

CHOHARIS | GLOBAL | SOLUTIONS

INTERNATIONAL DISPUTE RESOLUTION

CHOHARIS | GLOBAL | SOLUTIONS offers skill and sophistication developed from decades of living and working in emerging markets to resolve complex, transnational disputes—especially those involving politically and culturally sensitive matters.

We specialize in high impact disputes—cases that involve high profile or politically sensitive matters, complex or novel legal questions, public policy issues, or multiple forums in the United States and overseas. For example, one of our cases received worldwide attention because it involved an issue that threatened to topple the government of a close U.S. ally. This matter required representation in U.S. federal trial and appellate courts, before an Executive Branch Department and Congress, and with foreign diplomatic personnel. It involved building coalitions with a variety of stakeholders, public relations, overseas market access issues, and counseling on trade and foreign relations matters.

We understand that these kinds of matters rarely concern just legal issues. Multinational companies must contend with a host of challenges, from ethnic or social unrest to regulatory change to anti-globalization activists to American and foreign plaintiffs' bars. Each of these can threaten a company's bottom line, share price, and reputation. For their part, governments must contend with domestic and international politics, voters and other constituencies, development banks and other multilateral organizations, global media, non-governmental organizations (NGOs), international capital markets, and foreign investors.

This complex political, commercial, public policy, and legal environment requires a sophisticated, multidisciplinary, and creative approach toward international disputes. Accordingly, while we emphasize flexibility, we adhere to the following precepts.

Our goal is to preempt or resolve problems quickly, efficiently, and discreetly whenever possible—before we resort to potentially prolonged, public, expensive, and uncertain legal proceedings, whether litigation or arbitration.

Our experience includes not only international legal expertise, but also political, cultural, and institutional savvy derived from our decades of living and working in Europe, Asia, Africa, and Latin America; our representation of both foreign sovereign governments and foreign investors; and our having worked in a variety of international organizations.

Our approach is based on an appreciation of the political, cultural, economic, ethnic, and commercial dynamics of many cross-border disputes as well as an understanding of applicable law. While we are very experienced working with local counsel, unlike many firms, we do not shunt difficult problems to local firms to try and solve. Instead, we apply our experience working in foreign cultures, assembling and coordinating multidisciplinary teams, and protecting our clients' interests in multiple jurisdictions simultaneously, to ensure that our clients receive exceptional service wherever they may face complex challenges.

Specifically, [CHOHARIS | GLOBAL | SOLUTIONS](#) assists businesses and governments in:

(1) [Conflict Prevention](#). We apply legal, political, cultural, and institutional savvy to address problems and build solutions before conflicts arise. This may include helping clients assess and resolve labor, human rights, environmental, and social challenges, as described in greater detail in our [Corporate Social Responsibility White Paper](#). It may also include developing specialized information about relevant actors as well as legal, political, and strategic profiles, as described more fully in our [International Due Diligence White Paper](#).

(2) [Cross-Border Dispute Resolution](#). With experience that includes defending a criminal investigation in India, counseling a foreign sovereign government on numerous sensitive diplomatic matters, and challenging a variety of U.S. government agency actions, we have expertise advocating on behalf of both private parties and governments in disputes with governments on civil, criminal, regulatory, and international law matters.

(3) [Transnational Litigation](#). Our experience ranges from foreign mass tort litigation in Asia and Central America to foreign direct investment disputes on behalf of both government and private clients to class actions in U.S. courts on behalf of foreign corporations.

(4) [International Arbitration](#). We have counseled clients on arbitral matters involving foreign direct investments and participated in numerous international arbitral proceedings and mediations.

(5) [U.S. Litigation, Compliance, and Government Relations](#). We have represented and counseled U.S. and foreign clients on a host of matters before U.S. federal and state trial and appellate courts, federal regulatory bodies, Congress, and the Executive Branch. We have also counseled clients on Foreign Corrupt Practices Act and other compliance matters.

The following is a list of select representations of international disputes in which our attorneys represented foreign governments, foreign corporations, a U.S. government chartered bank, and U.S. corporations in a wide range of disputes involving U.S. and foreign law as well as public and private international law. Following this list, we describe our methodology for resolving complex public and private international disputes.

Select Representations:

- Achieved dismissal of all claims on behalf of East African state-owned telecommunications company in a commercial dispute brought by a U.S. company in U.S. federal district court
- Represented premium U.S. beef producer in dispute with three Asian nations; brought U.S. trial and appellate litigation against U.S.D.A. to alter U.S. policy and challenge regulations; counseled company on U.S. legislative matters and access to Asian markets
- Represented West African country in dispute with foreign investors concerning alleged expropriation and unpaid license, taxes, and fees
- Represented U.S. government-chartered entity regarding \$600 million potential expropriation by Southeast Asian nation in violation of international law; assisted in successful project finance restructuring
- Achieved dismissal in federal trial and appellate courts of novel claim against Canadian mining company accused of trafficking in raw materials derived from expropriated property in violation of international law
- Vindicated East African country before international claims tribunal adjudicating violations of international humanitarian law
- Represented East African country before international boundary commission delimiting and demarcating border
- Advised European government on European Union accession issues, constitutional reforms, and international legal issues concerning proposed U.N. peace plan

- Successfully defended U.S. chemical manufacturer facing potential liability of \$4.5 billion in East Asia
- Advised bank client regarding civil and criminal liability in South Asian country stemming from joint venturer's stock swindle
- Appealed adverse jury verdict in human rights case on behalf of families of victims tortured and murdered in Central America
- Counseled U.S. company on product liability litigation in Nicaragua and enforcement issues in United States
- Achieved dismissal or defeated class certification on behalf of Japanese and U.S. automobile manufacturers in multi-district, product liability class actions in both state and federal trial and appellate courts
- Advised Southeast Asian government on investment law, legal and regulatory reforms, and international law governing maritime and land borders
- Advised Central Asian government on investment law and legal and regulatory reforms
- Created anti-bribery, anti-money laundering, and whistleblower protection policies and compliance programs for largest equity fund investor in Africa and for controlled entities in more than ten African countries in multiple sectors, including insurance, banking, and extractive industries

1. Conflict Prevention.

Identifying potential problems and crafting an effective strategic response in emerging market countries involve more than just expertise in international law. We are experienced working with a wide range of stakeholders, from local community leaders to government ministers to NGOs to multilateral organizations. We have worked in remote areas where regional and ethnic tensions and other sources of social unrest can negatively impact foreign business operations as well as a country's investment climate. Our professionals have also worked for multilateral organizations, NGOs, and the U.S. government in various foreign-related capacities. Further enhancing our ties to and credibility with NGOs, human rights, and other activist groups, one of our lawyers was

the lead attorney in one of the most prominent Torture Victim Protection Act appeals ever brought on behalf of plaintiffs.

This diverse experience enables us to develop support for foreign investments at many levels. We are creative at helping clients build bridges to diverse constituencies, establish trust, and build effective working relationships that foster supportive investment climates. With our experience working in overseas development, [CHOHARIS | GLOBAL | SOLUTIONS](#) can help clients plan and implement local infrastructure or social support projects, develop local employment opportunities, explore local business partnerships, and coordinate with local as well as regional and national government authorities. We can also plan and coordinate overtures to local media, opposition parties, and other stakeholders. In short, this combination of political, cultural, legal and development sophistication enables us to protect our clients and promote their interests by building creative, enduring solutions.

2. [Cross-Border Dispute Resolution.](#)

When international disputes do arise, we have experience on behalf of both governments and private parties in a wide range of international challenges, including helping a U.S. bank avoid civil and criminal liability in India stemming from a joint venturer's stock swindle; negotiating on behalf of a West African government in a dispute with a foreign investor concerning an alleged expropriation; counseling a European government on European Union accession issues and international legal issues concerning proposed U.N. peace plans; assisting a U.S. food producer gain access to Japanese and Korean markets; and advising a European government on the return of stolen antiquities.

We are different from firms that advocate strategies based more on their practices than their client's interests. Although we have expertise in international legal proceedings, we do not automatically advocate arbitration or litigation simply because it is available. Rather, we help clients formulate their overall legal and commercial goals and then tailor strategies to achieve them.

For example, we can employ some of the same kinds of strategies that are effective in preempting problems, such as government outreach and coalition building, to disputes with social, cultural, or political dimensions that are less subject to legal resolution. This approach is especially helpful in traditional societies where formal legal protections may have limited reach.

In addition, our strategic review can extend beyond a narrow understanding of legal rights and potential forums. We can also develop a comprehensive analysis of a

dispute, which may include understanding the interests and sources of influence of local and national powerbrokers, commercial competitors, regional rivals, opposition parties, national and international media, foreign governments, and multilateral organizations.

And unlike most firms, we do not surrender difficult, local problems to local counsel to try and solve on its own. Local counsel frequently face severe limitations when confronting international disputes, such as unfamiliarity with a region in which the dispute is centered; membership in a rival clan or ethnic group; limited technical capacity, such as inexperience in government relations; affiliation with a rival political party; and even an unwillingness to press government authorities for fear of harming their local clients' interests.

Instead, we work closely with local counsel and other professionals when necessary to develop comprehensive, multidisciplinary strategies to limit or resolve disputes that not only may pose legal liability, but also may threaten a client's business operations or reputation. In addition, when appropriate, we can enlist the assistance of an array of actors to whom local counsel may not have access, including foreign embassies, multilateral organizations, NGOs, media, opposition parties, and other sector leaders in order to promote a comprehensive resolution.

But throughout these efforts, we are careful to protect our clients' substantive and procedural legal rights by, for example, making sure that we do not waive potential claims or defenses or run afoul of statutes of limitation.

3. Transnational Litigation.

When international conflicts cannot be resolved informally, we are aggressive in protecting our clients' interests in courts throughout the world. Our experience includes defending a U.S. company in Korean litigation facing \$ 4.5 billion in damages for alleged violations of international law and product liability law, and counseling that company on potential exposure in Vietnam for similar claims; counseling a U.S. company on product liability litigation and potential legislation in Nicaragua and on enforcement issues in the United States; achieving the dismissal in U.S. federal trial and appellate courts in a novel claim against a Canadian company alleging that its investment in Cuba constituted trafficking in stolen goods in violation of international law; defending a Japanese automobile manufacturer in a Multi-District Litigation involving a product liability class action in multiple U.S. state courts; and appealing an adverse jury verdict in a seminal human rights case on behalf of families of victims tortured and murdered in El Salvador.

These representations have involved foreign direct investment, contracts, torts, regulatory compliance, and criminal matters as well as such specialized international legal subjects as expropriation, *jus cogens*, and international treaty rights. But in addition

to the substantive law governing international disputes, this kind of litigation requires knowledge of a host of complex, technical legal issues, such as choice of law, *forum non conveniens*, extra-territorial jurisdiction, foreign sovereign immunity, the act of state doctrine, international legal service of process, cross-border discovery, multi-forum litigation, and enforcement of foreign judgments.

Finally, as in U.S. Multi-District Litigation, transnational litigation often requires coordinating legal efforts in a number of judicial forums all at once. This is important in order to assert claims and defenses at the proper time and place, challenge jurisdiction strategically, coordinate discovery, prevent inadvertent disclosures and waivers, understand the implications of settlement in different forums, strategize on enforcement of judgment matters, guard against potential criminal liability, and fully protect the client's overall interests.

4. International Arbitration.

Where a treaty or contract provides, or the parties subsequently give their consent, an international dispute may be resolved by international arbitration. Such arbitration applies special procedural rules and substantive international and sometimes municipal law on matters as diverse as foreign investment and border disputes. Binding and non-binding mediation is another form of alternative dispute resolution and is fairly common in certain sectors.

We have represented a U.S. government-chartered entity in a \$600 million dispute involving an alleged expropriation by the Indonesian government in violation of international law; an East African country before an international claims tribunal adjudicating violations of international humanitarian law; and an East African country before an international commission delimiting and demarcating an international boundary. We have also participated in a number of U.S. mediations involving different sectors.

5. U.S. Litigation and Compliance.

Our experience extends beyond international disputes and includes a wide range of U.S. litigation and compliance matters. For example, we have represented large multinational and mid-sized corporations as well as individual litigants in trial and appellate cases in U.S. federal and state courts on environmental, administrative law, product liability, insurance, trade, punitive damages, civil rights, and telecommunications matters. In addition, we have represented a national railroad and trade associations in numerous federal environmental and regulatory litigations and appeals; defended manufacturers in product liability class actions, including Multi-District Litigation, throughout the United States; and represented corporate and individual clients on various

criminal matters. We have also advised companies on a number of compliance issues, such as the Foreign Corrupt Practices Act.

Conclusion.

CHOHARIS | GLOBAL | SOLUTIONS offers multidisciplinary skills honed from decades of living and working with a wide variety of stakeholders in Europe, Asia, Africa, and Latin America. In addition to our international legal expertise, we bring political, cross-cultural, and institutional acumen to help clients identify potential problems and preempt or resolve disputes quickly. We do so by offering a variety of options—from traditional litigation and arbitration to community-based solutions—that can be tailored to our client’s goals and the challenges that they face.

We invite you to learn more about us and our capabilities by visiting:

www.choharisglobalsolutions.com

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