribery offenses guide**

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- **New Zealand - Global bribery offenses guide**

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- **Norway - Global bribery offenses guide**

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- **Oman - Global bribery offenses guide**

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- **Peru - Global bribery offenses guide**

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- **Poland - Global bribery offenses guide**

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- **Portugal - Global bribery offenses guide**

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- **Qatar - Global bribery offenses guide**

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- **Romania - Global bribery offenses guide**

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- **Russia - Global bribery offenses guide**

11 January 2022



- **Saudi Arabia - Global bribery offenses guide**

11 January 2022



- **Singapore - Global bribery offenses guide**

11 January 2022



- **Slovakia - Global bribery offenses guide**

11 January 2022



- **Spain - Global bribery offenses guide**

11 January 2022



- **Sweden - Global bribery offenses guide**

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- **Tanzania - Global bribery offenses guide**

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- **Thailand - Global bribery offenses guide**

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- **Tunisia - Global bribery offenses guide**

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- **Ukraine - Global bribery offenses guide**

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- **United Arab Emirates- Global bribery offenses guide**

11 January 2022

- **United Kingdom - Global bribery offenses guide**

11 January 2022

- **United States - Global bribery offenses guide**

11 January 2022

- **Zambia - Global bribery offenses guide**

11 January 2022

- **Zimbabwe - Global bribery offenses guide**

11 January 2022

- **Supporting the health of your health system: 2022**

3 January 2022

Helping you tend to healthcare system wellness throughout the business life cycle.

- **Are you Subject to Thailand's Cyber Security Laws? Know Your Rights and Obligations**

17 December 2021

A newly issued notification under Thailand's Cyber Security Act B.E. 2562 (2019) now guides private organizations in Thailand in navigating the murky waters of whether their services fall under the definition of "Critical Information Infrastructure" (CII). In this article, we address the implications for your organization should its services provided fall be considered part of CII.

- **Clearing the Air: Indonesian Courts Decide to Hold Officials Liable for Jakarta's Air Pollution**

17 December 2021

The rise of class actions in Indonesia should be an area that foreign investors or corporates operating in Indonesia remain continuously aware of – particularly as courts increasingly hold individuals and entities (including government officials and ministries) liable for environmental issues. The most recent decision by the District Court of Central Jakarta has raised concerns about companies being held liable for pollution, and potentially other environmental issues (e.g., climate-change). Companies and foreign investors should continue to strengthen their environmental compliance framework to minimize potential liability and ensure continuous compliance with relevant national environmental protection laws and international best practices.

- **Navigating Through Uncertainty: New Challenges of Conducting Cross-border Investigations under China's Personal Information Protection Law**

17 December 2021

China's Personal Information Protection Law (PIPL) came into effect on November 1, 2021. With an array of obligations and liabilities imposed, the PIPL's omnibus restrictions on the collection, use, and transfer of personal information will complicate the cross-border investigations for multinational companies doing business in China. Companies should take a risk-based approach when handling evidence that contains personal information of its China employees, customers, suppliers or other third-parties. When in doubt, companies should avoid transferring data containing personal information outside of China through proper redaction and anonymization procedures.

- **Privacy by design – India gears up for an overhaul of its data protection laws**

17 December 2021

India is on the anvil of a comprehensive overhaul of its current data privacy regime once the Personal Data Protection Bill 2019 (Bill) is enacted. The recent spate of serious data breach incidents in India, exacerbated by home working, make the introduction of the new data framework timely and highly anticipated. We summarise the key provisions of the Bill and compare it to GDPR to demonstrate the uniqueness of India's data privacy regime and its implications for businesses with interests in India.

- **SEACHange Issue II: December 2021**

17 December 2021

SEACHANGE

Our second issue focuses on a varied set of regional updates, cutting across areas of data protection, cybersecurity, and the environment. Data protection and cybersecurity concerns remain a focus of legislators and enforcement agencies across Asia.

In this issue we cover:

- Challenges and implications for corporates in handling cross-border investigations with a nexus to China as a result of China's new Personal Information Protection Law;
- The impact of Thailand's newly-issued notification on private entities pursuant to its Cyber Security Act;
- The hefty compliance requirements arising from India's Data Protection Bill which has been inspired by the EU's GDPR; and
- Indonesian courts taking a tougher stance in holding the government and its representatives liable for environmental failures.

With Civil Cyber-Fraud Initiative, government sharpens focus on cybersecurity obligations for government contractors

13 December 2021

Deploying the False Claims Act to pursue cybersecurity-related fraud.

Google files groundbreaking civil suit to disrupt massive botnet with blockchain backup system

10 December 2021

Civil actions to take down botnets have been around for years, but the blockchain aspect adds a new twist.

“But they’re not an Insured!” – NSW Supreme Court reaffirms third party beneficiary principles under the Insurance Contracts Act

25 November 2021

The NSW Supreme Court held that Brightcity International Pty Ltd, an importer of goods, was entitled to indemnity as a third party beneficiary under an Industrial Special Risks insurance policy issued by CGU Insurance to Admiral International Pty Ltd, a warehouse operator who stored Brightcity’s goods.

These proceedings arose after a fire at Admiral’s warehouse which damaged Brightcity’s goods. A number of claims were made. This article focuses on Brightcity’s claim for indemnity under Admiral’s ISR Policy as a third party beneficiary.

In arriving at its decision, the Court found that Brightcity fell within the “Interest of Other Parties’ clause in the ISR Policy. As such, section 48(1) of the *Insurance Contract Act 1984* (Cth) allowed Brightcity to claim against CGU despite not being a contracting party to the Policy.

This follows the recent and related Full Federal Court decision of *Insurance Australia Ltd t/as CGU Insurance v MOS Beverages Pty Ltd* [2021] FCAFC 165 in which the Court, on Appeal, dealt with a similar claim by another customer of Admiral arising out of the same warehouse fire.

NB: this case note focuses on the Court’s consideration of third party beneficiary principles and does not discuss Brightcity’s claim for loss and damage against Admiral, or Admiral’s claim against CGU for indemnity under its own policy.

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-ji 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.

Russia signs the 2019 Convention on the Recognition and Enforcement of Foreign Judgments

22 November 2021

On 17 November 2021, the Russian Federation signed the Convention of 2 July 2019 on the Recognition and

Enforcement of Foreign Judgments in Civil or Commercial Matters (Convention).¹ Russia is now the fifth state to sign the Convention along with Costa Rica, Israel, Ukraine and Uruguay, although no country has ratified the Convention and it has yet to enter into force.

¹ Convention

New developments in the Mexican energy sector generate uncertainty

17 November 2021

A discussion of relevant measures, criticisms and comments.

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.

Finality and freedom: unappreciated risks of the arbitral process

21 October 2021

In Australia, resolving disputes through arbitration is, and has been for some time now, an attractive option for commercial parties.

Just head to arbitration

14 October 2021

The interaction between domestic laws, choice-of-law and arbitration clauses in contracts governing cross-border transactions can create uncertainty for commercial parties when disputes arise. The case of *Freedom Foods Pty Ltd v Blue Diamond Growers* [2021] FCA 172 is a recent reminder of this.

Privilege - you can't have your cake and eat it too

14 October 2021

It is crucial for inhouse lawyers and legal advisers to understand the extent to which legal professional privilege applies when conducting investigations. A recent Australian Federal Court case has handed down an important reminder on privilege – finding that, while notes of interviews and outlines of evidence created during internal investigations were protected by privilege at the time they were created, conduct following that was inconsistent with maintenance of confidentiality waived privilege, even when done with the best of intentions.

SEACChange Issue I: October 2021

14 October 2021

SEACHANGE

Our first issue covers a wide range of jurisdictions, and an even wider range of issues.

We'll cover a new view from the SICC on admitting evidence of corruption in arbitral proceedings, Lord Mance's analysis (with potentially far-reaching consequences) on what, in the age of COVID-19, constitutes a "competent local authority", the Australian Federal Court's thinking on the limits of privilege in relation to internal investigations and an important decision of the Indian Supreme Court on the interplay between court and tribunal issued interim relief.

The UK Government is not a "competent local authority"

14 October 2021

In his arbitration award issued on 10 September 2021, Lord Mance departed from the views adopted in the UK FCA test case in considering whether advices and orders to close businesses as a precaution against COVID-19 had in fact been issued by a recognized authority under the terms of the Policy.

You Can Run But You Cannot Hide: The Public Duty to Consider Evidence of Corruption in Arbitrations

14 October 2021

The Singapore International Commercial Court recently held that parties cannot, as between themselves, agree to exclude evidence of corruption from the scope of an arbitration. This is a notable departure from the usual practice of allowing parties a wide berth to decide what evidence is admissible in an arbitration. Future parties should take note that arbitrators and supervisory courts will not look favorably upon attempts to ignore corrupt behavior.

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](#)

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.

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.

Indian Supreme Court clarifies the interplay between court-ordered and tribunal-ordered interim measures

1 October 2021

The Supreme Court of India in *Arcelor Mittal Nippon Steel India Ltd. v. Essar Bulk Terminal Limited* clarified the scope of the court's power to grant interim relief when the tribunal has been constituted during the pendency of the interim relief applications before the court. The Supreme Court held that the bar on the Court to entertain interim relief applications would not operate, if the process of consideration of the interim relief applications by the Court has commenced, and/or whether the Court has applied its mind to some extent before the constitution of the tribunal.

"A fair go for all": Caps on litigation funding proceeds to be introduced

30 September 2021

The Federal Government has made good on its promise to ensure a fair and reasonable distribution of class action proceeds in proceedings involving a litigation funder by today introducing the *Treasury Laws Amendment (Measures for Consultation) Bill 2021: Litigation funders*.

Managing Business Related and Personal Data

27 September 2021

With the introduction of the new Data Security Law and the Personal Information Protection Law (to come into effect on 1 November 2021), companies doing business in China may face more intense scrutiny on how business related and personal data are handled when conducting internal investigations in China.

Counting the cost: The first Australian ruling on contingency fee orders

22 September 2021

In the first test of the Supreme Court of Victoria's newfound powers to make a group costs order in a class action (or *contingency fees* in lay terms), the plaintiffs' application for contingency fees was rejected by the Supreme Court (for now).

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.

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.

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.

“Don't cross the line” – The UK Supreme Court considers when a legitimate pursuit of commercial interest becomes illegitimate “lawful act duress”

6 September 2021

In the recent case of *Pakistan International Airline Corporation v Times Travel (UK) Ltd.* [2021] UKSC 40, the Supreme Court of the United Kingdom confirmed that English law recognizes the concept of “lawful act duress”. However, the five Justices of the Supreme Court had different interpretations on what amounted to an illegitimate threat.

Pleading with care: the limits of a tribunal's jurisdiction

31 August 2021

A recent Singapore High Court decision in *CIZ v CJA* is a useful reminder that the primary instruments for demarcating matters in dispute in an arbitration are the parties' own written submissions. Tribunals must decide cases that parties put before them, not cases that parties could (or should) have made.

Insights from the US: will knowledge, recklessness or negligence in Australian securities class actions actually change anything?

16 August 2021

Last week the Federal Government introduced permanent reforms to the continuous disclosure regime and misleading and deceptive conduct provisions in the *Corporations Act 2001* and *ASIC Act 2001* which provide that companies and their officers will not be exposed to civil liability unless they had a requisite mental element, being *knowledge, recklessness or negligence*. This change is in line with the recommendations of the Parliamentary Joint Committee for Corporations and Financial Services and also extends the temporary measures originally introduced at the height of the COVID-19 pandemic.

This change brings Australia's continuous disclosure regime closer to that of its counterparts in the United States and the United Kingdom, and there is much we can learn from our international colleagues.

Continuous disclosure reform - not a free pass

12 August 2021

The temporary changes to the continuous disclosure and misleading and deceptive conduct laws which were

introduced at the beginning of the COVID-19 pandemic have now been made permanent.

Green -v- Betfred – online gaming platform unable to rely on exclusion of liability clauses to avoid pay-out to winning customer

2 August 2021

The growth of online gaming in England means that gamblers are now more likely to be found at computer screens than casino tables. This was illustrated by the case of Andrew Green v Petfre (Gibraltar) Limited t/a Betfred [2021] EWHC 842 (QB).

Personal liability of a director and liability of an agent – the cautionary tale of Tattersalls Limited v McMahon

21 July 2021

Bloodstock auction sales are a common means of selling thoroughbred horses. It was such an auction that gave rise to proceedings in Tattersalls Limited v McMahon [2021] EWHC 1629 (QB). The case is an important one for any agent in the sports arena and beyond - read our full analysis of the case and recommendations.

Third time lucky: Triple Point in the Supreme Court

20 July 2021

The Supreme Court has handed down its long awaited decision on the question of whether delay liquidated damages (LD) provisions survive termination. The case related to a dispute between the parties as to how delay LD provisions apply where an English law contract is terminated prior to its completion, and the interpretation of contractual wording seeking to limit liability.

Between a Rock and a hard place: Singapore Courts decline to follow English precedent on 'No Oral Modification' clauses

5 July 2021

The Singapore Court of Appeal has decided against strict enforcement of no oral modification clauses, taking a different approach to the English Supreme Court. We summarise the contrasting cases and what this means for businesses operating in either of these jurisdictions.

The DLA Piper Project Simulator – one year on

2 July 2021

Over the past year, we have delivered The DLA Piper Project Simulator to many of our construction, engineering and infrastructure clients, over a virtual platform, and client feedback has been overwhelmingly positive.

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.

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.

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.

You can't have your cake and eat it too...

11 June 2021

In *Commonwealth Director of Public Prosecutions v Citigroup Global Markets Australia Pty Ltd* [2021] FCA 511, the Federal Court handed down an important reminder to in-house lawyers and legal advisers on legal professional privilege, finding conduct that was inconsistent with maintenance of confidentiality waived privilege - even when done with the best of intentions.

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.

The Supreme Court of India upholds party autonomy on choice of foreign seat

3 June 2021

Five months after our previous report on the Gujarat High Court's judgment in *GE Power Conversion Pvt. Ltd. v. PASL Wind Solution Pvt. Ltd.*^[1], the Supreme Court has ruled that two Indian parties may choose a foreign seat of arbitration and any award resulting from the arbitration would be enforceable in courts across India. In its groundbreaking judgment, the Supreme Court also found that interim relief under the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) would be available for foreign seated arbitrations between two Indian parties, notably setting aside a contrary view held by the Gujarat High Court. Indian parties and foreign investors with Indian registered companies now have the freedom to choose a suitable seat outside of India to resolve their commercial disputes through arbitration.

Human rights and environmental due diligence legislation in Europe – Implications for global supply chains

17 May 2021

This article highlights how companies with global supply chains can maintain/achieve compliance with human rights and environmental standards and safely navigate this new hard law regulatory landscape in the EU Member States France, the Netherlands, Germany and at EU level.

New medical device regulations in China likely to lead to increased regulatory enforcement

3 May 2021

The Chinese State Council has passed the eagerly anticipated revisions to the PRC's Regulations for Supervision and Administration of Medical Devices, which will come into effect on 1 June 2021. The Regulations will significantly increase the range and size of penalties that may be imposed for regulatory violations.

Penalizing Resale Price Maintenance in China's Pharmaceutical Industry

30 April 2021

The State Administration of Market Regulation (SAMR) fined Yangtze River Pharmaceutical Group RMB764 million for engaging in resale price maintenance (RPM) in violation of China's Anti-Monopoly Law (AML). This reflects the SAMR's renewed prioritization of RPM enforcement and underscores the challenges to defending RPM practices under the AML.

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.

China's Expanding Economic Sanctions Regime

31 March 2021

On March 22, 2021, the European Union (EU) and the governments of the US, Canada, and the UK concurrently imposed sanctions on individual Chinese officials and a Chinese entity based on findings of human rights violations in Xinjiang.

Hong Kong Court declined to grant interim interim injunctions under Section 45(2) of the Arbitration Ordinance in the absence of any arbitration on foot

30 March 2021

In the recent case of *Onwel Sales Limited v Skechers S.A.R.L. and Skechers Southeast Asia Limited* [2021] HKCFI 790, the Hong Kong Court of First Instance has refused to grant an interim interim injunction under Section 45(2) of the Arbitration Ordinance. In this case, the Hong Kong Court discussed some common issues in applications for injunctive reliefs in aid of arbitrations concerning shareholders'/ joint venture disputes.

Representing individuals in interviews – the US perspective

30 March 2021

Determining whether to consent to an interview, and any interview itself, can be pivotal.

Human Rights Due Diligence Legislation in Europe – Implications for Supply Chains to India and South Asia

26 March 2021

For several decades, there have been increasing demands that multinational corporations should strive to increase the positive effects of their activities and minimize their negative impact in India and South Asia.

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.

Away with anonymous shell companies for good?

12 March 2021

On 24 February 2021, Transparency International submitted a global petition to the UN General Assembly preparing for the United Nation's first ever Special Session against Corruption, UNGASS 2021, which will take place in June 2021.

Court of Appeal agrees it is arguable that a duty of care may arise in relation to end-of-life asset disposal

12 March 2021

On 10 March 2021, the English Court of Appeal handed down its decision in *Hamad Begum (on behalf of MD Khalil Mollah) v Maran (UK) Limited*.

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.

Building and Construction security of payment regime

15 February 2021

In the recent decision of *Civil Contractors (Aust) Pty Ltd v Galaxy Developments Pty Ltd*, the Queensland Court of Appeal has provided important guidance to principals, contractors and adjudicators on the strict requirements of the security of payment regime, including the strict time limit that applies to the delivery of adjudicators' decisions. The decision may have serious practical consequences for adjudicators where decisions given late can be void on the basis of being out of time and therefore without jurisdiction, and in those instances adjudicators will not be entitled to their fees. The decision also serves as a useful reminder to contractors to be appropriately licenced and to understand the potential payment implications for licencing issues.

Corruption Perceptions Index 2020 - a regional perspective

11 February 2021

Last week Transparency International launched the 2020 edition of its Corruption Perceptions Index (CPI), which ranks 180 countries and territories by their perceived levels of public sector corruption, according to experts and business people, using a scale of zero to 100 (100 being very clean and zero being highly corrupt).

Disputes, Issue 2

28 January 2021

DISPUTES

In this issue, we look at the split among the federal circuits over what it means to "exceed authorized access" in violation of the Computer Fraud and Abuse Act; the ways in which the federal courts apply the Supreme Court's recent limitations on equitable disgorgement; ways to mitigate liability risk in unauthorized financial transfers; considerations for employers as they develop policies regarding use of cannabis in their workforce; and the critical importance of escalation protocols in corporate whistleblower programs.

No firing for lighting up? Cannabis in the workplace

28 January 2021

Appropriately addressing cannabis usage in the workplace while navigating anti-discrimination protections for workers.

Six months after *Liu*: The SEC and disgorgement

28 January 2021

In the wake of *Liu*, several open questions are only now starting to work their way through the courts.

Supreme Court dives into circuit split over the Computer Fraud and Abuse Act

28 January 2021

What does it mean to "exceed authorized access" to an Internet-connected device?

The missing link in whistleblower programs – the escalation protocols

28 January 2021

A fixed set of escalation protocols helps ensure that a whistleblower program functions efficiently.

Trial attorney Buffy Mims joins DLA Piper in Washington, DC

28 January 2021

Buffy Mims has joined DLA Piper's Litigation and Regulatory practice as a partner in Washington, DC.

Unauthorized financial transaction fraud: Mitigating liability risks

28 January 2021

Prudent financial institutions are seeking to protect themselves against liability for third-party fraud and accountholder carelessness.

Protecting Your Company's Competitive and Technological Advantage through Enforcing Restrictive Covenants Against Former Employees in China: Update on Recent Cases and Legislative Developments

26 January 2021

In this article, we discuss whether and how companies may enforce restrictive covenants and protect their confidential information and trade secrets by looking at some recent cases and legislative developments.

Germany Foreign Direct Investment (FDI) Control: Massive Extension of Scope

25 January 2021

For the fourth time within one year, Germany will broaden the reach of its foreign direct investment control system.

Fatal air pollution: A subject for group actions in the UK?

21 January 2021

It has long been recognised that air pollution, in the form of particulates, and sulphur and nitrogen oxides, has an extremely detrimental effect on health – particularly in heavily populated urban areas with high traffic densities.

Boardroom Brexit: What the deal means for dispute resolution

31 December 2020

BOARDROOM BREXIT

This was one of the most contentious areas in the negotiations as both sides wanted assurances that the other party would honour the commitments contained in the TCA in the future.

Boardroom Brexit: What the deal means for state aid and competition

31 December 2020

BOARDROOM BREXIT

EU state aid law applies to assistance from state resources that is selective in its application and that has a potential effect on trade between EU member states and competition.

The Pharmaceutical Corner

22 December 2020

A precedential decision with potentially far-reaching impacts for future Hatch-Waxman litigation and generic-product launches.

Delhi and Gujarat High Courts give the nod to Indian parties choosing a foreign arbitration law and a foreign seat of arbitration

18 December 2020

November 2020 welcomed a flurry of decisions demonstrating the increasingly pro-arbitration approach of courts

in India. The proposition of whether two Indian parties may choose a foreign law to govern the arbitration and a foreign seat of arbitration has drawn much debate over the years. The Delhi High Court in *Dholi Spintex Pvt. Ltd vs Louis Dreyfus Corporation India Pvt. Ltd.* answered the question in the affirmative and held that two Indian parties can choose a foreign law as the law governing the arbitration. The Delhi High Court also reiterated the principle of limited interference in international arbitrations by courts.

Securing evidence during the COVID-19 pandemic (Koldyreva v Motylev)

15 December 2020

The English High Court has recently handed down two separate judgments in *Koldyreva v Motylev & others*, spanning a number of applications aimed at tracing funds in support of a Russian bankruptcy order: a worldwide freezing order, a passport surrender order, Norwich Pharmacal orders, and search orders.

Cyberfrauds and Cyberattacks: Remote Working Posing Increased Risks and How to Stay Protected

14 December 2020

Cybercriminals are becoming more sophisticated in the ways they facilitate cyberfrauds, with the increasing use of personalised messages on instant messaging platforms such as WeChat or WhatsApp and socially engineered phishing emails to deceive recipients to transfer funds, disclose sensitive information or click on malicious links.

REACH 2.0 – New EU Chemicals Strategy for Sustainability

10 December 2020

Chemicals are omnipresent in our everyday life and play a fundamental role as building blocks in technologies, materials and products. However, chemicals with hazardous components can also cause damage to human and animal health and the environment.

Practical Compliance

8 December 2020

PRACTICAL COMPLIANCE

Q4 2020: Spotlight on real estate COVID-19 compliance.

China's First Measures Under New Export Control Law Target Encryption Products

7 December 2020

China's new Export Control Law took effect on December 1, 2020. The next day, the Ministry of Commerce, together with the State Cryptography Administration and the General Administration of Customs, released a circular that includes the first list of products and technologies focusing on commercial encryption products and technologies.

Green light for Prudential and Rothesay's transfer

4 December 2020

INSURANCE HORIZONS

In what is a significant decision for the insurance sector the Court of Appeal has overturned the High Court's refusal to sanction the transfer of a portfolio of annuity policies from Prudential Assurance Company Ltd ("Prudential") to Rothesay Life Plc ("Rothesay") under Part VII of the Financial Services and Markets Act 2000 ("Part VII").

Applying two principles of Islamic finance to create meaningful ESG initiatives

2 December 2020

Environmental, social and governance matters are a burgeoning issue on the agenda for businesses, governments and individuals alike. Companies are under increasing pressure to shift their focus from maximising profits and shareholder value to maximising value for all stakeholders.

Running the orange light: Halliburton v Chubb

2 December 2020

INSURANCE HORIZONS

On Friday, 27 November 2020, the Supreme Court handed down a long awaited judgment in Halliburton v Chubb that concerned the issue of when an arbitrator should make disclosure of circumstances which may give rise to justifiable doubts as to his/her impartiality.

India Update: Arbitration and Conciliation Ordinance (Amendment), 2020

1 December 2020

On 4 November 2020, the President of India promulgated the Arbitration and Conciliation (Amendment) Ordinance, 2020 (**Ordinance**), which amends sections 36 (Enforcement) and 43-J (Norms for accreditation) of the Arbitration and Conciliation Act, 1996 (**Arbitration Act**). The Ordinance also omits the eighth schedule of the Arbitration Act, which deals with qualifications and experience of arbitrators.

Case Law Update: COVID-19, Force Majeure, and Aircraft Leases

27 November 2020

As we enter the coronavirus (COVID-19) pandemic's "second wave" and aspirations for a "back to normal levels" rebound in 2021 for the aviation industry look less likely, the financial pressure point is quickly spreading from airlines to those up and down their vertical supply chain, notably aviation lessors.

Issue 5

23 November 2020

ENERGY AND NATURAL RESOURCES CASE LAW UPDATE

As the world adjusts to a new normal, businesses across all sectors will be anticipating significant changes to their operations and priorities. Continued disruption across the Energy and Natural Resources (E&NR) sector may, for

example, see participants seek to re-visit long-term contracts, with subsequent disputes being played out in court.

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.

The Law Commission's review of the law on digital assets and smart contracts:

9 November 2020

On 21 September 2020, the Law Commission announced that it had begun work on two projects aimed at ensuring that "English law can accommodate two emerging technologies that could revolutionise commerce: smart contracts and digital assets."

A timely intervention: A drafter's perspective on the Protocol on Virtual Hearings in Africa

4 November 2020

AFRICA CONNECTED

VIRTUAL HEARINGS

Concerned about the effects if the COVID-19 pandemic on Africa's dispute resolution landscape, the Association of Young Arbitrators (AYA), bringing together arbitration practitioners in Africa under 40 years of age, launched its Protocol on Virtual Hearings in Africa (the Protocol) in April 2020.

Africa Connected: COVID-19 and the evolution of dispute resolution

4 November 2020

AFRICA CONNECTED

ISSUE 5

COVID-19 and the evolution of dispute resolution in Africa is the theme of this edition of Africa Connected. We have articles on issues ranging from third party funding and its implications in African disputes, to the use of virtual hearing platforms across the continent. Jurisdiction-specific articles cover how the pandemic has affected legal practitioners - and the court system - in Burundi, Kenya, Nigeria and Tanzania.

Africa rising: Virtual hearings in international arbitration

4 November 2020

AFRICA CONNECTED

Before the COVID-19 pandemic, the legal community was dabbling in the use of virtual hearings in certain parts of the world. However, the imposition of national lockdowns, strict social distancing measures and travel restrictions has forced lawyers to move away from the comfort of traditional, in-person hearings, towards new-age virtual hearings held on electronic platforms.

COVID-19: The effects on dispute resolution in Nigeria

4 November 2020

AFRICA CONNECTED

Limited hearings, long adjournments, and restricted access to the courtrooms are some of the major effects of the COVID-19 pandemic on the delivery of justice in Nigeria. These issues have changed judges' and lawyers' attitudes towards the use of technology.

Civil lawsuits in Burundi during COVID-19

4 November 2020

AFRICA CONNECTED

The outbreak of the COVID-19 pandemic is unprecedented. COVID-19 has spread worldwide, and the Republic of Burundi has adopted preventive measures that have affected institutions' activities in different ways.

Embracing electronic court case management systems: Lessons from the Kenyan experience during COVID-19

4 November 2020

AFRICA CONNECTED

The Kenyan court system is anchored in common law, which is characterized by paper-based procedures and physical court appearances. The disruptions caused by the COVID-19 pandemic have shaken the very foundation of the system, forcing the judiciary to come up with measures to mitigate the effects and assure litigants of their right to a fair trial and access to courts.

Litigation funding in Africa: Maximizing opportunities

4 November 2020

AFRICA CONNECTED

The measures implemented by governments in response to COVID-19, coupled with the rapid economic downturn and ongoing uncertainty arising from the pandemic, have created the perfect storm. The outlook may seem bleak, but third-party funding offers a ray of hope for beleaguered boardrooms looking to maximize cashflow in this unpredictable period.

Opportunities of big data in law

4 November 2020

AFRICA CONNECTED

Across many industries, big data is being used to drive more informed and better decision-making. But despite the willingness to adopt new technologies, Africa has been slow to tap into its benefits.

SFO clarifies guidance on DPAs: Is the DPA model ready for take-off?

4 November 2020

On 23 October 2020, the Serious Fraud Office published a new chapter from its Operational Handbook which provides further guidance on the SFO's approach to Deferred Prosecution Agreements. Whilst the guidance does not introduce any major changes, it does provide clarity on the SFO's expectations of companies wishing to avoid prosecution.

Technology and the future of dispute resolution

4 November 2020

AFRICA CONNECTED

Technology affects the way we interact with one another, including regarding dispute resolution: it either generates new kinds of disputes which arise out of the new capabilities it offers, or it can help in the resolution of disputes. In this article we focus on how technology can assist in the resolution of disputes and how it can be leveraged in terms of promptness and efficiency.

The time is now for continental unity in African dispute settlement

4 November 2020

AFRICA CONNECTED

Africa is on the cusp of what could be a break in a decades-long cycle of poverty and economic shortcomings. Whether this cycle will be broken depends on the ability of African nations to put in place policies that attract and protect foreign and intra-African investment.

Zimbabwean courts: Catching up to the future

4 November 2020

AFRICA CONNECTED

The COVID-19 pandemic has caused a global shift in the way people work all over the world. There has been greater emphasis on virtual working, putting immense pressure on countries that were not prepared to shift to working virtually in important areas of the economy, with a big spotlight being on the courts.

Assessing ESG factors in the energy sector

27 October 2020

ESG HANDBOOKS AND GUIDES

A reference tool for energy companies as they discuss and refine their ESG programs.

Argentina: The year in review

26 October 2020

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

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.

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

26 October 2020

Three recent decisions.

Chile: Drafting arbitration clauses in international contracts – practical aspects

26 October 2020

International arbitration has expanded considerably in recent years in Chile.

Peru: Top developments in international arbitration

26 October 2020

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

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.

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.

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.

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.

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

26 October 2020

Recent significant developments in Venezuela's arbitration landscape.

China's New Export Control Law

19 October 2020

On October 17, 2020, the Standing Committee of China's National People's Congress passed the Export Control Law (the ECL), which will take effect on December 1, 2020. The ECL establishes China's first comprehensive framework for restricting exports of military and dual-use products and technology for national security and public policy reasons.

Update: The Singapore Mediation Convention and Enforcement of Settlement Agreements in India

13 October 2020

The Singapore Mediation Convention, formally known as the United Nations Convention on International Settlement Agreements Resulting from Mediation, came into force on 12 September 2020. The Convention provides a uniform, efficient framework for the recognition and enforcement of mediated settlement agreements that resolve international, commercial disputes – akin to the framework provided by the 1958 New York Convention for arbitral awards. As of 12 September 2020, the Convention has 53 signatories including the United States, China and India.

Revised ICC Rules in effect from 1 January 2021

9 October 2020

A new version of the ICC Arbitration Rules will come into effect on 1 January 2021 (**2021 ICC Rules**), replacing the 2017 Arbitration Rules. The updated rules were formally adopted on 6 October and intend to increase efficiency, flexibility and transparency, making ICC Arbitration more attractive to complex arbitrations on all scales.

Recent Breakthroughs for Foreign Arbitration Institutions in China

5 October 2020

On 7 September 2020, the State Council has further published the “Work Plan for Deepening Comprehensive Pilot and New Round of Opening-Up of Services Sectors in Beijing and Building Comprehensive Demonstrative Area of Opening-Up of State Service Sectors” further allowing foreign arbitration institutions to provide arbitration services in Beijing.

The gathering storm: COVID-19-related disputes in the financial services sector – A transatlantic perspective

5 October 2020

COVID-19 has caused the largest shock to the global economy in living memory. Whilst economic uncertainty, financial distress and market turmoil usually trigger increased levels of commercial litigation, the extreme conditions created by COVID-19 have primed the landscape for a pan-sector surge in financial services-related disputes.

Constitutional challenges to inter partes review – *Arthrex, Inc. v. Smith & Nephew, Inc.*

30 September 2020

This Appointments Clause challenge to the IPR process appears to have staying power.

The Pharmaceutical Corner

30 September 2020

In this inaugural column, we look at the implications of IPR and PGR proceedings in Hatch Waxman litigation.

Disputes arising “under” a construction contract: An adjudicator’s jurisdiction

28 September 2020

Most of the analysis of *Bresco Electrical Services Ltd (In Liquidation) v Michael J Lonsdale (Electrical) Ltd* [2020] UKSC 25 has deservedly been on how the UK Supreme Court reconciled the statutory regimes for construction adjudication and insolvency set-off.

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.

China’s Unreliable Entity List Provisions: Fighting Fire with Fire?

22 September 2020

On September 19, 2020, China's Ministry of Commerce issued the Provisions on the Unreliable Entity List (the “UEL Provisions”). The UEL Provisions establish formal mechanisms for sanctioning specific foreign entities and individuals for conduct inconsistent with the Chinese government’s core interests and policies.

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.

New amendments to Singapore’s International Arbitration Act

15 September 2020

A bill has been tabled in the Singapore parliament introducing amendments to the International Arbitration Act (IAA). According to the Singapore Ministry of Law, the amendments are aimed at enhancing Singapore’s status as an international commercial arbitration hub, and strengthening the state’s legal framework for international arbitration.

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.

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.

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.

Class actions make it easier than ever to seek redress

28 July 2020

Businesses should note that they are at risk of increased exposure to claims once group proceedings are permitted in Scottish courts, write Alistair Drummond and Jen Talbot.

WIN Wise: Top tips for making the most of your IT contracts

20 July 2020

There can sometimes be a disconnect between lawyers who draft contracts, and those with primary responsibility for implementing them. Through smart collaboration, effective communication and shared vision, in-house lawyers and their commercial counterparts can work together to maximize value and generate extra revenue.

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.

Enforcement of foreign arbitral awards

17 July 2020

Foreign arbitral award holders who do not have a presence in India often face the dilemma of which Indian court to approach for the enforcement of their award. Some clarification was provided by the Supreme Court of India in 2018 in *Sundaram Finance Ltd. v. Abdul Samad & Anr.*, 2018 SCC 622, where the Court clarified that an award

holder could initiate execution proceedings before any court in India where assets are located. In the event that the subject-matter of the arbitration was of a specified value, commercial courts established under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act 2015 may have jurisdiction.

Reputation management during investigations: ZXC v Bloomberg LP

16 July 2020

The Court of Appeal has upheld the decision of Nicklin J which found that Bloomberg had breached the privacy rights of a US businessman when it published an article containing confidential details about a UK criminal investigation which he was subject to.

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".

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.

Procurement Law Reform - Let's start a discussion

9 July 2020

DLA Piper's panel discussion webinar held on 1 July 2020 had a lively debate on the merits of potential options for reform and which changes might produce a better model for procurement regulation in the UK post Brexit. This is the first of a series of bitesize summary reports providing feedback from the debate.

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.

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.

Allen v. Cooper: Supreme Court affirms state sovereign immunity in copyright case

30 June 2020

Under current copyright law, any effort by a state to provide alternate remedies for copyright infringement would be nullified by copyright preemption.

Hatch-Waxman Litigation 101: The Orange Book and the Paragraph IV Notice Letter

30 June 2020

A few of the key issues that must be addressed before a Hatch-Waxman suit is filed.

WIN Wise: Liquidated damages for delay in tech disputes

30 June 2020

The current COVID-19 pandemic is wreaking havoc on businesses and their operations across sectors and geographies. The unprecedented spread of the virus has had, and will continue to have, a profound impact upon both suppliers and customers in delivering technology projects on time and to budget.

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.

Protecting the attorney-client privilege while under quarantine: Five tips for protecting attorney-client privilege when using online collaboration tools

22 June 2020

With the increase in remote working comes an increased opportunity for attorney-client privilege issues to surface.

COVID-19 and Aviation in Africa: An Insight

18 June 2020

As a consequence of COVID-19 the aviation sector is experiencing a catalyst for enormous change [...] In Africa, airlines and the aviation sector must be supported if aviation is to continue to be the lynchpin that brings the world to its doorstep and with it the benefits that such an opportunity brings to the continent's economies.

Diary note of a remote mediation

16 June 2020

A colleague and I recently took part in a remote mediation over Skype. Given that there are likely to be many other litigating parties seriously contemplating the use of remote mediation (some with reservations), we thought that it might be helpful to share our own candid experience of a recent remote mediation.

Non-damage business interruption test case in the English Courts

11 June 2020

Significantly in the UK, the Financial Conduct Authority (FCA) is bringing a test action, in order to seek a declaratory judgment on a number of policy coverage questions arising from non-damage cover under business interruption (BI) policies, using the Financial Markets Test Case Scheme.

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.

Text, blood and rock 'n' roll

27 DEC 2017

You are not a "free bird" – the duty to preserve text messages may extend to third parties.

DLA Piper's 2016 Compliance & Risk Report: What CCOs need to know

19 APR 2016

Plan now to use off-band communications during an incident response: key points

27 OCT 2015

A robust IR plan should include communications techniques that operate outside regular company communication methods.

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.

Mexico's new National Anticorruption System: 7 key points

20 JUL 2015

Constitutional reform regarding the creation of the National Anticorruption System

Law à la Mode - INTA special edition: Dubai's d3; combating counterfeit goods online; our top 10 tips on IP protection for fashion items; and more

4 MAY 2015

LAW À LA MODE

DLA Piper's Fashion, Retail and Design group is pleased to bring you this special edition of Law à la Mode,

marking the 137th INTA Annual Meeting in San Diego.

Law à la Mode: Falling foul of China's trademark system; Retailers need to prepare for the new EU Data Protection Regulation; and New developments in the framework of the copyright protection of handbags

2 FEB 2015

LAW À LA MODE

A quarterly e-magazine from our Fashion, Retail and Design Group with the latest industry news, comment and legal updates. This edition has been edited by our Italian colleagues.

Third parties: 4 FCPA takeaways for working with distributors

24 SEP 2014

Four key challenges and related "cures"

Tackling the realities of due diligence in a global setting

24 OCT 2013

For even the most conscientious of companies, hurdles exist to conducting fulsome due diligence in a global setting

Congress, Administration move forward to secure critical US infrastructure

11 JUL 2013

Growing whistleblower activity calls for close employer attention to retaliation issues

7 MAY 2013

Careful consideration must precede adverse action against purported whistleblowers

Cybersecurity and US federal public procurements: what contractors need to know

11 MAR 2013

Practical considerations for US federal contractors

What companies need to know about the Obama Administration's Cybersecurity Order

14 FEB 2013

Federal agencies, Congress accelerate defense against cyber attacks – every private company will be affected

21 Mar 2012

Whose followers are they, and how much are they worth?

3 JAN 2012

Events

Previous

Using AI to monitor your compliance risks

31 March 2022
Webinar

Shift Happens: Tech, Trends & Tensions in International Arbitration

22 March 2022
Webinar

Whistleblowing laws of Europe

14 March 2022
Webinar

Blowing the whistle: How has it changed, and why is it more important than ever?

15 February 2022
Webinar

Time and cost saving measures: Pre-COVID vs. Post-COVID

21 January 2022
Webinar

Talk Less, Listen More: The Importance Of Effective Whistleblowing Systems

17 Nov 2021
Webinar

DLA Piper's inaugural Global Construction Conference – Day 4

11 November 2021
DLA Piper's inaugural Global Construction Conference
Webinar

DLA Piper's inaugural Global Construction Conference – Day 3

10 November 2021
DLA Piper's inaugural Global Construction Conference

Webinar

DLA Piper's inaugural Global Construction Conference – Day 2

9 November 2021

DLA Piper's inaugural Global Construction Conference

Webinar

DLA Piper's inaugural Global Construction Conference – Day 1

8 November 2021

DLA Piper's inaugural Global Construction Conference

Webinar

Korean companies in the global market – best practice to protect your foreign investments

5 November 2021

Webinar

Working with "Endemic" - Employment and Investigations Issues in the Future Workplace

27 Oct 2021

Webinar

Enforcement & Investigations in Southeast Asia: Perspectives on Malaysia

26 October 2021

Webinar

The Hong Kong Arbitration Week 2021 is open for registration

25 October 2021

Hong Kong

White Collar Crime, Investigations and Compliance Symposium

5 October 2021

Webinar

The essential legal update for consumer goods businesses

29 September 2021

Webinar

What do in-house counsel expect from external firms during the arbitral process?

28 September 2021

Webinar

Webinar: The Lure of The East – Investment Opportunity and Risk for German Investors in Asia

21 September 2021

Webinar

Embracing Digital Evolution

15 September 2021

Webinar

Turning Your Back On The Enemy – Fighting Corruption In The Age Of COVID-19

25 August 2021

The Road Less Traveled: Exploring other arbitration forums in the Asia-Pacific Region

27 May 2021

Webinar

Part 2 - Use of FIDIC for offshore projects

26 May 2021

Webinar

Shut down your investigation immediately

27 April 2021

Webinar

Pan-European Week: Crime made Clear – Navigating criminal and compliance risks

19 April 2021

DLA Piper Global Vis Pre-Moot 2021 St Petersburg

18-20 March 2021

DLA Piper Pre-Moots 2021

Webinar

FDI screening rules and EU/China Comprehensive Agreement on Investment

17 March 2021
Webinar

Global Disputes Forecast: 2021 - what does the future hold?

22 February 2021
Webinar

Milan Investment Arbitration Pre-moot

19-20 February 2021
DLA Piper Pre-Moots 2021
Webinar

Preparing for global class actions arising from COVID-19

16 June 2020 | 9:00 - 10:30 a.m. ET (Session one) | 8:00 - 9:30 p.m. ET (Session two)
Webinar

NEWS

DLA Piper secures victory for the Republic of Guinea in multi-billion euro dispute with BSGR

26 May 2022
DLA Piper has obtained a significant win for the Republic of Guinea in its multi-billion euro investment arbitration against BSGR. The arbitration concerned development rights over the world's largest iron deposit, Simandou.

Litigation surges as climate takes centre stage

3/17/2022

DLA Piper has launched an international report on climate related litigation disputes, showing Australia comes second only to the United States.

DLA Piper named to *Global Investigation Review's* GIR 30 list of leading investigations practices

11 November 2021
DLA Piper is pleased to announce that the firm has been named to *Global Investigations Review's* annual list of the 30 top investigations practices worldwide, reflecting its reputation as one of the top global law firms with broad experience in complex investigations.

DLA Piper's Michael Ostrove appointed as the Vice-President of the ICC International Court of Arbitration

14 July 2021

Michael Ostrove, DLA Piper's Global Co-Chair of International Arbitration, has been appointed Vice-President of the ICC International Court of Arbitration.

Laura Ford recognised in GIR Women in Investigations 2021

20 May 2021

DLA Piper is pleased to announce that Laura Ford, a partner in the firm's Litigation and Regulatory practice, has been named by Global Investigations Review in its list of Women in Investigations, 2021.

DLA Piper launches dedicated dispute resolution service in Luxembourg

18 May 2021

DLA Piper is delighted to announce the launch of a dedicated dispute resolution service offering in Luxembourg for its clients.

Gitanjali Bajaj and John Gallagher recognised as "Lawyers of the Year" by The Best Lawyers Australia 2022

23 April 2021

DLA Piper is pleased to announce that Australian Partners Gitanjali Bajaj (Litigation & Regulatory, Sydney) and John Gallagher (Finance, Projects & Restructuring, Melbourne) have separately been recognised as "Lawyers of the Year" in the 14th edition of The *Best Lawyers in Australia 2022 Awards*.

DLA Piper launches Aiscension to help detect and prevent cartel activity in collaboration with Reveal

15 March 2021

- New offering delivers cutting-edge technology from *Reveal* alongside DLA Piper's first-class legal know-how
 - Time and cost savings allow for companies to focus on detection
 - Faster, more effective and better value than traditional technology assisted and manual reviews
-

DLA Piper helps CAPE win High Court claim for seller misrepresentation

9 February 2021

DLA Piper has advised China Agri-Products Exchange Ltd, a company listed on the Hong Kong Stock Exchange, on a complex cross border litigation heard in the High Court of Hong Kong.

DLA Piper strengthens North Asia Arbitration offer with new partner hire

13 January 2021

Global law firm DLA Piper today announces that Tony Andriotis has joined the firm in its Tokyo office as a partner to lead the International Arbitration practice in Japan.

DLA Piper wins TMT Finance M&A Global Telecom Deal of the Year

8 December 2020

DLA Piper is pleased to announce that they have received the TMT Finance M&A Global Telecom Deal of the Year for their representation of T-Mobile and Deutsche Telekom in the T-Mobile-Sprint merger.

'Industry standard' for use of arbitration platforms moves a step closer as pan-firm collaboration receives support

30 November 2020

Plans to standardise the approach to online case management in international arbitration are a step closer to reality, after a draft protocol received positive feedback from an industry-wide consultation.

DLA Piper arbitration practice recognized as world leading by Global Arbitration Review

14 July 2020

DLA Piper has been recognized once again as having one of the world's leading international arbitration practices.

DLA Piper boosts financial services litigation capability with partner hire in Australia

6 July 2020

Global law firm DLA Piper announces that financial services dispute resolution and class actions lawyer Matthew (Matt) Spain has joined the firm, effective today.

Law firms collaborate on industry first to accelerate tech adoption in international arbitration

2 July 2020

DLA Piper is amongst six international law firms which have developed a Protocol to help deliver a globally consistent approach to the use of online case management platforms in international arbitration.
