

THAC INTERNATIONAL ADR Webinar Series 2021

Managing Disputes in an Uncertain World:
Challenges and Opportunities

○ 29 July - 7 October 2021 ○

THAC INTERNATIONAL ADR Webinar Series 2021

Managing Disputes in an Uncertain World: Challenges and Opportunities

The world is entering in the second year of the COVID-19 pandemic, various irreversible modifications have been made in our lives.

The latest analysis from the WHO stated, globally, the cumulative numbers to over 102.1 million reported cases and over 2.2 million deaths globally since the start of the pandemic. At the beginning of 2020, concepts such as “travel bans”, “quarantine”, “social distancing”, “lock-down” and mandatory mask usage” were undefined to us. Today, they are a significant part of our everyday lives as COVID-19 continues to impact on every aspect of our lives. Since recently, various vaccinations have been developed and beginning to be adopted.

The field of Alternative Dispute Resolution (ADR) was by no exception been affected by the pandemic and changes have occurred. ADR proceedings are moving online and protocols for virtual hearings have been drafted and proposed, and new virtual platforms have been launched. Moreover, all social events, due to social distancing, have been converted to webinars. These changes can be summarized as “New Normal” in the ADR field.

The THAC International ADR Webinar Series 2021 aims to discuss these changes occurred since the pandemic started, new developments introduced, the rise of consequences of the “new normal” and the future opportunities in the field of ADR.

Co-organizer



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Supporting Organization



29 July - 7 October 2021



Session	Date	Co-organizer	Topic
-	29 July 2021	Inaugural Lecture	The Impact of Anti-Covid Measures under Transnational Substantive Law Rules
1	4 Aug 2021	ADR ODR	ADR goes online! Changes and Innovations demanded by the new global situation.
2	11 Aug 2021	HKIAC	Face-off: online hearing v. in-person hearing
3	17 Aug 2021	CIETAC HK	Asia-Pacific region: COVID-19 could be an opportunity for local talented or experience arbitration practitioners to emerge and find better exposure?
4	19 Aug 2021	CAA	Online Dispute Resolution (ODR): amending existing rules or brand-new platform, what are the options available?
5	24 Aug 2021	AIAC	International arbitration and states' response to COVID-19
6	26 Aug 2021	BAIAC	Getting appointed as an arbitrator – challenges and opportunities
7	2 Sep 2021	PDRCI	Hero and sidekicks: institutions, witnesses, and support staff in international arbitration
8	7 Sep 2021	CIArb	The interplay between Insolvency proceedings an International Arbitration?
9	9 Sep 2021	KCAB Int. and JCAA	Growing Regional Arbitration Institutions through Cooperation: A Discussion on what Governments, Institutions and Legal Practitioners Can Do to Help move the Region Forward
10	14 Sep 2021	BIAC	Confidentiality: does arbitration need a protocol to regulate the “new normal” ?
11	16 Sep 2021	ADR ODR	Mediation: Two years after the Singapore Convention on Mediation, a success?
12	22 Sep 2021	SIMI	Mediation: Multi-tier dispute resolution clauses, is this the key to mediation success?
13	28 Sep 2021	SCMA	Pandemic disruptions to international trade and shipping: what are your rights and liabilities
14	30 Sep 2021	Arbitral Women	Gender Diversity in International Arbitration: Trends and Developments in Thailand and Asia
15	5 Oct 2021	AABD	The Rise of Arbitration in Asia
16	7 Oct 2021	YTHAC	INTERNATIONAL ARBITRATION IN THE NEW NORMAL: dos and don' ts for digital networking and online hearings

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MANAGING DISPUTES IN AN UNCERTAIN WORLD: CHALLENGES AND OPPORTUNITIES

OPENING REMARKS

Adjunct Professor Wisit Wisitsora-at is the Permanent Secretary Ministry of Justice and President of the THAC Board of Directors. In the opening remarks of the International ADR Series 2021, Adjunct Professor Wisit Wisitsora-at will address the current global situation and how the pandemic has affected the alternative dispute resolution field. Lastly, he will present the latest developments introduced in Thailand to become a preferred place for dispute resolution.



Adjunct Professor Wisit Wisitsora-at
Permanent Secretary, Ministry of Justice

INAUGURAL LECTURE :

"THE IMPACT OF ANTI-COVID MEASURES UNDER TRANSNATIONAL SUBSTANTIVE LAW RULES"



Professor Franco Ferrari
New York University

Franco Ferrari is Professor of Law and Director of Center for Transnational Litigation, Arbitration, and Commercial Law at NYU School of Law. Previously, he was Professor of International Law at Verona University, Professor of Comparative Private Law at Bologna University, and Professor of Comparative Law at Tilburg University. Professor Ferrari, who is also a former Legal Officer at the UN Office of Legal Affairs, has published more than 300 law review articles, encyclopedia entries, and book chapters in various languages, and 35 books in the areas of international commercial law, conflict of laws, comparative law, and international commercial arbitration.

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29 July 2021

3:00 - 4:30 PM (UTC+7)



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| SESSION 1 |

ADR GOES ONLINE! CHANGES AND INNOVATIONS DEMANDED BY THE NEW GLOBAL SITUATION

The current pandemic situation forced ADR to change and adapt itself to the “new normal”. One of the main changes concerns travel restrictions, therefore consequently requires improving online services such as virtual hearings.

In the upcoming session, we will be discussing innovations introduced for ADR proceedings, their effectiveness and further implementation methods. In addition, the discussion extends to new challenges that arose consequently to these changes and future developments.

SPEAKERS



Khaled H Chowdhury
Dr. Khaled H. Chowdhury &
Associates Dispute Management Specialists



Alnoor Maherali
Venn Mediation



Francis Xavier, SC
Rajah & Tann



Matthew Christensen
Kim & Chang



Phubed Pisanaka
Department of Intellectual Property

MODERATOR



Rahim Shamji
ADR ODR International

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4 August 2021

4:00 - 5:30 PM (BKK Time)



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SESSION 2

FACE-OFF: ONLINE HEARING V. IN-PERSON HEARING

During the COVID-19 pandemic, travel restrictions have made holding in-person hearings difficult and the arbitration community has responded in a swift fashion by adopting virtual hearings and utilizing technology in international arbitration.

In this webinar, we will evaluate this trend by navigating the following questions: Are virtual hearings suitable for all types of hearings? Can virtual hearings be time and cost effective when compared to in-person hearings? What are some of the challenges of virtual hearings? What are some useful tips for virtual hearings to improve the online experience? To what extent might virtual hearings overtake in-person hearings as the “new normal” ?

SPEAKERS



Eric Ng
HKIAC



Pumma Doungrutana
Baker McKenzie



Professor Leslie Chew, SC
Singapore University
of Social Sciences



Kim Rooney
Gilt Chambers

MODERATOR



Janice Lee
Harry Elias Partnership LLP

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11 August 2021

3:00 - 4:30 PM (UTC+7)



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| **SESSION 3** |

ASIA-PACIFIC REGION: COVID-19 COULD BE AN OPPORTUNITY FOR LOCAL TALENTED OR EXPERIENCE ARBITRATION PRACTITIONERS TO EMERGE AND FIND BETTER EXPOSURE?

One of the major impacts of COVID-19 on arbitration is travel restriction, coupled with compulsory quarantine and limited visas issuance, therefore, arbitrators, counsels and experts are affected by these restrictions.

Online hearings have partially solved this issue. However, in-person hearings would still appear to be more appealing to the disputing parties due to the opportunity to make a connection and the difficulty to accept changes. Therefore, they are more incline to be represented and arbitrated by lawyers located in the country of the seat of arbitration. Would this be a great opportunity to give a chance to local talented or experienced lawyers to shine in the field of arbitration? This session will explore how arbitral institutions and arbitration end-users could assist local arbitration practitioner, with a particular focus in the Asia-Pacific region, in finding a higher representation.

MODERATOR



Brad Wang
CIETAC Hong Kong

SPEAKERS



Mary Thomson
Pacific Chambers



Kim Sae Young
Kim & Chang



Martin W H Wong
Parkside Chambers



Fang Zhao
Hui Zhong Law Firm



Vichai Ariyanuntaka
International Arbitrator

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17 August 2021

3:30 - 5:00 PM (UTC+7)



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| SESSION 4 |

ONLINE DISPUTE RESOLUTION (ODR): AMENDING EXISTING RULES OR BRAND-NEW PLATFORM, WHAT ARE THE OPTIONS AVAILABLE?

In order to adapt to the COVID-19 pandemic, arbitral institutions have adopted different approaches such as conducting hearings online. The first possible option is to amend the existing rules by including provision on online proceedings. The second possible option is to develop an entirely new platform only for online dispute resolution. Each option has pros and cons respectively.

The panel of this session will discuss which one is more suitable in the interest of the parties, how will ADR proceedings be structured according to them and any other new possibilities.

SPEAKERS



Prof. Mark L. Shope
National Yang Ming Chiao Tung
University School of Law



Prof. Chi-Chung Kao
National Taipei
University of Business



John Choong
Freshfields Bruckhaus Deringer



Niruch Winiyakul
Kudun & Partners

MODERATOR



Prof. Cheng-Tsung Huang
Chinese Arbitration Association, Taipei

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19 August 2021

3:00 - 4:30 PM (UTC+7)



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| **SESSION 5** |

**INTERNATIONAL ARBITRATION AND
STATES' RESPONSE TO COVID-19**

The extensive state intervention in economic sectors across the globe in response to COVID-19 has raised important questions about the compatibility of these measures with the obligations vested upon states by customary international law and international treaty commitments, not least trade and investment agreements.

Important questions include: How these measures impact arbitration proceedings? Are there other types of state interventions to respond to COVID-19 that are more appropriate and suitable? What part can arbitral institutions play in the drafting of such regulations? This session aims to discuss these and other questions related to international disputes.

SPEAKERS



Leela Gedkhuntod
THAC



Kantarot Laopradith
Investment Promotion Officer



Michelle Sunita Kummar
AIAC



Lee Shih
Lim Chee Wee Partnership



Prof. Abe Shinichiro
JIART

MODERATOR



Nicholas Lingard
Freshfields Bruckhaus Deringer

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24 August 2021

3:00 - 4:30 PM (UTC+7)



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SESSION 6

GETTING APPOINTED AS AN ARBITRATOR – CHALLENGES AND OPPORTUNITIES

With the proliferation of new entrants into the arbitration ‘industry’, many are eager to get their first appointment as an arbitrator. Ranging from professionals making a mid-career switch to those completing postgraduate qualifications, many are keen to become an arbitrator but in reality, getting appointed does not come too easily for many. Numerous factors affect the chances of one getting appointed as an arbitrator, for instance, seniority and expertise but also the pool of trusted, renowned and seasoned international arbitrators are arguably not big. However, with the increase in disputes, arbitral centres and institutional reforms have also increased the chances of one getting appointed as an arbitrator.

MODERATOR



Prof. Steve Ngo
BAIAC

SPEAKERS



Prof. Charles Debattista
36 Stone



Dr. T ú lio Di Giacomo Toledo
Permanent Court of Arbitration



Dr. Michael Hwang S.C.
International Arbitrator



Warathorn Wongsawangsi
Herbert Smith Freehills (Thailand) Limited

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26 August 2021

3:00 - 4:30 PM (UTC+7)



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| SESSION 7 |

HERO AND SIDEKICKS: INSTITUTIONS, WITNESSES, AND SUPPORT STAFF IN INTERNATIONAL ARBITRATION

Arbitrators and counsels are undoubtedly the actors that play leading roles in an arbitration proceeding. However, there are various other actors such as experts, witnesses, tribunal secretaries and arbitration centres that play integral roles in an arbitration proceeding as well.

In this session, we will discuss the unsung roles, what are the requirements and standards they should meet to participate in an arbitral proceeding. Moreover, the panel will address how they are considered when institutions change arbitration rules or governments draft amendments to laws.

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2 September 2021

3:00 - 4:30 PM (UTC+7)



| SESSION 8 |

THE INTERPLAY BETWEEN INSOLVENCY PROCEEDINGS AND INTERNATIONAL ARBITRATION

A direct consequence of the impact of the Covid-19 pandemic on businesses is that corporate insolvencies are expected to rise exponentially in most major economies around the world. Where an arbitral counterparty is insolvent, or at risk of facing insolvency, there will be a serious likelihood of a confrontation between international arbitration and insolvency law. Arbitration in general seeks to uphold agreements to arbitrate regardless of the position the contracting parties find themselves in. In contrast, insolvency law aims to maximise the value of the insolvent party's assets and aims to distribute such assets between all creditors, by way of a centralised and transparent process. The eternal tension between the insolvency process, which is an inherently 'collective' process and the arbitration process, where parties had agreed on arbitration as the exclusive forum for resolving all disputes arising out of their agreements, continues to play out across the world. Even common law legal systems with the same common law, such as England and Singapore, approach this tension in a different way. This session seeks to explore the different experiences of arbitration practitioners from different jurisdictions, the challenges that they have faced against national insolvency proceedings, and how they have overcome such challenges.

SPEAKERS



Anthony Houghton S.C.
Chartered Institute of Arbitrators (CIArb)



Pisut Attakamol
Baker McKenzie



Mariel Dimsey
CMS International Arbitration



Noppramart Thammateeradaycho
Tilleke & Gibbins

MODERATOR



Jay Patrick
Quisumbing Torres

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7 September 2021
3:00 - 4:30 PM (UTC+7)



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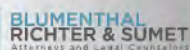
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| **SESSION 9** |

**GROWING REGIONAL ARBITRATION INSTITUTIONS THROUGH COOPERATION:
A DISCUSSION ON WHAT GOVERNMENTS, INSTITUTIONS AND LEGAL
PRACTITIONERS CAN DO TO HELP MOVE THE REGION FORWARD**

Over the past decade we have witnessed an explosion in the flow of Foreign Direct Investment into South East Asia. Along with said investments, we have also witnessed a growth in the popularity of the use of ADR, and regional ADR centers. This panel will explore the growth of regional ADR options, while addressing ways in which some of the newer players in the market can cooperate in raising their footprints; both regionally and internationally. As both Japan and Korea have been aggressively investing in Thailand and its neighbors, particular attention will be paid to areas of potential cooperation between institutions, governments and ADR practitioners in North-East Asia and South-East Asia.

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9 September 2021

2:00 - 3:30 PM (UTC+7)



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SESSION 10

CONFIDENTIALITY: DOES ARBITRATION NEED A PROTOCOL TO REGULATE THE “NEW NORMAL”?

New virtual hearing proceedings require frequent use of online platforms that involve participating parties and arbitrators around the world. For every hearing, a massive amount of confidential data is involved. Do the hearings preserve data confidentiality? Who is the deciding party, involving parties, arbitrator or the arbitral institution to take charge of the platform used? In the case of data leakage, who is liable and what are the parties’ rights in this regard?

In this regard, the Hong Kong International Arbitration Centre produced the Guidelines for virtual hearings, the Chartered Institute of Arbitrators issued a Guidance Note on Remote Dispute Resolution Proceedings, another proposal is Seoul Protocol on Video Conferencing in International Arbitration. In this session, the panel will discuss these proposals, other alternatives and what can be the future developments.

SPEAKERS



Rumana Islam
University of Dhaka



Mohammad Shahidul Haque
Ministry of Law



Colin Wright
F.C.I.Arb.



Thanee Sucharikul
Rangsit University

MODERATOR



Ajmalul Hossain
Selborne Chambers

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14 September 2021

4:00 - 5:30 PM (UTC+7)



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| **SESSION 11** |

**TWO YEARS AFTER THE SINGAPORE CONVENTION
ON MEDIATION, A SUCCESS?**

The United Nations Convention on International Settlement Agreements Resulting from Mediation, known as the Singapore Convention on Mediation, was opened for signature on August 2019. Since then, “only” 6 states ratified it.

Can it be called a failure or the pandemic slowed down the process for ratification? The panel will discuss the achievements of the Convention so far and the reasons for the failure of being ratified by many states despite its huge potential.

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16 September 2021

4:00 - 5:30 PM (BKK Time)



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| **SESSION 12** |

**MULTI-TIER DISPUTE RESOLUTION CLAUSES,
IS THIS THE KEY TO MEDIATION SUCCESS?**

Given the significant levels of growing international support for the Singapore Convention on Mediation and the growing popularity of international commercial mediation, focus has been how more disputes can be channelled appropriately, and at an early point, to mediation.

Multi-tiered dispute resolution clauses (MTDRC) have been around for a long while and has been a mainstay in many domestic and trans-border contracts. MTDRC provides a certainty of both dispute resolution venue and method, which is of significant importance in business efficacy. This is especially important in time-sensitive industries as well as long-term business relationships that require continuing, day-to-day cooperation.

The panel, including SIMI Mediators, will discuss the advantages of MTDRC, effectiveness and enforceability of MTDRC, and whether the increased use of MTDRC will facilitate parties' decision to adopt mediation as their first choice vis-à-vis the traditional arbitration clause.

SPEAKERS



Professor IU Ting-Kwok
Asia Conflict Resolution
Institute (ACRI)



Amelie HUBER-STARLINGER
Tailored Solution



CHUAN Wee Meng
Singapore International
Mediation Centre (SIMC)



Thaevan Uthavath
Thai Legal Law Office



Robert Rhodes, QC
Independent Arbitrator

MODERATOR



Marcus LIM
Lupl

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22 September 2021
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| **SESSION 13** |

PANDEMIC DISRUPTIONS TO INTERNATIONAL TRADE AND SHIPPING: WHAT ARE YOUR RIGHTS AND LIABILITIES

Since its advent in early 2020, the Covid pandemic has continued to ravage the world. Travel restrictions remain in place in almost all countries and this has caused serious disruption and loss to almost every industry. International trade and shipping have not been spared and many disputes have resulted in the shipping industry flowing from serious delays to cancellations of voyages. Arbitration cases involving the maritime industry have continued to rise. There is an increased need for contracting parties to take legal advice as to their rights and liabilities across various fields of international trade and shipping.

While vaccines have become more available, the pandemic is far from over and impediments caused by the pandemic continue. In this session, our speakers shall discuss the increasing role of international arbitration and ADR and its importance to international trade and shipping. There shall be discussions over rights and responsibility of contracting parties as well as the identification of risks inherent to Freight-forwarding contracts. Our speakers shall also discuss the intricate issues that need to be considered where such freight-forwarding contracts excludes recovery of “consequential loss” .

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3:00 - 4:30 PM (UTC+7)



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| **SESSION 14** |

**GENDER DIVERSITY IN INTERNATIONAL ARBITRATION:
TRENDS AND DEVELOPMENTS IN THAILAND AND ASIA**

Since 2014, when the issue of gender diversity in international arbitration was raised, various initiatives have been undertaken such as creation of international organization with the primary objective of promoting female practitioners and diversity like ArbitralWomen. In 2020, it was highlighted that gender parity in international arbitration, including many Asian jurisdictions, remains elusive, especially among law firm partners and arbitrators.

One year on, what has improved? What more can be done to achieve gender parity? How has the COVID-19 pandemic affected issues concerning gender diversity and women lawyers in particular? A panel of prominent female dispute resolution experts from various jurisdictions including Asian countries will address some of the recent trends and developments relating to gender diversity in Thai and Asian international arbitration during this session.

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30 September 2021

3:00 - 4:30 PM (UTC+7)



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| **SESSION 15** |

THE RISE OF ARBITRATION IN ASIA

The recent Queen Mary survey has confirmed that there has been a dramatic growth of arbitration cases. The growth of cases can be observed in traditional arbitration hubs such as Singapore and Hong Kong. This increase can also be seen in other Asian hubs. One can anticipate a continued growth in arbitrations in Asia as there are large projects taking shape including the Belt and Road Initiative (BRI) as spearheaded by China. It is common for disputes to arise in cross-border infrastructure transactions. They may end up being resolved by way of commercial arbitration or investor-state arbitration or before international commercial courts.

This session will see representatives from arbitral institutions, arbitrators and commercial court judges discuss what are the multitude of issues that commonly arise out of cross-border transactions in Asia.

MODERATOR



Prof. Colin Ong, QC
Dr Colin Ong Legal Services

SPEAKERS



Prof. Philip Yang
Independent Arbitrator



Dutsadee Dutsadeepanich
Tilleke & Gibbins



Justice Professor Anselmo Reyes, SC
Independent Arbitrator



James Kwan
Hogan Lovells

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5 October 2021

3:00 - 4:30 PM (UTC+7)



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SESSION 16

**INTERNATIONAL ARBITRATION: DOS AND DON'TS FOR
DIGITAL NETWORKING AND ONLINE HEARINGS**

The pandemic has been transformative as it has necessitated the use of digital solutions to avoid unnecessary delays in arbitration proceedings. On the other hand, it has raised new challenges about the optimal way for career and business development, networking, profile raising in international arbitration in the new normal. YTHAC will take up these important topics around key issues, strategies, and tips for conducting a virtual hearing in arbitration as well as business and career development, as well as networking in international arbitration with practitioners who have successfully navigated the new norm in innovative ways including:

- What kind of advocacy and cross-examination skills are needed and what are the best tips for virtual hearings?
- Best practices and steps to avoid when conducting a virtual hearing
- The biggest challenges of virtual hearings and how to overcome them
- How do raise your profile virtually?
- Do's and don'ts of networking and development when your computer is the only way of communication?

The insights and takeaways from our experienced panelists will be invaluable in conducting arbitration in the digital age.

SPEAKERS



Chananya Rattanacharoen
Watson Farley & Williams



Svenja Wachtel
Founder of Digital
Coffee Break in Arbitration



Jedsarit Sahussarungsi
Weerawong C&P



Manini Brar
Independent Arbitrator



Dr. Matt Secomb
White & Case

MODERATOR



Prin Laomanutsak
DLA Piper

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