International Arbitration & Trade

Weil's global International Arbitration & Trade practice brings together lawyers with a combination of litigation and regulatory expertise in public and private practice. We are equally at home arguing before an arbitral tribunal as we are pursuing our clients' interests before trade negotiators, regulators, and policy makers, and we work hand-in-glove with attorneys across Weil's Corporate, Business Finance & Restructuring, and Litigation Departments to help manage our clients' risks and further their business priorities on a global scale.

International Commercial Arbitration | Investor-State Arbitration |
Trade Policy Counseling and Advocacy | Trade Remedy Investigations and Reviews |
Representative Experience

International Arbitration
Drawing on a global team of more than 30 lawyers, Weil represents both private and government clients in high-stakes and cutting-edge international arbitrations. Our team of talented, culturally and geographically diverse practitioners is well known not only for its arbitration expertise, but also for its experience in alternative dispute resolution techniques and political advocacy, which enable us to achieve exceptional, creative solutions for our clients in jurisdictions around the world.

The lawyers on our team combine trial experience, deep knowledge of international arbitration law and procedure, experience across a broad range of industries and substantive areas of law, and the ability to work fluently in multiple different languages. We are skilled and creative negotiators who understand and focus relentlessly on our clients' goals, and often achieve successful early resolution of disputes.

 › We have tried and won arbitrations under all the major arbitral rules, including: ICC; ICSID; LCIA; ICDR; AAA; SCC; HKIAC; SIAC; as well as numerous ad hoc arbitrations under UNCITRAL and other rules.
 › We have experience in a broad range of sectors, including energy, oil and gas, power and renewables, life sciences, media and telecommunications, mining, financial services, hospitality, and renewable resources such as lumber.
 › Our team includes lawyers who have held high-ranking government positions and sat as arbitrators.

Principal Areas of Expertise
International Commercial Arbitration: The diversity of our practice in international commercial arbitration and our more than four decades of success help distinguish Weil. We combine substantial knowledge of the law of international arbitration with deep knowledge of the substantive law, industry, and region at issue in each of our cases.

Investor-State Arbitration: We have successfully represented both investors and states in arbitration arising out of bilateral investment treaties (BITs), multilateral investment treaties (such as NAFTA, CAFTA-DR, and the Energy Charter Treaty), investment agreements, and domestic investment laws. We combine a substantive understanding of international investment law with skills in arbitral advocacy, a deep understanding of the political and commercial settings in which these cases arise, and extensive experience in successfully resolving these cases – both by arbitrating them to conclusion and by negotiating settlements.

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Sources describe the international arbitration team as "clever, client focused and well organized."
—Legal 500 UK 2020

Weil is recognized as a "Leading" firm for both International Arbitration and International Trade.
—Legal 500 US 2020

Sources say "the firm is top-notch, very experienced, and pays a lot of attention to detail. The team members are hands-on and very thorough in their analysis on how to approach matters."
—Legal 500 US 2020
Importantly, we have handled not only investor-state arbitration cases through to award, but also ICSID annulment proceedings and other post-award challenges, as well as recognition and enforcement proceedings. Additionally, as elaborated further below, our attorneys draw upon distinguished tenure in government, during which they negotiated some of the most significant investment treaties in the world.

International Trade

Weil partners with clients to manage the full spectrum of risks associated with the movement of goods, services and capital across national borders. The international trade legal environment is changing in significant ways, with a proliferation of tariffs on imported goods, an increased use of economic and financial sanctions, and closer regulatory scrutiny of mergers and acquisitions and other cross-border investments. In determining how best to manage global operations, clients must navigate a web of international agreements, tariff policies, customs rules, trade remedy proceedings, export controls, sanctions laws, and investment rules.

Weil is distinctly well qualified to counsel global public and private companies, as well as investors, on how best to manage risk and maximize advantage in this environment. Our International Trade lawyers stand out for the breadth of their expertise and experience, working on matters relating to both importation and exportation as well as cross-border investment and trade- and investment-related dispute settlement.

Weil’s International Trade practice is led by Ted Posner, who previously served in senior positions in the U.S. House of Representatives, the U.S. Senate, the Office of the U.S. Trade Representative, and the National Security Council. Having drafted trade legislation, negotiated trade agreements, and represented the United States in high-stakes government-to-government litigation at the World Trade Organization, Mr. Posner draws on a wealth of experience in leading a team that brings to bear diverse perspectives in developing and deploying solutions for clients in the dispute settlement, transaction, and regulatory compliance planning contexts.
Principal Areas of Expertise

Committee on Foreign Investment in the United States Review (CFIUS): Advising U.S. businesses and foreign investors on issues related to national security reviews of investments in a variety of sectors, including energy, telecom, manufacturing, infrastructure, transportation, information technology, and financial services. Much of our experience involves complicated regulatory facts, “neighboring” regulatory processes alongside CFIUS – including the International Traffic in Arms Regulations (ITAR), Team Telecom, and DOD-managed foreign ownership, control, and influence (FOCI) mitigation – as well as unusual circumstances, such as bankruptcy proceedings and restructurings that could involve investments by foreign creditors. Since 2012, we have handled dozens of CFIUS reviews and counseled clients on managing CFIUS-related risk in numerous transactions.

Dispute Resolution: Representing clients in resolving disputes arising under treaties and other international agreements, including before investment treaty tribunals, WTO dispute settlement panels, and dispute settlement panels formed under NAFTA and other free trade agreements. Additionally, our International Trade lawyers represent clients in trade cases arising under U.S. law before the U.S. Court of International Trade and U.S. Court of Appeals for the Federal Circuit.

Sanctions and Export Control Compliance and Other Regulatory Investigations: Counseling clients on compliance with sanctions, export control, and anti-boycott laws, including drafting and implementing policies and procedures, representing clients in making voluntary self-disclosures to the Office of Foreign Assets Control (OFAC) and other enforcement agencies, seeking licenses and interpretive guidance from enforcement agencies, and advising on legal constraints relevant to individual transactions. Working together with partners in our White Collar Defense, Regulatory and Investigations practice, we also advise clients in investigations pertaining to the U.S. Foreign Corrupt Practices Act (FCPA) and U.S. anti-money laundering (AML) regulations, as well as other anti-bribery statutes. For more information please see our White Collar Defense practice page.

Trade Policy Counseling and Advocacy: A lot rides on the details of trade agreement negotiations, product coverage in tariff programs and trade preference programs, and the implementation of trade legislation. We counsel clients on how to advance their interests in these processes and work with them to make their voices heard by government officials.

Trade Remedy Investigations and Reviews: Representing clients in anti-dumping (AD), countervailing duty (CVD) and safeguards investigations and reviews before the Department of Commerce (DOC) and the International Trade Commission.

Representative Experience

International Arbitrations and Trade Litigation

Leading International Private Equity Fund

Weil obtained a successful result in an ad hoc arbitration under UNCITRAL rules in relation to a billion-dollar investment in networks of telecommunication masts, towers, tower sites and in-building telecommunication devices in Africa. The claim related to an alleged failure to commit funding towards the investment in accordance with the terms of a Shareholders’ Agreement, which, it was claimed, caused the deal to collapse thereby causing substantial loss and damage. The arbitration took place in 2018 and an award was handed down in September 2018. A settlement agreement was subsequently entered into, which resulted in our client recovering the entirety of its costs of the arbitration. Weil also advised in relation to parallel English Court proceedings, which were withdrawn as part of the settlement agreement.

MOL Hungarian Oil and Gas Company

Weil and co-counsel from another firm are representing MOL in two interrelated dispute settlement proceedings with the Government of Croatia in a long-standing dispute over MOL’s investment in Croatian oil and gas company INA d.d. In December 2016, Weil and co-counsel secured a complete victory in an UNCITRAL arbitration commenced by Croatia when the tribunal issued a confidential award in favor of MOL. In October 2017, the Swiss Federal Court denied Croatia’s petition to set aside the UNCITRAL award. We continue to represent MOL in a separate, ICSID arbitration brought by MOL against Croatia for breach of obligations under the Energy Charter Treaty.
The Williams Companies
Weil represented The Williams Companies International Holdings, B.V. and other entities in an ICSID arbitration against Venezuela over an expropriation by its state-owned oil company, PDVSA. The case concluded in a settlement requiring Venezuela to pay The Williams Companies $420 million in restitution.

Confidential Client
Weil represents a party to an investment arbitration with a North African government.

Wind Energy Project Arbitration
Weil represented the sponsor of a major wind energy project in Latin America in an ICC arbitration brought by an investor following project delays in which the investor alleged breaches of representations and warranties under a purchase and sale agreement. The case settled favorably for our client in the early stages of the arbitration.

Forbes Media LLC
Weil represented Forbes Media in a multi-million dollar international arbitration with Ukraine-based United Media Holding (UMH) that raised novel issues at the intersection of international trade and arbitration law. Ukraine-based claimants – which the United States named as sanctioned “specially designated nationals” during the course of the arbitration – disputed the termination of a trademark license agreement and sought significant damages. Weil secured a complete victory for Forbes Media after a full hearing, and defeated claimants’ efforts to vacate the award in a proceeding in the S.D.N.Y.

Jinpeng Group
Weil is advising Jinpeng Group on multiple disputes regarding its investment in the Aman Resorts group of companies, including a full win in arbitration proceedings under HKIAC Rules.

Chemical Engineering Company
Weil advised a chemical engineering business in its successful claim against a Chinese SOE for breach of a confidentiality agreement, in arbitration in Singapore under SIAC rules.

Lehman Brothers
Weil represented a Lehman entity in LCIA arbitrations in London and Mumbai against Indian counterparties to ISDA derivative transactions, obtaining a $40 million award.
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<th><strong>International Arbitrations and Trade Litigation</strong></th>
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| **Hedge Fund Administrator**  
Weil represented a hedge fund administrator in the defense of a $100 million breach of contract and professional negligence claim arising from the collapse of a client fund, in an LCIA arbitration in London. |
| **BVI Investment Company**  
Weil defended a BVI investment company in a long-running, multi-billion dollar dispute over the ownership of a 25% stake in the Russian telecom company, Megafon, in ad hoc arbitration in Zurich, as well as a parallel arbitration under ICC rules in Geneva. |
| **Telecom Infrastructure Contractor**  
Weil represented a telecom infrastructure contractor in a dispute concerning the construction of a mobile network in Australia, in an ICC arbitration in Singapore under Singaporean law. |
| **Arbitrator in Trade-Related Dispute**  
Mr. Posner served as an arbitrator in a case involving labor provisions under the U.S.-Dominican Republic-Central America Free Trade Agreement. The case started in August 2011, was dormant for three years, and then re-started in September 2014, after which a merits hearing was held in June 2015. This dispute settlement proceeding was the first of its kind (involving trade-related labor provisions) under any free trade agreement to which the United States is a party. The arbitration panel issued its decision in June 2017. |
| **Great American Insurance Company**  
Weil represented Great American Insurance Company in a case brought by the United States in the Court of International Trade (CIT) to collect amounts allegedly owed under surety bonds posted to secure payment of antidumping duties on shrimp imported from China. Weil succeeded in getting the Government’s claim substantially reduced and defeated the Government’s attempt to get a double recovery of interest on the remaining principal. The CIT’s judgment was affirmed by the U.S. Court of Appeals for the Federal Circuit. |
Blue Ridge Investments L.L.C.
Weil represented a major financial institution and its special purpose subsidiary, Blue Ridge Investments, in their effort to secure enforcement of a $133 million (plus interest) ICSID arbitral award against Argentina that they had acquired from the original award creditor. Among other aspects of our advocacy, we successfully petitioned USTR to recommend that the President suspend Argentina from the Generalized System of Preferences (the principal U.S. trade preference program for developing countries) due to its failure to honor the award. This was the first time the United State suspended a country from the GSP program for failure to pay an arbitration award.

Chevron Corp.
Weil counsels Chevron Corp. in its efforts to get the Republic of Ecuador to honor awards issued in Chevron’s favor in the context of a long-running arbitration. Our advocacy has included petitioning to have Ecuador’s GSP eligibility suspended for failure to recognize and enforce the awards.

Importer of Distilled Spirits
We represented this client in its application to have distilled spirits that are imported from the EU excluded from the list of products subject to retaliatory tariffs imposed by the United States in the context of the long-running U.S.-EU “Airbus” dispute.

Major Steel Importer
We represented this client in applications to have certain steel products excluded from the import tariffs imposed by the United States under section 232 of the Trade Expansion Act of 1962.

Kitchen Materials Manufacturing Company
Weil counseled a U.S. seller of imported quartz surface products on matters related to U.S. anti-dumping and countervailing duty investigations of quartz surface products from China.

Confidential Client
Weil represented a confidential client in applying for an OFAC license that would allow it to sell shares in a European company majority-owned by an entity subject to sanctions under the Russia-Ukraine sanctions program.

Oceana
Weil advised Oceana, a non-profit ocean advocacy organization, on the WTO law implications of proposed legislation that would restrict imports of shark products from countries that tolerate “shark finning.”
Sanctions Compliance
Weil has counseled several confidential clients on developing sanctions compliance policies and procedures, determining whether proposed transactions were permitted under applicable sanctions law, and responding to allegations of violations of sanctions laws.

CFIUS

Westinghouse Electric Company
Westinghouse Electric Company in the CFIUS review of its sale of substantially all of its global business to entities controlled by Brookfield Asset Management, Inc.

Antin Infrastructure Partners
Antin Infrastructure Partners in the CFIUS review of its acquisition of First Light Fiber.

Kinder Morgan Inc.
Kinder Morgan Inc. in the CFIUS review of its sale of the Trans Mountain Pipeline to the Government of Canada.

Brookfield Asset Management
Brookfield Asset Management in the CFIUS review of its acquisition of a majority stake in Oaktree Capital Group.

Ant Small and Micro Financial Services Group Co., Ltd.
A subsidiary of China’s Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. in the CFIUS review of its acquisition of EyeVerify.

John Wood Group
John Wood Group in the CFIUS review of its acquisition of Amec Foster Wheeler, as well as related FOCI and ITAR review and notification processes.
Opera Software ASA

Opera Software ASA in the CFIUS review of the acquisition of its browser business by a consortium of Chinese companies.

Canada Pension Plan Investment Board

- Canada Pension Plan Investment Board in the CFIUS review of its investment, as a consortium member, in Ultimate Software Group, Inc.
- Canada Pension Plan Investment Board in the CFIUS review of its minority investment as part of a consortium, in Thomson Reuters’ Financial & Risk business (n/k/a Refinitiv.)

Fives Inc.

Fives Inc., a French-owned manufacturer of machine tools, in connection with CFIUS review and ITAR notices associated with the company’s restructuring.

AMP Capital

AMP Capital in connection with CFIUS review of its acquisition of ITS ConGlobal, one of North America’s largest operators of intermodal railroad and auto terminals, container yard depots, and provider of intermodal equipment maintenance and repair services.