

6238 - International Risk Management in International Energy Projects

Tuesdays from 5:30-7:30 pm
RIVERO - 17881

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Course Materials: No book for the course. The course packet will be available electronically and materials will be distributed electronically as well.

Grading: Students will be graded in three parts. First, there will be a student project. This portion of the course will count for 30% of the final grade. Second, 60% of the grade will be based on a final exam that will be comprehensive and will cover the entire course material. The final 10% of the final grade will be tabulated based on class participation/involvement. Attendance: We will take attendance. Half a grade drop for every two unexecuted absences.

Meeting: Please contact me to schedule a meeting. I am hopefully a resource to you and would like to regularly connect to answer any questions and help in any way possible.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Course Syllabus

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

“Mandatory Reading” is intended to be used in class discussion

“Optional Material” to be discussed in class but will not be part of the final exam.

One “make up” class at the end of the semester in the event that we have to miss a class or if the discussion runs over from one week to the next.

DATE	TOPIC	ASSIGNMENT
AUG 24	<p><u>1. Overview of Issues related to International Service Agreements</u></p> <p>A. Class expectations B. Class breakdown C. International Energy Projects</p>	<p>Mandatory Reading</p> <p><i>Unexpected Killers of Your International Energy Deal</i></p>
August 31	<p><u>3. What Claims Can Be Brought?</u></p> <p>A. Analysis of contract types and the allocation of risk</p> <p>B. Introduction into Treaty Violations: Bilateral Investment Treaties, and NAFTA/USMCA</p>	<p>Mandatory Reading</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>USMCA: https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between</p>
SEPT 7	<p><u>3. What Claims May Be Brought?</u></p> <p>B. Breach of Contract</p> <p>C. Letter of Credit Litigation</p> <p>D. Good Faith and Fair Dealing</p>	<p>Mandatory Reading</p> <p>Pages 9-14 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>Optional Reading</p>

DATE	TOPIC	ASSIGNMENT
		R. Doak Bishop, <i>The Duty to Negotiate in Good Faith and the Enforceability of Short-Form Natural Gas Clauses in Production Sharing Agreements</i>
SEPT 14	<p><u>3. What Claims Can Be Brought?</u></p> <p>E. Interim Measures to Freeze Assets or Preserve Evidence</p> <p>F. Interim Measures (Courts vs. Emergency Arbitration)</p>	<p>Mandatory Reading</p> <p>Pages 14-22 of Article</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>
SEPT 21	<p><u>4. What Forums are Available?</u></p> <p>A. International Arbitration</p>	<p>Mandatory Reading</p> <p>Pages 23-32 of Article</p> <p><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).</p> <p><i>A Practitioner's Guide: An Overview of the Major International Arbitration Tribunals</i>. 3 S.C. J. Int'l. L. & Bus. 21 (Fall 2006).</p> <p>Optional Reading</p> <p>ICSID Convention, Regulation and Rules can be found at: https://icsid.worldbank.org/resources/rules-and-regulations/convention/arbitration-rules</p> <p>ICSID International Facility Rules can be found at: https://icsid.worldbank.org/resources/rules-and-regulations/additional-facility-rules/overview#:~:text=The%20ICSID%20Additional%20Facility%20was,scope%20of%20the%20ICSID%20Convention</p> <p>[Skim] ICC 2021 Arbitration Rules can be found at: https://iccwbo.org/dispute-resolution-services/arbitration/rules-of-arbitration/</p> <p>Skim ICDR International Dispute Resolution Procedures – Amended and Effective as of March 1, 2021: https://www.icdr.org/rules_forms_fees</p>

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SEPT 28	<p><u>4. What Forums are Available?</u></p> <p>A. International Commercial Arbitration</p> <p>B. Administrating Forums</p> <p>C. Enforcement</p>	<p>Mandatory Reading</p> <p>Pages 23-32 of Article</p> <p>1958 Convention on the Recognition and Enforcement of Arbitral Awards (the New York Convention) can be found at: https://www.newyorkconvention.org/english</p>
OCT 5	<p><u>4. What Forums are Available?</u></p> <p>D. Arbitrator Selection</p> <p>E. Clause Drafting</p> <p>F. BITs</p>	<p>Mandatory Reading</p> <p>Washington Convention</p> <p>Model BIT</p> <p>Sample Treaties</p> <p>Optional Reading</p> <p>Dolzer & Schreuer Principles of International Investment Law (pages to be assigned)</p>
OCT 12	<p><u>3. What Claims Can Be Brought?</u></p> <p>G. Force Majeure (case studies into COVID pandemic and Winter Storm Uri)</p>	<p>CLASS WILL RECEIVE PROJECT ASSIGNMENT</p>

<p>OCT 19</p>	<p><u>4. What Forums are Available?</u></p> <p>C. National Courts: Litigation in the United States</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>Wilwa v. Royal Dutch Petroleum Co.</i>, 226 F.3d 88 (2d Cir. 2000), <i>cert. denied</i>, --- S. Ct. --- (March 26, 2001)</p>
<p>OCT 26</p>	<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</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>

DATE	TOPIC	ASSIGNMENT
	Judgments Abroad	
Nov 2	<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: http://www.law.cornell.edu/uscode/28/1605.html</p> <p>Foreign Sovereign Immunities Act 28 USC § 1608 can be found at: http://www.law.cornell.edu/uscode/28/1608.html</p> <p>Foreign Sovereign Immunities Act 28 USC § 1609 can be found at: http://www.law.cornell.edu/uscode/28/1609.html</p> <p>Foreign Sovereign Immunities Act 28 USC § 1610 can be found at: http://www.law.cornell.edu/uscode/28/1610.html</p> <p>Foreign Sovereign Immunities Act 28 USC § 1611 can be found at: http://www.law.cornell.edu/uscode/28/1611.html</p>
NOV 9	<p><u>5. What Parties Can Be Sued?</u></p> <p>B. Bringing Claims Against Affiliates of Foreign Corporations</p>	<p>Mandatory Reading</p> <p>Pages 58-61 of Article</p> <p><i>Brunswick Corp. v. Waxman</i>, 459 F.Supp. 1222,1230 (E.D.N.Y. 1978).</p> <p><i>DeWitt Truck Brokers v. W Ray Flemming Fruit Co.</i>, 540 F.2d 681,687-688 (4th Cir. 1976).</p>
NOV 16	<p><u>5. What Parties Can Be Sued?</u></p> <p>C. Non-Signatory Affiliates in an</p>	<p>Mandatory Reading</p> <p>Pages 61-67 of Article</p> <p><i>Sunkist Soft Drinks, Inc. v. Sunkist Growers, Inc.</i>, 10 F.3d</p>

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	Arbitration D. Arbitration of Related Claims: Unified Contractual Scheme E. Political Risk Insurance: Overseas Private Investment Corporation	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).
NOV 23	Group Presentations	
Nov 30	Review Class / Catchup	
DEC 7	Final Exam	