



# FEBRUARY-IN-REVIEW

## **Economic Sanctions**

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1. [Canada Expands Economic Sanctions Against Ukraine](#) (18 February 2020)

## **Investor-State Dispute Settlement**

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2. [The ICSID Convention 55 Years Later: Can Emerging Market Economies Benefit from ICSID Membership?](#) (25 February 2020)

## Economic Sanctions

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### 1. CANADA EXPANDS ECONOMIC SANCTIONS AGAINST UKRAINE

On January 29, 2020, Canada amended the list of designated persons under the Special Economic Measures (Ukraine) Regulations (“the Ukraine Regulations”) adding 6 individuals. As a result, Canada now imposes an asset freeze and dealings prohibition on 202 individuals under the updated Ukraine Regulations.

Since entering into force on March 17, 2014, the Ukraine Regulations have been amended fourteen times. Enacted as part of Canada’s response to Russia’s illegal annexation of Crimea, the Ukraine Regulations are aimed at responding to violations of Ukraine’s constitution, sovereignty and territorial integrity. While the Canadian Government’s Regulatory Impact Analysis Statement explaining the policy rationale behind the new designations has not yet been published in the Canada Gazette, Global Affairs Canada has declared that the new designations are related to the recent illegitimate elections in Crimea in September 2019.

The imposition of economic sanctions does not mean that Canadians must cease business with Ukraine. Ongoing business is permitted so long as it does not involve, directly or indirectly, a designated person. The expansion of economic sanctions does, however, impose on Canadians conducting business with Ukraine further obligations to scrutinize ongoing business transactions to ensure compliance.

The lawyers at Tereposky & DeRose have significant experience in the design and implementation of sanctions-related compliance programs, including policies, procedures, employee training, and internal control mechanisms. They also regularly assist both Canadian and international businesses, financial institutions, and individuals with internal investigations when “red flags” appear and provide advice on compliance in these areas. Where breaches have occurred, they have worked closely with their clients in making voluntary disclosures and in engaging with the ensuing investigations conducted by the RCMP and Global Affairs Canada.

If you would like to discuss any aspect of the Canadian sanctions regime, contact Vince DeRose or Jennifer Radford at:

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## Investor-State Dispute Settlement

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### 2. THE ICSID CONVENTION 55 YEARS LATER: CAN EMERGING MARKET ECONOMIES BENEFIT FROM ICSID MEMBERSHIP ?

Next month, the International Center for the Settlement of Investment Disputes (“ICSID”) will celebrate the 55<sup>th</sup> anniversary of the opening for signature by States of the ICSID Convention. Since March 1965, of the 189 States who are automatically eligible to sign the Convention by way of their membership to the International Bank for Reconstruction and Development, 154 States, predominantly emerging market economies, have signed and ratified the Convention, and nine others have signed but not yet ratified it.

While some States may fear that joining the ICSID will hinder their regulatory autonomy, there are important benefits to consider. First, as a mitigating factor, it is important to note that ICSID membership only creates procedural obligations. In addition, signatories can remove classes of disputes from the ICSID’s jurisdiction and require exhaustion of local remedies as a prerequisite to commencement of arbitration.

Second, the availability of binding ICSID arbitration, the leading institution for investor-state disputes, would increase investor confidence in a host country.

Finally, in October 2016, the ICSID Secretariat launched a consultation process with Member States and the public on amendment proposals to the ICSID Rules. Following these consultations, the ICSID published a series of working papers detailing the basis for the proposed changes, noting relevant considerations and suggesting the potential wording or structure of amendments. The proposed amendments incorporate increased protection for States, particularly for emerging market economies, including provisions on disclosure of [third-party funding](#) and on [security for costs](#), which we discussed in previous bulletins.

With these amendments expected to enter into force in 2020, the moment seems opportune for countries who have not yet signed the ICSID Convention to assess how they could benefit from ICSID membership.

Tereposky & DeRose LLP regularly provides advice and counsel on investor-state dispute settlement matters. Should you have any questions, we are at your disposal.

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