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The guide to specialist
international arbitration
practices 2017

Fully revised and updated 10th annual edition

Hughes Hubbard & Reed

People in <i>Who's Who Legal</i>	5
Pending cases as counsel	15+
Value of pending counsel work	US\$7 billion
Treaty cases	8
Current arbitrator appointments	30 (of which 10 are as sole or chair)
Lawyers sitting as arbitrator	8

The investment treaty practice is increasingly busy with Crimea-related claims against Russia and a new case against Uruguay

While it has in the past seemed more of a domestic litigation shop, Hughes Hubbard & Reed in fact stands out from the crowd by its early embrace of international arbitration. The firm was founded in 1888 by Charles Evan Hughes, a future Chief Justice of the United States who became a member of the Permanent Court of Arbitration at The Hague in 1926 and served as a US delegate to the Pan American Conference on Conciliation and Arbitration in 1928.

The modern arbitration practice was started by Paris partner Axel Baum and Washington, DC, partner John Townsend nearly 40 years ago, when they filed their first ICC case. Under Baum's tutelage, lawyers in Europe and the US have had the time and space to develop true credentials in the field and are now recognised figures in their own right who sit as arbitrators as well as conducting counsel work.

Townsend leads the international arbitration practice with New York-based partner John Fellas. He also co-chairs the investment treaty arbitration practice with Alexander Yanos, who was a partner at Freshfields Bruckhaus Deringer until he moved over in 2014.

A former chairman of the board of the American Arbitration Association, Townsend has been a vice president of the LCIA Court since 2014. He's been on the ICSID panel of arbitrators since 2008.

Locations

The New York, Paris and DC offices house the majority of the firm's 60 arbitration lawyers, with a few in Los Angeles and Miami too.

Who uses it?

Ukrainian oligarch Igor Kolomoisky and companies associated with him are using the firm for a series of investment treaty cases against Russia relating to the 2014 annexation of Crimea.

Turkish state oil and gas company Türkiye Petrolleri AO used the firm for an ICSID claim against Kazakhstan, while other clients have included Swedish telecoms operator Tele2 Sverige, Indian wind power provider Suzlon Energy, cosmetics producer Roche and pharmaceutical companies Forest Laboratories and Menarini Asia-Pacific.

State clients have included Hungary, Lithuania and Canada (one of the firm's partners, Joanne Osendarp, is a former trade lawyer for the government) and it has also advised the central bank of a South American country.

Track record

Yanos was involved in a number of successful treaty cases against Latin American states while at Freshfields and has continued to co-counsel with his former firm on some of them. These include

helping to win a US\$1.38 billion ICSID award against Venezuela on behalf of distressed Canadian mining company Crystalex; and another award against the state worth US\$173 million in favour of steelmaker Tenaris.

He was also part of the team that helped the UK's BG Group obtain a US\$185 million award against Argentina that was upheld by the US Supreme Court in 2014 and ultimately paid.

Together with Lithuanian firm Glimstedt, Hughes Hubbard & Reed won an ICSID claim against Serbia over the privatisation of a fertiliser factory on behalf of Lithuanian clients Arbi and Sanitex.

The firm helped the government of Lithuania defeat a €206 million claim brought by an Italian investor in the sparkling wine industry in 2013. Although the UNCITRAL panel found the state in breach of a bilateral investment treaty, it refused to award any damages.

The year before, Osendarp and Townsend helped Canada prevail in an LCIA arbitration brought by the United States under the Softwood Lumber Agreement. A high-profile tribunal chaired by German arbitrator Klaus Sachs said the United States had failed to prove its case, which concerned the under-pricing of logs from forests in British Columbia killed by a mountain pine beetle infestation.

In 2010, a Hughes Hubbard team helped RosInvestCo, a UK subsidiary of US hedge fund Elliott Associates, win an SCC award against Russia over the expropriation of its shares in Yukos Oil Company. Although the award wasn't huge (US\$3.5 million), it was the first time the state had been held liable under an investment treaty over the Yukos affair. The award has since been overturned.

Fellas is proud of his work for Tele2 Sverige in defending an ICDR award in the New York courts. He not only got the set-aside action by BVI entity DigiTelecom dismissed, but persuaded the court to impose sanctions on the other side's counsel on the grounds that the action was frivolous and had caused "unnecessary expense and delay".

Recent events

Paris-based partner José Rosell, who had co-chaired the international arbitration practice with Townsend and Fellas, left the firm in 2016 to set up an independent arbitrator practice in Copenhagen. Thomas Lee, a professor of international law at Fordham Law School, joined the New York office as of counsel.

The firm won a favourable partial award for a Las Vegas client, Global Gaming Asset Management, in an UNCITRAL dispute with the owner of a gaming resort in Manila.

Yanos was instructed by Miami-based telecoms group Italba for a US\$100 million ICSID claim against Uruguay, but failed to win interim measures requiring the state to suspend criminal proceedings against two of his clients' witnesses.

Hungary turned to the firm to defend it in an US\$800 million Energy Charter Treaty claim by France's Engie at ICSID. A Chinese state-owned energy client is also using it to defend a US\$250 million UNCITRAL claim.

In the US courts, Scottish oil and gas company Hardy has retained it to enforce a US\$74 million UNCITRAL award against India.

John Townsend sat on tribunals that issued awards against Turkmenistan and Poland. He continues to sit on three ICSID panels hearing claims against Serbia, Albania and Yemen. He also chaired an AAA committee that oversaw a major reform to the institution's governance structure.

Client comment

Canadian government trade adviser Colin Bird says Hughes Hubbard & Reed “dominated” in written and oral submissions in the softwood lumber disputes, which he said had direct tax implications of over half a billion dollars to Canada. “These were highly complex arbitrations involving high stakes, multiple stakeholders, extensive economic data and novel legal issues,” he says.

Of Townsend, Bird says: “His ability to develop a rapport with the bench has no peer and he is a master at presenting complex economic evidence in a clear and compelling way.” Others in the team “demonstrated an unparalleled command of the economics and context.”

Another client’s former legal director praises the firm’s “intelligence, tenacity and conviviality” in a multi-jurisdictional insurance dispute, adding that Townsend “knows international arbitration inside and out.”