

International Arbitration Practice Q&A



Weil has been engaged in high-stakes international arbitrations for decades. However, the last four years have seen the Firm's International Arbitration practice grow in both size and in prominence. With more than 30 lawyers based in our Washington, D.C., New York, London, Paris, Frankfurt, Prague, Budapest and Warsaw offices, this highly-specialized area of the Firm's practice entails a special blend of advocacy skills, comparative and public international law (state-to-state) expertise, and understanding of international commerce and investment. We spoke to practice co-heads Juliet Blanch, who is based in London, and Arif Ali, who is based in Washington, D.C., about the growth of the practice, what sets it apart, and where it is heading.

Q Tell us about Weil's international arbitration practice.

A **Arif:** We are considered one of the top practices in the world, especially in the area of arbitration involving state-parties and also involving the energy sector. Juliet, for example, is extremely well-known in the energy field. We are known for having a multicultural, multilingual, multijurisdictional and multidimensional team of lawyers who are able to operate under any legal system, in any industry sector and in any part of the world. We have what you might call "helicopter" capabilities: drop us in anywhere around the globe and we'll know what to do. Our practice comprises lawyers spread amongst eight of our offices, with the larger groups based in Washington, D.C., London and New York, as well as in Prague, Warsaw and Budapest. It's interesting to note that many of the cases that we handle have nothing to do with the jurisdiction in which we are based. For example, we have a team in Washington and New York that is handling a dispute between a Spanish party and a Greek party, under Greek law, where the seat of arbitration is Paris. Several of our cases fit this profile.

A **Juliet:** As Arif points out, we have a very diverse group of lawyers in the practice, which is fundamental given the global nature of the work. Our practice is international by definition! Among the

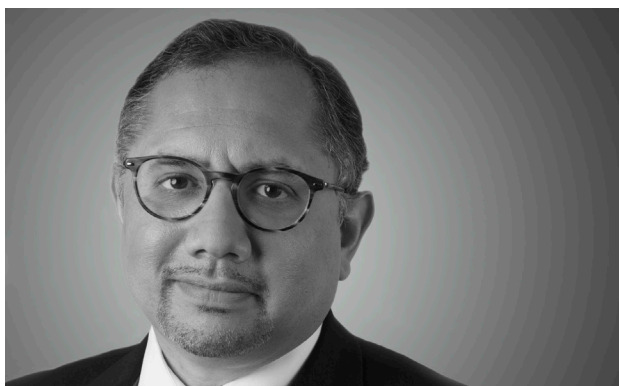
partners in the group, we have seven nationalities represented and speak nine languages fluently. Also, one quarter of us are women.

Q Can you tell us more about the diversity of the team? It seems to extend across many levels.

A **Juliet:** The exceptional diversity of our team is key to the practice. International arbitration requires an ability to work across multiple legal systems, governing rules, skill sets, languages and cultures. The lawyers on our team combine trial skills with deep knowledge of international arbitration law and procedure and expertise across a broad range of industries and substantive areas of law. In addition, they bring the ability to work fluently in multiple languages. As noted above, among the partners in the group alone, we speak nine languages fluently. In addition to English, these include Spanish, Portuguese, Arabic, French, Hungarian, Czech, Polish, German, Slovak and Russian. Many of our lawyers have held high-ranking government positions, teach international arbitration in the world's leading universities and sit as arbitrators.



Juliet Blanch Partner, London



Arif Ali Partner, Washington, D.C.

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Q What else sets the practice apart?

A Arif: I would say it is our trial experience and expertise, which rivals, if not exceeds, that of other leading firms. Many firms have excellent brief writers and lawyers who are very knowledgeable about the substance of international arbitration law and practice. We do too. But where we seem to really outshine our opponents is at trial. Additionally, many of the disputes we are involved in have significant political dimensions. Drawing on our lawyers' extensive tenure in government and various international organizations, we know how to navigate the complex political dynamics that can often underlie the disputes in which our clients are involved. We are not lobbyists, but we do know how to use political advocacy as a powerful tool alongside our trial skills.

A Juliet: In the U.K., it is especially unusual that we do our own advocacy. By this, I mean both written and oral advocacy. In England, you either train as a solicitor, who prepares cases, or a barrister, who presents cases. While ethically it is allowed for solicitors to undertake advocacy in arbitrations, very few do so because they do not gain experience in this realm early in their careers.

As a matter of course, we do our own advocacy at Weil, which means that clients do not have to hire separate barristers to present their cases. This is a key distinguishing factor for our team.

Q What differentiates international arbitration from domestic arbitration?

A Arif: Leaving aside the many nuances and substantive issues that are implicated when a sovereign state or state-owned enterprise is involved as a disputing party, there are perhaps five main differences, largely based on the fact that international arbitral procedure and practice is a blend of several legal traditions: First, international arbitration implicates many different legal systems, including the substantive law of the agreements out of which the parties' dispute arises, the law of the place of arbitration, the law of the various jurisdictions to which an award may be taken,

international law and international trade usages and custom. Second, the way in which evidence is gathered and presented and the rules of admissibility and the weight to be given to evidence is very different. Document production is typically very limited and depositions are almost unheard of. Third, there is almost no dispositive motion practice. Fourth,

the written submissions in advance of the trial on the merits are absolutely critical and serve as the vehicle for not only the presentation of each party's legal arguments, but also for explaining the evidence in support of factual submissions. And finally, the hearings on the merits don't usually last that long—generally a week or two, even in multi-billion dollar cases. The style of advocacy is also more akin to appellate advocacy, and aggressive cross-examination is typically frowned upon by the arbitrators.

Q What attracted you to international arbitration?

A Juliet: Similar to what I was just explaining about advocacy, I was attracted to international arbitration because it would allow me the ability to undertake every part of a dispute lawyer's practice and actually try my own cases – I can collect evidence and present it. I decided to hone my presenting skills because I did not like the feeling of preparing a case and then handing it off to someone else. I am very happy I pushed myself to do the advocacy as I now get complete involvement in all aspects of the case, which is both stimulating and fulfilling. I work with junior lawyers on our team to train them in the same way.

Other reasons I gravitated toward international arbitration are because it offers me the opportunity to work around the world with people of different nationalities. It has also allowed me to stretch my academic learning to different laws and judicial systems.

A Arif: I fully subscribe to what Juliet said. The work we do is very diverse. For example, I can be working on a diamond mining case in Africa one day, an oil rig construction dispute in the Middle East the next, something on derivative transactions after that, and then something on pharmaceutical products or the hospitality industry. You have to really understand the industries so you are always learning something new, and this keeps the practice very interesting. In addition, this practice area has allowed me to make friends around the world, understand different legal, social and cultural traditions, and feel like I am participating in our global community. It allows you to become a true student of life and a "comparativist" in every respect.

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— Arif Ali

International Arbitration Practice Q&A

Q How has the practice grown through the years?

A Juliet: When I joined the Firm in 2010, we had international arbitration capability and had a great practice but it was centered in New York and Washington, D.C. Part of my mission was to help make the practice more global. A couple of years after I joined, Arif, along with Alexandre de Gramont, Ted Posner and Samaa Haridi, came to the Firm, further positioning our practice in the global market.

A Arif: Not only has the team become more international in scope and grown with new additions, but we are also promoting from within. Jamie Maples is a great example. He joined the Firm in 2003 and, after working on a wide range of major international commercial disputes, he was promoted to partner in 2012. I would also add that the size of the matters, their significance and their geographic diversity has also grown considerably.

Q What are some recent highlights from the practice?

A Arif: We currently have nearly 40 pending cases with a total value of approximately \$5 billion. The nature of arbitration is that it is more private than litigation, so we can't discuss details of most of our ongoing work but our clients include, Sanofi, Camisea Consortium, Genzyme, CEZ and PGNiG, MOL, the Czech Republic and Government of Hungary.

In a gas-repricing case for PGNiG, a Polish gas supplier, the team achieved a settlement worth \$12 billion to the client. In another matter, the team persuaded ICANN, the entity that regulates the Internet domain name system, to back down in a dispute about the ".job" suffix. We have been recently instructed by a U.K. corporate on a Russian joint-venture dispute and

won a mandate from the Camisea consortium – a group of oil firms exploring a region of Peru – to start ICSID arbitration against a state-owned enterprise in response to a threatened license termination. In addition, Hungarian oil and gas distributor MOL has recently retained us to bring the first-ever Energy Charter Treaty claim against Croatia, also at ICSID. On this matter, we are working jointly with our colleagues in Budapest.

Q Given that so much of the group's work is cross-office, how do both of you work together to co-head the practice and how does the overall group coordinate across offices generally?

A Juliet: We need great personal assistants, careful coordination of diaries and good organization overall. Obviously, much email flows between us, and Arif and I have regular phone calls. We also have regular video conferences with the larger group. More importantly, though, we trust, respect and like each other. Communication is certainly needed but without trust we could not get our work done.

A Arif: Hear, hear!


Q What is next for the practice?

A Arif: In addition to continuing to build in Europe, we are focused on building our profile in Asia, Latin America and the Middle East. We are doing this not by insisting on the opening of offices, which isn't critical to a successful international arbitration practice, but by focusing on capabilities. As I said before, we need multicultural, multilingual and multijurisdictional lawyers who have a passion for the practice and have the capability to work anywhere

around the world because of their interest in comparative law and diverse cultural experiences. We don't need geographic dispersion, what we want to build in each of our key offices is a diversity of practitioners with the right skill set.

Q What notable trends are you seeing in the arbitration space?

A Juliet: Banks and financial institutions are turning to arbitration more than they have in the past as their work has become more global. We are also seeing more common law procedures coming in, such as oral advocacy. In addition, there has been increased harmonization on procedure across different parts of the world.

A Arif: With the increasing globalization of trade and investment money flows, the number of international arbitrations has grown exponentially during the past two decades. But the space has also become a lot more competitive. We are now seeing opposing counsel from many jurisdictions and firms that we have not seen in the past, and some of them are really top notch, even if English is not their first language. So, we keep looking for ways to stay ahead of the game, and so far, so good. 

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— Juliet Blanch