Public International Law

Steptoe has a long history of involvement in public international law, and our lawyers have an extensive breadth and depth of experience in this field. We have dedicated teams in the following core practice areas, each of which have their own practice descriptions:

- WTO Disputes
- Investor-State Arbitration

Steptoe also has significant experience in a wide variety of other aspects of public international law, which are detailed below. In particular, in:

- State-to-state disputes
- Energy and natural resources
- Human rights
- Immunity of states, officials and IGOs
- Extraterritorial jurisdiction

**State-to-State Disputes**

Steptoe has been involved in a significant number of state-to-state disputes. We have also acted in disputes involving intergovernmental organizations that were governed by public international law. Our experience in this area can be subdivided into Law of the Sea cases, Diplomatic Protection cases and additional, general experience:

1. **Law of the Sea**

Steptoe’s experience in this field includes:

- Representing the Caribbean Regional Fisheries Mechanism (comprising 17 member states) in the advisory proceedings before the International Tribunal for the Law of the Sea in Case No. 21 (Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission)
- Representing a client in longstanding claims against the government of Australia in a dispute over the limits of Australia’s sovereignty under UNCLOS
- Counseling clients in connection with half a dozen cases featuring law of the sea issues at the International Court of Justice (ICJ)
- Advising the ministry of petroleum and mineral resources of a Middle Eastern country and its national oil company in connection with various matters pertaining to the law of the sea and maritime boundaries

2. **Diplomatic Protection (including State-to-State Foreign Investment Protection)**

When direct action between an individual and the host state is not possible, diplomatic protection remains an effective means of bringing a claim. Steptoe has been at the forefront of this area of law. In particular, Steptoe lawyers have:
- Represented the US Government in more than 130 arbitrations with the Government of Iran, totaling more than $30 billion in claims, before the Iran-US Claims Tribunal.
- Worked with the US Department of State to formulate the procedures of the United Nations Compensation Commission (UNCC) for the resolution of claims arising from the First Gulf War.
- Represented the Saudi Arabian Oil Company against the Republic of Iraq before the UNCC.
- Represented numerous US energy, engineering, and consumer products companies in connection with filing claims against the Government of Iraq before the UNCC.
- Developed and advocated international claims for wrongful death arising out of terrorist attacks.
- Lobbied to protect the interests of clients in claims settlement negotiations with foreign governments, such as negotiations with the Government of Vietnam in 1992 that resulted in Steptoe’s clients receiving full compensation.
- Represented clients before the US Foreign Claims Settlement Commission to recover assets of the Governments of Cuba and Vietnam seized by the United States Government to satisfy claims of US nationals.
- Represented a CIS country in connection with drafting and negotiating an espousal treaty with another state settling all legal issues arising from the accidental shooting down of a Russian jetliner.
- Represented the United States in presenting claims to the former Soviet Union based on the shooting down of KAL007.

3. Additional Experience in State-to-State Disputes

In addition, Steptoe lawyers’ wider experience of state-to-state disputes includes having:
- Represented the United States government in the Nicaragua vs. United States case before the ICJ.
- Represented the International Fund for Agricultural Development, a UN specialized agency, in the Global Mechanism case before the ICJ.
- Counseled clients in connection with half a dozen additional ICJ cases.
- Advised the International Finance Corporation in connection with ICJ litigation affecting its lending program.

Energy and Natural Resources

Public international law governs sovereign ownership and regulation of transboundary natural resources, both onshore and offshore. In addition to the Law of the Sea issues, international boundary issues include questions of transboundary damage caused by activity in the energy industry, rights related to cross-boundary pipelines, and rights in transboundary mining or oil concessions.

Steptoe has one of the leading practices on domestic and cross-border pipelines, and we regularly advise leading energy companies and mining companies in connection with their rights and interests under international law. Steptoe has:
- Advised leading oil and gas companies in connection with UN, EU, and US economic sanctions, contract negotiations with state-owned oil companies, and the legal regime pertaining to domestic and cross-border pipelines.
- Advised clients regarding the substantive and procedural guarantees provided by the Energy Charter Treaty, including the expropriation of concessions and energy transit rights.
- Represented the Saudi Arabian Oil Company against the Republic of Iraq before the United Nations Compensation Commission in connection with claims arising from the First Gulf War.
- Trained officials of Iraq’s Oil Ministry, including its Legal Director, on negotiating and implementing contracts with international oil companies.
- Conducted workshops for oil industry executives concerning the public international law pertaining to pipelines, the law of the sea, and compliance issues.

Human Rights

Steptoe advises a broad range of multinational corporations with respect to increasing expectations that their treatment of workers, third parties, and other stakeholders in their foreign investments will comply with various human rights and other international standards. Steptoe’s human rights practice is described in more detail in our Business and Human Rights practice description.

Steptoe also advises corporate clients charged with tort claims based on the US Alien Tort Statute (ATS) and Steptoe lawyers have been involved in litigating several of the leading ATS cases.

Human rights are also an important facet of Steptoe’s pro bono practice. We have:
• Actively participated in the work of the Washington-based International Human Rights Law Group
• Analyzed due process and international law issues for a UN War Crimes Tribunal in connection with the right of an accused to cross-examine and confront witnesses
• Prepared detailed analyses of Uganda’s rights to prosecute alleged human rights violators and the consistency of Uganda’s International Criminal Court Act with the Rome Statute establishing the International Criminal Court
• Represented a broad range of individuals on asylum and refugee matters. Many of these cases involve novel issues of fact and law. Steptoe was, for example, one of the first firms to persuade the US Immigration and Naturalization Service that persecution based on sexual orientation falls within the scope of human rights protection
• Prepared an analysis of a draft Constitution for the State of Nepal analyzing its provisions pertaining to international law

Immunity of States, Officials and IGOs

Under customary international law, the governments of foreign states and their instrumentalities are, with specified exceptions, immune from the jurisdiction of the national courts of other states.

In the United States these rules of sovereign immunity and the related exceptions are set out in the Foreign Sovereign Immunities Act (FSIA) of 1977. Monroe Leigh, a Steptoe partner then serving as State Department Legal Adviser to US Secretary of State Henry Kissinger, played a leading role in the drafting and enactment of that statute. Since the FSIA’s enactment, Steptoe has worked both on behalf of and against foreign sovereigns, their agents, and their instrumentalities in litigation and in the enforcement of judgments and arbitral awards. The firm has also advised clients on proposed legislative amendments to the FSIA.

Moreover, Steptoe has also worked extensively on sovereign immunity matters in the United Kingdom, under the UK’s State Immunity Act of 1978. In particular, our practice in this area has related to the enforcement of judgments and arbitral awards. We have also been involved in significant applications for Worldwide Freezing Injunctions against states and state-owned entities; indeed, Steptoe lawyers have been involved in a number of the leading cases in this field.

Steptoe’s experience of sovereign immunity matters includes having:
• Succeeded in attaching and releasing to Steptoe’s client ExxonMobil US$305 million in assets of the Republic of Venezuela and Venezuela’s national oil company PDVSA to satisfy arbitration awards. The successful enforcement efforts are described in a chapter in Private Empire: ExxonMobil and American Power (S. Coll, 2012) and an article in the Business Insider
• Represented ExxonMobil in relation to a US$12 billion dollar freezing injunction in the United Kingdom against a state-owned oil company in support of ICC arbitration
• Acree v. Republic of Iraq, No. 04-820 (S. Ct. 2005). We petitioned the US Supreme Court for certiorari on behalf of 1991 Gulf War POWs in connection with a US$1 billion judgment against Saddam Hussein and the Republic of Iraq. The immunity of the Iraqi assets to enforcement was the central point in dispute
• Represented the Republic of Kazakhstan in a contract dispute brought by a US-based entity that involved sovereign immunity issues under the FSIA
• Represented a consortium of multinational oil companies in connection with claims against the Government of Yemen. A central issue in the case was the ability to enforce an arbitral award against assets of the Yemeni government, thus implicating the FSIA
• Advised a European national railroad company with respect to proposed amendments to the FSIA pending before Congress
• Represented the capital city of a European state and its museum in US federal litigation under the FSIA arising from disputed title to art works
• Represented Ukraine in US federal litigation under the FSIA arising from asset recovery work and before the courts of various European countries in connection with immunity questions arising from multiple proceedings resulting from an arbitral award issued against the State Property Fund of Ukraine and the State of Ukraine
• Advised a former United Nations High Commissioner for Refugees regarding immunity issues arising from US federal litigation brought against him, a former UN Secretary-General, and the United Nations

Extraterritorial Jurisdiction

The United States has vigorously asserted the extraterritorial reach of its export control laws (including anti-boycott legislation), its trade embargo laws, its antitrust laws, and its labor laws. As a result, US and non-US companies often find themselves the subject of conflicting directives by a territorial sovereign and the US government. These conflicting jurisdictional claims are governed by international law. Steptoe has:
Advised a broad range of US and foreign companies on compliance with these often conflicting demands.

Filed an *amicus* brief before the US Supreme Court addressing the international law limitations on extraterritorial assertions of US employment laws.

Developed exculpatory defenses for alleged violations of US economic embargo based on internationally recognized principles of duress and foreign sovereign compulsion.

Prepared and presented detailed advocacy papers to US government departments and agencies explaining the international law constraints on US regulatory control and enforcement jurisdiction over foreign subsidiaries of US companies.

Advised Microsoft concerning questions of extraterritoriality arising from fines imposed by the European Commission.

**Steptoe’s Wider Experience in Public International Law**

In addition to the above-mentioned experience, Steptoe and our lawyers have played significant roles in the development and application of public international law. In particular, many Steptoe lawyers have had extensive experience developing and applying international law in senior governmental and institutional positions. In the US, this includes senior positions at the Departments of State, Defense, and Homeland Security, the Office of the United States Trade Representative, the Central Intelligence Agency, and the National Security Agency; indeed, a Steptoe partner served as Legal Adviser to US Secretary of State Henry Kissinger in the 1970’s. Steptoe lawyers have also served as staff lawyers at the ICJ and the WTO.

Additionally, Steptoe has played a role in the development of public international law through its role as counsel to the Rule of Law Committee, which we have held since 1962. The Committee comprises a group of senior legal representatives of large US multinational corporations with a common interest in monitoring and shaping the development of important issues in public international law.

Furthermore, many members of Steptoe’s public international law team have contributed significantly to research and education in this field, including through: authoring books and articles on topics as diverse as the laws of war, human rights law, the laws of international trade and investment, the law of the sea, law in relation to pipelines and nuclear energy, and the immunities of states, officials, and IGOs; and through teaching public international law at leading law schools across the globe. Additionally, Steptoe lawyers have served as chair or co-chair of the Annual Meeting of the American Society of International Law, the International Courts Committee of the American Bar Association’s Section of International Law, and the Committee on Settlement of Intergovernmental Disputes of the International Law Association’s American Branch.

**News & Publications**

**PRESS RELEASES**

*Chambers UK 2021 Recognizes Steptoe Lawyers*

October 26, 2020

**PRESS RELEASES**

Steptoe Receives Seven Practice Rankings, Five Individual Awards in *Legal 500 UK 2021*

October 9, 2020

**MEDIA MENTIONS**

ITV Interviews Christophe Bondy on EU-UK Free Trade Agreement Negotiations

March 5, 2020

**PRESS RELEASES**

Steptoe Expands International Arbitration Practice with Christophe Bondy in London

February 6, 2020

**PRESS RELEASES**

Steptoe Receives Nine Practice, 18 Individual Mentions in *Legal 500 UK 2018*

November 6, 2018

**PRESS RELEASES**

*Chambers UK 2019 Recognizes Steptoe Lawyers*

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