

# International Arbitration: Key Developments of 2024 and Emerging Trends for 2025

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Sanctions-related issues featured prominently in the arbitration cases that came before the English courts last year, particularly applications for anti-suit injunctions (ASI) to restrain foreign court proceedings initiated in breach of an arbitration agreement. The catalyst for several of these ASIs was the Russian courts willingness to take exclusive jurisdiction over cases involving sanctions, notwithstanding the existence of an arbitration agreement in the contract.

One such case was *UniCredit Bank v RusChemAlliance*, which arose after RusChemAlliance commenced proceedings against UniCredit in the Russian courts, despite the existence of an ICC arbitration agreement (Paris seat) in the guarantee. The Supreme Court affirmed that the English court could grant an ASI in a foreign-seated arbitration, provided there is a jurisdictional gateway available and England is the proper place for the claim. The gateway relied upon in that case was that the governing law of the arbitration agreement was English law, being the law of the guarantee. This decision demonstrates the English courts' robust approach to enforcing parties' bargain by restraining a breach of an arbitration agreement.

Another key decision arising out of an arbitration concerning the applicability of US sanctions



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was the Supreme Court's ruling in *RTI Ltd v MUR Shipping*. The underlying dispute arose when MUR suspended its performance pursuant to a force majeure clause on the basis of U.S. sanctions imposed on RTI, which it said would delay payment to it in U.S. dollars. After MUR rejected RTI's offer to pay in euros and cover any additional exchange rate costs, RTI commenced arbitration.

The key question in the dispute was whether the reasonable endeavours obligations in the force majeure clause required MUR to accept payment non-contractual performance (i.e. payment in euros). There was much divided opinion on this question and the case ended up in the Supreme Court, which held that the reasonable

endeavours proviso did not require accepting non-contractual performance.

In the enforcement context, the English Court of Appeal heard a joint appeal in *Infrastructure Services and Another v Spain* and *Border Timbers and Another v Zimbabwe*, which related to the enforceability of ICSID awards in England. The Court of Appeal ruled that the sovereign immunity defences raised by Spain and Zimbabwe could not override obligations under the ICSID Convention, thereby reinforcing the primacy of treaty commitments over domestic legal principles. This decision is a significant boost to investor confidence, affirming the enforceability of ICSID awards and the credibility of investor-state dispute mechanisms.

### Emerging Trends for 2025

Looking ahead to 2025, the reforms to the U.K. Arbitration Act 1996 will likely come into force this year as the Arbitration Bill makes its way through Parliament. The Arbitration Bill includes several valuable amendments aimed at ensuring that London remains a premier arbitration hub, including: (i) a default presumption that the law of the seat governs the arbitration agreement, unless expressly stated otherwise; (ii) new powers for tribunals to summarily dispose of claims or issues that lack merit, which are aimed at enhancing efficiency and reducing delays; and (iii) enhanced disclosure obligations on arbitrators to disclose any circumstances that might reasonably affect their impartiality.

The issue of arbitrators' disclosure will likely be a hot topic in 2025 in light of this reform and the introduction of the revised IBA guidelines on

conflicts of interest last year, which have broadened the standards for disclosure.

We are likely to see more disputes in developing energy sectors this year, as states continue to transition to greener energy and investment in alternative sources of energy increases. Further, against the background of growing demand for critical raw materials such as lithium used to manufacture EVs, states' efforts to exercise greater control over their resources or renegotiate their share of the profits could lead to an uptick in investor-state arbitration claims.

The prominence of ESG issues and the increased use of ESG-related contract provisions could also give rise to more disputes—e.g. supply chain integrity disputes, disputes over mining projects, and claims of misrepresentation of ESG credentials. Many ESG disputes involve elements of public international law which make them particularly well suited for resolution in international arbitration.

Finally, the end of LIBOR and the transition to new replacement rates could lead to disputes over rate switch agreements and the applicable interest rate to be applied to an award of damages.

As arbitration lawyers ponder their workload for this year, one thing that will likely be on their minds is the extent to which they can service their work more efficiently, or even enhance their work product, using new AI tools.

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