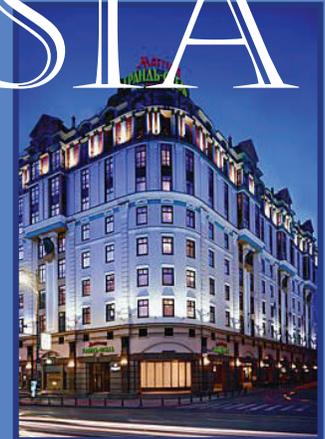




ABA Section of  
International Law  
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SEPTEMBER 21, 2009

# MOSCOW RUSSIA



Moscow  
Marriott Grand Hotel



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## RESOLUTION OF RUSSIA-RELATED BUSINESS DISPUTES: *THE NEXT WAVE*

The Conference will bring together members of the global legal community for a full day of informative and substantive programs presented by world-class experts, followed by a reception at Spaso House. Topics will include:

- Arbitration in Russia: The Current State of Play and Prospects for the Future
- Investment Treaty Arbitration: A Strategic Option or Legal Defense?
- Russians Abroad—The Experience of Russian Companies in Foreign Litigation and Arbitration
- Related Civil and Criminal Proceedings in Russia

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# “Resolution of Russia-Related Business Disputes: The Next Wave”

PROGRAM AGENDA – MONDAY, SEPTEMBER 21, 2009 – MARRIOTT MOSCOW GRAND

*Events to be held at the Hotel unless otherwise indicated.*

<b>7:45 AM</b>	<b>Breakfast</b>	<b>1:00 PM</b>	<b>Luncheon</b>
<b>8:45 AM</b> John Beyrle, U.S. Ambassador to the Russian Federation, Moscow, Russia	<b>Opening Remarks</b>	<b>2:00 PM – 3:30 PM</b> <b>Russians Abroad – The Experience of Russian Companies in Foreign Litigation and Arbitration</b> Russian companies have become experienced players in the world of global litigation and arbitration. The stakes in some of these cases are astronomical. In one case pending in London, a published report indicates that legal fees alone are projected to exceed £90 million. Other cases involve more routine commercial disputes. In either event, lessons have been learned by Russian participants in litigation and arbitration abroad. Among other issues, the speakers will address: -- the dazzling series of chess moves in some of these cases, including anti-suit injunctions, battles over jurisdiction, forum non conveniens motions, asset freezing orders, and other tactical maneuvers; -- enforcement of Russian court orders and arbitration awards in foreign courts; -- the possibility of applying to U.S. courts to obtain liberal, American-style "discovery" in aid of litigation or arbitration proceedings pending in Russia; and -- practical considerations involved in litigating in Western courts, including costs.	
<b>9:30 – 11:00 AM</b> <b>Arbitrating in Russia: The Current State of Play and Prospects for the Future</b> This panel will take a practical, yet constructive look at Russia as a venue for arbitration and arbitration-related litigation, including the vacatur and enforcement of arbitration awards. Sixteen years after the Moscow-based International Commercial Arbitration Court – also known as MKAS – grew out of the Soviet Foreign Trade Arbitration Commission, it remains the institution of choice for Russian parties and is grudgingly accepted by many Western business partners as a compromise alternative to litigation in the Russian courts, even as ICC and LCIA-administered arbitration gain ground, and the Stockholm Institute continues to be a significant player. The panelists will examine both the pitfalls and advantages to arbitrating in Russia -- whether through MKAS or through other arbitration institutions that are emerging outside of Moscow – and will also address the following issues, among others: -- Techniques for successfully arbitrating in Russia: -- The next decade’s leading forum for Russia-related international arbitrations ... and the winner is...? -- What lies beyond MKAS and Moscow? Arbitration institutes in St. Petersburg, the Russian Far East and other centers. -- Using Russian courts as a sword ... or as a shield in the arbitral process. -- Lessons learned from setting aside arbitral awards in Russia -- You have an award, but now what? Enforcement of arbitration awards in Russia.			
<b>11:00 AM</b>	<b>Networking Break</b>	<b>3:30 PM</b>	<b>Networking Break</b>
<b>11:30AM – 1:00 PM</b> <b>Investment Treaty Arbitration: A Strategic Option or Legal Defense?</b> Since 1989, Russia has ratified over thirty bilateral investment treaties (BITs), which give investors the right to take host states to international arbitration for violation of certain standards of treatment such as non-expropriation, fairness and non-discrimination. Disputes arising from such treaties are becoming everyday reality in Russia and its neighbors. Over the past year alone, OAO Tatneft launched an arbitration against Ukraine in a dispute about the takeover of an oil refinery, a jurisdictional hearing took place in The Hague in the largest recorded treaty arbitration instituted by Group Menatep against Russia, the Russian shareholders in Golden East Mongolia were awarded emergency relief against Mongolia, and Franz Sedelmayer succeeded in auctioning off Russia-owned premises of the former Soviet trading mission in Germany in satisfaction on the first ever treaty award against the State. In December 2008, Inna Gudavadze, the widow of Badri Patarkatsishvili, brought a BIT claim against Georgia, alleging that the government expropriated television station Imedi and an amusement park owned by her late husband in retaliation for his vocal opposition to the regime. While Russia is developing sophisticated legal defenses against multi-billion dollar claims, Russian investors are discovering the value of pursuing claims against other States for violation of BITs. This session will explore the growing trend of disputes involving Russian parties and the Russian government through a discussion by eminent practitioners who opposed or defended post-communist governments. Speakers will address the following questions, among others: -- How can Russian companies and individuals benefit from bilateral investment treaties? -- What are the dos and don'ts of opposing post-communist governments? -- What should one expect in an arbitration proceeding involving Russia? -- To what extent should the political and economic reality of developing post-Soviet economies inform the content of investment treaty standards? Can social turbulence and economic instability excuse unfairness? -- Are there means to bring investors to account under BITs?	<b>4:00 PM – 5:30 PM</b> <b>Parallel Civil and Criminal Proceedings in Russia</b> More and more cases in Russia involve both civil and criminal aspects. Corporate “raiders” attempt to seize companies through a combination of regulatory action, civil litigation and criminal investigations. Because Russia does not recognize corporate criminal liability, many white collar cases involve criminal prosecution of corporate employees and parallel civil or administrative cases against the corporation. Moreover, Russia provides victims with the opportunity to pursue a civil claim within the context of a criminal case (“grazhdanskii isk”). Therefore, litigating in Russia requires understanding both systems and how they interact. This panel will examine the relationship between civil and criminal litigation through discussion of the following issues: -- Preclusive effect of rulings in criminal cases on related civil litigation and vice versa; -- Strategic considerations involved in deciding whether to pursue civil or criminal remedies; -- Remedies for presentation of false evidence in civil litigation; -- Admissibility in a criminal case of evidence gathered by a private investigator and evidence developed in a civil case; -- Opportunities for corporate victims to obtain civil recovery in criminal cases; and -- Remedies for fraudulent conveyances of disputed property to ostensible “good faith purchasers.”		
		<b>5:30 PM</b> Carolyn Lamm, ABA President-Elect, White & Case, LLP, Washington, DC	<b>Closing Remarks</b>
		<b>7:00 PM</b> Reception – <i>Ticketed Event</i>	<b>Spaso House</b>