



## What does Brexit mean for... Arbitration

### Overview

London is one of the most preferred and widely used seats for international arbitration, for a variety of reasons. Will the UK's exit from the EU affect any of these reasons, causing other seats, such as Paris, to be preferred over London?

### What will change?

From a legal point of view, arbitration in the UK will be unchanged. The key legislation that provides the framework for arbitration in the UK, the Arbitration Act 1996, is unaffected by EU law, and will continue in force following the UK's exit from the EU. Similarly, the UK will remain a signatory in its own right to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (more commonly known as the New York Convention) which provides for the enforcement of arbitral awards across currently 156 jurisdictions, including all EU Member States.

### Should I be worried?

No. The primary reasons for choosing London as the seat of the arbitration will be unaffected. The Arbitration Act 1996 is supportive of arbitration. In their interpretation of the Arbitration Act over the last 20 years, the English and Welsh courts have developed an increasingly arbitration friendly and non-interventionist approach, and we do not expect this to change following the UK's exit from the EU. Where English and Welsh law is chosen to govern the contract, the choice of London as the arbitral seat often follows. The popularity of English and Welsh law (and also English language) in international commercial transactions is unlikely to wane significantly post-Brexit. There is a considerable pool of experienced arbitrators, counsel and experts in London, which is also home to several popular arbitration institutions, such as the LCIA (London Court of International Arbitration) and CI Arb (Chartered Institute of Arbitrators).

### Eversheds Sutherland's prediction

In our opinion, arbitration is likely to remain a popular choice in light of Brexit, with Arbitration awards rendered in the UK continuing to be enforceable across the EU pursuant to the New York Convention. London's attractiveness as a seat for arbitration being bolstered by the UK's departure from the EU. Third parties see English and Welsh law as being more certain and more neutral if it is no longer bound by decisions of the Court of Justice of the European Union (and thus adopt 'English law, English seat' when drafting dispute resolution provisions). The English and Welsh courts may also be willing to re-establish the use of anti-suit injunctions, currently prohibited under EU law, in respect of EU related jurisdictional disputes, to prevent parties from commencing actions in EU courts in breach of arbitration agreements.

In the long-term, London as a seat of arbitration may be affected by any decline in London's place as a global centre for doing business post-Brexit. For now, however, we believe that the use of arbitration and of London as a preferred seat will, if anything, increase.

### Key contacts



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