

International Disputes/Rights & Obligations of Sovereign States & Autonomous Regions



International disputes span a range of subjects, including state-to-state disputes over boundaries or other claims, disputes between states and private investors, claims of states against international organizations, and individuals' claims against states or international organizations.

Such disputes may be litigated in international tribunals or domestic courts, or they may remain the subject of diplomatic negotiations. **In fact, most international disputes are not resolved by adjudication but through negotiation.** In every case, however, international law is an essential element of resolution of international disputes.

Our Lawyers and experts have comprehensive experience representing and advising state and sub-state entity governments, as well as corporate investors and individuals involved in negotiations, agreements and disputes with states. This experience includes boundary disputes; state to state claims proceedings before international tribunals; negotiation of complex inter-state dispute resolution agreements; advice to state clients on questions before the United Nations Security Council; advice on state to state relations and on relations with international organizations. We have the knowledge and expertise to guide our clients through the complexities of the relevant international law, including the policies and processes of international organizations and diplomatic transactions.

International Arbitration

Picard, Kentz and Rowe lawyers have extensive experience advising and representing sovereign state, industry and financial clients regarding disputes arising under international contracts, agreements and treaties. We specialize in the public and private international law, policy and procedures governing international dispute prevention and resolution. We have represented clients in disputes subject to resolution processes administered by the International Chamber of Commerce, the Permanent Court of Arbitration, the International Center for the Settlement of Investment Disputes, and ad hoc tribunals. We also specialize in international disputes brought in the US federal courts. Recent such matters include:

- International Claims under the International Law of State Responsibility
- Investment Disputes (under contracts and treaties)
- Land and Maritime Boundary Disputes
- State-to-State Disputes

PKR has extensive experience in negotiating the terms of state-to-state arbitrations and representing sovereign states in such arbitrations.

- After helping the Federal Democratic Republic of Ethiopia negotiate the terms of a peace agreement with Eritrea to end the 1998-2000 conflict between the two countries, lawyers at PKR have represented Ethiopia in an arbitration before a tribunal set up by the peace agreement at the Permanent Court of Arbitration in The Hague to resolve claims for loss, damage, or injury arising from the conflict;
- Negotiation of arbitration agreements and representation of the Government of Yemen in land and maritime boundary arbitrations with Eritrea;
- Representing a Middle Eastern government in preparing for arbitration of a boundary dispute with a neighboring state. The dispute was resolved through settlement prior to arbitration; and
- Advising States in Asia, Africa, Europe and the Former Soviet Union regarding use of arbitration to resolve disputes with other states.

Land and Maritime Boundary Disputes

Representation of Sovereigns in Boundary Disputes

Lawyers at PKR have advised and represented governments on boundary disputes in some of the most important and challenging cases of the last four decades. The firm has an experienced team of lawyers and support staff to assist governments as they address such disputes, including experienced practitioners of international law who have represented governments around the world and understand the unique sets of issues governments face.

Before entering private practice, a number of our lawyers acted as government officials for their own national governments thus PKR brings an important perspective in providing boundary advice. Our lawyers have helped governments organize their national efforts to resolve boundary disputes with their neighbors and have represented them before International tribunals. We have been successful in bringing boundary disputes to satisfactory settlement by negotiation.

Our experience includes advising senior government officials regarding the strength of their claims as a matter of international law thus helping to determine negotiating strategies including the important decision as to whether pursuing the resolution of a dispute through the International Court of Justice or other arbitral tribunals is in the best interest of the government. Our lawyers have worked closely with lawyers and experts from the represented governments to collect documentary, geographical, physical and testimonial evidence throughout the world in various languages and to analyze and prepare such evidence for effective use in negotiations and arbitral proceedings. We also have considerable experience in negotiating and drafting the terms of treaties and arbitration agreements and in dealing with petitions for interim measures of protection. In addition, we are experienced with implementation and other post-award issues including demarcation and enforcement issues.

Diplomacy and Negotiation Experience

Boundary disputes are not purely legal matters; they involve complex diplomatic and political elements that require careful attention. Our lawyers have extensive relationships and experience working with the United States, European and other interested governments, the United Nations Security Council and Secretariat, regional organizations and other elements of the international community with regard to resolving disputes involving sovereigns. Well-executed diplomatic and political activities often play an important role in a client's overall strategy, creating leverage to resolve a dispute favorably.

Having legal counsel experienced in negotiating and crafting settlements, who can bring to bear both legal and political leverage to strengthen the government's position, can prove critical. We have represented and advised

governments in some of the most complex and sensitive agreements between foreign sovereigns, such as settlement of a long standing boundary dispute, the conclusion of a treaty to end a war between two countries and a multilateral treaty over oil and gas transit in a volatile geopolitical battle.

Key Representations

Our representations that may be of particular interest include:

- Representation of Yemen against Saudi Arabia in settlement by negotiation of land boundary, maritime boundary and island sovereignty disputes;
- Representation of the Government of Ethiopia in establishing two ad hoc tribunals at the Permanent Court of Arbitration in The Hague to resolve a boundary dispute and war related claims between Ethiopia and Eritrea and presenting the case before the tribunal; this representation has entailed:
 - Defending Ethiopia before the tribunal and with the United States and other Security Council members regarding Ethiopia's objection to the tribunal's method of implementation of the delimitation decision and transfer of sovereignty.
 - Succeeding in obtaining judgment against Eritrea for starting the war in violation of the UN Charter's prohibition on the use of force; and
 - Representing Ethiopia regarding its multibillion dollar claims for damages resulting from the commission's findings of liability against Eritrea for its violations of the laws of war.
- Representation of the Government of Yemen regarding military hostilities and occupation of the Hanish-Zuqar Islands in the Red Sea. This representation has entailed:
 - Advising Yemen in the negotiation of an arbitration agreement to submit the claims to an ad hoc arbitration at the Permanent Court of Arbitration in The Hague;
 - Representing Yemen before the arbitral tribunal in The Hague, resulting in sovereignty over the most important islands being granted to Yemen; and
 - Representing Yemen in issues regarding non-compliance by Eritrea of implementation of the award.
- Representation of the Government of the Republika Srpska on implementation of boundary arbitration award pursuant to Dayton Peace Accords.

Lead Counsel

Our experience in managing highly qualified teams of legal and technical practitioners allows us to provide a comprehensive and customized set of services as lead counsel in connection with any boundary dispute. We have extensive experience as lead counsel for governments in both the negotiation and arbitration of boundary disputes. This experience includes assembling distinguished legal and technical practitioners from throughout the globe to work as part of a legal team tailored to the government's particular dispute and to advise on selection of party-appointed arbitrators in the case of arbitrations.

We have also developed an extensive network of prominent technical practitioners experienced in boundary disputes, including cartographers, satellite imagery specialists, hydrographers, economic analysts, historians and archivists. Through the careful management of such practitioners, we have developed extensive experience handling complicated evidentiary issues essential to the success of our clients, such as the following: classifying various maritime formations; working with cartographers to develop and present evidence cartographically; conducting geographical surveys; investigating and retrieving archival material, ancient maps, diplomatic and other relevant contemporaneous documents; collecting documentary and testimonial evidence in the field; and preparing and handling fact and expert witnesses.

Representation of Sovereign States, Sub-State Governments, and Autonomous Regions

Our lawyers have extensive experience in advising government clients. They have represented governments in Africa, Asia, Europe, the Middle East and the Former Soviet Union in connection with legal, diplomatic, political, trade and investment matters, including:

- Negotiation of treaties and other international agreements;
- Post-conflict negotiations, diplomatic initiatives and confidence building measures;
- Self-determination of Peoples;
- Bilateral relations with the United States;
- Complex international investment projects;
- Disputes between governments of sovereign states over claims concerning boundaries, human rights, the laws of war and use of force;
- Government relations and public policy advocacy;
- International Criminal tribunals;
- International investment disputes with private companies;
- Litigation in U.S. courts;
- Reform and development, including legal and regulatory reform;
- Trade agreements and disputes.

Firm partners have served in the U.S. State and Treasury Departments and lived and worked in Africa, Asia, Europe and the Former Soviet Union in connection with assignments relevant to the matters listed above.

US Court Litigation Involving International Law

Legal disputes with international dimensions are often resolved in US courts. Our lawyers have represented both US and foreign corporations as well as governments of sovereign states in a broad range of US court litigation where international law is central. This requires expertise in judicial procedures and substantive law applicable to relations among governments and between governments and private companies.

We have extensive experience with cases brought under the US Foreign Sovereign Immunities Act and the Alien Tort Statute. We are accustomed to working with complex issues of public and private international law, choice of law and choice of court where the dispute includes parties and activities in multiple jurisdictions, including those outside the US.

With conduct outside the US increasingly subjected to scrutiny and challenge in US courts, our experience with these types of cases and our wide experience as counsel to governments, provides our lawyers the depth of experience needed to advise and represent clients before and after litigation as well as in judicial and arbitral proceedings. We take particular satisfaction in our success in preventing and forestalling litigation. We attribute such success in part to our very strong record of success in litigating many matters to favorable verdicts.

Sovereign Immunity

PKR has a major practice in disputes involving sovereign immunity claims by states, state agencies, state-owned companies, and state officials. Our lawyers have wide-ranging experience and expertise to assist clients in all aspects of litigation and other actions against states and state entities.

Sovereign Immunity Issues in U.S. Courts

Our team has represented numerous governments and governmental entities in U.S. litigation involving international disputes that turn on issues of sovereign immunity, forum non conveniens, the Act of State Doctrine, the Political Question Doctrine, U.S. anti-terrorism legislation and related issues of venue and service of process. We have extensive experience with the relevant law and the judicial practices pertaining to the doctrines in question, enabling us to represent clients in such matters effectively and efficiently.

Recently, PKR lawyers were successful in obtaining an important dismissal of a U.S. lawsuit against its clients, the Republic of Cameroon and its state-owned corporation, Crédit Foncier du Cameroun, in a commercial action against them under the Foreign Sovereign Immunities Act ("FSIA"). The lawsuit was brought by a U.S. corporation and a Cameroonian corporation demanding US\$500 million in damages for alleged breach of contract, misrepresentation, intentional interference with contract rights, misappropriation of trade secrets, and other alleged wrongs. The U.S. court dismissed the action on the ground of forum non conveniens, ruling that the courts of Cameroon represent an adequate alternative forum and that both the public and private interests favor dismissal of the U.S. proceedings in favor of Cameroon.

Members of our team have been successful in the defense of other commercial actions brought under the FSIA against foreign governments and their agencies or instrumentalities. PKR lawyers secured the dismissal of a lawsuit brought against the Federal Democratic Republic of Ethiopia and the Commercial Bank of Ethiopia alleging the expropriation of bank accounts and other property of Eritreans who were allegedly expelled from Ethiopia during the 1998-2000 hostilities between the two countries. The lawsuit was brought as a class action on behalf of up to 70,000 Eritreans seeking substantial monetary damages. The action involved issues of expropriation under international law, the Act of State Doctrine, the exhaustion of domestic remedies, and the effect of Eritrea's espousal of plaintiffs' claims before an international claims tribunal.

Other experience includes:

- Successful defense of PT Pertamina (Persero), the state oil company of Indonesia, against claims brought under the FSIA by Oceanic Exploration Company against Pertamina and others.
- Advising a state-owned commercial bank on potential exposure of its assets under new FSIA attachment and execution legislation.
- Representation of an African government against claims that it provided material support for terrorist acts.

Public and Private International Law

Picard, Kentz and Rowe lawyers specialize in public and private international law. We advise sovereign state, industry and financial clients on their rights and obligations under bilateral and multilateral treaties and general international law.

We have extensive experience with litigation and negotiations involving the United Nations Charter, bilateral and multilateral trade and investment treaties, international human rights and humanitarian law, boundary and maritime law and claims arising under the international law of state responsibility. This includes litigation and arbitration of disputes before US courts and international tribunals.

We are experienced in dispute resolution through diplomatic and political channels, with firm members who have served in the US State and Treasury Departments on Capitol Hill and in Africa, Asia, Europe and the Former Soviet Union. Our clients are located throughout the world.

Such matters include:

- Representation of Government of an African state in negotiating a comprehensive peace treaty to end a war. This included establishing an independent international tribunal in The Hague to consider claims of loss, damage and injury resulting from the armed conflict;
- Representation of the Government of the Republic of Srpska on implementation of the Dayton Peace Accords and advising on international law and policy matters;
- Representation of the Government of an African state in disputes involving claims arising from international terrorist activities;
- Representation of the Government of Ethiopia in establishing an ad hoc tribunal at the Permanent Court of Arbitration in the Hague to resolve a boundary dispute with Eritrea;
- Representation of the Government of Yemen regarding military hostilities and occupation of the Hanish-Zuqar islands of the Red Sea;
- Representation of the Government of Pakistan regarding U.S.-Pakistan trade and economic policy;
- Representation of the Government of the Republic of Cameroon and its state owned corporation, Credit Foncier du Cameroun in a commercial action against them in U.S. court under the Foreign Sovereign Immunities Act ("FSIA"); and
- Advice regarding U.S. court jurisdiction over torts committed against non-U.S. citizens;
- Representation of government officials of an African sovereign state in U.S. Court in a libel and slander action.