DEBEVOISE & PLIMPTON LLP

Arbitration Quarterly

Issue No 2 – May 2013

Editors' Remarks

Welcome to this second edition of Debevoise's Arbitration Quarterly, our collection of the most interesting and significant developments in international arbitration from the last quarter.

The first months of 2013 have seen continued development towards a single system for the resolution of international disputes. We have seen the continued expansion of international arbitration into new areas, with Myanmar officially confirming its intention to accede to the New York Convention, ICSID Tribunals allowing class actions and cases based on complex financial instruments to proceed, and the launch in New York of a new arbitration institution.

There have also been developments in existing arbitration spheres. The publication by the Russian Higher Arbitrazh Court of its position on the meaning of "publicly policy" is welcome and confirms the trend towards international homogenisation in approach to arbitration proceedings. And at an institutional level, arbitration rules continue to be revised and updated to keep pace with parties' needs: as we report here, the Singapore International Arbitration Centre has published an updated version of its Rules, and new versions of the HKIAC and LCIA Rules are expected in the near future.

We hope that you will find this edition of the Arbitration Quarterly an interesting and useful summary of the key developments around the world. If any of these articles catches your attention and you would like to know more, we would be delighted to hear from you.

Very best wishes,

Catherine M. Amirfar
Steven S. Michaels
and the International Dispute Resolution Group
of Debevoise & Plimpton LLP

If there are additional individuals within your organization who would like to receive Arbitration Quarterly, please email Deborah Enix-Ross at **denixross@debevoise.com**.

In This Issue

Recent Developments in Investment Arbitration

In the first quarter of 2013 there have been a number of significant decisions involving some of investment arbitration's most contested issues. From a decision confirming that investors may restructure their investments to take advantage of Bilateral Investment Treaties ("BITs") under certain circumstances, to a ruling that a third-party funder cannot be deemed to be the proper party to a claim if the funding agreement was entered into after the date of filing, and to two decisions considering the seminal *Abaclat* award in the context of complex financial instruments, these latest developments will no doubt contribute significantly to the evolving body of investment law jurisprudence. In this round-up, we provide a summary of these and other important recent developments.

Investment Restructuring

In *Tidewater Inc and others v Bolivarian Republic of Venezuela* (ICSID Case No. ARB/10/5), the claimant had restructured its investment to take advantage of the Barbados-Venezuela BIT by transferring its shares in a Venezuelan company from a Cayman Islands subsidiary to a Barbadian subsidiary, and an ICSID Tribunal found that this was acceptable and that it therefore had jurisdiction to hear the claimant's expropriation claim under that BIT.

Adopting the approach taken in *Mobil Corporation v Venezuela* (ICSID Case No ARB/07/27), the Tribunal found that the restructuring had taken place after the initial investment, but prior to the time at which the acts of expropriation giving rise to the claim became reasonably foreseeable to the claimants. It therefore was not an "*abusive manipulation of the system*", but was permissible.

The case is therefore likely to be of interest to any investors looking to take advantage of BITs or other treaty protections, particularly in the face of various efforts by certain sovereigns to withdraw from or otherwise curtail their treaty obligations.

The decision also confirms that Article 22 of the Venezuelan Law on the Promotion and Protection of Investments does not constitute a standing offer to arbitrate, as consistently found by three previous ICSID Tribunals.

Third-Party Funding

In *Teinver SA and others v Argentine Republic* (ICSID Case No. ARB/09/1), the Tribunal was called upon to interpret the Most Favoured Nation clause in the Spain-Argentina BIT, to determine whether it extends to pre-conditions to arbitration. Endorsing the approach adopted *inter alia* in *Maffezini v Spain* (ICSID Case No. ARB/97/7), the majority of

Continued on page 3

Arbitration Quarterly is a publication of Debevoise & Plimpton LLP

New York
919 Third Avenue
New York, NY 10022
+1 212 909 6000

London
Tower 42
Old Broad Street
London, EC2N 1HQ
+44 20 7786 9000

Washington, D.C.
555 13th Street, N.W.
Washington, D.C. 20004
+1 202 383 8000

Moscow
Business Center Mokhovaya
Ulitsa Vozdvizhenka, 4/7
Stroyeniye 2
Moscow, 125009
+7 495 956 3858

Paris
4 place de l'Opéra
75002 Paris
+33 1 40 73 12 12

Hong Kong
13/F Entertainment Building
30 Queen's Road Central
Hong Kong
+852 2160 9800

Frankfurt
Taubenstrasse 7-9
60313 Frankfurt am Main
+49 69 2097 5000

Shanghai
22/F Jin Mao Tower
88 Century Boulevard
Pudong New District
Shanghai 200121
+86 21 5047 1800

www.debevoise.com

Edition Editors

Catherine M. Amirfar
cmamirfar@debevoise.com
New York, +1 212 909 6398

Steven S. Michaels
ssmichaels@debevoise.com
New York, +1 212 909 7265

Assistant Editors

Gavin Chesney
gchesney@debevoise.com
London, +44 20 7786 5494

Jane Rahman
jrahman@debevoise.com
London, +44 20 7786 5463

ArbitrationQuarterly@debevoise.com

Please address inquiries regarding topics covered in this publication to the editors or to the article authors.

Recent Developments in Investment Arbitration

Continued from page 2

the Tribunal held that it did, and that the claimant is entitled to look for the most favourable pre-conditions to arbitration in bringing its case.

The majority in *Teinver* also rejected Argentina's argument that a third-party funder rather than the claimants was in fact the real claimant, which would have resulted in the claimants being unable to satisfy the jurisdictional requirements of the Spain-Argentina BIT. Argentina had argued that, in practice, the funder was in fact the only party that would potentially benefit if an award was made against Argentina. This argument was dismissed on the basis that the funding arrangement was implemented after the date of filing of the claim, and ICSID Tribunals have consistently applied the principle that jurisdiction is determined as of the date of filing.

The decision serves as useful guidance to potential claimants considering obtaining third-party funding for their claim.

Complex Financial Instruments

Last year's decision on jurisdiction in *Abaclat & Ors v Argentina* (ICSID Case No. ARB/07/5), which was recently voted the most influential award of the last ten years by members of the Oil and Gas Energy and Mineral International Disputes online community, has recently been considered in two decisions in cases concerning complex financial instruments.

On 8 February 2013 an ICSID Tribunal in *Ambiente Ufficio SpA and Ors v Argentina* (ICSID Case No. ARB/08/9) confirmed the compatibility of ICSID arbitration with 'multi-party' claims involving several investors with similar claims against a state. As one of a number of ICSID arbitrations against Argentina comprising multi-party claims (the largest, *Abaclat*, comprises over 60,000 claimants), the *Ambiente Ufficio* claim is brought by 90 investors against Argentina in relation to its treatment of sovereign-debt holders under the Italy-Argentina BIT. The Tribunal rejected any suggestion that Argentina needed to "consent" specifically to such "multi-party" claims, finding instead that multi-party arbitration is a generally accepted practice in ICSID arbitration. Such proceedings would be "*particularly typical*" in cases involving widely held instruments such as government bonds.

The Tribunal also allowed the claimants a "*futility exception*", holding that it would have been futile for the claimants to pursue litigation in Argentina before commencing arbitration, and that therefore the BIT requirement to pursue such litigation could be treated as satisfied. This reasoning goes further than *Abaclat*, in which the Tribunal came to the same conclusion but without endorsing a futility exception *per se*. The *Ambiente* Tribunal also dismissed other jurisdictional objections, including arguments that the sovereign debts at issue were not "*investments*".

In *Deutsche Bank AG v. Democratic Socialist Republic of Sri Lanka* (ICSID Case No. ARB/09/2) the Tribunal awarded US$ 78 million in compensation for breaches of the Italy-Sri Lanka BIT, in a dispute concerning an Oil Hedging Agreement between Deutsche Bank and Sri Lanka's national petroleum corporation. Falling oil prices meant that the state party was left owing Deutsche Bank over US$ 400 million under the agreement. Sri Lanka's Supreme Court ordered the suspension of payments while a probe was carried out into the State's oil hedging arrangements. This non-payment prompted Deutsche Bank to initiate ICSID proceedings.

Sri Lanka raised jurisdictional objections arguing that hedging agreements did not qualify as a covered investment for the purposes of ICSID arbitration. The Tribunal rejected this argument, and held that a hedging agreement is an "*asset*" within the meaning of the Italy-Sri Lanka BIT, as it is legal property with an economic value. The Tribunal further held that the requirement of a territorial nexus with Sri Lanka was satisfied. Relying on the decision in *Abaclat*, it concluded that it was not necessary that an investment of a purely financial nature be linked to specific operations in the territory of the host State. It was sufficient that the funds

Continued on page 4

In other news: Argentina and Ecuador have continued to press for the creation of a new dispute resolution forum to rival ICSID, intended to resolve investment claims against member states of UNASUR, the South American trading union.

Recent Developments in Investment Arbitration

Continued from page 3

paid by Deutsche Bank under the Hedging Agreement were made available to Sri Lanka, and were linked to an activity taking place in Sri Lanka.

With respect to the jurisdictional requirements under the ICSID Convention, the Tribunal held that the Hedging Agreement fell within the wide definition of "*investment*" under the Convention. It also noted that there was no requirement under the ICSID Convention to show that the Hedging Agreement generated stable returns or contributed to the host-State's economic development. The Tribunal went on to find Sri Lanka liable for indirect expropriation of Deutsche Bank's assets and for breaching the fair and equitable treatment provision of the BIT.

Both of these cases show a broad approach taken to the range of investments covered by the relevant BITs and the ICSID Convention. With difficulties in financial markets continuing, these decisions are likely to be of interest and comfort to any investors in complex financial instruments of various forms.

Customary International Law Claims

In the recent jurisdictional award in *Accession Mezzanine Capital LP and Danubius Kereskedohaz Vagyonkezelo ZRT v Hungary* (ICSID Case No. ARB/12/3), the Tribunal ruled that it had no jurisdiction to hear claims based on customary international law under the UK-Hungary BIT. The investors allege multiple breaches of the BIT, including the expropriation, fair and equitable treatment and discrimination provisions as well as breaches of the State's obligations under customary international law. Hungary filed an objection under ICSID rule 41(5), a procedure that allows tribunals to summarily dismiss claims that are "manifestly without legal merit". It argued that it had not consented to arbitrate claims arising from customary international law, which the Claimants advanced as a distinct basis for liability.

The dispute resolution clause of the UK-Hungary BIT makes reference only to claims under the expropriation clause. On this basis, the Tribunal held that its jurisdiction was limited to the question of expropriation, "*nothing more and nothing less*." It held that "*neither the BIT, nor Article 42(1) of the ICSID Convention, entitles Claimants to assert customary international law as an independent cause of action*." It noted, however, that the interpretation and application of the BIT is governed by international law, which includes the expropriation clause within it. Therefore, it may not be possible to consider the scope and content of the term "expropriation" in the BIT without considering customary and general principles of international law.

The Tribunal also rejected the investor's argument that the BIT's MFN clause allowed the Tribunal to find that an expropriation breached customary international law, to the extent that applicable rules of international law are more favourable than those in the treaty. The Tribunal concluded that the Claimant was able to rely on the MFN provisions only to the extent that they related to expropriation. In so doing, the Tribunal clarified that customary international law did not provide a separate basis for liability under that BIT, independent of the standards explicitly covered by the BIT's dispute resolution clause.

Joinder of Parties

In the early stages of Churchill Mining's UK-Indonesia BIT arbitration against the Republic of Indonesia (*Churchill Mining v Indonesia*), Churchill has successfully opposed a joinder application by the Government of the Regency of East Kutai (the Indonesian authority which allegedly issued the mining licenses that were controversially revoked). The ICSID Tribunal's 5 February 2013 decision rested on the fact that Churchill's acceptance of Indonesia's standing offer to arbitrate did not include consent to arbitration with regional authorities. Instead, the principle that a State is to be treated as including and representing its regions was applied, leaving Indonesia as the correct party to the dispute.

Enforcement of Awards

In its Fourth Interim Award on Interim Measures in the long-running BIT arbitration between Chevron and Ecuador (PCA Case No. 2009-23 *Chevron Corporation & Texaco Petroleum Co. v Republic of Ecuador*, 7 February 2013), the Tribunal has declared that Ecuador is in breach of earlier arbitral awards preventing the certification and subsequent enforcement of the US$ 18 billion Lago Agrio judgment in the Ecuadorian courts against Chevron. The Tribunal has indicated that Ecuador could be liable to Chevron for its costs in various enforcement proceedings that have

Continued on page 5

Recognition: Debevoise partner Catherine M. Amirfar has been recognised as a "Rising Star" by the New York Law Journal. *See* http://bit.ly/12ccdkO

Recent Developments in Investment Arbitration
Continued from page 4

now been commenced against Chevron in Canada, Brazil and Argentina.

To date, the Tribunal has issued awards staying the execution of the Lago Agrio judgment pending the determination of the BIT proceedings, on the basis that Chevron could suffer irreparable harm if the Lago Agrio judgment is enforced around the world before the BIT proceedings – in which Chevron claims Ecuador breached its BIT rights in its conduct during the Lago Agrio case – are completed. The Tribunal was concerned to ensure that Ecuador's commitments under the BIT were not rendered nugatory by the finalisation, enforcement or execution of the Lago Agrio judgment and that the arbitration itself was not rendered irrelevant by global attempts at enforcement while the judgment itself is in dispute.

The case is illustrative of the willingness of tribunals to take action against parties that fail to abide by the tribunal's orders, in this case indicating that costs may be awarded against Ecuador that would not otherwise have been due.

Annulment of Awards

An award delivered in ICSID's most protracted proceedings—the Request for Arbitration was registered on 20 April 1998—was partially annulled in a decision delivered on 18 December 2012 by an ad hoc Committee in *Victor Pey Casado and Foundation "Presidente Allende" v Republic of Chile* (ICSID Case No. ARB/98/2, Annulment decision). The ad hoc Committee presided by Yves Fortier found that the Tribunal had seriously departed from a fundamental rule of procedure by failing to hear the parties on the appropriate method for the calculation of damages, and by giving contradictory reasons in respect of its chosen method. This annulment decision endorses the interpretation of Article 52(1)(d) of the ICSID Convention according to which the ad hoc Committee has no discretion as to whether to annul once it has established that the departure from a procedural rule is "*serious*".

For further information, please contact:


Nicola Leslie
nleslie@debevoise.com
London, +44 20 7786 5462


Conway Blake
cblake@debevoise.com
London, +44 20 7786 5403


Samuel Pape
spape@debevoise.com
London, +44 20 7786 3023

In other news: ICSID has published its most recent caseload statistics, showing that 50 new cases (40 ICSID, 8 Additional Facility and 2 Conciliation) were registered in the year to 31 December 2012. This is the highest ever number of new cases registered in one year.

Russian Higher Arbitrazh Court Issues Long-Awaited Information Letter on Public Policy

In February this year, the Higher Arbitrazh Court ("HAC"), Russia's highest commercial court, adopted long-awaited guidelines on the judiciary's interpretation of "public policy" in the context of grounds for refusal of recognition and enforcement of foreign arbitral awards and court decisions. The guidelines mark a shift in the approach of the Russian courts, which had previously been far more willing than other jurisdictions to find "public policy" reasons to refuse recognition or enforcement of foreign arbitral awards and court judgments.

The new guidelines are embodied in HAC's Information Letter No.156 dated 26 February 2013 ("Information Letter"), and made public on 1 April 2013[1]. Although HAC information letters are not formally binding under Russian law, the courts of lower circuits follow these guidelines in most cases since they reflect the legal position of the court of highest instance. The Information Letter sets out the recommended approach to the "public policy" exception to enforcement in respect of twelve specific examples drawn from previous court practice. It covers the legal issues related to both foreign arbitral awards and foreign state court decisions, although most of the examples provided concern foreign arbitral awards and the application of Article V of the New York Convention.

In the Information Letter, the definition of "public policy" has been substantially narrowed from previous practice. It now includes only the fundamental legal principles that are strongly imperative, universal, and that have crucial social and public importance to Russia and form the basis of the economic, political and legal system of the state. The Information Letter explains that for a matter to be a violation of public policy it must be a serious matter, giving as examples actions that are directly prohibited by internationally mandatory rules, and which also cause harm to the sovereignty or safety of the state, affect the interests of large social groups, or infringe the constitutional rights and freedoms of individuals.

> "[T]he Information Letter . . . is in line with the standards applied in other modern jurisdictions"

Importantly, the Information Letter states that mere differences between Russian and foreign substantive and procedural rules cannot, *per se*, be deemed a violation of Russian public policy. The Information Letter gives examples of matters which are expressly **not** to be considered a violation of public policy:

- the application by a foreign tribunal or a court of foreign legal concepts which are not known to the Russian legal system (e.g., the English concepts of representations outside of a contract, or of indemnities);
- the enforcement of a foreign award or a foreign court decision satisfying claims for payment of agreed amounts (e.g. liquidated damages) that exceed the claimant's actual losses, provided that the amount of such legal remedies is reasonable and not excessive;
- the application in a foreign court case of orders for security for costs, which are not available under Russian procedural laws and which may effectively prevent a party from filing a claim or an appeal in those proceedings; and
- the enforcement of a foreign arbitral award against the assets of a Russian individual, even where the individual is married and the spouse did not participate in the arbitration – this resolves an issue generated by the fact that, under Russian law, by default any matrimonial property is deemed jointly owned by the spouses, which has given rise to difficulties in enforcing awards against such joint assets in the past.

The Information Letter also provides some important rules on the procedure for applying the "public policy" exception to refuse recognition and enforcement of foreign arbitral awards and court decisions. In particular, it confirms that:

- the application of the "public policy" exception by Russian state courts should not lead to a re-examination of the case on the merits;
- Russian state courts may apply the notion of "public policy" *ex officio*, that is, on their own initiative and without either party raising a "public policy" objection;
- objections to the recognition of foreign judgments or awards which allege a violation of public policy should not be accepted by the courts in cases in which the irregularity concerned falls within the other grounds for non-recognition and

Continued on page 7

1 Information Letter No.156 dated 26 February 2013 on the Practice of the Arbitrazh Courts in the Cases Where the Public Policy is Applied as a Ground for Refusal of Recognition and Enforcement of Foreign Court Decisions and Arbitral Awards, available (in Russian language) at http://www.arbitr.ru/as/pract/vas_info_letter/82122.html.

Russian Higher Arbitrazh Court Issues Long-Awaited Information

Continued from page 6

non-enforcement listed in Article V(1) of the *New York Convention*, and the courts cannot apply such specific (i.e., Convention) grounds *ex officio*, but can do so only at the request of a party;

- the party claiming the alleged violation of Russian public policy must provide evidence supporting its allegations and demonstrate what adverse consequences it has suffered as a result of such an alleged breach; and
- minor errors and mistakes in a foreign award or decision which do not affect the essence of the award cannot be regarded as a violation of public policy.

The Information Letter also provides two examples of circumstances in which the "public policy" exception could legitimately apply. For example, Russian public policy may prevent the enforcement of an award if it is clear that one of the arbitrators giving the award was not independent of the parties and impartial in the dispute, with the result being that the award is tainted by the appearance of partiality; or if it is clear that the underlying contract on which the award is based was procured by bribery, and therefore is illegal under Russian law.

Even in those cases, however, the Information Letter states that the mere existence of justifiable doubts as to the independence of an arbitrator, if proper disclosure has been made to the parties, is not enough to found a "public policy challenge". Instead, the Information Letter indicates that only particularly egregious violations of the principle of arbitrator independence can be the basis for a challenge (the example given is of a party appointing the head of its parent company's legal department as an arbitrator, where the other party challenges that appointment but has the challenge refused). Similarly, the Information Letter states that any application to refuse enforcement of an award as having been based on or connected with bribery first requires a binding and final criminal finding that bribery took place, and that the bribery induced the relevant contractual provisions.

The Information Letter is therefore an important step towards improving the current Russian practice in the recognition and enforcement of foreign judgments and arbitral awards. In contrast to the previous approach, under which a range of public policy reasons could be utilized to deny enforcement of awards, the Information Letter takes a much more restrictive approach that is in line with the standards applied in other modern pro-arbitration jurisdictions. Out of the twelve examples of situations given in the Information Letter, only in two instances does the HAC indicate that an award or judgment should be refused enforcement on the basis of "public policy", emphasizing that the "public policy" exception should apply only in truly exceptional cases. This development will hopefully therefore provide further certainty and confidence for investors in Russia in resolving their disputes.

For further information, please contact:


Anton V. Asoskov
avasosko@debevoise.com
Moscow, +7 495 956 3858


Alexey I. Yadykin
ayadykin@debevoise.com
Moscow, +7 495 956 3858

Appointment: Mark Friedman, a partner based in Debevoise's New York and London offices, has been appointed Vice President of the LCIA's North American Users' Council. *See* http://bit.ly/10eR9Y1

Recent Lecture: The Clayton Utz Lecture on "The Impact of International Arbitration on the Rule of Law", delivered by David W. Rivkin on 13 November 2012, was shortlisted in the 2012 Global Arbitration Review Awards in the "Best lecture or speech of the past year" category. A copy of the lecture can be found at http://bit.ly/Sk7RWf

Myanmar to Accede to the New York Convention

In March 2013, the National Assembly of Myanmar announced that it intends to become a party to the *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards*. This announcement follows the enactment in December 2012 of a new *Foreign Investment Law* designed to encourage foreign investment into Myanmar, as well as the lifting and easing of US and EU sanctions against Myanmar last year.

The decision to join the *New York Convention* has been widely applauded. Once Myanmar has formally acceded to the Convention, investors will have additional grounds to invoke before the Myanmar courts in litigation to uphold arbitration agreements and to enforce foreign arbitral awards in Myanmar. This development is likely to improve investor confidence, which was already on the upswing following the introduction of tax benefits and protections against expropriation which are included in the 2012 *Foreign Investment Law*. Although these protections have the status of domestic law and are not enforceable under international law (unlike the similar protections often contained in a bilateral investment treaty), such developments are welcome. These new measures are in addition to specific protections for investors from India, China and the Philippines through bilateral investment treaties concluded between those countries and Myanmar, and to protections that flow from Myanmar's membership in ASEAN, which has entered into Free Trade Agreements with a number of nations.

The announcement to join the *New York Convention* has been welcomed as a further step towards full international participation since Daw Aung San Suu Kyi entered parliament in 2012. Although the National Assembly has not yet set a date by which Myanmar will formally accede to the Convention and this could take some time, this development shows that Myanmar is actively working towards full acceptance and utilization of international dispute resolution practices.

For further information, please contact:

Nicola Leslie
nleslie@debevoise.com
London, +44 20 7786 5462

Hong Kong's Court of Final Appeal Brings Certainty on Setting Aside of Awards

On 19 February 2013, Hong Kong's highest court, the Court of Final Appeal ("CFA"), issued an oral decision refusing leave to appeal in *Grand Pacific Holdings Ltd. v Pacific China Holdings Ltd.*, confirming the Court of Appeal's (Hong Kong's intermediate appellate court) judgment upholding an arbitral award and refusing a challenge under Article 34(2) of the Model Law.

In other news: The Hong Kong International Arbitration Centre is expected to publish updated Rules in Q2 2013.

The Hong Kong Court of Appeal had previously held that, in order to succeed in setting aside an award, the applicant must show that breaches of Article 34(2) were "serious" or "egregious" in nature. The outcome in this case confirms the rigorous requirements for successful challenge of an award, bringing welcome reassurance and certainty to parties. It further indicates that arbitration enjoys the robust support of the Hong Kong courts.

On 29 June 2011, the Court of First Instance ("CFI") handed down judgment on an application to set aside a US$ 55 million award rendered in favour of Grand Pacific Holdings, Ltd. ("Grand Pacific") in an Hong Kong-seated ICC arbitration. The applicant, Pacific China Holdings Ltd. ("Pacific China"), claimed that there had been procedural irregularities in violation of Article 34(2) of the UNCITRAL Model Law. The allegations levelled by the applicant included the contention that the tribunal had denied Pacific China the opportunity to present its case and that the tribunal had failed to follow the procedure outlined in the parties' agreement.

Article 34(2) stipulates the limited grounds on which arbitral awards may be set aside. This provision has been adopted into domestic Hong Kong legislation by both the repealed Arbitration Ordinance (which governed the arbitration in this case) and the new Arbitration Ordinance, which came into effect on 1 June 2011 and is considered to provide a user-friendly legal framework for arbitration. In a controversial action – not least because the tribunal included

Continued on page 9

Hong Kong's Court of Final Appeal Brings Certainty

Continued from page 8

prominent arbitrators – the CFI had found Article 34(2) to have been violated and had set aside the award.

On appeal, however, the Court of Appeal reversed the judgment of the CFI and confirmed the award, finding that no breaches of Article 34(2) had occurred. Mr. Justice Tang of the Court of Appeal, writing for the court, held that, in order to succeed in setting aside an award on due process grounds, the applicant must show that the alleged breaches of Article 34(2) were "serious" or "egregious" in nature, demonstrating the court's reluctance to second guess the exercise by arbitral tribunals of discretion in procedural matters.

The Court of Appeal further held that the burden is on the applicant to demonstrate actual or potential prejudice and emphasized the broad case management powers afforded to arbitral tribunals. Signalling its disapproval of the application, the Court of Appeal later refused leave to appeal and awarded indemnity costs against Pacific China.

After the denial of leave to appeal by the Court of Appeal, Pacific China applied to the CFA for leave, including on the ground that the case raised questions of "great general or public importance." In an oral decision dated 19 February 2013, the CFA refused Pacific China leave to appeal, expressing strong support for the Court of Appeal's earlier judgment. The CFA described the challenged rulings as having been made "in the proper exercise of [the tribunal's] procedural and case management discretions." It described the tribunal's conduct as "appropriate to the circumstances."

Together, the decisions of the Court of Appeal and CFA set a very high threshold for challenge to an arbitral award before the Hong Kong courts and confirm that "serious" or "egregious" misconduct is needed before the courts will intervene. These decisions offer certainty for parties and, together with sanctions such as indemnity costs, should help to dissuade opportunistic and unworthy challenges to arbitral awards issued in Hong Kong. The outcome in this case affirms the Hong Kong judiciary's pro-enforcement stance towards arbitral awards.

For further information, please contact:


Corey Whiting
cswhiting@debevoise.com
Hong Kong, +852 2160 9817


Xia Li
xli@debevoise.com
Hong Kong, +852 2160 9822

French Supreme Court Extends an Arbitration Agreement to include a Third-Party "Involved in the Performance of the Contract"

Over the last few decades the scope of application of an arbitration clause under French law has increased significantly, sometimes leading to unpredictable results. A recent decision of the French Supreme Court (*Cour de cassation, November 7, 2012, Oebe TH Thotou, n°11-25.891*) has further broadened the range of parties that will be bound by an arbitration clause, extending the scope of a clause to include non-signatory parties directly involved in the performance of the underlying contract.

In 2004, a French company called Amplitude signed a contract, which contained an arbitration clause, with Greek company Oebe TH Thotou for the supply of orthopedic prostheses in Greece. In reality, however, the supply was carried out by another Greek company called Iakovoglou Promodos, whose shareholder structure, representatives and headquarters were identical to those of Oebe TH Thotou.

On September 21, 2007, Amplitude notified Oebe TH Thotou of the termination of the contract. In response, both Oebe TH Thotou and Iakovoglou Promodos sought arbitration under the arbitration clause. On October 7, 2009, the arbitrator rendered an award in favor of the two Greek companies. The arbitrator confirmed that he had jurisdiction and held that the arbitration clause should be extended to Iakovoglou Promodos.

On May 12, 2011, the Grenoble Court of Appeal set aside the award on the basis of (former) articles 1502, 1° and 1504 of the French Code of Civil Procedure, finding that the arbitration clause was not enforceable by or against Iakovoglou Promodos. The Court stated that the arbitrator's ruling went beyond the agreement to arbitrate and the clause included in the initial contract could not be extended to Iakovoglou Promodos, because the latter knowingly remained outside the scope of the contract. As a consequence, Iakovoglou Promodos could not validly invoke the arbitration clause.

Continued on page 10

French Supreme Court Extends an Arbitration Agreement

Continued from page 9

On November 7, 2012, the French Supreme Court overturned the decision of the Court of Appeal. The Court concluded that Iakovoglou Promodos "*having substituted for Oebe TH Thotou for the performance of the supply contract, the effect of the arbitration clause contained in the initial contract extends to the parties directly involved in performing the contract.*"

This ruling is not without precedent. The French Supreme Court had already ruled that "*the effect of an international arbitration clause extends to the parties directly involved in the performance of the contract and to disputes that may arise from this contract*" (*Cour de cassation, March 27, 2007, n°04-20842*). The Paris Court of Appeal has also applied this principle (*CA Paris, May 7, 2009, n°07/21973*). In those cases, the arbitration clause was extended to a company that was not a signatory of, but that had participated in, "*both the negotiation and the execution of the contract*" containing the arbitration clause.

The notion of "*involvement in the performance of the contract,*" without demonstrable participation in the negotiation of the agreement however, is not clearly defined.

In particular, it is unclear whether this decision is an extension of the "knowledge" criterion previously applied by the French Supreme Court when extending arbitration agreements. The French Supreme Court has previously ruled that "*the effect of an international arbitration clause extends to a subcontractor who had knowledge of such a clause at the signing of his contract and is directly involved in the performance of the first contact*" (*Cour de cassation, October 26, 2011, n°10-17708*).

The *Oebe TH Thotou* decision, however, does not explicitly refer to this "knowledge" criterion. It may be that knowledge of the arbitration agreement by Iakovoglou Promodos could be inferred from the fact that the two Greek companies have a common shareholder structure and close managerial links, and it may therefore be that this case is similar to decisions based upon "alter ego" analyses found in some common law countries. It may also be relevant that Iakovoglou Promodos actively sought to be part of the arbitration, therefore waiving any objections to the application of the arbitration agreement. However, in the absence of specific guidance whether the *Oebe TH Thoutou* principle extends only to situations in which the third party had knowledge of the arbitration agreement, or whether it extends to all third parties involved in the broader "*performance of the contract*", the matter remains unclear.

Until additional case law provides further guidance, parties to French law contracts should be mindful that any third party "*involved in the performance*" of a contract containing an arbitration clause may potentially find itself bound by that arbitration agreement, and equally may be able to enforce that arbitration agreement against the parties to the contract.

For further information, please contact:

Alexandre Bisch
abisch@debevoise.com
Paris, +33 1 40 73 13 37

Paris Court of Appeal: A Shift in Position on Setting Aside of Awards?

French law sets aside arbitration awards only in limited circumstances. Article 1520 of the French Code of Civil Procedure (former article 1502) lists the five specific grounds on which a French court would consider setting aside the arbitration award. Previous case law also shows that French courts strictly respect these criteria when considering applications to set aside awards.

A recent decision of the Paris Court of Appeal (*CA Paris, February 19, 2013, n°12/09983*), however, has given rise to some debate. In that case, the Paris Court of Appeal refused to enforce an arbitration award issued in Malaysia on the ground that the arbitral tribunal did not have jurisdiction. The decision is controversial, as the award has been challenged in several jurisdictions, with different results: the award was upheld and enforced in New York in 2011 and in England in November 2012, but set aside in Malaysia in December 2012. Further, some critics have suggested that in coming to its decision the Paris Court of Appeal re-judged the merits of the arbitration, rather than confining its review to an assessment under one of the five specified grounds.

In 1992, a Thai company, Thai-Lao Lignite Co, Limited ("TLL") entered into a contract with the Lao People's Democratic Republic ("Laos") whereby Laos granted TLL, and its newly formed subsidiary Hongsa Lignite Co., Limited ("HLL"),

Continued on page 11

Paris Court of Appeal: A Shift in Position on Setting Aside of Awards?

Continued from page 10

the right to conduct lignite survey and mining operations in the Hongsa region (the "Mining Agreement"). In 1993, the contract was extended. Then, in 1994, TLL and Laos entered into a Project Development Agreement ("PDA") that granted TLL the rights to construct an electricity generation plant. The PDA contained an arbitration clause.

The electricity generation plant was never constructed and in 2006 Laos terminated the Mining Agreement and the PDA. In 2007, TLL and HLL began arbitration proceedings against Laos. An arbitration award was issued in Kuala Lumpur on November 4, 2009. The arbitral tribunal held that Laos had wrongly terminated both the contracts and awarded TLL and HLL approximately US$ 56 million in damages. The award was enforced in France by a July 15, 2010, order of the Paris *Tribunal de Grande Instance*. Laos appealed this order, notably on a ground set forth in former article 1502 1° of the French Code of Civil Procedure, *i.e.*, that the arbitral tribunal had ruled without an arbitration clause.

In its decision, the Paris Court of Appeal noted that the Mining Agreement and the PDA were two different and distinct agreements, but that the award had provided for damages payable under both. It then concluded that "*in ruling the payment of damages as a result of contracts distinct from the PDA, contracts that contained their own clauses for dispute resolution and that continued to exist after the entry into force of the PDA, the arbitrators ruled in part without an arbitration agreement.*" Because the arbitral tribunal did not differentiate between the damages awarded arising from the Mining Agreement and the damages arising from the PDA, the Court set aside the decision of the Paris *Tribunal de Grande Instance* granting enforcement of the award.

Some have suggested that the Paris Court of Appeal's decision involved a review of the merits of the dispute, re-judging the interpretation of the contracts, and that the decision was therefore an inappropriate application of the narrow grounds for setting aside awards. This decision, however, is in line with case law relating to the application of former article 1502, 1° of the French code of civil procedure, which requires that "*the appeal judge control the arbitral tribunal's decision relating to its jurisdiction through investigating all legal and factual elements that will enable him or her to evaluate the existence and efficiency of the arbitration clause*" (*CA Paris, January 10, 2012, n°10/17158*).

Here, the Court of Appeal examined the different contracts involved not with a view to assessing the merits, but to determine the scope of application of the arbitration clause. It came to the conclusion that the arbitration clause was applicable only to disputes arising from the PDA. The only reason that enforcement of the award was refused in its entirety was that no distinction was made between damages arising from the PDA, where the arbitral tribunal had jurisdiction, and damages arising from the Mining Agreement, where it did not have jurisdiction. As a consequence, no part of the award could be enforced alone.

After close review of the decision and other supporting case law, one can see that the Paris Court of Appeal has not changed its position with regards to examining appeals to set aside arbitration awards. The Paris Court of Appeal refrained from re-judging the merits of the arbitration, and limited its examination to the arbitration clause in the contract.

However, the case comes as a reminder to counsel and arbitrators that care should be taken in cases where several contracts and claims are at issue. It must be remembered that an arbitration clause will not necessarily expand to cover all of the parties' disputes, and jurisdiction in respect of each claim must be established to ensure an enforceable award.

For further information, please contact:

Geoffroy Goubin
ggoubin@debevoise.com
Paris, +33 1 40 73 12 24

In other news: Hong Kong and Macau have signed a new treaty agreeing mutual recognition and enforcement of arbitral awards.

Second Circuit Holds that Federal Common Law Defines the Scope of "Arbitration" Under the Federal Arbitration Act

Joining a majority of the circuits to have considered the issue, the United States Court of Appeals for the Second Circuit held, in its January 23, 2013 decision in *Bakoss v. Lloyds of London*, No. 11-4371-cv, that the meaning of "arbitration" under the Federal Arbitration Act ("FAA") is governed by federal common law rather than state law. In so holding, the panel reasoned that "Congress intended national uniformity regarding the interpretation of the term" and that, consequently, federal common law governs. Endorsing the district court's application of federal common law to the agreement before it, the Second Circuit also confirmed that contractual language submitting a dispute to a specified third party for binding resolution is sufficient, by itself, to manifest an agreement to arbitrate.

In the underlying suit, plaintiff-appellant Imad John Bakoss ("Bakoss") sought payment of contractual benefits allegedly owed by defendant-appellee Lloyds of London's ("Lloyds") under a Certificate of Insurance ("Certificate") the parties had entered. The Certificate provided coverage for Bakoss's obligation to repay a loan in the event he became "Permanently Totally Disabled" but required, as a condition precedent to coverage, that he give a written notice of claim within a specified period. Under the Certificate, Lloyds could require Bakoss to be examined by a physician of its choice if it did not agree with his physician's assessment that he was totally disabled; in the event of a disagreement, the two doctors selected would choose a third physician whose "decision on the matter" would be "final and binding." After Bakoss filed a claim and underwent examinations at Lloyds's election, Lloyds denied coverage on the basis that Bakoss's condition did not qualify him for benefits and that his untimely submission of the claim relieved Lloyds of any obligation to indemnify him. Contesting this determination, Bakoss refused to comply with the third physician provision without a prior concession of coverage by Lloyds and, instead, filed suit.

Brought in state court as an action for a declaratory judgment and damages and thereafter removed to federal court, the case came to the Second Circuit on appeal from a grant of summary judgment against Bakoss by the United States District Court for the Eastern District of New York ("EDNY"). The district court determined that it had removal jurisdiction over the suit because the third physician provision was properly construed as an arbitration clause falling under the New York Convention and providing a defense to the action. It then granted summary judgment on the merits, rendering moot Lloyds's request that, in the alternative, the court compel arbitration.

On appeal, the Second Circuit confirmed that the district judge had correctly looked to federal common law to supply the definition of "arbitration" under the FAA and to conclude that the third physician provision was an arbitration clause. In an opinion authored by Judge Cabranes and joined by Judges Leval and Sack, the court noted that, as a matter of statutory construction, federal courts "apply a federal standard without reference to state law" unless Congress indicates otherwise or clearly signals that it did not intend the statue to be applied uniformly nationwide. The court found no indication that Congress desired the sort of legal patchwork that the application of state law to the FAA issue under review would create. It then affirmed that the district court had properly exercised jurisdiction and granted summary judgment to Lloyds.

In reaching its conclusion, the Second Circuit joined a slim but growing majority of circuits that turn to federal common law to define "arbitration" under the FAA. In support of its holding, the court cited as persuasive the reasoning of the First, Sixth, and Tenth circuits, all of which have similarly determined that Congress's intent to create a uniform national arbitration policy necessitates the application of federal common law in this context. By contrast, the panel noted that the Fifth and Ninth Circuits, the two circuits advancing the minority view that state law should apply, have provided few reasons to justify their

Continued on page 13

In other news: The Shanghai and South China offices of the China International Economic and Trade Arbitration Commission (CIETAC) have split from the Beijing branch. The Shanghai branch has now set up as an independent centre.

Second Circuit Holds that Federal Common Law Defines the Scope

Continued from page 12

choice. Indeed, a member of a Ninth Circuit panel, expressing reservations about the correctness of that court's earlier precedent, had observed that it seems "counter-intuitive to look to state law to define a term in a federal statute on a subject as to which Congress has declared the need for national uniformity." *Portland Gen. Elec. Co. v. U.S. Bank Trust Nat'l Ass'n as Tr. For Trust No. 1*, 218 F.3d 1085, 1091 (9th Cir. 2000) (Tashima, J., concurring). By embracing this logic and holding that federal common law provides the meaning of "arbitration" within the FAA, the Second Circuit promotes such nationwide consistency and helpfully clarifies, for contracting parties, what law they may expect to inform the interpretation of their arbitration agreements going forward.

In addition to resolving this source of law issue, the decision also confirms that the threshold for finding an agreement to arbitrate under the FAA is low. Endorsing the district court's holding that the third physician provision was a jurisdiction-conferring agreement to arbitrate, the panel reaffirmed the Second Circuit's conclusion, in an earlier case, that language "clearly manifest[ing] an intention by parties to submit certain disputes to a specified third party for binding resolution" constitutes an enforceable arbitration clause. *McDonnell Douglas Fin. Corp. v. Pa. Power & Light Co.*, 858 F.2d 825, 831 (2d Cir. 1988). In that case, the court had found that a contractual provision requiring appointment of independent tax counsel to resolve disagreements signaled the parties' intent to arbitrate such disputes. The *Bakoss* panel also cited with approval a trial level decision by District Judge Jack B.Weinstein that compelled arbitration pursuant to the parties' bare-bones agreement to obtain a third party's decision when controversies of a certain type arose between them. As Judge Weinstein observed, and the Second Circuit reaffirmed, the FAA does not require that arbitrations resemble adversarial proceedings. By applying this line of federal common law to find that "arbitration" under the FAA encompasses the third physician provision in *Bakoss*, the Second Circuit has reiterated its directive to federal courts in New York, Connecticut, and Vermont to interpret arbitration clauses broadly. Accordingly, when drafting agreements that may lead to or otherwise contemplate litigation in the District Courts within the Second Circuit, parties should anticipate that contractual language consenting to submit a dispute to decision by a third party will likely be deemed an agreement to arbitrate.

For further information, please contact:

Leigh E. Sylvan
lesylvan@debevoise.com
New York, +1 212 909 6804

Determining the Correct Governing Law has Important Consequences for Indian Contracts

In May 2012, the English Court of Appeal in the *Sulamérica* case (*Sulamérica CIA Nacional de Seguros SA and others v Enesa Engenharia SA and others* [2012] EWCA Civ 638) considered the principles to be applied under English law when determining which law governs an arbitration agreement. It stated that the law of the arbitration agreement was not necessarily the same as the law of the underlying contract between the parties, as had been assumed by some commentators. Instead, a three stage test must be applied, considering first any express choice of law made by the parties, then looking for any implied choice before finally considering which law has the closest and most real connection with the arbitration agreement.

This test is dependent on a close examination of the particular arbitration agreement entered into between the parties, and it was initially unclear how the test would be applied. However, some guidance has been given in the recently-reported judgment of Andrew Smith J. in the English High Court in *Arsanovia Ltd v Cruz City 1 Mauritius Holdings* [2012] EWHC 3702 (Comm).

The *Arsanovia* case concerned a complex joint venture for the redevelopment of slum areas in Mumbai, India. There were four key entities, which entered into two agreements. Both agreements stated that they were subject to Indian law, and provided for disputes to be resolved by LCIA Arbitration in London. As was common practice in Indian law contracts prior to the decision of the Indian Supreme Court in *Bharat Aluminium v Kaiser Aluminium* (*Balco*) in September 2012, both contracts also expressly excluded the application of Part I of the Indian Arbitration Act, in an attempt to limit intervention by the Indian courts in the arbitration process.

Continued on page 14

Determining the Correct Governing Law has Important Consequences

Continued from page 13

Disputes arose and three separate arbitrations between the parties were commenced, with the same arbitrators hearing each case. Three awards were issued in July 2012. The losing parties then launched appeals against the awards under section 67 of the UK Arbitration Act 1996, claiming: (i) that the proper law of the arbitration agreements in both underlying contracts was Indian law; and (ii) that under Indian law the Tribunal lacked jurisdiction to make the awards rendered. The respondent opposed the appeal, contending that the correct law of the arbitration agreement was English law, as the law of the seat and the law with the closest connection to the arbitration agreement.

The High Court first noted that the parties had expressly chosen Indian law for the underlying contracts, but that it was unclear whether this choice extended to the law governing the arbitration agreements, which are separate and distinct under English law. The Court also held that the choice of London as the seat did not import any express choice of English law for the arbitration agreement.

Following the *Sulamerica* test, the Court therefore considered whether the parties had made an implied choice of law. It held that there was such an implied choice, and that choice was Indian law. This conclusion was largely based on the fact that the parties had expressly excluded the application of Part I of the Indian Arbitration Act. In the Court's view, this indicated that the parties had otherwise intended Indian law, including the other parts of the Indian Arbitration Act, to apply. Accordingly, the Court upheld the section 67 appeals and set aside the awards for lack of jurisdiction under Indian law.

This decision again confirms the importance of taking care when drafting to ensure that the parties' choice of law governing the arbitration agreement, as opposed to the law of the underlying contract, is clear.

The case will also be of particular interest to parties with business in India. Following the Indian Supreme Court's decision in *Bhatia International* in 2002, it became common practice for arbitration clauses in contracts with Indian parties expressly to exclude Part I of the Indian Arbitration Act – this practice may stop following the *Balco* decision last year, but many existing contracts will include such an exclusion. Although each contract must be interpreted on its own terms and against its own factual background, the Court's conclusion in *Arsanovia* that this exclusion implies that Indian law should otherwise govern the arbitration agreement is likely to have important consequences in a large number of cases.

For further information, please contact:

Gavin Chesney
gchesney@debevoise.com
London, +44 20 7786 5494

Launch of the New York International Arbitration Center

The highly-anticipated launch of the New York International Arbitration Center ("NYIAC") took place on January 23, with the Center's inaugural Annual Meeting and a reception attended by 250 guests from New York and elsewhere.

Debevoise is one of the 33 founding law firm members of the NYIAC, which is chaired by Judge Judith Kaye, the former Chief Judge of the New York Court of Appeals, the highest New York state court, and now of counsel at Skadden Arps Slate Meagher & Flom. James H. Carter, senior counsel at WilmerHale and independent arbitrator Edna Sussman are vice chairs. Debevoise's Catherine M. Amirfar sits on the NYIAC's Board of Directors and will chair its Program Committee, with responsibility for the educational and promotional aspects of the NYIAC's activities.

Speaking at the launch, Judge Kaye commented that she had "watched the field of international dispute resolution flourish as our world has globalized. Around the world there is open recognition of the desirability and importance of having arbitrations centered in your home city.

> Debevoise is one of the 33 founding law firm members of the NYIAC.

With our new center added to an already impressive array of international arbitration resources, New York is truly the place to be."

The NYIAC—located in the historic Socony-Mobil building in mid-town Manhattan—will be at the forefront of efforts to advance, strengthen and promote the conduct of international arbitration in New York. While not itself an administering institution, the NYIAC offers world-class hearing and break-out rooms with up-to-the minute technological capabilities. The facilities can accommodate arbitrations of any size, whether administered or non-

Continued on page 15

Launch of the New York International Arbitration Center

Continued from page 14

administered, under any rules. The hearing rooms are also available for conferences and other events.

The Center will also take on a broader promotional role in maintaining and enhancing New York's role at the forefront of the international arbitration community, and as a pre-eminent site for the conduct of international arbitration, through educational, programmatic and marketing initiatives. New York's position as one of the world's leading commercial and cultural hubs, easily accessible for all four corners of the globe, makes it a natural international arbitration forum, no matter where the parties are located. Perhaps less well-known, but equally important, are the important legal and logistical advantages that New York enjoys: a system of neutral courts, well-versed in complex international commercial disputes, and a strong legal framework that provides solid support for international arbitrations. New York is also home to a vast pool of leading arbitrators, lawyers and arbitral institutions (including the AAA's International Center for Dispute Resolution, and a soon-to-be-opened office of the ICC Court's Secretariat).

The NYIAC will formally open for business in late spring, and is already accepting bookings from July 1, 2013. More information is available on the website at www.nyiac.org.

For further information, please contact:

Samantha J. Rowe
sjrowe@debevoise.com
New York, +1 212 909 6661

The Singapore International Arbitration Centre (SIAC) Adopts New Rules

On 1 April 2013, the fifth edition of the Singapore International Arbitration Centre's arbitration rules came into effect, replacing the 2010 version and making for the third amendment in six years[1]. The year 2012 was a record-breaking one for the Asian arbitration centre in terms of case volume and value. Given this success, the 2013 Rules do not deviate too far from the 2010 Rules but structural changes have been made with a view to facilitating the administration of the SIAC's increased caseload.

The revised rules create a new "Court of Arbitration" which will assume the case administration and arbitral appointment functions of the previous SIAC board of directors. Effectively, the functions of the previous SIAC board are now split into two: the new SIAC board, made up of prominent lawyers and corporate leaders will focus on business development while the SIAC Court will oversee the legal and technical aspects of arbitration proceedings administered by the centre. Reflecting its global ambitions, the SIAC Court consists of 16 leading international arbitration practitioners from Asia, the Middle East, Europe and the Americas and is led by Australian founder-president Michael Pryles. The functions of the SIAC Court include appointing arbitrators, determining jurisdictional challenges and challenges to arbitrators and other case management responsibilities.

The 2013 Rules also incorporate some procedural changes. SIAC tribunals are no longer confined to considering issues raised in pleadings (see new Rule 24(n)). As long as the issue has been brought to the notice of the other party and an adequate opportunity to respond has been given, the tribunal may hear it. Tribunals may now also award interest in respect of any period they deem appropriate, either pre- and/or post-award (Rule 28.7). Both of these new provisions codify recent developments in Singapore arbitration case law.

The 2013 rules also provide the SIAC with the express power to publish any award so long as any identifying information and the names of parties are redacted (Rule 28.10). This transparency should not only provide a valuable resource for clients and practitioners but help ensure that the consistency and quality of arbitral awards is maintained. Among other changes, the 2013 Rules provide for a more streamlined process for jurisdictional challenges prior to the constitution of the tribunal (Rule 12 and 13) and determining when the notice of arbitration is deemed to be complete (Rule 3.3). The 2013 Rules also confer powers on the registrar to extend or shorten any timelines prescribed under the 2013 Rules (Rule 2.5).

Finally, through an amendment to Rule 3.1(d), the SIAC is opening the door to investment treaty arbitrations as well. It will be interesting to see whether this potentially significant amendment, as well as the other changes, will lead to the SIAC realising its ambition of becoming the world's leading international arbitration centre.

For further information, please contact:

Alex Parker
aparker@debevoise.com
London, +44 20 7786 9130

Saqib Alam
salam1@debevoise.com
London, +44 20 7786 5420

1 There have been five iterations of the Rules since they first became effective: 1991, 1997, 2007, 2010, 2013

Forthcoming Events

- Debevoise's London office is hosting the ICC's Annual Symposium at Arundel House in London on November 14, 2013.
- Dietmar W. Prager will speak at the Practising Law Institute's "Doing Deals in and with Emerging Markets: BRICs and Beyond" in New York on July 11, 2013.
- Peter Goldsmith QC will be the Keynote Speaker at the Institutional Limited Partners Association Members' Conference dinner on June 11, 2013.
- Catherine M. Amirfar will speak on "Using U.S. Courts in Aid of International Arbitration" at the Practising Law Institute's PLI Conference – International Arbitration 2013 in New York on June 10, 2013.
- Peter Goldsmith QC and Philip Rohlik will speak at a joint seminar hosted by Debevoise & Plimpton LLP and Wong Partnership entitled "The Globalisation of Corporate Liability: Avoiding the Reach of Attributed and Other Long-Arm Liability Laws" in Singapore on May 23, 2013.
- Peter Goldsmith QC will speak on "Risk Management in Private Equity Transactions in China" at the China World Summit Wing in Beijing on May 20, 2013.
- Christopher Tahbaz will speak on "International Arbitration - A Regional Journey" at the Fourth Annual ICC Asia-Pacific Conference in Seoul on May 19, 2013.

Debevoise International Dispute Resolution Group

Partners and Counsel

Catherine M. Amirfar
Partner, New York
cmamirfar@debevoise.com
+1 212 909 6398

Donald Francis Donovan
Partner, New York
dfdonovan@debevoise.com
+1 212 909 6233

Mark W. Friedman
Partner, New York
mwfriedman@debevoise.com
+1 212 909 6034

Lord Goldsmith QC
Partner, London and Hong Kong
phgoldsmith@debevoise.com
+44 20 7786 9088
+852 2160 9800 (Hong Kong)

Antoine F. Kirry
Partner, Paris
akirry@debevoise.com
+33 1 40 73 12 35

Alyona N. Kucher
Partner, Moscow
ankucher@debevoise.com
+7 495 956 3858

Sophie Lamb
Partner, London
sjlamb@debevoise.com
+44 20 7786 3040

John B. Missing
Partner, London
jmissing@debevoise.com
+44 20 7786 9160

Dietmar W. Prager
Partner, New York
dwprager@debevoise.com
+1 212 909 6243

David W. Rivkin
Partner, New York and London
dwrivkin@debevoise.com
+1 212 909 6671
+44 20 7786 9171 (London)

Dr. Thomas Schürrle
Partner, Frankfurt
tschuerrle@debevoise.com
+49 69 2097 5000

Karolos Seeger
Partner, London
kseeger@debevoise.com
+44 20 7786 9042

Christopher K. Tahbaz
Partner, New York and Hong Kong
cktahbaz@debevoise.com
+1 212 909 6543
+852 2160 9839 (Hong Kong)

Jean-Marie Burguburu
Of Counsel, Paris
jmburguburu@debevoise.com
+33 1 40 73 13 09

Frederick T. Davis
Of Counsel, Paris
ftdavis@debevoise.com
+33 1 40 73 13 10

Matthew Getz
Counsel, London
mgetz@debevoise.com
+44 20 7786 5518

Jessica Gladstone
Counsel, London
jgladstone@debevoise.com
+44 20 7786 9166

Suzanne M. Grosso
Counsel, New York
smgrosso@debevoise.com
+1 212 909 6755

Carl Micarelli
Counsel, New York
cmicarelli@debevoise.com
+1 212 909 6813

Steven S. Michaels
Counsel, New York
ssmichaels@debevoise.com
+1 212 909 7265

Philip Rohlik
Counsel, Hong Kong
prohlik@debevoise.com
+852 2160 9856