

Recent Energy Sector Representations

RECENT REPRESENTATIONS:

PSAs, PSCs, CONCESSION AGREEMENTS:

- We represented **local subsidiaries of the ExxonMobil and Petronas groups** as member of a consortium involved in a dispute against the Republic of Chad over Chad's attempt to levy a statistical tax on crude oil exports by the consortium in violation of the provision of two conventions entered into by the parties for the production and export of crudes. Chad had sought relief in its own national courts in violation of the arbitration agreements of the conventions and a local court had ordered our clients to immediately pay over USD 800 million even as an appeal was pending. We filed for ICC arbitration and first obtained ex parte super provisional measures (later confirmed after a hearing) enjoining Chad from seeking enforcement of the local court decision, followed by a partial award in which the Tribunal retained jurisdiction over the dispute. In parallel to the arbitration effort, the parties settled the dispute. The amount in controversy was USD 77 billion.
- We represent a **consortium of major oil companies** in an ICC arbitration against an African State over a statistical tax that the State is trying to impose on the production of crude oil by the claimants in violation of its commitment to a tax stabilization regime. The amount in dispute is in excess of \$77 billion. The language of the arbitration is French. Local law applies to the merits. Parallel court proceedings have been commenced by the host State before its own courts and the Arbitral Tribunal issued, at the request of the oil companies, temporary interim measures preventing the State from enforcing the local court judgment.
- We represent an **North African National Oil Company (NOC)** in ad hoc UNCITRAL arbitration proceedings against a North African company, claiming termination of two contracts for the exploration, development, and production of gas/oil fields. The procedure was bifurcated into three phases: jurisdiction, merits, and quantum. Quinn Emanuel won the first two phases for its client and is now engaging in the third phase. The award on the merits gave right to our client on all grounds. The amount in dispute is approximately USD 2.5 billion. The seat of arbitration is Geneva.
- We advise a **global petroleum company** operating globally and an investment company owned by an Arab Emirate, in connection with the potential withdrawal from various contracts entered into with a Middle Eastern Government for the development of the its field. Our client lost around US\$1 billion on the project as of 2014 and losses

are project to amount to US\$5 billion by the end of the contract period. We are advising them on the consequences of withdrawing from their contracts with the local Government.

- We advise a **global petroleum company** in a dispute yet to be submitted to arbitration against oil and gas companies and state entities, regarding its withdrawal from an oil field in the Middle East.
- We represented **Mobil Oil** in overturning a \$3 million default judgment in Venezuela (that had been affirmed by the Venezuelan Supreme Court) based on Mobil's alleged failure to diligently prosecute an oil exploration effort on land where the plaintiff held a royalty interest, but where there had never been shown to be any commercial quantities of oil. After an investigation into the facts in Venezuela, and proceedings in five courts (three in Virginia and two in New York), we obtained a judgment declaring the Venezuelan judgment null and void and requiring the plaintiff to pay Mobil's costs.
- One of our partners represented **Sonatrach** in UNCITRAL arbitral proceedings in Geneva commenced by Anadarko Algeria Co. LLC and Maersk Olie, Algeriet A/S. The dispute involved the interpretation of contractual provisions relating to income tax on windfall profits and fiscal stabilization in a shared production contract. The amount of the dispute was in excess of USD 11 billion. An amicable settlement was reached.
- One of our partners represented the **People's Democratic Republic of Algeria** in ICSID arbitral proceedings triggered by Maersk Olie, Algeriet A/S. Initiated under the bilateral investment treaty between Algeria and Denmark, the arbitration concerned a tax on windfall profits applicable to a shared production contract. The amount of the dispute was more than USD 3 billion. An amicable settlement was reached.
- A member of our arbitration team was counsel for a **National oil company** in two UNCITRAL arbitrations in Geneva against a major international oil company arising from a production sharing contract. The amounts in dispute exceeded 2 billion U.S. dollars. These cases were successfully settled.
- We represent a **leading European oil company** in a series of disputes concerning PSA interests in Yemen, each worth several \$100 million and all against the challenging legal and factual environment prevailing in that State.
- One of our partners advised an **international oil company** in an arbitration against a Middle Eastern state concerning rights under a gas concession agreement.
- We represent a **major Asian NOC** in arbitration proceedings (seated in Lagos) against the Nigerian State concerning significant cost recovery issues and lifting disputes under the terms of the relevant PSAs. Several billion dollars are at stake.

JOAs, JvAs AND RELATED AGREEMENTS:

- One of our partners acted for **Chevron** in its defense of Total's claim that their joint venture managing company was liable for the £1 billion costs of the Buncefield oil depot explosion and that, alternatively, Chevron was obliged to indemnify Total for its liability for those costs.
- We represented hedge fund **Wexford Capital LP** in connection with an investor dispute relating to Rhino Resource Partners LP, a Master Limited Partnership involved in coal and other energy resource development.
- We represented **General Atomics Energy Services, Inc.** in an AAA proceeding to recover costs attributable to respondent's negligence in causing the unplanned shutdown of a uranium hexafluoride production plant, which was jointly owned by the parties. We prevailed on cross-claims for wrongful termination.
- One of our partners is representing **Reliance Industries** in an arbitration against another international oil company under a Joint Operating Agreement relating to oil fields in India.
- One of our partners represented **International Petroleum Refining Services** in an arbitration under a charter party.
- One of our partners represented an **international oil company** in an arbitration against another international oil company under a Joint Bidding Agreement relating to a West African offshore interest.
- One of our partners represented an **international oil company** in an arbitration against another international oil company under a Joint Venture Agreement relating to interests in Venezuela.
- One of our partners represented an **international oil company** in an arbitration against another international oil company concerning the Accounting Procedure under a Joint Operating Agreement relating to a development in West Africa.

UNITIZATION AGREEMENTS:

- One of our partners represented a **North African NOC** against a consortium of foreign companies in an UNCITRAL arbitration in Geneva arising from the impact of a unitization agreement on an existing production sharing agreement. Algerian law applied. A settlement was achieved.
- One of our partners represented **the owners of the Nelson field** in relation to proceedings arising out of an expert's equity redetermination process under the Nelson Field Unitization Agreement in *Svenska and Neste v. Shell, Esso, Enterprise and Enterprise Elf*.

- One of our partners represented an international oil company in expert and arbitration proceedings relating to an equity redetermination for a unitized field offshore of West Africa.
- A member of our team was counsel for an **African national oil company** in an UNCITRAL arbitration in Geneva initiated by an international oil company arising from an unitization agreement. Hundreds of millions of U.S. dollars were in dispute.

TRANSPORTATION/STORAGE AGREEMENTS (PIPELINES, ETC.):

- We represent a **European subsidiary of a major oil company** in two arbitrations. The dispute relates to the suspension of shipments to a European refinery by three shipping companies. The pipeline company supplying the refinery initiated a joint arbitration against the shipping companies in their capacities as shareholders of the pipeline, and individual arbitrations against each shipping company as client of the pipeline. The total amount in dispute is around EUR 100 million.
- We won an 8-1 victory for **Shell Oil** in the U.S. Supreme Court in *Burlington Northern & Santa Fe Railway v. United States*, which greatly limited “arranger” liability under CERCLA and held that Shell could not be held liable as an arranger for shipping useful chemicals. The case also greatly clarified the standards for apportionment in CERCLA suits.
- One of our partners acted for a **CNOOC** subsidiary in relation to claims arising from the seizure of an oil tanker in Nigeria.
- One of our partners acted for **Chevron Nigeria Ltd.** in Interpleader proceedings in which an English court upheld for the first time a purchaser’s equitable lien under a contract for work and materials.
- We represent the **SemGroup Litigation Trust** stemming from the bankruptcy of SemGroup, a midstream oil and natural gas company engaged in storage and transport services from producers to refineries and asphalt manufacturers, in pursuing claims against various individuals, auditors and financial institutions involving fraudulent transfer, professional malpractice, breach of fiduciary duties, and other financial claims.
- We represented **Occidental Petroleum** and won a jury verdict establishing liability in an insurance coverage case regarding business interruption losses sustained from over two hundred terrorist bombings of an oil pipeline in Colombia. The case settled for nine figures before the damages phase of the trial.
- We advised **Mobil**, one of the minority shareholders in the Alaskan Pipeline, in numerous suits, including the federal criminal investigation involving the wake of the Exxon Valdez oil spill.

AGREEMENTS WITH CONTRACTORS (DRILLING ETC.):

- We represent **Vantage Deepwater Company** and **Vantage Deepwater Drilling, Inc.** in an ICDR arbitration against Petrobras America Inc., Petrobras Venezuela Investments & Services, BV, and Petróleo Brasileiro S.A. – Petrobras (together, “Petrobras”) concerning Petrobras’s improper early termination of an eight-year deepwater drilling contract. A majority of the Tribunal rejected Petrobras’s contentions that termination was proper due to purported operational failures and that the contract was void or voidable for being procured by bribery. The Tribunal awarded Vantage \$622 million in benefit-of-the-bargain damages, plus post-judgment interest. Petrobras challenged the award, arguing that the tribunal had not properly considered whether or not that contract was procured through bribery. In May of 2019, U.S. District Judge Alfred H. Bennett (S.D. Tex.) rejected this argument and confirmed the award, and Petrobras was forced to pay our clients over \$700 million.
- We represent a **major European energy company** acting as Respondents in an ICC arbitration initiated by a major engineering company on the basis of a frame agreement for engineering studies. The engineering company asserts that the Respondents used confidential information to obtain a patent on a deepwater drilling method and to use this method in an exploration and production project in Congo. The Respondents submitted counterclaims, also based on the use and disclosure by the engineering company of the confidential information it provided.
- We represent a **major European energy company** in an ICC arbitration against a global offshore engineering and construction contractor, in an English language arbitration seated in Paris regarding ownership of intellectual property in high value drilling and extraction technology. French law applies to the merits of the case. The amount in dispute is in excess of USD 200 million.
- We represent **an international oil and gas services company** based in the UK with respect to pre-arbitration issues in a potential dispute with an African State-owned oil company. The potential dispute arose out of a contract for the provision and operation of an oil rig. The UK company claimed that the State-owned oil company had failed to pay a number of invoices, whereas the State-owned oil company threatened a counterclaim based on contractual liability for a technical incident on the rig. Local law applies to the merits and the seat of the arbitration is in France.
- We represent **one of the world’s largest commodity trading companies** in a dispute with a former agent under a contract to provide services with respect to the construction and operation of a single point mooring system in an African country. SCAI rules apply. The amount in dispute is approximately USD 10 million. The seat of arbitration is Geneva.
- We represented a **European oil company** in a dispute regarding the failure of an option agreement with African and Caribbean companies. The option deed granted to our client the right to obtain an increased participation in the Farm-In Agreement on a petroleum block in a South African state. English law applied. The final award was rendered in November 2016 awarding damages to our client.

- One of our partners acted for **Dana** and **Star Petroleum** on their claim for damages for breach of an obligation to drill a carried well under a Farm-In Agreement.
- One of our partners acted for **ATP Oil & Gas Ltd.** on its defense of Westerngeco's claim for a contractual indemnity under the CRINE standard terms against Westerngeco's liability to compensate Total for damage to a wellhead marker buoy.
- One of our partners acted for the owners of the Arbroath field, **Amoco (UK) Exploration Co.**, in a dispute arising from the termination of a drilling contract by reason of defects in the Blow Out Preventer Control System and the pinions in the Jacking System.
- One of our partners acted for parties in a high value LCIA arbitration concerning the ownership of gas drilling rights in former Russian territories.
- We represented **Bloom Energy**, maker of the world's most remarkable solid oxide fuel cell, for more than seven years.
- We represented a subsidiary of **Occidental Petroleum** as a plaintiff in a price-fixing antitrust action against the provider of fuel necessary to operate its drilling pumps. The case settled for a multi-million dollar payment shortly after it was filed.
- One of our partners represented a **Central Asian oil company** in proceedings against the supplier of well head equipment.
- A member of our arbitration team was counsel for a **European oil company** in an ICC arbitration in London against a U.S. contractor in relation to a defective rig located in Eastern Africa. A favorable settlement was achieved.
- A member of our arbitration team was counsel for a **European oil company** in an ICC arbitration in London against a Canadian oil company arising from a farm-in agreement concerning a block in Latin America. English law applied. A favorable settlement was reached.

LONG TERM GAS SUPPLY AGREEMENTS (OTHER THAN PRICE REVIEWS):

- We successfully defended a **leading European energy distributor** in an ICC arbitration seated in Geneva against a leading European gas supplier in connection with a medium-term gas supply agreement. The dispute revolved around the validity under NY law of the termination of the agreement by application of a hardship provision. We obtained a complete victory for our client. The tribunal dismissed all of Claimant's claims (totaling USD 100 million), including an unrelated claim for payment of contested invoices.

- We represented a **European oil company** in an earn-out claim following the sale of its South American subsidiary to the local national oil company. French law applied. Following an award from the Arbitral Tribunal, the case moved on to the expert determination phase.
- One of our partners acted for the **owners of the Britannia Field, Conoco and Chevron**, in proceedings relating to entry capacity rights at the St Fergus gas terminal in Scotland.
- One of our partners acted for the six owners of the CATS North Sea gas pipeline, **Amoco (UK) Exploration Co. and Ors**, in a send-or-pay dispute with Enron through which Enron sought to avoid paying for pipeline capacity and ultimately to escape its obligations under the J-Block gas take or pay agreements.
- One of our partners served as lead counsel for a **major Argentine natural gas supplier** in a multi-hundred million dollar dispute with a Chilean buyer regarding the impact on long-term supply contracts of dramatic changes in Argentine export policy (ICC arbitration).
- One of our partners represented **Rosukrenergo AG**, a 50% subsidiary of **Gazprom**, in a series of SCC Stockholm Swedish law arbitrations against Naftogaz of Ukraine. The claims totalled USD 6 billion and resulted in the largest published arbitration award of 2010.
- One of our partners acted for **ARCO** and others in relation to a dispute concerning a take or pay gas sales agreement for the Trent field.
- One of our partners acted for **United Gas** in proceedings against National Power concerning interpretation of a “take-or-pay” gas supply contract and, in particular, the obligations for physical delivery of gas in *National Power v. United Gas*.
- Counsel to a **major Russian natural gas company** in a dispute against a Polish company in a multimillion dollar arbitration over payments for gas.
- Counsel to a **major Russian natural gas company** in a dispute with an Italian company in a multimillion dollar litigation concerning payments under a sponsorship agreement.

GAS PRICE REVIEWS:

- We represent a **North African NOC** in a price review arbitration against a leading European gas supplier arising out of a long term gas sale and purchase agreement. The arbitration is conducted under the Rules of the ICC and the seat of the arbitration is Geneva. Local law applies to the merits. The amount of the dispute is in excess of USD 750 million.

- We represented **Edison** in a major gas supply dispute against Eni in connection with a long-term gas supply agreement in the Italian gas market. We obtained an arbitral award retroactively reducing by more than EUR 1 billion (without interest) the price paid by our client Edison, which represented over 97% of Edison's claim. This billion-dollar victory is one the largest amounts ever awarded in a price review arbitration.
- We represented a **major European energy company** in a dispute arising from its termination of a medium-term take-or-pay gas supply agreement entered into with a major European gas seller. The agreement was governed by New York law and subject to ICC arbitration with a seat in Geneva. The seller claims totaled USD 100 million. In a recent award, an arbitral tribunal sided with our client on every issue, rejected all of the seller's claims and thus confirmed the validity of the termination.
- We represented a major **European energy company** in a price review arbitration and expert determination proceeding against another major European energy company. The dispute revolved around the interpretation of the price review provision and the respective scopes of the arbitration and the expert determination proceedings. We obtained a first major victory for our client by securing the suspension of the expert determination proceeding and an award on jurisdiction dismissing the counterparty's objection to jurisdiction. Following that decision, and while the amount claimed against our client exceeded EUR 430 million, the final decision rendered by the experts' panel awarded its counterpart only a quarter of the damages it sought. This was a significant victory for our client.
- One of our partners represented **Shell UK** and **Esso UK** in relation to a disputes relating to the price formula under the Brent Gas Principal Agreements in *British Gas Marketing v Shell UK and Esso UK*.
- One of our partners represented a group of six **international oil companies** in proceedings under a take-or-pay gas sales contract relating to the price escalation formula.
- One of our partners represented two groups of oil companies in connection with three separate proceedings relating to price formulae under long term gas sales agreements.
- Counsel for a **European buyer** in an ICC arbitration in London against a European seller. The dispute arises out of a long-term gas purchase agreement and revolves around the disconnect between the price formula and the market price. English law applies.
- A member of our arbitration team was counsel for a **West African LNG seller** in an UNCITRAL arbitration in Geneva initiated by a European buyer in order to take into account major changes in the buyer's market. The dispute arose from the revision of a price formula in two long term contracts for the sale of liquefied natural gas. English law applied. A settlement was achieved by the parties.

- A member of our arbitration team was counsel for a **European buyer** in an ICC arbitration in Geneva against a European seller. The dispute arose out of a long term gas purchase agreement and the disconnect between the price formula, based on oil products, and the situation in the buyer's market, in which market price plays an important role. English law applied. A settlement was achieved by the parties.

LONG TERM ELECTRICITY CONTRACTS:

- We represented a **European energy company** in a EUR 700 million ICC arbitration against a financial institution arising out of a failed joint-venture project in Central Europe. Italian law applied. A favorable settlement was achieved.
- One of our partners acted for **TXU Europe Energy Trading Ltd.** in defense of claims for alleged breach of two long term "Virtual Power Station" agreements valued by Enron at £1.2 billion.
- We are defending **GE Energy** against the New York Power Authority in a suit claiming in excess of \$75 million in damages in the construction of an electrical generating plant in Queens, New York, that was widely praised as one of the best constructed and operated power plants in the U.S.
- One of our partners represented a **French contractor** in an arbitration relating to a power station in the Middle East.
- One of our partners represented a **power distribution company** in proceedings against a power generating company under a Bulk Supply Agreement relating to distribution rights in Central Africa.

NUCLEAR ENERGY:

- We represented **Entergy** in seeking Vermont regulatory approval of a first-of-its-kind transaction in which an already-shutdown nuclear plant would be sold by a utility operator to a decommissioning schedule. The regulatory proceeding involved numerous rounds of written testimony, discovery, depositions, a settlement with certain parties (including the key Vermont agencies), and finally an evidentiary hearing before the Vermont Public Utility Commission. The Commission issued its decision granting approval on December 6, 2018.
- In the U.S. Court of Appeals for the D.C. Circuit, we successfully opposed an emergency petition seeking shutdown of the Indian Point 2 nuclear power plant, which is owned and operated by our client **Entergy**. The petition was filed by Friends of the Earth and two other organizations and alleged that Indian Point 2 should be shut down pending further study of degraded bolts that had been detected in the reactor vessel and replaced. The petition was filed notwithstanding that the federal regulator, the Nuclear Regulatory Commission ("NRC"), had found Indian Point 2 could be operated safely.

The D.C. Circuit set an expedited briefing schedule over the course of a week, and then denied the petition.

- We represented **Entergy** in a case involving its nuclear power plant, Indian Point Energy Center, which supplies a fifth of southeastern New York's power. As a result of our successful appeal of an adverse decision, a major obstacle to Entergy obtaining a federal renewal license to operate the plant for another 20 years has been removed.
- We successfully represented **Entergy Corporation** before the Vermont Public Service Board, obtaining a Certificate of Public Good for the continued operation of the Vermont Yankee Nuclear Power Station through December 2014. The Public Service Board held that, on balance, continued operation of the VY Station through December 2014 will promote the general good of the state of Vermont. The victory preserves the VY Station's role as an integral part of the New England power grid for its remaining period of operation.
- Counsel to Russian uranium monopolist **Techsnabexport** in a dispute worth more than \$900 million against an American company in an arbitration concerning deliveries of nuclear materials with final award entirely in client's favor.

RENEWABLE ENERGIES:

- We represent **Miasole**, a photo voltaic solar company, in two separate patent suits.
- We represented **Luz Solar Partners** in a two-week arbitration and additional hearings relating to warranty claims by five solar power partnerships against letters of credit insured by Lloyds of London. Our client obtained an award that included \$600,000 in interest on withheld payments and \$1.4 million in attorneys' fees.
- We represented **Northrop Grumman** in a \$132 million lawsuit alleging fraud, negligent misrepresentation, and breach of contract arising out of the manufacture of solar arrays for satellites.
- We obtained summary judgment for **TRW** in a \$133 million negligence, negligent misrepresentation and fraud action brought by a European satellite manufacturer involving satellite manufacturing, solar arrays, solar energy, solar cells, solar array manufacturing, composite materials, rocket thrusters, optical glass, optical glass coatings, satellite telemetry data, and satellite communication.

ENERGY INFRASTRUCTURES (CONSTRUCTION TYPE DISPUTES):

- We represent a **North African NOC** in a major ICC arbitration in relation with the construction and exploitation of an oil and gas plant by an Italian contractor. The dispute arose out of additional costs allegedly incurred by the contractor during the execution of the EPC project. The dispute exceeds USD 500 million and relates to an

infrastructure project valued in excess of USD 1.7 billion. The seat of the arbitration is Paris. Local law applies.

- We represented a **North African National Oil Company (NOC)** in an ICC arbitration initiated against a French multinational company of the energy industry specialized in project management, engineering, and construction. The dispute pertains to delays in an Engineering Procurement and Construction (EPC) contract for the rehabilitation and adaptation of a refinery in North Africa. The seat of the arbitration is Geneva. Local law applies. A parallel procedure was filed also with the ICC by the French company. Consolidation was requested and obtained. A settlement was achieved. The amount in dispute exceeded USD 3.5 billion.
- One of our partners represented a **North African NOC** in ad hoc UNCITRAL arbitration proceedings against two Spanish global energy companies arising from the termination by the NOC of a contract for an integrated project which included the development of existing gas fields, the construction of a liquefaction gas plant and upstream facilities, and the commercialization of the liquefied gas. The arbitral tribunal held that the termination was valid, allowing the NOC to retain at no cost the works completed prior to the termination of the agreement, and dismissed the Respondents' GBP 3.1 billion counterclaim in its entirety.
- One of our partners represented a **North African NOC** against an International Oil Company (IOC) in a USD 1 billion UNCITRAL arbitration arising from a contract for the enhanced recovery of hydrocarbons. Algerian law applied. The seat of the arbitration was in Geneva. A favorable settlement was reached.
- We are representing **Moscow Oil Refinery** in its dispute with Fiber Technologies International Ltd. in an arbitration regarding construction of a refinery plant worth \$500 million.
- One of our partners represented a **Middle Eastern Government** in an arbitration against an international oil company arising from a catastrophic failure and explosion in a gas fractionation plant and tank farm.

INVESTMENT DISPUTES:

OIL & GAS

- We are representing **Barra Energia**, a Brazilian oil and gas company, in an arbitration commenced by Dommo Energia in relation to a notice issued by Barra Energia requiring Dommo Energia to withdraw from a consortium for the development of an oil field off the coast of Brazil for non-payment of cash calls. The arbitral tribunal has upheld the validity and effectiveness of Barra Energia's notice, and Barra Energia will now be pursuing damages claims against Dommo Energia.

- One of our partners represented the majority shareholders in former **Yukos Oil Company** as Claimants in a series of three arbitrations against the Russian Federation in relation to the expropriation of their investment in the company. The claims were brought under the Energy Charter Treaty, a multilateral convention governing trade and investment in the energy sector. The arbitrations were conducted in accordance with the UNCITRAL Arbitration Rules and were administered by the PCA in The Hague. These cases have attracted a lot of attention in the arbitration community due to the size of the claim, the identity of the parties and the political context surrounding the Yukos matter. In July 2014, the arbitral tribunal ordered the Russian Federation to pay damages in excess of USD 50 billion to Yukos majority shareholders. This is the largest arbitral award ever.
- We obtained three victories in Russia for a prominent Ukrainian businessman, **Dmitry Firtash**. The dispute was about control over EMFESZ, a leading Hungarian gas trader with annual turnover of over \$1 billion. We won a Russian arbitration for entitlement to trader's shares and also succeeded in two related Russian litigations, where the courts upheld the client's cornerstone legal argument and then refused to set aside the award.
- Counsel for the **Republic of Azerbaijan** in ICSID proceedings under the Energy Charter Treaty involving an alleged investment in Azpetrol, Azerbaijan's largest downstream petroleum company, and Azertrans, an oil transportation and transshipment company. Outright success when the Claimants agreed to a "drop hands" settlement following the State's application to dismiss the claims on grounds that, through acts of corruption, the Claimants had violated transnational public policy.
- Counsel to a **North American oil and gas company** in proceedings under the Germany-Venezuela BIT and Canada-Venezuela BIT concerning interference with its interests in a field in the Orinoco. Achieved a favorable lump-sum settlement for our client.
- Counsel to **GasTransBoliviano** in proceedings against the Republic of Bolivia concerning interference with the operation and taxation of a natural gas pipeline. Achieved a favorable settlement.
- Counsel for **Caratube International Oil Company LLP** in an ICSID case against the Republic of Kazakhstan arising under the U.S.-Kazakhstan BIT involving expropriation of a license to develop an oil field in Aktobe oblast.
- Counsel to **Deutsche Bank AG** in bringing proceedings under the Germany-Sri Lanka BIT concerning the Sri Lankan Central Bank's interference with the terms and performance of an agreement with the Ceylon Petroleum Corporation for hedging against high oil prices.
- A member of our arbitration team was counsel for a **major European energy company** in an *ad hoc* arbitration in Paris against an African state concerning the treatment of decommissioning costs for existing fields (inshore or offshore), and more

specifically whether these costs constituted petroleum costs. A full victory was obtained in this case.

- A member of our arbitration team was counsel for the **People's Democratic Republic of Algeria** in an ICSID arbitration initiated by Maersk Olie, Algeriet A/S. The arbitration was brought under the Algeria-Denmark bilateral investment treaty in relation to windfall profit tax. Several billion U.S. dollars were claimed. A settlement was achieved.
- A member of our arbitration team was counsel for **Mercuria Energy Group Ltd.** in an arbitration against the Republic of Poland. The dispute arose out of the Polish authorities' conduct in relation to an alleged failure to keep and to establish mandatory reserves of refined products. The claims were brought under the Energy Charter Treaty and the arbitration was conducted under the auspices of the Arbitration Institute of the Stockholm Chamber of Commerce.
- One of our partners acted as an arbitrator in proceedings brought against a host state and recently privatised oil company relating to exploration and development rights claimed by Svenska Petroleum in Lithuania. The award (under Lithuanian law) was unsuccessfully challenged by the Government of Lithuania on grounds of jurisdiction and sovereign immunity in the English Commercial Court and Court of Appeal.
- One of our partners advised two **international oil companies** on arbitral claims under investment agreements against a central Asian state arising from the imposition of environmental taxes.
- We represent **Repsol** in two litigations before the courts of the United States involving Argentina's expropriation of Repsol's investment in YPF.

ELECTRICITY & POWER

- We represent Italian investors **Hydro S.r.l. and others** as claimants in an ICSID arbitration against the Republic of Albania under the Italy-Albania BIT (ICSID Case No. ARB/15/28). The dispute is in relation to an electricity generation venture. It pertains to actions taken by Albania including expropriation measures and measures amounting to breach of fair and equitable treatment. In this arbitration, the Tribunal issued a historical decision on provisional measures ordering Albania to suspend its criminal proceedings against the claimants and to withdraw the extradition proceedings that it brought in the United Kingdom. The amount in dispute is in excess of USD 350 million.
- We represent **several Italian investors**, including the most important waste treatment consortium in Italy (M. Angelo Novelli, Costruzioni S.r.l.) and their Albanian operation company (Albaniabeg Ambient Sh.p.k.), as claimants in an ICSID arbitration against the Republic of Albania (ICSID Case No. ARB/14/26). The dispute arose out of Albania's failure to execute and perform a concession agreement entered into with the Albanian operation company for the construction of an integrated center for the treatment of

waste and production of electrical energy. The claim is brought under the Energy Charter Treaty and its amount exceeds USD 400 million.

- Counsel for **GE** and **Bechtel** in a \$6 billion power plant dispute against India in UNCITRAL, ICC and U.S. court proceedings.
- Counsel for the **Cambodian Government** in a \$300 million ICSID arbitration against a U.S. LLC, relating to a failed Independent Power Project in Cambodia.
- Counsel for **AES Corporation Tau Power BV** in a pending ICSID case against the Republic of Kazakhstan, involving the Energy Charter Treaty and the US-Kazakhstan BIT.
- Counsel for **AES Summit Generation Ltd and AES-Tisza Eromu Kft.** against the Republic of Hungary in an Energy Charter Treaty case under ICSID.
- Counsel for the **Republic of Slovenia** in a pending ICSID dispute involving a nuclear power plant operation. Successfully achieved dismissal of the Energy Charter Treaty claims in a preliminary ruling.
- Counsel for the **CDC Group** against the Republic of Seychelles in ICSID proceedings involving an energy contract. Achieved success on the merits following a cost-effective and strategic application for a preliminary determination and defeated respondents' subsequent application for annulment.
- Counsel for an **El Salvador state owned power company** in an UNCITRAL *ad hoc* arbitration against a foreign investor.
- Counsel for the **Republic of Panama** in its first ever ICSID dispute, which was filed by three U.S. investors and involved a thermal power plant operation. Successfully achieved dismissal of all claims after a full hearing on the merits and obtained an award taxing costs against the Claimants and in favor Panama.
- A member of our arbitration team was counsel for **Electricité de France (EDF)** as claimant in an UNCITRAL arbitration against the Republic of Hungary. The dispute arises from the termination of the Power Purchase Agreements put in place during the privatization of the electricity sector. The claims are brought under the Energy Charter Treaty.
- Counsel to a **major U.S. electric utility company** in assessment of a possible international arbitration claim against the Republic of Bolivia.

REGULATORY AND ENVIRONMENT

- We represented **Entergy Mississippi and affiliates** in defending a suit by the Mississippi Attorney General alleging that these Defendants intentionally purchased electricity from their own allegedly expensive power plants rather than from allegedly cheaper third-party sources, allegedly harming Entergy Mississippi's customers by forcing them to pay higher electricity rates. We assembled a factual defense that Entergy Mississippi and its affiliates needed to use their power plants to provide flexible electricity to match fluctuating demand for electricity, and that the third-party plants did not offer or provide the requisite flexibility. But we won summary judgment on the legal ground that this case is effectively a challenge to decisions made under standards set forth in the Entergy System Agreement, which is a federal tariff approved by the Federal Energy Regulatory Commission, and the violation of which is within the exclusive jurisdiction of that agency rather than any federal or state court.
- We obtained a complete appellate victory for **Southern California Gas Co. ("SoCalGas")** in one of the year's most-watched business cases in the California Supreme Court. In a unanimous decision, the court reaffirmed that California follows the economic loss rule, which holds that plaintiffs may not recover in negligence for purely economic losses caused by harm to third parties. The decision required dismissal of actions against SoCalGas for indirect economic harms to local businesses allegedly suffered when local residents relocated temporarily after a gas leak. The decision clarifies California tort law and eliminates the potential threat of billions of dollars in liability against California businesses for purely economic harm in mass disaster cases.
- We represented **Trafigura**, one of the world's largest commodity trading companies, in a major class action lawsuit alleging that the Puerto Rico Electric Power Authority (PREPA) and some of the world's largest oil suppliers perpetuated a massive fuel oil fraud. The lawsuit, which was filed in U.S. District Court in Puerto Rico, alleges that officials at PREPA, Puerto Rico's government-owned power utility, accepted bribes and kickbacks from fuel oil suppliers in exchange for PREPA's agreement to accept and pay for millions of barrels of fuel oil that did not meet contract specifications. The complaint further alleges that the defendants conspired with a number of laboratories in order to falsify test results and fraudulently certify the fuel oil as compliant. Plaintiffs are seeking billions in compensatory and punitive damages. We obtained a full dismissal at the pleading stage, saving our client from costly litigation and bringing its liability to zero.
- We obtained a significant victory in the Ninth Circuit for **Shell Offshore Inc. and Shell Gulf of Mexico Inc.** in a decision denying petitions for review challenging the Bureau of Ocean Energy Management's approval of Shell Offshore Inc.'s Revised Camden Bay Exploration Plan under the Outer Continental Shelf Lands Act and holding that the agency was entitled to significant deference when interpreting the Act, interpreting its own regulations, and making certain technical and scientific assessments. (This was our second win for Shell on such a petition; we obtained a similar win as to an earlier exploration plan in 2010. The Court also issued an unpublished memorandum opinion

denying petitions for review of the agency's approval of Shell Gulf of Mexico Inc.'s Revised Chukchi Sea Exploration Plan.)

- We represented **Shell Oil** in an antitrust case brought by California gas station dealers alleging price discrimination in setting wholesale price zones (“zone abuse”). After a month-long trial, and following plaintiffs’ rebuttal case, Shell renewed various dispositive motions, including motions for Judgment as a Matter of Law, and to strike expert testimony. The court granted both motions, dismissing the case in its entirety.
- We represented a **large energy trading company** in a variety of litigation arising from the California energy crisis. We obtained an injunction preventing the California Power Exchange from allocating losses to the client based on the defaults of other energy companies. We also obtained an emergency stay of an injunction from the Ninth Circuit allowing the client to exercise its contractual right to terminate the energy contract.
- We represented **Enron** in-house counsel in congressional hearings and regulatory investigations conducted by the S.E.C., the Commodities Futures Trading Commission, and various state and federal law enforcement authorities over the alleged manipulation of the electricity markets and power shortages in California.
- One of our partners represented an **international oil company** in an arbitration brought by another international oil company to enforce trading restrictions imposed under an agreement to sell a lubricants business in Greece.
- One of our partners represented the **Ninian and Heather Field Groups** (comprising ten oil companies) and **Elf Exploration PLC** in relation to a dispute with the Alwyn North and South Field Groups concerning the latter’s entitlement to transport crude oil from the Alwyn South Field without payment of tariff.
- One of our partners acted for **Shell UK** in proceedings before the Special Commissioners relating to the application of Petroleum Revenue Tax to gas sold under the extended Brent Principal Agreement.
- In a case the *New York Times* called “the most ambitious environmental lawsuit ever,” we helped secure a complete dismissal with prejudice. The headline-making complaint named our clients **Koch Industries, Inc.** and **Koch Exploration Company, LLC**, and nearly a hundred other oil and gas companies, and claimed that oil and gas activities destroyed Louisiana’s coastline. The Board alleged that, as a result, it faced increasing storm surge risk and flood protection costs, and sought damages from the defendants to pay for the restoration of the coastline, an effort it claimed would cost approximately \$50 billion. The case was the subject of extensive national and local press coverage as it touched on national issues like the Keystone Pipeline debate and the federal government’s role in encouraging oil and gas exploration, and hot button local issues such as wetland loss and hurricane protection.

- Represented an **international consortium** in a number of court disputes with Russian environmental authorities regarding a major project worth several billions of U.S. dollars.
- Advised a subsidiary of a **major international energy sector company** in a complex matter related to claims by environmental protection authorities.
- Represented a Russian subsidiary of a **leading international food producer** in proceedings against Russian authorities seeking to close the newly built client's factory on the basis of alleged environmental violations.
- We are representing **AEP Generating Company ("AEPG")** and **Indiana Michigan Power Company ("I&M")** in a \$1.4 billion breach of contract and indemnification case brought by a series of trusts on behalf of corporate investors. The case, *Wilmington Trust Co. et al. v. AEP Generating Co. et al.*, (filed July 26, 2013 in the S.D.N.Y.), concerns the operation of a coal-fired power plant located in Rockport, Indiana, which was sold to plaintiffs in 1989 in a sales/leaseback transaction. After successfully moving to transfer the case from the Southern District of New York to Ohio, we obtained dismissal of the majority of plaintiffs' claims. Plaintiffs subsequently withdrew their remaining claims with prejudice and appealed to the Sixth Circuit. On appeal, the Sixth Circuit affirmed in part and reversed in part the district court's dismissal, and the case was remanded for further proceedings..
- We represented **Occidental Petroleum** in a class action brought by an indigenous Peruvian tribe for environmental contamination in which damages were alleged to be in excess of \$30 million.
- We represented **Occidental Petroleum** in a mass environmental tort action relating to a train derailment that allegedly resulted in the release of toxic chemicals to the air and groundwater.
- We represented **San Diego Gas & Electric Company** and **Sempra Energy** in two putative class actions arising from the wildfires that burned much of San Diego County in October 2007. We defeated certification of both classes, each of which sought to include as many as 500,000 San Diego residents and to claim potentially billions of dollars in damages, and won unanimous affirmance of both denials of class certification before the California Court of Appeal.

OTHER ENERGY SECTOR DISPUTES

- We were lead counsel for **Berry Petroleum** in successfully opposing its reserve-based lenders' claims for default interest accruing during the pendency of its chapter 11 case.
- In a case *The New York Times* called "the most important business decision" of the October 2012 Term, we won a landmark 9-0 victory for **Shell Oil** in the U.S. Supreme Court in *Kiobel v. Royal Dutch Petroleum*, which held that the Alien Tort Statute (ATS), enacted by the First Congress in 1789, does not provide a cause of action in U.S. courts

for alleged violations of international human rights law that take place in foreign countries. Applying the presumption against the extraterritorial application of U.S. law, the Court upheld the dismissal of a suit by Nigerian plaintiffs against Dutch and English companies for alleged conduct in Nigeria. The decision greatly curtails the availability of the ATS as a vehicle to sue corporations in U.S. courts for supposedly aiding and abetting foreign governments' human rights violations.

- We represented **Shell** in a patent infringement appeal involving benzene purification, and won a unanimous affirmance from the Federal Circuit that Shell did not infringe the asserted patent. In a precedential opinion, the Federal Circuit adopted our claim construction and non-infringement arguments in full, holding that the patent required a boiling-point purification process and that Shell's solubility-based purification process did not infringe as a matter of law.
- **Pennzoil-Quaker State** and its subsidiary, **Medo Industries**, turned to us when petroleum giants, Valvoline and Ashland, and the inventors of the two patents at issue sued for patent infringement for after-market car products. At the hearing on cross-motions for summary judgment, we explained to the court why, in light of the claim construction and file histories, the accused products did not infringe. The court adopted our argument and granted summary judgment of non-infringement to Pennzoil-Quaker State.
- We represented **Allegheny Energy** in the Second Circuit in a case arising from Allegheny's purchase (from Merrill Lynch) of an energy trading business for \$490 million in cash, stock in a newly formed energy trading company, and a \$115 million repurchase option on the stock. The district court granted Merrill's motion for summary judgment on its contract claim, dismissed Allegheny's counterclaims after a bench trial, and awarded Merrill over \$158 million in damages. Taking over the case on appeal, we persuaded the Second Circuit to overturn the District Court's key rulings in their entirety. The Second Circuit vacated the \$158 million verdict for Merrill and reinstated Allegheny's counterclaims, which were worth over \$300 million.
- One of our partners represented **Amoco (UK) Exploration Co and Ors v. Enron Corp**: obtaining an anti-suit injunction restraining parallel proceedings in Texas.
- We successfully defended a motion for civil contempt sanctions brought against our client, **Offshore Exploration and Production, LLC** in the SDNY. Eight months after the district court confirmed an arbitral award in excess of \$75 million, Petitioners demanded payment and moved for escalating sanctions of \$50,000 and then \$100,000 per day. The Second Circuit has never defined a "money judgment" or held that money judgments are unenforceable by contempt. And a number of SDNY cases have, in fact, imposed sanctions for nonpayment of arbitral awards. But, after nearly one year and three oral arguments, the district court adopted our position that the judgment was a money judgment rather than an injunction or other form of equitable relief and was, therefore, not enforceable by contempt, but rather by writ of execution.