

2019 – Sustainable Industrial Processing Summit
McNeil International Symposium on Laws and their Applications for Sustainable Development

Conducting International Business: a Litigation Perspective

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Have you anticipated for **disputes** when structuring your business internationally?

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THE IMPORTANCE OF JURISDICTION

Overview

- Legal and Regulatory Framework
- Cross-border Recognition and Enforcement
- Access to Immediate Relief
- Time and Costs
- Evidential and other matters

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...THE IMPORTANCE OF JURISDICTION

Legal and Regulatory Framework

- Legal system
 - Common law / Civil law
- Company law and corporate structures
 - Appropriate structure / Shareholders' rights / Bureaucracy / Transparency
- Investment treaties
 - BITs
- Funds Framework
- Intellectual Property
 - Form / Registration / Extent of Protection
- Data Protection

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...THE IMPORTANCE OF JURISDICTION

Cross-border Recognition and Enforcement

- Ability to effectively enforce a judgment or arbitral award – otherwise, just a paper judgment.
- Key questions:
 - Where are the assets?
 - How are the assets held?
 - What type of assets are they?
 - Who is your counter-party?
- Available legal framework for cross-border recognition and enforcement
 - EU Regulation 1215/12
 - Multilateral / Bilateral Treaties
 - New York Arbitration Convention

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...THE IMPORTANCE OF JURISDICTION

Access to Immediate Relief

- Availability
- Accessibility
- Extra-territorial scope
- Extra-territorial enforcement

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...THE IMPORTANCE OF JURISDICTION

Time and Costs

- Pace / Adjudication time
 - Main proceedings
 - If there is an urgent matter, how quickly can you obtain immediate relief?
- Costs / Fees
 - Court fees
 - Legal fees
 - Cost recovery

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...THE IMPORTANCE OF JURISDICTION

Evidential and Other Matters

- Scope of discovery
- Language / Translations
- Legal assistance
 - Bilateral treaties
 - *Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters* (the Hague Evidence Convention)
- Confidentiality
- Impartiality / Corruption
- Specialised Courts

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Thank you

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