

OUR INVESTMENT PROTECTION PRACTICE: PROTECTING INVESTMENTS

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Legal Briefings

As we commented in Issue 1, in uncertain times investment protections offered by both contract and international law cannot be ignored. A savvy investor will pre-empt changes in the political landscape or investment climate when their investment plans are at an embryonic stage and keep the question on the agenda throughout the life of their investment. Such strategic consideration can help investors to both minimise the economic impact of change on their investments and manage the risk to their reputation.



DISPUTE RESOLUTION

Representing states and investors in a number of investment treaty and other treaty-based claims, including advising:

Investors

- Chèque Déjeuner in a claim against Hungary
- BP and Rio Tinto in *Government of the Province of East Kalimantan v PT Kaltim Prima Coal and others*
- Telekom Malaysia Berhad in an arbitration against Ghana

- Vedanta Resources on a claim under the UK-India **BIT**
- ACP Axos in ICSID proceedings brought against the Republic of Kosovo
- United Utilities in a claim against Estonia

States

- Republic of Tunisia in respect of claims by ABCI Investments
- Kingdom of Spain in respect of claims under the Energy Charter Treaty
- Costa Rica in a DR-CAFTA claim

EVALUATION

- Representing a consortium of international oil companies on the implications of their investments in Sudan (currently estimated to be worth at least US\$11 billion and representing more than 95% of total Sudanese oil production) arising from the secession of South Sudan from the Republic of Sudan
- Advising BP on all contentious issues in contract and in tort, and in multiple jurisdictions, arising from the incident at the In Amenas gas facility in Algeria in January 2013

STRUCTURING

- Advising the world leader in natural gas in relation to protection and structuring of its investment in China through analysis of relevant treaties including bilateral investment treaties
- Advising Sierra Leone in relation to the development of the country's first independent power project
- Advising a Japanese trading company in relation to investment protection of its interests in a Bolivian mining project

- Advising a global power company in relation to the structuring of its US\$17 billion investment in the nuclear sector in a western European State. The advice included complex questions concerning available protections under applicable bilateral investment treaties and the Energy Charter Treaty, including in the context of contractual limitations and specific governmental assurances

NEGOTIATING

- Advising a G7 Government in relation to the drafting of its investment treaties
- Advising Kuwait Petroleum Corporation on the intergovernmental agreements (IGA), host government agreements and domestic regulatory structuring of proposed gas pipelines between Qatar, Bahrain, Saudi Arabia, Kuwait and Iran

DRAFTING

- Advising an energy and commodities company on stabilisation clauses in contracts with a West African State
- Advising an international energy company on the stabilisation provisions in an Umbrella Agreement/Heads of Terms for a Host Government Agreement

MONITORING

- Providing strategic advice regarding state succession issues on an on-going basis for international oil companies operating in Iraq/ Kurdistan
- Advising a mining company concerning its exploration rights at the Eritrea-Ethiopia border, in view of the disagreement between those countries as to where the border lay

STRATEGIC COUNSEL

- Advising a Latin American state on the interpretation of, and its rights under, a multi-

lateral treaty. Considering possible remedies, including a multi-party action involving a number of sovereign states where the consequence of the potential proceeding could be a seismic change in the management of international affairs in Latin America

CRISIS MANAGEMENT

- Acting for Santos Ltd and subsidiaries in relation to investigations, threatened claims and litigation (including by environmental and human rights interest groups), contractual issues between JV and drilling parties, as well as related insurance issues, arising out of an incident at the Banjar-Panji-1 well in East Java, Indonesia, which was alleged to have caused a mud volcano to erupt

To read more detailed analysis of these issues, look to "[Protecting Investments in a Volatile World](#)", by Larry Shore, Isabelle Michou, and Christian Leathley in Issue 1 of Inside Arbitration

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