MAYER • BROWN

Global International Arbitration Update

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Firm Updates

MAYER BROWN TO OPEN TOKYO OFFICE IN 2018

Mayer Brown is pleased to announce that the firm intends to open a new office in Tokyo, Japan, in the first half of 2018. The office will draw on Mayer Brown's global platform to serve the firm's growing client base in Japan.

Mayer Brown's Tokyo-based team will be fully integrated with the firm across the globe, further improving on the firm's ability to provide world-class client service and providing a new route for clients to draw on the firm's established capabilities, particularly in project finance, M&A transactions and international arbitration.

Legal Updates

CIETAC HONG KONG ARBITRATION CENTER RELEASES APPOINTING AUTHORITY RULES IN AD HOC ARBITRATIONS

1 July 2017: The China International Economic and Trade Arbitration Commission (CIETAC) Hong Kong Arbitration Center Rules as Appointing Authority in Ad Hoc Arbitrations ("**Appointing Authority Rules**") came into effect.

The Appointing Authority Rules apply where the CIETAC Hong Kong Arbitration Center acts as appointing authority or provides arbitration-related services where:

- the parties have agreed to refer their disputes to arbitration under the UNCITRAL Arbitration Rules;
- the parties have agreed to refer their disputes to arbitration under other ad hoc arbitration rules; and/or
- in other non-institutional arbitration cases prescribed by law or agreed by parties.

The following functions are carried out by the CIETAC Hong Kong Arbitration Center, when acting as appointing authority:

- appointment of arbitrator, including decision on the number of arbitrators to be appointed;
- decision on challenges to arbitrators;
- determination of arbitrators' fees and his/her Terms of Appointment;
- undertaking of financial management of arbitrations;
- provision of oral hearing services;
- provision of tribunal secretary service; and
- provision of other services in relation to arbitration carried out under the Appointing Authority Rules.

It is hoped that the Appointing Authority Rules will facilitate an efficient and effective dispute resolution service and encourage the use of the CIETAC Hong Kong Arbitration Center in ad hoc arbitrations.

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TAIWAN'S CHINESE ARBITRATION ASSOCIATION BRINGS INTO EFFECT NEW INTERNATIONAL ARBITRATION RULES

1 July 2017: The Chinese Arbitration Association, Taipei ("**CAA**") has brought into effect new arbitration rules for arbitrations seated outside of Taiwan. The Chinese Arbitration Association, International Arbitration Rules 2017 ("**CAAI Rules**") aim to appeal to an international audience, particularly amongst participants in China's Belt and Road Initiative.

The CAAI Rules, which draw inspiration from various leading international arbitration rules, contain a number of features tailored to appeal to sophisticated international arbitration users including multi-contract, joinder and consolidation provisions. Importantly, as Taiwan has not ratified the New York Convention, the CAAI Rules also specify Hong Kong as the default seat of arbitration (if not otherwise agreed by the parties) to increase the enforceability of any resulting arbitral award. Awards rendered in Hong Kong are enforceable under the New York Convention, and may also be enforced in mainland China through the enforcement mechanism in place between the two jurisdictions.

The CAAI Rules also prioritise speed and efficiency, requiring tribunals to close proceedings within 6 months of being constituted and render an award within 6 weeks of the date of close of proceedings (unless extensions are approved by CAA). The CAAI Rules 2017 also contain provisions on expedited procedures for claims under US$250,000, and emergency arbitrator provisions.

ICC CONSIDERS FIRST SETS OF EXPEDITED PROCEEDINGS FOLLOWING MARCH 2017 UPDATE TO THE ICC RULES

6 September 2017: Following the introduction of the amended ICC Arbitration Rules on 1 March 2017, which aimed to increase the efficiency, transparency and reduce the costs of ICC arbitrations, the ICC in Paris has considered its first expedited proceedings.

The expedition provisions in the ICC Rules automatically apply to all ICC governed arbitrations where the arbitration agreement was signed after 1 March 2017 and the value of the dispute does not exceed US$2 million. The expedition provisions in the ICC Rules are also available to those who opt in, regardless of the amount in dispute or the date of conclusion of the arbitration agreement. In fact, the first seven cases are being managed under the expedited provisions by express party agreement.

In expedited procedures, the arbitration award must be made within 6 months from the case management conference, subject to certain justified extensions. This rule seeks to reduce the costs and time associated with arbitration proceedings. All expedited proceedings to date have had a sole arbitrator and the majority of proceedings have been in English, whilst the location of the expedited proceedings has varied from Vienna to Hong Kong, Singapore, Paris and London.

The first disputes covered sectors including industrial engineering, energy, pharmaceutical products, finance and hotel development.

FIJI IMPLEMENTS NEW YORK CONVENTION WITH NEW ACT

15 September 2017: Fiji has passed a new law giving it a world class legislative framework for international arbitration. The International Arbitration Act 2017 (the **"Act"**) implements into law Fiji's commitments under the New York Convention, which Fiji ratified on 27 September 2010.

The Act is based on the UNCITRAL Model Law, which provides a legislative framework which supports international commercial arbitration and has served as the basis of arbitration legislation for nearly 100 states and territories. The Act also incorporates international best practices in international commercial arbitration, such as guaranteeing the confidentiality of arbitration proceedings.

It is hoped that the Act, which applies to international arbitration only, will improve the investment climate in Fiji and provide a boost for foreign direct investment in the country. Drafted with the help of the Asian Development Bank and in collaboration with UNCITRAL, the Act may serve as a template for arbitration reform in the South Pacific.

UAE ENACTS LAW PERMITTING ONLY EMIRATI LAWYERS TO ACT IN UAE SEATED CASES

25 September 2017: The UAE Minister of Justice passed Ministerial Resolution No 972, amending the UAE's Federal Legal Profession Law. On its face, the Resolution appears to restrict the ability of foreign counsel to appear on behalf of arbitrating parties in onshore UAE seated proceedings.

The new law states that in order to be included on the "roll of practicing lawyers", a practitioner must be a "national of the state", which suggests that foreign practitioners may no longer be able to represent parties in arbitration proceedings seated in the UAE. However, the Dubai Legal Affairs Department

(DLAD) has clarified that "Legal Consultants" (non UAE nationals) are allowed to "plead and represent others before arbitration and conciliation bodies ... in the Emirate".

As with the amendment to Article 257 of the UAE penal code we reported in our last issue, pursuant to which arbitrators, experts, translators or investigators who fail in their duties of "neutrality" and "integrity" could face "temporary imprisonment", there were concerns that this law could be damaging to arbitration in the UAE. Now that DLAD has clarified the position for Dubai, similar clarification for Abu Dhabi and Ras Al Khaimah in particular would be a welcome step, as like Dubai, these Emirates have also opted out of the UAE's federal judicial structure. It is therefore hoped that the Resolution would similarly not be applicable in those Emirates as well.

BAHRAIN CHAMBER INTRODUCES NEW ARBITRATION RULES

1 October 2017: Following Bahrain's adoption of the UNCITRAL Model Law on International Commercial Arbitration for domestic and international disputes in 2015, the Bahrain Chamber for Dispute Resolution has launched its highly anticipated new Arbitration Rules.

The 2017 rules consist of 41 articles and introduce some significant changes to the previous system. For example, parties may still nominate their own arbitrator but the arbitrator must now have been appointed or confirmed by the institution. This will help to increase confidence in the forum's ability to conduct independent and impartial proceedings. The new rules also introduce an expedited procedure for cases which are worth less than US$1 million, and allow for the summary dismissal of claims which clearly lack legal merit or are outside the jurisdiction of the tribunal. Other notable provisions include the limitation of the Chamber's liability and a new fee structure which aims to moderate the cost of arbitration.

Overall, the new rules aim to bring the Chamber's arbitration services in line with international best practice, whilst also meeting the specific needs of Bahrain and the Middle East. The rules have been published in English, French and Arabic with all three holding equal authority and have been described as "a culmination of the most recent practices and trends in international commercial arbitration".

NEW CIETAC INVESTMENT ARBITRATION RULES COME INTO EFFECT

1 October 2017: The China International Economic and Trade Arbitration Commission (**"CIETAC"**) has published new investment arbitration rules (**"Rules"**) based on current international best practices, incorporating particular Chinese culture-specific characteristics. The Rules are expressly designed to develop the practice of investment arbitration within China, and to facilitate increasing Chinese outbound investment.

The Rules contain a variety of unique and interesting features, the most salient including:

(a) A choice of either the Rules or CIETAC as an institution in an investor-state arbitration will result in the other being deemed to have been agreed by the parties;

(b) There is an express obligation on all participants in the arbitration to act in good faith;

(c) The tribunal may mediate during the course of the arbitration. If the dispute is not resolved, the parties may resume the arbitration with the same arbitrators;

(d) Unless otherwise agreed, there will be public access to hearings and documents submitted to the arbitration;

(e) Third Party Funding is allowed, but with extensive disclosure obligations, and the tribunal may take into account third party funding when deciding matters related to arbitration fees and other costs; and

(f) By default, the tribunal will be appointed from a CIETAC roster yet to be published. If the parties wish to appoint a different arbitrator, they will require the approval of the Chairman of CIETAC.

The Rules also notably contain provisions on summary dismissal of claims, emergency arbitrators, interim relief and third party involvement. Particular provisions have been included to control time and costs, including a stipulation that the award must be rendered within 6 months of the conclusion of the hearing.

It is anticipated that the Rules may be incorporated into contracts between Chinese investors and foreign governments and incorporated into future bilateral investment treaties that China renegotiates or signs with other States. The Rules are currently in effect but are subject to "trial implementation", meaning they may be revised.

LCIA RELEASES SECOND REPORT ON COSTS AND DURATION OF PROCEEDINGS

3 October 2017: the London Court of International Arbitration (LCIA) published its second report on the average cost and duration of an LCIA arbitration.

This was the second report of its kind, building on the 2015 costs and duration report with actual data now covering the period from 1 January 2013 to 31 December 2016. Data was compared with estimates from the SCC, SIAC, HKIAC and ICC.

The key findings of the LCIA's report were:

- The median duration of an LCIA arbitration is 16 months and the median cost is US$97,000.
- Over 70% of disputes worth less than US$1 million are resolved within 12 months.
- The median time taken for arbitrators to prepare a final award is 3 months.

It remains to be seen whether other arbitral institutions will produce reports using comparable accurate data.

BARBADOS LAUNCHES ARBITRATION AND MEDIATION CENTRE

12 October 2017: Barbados launched the Arbitration and Mediation Court of the Caribbean (the **"AMCC"**). The AMCC is an independent, not-for-profit institution offering a suite of Alternative Dispute Resolution (ADR) services for domestic, regional and international commercial clients, under any system of law, from its base in Bridgetown, Barbados. The AMCC's services are available to all contracting parties, without any membership requirements.

Led by its director general, Baria Ahmed, a UK-qualified barrister and ADR professional who has been involved in the field of dispute resolution since 2003, the AMCC hopes to provide a legal foundation to incentivize foreign investment in Barbados and the wider Caribbean. The AMCC aims to service the Caribbean and Latin America.

The AMCC has recently drafted rules for international and domestic arbitration and mediation (the **"Rules"**) in line with Barbados's 2007 International Commmercial Arbitration Act, which is based on the UNCITRAL Model Law. The Rules are now in the process of being finalised along with fee schedules for the AMCC. It has also just hosted its first round of International Commercial Arbitration training in partnership with The Chartered Institute of Arbitrators (CIArb), Caribbean Branch.

MAURITIUS CONVENTION ENTERS INTO FORCE AFTER THIRD RATIFICATION

18 October 2017: Six months after gaining its third ratification, the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (the **"Convention"**) entered into force. The three ratifying parties are Mauritius, Canada and Switzerland.

The aim of the Convention is to provide a mechanism for efficient, widespread application of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration (the **"Transparency Rules"**).

The Transparency Rules introduced procedural rules which allow wider public access to and transparency regarding investment treaty arbitrations conducted under the UNCITRAL Arbitration Rules pursuant to treaties concluded on or after 1 April 2014, being the date the Transparency Rules came into force.

Alternatively, States may amend their existing treaties on a select basis to include such consent to the Transparency Rules.

As it stands, the Convention will have a limited impact, as there are only three ratifying parties. Consequently, the Convention only applies to the Mauritius-Switzerland bilateral investment treaty. The Convention currently has 19 other signatories, meaning there may be further ratifications in the future.

LCIA UPDATES GUIDELINES ON THE USE OF TRIBUNAL SECRETARIES

26 October 2017: The LCIA has updated its guidelines on the use of tribunal secretaries (the "**Guidelines**") to address concerns regarding the scope of their duties and improper delegation, which had previously led to the challenge of awards. The Guidelines aim to ensure that the parties communicate and consent to the role of the tribunal secretary in their arbitration, and include new safeguards.

The tribunal must now seek the parties' consent regarding the scope of the tribunal secretary's role and duties. The Guidelines are not prescriptive as to the tasks to be carried out by the tribunal secretary, but do set out a non-exhaustive list which ranges from administrative tasks to preparing the first draft of an award, although all tasks must be carried out on behalf of the tribunal.

Tribunal secretaries must also complete a Statement of Independence and Consent to Appointment in order to ensure that they have no relevant conflicts. The tribunal secretary's obligation to disclose in this regard is ongoing.

Further, the Guidelines now make recommendations as to the tribunal secretary's fee: an hourly rate of between £50 to £150. The tribunal must propose an appropriate fee rate and the parties must consent.

The updated Guidelines are a welcome development and constitute a step forward in ensuring that the role of the tribunal secretary is transparent and well defined.

DIAC ANNOUNCES LAUNCH OF NEW 2018 ARBITRATION RULES

15 November 2017: The Dubai International Arbitration Centre (DIAC) announced the launch of the new proposed DIAC 2018 Arbitration Rules during Dubai Arbitration Week. The new rules are currently in draft form, awaiting approval from H.H. the Ruler of Dubai before they take effect. Some of the key proposed changes are as follows:

- The Dubai International Financial Centre (DIFC) would be the default seat of arbitration.
- Arbitrators would be expressly permitted to sign the award outside of the UAE.
- Arbitrators would have express sanctioning powers against counsel for misconduct, such as knowingly making false statements or attempting to unfairly obstruct the arbitration.
- Legal fees, which are currently not recoverable, would be recoverable. The tribunal would have the express power to take into account any third party funding in assessing and apportioning the costs of the arbitration.
- Under certain conditions, disputes based on more than one contract could be heard in a single arbitration, making for a more streamlined process.
- The liability of tribunal members and DIAC in connection with the arbitration would be excluded.
- Awards could be made public with the consent of the parties or a decision of DIAC.
- Under certain conditions, proceedings could be expedited, for example where the parties expressly agree or where the value of the dispute is less than AED 2m.

It is expected that these changes will take effect in the first quarter of 2018, and are likely to be warmly received by the international arbitration community.

STOCKHOLM CHAMBER OF COMMERCE REVEALS POLICY ON APPOINTING ARBITRATORS – 11 YEARS AFTER IT WAS INTRODUCED

15 November 2017: The Arbitration Institute of the Stockholm Chamber of Commerce (SCC) has revealed its policy on appointing arbitrators – 11 years after it was first introduced.

The general principles in the policy include consideration of whether an individual has acted as an arbitrator before – a favourable feature in the eyes of the SCC board. Secondly, the board will "primarily" appoint persons with law degrees. Lastly, the board will seek to ensure there is a balance of expertise and languages on the tribunal.

The special principles that the SCC board will consider include the suitability of a candidate with regards to the relevant jurisdiction and applicable law. Furthermore, if the nationalities of the arbitrating parties are different, the board will seek to ensure a sole arbitrator or a chair is of a nationality different to that of the parties and the seat of the arbitration. The SCC will also pay close attention to the expertise of the potential arbitrator in light of the factual background of the arbitration, and their potential availability. Lastly, the SCC seeks to foster diversity in all appointments.

OFFICE OF THE U.S. TRADE REPRESENTATIVE RELEASES SUMMARY OF OBJECTIVES FOR NAFTA RENEGOTIATIONS

17 November 2017: Chapter 11 of the North American Free Trade Agreement (NAFTA) establishes a mechanism for the settlement of investment disputes that provides for several treaty protections for investors. These protections allow investors to directly seek legal action against the host state through: (i) the World Bank's International Centre for the Settlement of Investment Disputes (**"ICSID"**); (ii) ICSID's Additional Facility Rules; or (iii) pursuant to the Rules of the United Nations Commission for International Trade Law (**"UNCITRAL Rules"**).

On 17 July 2017, the Office of the United States Trade Representative released a Summary of Objectives for the NAFTA Renegotiation (**"Summary"**). In that Summary, Chapter 11 was not listed as a priority. The Summary merely states that the United States will look for a transparent mechanism that encourages the early identification and settlements of disputes in a timely and effective manner. Canada, however, has expressed that Chapter 11 is a priority. Mexico has yet to release an official opinion on the matter.

In the 23 years since the treaty was implemented, the United States has never lost a NAFTA case. As negotiations continue, Chapter 11 is predicted to remain a controversial topic. While businesses say the measure is necessary to provide certainty for investors, some Trump administration officials have criticized the process as one that compromises national sovereignty. The renegotiations on behalf of the United States are being led by the newly appointed United States Trade Representative, Robert Lighthizer.

ICC RELEASES FIRST VOLUME OF BUSINESS GUIDE TO TRADE AND INVESTMENT

28 November 2017: The first volume of the series "Business Guide to Trade and Investment" has been released by the ICC. The guide has been developed to equip business leaders to better navigate the dynamic global trade and investment landscape that continues to dominate headlines and demonstrates how leaders can benefit economically from the international trade regime.

The guide comprises 13 chapters that provide unique insights into the world trading systems and includes a brief history of the General Agreement on Trade and Tariffs (GATT) and the World Trade Organization (WTO). The book provides an introduction to the international and regional rules applicable to a spectrum of trade in goods and services as well as aspects of trade in intellectual property rights and dispute settlement. It also helps businesses gain a better understanding of global trade pacts, provides guidance on trade agreements and advises businesses on how to take advantage of them. Other chapters include an overview of government procurement and an outline of how industries can obtain relief from imports causing them harm.

The guide makes complex and technical subjects on trade and investment more accessible and provides practical insights through a selection of case studies that demonstrate the trade concepts outlined in the publication.

NEW ARBITRATION RULES OF THE GERMAN INSTITUTE OF ARBITRATION TO COME INTO FORCE

December 2017: The German Institution of Arbitration (**"DIS"**) has revised its Arbitration Rules (**"DIS Rules"**). The revised DIS Rules will come into force in March 2018 and are meant to be suitable for the needs of domestic and international users. The new rules are aimed at adapting to the changed demands in arbitration and enhancing efficiency in proceedings.

The key amendments to the current DIS Rules include procedural provisions such as the introduction of new deadlines for the different stages of an arbitration. All submissions (except for the request for arbitration) must be transmitted to DIS and the arbitral tribunal in electronic form only. The new rules furthermore establish certain requirements and measures for more efficiency in arbitration, such as a mandatory case management conference in which the procedural timetable and the conduct of the proceedings must be discussed and agreed.

The revised DIS Rules contain new provisions on arbitration with multiple parties and/or under multiple contracts, joinder and consolidation. Under these rules, the parties will have the option to have their disputes decided in a single arbitration or to join additional parties after the arbitration has started. The changes also concern the appointment and challenge of arbitrators and contain a more elaborate provision on interim measures.

SOUTH AFRICAN NATIONAL ASSEMBLY PASSES NEW INTERNATIONAL ARBITRATION BILL

6 December 2017: the National Council of Provinces of South Africa passed the International Arbitration Bill (the **"Bill"**), as the current legislation has been criticised as outdated and inadequate to deal with modern international arbitration disputes. The Bill looks to align South Africa with best practice in international arbitration, and try to establish it as a seat of choice for disputes in Africa.

The Bill covered several proposals and the following are some of the most notable:

- The incorporation of the UNCITRAL Model Law;
- Chapter 3 of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall replace the Recognition and Enforcement of Foreign Arbitral Awards Act 40 of 1977;
- The Act (when it comes into force) will be binding on all public bodies; and
- It will no longer be necessary to request the permission of the Minister of Economic Affairs in respect of the enforcement of foreign arbitral awards relating to the Protection of Businesses Act 99 of 1978.

The Bill has now been submitted to the President for assent.

Case Law:

ICSID TRIBUNAL DISMISSES IVORY COAST'S OBJECTION TO JURISDICTION

1 August 2017: In *Société Resort Company Invest Abidjan, Stanislas Citerici and Gérard Bot v. Republic of Côte d'Ivoire (ICSID Case No. ARB/16/11)* the tribunal of the International Centre for Settlement of Investment Disputes (**"ICSID"**) dismissed the Ivory Coast's objection to jurisdiction.

The dispute concerned the state's demolition of a five-star resort as part of a redevelopment project. The claimants, a group of Ivorian and French investors, had built the resort on land leased from the State. An Ivorian court held the State had wrongfully breached the lease. However, it was held that the State had not expropriated the claimants' investment, nor was an order made to preserve the claimants' assets.

The group of investors then brought the ICSID claim. The Ivory Coast disputed ICSID's jurisdiction on the basis that the claimants had failed to expressly consent to ICSID arbitration, and so consequentially no arbitration agreement existed. However, the claimants maintained that they had validly consented to ICSID arbitration under the Ivory Coast's Investment Code 2012 by filing a request for investment authorisation.

Two of the three tribunal members accepted the claimants' argument. The minority member dissented, finding that an express election for ICSID arbitration was necessary. The case is now proceeding to the merits stage.

MALAYSIAN TOP COURT UPHOLDS SET-ASIDE OF US$56 MILLION UNCITRAL AWARD AGAINST LAOS GOVERNMENT

17 August 2017: In *Thai-Lao Lignite and Hongsa Lignite v Government of the Lao People's Democratic Republic,* the Malaysian Federal Court upheld the decision of a lower court setting aside a 2009 award of US$56 million made in favour of the Appellant companies.

The application for set-aside of the award had initially been rejected on the grounds that it was brought too late under Malaysian law. By the time an extension of time was granted in 2012, the companies had already succeeded in applications to enforce the award in England and New York. Later that year, however, the award was set aside by Malaysia's High Court on the basis that the tribunal had exceeded its jurisdiction under the arbitration clause in the agreement between the parties. The decision was upheld by the Malaysian Court of Appeal in 2014. Enforcement of the award was subsequently revoked in the US.

In the Malaysian Federal Court, the companies argued that the lower courts' application of Malaysian law to the arbitration agreement on the basis that Malaysia was the seat of the arbitration was inconsistent with principles of international arbitration. In rejecting their appeal, the court held that the chosen seat is "usually decisive" when determining the law applicable to an arbitration agreement, unless the parties have shown a contrary intention. The court also rejected the contention that the Malaysian judiciary did not support international arbitration, stating that "for arbitration to continue to be relevant, it must be accepted that arbitral awards are not sacrosanct".

SINGAPORE COURT REAFFIRMS POWER TO STAY COURT PROCEEDINGS IN FAVOUR OF ARBITRATION

24 August 2017: In *Gulf Hibiscus Ltd v Rex International Holding Ltd and another* [2017] SGHC 210, the Singapore High Court conditionally stayed court proceedings in favour of arbitration on case management grounds, despite the fact that the party seeking the stay was not a party to the arbitration agreement nor had arbitration proceedings commenced.

The case concerned Gulf Hibiscus (the **"Plaintiff"**), Rex Middle East (**"RME"**) and another party who was a shareholder in Lime Petroleum PLC (**"Lime"**). The first defendant was the ultimate holding company of RME and the Second Defendant was the intermediate holding company of RME. The three shareholders of Lime were party to a Shareholders' Agreement (the **"Agreement"**) which provided that any dispute "arising under, out of or relating to" the Agreement was to be arbitrated under the ICC Rules.

The Plaintiff commenced court proceedings against the defendants in Singapore, alleging unjust enrichment, conspiracy in relation to Lime's shareholders and wrongful interference in the affairs of Lime. The defendants applied to have the Singapore court proceedings stayed.

In his judgment, Abdullah JC confirmed that a stay can be granted even in circumstances where the applicant is not a party to the arbitration agreement (in this case the defendants, who were not parties to the Agreement). The court stated that the absence of an arbitration agreement between the parties in the court proceedings is irrelevant because the court's

power to order a case management stay does not arise from the arbitration agreement. The court's power to order a case management stay is, instead, part of its inherent case management powers premised on "the wider need to control and manage proceedings between the parties for a fair and efficient administration of justice".

In the circumstances of this case, Abdullah JC held that it was appropriate to stay the Singapore court proceedings, on the condition that the defendants would be bound by any future findings of fact in arbitration under the Agreement and that the defendants and RME would do all things necessary to enable disputes arising out of the Agreement to be resolved expeditiously through arbitration with RME.

ENGLISH HIGH COURT UPHOLDS REFUSAL TO STAY PROCEEDINGS IN FOOTBALL DISPUTE AS NO IMPLIED ARBITRATION AGREEMENT

4 September 2017: In *Bony v Kacou* [2017] EWHC 2146 (Ch), the English High Court ruled against the defendants in their appeal against a decision refusing their application to stay proceedings, pursuant to section 9 of the Arbitration 1996 Act, pending a reference to arbitration under Section K of the Football Association Limited (**"FA"**) Rules.

The proceedings concerned the defendants' claim that there was an implied agreement that incorporated by reference Section K of the FA Rules, so that a dispute between them would need to be settled by arbitration. The claimant had been a professional footballer and the first and third defendants were the claimant's former agents. The second and fourth defendants were corporate vehicles controlled, respectively, by the first and fourth defendant.

The court held that the defendants had failed to establish an implied agreement between them and the claimant incorporating Section K. HH Judge Pelling QC considered that an agreement could be implied only if the implication of a contract could be justified applying general principles. The relationship between the claimant and the first and third defendants was governed by express agreements, and these agreements did not contain arbitration provisions, save for the agreement with the third defendant which contained a dispute resolution provision which was intended to provide a comprehensive dispute resolution mechanism. Given the existence of those agreements, it was not necessary to imply an arbitration agreement. The inclusion of the dispute resolution provision was inconsistent with the contract impliedly incorporating Section K.

UNITED STATES D.C. DISTRICT COURT ADDRESSES THE NULLITY OF AN ARBITRATION AWARD THAT WAS SUBJECT TO AN AGREED APPEAL PROCESS

27 September 2017: In *Diag Human S.E., v. Czech Republic Ministry of Health*, the United States District Court for the District of Columbia (**"District Court"**) addressed the issue of whether an arbitration award had entered into effect pursuant to the parties' agreement when a second tribunal reviewing the award discontinued the arbitration. The District Court found that the arbitration award was nullified pursuant to the parties' agreement.

After a dispute arose in which Diag Human S.E. (**"Diag Human"**) contended that the Czech Republic Ministry of Health (the **"Ministry"**) interfered with and damaged Diag Human's business, the parties entered into an agreement to arbitrate their disputes (the **"Arbitration Agreement"**). The Arbitration Agreement provided that, after the issuance of an award, a second tribunal (the **"Review Tribunal"**) could be appointed to review the award and that, if no application for review was made, the decision of the first tribunal (the **"Arbitration Tribunal"**) would take effect. The Arbitration Tribunal issued two partial awards, both of which were confirmed by Review Tribunals. The Arbitration Tribunal then issued a final award. Both parties filed applications for review of the final award by a Review Tribunal, one of which was subsequently withdrawn. The Review Tribunal for the final award found that due to the language of the final award, as well as the previous partial awards, and the treatment of such awards by Czech law, the Review Tribunal had to discontinue the arbitration.

The parties disputed the effect of the discontinuance of the arbitration by the Review Tribunal and Diag Human filed an action to enforce the final award. The Ministry argued that the discontinuance of the arbitration rendered the award null, while Diag Human argued that the discontinuance had no effect on the final award.

The District Court held that regardless of the parties' arguments as to Czech law or whether the Review Tribunal's decision to discontinue the arbitration was procedural in nature, "the merits ... rise and fall on the parties' own Arbitration Agreement." Because the parties agreed to a two-step arbitration procedure that explicitly specified when an award entered into effect—"[i]f the review application of the other party has not been submitted within the deadline, the award will enter into effect"—the court held that the "consequence of this provision is that the award does

not enter into effect if a review application *has* been submitted within the deadline." Here, because an application for review was submitted, the final award never took effect, and, therefore, was not subject to the enforcement procedures of the New York Convention, as it was not a binding award.

YUKOS SHAREHOLDERS ABANDON ENFORCEMENT PROCEEDINGS IN FRANCE

October 2017: the former majority shareholders of the Yukos Oil Company (**"Yukos"**) decided to withdraw their enforcement proceedings in France, stating that it was not economically efficient to proceed.

In July 2014, an arbitral tribunal in the Hague awarded Yukos US$50 billion in damages against the State of Russia. The Tribunal found that Russia had illegally expropriated from Yukos, and the US$50 billion award reflects the value of the former shareholders' investments. However, in April 2016, the District Court of the Hague took the decision to overturn the awards, finding that the tribunal did not have the authority to make the award as Russia is not bound by the relevant international law.

The former shareholders have brought enforcement proceedings in various jurisdictions including England, Belgium, Germany, the US, India and France in an attempt to seize Russian assets. France initially endorsed the enforcement proceedings in December 2014 when a Paris tribunal decided to recognise the award and allow enforcement across France. Around EUR1 billion worth of Russian assets had been located in France, however, enforcement judges around France have not allowed the enforcement. In June 2017, the Paris Court of Appeal ordered attachments relating to Russia of EUR300 million to be released. Additionally, new French legislation implemented in 2017 restricts the attachment of assets belonging to Russia in France. This legislation was implemented in response to pressure from Russia.

UNITED STATES DISTRICT COURT CONFIRMS US$145.7 MILLION ARBITRATION AWARD DESPITE UKRAINIAN COURT RULING INVALIDATING THE ARBITRATION CLAUSE

2 October 2017: In *OJSC Ukranafta v. Carpatsky Petro. Corp.*, the United States District Court for the Southern District of Texas confirmed a Stockholm Chamber of Commerce (**"SCC"**) US$145.7 million arbitral award in favor of Carpatsky Petroleum Corporation (**"CPC"**), a Delaware-based subsidiary of Kuwait Energy Company, and against OJSC Ukrnafta (**"Ukrnafta"**), a Ukrainian oil company. The decision ends a decade-long dispute involving numerous stays and reinstatements in the United States, as well as challenges and appeals in Sweden and Ukraine.

Ukrnafta filed suit against CPC-Delaware in Texas state court—later removed to the District Court—claiming CPC-Delaware's alleged failure to inform it of the merger was inconsistent with the agreements and contrary to Ukrainian law, which governed the agreements. In April 2009, the District Court stayed the case pending a decision by the SCC. The District Court also held that there was a valid arbitration agreement.

Meanwhile, the High Commercial Court of Ukraine determined that the agreements were invalid under Ukrainian law, as they precluded the substitution of a party without prior consent. Despite this, the SCC tribunal deemed the agreements valid and concluded that Ukrnafta was the violating party. Sweden's Supreme Court affirmed the SCC's award on 9 December 2016.

Ukrnafta argued that the U.S. District Court should refuse to enforce the award under the New York Convention because of the Convention's requirement that an arbitration agreement be in writing. It also argued that the arbitration agreement was invalid. The District Court, after explaining that there is a "strong presumption that the procedural law of the place of arbitration applies," held that Sweden was the only primary jurisdiction. The court stated that it is "up to the arbitral tribunal to determine if the agreement was valid, not th[e] court."

ENGLISH HIGH COURT RULING DEMONSTRATES ADVANTAGES OF SELECTING AN ARBITRATION-FRIENDLY SEAT BY PROVIDING FURTHER PROTECTION TO THE CONFIDENTIALITY OF ARBITRAL AWARDS

6 October 2017: In *UMS Holdings Limited v. Great Station Properties S.A.* [2017] EWHC 2473 (Comm), the High Court dealt with ancillary matters to the Claimant's unsuccessful application to set aside the arbitral award on the grounds of serious irregularity under s.68 of the Arbitration Act 1996. Aside from seeking permission to appeal, which was "bold and optimistic" and denied in any event, the main debate centred on whether the parties remained bound by Article 30 of the London Court of International Arbitration (LCIA) Rules to keep the award confidential.

The Claimant submitted that the award was now a public document and that Article 30 no longer applied. They noted that the s.68 challenge, pursuant to the Court's order, was heard in public and that extensive reference was made throughout the hearing and subsequent judgment to the award. The Defendant, Great Station Properties, conceded that it was possible for the public to obtain a copy of the award, but asserted that the Claimant nevertheless remained bound by its confidentiality undertaking.

Mr. Justice Teare acknowledged that the award was now in the public domain and therefore, from a strict textual interpretation of Article 30, the express contractual obligation to keep it confidential no longer existed. However, he was "*troubled by the suggested conclusion that the Claimants should therefore be able to do with the award as they wish...*" and, relying on Civil Procedure Rule 31.22(2), granted the Defendant's order preventing UMS Holdings Limited from disclosing the award to any third party without prior permission from the court.

HONG KONG COURT MAINTAINS INJUNCTION IN RELATION TO FOREIGN ARBITRAL PROCEEDINGS

10 October 2017: In *Ve Global UK Limited v Charles Allard Jr and Intelita Limited*, HCMP1678/2017, the Hong Kong Court of First Instance maintained an injunction that had been granted under s.45 of the Arbitration Ordinance, in aid of arbitration outside of Hong Kong.

The Plaintiff initially successfully obtained *ex parte* injunctions from the court in late July and early August 2017. The injunctions had been granted under s.45 of the Arbitration Ordinance, whereby the Court is able to grant interim relief in aid of arbitration. It was not until 21 September 2017 that the Plaintiff commenced arbitration and the Defendants alleged that this delay amounted to an abuse of process.

In her decision, Chan J dismissed the Defendants' allegations that they had suffered an abuse of process in the Plaintiff's delay in commencing arbitration following the granting of the injunctions. While the Court agreed that there had been a delay by the Plaintiff in commencing the arbitration, the Court was not satisfied that the Defendants had suffered any prejudice as a result, although the Court said that the delay was "*regrettable and frowned upon*".

The Court stated that it is "*imperative for an applicant*" to "*act with diligence and speed in the service of the documents which initiate the primary proceedings for which the interim relief was granted in support*".

ENGLISH COMMERCIAL COURT REJECTS APPLICATION BY KYRGYZSTAN TO SET ASIDE INVESTMENT AWARD

13 October 2017: In *The Kyrgyz Republic v Stans Energy Corporation and Kutisay Mining LLC* [2017] EWHC 2539, the English Commercial Court rejected an application by Kyrgyzstan to set aside an award issued by a tribunal in January 2017.

The dispute centred around the interpretation of Law No.66 on investment in Kyrgyzstan (the **"Investment Law"**), which permitted investors to request that an "investment dispute" be referred to ad hoc arbitration under the UNCITRAL Rules 1976.

Five years after Stans Energy, a Canadian mining company, acquired Kutisay, a state-owned mining entity, Kyrgyzstan revoked Kutisay's two mining licences. Stans contended that this was an expropriation of its mining rights.

The Investment Law was drafted in both Russian (as the "official" language) and Kyrgyz (as the "State" language). On the basis of the Russian definition of "investment dispute", it was accepted that the arbitration tribunal had jurisdiction. The Kyrgz definition, however, translated to a dispute "arising in the course of the *sale* of the investments".

It was held that the Investment Law was to be construed in line with Kyrgyz principles of statutory interpretation. The Republic had not provided evidence from a linguistics expert, and as a consequence had not demonstrated that the relevant word could exclusively mean "*sale*".

In addition to this, the wider context of the law, including the statutory intention, was to promote investment in Kyrgyzstan on the basis that investments made in the Republic would be guaranteed. Accordingly, the dispute was within the jurisdiction of the arbitral tribunal.

SINGAPORE HIGH COURT RULES ON THE IMPORTANCE OF INCORPORATED ARBITRAL RULES IN THE INTERPRETATION OF ARBITRATION CLAUSES

31 October 2017: In *BNP v BNR* [2017] SGHC 269, the Singapore High Court emphasised the importance of the arbitral rules chosen by the parties in interpreting the terms of an arbitration agreement.

The parties had entered into an arbitration agreement incorporating the ICC Arbitration Rules but stipulating that the third arbitrator "shall act as umpire". The three member tribunal was constituted in accordance with the ICC Rules, with the third arbitrator acting as tribunal president. BNP applied to the court for a ruling that the tribunal was improperly constituted, alleging that an "umpire" differs from a tribunal president in that it must remain passive unless the other arbitrators are unable to agree.

The court dismissed the application holding that the meaning of "umpire" was unclear and not inconsistent with the third arbitrator acting as tribunal president, and that BNP's interpretation of "umpire" was inconsistent with the parties' choice of the ICC Arbitration Rules to govern their dispute. This indicates that Singapore courts may attach a relatively higher importance to the terms of the parties' chosen arbitral rules when interpreting the relevant arbitration agreement.

HONG KONG COURT OF FINAL APPEAL UPHOLDS HONG KONG PROVISIONS ON FINALITY OF ARBITRAL AWARDS

3 November 2017: In *American International Group Inc v Huaxia Insurance Co Ltd* [2017] HKEC 2365, the Hong Kong Court of Final Appeal (**"CFA"**), dismissed an application for leave to appeal an application for the setting aside of an arbitral award refused by the Court of First Instance (**"CFI"**). In doing so, it affirmed the constitutionality of Hong Kong law provisions on the finality of arbitral awards under the jurisdiction's "mini-constitution": the Basic Law.

Basic Law Art. 82 provides that the power of final adjudication is vested in the CFA. However, the combined effect of s. 81(4) of the Hong Kong Arbitration Ordinance (Cap 609) and s. 14(3)(ea)(iv) of the High Court Ordinance (**"Finality Provisions"**) means there can be no appeal on the decision of the CFI on the setting aside of an award without leave from the CFI. AIG argued that this violated Basic Law Art. 82, as it gave the power of final adjudication in such circumstances to the CFI.

The CFA held that it was not reasonably arguable that the Finality Provisions were unconstitutional as they were proportionate limitations on the power of final adjudication. In doing so, the CFA further affirmed the pro-arbitration stance of the Hong Kong courts.

ENGLISH COMMERCIAL COURT REMOVES ARBITRATOR IN INSURANCE DISPUTE

6 November 2017: In *Tonicstar Ltd v (1) Allianz Insurance Plc (2) Sirius International Insurance Corp (Publ) (London Branch)* [2017] EWHC 2753 (Comm), the claimant applied for an order to remove an arbitrator appointed in a dispute arising from a contract of reinsurance (the "**Contract**").

The dispute arose from liabilities incurred in 2001. The insured's claim was settled, following which the claimants brought a claim against the respondents under the Contract. Arbitration proceedings were commenced under the Contract in April 2017.

The Contract incorporated the "Excess Loss Clauses" drafted by the Excess Loss Committee and published in 1997. The Contract provided for the parties to each appoint an arbitrator, provided that the tribunal should consist of "*persons with not less than ten years' experience of insurance or reinsurance*" ("**Clause 15.5**"). The respondents appointed a QC with considerably more than 10 years of such experience.

The claimants opposed the appointment on the grounds that Clause 15.5 required the appointment of a person with experience in the business of insurance or reinsurance itself. The court was therefore asked to rule on the correct interpretation of Clause 15.5.

The court held that the correct interpretation of Clause 15.5 had been decided by Morrison J in an unreported case: *Company X v Company Y* (2000). Morrison J held that a QC with "*considerable experience*" as a lawyer in insurance and reinsurance disputes was not qualified to act as an arbitrator within the meaning of Clause 15.5.

The court held that the decision of Morrison J was not obviously wrong, and that the court was therefore bound to follow it. Moreover, in the circumstances that: (1) the drafting of Clause 15.1 was not altered by the Excess Loss Committee when the opportunity had arisen in 2003; (2) the decision was well known in the reinsurance market; and (3) the decision had stood unchallenged for 17 years, the court did not consider that there were powerful reasons for departing from the decision of Morrison J.

The court further held that it had jurisdiction to remove the arbitrator appointed by the respondents under s.24(1)(b) Arbitration Act 1996. Under the terms of the Contract, the respondents therefore had 30 days from the court's decision to appoint a new arbitrator.

COFFEE INVESTOR'S CLAIMS UPHELD AGAINST VENEZUELA

6 November 2017: In *Longreef Investments AVV v Venezuela (ICSID Case No ARB/11/5)* an ICSID tribunal upheld claims against Venezuela over the expropriation of a 120 year-old coffee producer during the presidency of Hugo Chávez.

The tribunal, consisting of Sir David Edward QC (UK), Enrique Gómez-Pinzón (Colombia) and Loretta Malitoppi (Italy), held that Longreef Investments' investment in Café Fama de América and Fama de América SA had been illegally expropriated by Venezuela in 2010 when the companies were nationalised through an agrarian court injunction. The nationalisation of these companies formed part of a programme introduced by Hugo Chávez in order to increase control over the country's food supplies. However, it was held that Venezuela had failed to comply with it own laws relating to expropriation procedures – Venezuela's foreign investment law and the Netherlands-Venezuela bilateral investment treaty.

While the award issued on 6 November is yet to be published, the tribunal said that Venezuela "*significantly undervalued*" Longreef's investment. It is understood that the final damages award is between US$42 and US$43 million, over double the US$19 million offered by Venezuela as compensation both at the time of the injunction and during the arbitration. Furthermore, interest at LIBOR + 2% will continue to accrue on this amount up to the date of payment, bringing the award to circa US$53 million.

This case is one of a number of recent decisions against Venezuela, with other recent awards including those in favour of Koch Industries, regarding expropriation in the fertiliser sector, and Saint Gobain Performance Plastics Europe, in respect of seizure of fracking investments.

MICULA BROTHERS APPLY FOR RECOGNITION OF ARBITRAL AWARD AGAINST ROMANIA

6 November 2017: Swedish brothers Viorel and Ioan Micula (the **"Claimants"**) filed a petition for recognition in the courts of Washington DC of a US$250 million ICSID arbitration award against Romania. The Micula brothers had applied to the Washington courts in 2014 for recognition of the award on an ex parte basis, however the application was refused. The Claimants' long running battle for enforcement concerns what is one of the largest known ICSID awards which was granted against Romania in December 2013 for breach of the Sweden-Romania BIT caused by the withdrawal of certain economic incentives benefitting the Claimants' business.

The Claimants' award had been recognised in 2015 in the courts of New York following an ex parte application by the Claimants. New York was known for being a preferred court of enforcement for ICSID awards owing to its recognition of enforcement through ex parte proceedings thereby avoiding enforcement delays for creditors.

Romania appealed to the Second Circuit against the recognition of the Claimants' award in New York and in a summary order (*Micula, et al.* v *Gov't of Romania* (15-3109-cv, 2d Cir. 2017)) the court overturned the initial decision. It is also notable that the European Commission continued its involvement in the *Micula* case, making an amicus curiae brief which argued that owing to the supremacy of EU law, Romania was prohibited from complying with the award as it violated EU rules on state aid. The Commission also argued that any judgment would interfere with the ongoing parallel proceedings in the European Court of Justice concerning the Commission's ruling that the ICSID award violates EU law.

ENGLISH HIGH COURT CONFIRMS THAT ARBITRATION NOTICE EMAILED TO JUNIOR EMPLOYEE WAS NOT EFFECTIVELY SERVED

16 November 2017: In *Glencore Agriculture BV v Conqueror Holdings Ltd* [2017] EWHC 2893 (Comm), a grain company chartered a vessel to carry corn. A relatively junior company employee sent three emails, involving instructions for the vessel not to berth, from his individual email address at the company.

Over six months later, a claims adjuster acting for the vessel owners sent a letter before action, in respect of the delay following the instructions, to the same email address. This was followed by correspondence initiating, and then dealing with, an arbitration against the company, both from the claims adjuster and the arbitrator, and all sent to the individual email address. There was no response and the company was unaware of the proceedings until it received the arbitrator's award by post. It challenged the award, claiming the notice of arbitration had not been validly served.

The court drew a distinction between a personal email business address of an individual, and one which is generic. If an organisation has promulgated a generic address, whether on its website or otherwise, the sender can reasonably expect the person opening the email to be authorised internally to deal with its contents if the subject matter falls within the scope of the business activity for which the generic address has been promulgated.

Whether an email sent to a personal business email address is good service must yield the same answer as if the document were physically handed to that person. This must depend on the role the named individual plays, or is held out as playing, within the organisation and the correct answer lies in applying agency principles. Companies can only act by natural persons and whether a company is bound by notification to an employee should depend upon the actual authority, express or implied, or ostensible authority, of that employee. The junior employee in question had no such authority and the notice of arbitration had therefore not been effectively served.

HONG KONG COURT OF FIRST INSTANCE ACCEPTS COMPATIBILITY BETWEEN ARBITRATION AGREEMENT AND EXCLUSIVE JURISDICTION CLAUSE

27 November 2017: In *Neo Intelligence Holdings Limited v Giant Crown Industries Limited and others* [2017] HCA 1127/2017, the Hong Kong Court of First Instance (**"CFI"**) granted a stay in favour of arbitration, holding that a contractual amendment inserting a jurisdiction clause in favour of the Hong Kong courts was consistent with, and did not supersede, the arbitration clause already present in the contract.

The existing arbitration clause provided that the contract was to be governed by the laws of Hong Kong and that disputes would be finally settled by arbitration. A later supplemental agreement amended the contract to include a jurisdiction clause providing that parties submitted to the "non-exclusive jurisdiction of the Hong Kong Special Administrative Region". The plaintiff submitted that this jurisdiction clause amended or superseded the arbitration clause so that disputes should be heard by the courts. The defendant argued that, rather than amending the arbitration clause, the jurisdiction clause was parallel to and consistent with it.

The CFI reaffirmed that the existence of an exclusive jurisdiction clause in favour of the courts is not necessarily inconsistent with an arbitration clause in the same agreement. It held that that the jurisdiction clause in this case was not inconsistent with the arbitration clause, and therefore that the stay to arbitration should be granted.

DECISION OF US COURT OF APPEALS IMPEDES CRYSTALLEX'S ABILITY RECOVER US$1.2 BILLION ARBITRAL AWARD AGAINST VENEZUELA

3 January 2018: The US Court of Appeals for the Third Circuit reversed a finding by a Delaware district court that PDV Holding Inc (**"PDVH"**), a subsidiary of Venezuela's national oil company, Petroleos de Venezuela SA (**"PDVSA"**), could be liable under the Delaware Uniform Fraudulent Act (**"DUFTA"**), for making a fraudulent dividend transfer to PDVSA for the purpose of assisting Venezuela in avoiding payment of a US$1.39 billion arbitration award.

Crystallex International Corp. (**"Crystallex"**), a Canadian gold producer, claimed that the transfers were part of a series of debt offerings and asset transfers arranged by Venezuela between PDVSA, PDVH and two other subsidiaries that are its largest US-based assets. It was claimed that Venezuela intended to monetize its interests in its US assets and repatriate the proceeds by requiring PDVSA to guide PDVH to issue US$2.8 billion in debt, and then transfer the proceeds to PDVH as a shareholder dividend. PDVH would give PDVSA a dividend of the same amount and repatriate the money to Venezuela, ultimately protecting the country from any US enforcement actions.

In a 2-1 decision, the Third Circuit ruled that under Delaware law, a non-debtor transferor cannot be liable for a fraudulent transfer under DUFTA. Therefore, PDVH could not be sued by Crystallex for allegedly conducting fraudulent transfers, because PDVH was wrongfully targeted in the action, as the underlying arbitration award was against Venezuela and not the subsidiary.

Mayer Brown Key Events

3RD EUROPEAN FEDERATION FOR INVESTMENT LAW AND ARBITRATION ANNUAL CONFERENCE

5 February 2018: Alejandro López Ortiz (partner in Mayer Brown's International Arbitration practice in Paris) will be speaking at the 3rd *EFILA (European Federation for Investment Law and Arbitration) Annual Conference* in London, UK. He will be speaking about "*Non-disputing third parties and their influence on Arbitration*".

VII BRAZILIAN ARBITRATION DAY

13 March 2018: Dany Khayat (partner and head of Mayer Brown's Litigation and International Arbitration practice in Paris) will be speaking at the *VII Brazilian Arbitration Day* in Sao Paulo, Brazil. He will be speaking about arbitration in the oil & gas sector in Africa.

ICC INSTITUTE TRAINING FOR TRIBUNAL SECRETARIES

13 March 2018: Juliana Castillo (legal consultant in Mayer Brown's International Arbitration practice in Paris) will be speaking at the *ICC Institute Training for Tribunal Secretaries* in Sao Paulo, Brazil. She will be speaking in the session on the topic of "*The support provided by tribunal secretaries from the signature of the terms of reference until the evidentiary hearing: procedural aspects*".

ARBITRATION INSTITUTIONS FOR AFRICA – THE GREAT DEBATE

14 March 2018: Mayer Brown is organising an Africa-focused event on 14 March 2018 entitled "*Arbitration Institutions for Africa – The Great Debate*" which will be hosted in our London office. The event will feature a number guest speakers from the leading arbitration institutions active on the continent.

CORNELL INTERNATIONAL ARBITRATION SOCIETY SYMPOSIUM

30 March 2018: B. Ted Howes (partner in Mayer Brown's New York office and leader of the firm's US International Arbitration practice) will be speaking at the *Cornell International Arbitration Society Symposium* in New York City. He will speaking on a panel entitled "*Enforcing Arbitral Awards in Difficult Jurisdictions*".

PARIS ARBITRATION WEEK – FINARB: A NEW FRONTIER?

13 April 2018: During Paris Arbitration Week, Mayer Brown's Paris office is organizing a breakfast discussion entitled "*FinArb: A new frontier?*". The discussion will be on the topic of the interest of arbitration to the financial sector, and will take place with the presence of representatives from the ICC and the banking sector.

SOAS KIGALI ARBITRATION IN AFRICA CONFERENCE

2-4 May 2018: Kwadwo Sarkodie (partner in Mayer Brown's International Arbitration practice in London) will be speaking at the *SOAS Kigali Arbitration in Africa Conference* in Kigali.

6TH ICC MENA CONFERENCE IN DUBAI

8 May 2018: Raid Abu-Manneh (partner and head of Mayer Brown's International Arbitration practice in London and global co-head of the International Arbitration group) will be speaking at the *6th ICC MENA Conference* in Dubai. He will be speaking in a session entitled "*Proving your claim in international arbitration*". Mayer Brown's Dubai office will be sponsoring this event.

X CLA LATIN AMERICAN CONFERENCE OF ARBITRATION

31 May 2018: Dany Khayat (head of Mayer Brown's Litigation and International Arbitration practice in Paris) will be speaking at the *X CLA "Latin American Conference of Arbitration"* in Cusco, Peru.

Mayer Brown Publications

EIGHTH CIRCUIT: COURTS, NOT ARBITRATORS, DECIDE IF ARBITRATION AGREEMENT PERMITS CLASS ARBITRATION

1 August 2017: Charles E. Harris, II (partner in Mayer Brown's Litigation & Dispute Resolution practice in Chicago), Kevin S. Ranlett and Archis A. Parasharami (partners in Mayer Brown's Litigation & Dispute Resolution practice in Washington DC) published a legal update. They discuss the decision of the US Court of Appeals for the Eighth Circuit that the question of whether an arbitration agreement authorizes class arbitration is for a court, not an arbitrator, to decide.

To read the full article, click here.

THE RISE OF A NEW LAW TO PROMOTE ADR MECHANISMS IN MEXICO: CHALLENGES AND OPPORTUNITIES

13 August 2017: Fernando Pérez Lozada (paralegal in Mayer Brown's International Arbitration practice in Paris) published an article in Kluwer Arbitration Blog on Mexico's new law on Alternative Dispute Resolution mechanisms.

To read the full article, click here.

ALLEGATIONS OF ILLEGALITY IN INVESTOR-STATE ARBITRATION AND THE PRESUMPTION OF INNOCENCE

September 2017: Dany Khayat (head of Mayer Brown's Litigation and International Arbitration practice in Paris) and William Ahern (associate in Mayer Brown's International Arbitration practice in Paris) published an article in the Indian Journal of Arbitration Law, Vol. 6, Issue 1. They discuss allegations of illegality in investor-state arbitration.

To read the full article, click here.

DUBAI RULING ON IMMUNITY A WELCOME SIGN FOR INVESTORS

8 September 2017: Raid Abu-Manneh (partner and head of Mayer Brown's International Arbitration practice in London and global co-head of the International Arbitration group) is quoted in a Law360 article discussing a Dubai International Financial Centre Court arbitral award on issues of sovereign immunity.

To read the full article, click here.

DOES SERVICE IN A FOREIGN LANGUAGE CONSTITUTE "PROPER NOTICE" OF ARBITRATION PROCEEDINGS?

6 October 2017: Raid Abu-Manneh (partner and head of Mayer Brown's International Arbitration practice in London and global co-head of the International Arbitration group), Ian McDonald (co-leader of Mayer Brown's global Litigation & Dispute Resolution practice in London) and Zahra Rose Khawaja (associate in Mayer Brown's International Arbitration practice in London) provided a legal update on what constitutes giving a defendant "proper notice" of arbitration proceedings under the English Arbitration Act 1996.

To read the full article, click here.

ARBITRATION AFRICA

31 October 2017: Kwadwo Sarkodie and Joseph Otoo (partner and senior associate in Mayer Brown's International Arbitration practice in London) are quoted in an African Law & Business article on the growth of arbitration in Africa.

To read the full article, click here.

BRAZILIAN SUPERIOR COURT OF JUSTICE CONFIRMS JURISDICTION OF ARBITRAL TRIBUNAL OIL CONCESSION DISPUTES

8 November 2017: Gustavo Fernandes de Andrade and Daniel Becker (partner and senior associate in Tauil & Chequer Advogados and Mayer Brown's International Arbitration practice in Rio de Janeiro) provided a legal update on the Brazilian Superior Court of Justice's decision to confirm an ICC tribunal's jurisdiction in cases involving an oil concession agreement entered into between ANP and Petrobras.

To read the full article, click here.

INTERNATIONAL COURT TO HEAR ARBITRATION-RELATED CASES IN SINGAPORE

9 January 2018: Yu-Jin Tay and Divyesh Menon (partner and associate in Mayer Brown's International Arbitration practice in Singapore) are quoted in a Global Arbitration Review article. They discuss a new bill that was passed allowing parties to submit cases under its international arbitration act to the Singapore International Commercial Court for consideration by a bench of judges from all over the world – but only Singapore qualified lawyers will be able to argue them.

To read the full article, click here (subscription required).

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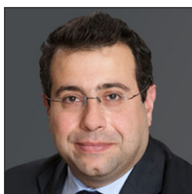

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