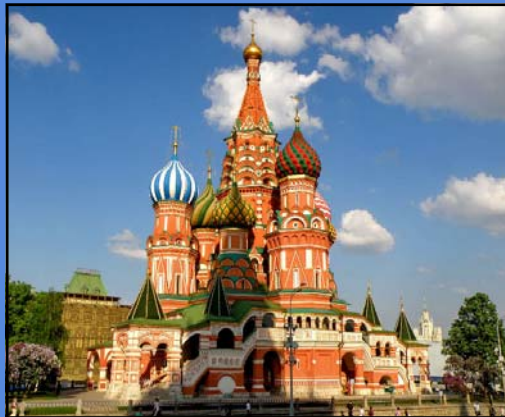




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The 2015 Moscow Dispute Resolution Conference
**ABA's SEVENTH ANNUAL CONFERENCE ON THE
RESOLUTION OF CIS-RELATED BUSINESS DISPUTES**

The Ritz Carlton Moscow
SEPTEMBER 18, 2015



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The listing of the Steering Committee was compiled as accurately as possible from Section records. If we have omitted your name or have it listed incorrectly, we sincerely apologize.

ROUNDTABLE DISCUSSANTS

Chiann Bao, HKIAC, Hong Kong, China

Boris Kolesnik, Uranium One Holdings, Rosatom, Moscow, Russia

Kristoffer Löf, Mannheimer Swartling, Stockholm, Sweden

Kirill Strunnikov, Rusal, Moscow, Russia

PROGRAM AGENDA

All events to be held at the The Ritz-Carlton Moscow, Tverskaya Street 3.

Conference materials may be found on our website at <http://ambar.org/moscow2015>.

8:30 AM – 9:00 AM

REGISTRATION & BREAKFAST

The EU-U.S. Sanctions Regimes: Practical Implications for Dispute Resolution Lawyers and Their Clients

Washington 1 +2

The EU and US sanctions regimes raise a host of issues for dispute resolution practitioners. This opening plenary session will start with a brief overview of the sanctions regimes, with a focus on issues relevant to dispute resolution practitioners. The speakers will then address the following issues, among others, in greater detail:

- The legal treatment of the impact of sanctions on contracts (force majeure, frustration, impossibility, material change of circumstances, and similar defenses);
- Strategies for mitigating sanctions-related risks in contracts that predate the applicable sanctions regime;
- Strategies for addressing restrictions on access to funds and travel;
- How EU and US restrictive measures affect compensation for parties where contractual performance is suspended or otherwise terminated by the contractual counter-party as a result of sanctions;
- Shadow sanctions and their effects on Russian interests abroad;
- Prospects for Russian companies to hold banks and other contracting parties to their obligations;
- Navigating issues in retaining/becoming counsel for Russian companies in sanctions related disputes;
- Russian court practice in sanctions-related disputes;
- Russian proposed protective legislation;
- Addressing risks that arbitral awards will be unenforceable either in Russia (because such enforcement would violate fundamental principles of Russian law) or elsewhere (because enforcement would violate sanctions regulations);
- Challenges by Russian companies to the imposition of sanctions: process, prospects and practicalities.

Some of these topics will also be the focus of roundtable sessions during the course of the conference. The format of those sessions will encourage active audience discussion and interaction.

Moderator:

Marian Dent, Pericles, Moscow, Russia

Speakers:

Timur Aitkulov, Clifford Chance, Moscow, Russia

Maya Lester, Brick Court Chambers, London, United Kingdom

David Lorello, Covington & Burling, London, United Kingdom

Aleksey Teterin, Head of International Law Section, Chelyabinsk Pipe-Rolling Plant, Moscow, Russia

Third Party Funding of Litigation and Arbitration Costs

Moscow 1 +2

Litigation funding has expanded considerably over the last 10 years and is now frequently encountered in state court proceedings and arbitration. This panel session will discuss the following topics:

- An introduction to the main methods of litigation funding: third party litigation funding, law firm contingency fees and after the event insurance;
- When is litigation funding available and which types of claims are most suited to litigation funding;
- An example of how litigation funding works in practice;
- the role of the professional third party litigation funder: control, settlement, withdrawal and other issues to watch for;
- The potential impact of public policy on the ability to enforce a judgment or award assisted by litigation funding;
- Potential problems and issues regarding third party funding;
- Innovative forms of litigation funding: monetising judgments or awards, portfolio funding, WIP funding and more; and
- Strategic issues affecting parties to funded litigation including the effect on settlement dynamics and accounting benefits.

Moderator:

Nick Marsh, Quinn Emanuel, London, United Kingdom

Speakers:

Peter Wolrich, Curtis, Mallet-Prevost, Colt & Mosle, Paris, France

James Popperwell, MacFarlanes, London, United Kingdom

Bernard O'Sullivan, Olswang, London, United Kingdom

Mike Redman, Burford Capital, London, United Kingdom

Tatiana Minaeva, Jones Day, London, United Kingdom

Christopher Coffin, Withersworldwide, London, United Kingdom

COVINGTON

Sponsored by: **COVINGTON & BURLING LLP**

Both sessions in this time slot will be interactive roundtables. Audience participation is encouraged – indeed, essential – for the success of the session. We would like to hear from you. Please come prepared with your questions and comments!

Sanctions and their Impact on the Arbitral Seat and Rules

Washington 1 + 2

International commercial contracts between Russian and non-CIS parties often contain arbitration clauses providing for arbitration in established European seats such as Paris (ICC), London (LCIA) or Stockholm (SCC). This roundtable will consider whether the sanctions issued by the EU in relation to the crisis in Ukraine challenge to the primacy of arbitration in Europe in Russia-related transactions, along with the following related questions:

- Have Russian companies experienced, or can they be expected to experience, any difficulties arbitrating their disputes in European arbitral seats due to the EU sanctions? If so, what sorts of difficulties, and how likely are they to occur?
- To what extent are the EU sanctions causing Russian companies to revise their business practices by seeking to include arbitration clauses with non-European seats in their new international commercial contracts?
- What types of Russian companies are changing their practices in this way and which ones are likely to maintain their existing practices?
- To the extent that Russian companies are opting for arbitration outside of Europe, what alternatives are they opting for and why?
- What alternatives (if any) are likely to be acceptable for their non-Russian counterparties?

Co-Sponsored by the Russian Arbitration Association (RAA) and the Hong Kong International Arbitration Centre (HKIAC)

Co-Moderators:

Fredrik Ringquist, Mannheimer Swartling, Moscow, Russia
Roman Zykov, RAA, Moscow, Russia

Cornerstone Changes in Russian Bankruptcy Legislation and Court Practice in the Shadow of Economic Crisis

Moscow 1 + 2

Until recently, various gaps in Russian bankruptcy mechanisms allowed debtors to abuse creditors in the overwhelming majority of cases. Approximately 95 percent of bankruptcies resulted in the debtor being liquidated and its assets auctioned.

For debtors, life was beautiful and easy -- initiate the bankruptcy of your company without costly implications (the filing fee was 100,000 Rubles), propose a bankruptcy receiver to the court without consulting the creditors, and control the bankruptcy proceedings. The issues were compounded by inadequate rules governing the liability of controlling persons, ineffective mechanisms for protecting creditors from the insolvency of guarantors, and other weaknesses in Russian bankruptcy practice.

The session will focus on legislative developments in this area and tactics for challenging abusive debtor tactics and bad faith bankruptcy schemes and illegal disposition of assets, including the following specific topics:

- Recent amendments to Russian bankruptcy law;
- Case studies from recent court practice (including the Pugachev and Kehman cases);
- Efficient tactics for fighting against controlled bankruptcies;
- Prevention of unlawful practices by bankruptcy receivers;
- Returning assets transferred to foreign jurisdictions; and
- Practical advice for foreign companies on protecting their rights and interests.

Co-Moderators:

Alexei Dudko, Hogan Lovells, Moscow, Russia
Feodor Vyacheslev, ALRUD, Moscow, Russia

Each of the sessions in this time slot will be interactive roundtables. Audience participation is encouraged – indeed, essential – for the success of the session. We would like to hear from you. Please come prepared with your questions and comments!

Do Recent Developments Challenge the Primacy of English Law? If Not English Law, Then What?

Washington 1 + 2

Recent developments are said to challenge the primacy of English law as a choice of governing law in Russian related transactions.

- How real is that challenge?
- To the extent that it exists, is it caused just by the sanctions-related issue and of temporary effect or are longer-term factors (such as de-offshorization and changes to the Russian Civil Code) now playing a significant role?
- In what contracts are changes in governing law occurring – or not occurring?
- What types of companies are implementing (or considering) such changes and which ones are likely to continue with 'the established approach'?
- In so far as alternatives to English law are being considered, what are the practical alternatives and why?

Join us and participate in the debate on this important evolving issue!

Co-sponsored by the British Russian Law Association

Co-moderators:

Rupert D'Cruz, Littleton Chambers, London, England

Katerina Haslam-Jones, Padva Haslam-Jones & Partners, London, England

Andrey Zelenin, Lidings, Moscow, Russia

The Resolution of Business Disputes Between Russian and Ukrainian Companies

Moscow 1 + 2

The Russian and Ukrainian economies were thoroughly integrated during the Soviet period, and even in the midst of the current conflict, Russia is Ukraine's single largest trading partner. As trade continues, business disputes also inevitably to arise. However, the conflict between Russia and Ukraine not only strongly affected current international relations and politics, but also caused practical difficulties for dispute resolution by means of international commercial arbitration. To what extent and how has the conflict affected the resolution of these disputes? Discussion topics will include:

- Choice of appropriate arbitral forum for dispute resolution (LCIA, SCC, IAC at the Ukrainian CCI, IAC at the Russian CCI, IAC at the Belarusian CCI, etc.).
- Issues arising in connection with Crimea (potential disputes in regard to the nationalization of property, battle of jurisdictions, enforcement procedures).
- Protecting the interests of Russian and Ukrainian companies and foreign investors by means of investment treaty arbitration.
- Belarus as a neutral place for dispute resolution.
- Maintaining a constructive dialogue in the current tense climate.

Co-sponsored by the Russian Arbitration Association

Co-moderators:

Andrei Astapov, AstapovLawyers, Kiev, Ukraine

Gene Burd, Arnall Golden Gregory LLP, Washington DC, USA

Alexandre Khrapoutski, Sysouev, Bondar, Khrapoutski, Minsk, Belarus

NOTE: This panel will be conducted solely in Russian.

Challenges and Opportunities When Enforcing Investment Treaty Arbitration Awards

Moscow 3

The ability to enforce investment treaty arbitration awards is paramount to investors. While domestic and international law provide several concrete tools to do so, the path to enforcement may not be straight-forward for some investors. Do States actually enforce such awards voluntarily? If that is not the case, what can be done and how? This round table will address the complexities of enforcement in various jurisdictions, the importance of political and diplomatic solutions, and offer some practical advice. Discussion topics will include:

- ICSID vs. enforcement via the New York Convention: is ICSID really better?
- Enforcement against sovereigns and state entities at large: can the state immunity obstacle be overcome?
- Local courts' attitudes towards enforcement proceedings: are some jurisdictions more arbitration-friendly than others?
- Enforcement of specific performance awards: is it possible to reconcile such awards with the State's sovereign powers?
- Political and diplomatic action: does it actually work?

Co-sponsored by the Stockholm Chamber

Co-moderators:

Anna Crevon, Dentons, Paris, France

Johan Sidklev, Roschier, Stockholm, Sweden

**Arnall
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Gregory** LLP

Sponsored by:

Each of the sessions in this time slot will be interactive roundtables. Audience participation is encouraged – indeed, essential – for the success of the session. We would like to hear from you. Please come prepared with your questions and comments!

Legal Practice in the Russia-Eurasia Region: What's Next For the Domestic Regulation of Lawyers, the Advokatura, and Foreign Lawyers and Law Firms?

Washington 1 + 2

With the exception of the *advokatura* (the licensed advocates who have a monopoly on court appearances in criminal matters), the legal profession in Russia is perhaps less regulated than in any of the world's other developed economies. This session will focus on a discussion of what should be done – and perhaps more importantly -- what realistically can be done to regulate law practice in the Russian Federation.

Co-sponsored by the Federal Chamber of Advocates

Co-moderators:

Alexander Bolomatov, YUST, Moscow, Russia
Alexander Muranov, Muranov, Chernyakov & Partners, Moscow, Russia

Joinder and Consolidation in Arbitrations Involving CIS Parties

Moscow 1 + 2

Joinder and consolidation in arbitral proceedings present real-life challenges to CIS parties. These issues regularly arise in commercial relationships involving 3 or more parties, for example: (i) A construction project in the CIS giving rise to a claim by the developer against the contractor. What rights would the contractor have to consolidate its own claim against a sub-contractor with the developer's claim? (ii) A commodity claim against a CIS seller for the late delivery of goods or the delivery of defective goods. What options would the CIS seller have to consolidate that with a claim against its own supplier? (iii) A loan agreement to a BVI or Cypriot company supported by a (separate) guarantee provided by its ultimate CIS owner. What options would the lender have to join a claim against the guarantor to a claim against the defaulting borrower?

The roundtable will focus on these and other practical challenges of joinder and consolidation that can arise in a CIS context. The discussion will consider the options available under the rules of the main arbitral institutions for meeting these challenges as well as drafting techniques and other strategies that can be used to avoid them.

Co-sponsored by the Swiss Chambers' Arbitration Institution

Co-Moderators:

Philipp Habegger, Swiss Chambers' Arbitration Institution, Zurich, Switzerland
Anna Kozmenko, Schellenberg Wittmer, Zurich, Switzerland

The Development of Domestic Arbitration in Russia: Balancing Public and Private Interests

Moscow 3

President Putin's 2014 Message to the Federal Assembly of the Russian Federation stressed that business needs stable and predictable rules of law and emphasized the importance of dialogue between the government and business to address problems in that regard. A critical element in building a favorable trade and investment climate is having credible, fast, and cost-effective dispute resolution mechanisms. This roundtable will examine how the dialogue between the business community and government has impacted alternative dispute resolution in Russia, with a focus on the following points:

- What does the Russian business community mean when it talks about an efficient and trustworthy dispute resolution mechanism to resolve disputes arising out of commercial transactions? What would be the most valuable characteristics of a dispute resolution system from the business point of view?
- What can government do to create the necessary legal framework to support the business community's expectations in this regard? Which revisions and/or additions to Russian arbitration legislation will increase arbitration process' efficiency and its popularity among business community?
- Do local courts provide adequate judicial support to arbitration in Russia? Is enforcing arbitral awards fast and easy? Is there consistency in how the courts handle arbitration matters?
- What does it take to organize an efficient and neutral commercial dispute resolution center?
- How widespread is knowledge about arbitration in the Russian business community, and what are the prevailing attitudes and opinions?

Co-Sponsored by the International Centre for Dispute Resolution (ICDR) and Russian Union of Industrialists and Entrepreneurs (RSPP)

Co-Moderators:

Leonid Y. Akimov, JSC Rosseti, Moscow, Russia
Miroslava Schierholz, ICDR, New York, USA
Alexander V. Varvarin, RSPP, Moscow, Russia

NOTE: This session will be conducted solely in Russian.

Both sessions in this time slot will be interactive roundtables. Audience participation is encouraged – indeed, essential – for the success of the session. We would like to hear from you. Please come prepared with your questions and comments!

The “Deoffshorization” of Russia-Related Disputes

Washington 1 + 2

The term “deoffshorization” is most often used in reference to the Russian Federation’s recent moves to coax back Russian capital from foreign tax havens, but could also be used to describe efforts to have more Russia-related business disputes resolved in Russian courts. In 2012, the former Chairman of the Supreme Arbitrazh Court of the Russian Federation, Anton Ivanov complained of “unfair competition” from other legal systems, most notably England and the US. Since then, the Russian courts have increasingly assumed exclusive competence over certain matters. This session will focus on this and other developments impacting the choice of forum between Russian and non-Russian courts.

Co-moderators:

Maxim Kulkov, KK&P, Moscow, Russia

Maria Erokhova, Moscow School of Social and Economic Sciences, Faculty of Law, Moscow, Russia

Arbitration in Crisis Periods: Desperate Times and Desperate Measures?

Moscow 3

Arbitrators are sometimes exposed to two categories of improper tactics: extreme misconduct and ethically borderline conduct. The first group includes blatantly unethical conduct and even criminal behavior, including threats and other measures taken against arbitrators, while the second consists of ethically borderline strategies, including overreaching on defenses, such as bankruptcy and force majeure, and guerilla tactics designed to impede or prevent an arbitration. In crisis periods these desperate measures are more likely to be seen. The focus of the discussion will be on the obligations of arbitrators to report these tactics, and the options open to an arbitrator when they are employed.

Co-sponsored by the Vienna International Arbitration Centre

Co-moderators:

Manfred Heider, Secretary General, Vienna International Arbitral Centre, Vienna, Austria

Peter Pettibone, Arbitrator, Hogan Lovells (ret.), New York, USA

Sponsored by: Mannheimer Swartling

The Russian Court System: Hot Topics and Trends

Ballroom 1

Quo vadis the Russian judicial system one year on from the Supreme Court and High Arbitrazh (Commercial) Court? Experienced practitioners will discuss trends across litigation practice in the Russian courts in various areas affecting business in Russia. Are things getting better? Are they getting worse? What is being done and what needs to be done? Some specific topics will include:

- Evolution of judicial practice of the Supreme court over the past year – an overview;
- Implications for commercial court practice from the 2014 merger of the Supreme Courts;
- Enhancing and maintaining transparency in the judicial system;
- Electronic justice: integration of the information online-systems of the arbitrazh courts and courts of general jurisdiction;
- Disputes with a foreign element: separation in jurisdiction and other relevant issues after the merger of Higher Courts;
- Maintaining the efficiency of the courts (the World Bank’s “Ease of Doing Business Survey” for 2015 ranks the country’s court system among the 20 most efficient in the world);
- Prospects for more specialty courts;
- Enhancing the reputation and image of the court system domestically and abroad.

Moderator:

Ilya Nikiforov, Egorov Puginsky Afanasiev & Partners, St. Petersburg, Russia

Speakers:

Elena Avakyan, Executive Director, Non-Commercial Partnership “Promoting Corporate Law”, Moscow, Russia

Vladimir Bagaev, Zakon.ru, Moscow, Russia

Kirill Trukhanov, Vegas Lex, Moscow, Russia

Veniamin Yakovlev, former Chairman of the High Arbitrazh (Commercial) Court, Moscow, Russia

O2 Lounge

Join friends and network with new colleagues in the O2 Lounge, the landmark rooftop bar located atop The Ritz-Carlton, with unrivalled views over Red Square and the Kremlin.



NOTE: Simultaneous translation in Russian and English will be provided for all sessions except the following:

- The Resolution of Business Disputes between Russian and Ukrainian Companies -

- The Development of Domestic Arbitration in Russia: Balancing Public and Private Interests -

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Conference materials may be found on our website at shopaba.org/Moscow2015.

Scholarships are available for this program. For more information please contact intlawmeetings@americanbar.org.