

Dispute Resolution in Asia-Pacific: eUpdate Series

by Steven C. Nelson

In the commercial sphere, the list of disputes that can arise is endless. Common commercial disputes include unpaid debts or unfulfilled contractual terms, infringement of IP rights, construction-related claims, the liabilities of insurers, shipping cases and defective products. If disputes are not settled by negotiation, they will be resolved by either court litigation or an alternative form of dispute resolution such as arbitration and mediation. Arbitration is often stipulated as the preferred method in commercial contracts, and international arbitration is fast becoming the most important form of dispute resolution among commercial parties involved in international transactions. At its core, international arbitration is consent based, but increasingly being chosen as a dispute resolution mechanism in international contracts due to the many benefits it holds over traditional litigation in local courts, including the wide enforceability of awards under the New York Convention.

- **Guide to international arbitration**: outlines the basic concepts of international commercial arbitration and the considerations to be taken into account when drafting an arbitration clause and maps out the arbitral process in the event of a dispute.
- **Hong Kong - The Gold Standard of International Arbitration in Asia**: discusses the position of Hong Kong as the third most preferred seat of international commercial arbitration in the world, behind only Paris and London.
- **International investment law claims—going up in smoke?**: examines the judgment in Philip Morris v Uruguay concerning an investor-state claim challenging Uruguay's restrictions on cigarette packaging, and assesses the practical implications of the decision.
- **Philip Morris Asia Limited (Hong Kong) v. The Commonwealth of Australia**: Permanent Court of Arbitration Tribunal Publishes Redacted Version of Award on Jurisdiction and Admissibility: discusses the unanimous decision of the Permanent Court of Arbitration to decline jurisdiction to hear the merits of Philip Morris' expropriation claim against the Commonwealth of Australia.
- **Permanent Court of Arbitration Tribunal declines jurisdiction to hear Philip Morris' challenge to Australia's plain packaging laws on cigarettes**: examines the reasoning behind the award and the grounds on which the Tribunal declined to exercise jurisdiction in the matter.

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- **Permanent Court of Arbitration Tribunal declines jurisdiction to hear Philip Morris' challenge to Australia's plain packaging laws on cigarettes**: the Permanent Court of Arbitration ("PCA") declined jurisdiction in a unanimous decision to hear the merits of Philip Morris' expropriation claim against the Commonwealth of Australia.
- **Recognition and enforcement of a Mainland judgment in Hong Kong**: First reported decision: discusses the first reported decision concerning The Mainland Judgments (Reciprocal Enforcement) Ordinance since its enactment in 2008. The case involved an application by the 1st to 5th defendants to set aside an order for registration of a Mainland judgment in Hong Kong.
- **Third party arbitration funding gets support in Hong Kong**: discusses The Law Reform Commission of Hong Kong Consultation Paper recommending that the Arbitration Ordinance should be amended to expressly permit third party arbitration funding along with appropriate ethical and financial standards for funders.