

International Risk Management in Oilfield Services

Tuesdays and Thursdays from 6:00-8:55 pm

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Course Syllabus

“Article” = Bishop, Dimitroff & Miles, *Strategic Options Available When Catastrophe Strikes the International Energy Project*

“Mandatory Reading” will be used in class discussion

“Optional Material” may or may not be discussed in class and will not be part of the final exam.

DATE	TOPIC	ASSIGNMENT
JUNE 4	<p><u>1. Overview of Issues related to International Service Agreements</u></p> <p>A. Introduction to Course</p> <p>B. Introduction of Reading Materials</p> <p>C. Distribution of Hypothetical contract, with brief discussion.</p> <p><u>3. What Claims Can Be Brought?</u></p> <p>A. Treaty Violations: Bilateral Investment Treaties, ICSID, Energy Charter Treaty and NAFTA</p>	<p>Mandatory Reading</p> <p>Dimitroff and Douglas, Unexpected Killers of Your International Energy Deal</p> <p>Model Drilling Agreement (distributed electronically)</p> <p>Pages 1-8 of Article</p> <p><i>American Manufacturing & Trading, Inc. v. Republic of Zaire</i>, ICSID ARB/93/1, 36 I.L.M. 153 1 (1997).</p> <p>Optional Reading</p> <p>Jeswald W. Salacuse & Nicholas P. Sullivan, <i>Do BITS Really Work?: An Evaluation of Bilateral Investment Treaties and Their Grand Bargain</i>, 46 Harv. Int'l L.J. 67 (Winter 2005).</p>
JUNE 6	<p><u>3. What Claims Can Be Brought?</u></p> <p>C. Breach of Contract</p> <p>D. Letter of Credit Litigation</p>	<p>Mandatory Reading</p> <p>Pages 9-23 of Article</p> <p><i>Nassar v. Florida Fleet Sales, Inc.</i>, 79 F. Supp. 2d 284 (S.D.N.Y. 1999).</p> <p><i>SRS Products Co., Inc. v. LG Engineering Co.</i>, 994 S.W.2d 380 (Tex. App.- Houston [14th Dist.] 1999, no pet.).</p> <p>Rules 64 and 65 of the Federal Rules of Civil Procedure</p> <p><i>De Beers Consolidated Mines v. United States</i>, 325 U.S. 212,214-15 (1945).</p> <p><i>Deckert v. Independence Shares Corporation</i>, 311 U.S. 282 (1940).</p> <p><i>United States v. First National City Bank</i>, 379 U.S. 378 (1965).</p> <p>Optional Reading</p> <p>R. Doak Bishop, <i>The Duty to Negotiate in Good Faith and</i></p>

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		<i>the Enforceability of Short-Form Natural Gas Clauses in Production Sharing Agreements</i> , which can be found at: http://www.dundee.ac.uk/cepmlp/journal/html/vol2/article2-1.html
JUNE 11	<u>4. What Forums are Available?</u> A. International Arbitration	Mandatory Reading Pages 22-32 of Article <i>National Oil Corp. v. Libyan Sun Oil Co.</i> , First Award of 31 May 1985, 29 I.L.M. 565 (1990), Final Award of 23 February 1987, 29 I.L.M. 601 (1990). Washington Convention (https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc/CR_R_English-final.pdf) US Model BIT (http://www.state.gov/documents/organization/188371.pdf) Optional Reading ICSID Convention, Regulation and Rules can be found at: http://icsid.worldbank.org/ICSID/ICSID/RulesMain.jsp ICSID International Facility Rules can be found at: http://icsid.worldbank.org/ICSID/StaticFiles/facility-archive/facility-en.htm ICSID International Facility Rules can be found at: http://icsid.worldbank.org/ICSID/StaticFiles/facility-archive/facility-en.htm [Skim] ICC Arbitration Rules can be found at: http://www.iccwbo.org/uploadedFiles/Court/Arbitration/other/rules_arb_english.pdf
JUNE 13	<u>4. What Forums are Available?</u> B. International Courts and Tribunals	Mandatory Reading Pages 32-41 of Article <i>Sosa v. Alvarez-Machain</i> , 542 U.S. 692 (2004) <i>Sarei v. Rio Tinto</i> , 671 F.3d 736 (9th Cir. 2011) (en banc) (cert pending) <i>Kiobel v. Royal Dutch Shell</i> , 621 F.3d 111 (2nd Cir. 2011) (cert. granted, 132 S. Ct. 472 (2011))

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		<p>Optional Reading</p> <p>ICJ Statute of the Court can be found at: http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0</p> <p>The Inter-American Court of Human Rights website contains links to decisions, judgments and general information and can be found at: http://www.corteidh.or.cr/index.cfm?CFID=54600&CFTOKEN=76868777</p> <p>European Court of Human Rights: Historical background, organization, procedure, pending cases, reports and case law on the European Court of Human Rights can be found at: http://www.echr.coe.int/echr/Homepage_EN</p> <p>European Court of Justice: Links to the European Court of Justice, the Court of First Instance and Civil Service Tribunal judgments and opinions can be found at: http://curia.europa.eu/jcms/jcms/j_6/</p> <p>World Trade Organization Dispute Settlement Panels: WTO Dispute Settlement Rules are found at: http://www.wto.org/english/tratop_e/dispu_e/dsu_e.htm :</p> <p>Website of the Office of Bilateral Trade Affairs is available at: http://www.state.gov/www/issues/economic/tpp_bta.html</p>

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JUNE 18	<p><u>4. What Forums are Available?</u></p> <p>B. National Courts: Litigation in the United States</p> <p>(including discussion of Foreign Sovereign Immunities Act and the Alien Tort Claims Act)</p>	<p>Mandatory Reading</p> <p>Pages 41-53 of Article</p> <p><i>Colorado River Water Conservation Dist. v. United States</i>, 424 U.S. 800 (1976).</p> <p><i>Turner Entertainment Co. v. Degeto Film GmbH</i>, 25 F.3d 1512 (11th Cir. 1994).</p> <p><i>Southwest Livestock & Trucking Co., Inc. v. Ramon</i>, 169 F.3d 317 (5th Cir. 1999)</p> <p><i>Eastman Kodak Co. v. Kavlin</i>, 978 F. Supp. 1078, 1081 (S.D. Fla. 1997).</p> <p><i>Wilva v. Royal Dutch Petroleum Co.</i>, 226 F.3d 88 (2d Cir. 2000), <i>cert. denied</i>, --- S. Ct. --- (March 26, 2001)</p>
JUNE 20	<p><u>4. Interacting with Foreign Forums</u></p> <p>C. Obtaining Evidence Abroad and Proving Laws of Foreign Countries</p> <p>D. Enforcement of US Judgments Abroad</p>	<p>Mandatory Reading</p> <p>Bishop and Dimitroff, <i>International Litigation in Texas: Obtaining Evidence Abroad and Proving the Laws of Foreign Countries</i></p> <p>Optional Reading</p> <p>U.S. Code Title 28, Part V, Chapter 117, § 1782</p>
JUNE 25	<p><u>5. What Parties Can Be Sued?</u></p> <p>A. Foreign Sovereigns & State Enterprises</p>	<p>Mandatory Reading</p> <p>Pages 53-58 of Article</p> <p><i>Complaint of Sedco</i>, 610 F. Supp 306 (S.D. Tex. 1982).</p> <p>Foreign Sovereign Immunities Act 28 USC § 1603 can be found at: http://www4.law.cornell.edu/uscode/28/1603.html</p> <p>Foreign Sovereign Immunities Act 28 USC § 1604 can be found at: http://www.law.cornell.edu/uscode/28/1604.html</p> <p>Foreign Sovereign Immunities Act 28 USC § 1605 can be found at:</p>

DATE	TOPIC	ASSIGNMENT
		http://www.law.cornell.edu/uscode/28/1605.html Foreign Sovereign Immunities Act 28 USC § 1608 can be found at: http://www.law.cornell.edu/uscode/28/1608.html Foreign Sovereign Immunities Act 28 USC § 1609 can be found at: http://www.law.cornell.edu/uscode/28/1609.html Foreign Sovereign Immunities Act 28 USC § 1610 can be found at: http://www.law.cornell.edu/uscode/28/1610.html Foreign Sovereign Immunities Act 28 USC § 1611 can be found at: http://www.law.cornell.edu/uscode/28/1611.html
JUNE 27	<u>5. What Parties Can Be Sued?</u> B. Bringing Claims Against Affiliates of Foreign Corporations C. Non-Signatory Affiliates in an Arbitration D. Arbitration of Related Claims: Unified Contractual Scheme E. Political Risk Insurance: Overseas Private Investment Corporation/MIGA	Mandatory Reading Pages 58-67 of Article <i>Brunswick Corp. v. Waxman</i> , 459 F.Supp. 1222,1230 (E.D.N.Y. 1978). <i>DeWitt Truck Brokers v. W Ray Flemming Fruit Co.</i> , 540 F.2d 681,687-688 (4th Cir. 1976). <i>Sunkist Soft Drinks, Inc. v. Sunkist Growers, Inc.</i> , 10 F.3d 753, 757-58 (11th Cir. 1993), <i>cert. denied</i> , 115 S. Ct. 190 (1994) <i>JJ Ryan & Sons v. Rhone Poulenc Textile, S.A.</i> , 863 F.2d 315, 320-21 (4th Cir. 1988) <i>Carlin v. 3V, Inc.</i> , 928 S.W.2d 291,294-97 (Tex. App. - Houston [14th Dist.] 1996, no writ). <i>Deloitte Noraudit A/S. Deloitte Haskins & Sells, US.</i> , 9 F.3d 1060, 1064 (2d Cir. 1993).
JULY 2-3	Final Exam Period (consult final exam schedule for specifics)	