

TECBAR ARBITRATION UPDATE 2019

**BY
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WHAT'S NEW IN 2018-2019?

Cases of interest:

Daewoo Shipbuilding & Maritime Engineering Company Ltd v Songa Offshore Endurance Ltd [2018] EWHC 538 (Comm) – time limits, s69 application.

Goodwood Investment Holdings Inc. v Thyssenkrupp Industrial Solutions AG [2018] EWHC (Comm): s45 application.

RBRG Trading (UK) Ltd v Sinocore Int. Co. Ltd [2018] EWCA 838, enforcement of foreign arbitral award under NYC.

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Cases of interest:

Almazeedi v Penner and Anr (Cayman Islands) [2018] UKPC – arbitrator/judge disclosure obligations; apparent bias.

Halliburton v Chubb Bermuda Insurance Ltd [2018] EWCA Civ 817, multiple appointments; apparent bias.

RJ V HB [2018] EWHC 2833 (Comm) s68 setting aside award, no power to remove arbitrator under s68.

Jiangsu Shagang Group Co Ltd v Loki Owning Company Ltd [2018] 330 (Comm), s67 operates as a rehearing, not a review.

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Cases of interest, s67 applications:

Exportadora de Sal SA de CV v Corretaje Maritimo Sud-America no Inc. [2018] EWHC 224 (Comm), late challenge rejected under s.73(1)

Drey Moor Fertilisers Overseas PTE Ltd v Eurochem Trading GmbH [2018] EWHC 909 (Comm), Butcher J arbitration clause applied to bribery allegations.

Uttam Galva Steels Ltd v Gunvor Singapore PTE Ltd [2018] EWHC 1098 (Comm), bills of exchange covered by master agreement including arbitration clause.

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Cases of interest:

Orascom TMT Investments SARL v Veon Ltd [2018] EWHC 985 (Comm) – s68 challenge to award dismissed. Reminder that “substantial injustice” required.

Reliance Industries Ltd and another v Union of India [2018] EWHC 822 (Comm), challenges under ss67, 68 [linked to duty under s33] and 69 substantially dismissed.

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The Prague Rules (signed December 2018):

- Rules on the Efficient Conduct of Proceedings in International Arbitration. (Supplementary to Institutional rules.)
- Encourages Tribunal activism/management.
- Emphasis on inquisitorial processes, a more “streamlined” procedure.
- In the event, many similarities to IBA rules on evidence.

WHAT IS NEW IN 2018-2019?

International Institutional Developments, examples:

- **Transparency issues: Stockholm Chamber of Commerce (SCC) began providing reasons for its decisions on challenges to arbitrators as of 1 January 2018**
- **New HKIAC Administered Arbitration Rules 2018 [1 Nov. 2018] providing that a funded party must give written notice of the funding and the identity of the funder to all parties, the tribunal, HKIAC and the emergency arbitrator (if applicable).**

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International Institutional Developments:

- KLRCA, renamed as AIAC from February 2018.
- Published new arbitration rules in 2018. Key features include provisions for the joinder of third parties and for consolidation; the technical review of awards before they are issued; and a self-contained code in relation to emergency arbitrators.
- New Fast Track Rules, 180 day arbitration.
- Ongoing programme of SFCs for use in SE Asia.

CONCLUSIONS:

1. Continuing uncertainty surrounding conflicts and disclosure obligations for Arbitrators.
2. Time limits for challenges to substantive jurisdiction and awards more strictly applied.
3. Courts continuing to support Arbitration and Arbitrators – very few successful challenges under ss 67, 68 or 69 of the Arbitration Act.
4. Arbitral institutions continually updating Rules and guidance.

THANK YOU FOR LISTENING

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