

ARBITRATION WORLD

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FROM THE EDITORS

Welcome to this 31st edition of *Arbitration World*.

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We are very pleased to include in this edition, as part of our series of guest contributions from expert witnesses, an article by Howard Rosen and Noel Matthews of FTI Consulting, regarding the application of the "discount rate" in determining the value of a business or asset that has been expropriated.

We consider recent surveys of arbitration published by Queen Mary/White & Case and the European Parliament. We explore, from a German perspective, the potential difficulties of arbitrating disputes related to joint ventures. We investigate the new landscape for trade and investment in the Pacific, following the announcement in October 2015 of the conclusion of negotiations on the Trans-Pacific Partnership. We analyse the possible implications for arbitration of the introduction of the Hague Convention on Choice of Court Agreements 2005, which has been described as performing the function of a "New York Convention for litigation". We cover two important recent developments in India: the introduction of the Indian Arbitration and Conciliation (Amendment) Ordinance 2015, which aims to resolve perceived shortcomings in India's previous arbitration framework, and a recent decision of the Indian Supreme Court, which clarifies the circumstances under which the controversial 2002 *Bhatia* decision can apply to international arbitrations. We review the power of Australian superior courts to make freezing orders in respect of prospective foreign judgments and arbitral awards, by reference to a recent decision of the High Court of Australia, and report on a recent English court judgment regarding whether a sports governing body's appeal process can constitute an arbitration.

We also provide our usual update on developments from around the globe in international arbitration and investment treaty arbitration.

We hope you find this edition of *Arbitration World* of interest and we welcome any feedback (email ian.meredith@klgates.com or peter.morton@klgates.com).

IN THIS ISSUE:

1. **Arbitration News from Around the World**

by Sean Kelsey (London)

Our usual survey of key recent developments in international arbitration.

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2. World Investment Treaty Arbitration Update

by Wojciech Sadowski (Warsaw)

The latest news from the investor-state arbitration scene.

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3. Treaty Arbitration: Unpacking the Discount Rate — Part I

by Howard Rosen and Noel Matthews (FTI Consulting)

As part of our series of guest contributions from expert witnesses, in part one of a two-part article, FTI Consulting review the application of the "discount rate" in determining the value of a business or asset that has been expropriated.

To view this article, click here.

4. Appealing Sports Disciplinary Decisions — Is It an Arbitration?

by Martin King (London)

A report on a recent English court judgment regarding whether a sports governing body's appeal process can constitute an arbitration.

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5. Obstacles When Arbitrating Joint Venture Disputes

by Johann von Pachelbel and Tobias Kopp (Frankfurt)

A review of the potential difficulties of arbitrating disputes related to joint ventures, by reference to a recent German court decision.

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6. The Indian Supreme Court Further Clarifies the Limits of the Bhatia Decision

by J.P. Duffy (New York)

A report on a recent decision of the Indian Supreme Court clarifying the increasingly limited circumstances under which the controversial 2002 *Bhatia* decision can apply to international arbitrations.

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7. New Ports of Call: The Agreed Text of the Trans-Pacific Partnership Signals a New Landscape for Pacific Trade, Investment, and Dispute Resolution

by Robert Houston (Singapore), Haig Oghigian and CJ Hoppel (Tokyo)

A report on the announcement in October 2015 of the conclusion of negotiations on the Trans-Pacific Partnership (TPP), an agreement establishing rules for a free-trade area that proponents argue will set the standard for the future of trade in this dynamic region.

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8. Two Recent Major International Arbitration Studies

by Ian Meredith and Hendrik Puschmann (London)

A commentary on recent surveys of arbitration published by Queen Mary/White & Case and the European Parliament.

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9. The "New York Convention for Litigation"

by Ian Meredith and Benjamin Mackinnon (London)

Analysis of the Hague Convention on Choice of Court Agreements 2005, which came into force on 1 October 2015, the stated goal of which is to establish a similar system for the recognition and enforcement of foreign judgments as currently operates for arbitration awards.

To view this article, click here.

10. India's New Arbitration and Conciliation (Amendment) Ordinance 2015

by Ashish Chugh and Urvashi Malhotra (Singapore)

A review of the introduction of the new Arbitration and Conciliation (Amendment) Ordinance 2015, effective October 23, 2015, which aims to resolve perceived shortcomings in India's previous arbitration framework.

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11. Freezing Assets in Australia in Anticipation of a Foreign Judgment or Arbitration Award

by John Kelly, William Ho and Melanie Long (Melbourne)

A review of the power of Australian superior courts to make freezing orders in respect of prospective foreign judgments and arbitral awards, by reference to a recent decision of the High Court of Australia.

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