

# International Arbitration

Talk to the experts



“Prominent international team which maintains a respected arbitration practice.”

Chambers Global 2020 (International Arbitration)

“Strong team of specialist international arbitration counsel supported by an excellent regional network. Enjoys a strong reputation in investment treaty mandates. Active across South and South-East Asia.”

Chambers Asia Pacific 2019 (International Arbitration)

“A stellar track record on high-value and cross-border arbitration mandates, acting for major companies in the energy and infrastructure sector, as well as government entities.”

Chambers Global 2018 Middle East (Dispute Resolution)

“Commentators praise the firm, stating that ‘they undoubtedly have a fantastic practice,’ and describing the arbitration group as a ‘truly global practice’.”

Chambers Global 2018 (International Arbitration)

# Why choose international arbitration?

## A flexible, neutral forum to achieve binding resolution of international disputes

In an increasingly volatile world – politically, as well as economically – it is becoming harder and harder for parties to international transactions to predict where disputes may arise. It is in this context that international arbitration has continued its march forward as parties' first choice for resolving complex, cross-border disputes.

But just as the number of international arbitrations has dramatically increased over the last decade, so too has the complexity and value of those disputes, requiring increasingly sophisticated and specialist legal advice.

Allen & Overy's market-leading International Arbitration group is ideally placed to assist clients with disputes whenever and wherever they arise. We are at the cutting edge of arbitration law, with an unrivalled global footprint and expertise under all the key procedural rules.

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### INTERNATIONAL COMMERCIAL ARBITRATION

By agreeing to submit disputes to international arbitration for resolution, parties are able to provide certainty as to the forum in which a dispute involving them will be heard and effectively exclude the jurisdiction of national courts in which they would rather avoid litigating. Arbitration allows the parties to select a neutral forum for the resolution of their dispute, choose their arbitrators and provides considerable flexibility to determine the procedures that will apply.

Moreover, with 164 States worldwide now party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), arbitral awards are more widely recognised and enforced around the world than the judgments of any national court. This offers the successful party to an international arbitration a significant advantage.

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### INVESTMENT TREATY ARBITRATION

International investors making substantial investments abroad consistently cite political risk – that is, the difficulty of protecting their legal rights from interference by the host government – as one of their biggest concerns.

International investment agreements provide one way to achieve substantial protection for investments. Such treaties typically provide qualifying foreign investors with extensive protection against state interference with their investments, including a prohibition on expropriation without proper compensation and a requirement for States to accord investors fair and equitable treatment.

Importantly, most investment treaties provide international investors with the right to commence arbitration directly against the host State, where that State acts contrary to the investment protections contained in the applicable treaty.

# Why choose Allen & Overy?

## An Arbitration Group with a global presence and unrivalled experience

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### **AN OUTSTANDING INTERNATIONAL ARBITRATION PRACTICE**

Our International Arbitration Group is recognised as one of the leading practices in the world. We have extensive experience in advising clients on high-value, complex arbitrations, and a proven track record of successfully resolving disputes. Our quality, thoroughness and innovation set us apart.

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### **WITH YOU AT EVERY STAGE**

We advise our clients at every stage of their transactions, including:

- drafting and negotiating arbitration agreements
- advising on the structuring of transactions to ensure maximum protection for our clients' interests
- representing clients in international arbitration, under any legal system, anywhere in the world, including appearing as advocates at hearings
- acting in arbitration-related court litigation
- enforcing arbitral awards around the world

With dedicated arbitration teams based in all the major arbitration hubs around the world, and substantial experience of all the key arbitration rules, we are truly a one-stop-shop for your needs.

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### **WE UNDERSTAND YOUR BUSINESS**

Our arbitration team's cutting edge work on cases around the world means it has built up intimate knowledge of numerous market sectors. In addition, we work seamlessly with Allen & Overy's banking, capital markets and corporate teams. This combination, coupled with our extensive global footprint, gives us unmatched insight into the markets around the world and means that we really understand your business and the risks it faces, wherever you operate.

Our arbitration practitioners have unrivalled expertise of managing risk and conducting disputes in numerous sectors, including:

- Energy, in particular oil and gas, and renewable technologies
- Mining and metals
- Banking and finance
- Telecommunications, media and technology
- Insurance
- Construction and heavy industry
- Aerospace and defence
- Pharmaceuticals and life sciences

“Formidable practice with deep arbitration expertise spanning numerous jurisdictions.”

Chambers Global 2017 (International Arbitration)

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## **A GLOBAL NETWORK OF SPECIALIST ARBITRATION PRACTITIONERS AND ADVOCATES**

Advising businesses and governments on numerous high-value international arbitrations across Asia Pacific, Europe, Africa and the Americas, we are recognised as one of the world's leading arbitration practices. Our international arbitration group encompasses lawyers qualified in many jurisdictions around the world, a number of whom sit as arbitrators and hold senior positions within the leading arbitral institutions (including the HKIAC, ICC and LCIA). This combination puts us right at the heart of the arbitral community and provides us with an in-depth understanding of the arbitral process.

We routinely conduct our own advocacy and regularly appear before the world's leading arbitrators. This is a combination that offers our clients a significant advantage when we present their cases to arbitrators from diverse backgrounds, with different experiences, expectations and approaches to arbitral procedure. It also means that the expert advocate presenting your case to the tribunal has been personally involved in the matter from the outset.

Our team has substantial experience of successfully conducting arbitrations under all the key institutional rules, including those of the AAA, HKIAC, ICC, ICSID, LCIA, SCC, SIAC and VIAC, as well as the UNCITRAL Rules. In addition, we have expertise in advising on alternative forms of dispute resolution, including negotiation, mediation and expert determination, whether as standalone processes or as part of an escalation procedure, with arbitration as a fall-back.

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## **OUR CLIENTS' INTERESTS ARE PARAMOUNT**

We act for a wide-ranging and diverse client base, including commercial entities, financial institutions, sovereign States and government agencies, national and international governmental and non-governmental organisations, entrepreneurs and private individuals.

Our commitment to clients extends beyond providing cutting-edge legal advice. We adopt a positive and practical approach to resolving disputes to ensure that we focus on clients' commercial concerns and objectives, while ensuring that their interests and reputations are protected. We work hard to build personal relationships with our clients, as we believe a strong understanding between counsel and client is one of the keys to success.

We invest heavily in the project management side of our business to ensure efficiencies for our clients. We also pride ourselves on approaching our fee structure in a flexible and commercial manner, offering innovative fee solutions, tailored to each client's particular circumstances and needs. Indeed, our work on this aspect of our business has been recognised by the Financial Times' Innovative Lawyers Report. No other firm has won this accolade as many times as Allen & Overy.

A&O is the only firm to have won the FT Innovative Lawyers' "Most Innovative Law Firm (Europe)" award six times in its 15-year history

# International Commercial Arbitration

Selected highlights of our international commercial arbitration practice include advising:

## Energy disputes

- BG and Reliance Industries in an arbitration commenced against the Government of India (UNCITRAL Rules). Claims arise in respect of two oil and gas fields off the west coast of India, with more than USD5 billion in dispute (including counterclaims). Two important judgments have been made by the Indian Supreme Court in our clients' favour. The English High Court upheld our clients' challenge to a final partial award, resulting in a USD 560 million partial award (on remission) in their favour, and our challenge to the remitted award (also rejecting the Government's challenges). Two further partial awards have been made in our clients' favour.
- The subsidiary of a major energy company on contractual disputes arising out of two engineering, procurement and construction contracts concerning the development of an offshore oil field in Central Asia. The parties agreed to expedited arbitration under the LCIA rules, with a London seat.
- Several major international energy providers in claims brought under the periodic price-review provisions of long-term gas-supply contracts (both pipeline and LNG), including achieving successful awards for a multinational energy major in a dispute regarding the market in a European country and for a leading global LNG company in a dispute involving six separate markets.
- Gazprom subsidiary South Stream in a EUR1.5bn ICC arbitration brought by contractor Saipem and arising out of the now-cancelled project for the construction of an almost 1,000km pipeline to transport natural gas from Russia to Bulgaria (case settled).

## Banking and finance disputes

- Bank of Cyprus as respondent in a highly complex ICC arbitration claim, brought by CNP Assurances, which sought in excess of EUR200m in damages. The claims arose out of the Eurozone crisis, in particular the 2013 Cypriot bail-in legislation. We successfully defeated the claims, which were dismissed in their entirety. The Bank of Cyprus was also awarded the majority of its costs.
- International Finance Corporation and OPEC Fund for International Development in a successful LCIA arbitration arising from the cancellation of loans for a project in Ghana. This complex matter, which also involved English and Ghanaian court proceedings, resulted in Awards in favour of our clients.
- An international bank in successfully defending SIAC arbitration proceedings initiated by an Indonesian-based Private Wealth Management client acting through a BVI entity. The claimant alleged breach of duty and misrepresentation by the bank on certain foreign exchange and equity-linked derivative products sold to the BVI entity. The bank contested the claim. The award dismissed the claimant's claims and our client was awarded its costs. This is one of the largest derivative mis-selling claims to reach arbitration and one of the few such claims with an Indonesian connection.
- A leading international bank in an arbitration against an Indian mining company arising from the company's failure to make payments due under a series of derivatives transactions. As well as successfully representing the bank throughout the proceedings, we also secured an anti-suit injunction from the English courts after the company sought to commence Indian court proceedings.

## Intellectual property

- One of the world's largest manufacturing companies on a complex IP dispute relating to the termination of a key technology licence (technology relating to aspects of energy supply).
- A Brazilian company in a Paris-seated ICC arbitration arising out of share sale, technology transfer, distribution, export and joint venture agreements with a large German automation company with related proceedings in Brazilian, English, French and U.S. courts. Some of the key issues involved the duration of the licence, identification and ownership of improvements, development of competing products, registration requirements and restraint of trade. The amount in dispute was in excess of USD100m.
- A leading global automotive company in two consolidated, London-seated ICC arbitrations arising out of related joint venture, technology transfer and share purchase agreements (with separate arbitrations arising out of subsequent events). The case involved issues arising under English, German and Japanese law with several billion euros in dispute.
- A pharmaceutical company in a dispute relating to development of an ocular drug and arising out of a patent licensing agreement. The issues in dispute involved the arbitrability of mandatory principles of U.S. law (application of the Brulotte principle) and assignment of the arbitration agreement.

# “Exceptional magic circle firm with an extensive global presence in key jurisdictions worldwide.”

Chambers Global 2019 (Dispute Resolution)

## Construction

- A major engineering and construction company in a massive stand-by costs dispute against Sonatrach, under Algerian law.
- A leading company in dredging and land reclamation on a EUR30m arbitration on intra-joint venture relations regarding a construction project in the Middle East.
- A civil engineering and building contractor based in the Caribbean in an UNCITRAL arbitration arising out of the construction of a hotel, including dealing with claims for variations, extensions of time and additional contract sums.
- An Asian oil and gas company as respondent in ICC arbitration proceedings arising out of an offshore dredging contract for the development of one of the world's largest offshore gas fields. The contractor's claims include claims for EoTs and variations, including in relation to allegedly unforeseen ground conditions. Claims are valued at around USD150m. A successful award was obtained.
- A Middle Eastern dredging and offshore construction company in connection with claims arising out of a contract for the construction of offshore islands/oil storage facilities in the UAE.
- A major global port operator in FIDIC DAB and ICC arbitration proceedings relating to the termination of a construction contract for the expansion of a container terminal in the Middle East.

## Insurance

- A global pharmaceutical and life sciences company in a London insurance coverage arbitration against a major insurer for reimbursement of various U.S. product liability claims under the Bermuda Form Policy. Our client recovered full policy limits (and costs and interest) exceeding USD400m.
- A large U.S. corporation in an ad hoc arbitration involving complex issues of structural and geotechnical engineering, as well as a number of coverage defences asserted by the insurer.
- One of the major international power generators to recover under its political risk insurance for losses suffered by it following a change in law that forced it to liquidate certain of its joint ventures in China.
- An aerospace and defence company on its product liability insurance claim against an insurer. Our client's successful claim related to damages that it had been obliged to pay to a third party for defective valves supplied by a subsidiary of our client which damaged the third party's satellite.
- A leading engineering company on a multi-jurisdictional dispute (including Singapore, Hong Kong and Australia) arising from the recall of defective products.
- A French pharmaceuticals manufacturer in connection with product liabilities incurred in relation to a vaccine for which recovery was sought under a variant of the Bermuda Form.

## Joint venture disputes

- A leading Chinese state-owned company in the energy, oil and gas sector, in an ICC arbitration with a foreign joint venture partner in relation to the delay or failure of a USD1.2bn project in a Central American country.
- A multinational company on an international ICC arbitration regarding a dispute with its joint venture partner, concerning the value of the contribution of both partners to their European joint venture company.
- An African business conglomerate against a French industrial company on the control of an African joint venture. This involved giving advice on arbitration issues, appearing before court to resolve corporate issues and negotiating the creation of a new company.
- A Dutch subsidiary of a U.S. company in an arbitration with its Russian joint venture partner in a manufacturing facility on the exercise of a put option for full control of the joint venture.
- A foreign company, active in the shipbuilding industry, in ICC arbitration proceedings with around EUR1.5bn at stake in a dispute concerning the purchase of a shipyard. The proceedings concern eight parties in four different jurisdictions, as well as complex questions about the interface of arbitration and insolvency proceedings.

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## MARKET-LEADING SPECIALISTS IN INVESTOR-STATE DISPUTES

The number of claims brought by foreign investors against host States in which they have invested has risen sharply in recent years. We are known as one of the world's foremost practices specialising in the field of investment treaty disputes, where we represent both claimant investors and respondent States, which gives us an excellent perspective on the tactics employed in such complex cases. Investment treaty arbitrations have been brought under a diverse range of public international law agreements, including numerous bilateral investment treaties and a number of multilateral treaties, including the United States-Mexico-Canada Agreement (USMCA) and the Energy Charter Treaty (ECT). We have successfully conducted numerous such cases under various arbitral rules used for these disputes, typically ICSID, SCC or UNCITRAL.

We are particularly recognised for our expertise in relation to the ECT. Indeed, our team acted for the investor in the first ever claim brought under that Treaty. Since then, we have been instructed on more ECT cases than any other firm in the world.

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## SELECTED HIGHLIGHTS OF OUR WORK FOR INVESTORS INCLUDE ACTING FOR:

- A global financial institution in its ICSID claim against Sri Lanka, under the Germany-Sri Lanka bilateral investment treaty, for interfering with obligations in an oil hedging agreement between the bank and a State-owned oil company. This was the first case in the public domain to consider whether complex financial instruments could constitute an investment for the purposes of an investment treaty. Our client was awarded its claim in full, plus interest and its full legal costs, totalling around USD78m.
- Over 30 different international investors, in twelve separate ECT claims (all claims bar one brought at ICSID) against the Kingdom of Spain. The claims relate to investments made in the Spanish renewable energy sector, in particular in photovoltaic and concentrated solar power plants, and retrospective changes by Spain to the regulatory framework. These cases include the first-ever collective, or aggregated, claim brought under the ECT. We have so far achieved significant damages awards for our clients in six of these arbitrations, with others still pending.
- Millicom International Cellular S.A. and its Senegalese subsidiary, Sentel GSM S.A., in an ICSID arbitration against the Republic of Senegal. The case went to a merits hearing, and also involved related court litigation in Senegal. We negotiated, under very tight time constraints, a settlement with Senegal that put an end to over 12 years of disputes in Senegal and the ICSID arbitration itself. The disputes concerned the legality of Millicom's mobile telephony operations in Senegal.
- British Caribbean Bank Limited (BCB) and Dunkeld International Investment Limited in investment treaty claims against Belize, arising out of the Government of Belize's nationalisation programme of the main telecommunications provider in Belize, Belize Telemedia. In 2014, an UNCITRAL Tribunal rendered an Award in BCB's favour, awarding it its full claim, plus interest and costs (totalling approx. USD48m), while in 2016, the Tribunal hearing the Dunkeld case, rendered an award totalling almost USD200m in our client's favour.

“Highly rated for its skillful handling of investment treaty disputes on behalf of both sovereigns and investors.”

Chambers Global 2019 (Public International Law)

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## SELECTED HIGHLIGHTS OF OUR WORK FOR STATES INCLUDE ACTING FOR:

- United Arab Emirates in successfully defending the first ever investment treaty claim it faced. The claim, for approximately USD2.5bn, was dismissed following our successful jurisdictional challenge. We currently act for the UAE in defending two ongoing investment treaty claims commenced against it at ICSID by (i) BM Mühendislik ve İnşaat A.Ş., a subsidiary of a Turkish construction and engineering conglomerate and (ii) a UK investor.
- The Sultanate of Oman in defending a high profile ICSID arbitration claim brought against it by Samsung Engineering under the Bilateral Investment Treaty between Oman and Korea. The dispute arose out of a multi-billion dollar oil refinery project in Oman.
- The Islamic Republic of Pakistan in two related claims, brought under the UNCITRAL Rules, arising from alleged interference in gas import operations at a terminal at the country's second-biggest port. After ten days of hearings at which we did all the advocacy for our client, the Tribunal dismissed the nearly USD600m claims in their entirety and ordered the claimants to pay nearly 90% of Pakistan's costs. We also successfully defeated challenges to the Award, made by the claimants in the English courts.
- The Kingdom of Morocco in two ongoing ICSID arbitrations, brought respectively by: (i) Corral Morocco Holdings, relating to its participation in the privatisation of SAMIR, the owner and operator of Morocco's only oil refinery; and (ii) Impresa Pizzarotti and arising from a major project to construct a motorway road tunnel.
- The Republic of Poland in defending an investment treaty arbitration brought under the UNCITRAL Rules in the pharmaceutical sector. The investment which had allegedly been expropriated comprised numerous intellectual property rights, including trademarks, rights to industrial processes, clientele and goodwill, and copyrights. The tribunal dismissed the vast majority of claims and awarded the investors just a small fraction (less than 2%) of the amount claimed, and left them to bear their own costs.
- The Republic of the Philippines in successfully defending it against a USD165m claim at ICSID (ICSID Case No. ARB/02/6) brought by SGS Société de Surveillance S.A. arising out of a contract to inspect imports. We raised successful objections to jurisdiction and admissibility on behalf of our client.
- The Republic of Azerbaijan in two separate ICSID arbitration proceedings (ICSID Case Nos ARB/06/15 and ARB/07/1), defending claims that were valued in excess of USD600m brought under the Energy Charter Treaty (the ECT) by companies in a Dutch energy group. The claims alleged expropriation of an oil and gas business. The cases gave rise to novel questions of jurisdiction under the ECT and the application of transnational public policy. We successfully settled one claim, with the Claimants dropping their claims entirely and our client making no payment or admission of liability. The other claim was dismissed in its entirety by the Tribunal.
- The Republic of Slovenia in an ICSID arbitration under the ECT and a bilateral treaty, defending claims brought by Hrvatska Elektroprivreda (HEP), the national electricity company of Croatia. The dispute concerned the ownership and operation of a nuclear power plant in Slovenian territory constructed before Slovenia and Croatia became independent from the former Yugoslavia. We succeeded in dismissing all the ECT claims but Slovenia was found liable under a settlement agreement, entered into earlier between the two countries, although HEP was awarded substantially less than its original claim.

Sources say: “One of the strongest BIT practices in London, and arguably in the world.”

Chambers UK 2015 (Public International Law)

Allen & Overy are “a Rolls-Royce outfit. They do a great job in high-value cases in this field” and clients report that the team is “super-efficient and very much attuned to the client”.

Chambers UK 2018 (Public International Law)

# A worldwide network

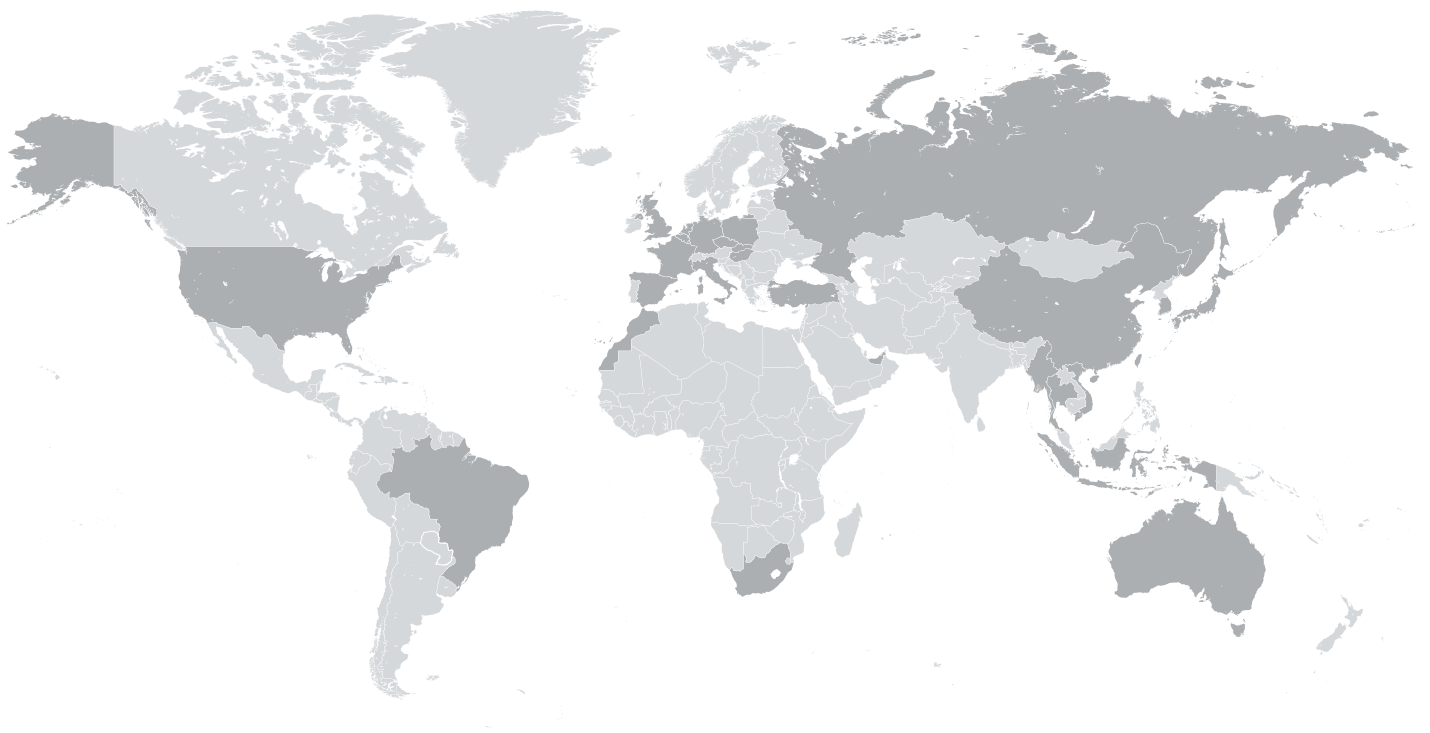
## Global presence, local knowledge

Due to the international nature of many of the matters we work on, our arbitration group is globally integrated, and works seamlessly across offices, often coordinating proceedings involving a wide number of jurisdictions. For each case, we assemble a bespoke team of specialised lawyers, taking full account of the jurisdictions, legal systems and languages involved, as well as the geographical location, not only of the proceedings, but also of our client and witnesses.

Our network of more than 40 offices in over 30 countries, coupled with a very extensive network of relationship firms in those jurisdictions where we do not have a physical presence, means that we are on

hand to assist clients wherever and whenever a dispute arises. We are a firm with a genuine global reach and a truly international offering.





- Allen & Overy office locations
- Relationship firm locations

Founded in 1930

Approximately  
5,500 staff

550 partners

2,800 attorneys

44 major centers  
worldwide

#### NORTH AMERICA

New York  
Washington, D.C.

#### AFRICA

Casablanca  
Johannesburg

CENTRAL &  
SOUTH AMERICA  
São Paulo

MIDDLE EAST  
Abu Dhabi  
Dubai

#### EUROPE

Amsterdam  
Antwerp  
Barcelona  
Belfast  
Bratislava  
Brussels  
Budapest  
Düsseldorf  
Frankfurt  
Hamburg  
Istanbul  
London  
Luxembourg  
Madrid  
Milan  
Moscow  
Munich  
Paris  
Prague  
Rome  
Warsaw

#### ASIA PACIFIC

Bangkok  
Beijing  
Hanoi  
Ho Chi Minh City  
Hong Kong  
Jakarta\*  
Perth  
Seoul  
Shanghai  
Singapore  
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Tokyo  
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# Talk to the experts

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“Clients ‘have great confidence in the team and its abilities at all levels of seniority,’ highlighting its ‘exceptional arbitration capabilities’.”

Chambers Global 2019 (International Arbitration)

““The client service is flawless in terms of availability and reactivity,’ further highlighting the team members’ ‘thoroughness and practical approach.’”

Chambers Europe 2020 (International Arbitration)

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## GLOBAL PRESENCE

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Allen & Overy is an international legal practice with approximately 5,500 people, including some 550 partners, working in over 40 offices worldwide.

**Allen & Overy** means Allen & Overy LLP and/or its affiliated undertakings. Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen & Overy (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen & Overy LLP and Allen & Overy (Holdings) Limited are authorised and regulated by the Solicitors Regulation Authority of England and Wales.

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A list of the members of Allen & Overy LLP and of the non-members who are designated as partners, and a list of the directors of Allen & Overy (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD.