

# Kluwer Arbitration Blog

## LIDW 2022: London as an International Disputes Hub for East Asia Disputes – the Challenges and Opportunities of East Asia's Evolving Dispute Resolution Ecosystem

Erdem Evranos (Queen Mary University of London) · Tuesday, May 10th, 2022

London International Disputes Week 2022 (LIDW) 2022 kicked off yesterday with outstanding sessions and panellists in a hybrid format all around the city, centred around this year's theme: **Dispute Resolution: Global, Sustainable, Ethical?**. Each year, the LIDW concentrates on several hot topics and controversial issues in international dispute resolution from all over the world. Yesterday's conference addressed key developments for the arbitration market in East Asia, covering the legal and practical consequences of Covid-19 policies to new trends of disputes and the parties' favourite seats for arbitration.

One of the first sessions of LIDW 2022, "[London as an international disputes hub for East Asia disputes: the challenges and opportunities of East Asia's evolving dispute resolution ecosystem](#)" took place at Herbert Smith Freehills' London office and focused on a range of topics including navigating Belt and Road disputes; the introduction of adjudication in Hong Kong; and the potential cost of meeting zero-carbon commitments in Asia – with a specific focus on London's role as an arbitral seat and English law as governing law.

The organisers of the member-hosted event were Herbert Smith Freehills, Morrison Foerster, Penningtons Manches Cooper LLP and Twenty Essex Chambers. The panel was composed of [Mathias Cheung](#) (Barrister, Atkin Chambers), [Simon C. Milnes](#) QC (Barrister, Twenty Essex); [Mark Sachs](#) (Partner, Penningtons Manches Cooper LLP); [Sarah Thomas](#) (Partner, Morrison Foerster) and [Helen Tang](#) (Partner, Herbert Smith Freehills).

The panel was chaired by Mathias Cheung, who raised questions on emerging trends in the arbitration market, current dispute types and client demands within the dispute resolution realm in the East Asia market – mainly in Hong Kong and Mainland China. Helen Tang stressed that the vast majority of disputes in Mainland China relate to joint venture and trade matters. She observed that a specific trend in the East Asian arbitration market was the growing number of arbitrations arising from bail-out projects in mega construction projects. She argued that the effects of the Chinese Government's Covid-19 policies would cause several disputes in the region as they affect the global supply chain. In line with these statements, a panel member highlighted that disputes stemming from private equity and merger & acquisitions transactions are highly trendy in Mainland China, as are licencing disputes where arbitration is preferred as a dispute resolution method.

Asked about the most preferred dispute resolution methods for disputes in the East Asia market, Sarah Thomas stressed that Chinese parties often prefer multi-tiered dispute resolution while their counterparties would favour arbitration outright. She also added that despite the controversial jurisdictional problems in Hong Kong on set-aside and enforcement proceedings, arbitration remains the most preferred mechanism as a dispute resolution method in the East Asia ecosystem.

Helen Tang analysed the pros and cons of Hong Kong, Singapore and Mainland China as arbitration seats. Ms. Tang emphasized that Technology, Media, and Telecommunication companies strongly prefer Hong Kong as a seat, whereas Mainland China is becoming a more popular seat for International Investment Banks. Ms. Tang concluded her remarks by stating that Chinese parties insist on selecting mainland China as a seat and China International Economic and Trade Arbitration Commission (CIETAC) as an institution.

Sarah Thomas argued that Hong Kong remains the most preferred seat for “sensitive contracts”, while closely tied as preferred seat with Singapore – according to the [Queen Mary University Survey](#). The tendency to see Singapore as a top spot seems to grow. Given the extremely strict pandemic restrictions, she shared her practical concerns about Hong Kong. She expressed concerns that entire court proceedings, including in-person hearings, are negatively affected. The panellists agreed that Hong Kong remained the preferred seat, given its arbitration friendly ecosystem and ease in granting enforceable interim measures in Mainland China – as Chinese courts are very inclined to enforce those provisional measures.

On the enforceability of arbitral awards, the panellists discussed China’s enforcement system and problematic supervisory authority’s decisions, with focus on anti-suit injunctions. For example, Simon C. Milnes QC advised that granting an antisuit injunction from UK Courts requires initiating the proceedings before them as soon as possible. Otherwise, the “delay” for application itself would probably be a countervailing issue in the UK courts’ eyes. After highlighting English law’s importance as governing law and London’s dominance as a seat, Mr. Milnes argued that establishing an institutional body for commodities arbitration in London would expand London’s role in international arbitration and reinforce its position as a powerful seat.

## Conclusion

The panellists concluded their valuable and stimulating remarks by arguing that English law as governing law and London as a seat of arbitration are “safe ports” in resolving East Asia disputes. London retains vital assets, with its ad-hoc and institutional arbitration at the London Court of International Arbitration (LCIA) and sector-specific specialised counsel, judges and the entire legal community.

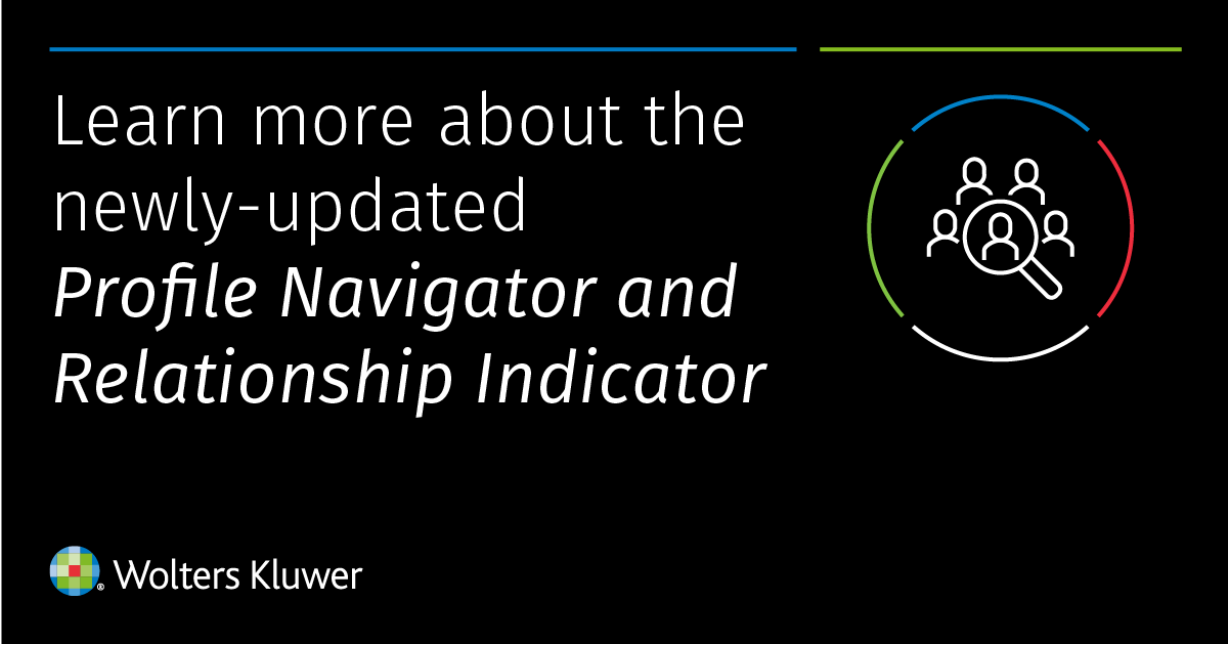
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