INTERNATIONAL ARBITRATION AND THE ENGLISH COURTS

Key Cases in 2012

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The tables below set out key English Court of Appeal and High Court decisions from 1 January 2012 to 10th November 2012

CONTENTS

TABLE A

BREAKDOWN OF DECISIONS BY SECTION

Section	Name and citation
1	• Bitumex (HK) Co Ltd v IRPC Public Co Ltd [2012] EWHC 1065
7	• Joint Stock Asset Management Co Ingosstrakh-Investments v BNP Paribas SA [2012] EWCA Civ 644 • Sulamerica Cia Nacional de Seguros SA v Enesa Engenharia SA [2012] EWCA Civ 638
9	• Nomihold Securities Inc v Mobile Telesystems Finance SA [2012] EWHC 130 • Citigroup Global Markets Ltd v Amatra Leveraged Feeder Holdings Ltd [2012] EWHC 1331 • Aeroflot - Russian Airlines v Berezovsky [2012] EWHC 1610 • Fortress Value Recovery Fund I LLC v Blue Skye Special Opportunities Fund LP [2012] EWHC 1486 • Merit Process Engineering Ltd v Balfour Beatty Engineering Services [2012] EWHC 1376 • Lombard North Central Plc v GATX Corp [2012] EWHC 1067 • Turville Heath Inc v Chartis Insurance UK Ltd (formerly AIG UK Ltd) [2012] EWHC 3019 (TCC)
14	• Finmoon Ltd v Baltic Reefers Management Ltd [2012] EWHC 920
18	• Itochu Corp v Johann MK Blumenthal GmbH & Co KG [2012] EWCA Civ 996 • Enercon GmbH v Enercon (India) Ltd [2012] EWHC 689
34	• Terna Bahrain Holding Co v Marzook (unreported)
44	• Western Bulk Shipowning III A/S v Carbofer Maritime Trading ApS (The Western Moscow) [2012] EWHC 1224
47	• Rotenberg v Sucafina SA [2012] EWCA Civ 637
66	• West Tankers Inc v Allianz SpA (The Front Comor) [2012] EWCA Civ 27 • Nomihold Securities Inc v Mobile Telesystems Finance SA [2012] EWCA Civ 40 • Aveng (Africa) Ltd v Government of the Gabonese Republic [2012] EWHC 1687

67	• Abuja International Hotels Ltd v Meridien SAS [2012] EWHC 87 • PEC Ltd v Asia Golden Rice Co Ltd [2012] EWHC 846 (Comm)
68	• Petrochemical Industries Company (K.S.C) v The Dow Chemical Company [2012] EWHC 2739 • Michael Wilson & Partners Ltd v Sinclair [2012] EWHC 2560 (appeal outstanding) • Latvian Shipping Co v Russian People's Insurance Co (ROSNO) Open Ended Joint Stock Co (Ojars Vacietis, The) [2012] EWHC 1412 • Abuja International Hotels Ltd v Meridien SAS [2012] EWHC 87 • Nestor Maritime SA v Sea Anchor Shipping Co Ltd [2012] EWHC 996
69	• Carboex S.A. v Louis Dreyfus Commodities Suisse S.A. [2012] EWCA Civ 838 • Polestar Maritime Ltd v YHM Shipping Co Ltd (The Rewa) [2012] EWCA Civ 153 • West Tankers Inc v Allianz SpA (formerly known as Riunione Adriatica Sicurta), Generali Assicurazioni Generali SpA [2012] EWHC 854 • Isabella Shipowner SA v Shagang Shipping Co Ltd [2012] EWHC 1077 • MRI Trading AG v Erdenet Mining Corporation LLC [2012] EWHC 1988 • DGM Commodities Corp v Sea Metropolitan S.A. [2012] EWHC 1984 • Taokas Navigation SA v Komrowski Bulk Shipping KG (GmbH & Co), Kent Line International Ltd., Solym Carriers Ltd [2012] EWHC 1888 • Metall Market OOO v Vitorio Shipping Company Limited [2012] EWHC 844 • Eitzen Bulk A/S v Ttmi Sarl [2012] EWHC 202 • Progress Bulk Carriers Limited v Tube City IMS L.L.C. [2012] EWHC 273 • ED & F Man Sugar Ltd v Unicargo Transportgesellschaft mbH [2012] EWHC 2879 • Wuhan Ocean Economic and Technical Cooperation Co Ltd v Schiffahrts-Gesellschaft "Hansa Murcia" MBH & Co KG [2012] EWHC 3104 (Comm)
70	• Navios International Inc v Sangamon Transportation Group [2012] EWHC 166
80	• Nestor Maritime SA v Sea Anchor Shipping Co Ltd [2012] EWHC 996
91	• du Plessis v Fontgary Leisure Parks Ltd [2012] EWCA Civ 409
101-103	• Yukos Capital Sarl v OJSC Rosneft Oil Co [2012] EWCA Civ 855

TABLE B

COURT OF APPEAL DECISIONS

No.	Name	Date, citation	Issue	Summary	Judgment
SECTION 7					
1.	Joint Stock Asset Management Co Ingosstrakh-Investments v BNP Paribas SA	24 May 2012, [2012] EWCA Civ 644	Whether there could be an anti-suit injunction against a non-party to an arbitration clause.	D1 and D2 were Russian companies ultimately controlled by a Mr Deripaska. D1 had provided a guarantee to BNP Paribas S.A by which it guaranteed certain liabilities of one of its subsidiaries under a loan made by BNP Paribas to that subsidiary. The guarantee was governed by English law and provided for London seated arbitration under the LCIA Rules (with an option for BNP Paribas to bring proceedings in the English courts). D2 was the trust manager of a very small shareholding in D1 (0.14%). A dispute arose under the loan and BNP Paribas brought arbitration proceedings against D1 seeking payment under the guarantee. D1 asserted in those proceedings that the guarantee was void as it had not been properly approved under Russian company law. D2 (and other shareholders of D1) brought	The Court of Appeal dismissed the appeal, and upheld the injunction on the basis that there was sufficient evidence to show that D2 colluded with D1 in bringing the Russian proceedings in an attempt to defeat or impede the arbitration brought by the Bank. The factors taken into account by the Court of Appeal were: • the common control of D1 and D2; • the importance of the transaction (i.e. that Mr Deripaska must have known of the guarantee and both sets of proceedings); • the timing of the Russian proceedings (being brought so long after the guarantee was executed in

				proceedings in Russia in the Moscow Arbitrazh Court against BNP Paribas and D1 seeking a declaration that the guarantee was void. BNP Paribas obtained an interim anti-suit injunction against both D1 (seeking to restrain D1 from assisting in the Russian proceedings) and D2 on the basis that the Russian proceedings were vexatious and oppressive. D1 and D2 appealed.	2008, but shortly after the Bank filed its Statement of Case in the arbitration); and • the improbability of D2 acting alone. England was the appropriate forum for the action for an anti-suit injunction, given that B was seeking to restrain parties acting in concert from subverting the valid English arbitration agreement binding one of them.
2.	Sulamerica Cia Nacional de Seguros SA v Enesa Engenharia SA	16 May 2012, [2012] EWCA Civ 638	The correct law of the arbitration agreement.	Sulamerica involved an insurance agreement between two commercial parties relating to the construction of a power plant in Brazil. The insured claimed under the policy, but the insurers declined liability. The parties, the subject matter of the insurance and the currency of the policy were all Brazilian. The policy was written in Portuguese and English. The policy contained two potentially conflicting clauses; a London arbitration clause and an exclusive jurisdiction clause in favour of the courts of Brazil. Importantly, there is also an express choice of	The appeal was dismissed. There was no rule of law that the proper law of the arbitration agreement was the law of the place of the seat, and the authorities established that the proper law of an arbitration agreement might not be the same as that of the substantive contract of which it formed part. The proper law was to be determined by undertaking a three-stage enquiry into express choice, implied choice and closest and most real connection. In the absence of

				Brazilian law as the law governing the contract. Under Brazilian law, arbitration clauses can only be invoked with the consent of the other party; all arbitration is voluntary even if the contract stipulates binding arbitration. The insurers gave notice of arbitration. In response the insured sought to establish that the insurers were not entitled to refer the dispute to arbitration and obtained an injunction from the court in São Paulo restraining the insurers from resorting to arbitration. In response the insurers made an application without notice to the Commercial Court seeking an injunction to restrain the insured from pursuing the proceedings in Brazil. This was granted. The question for the Court of Appeal was whether to continue the injunction, which entailed an analysis of whether the arbitration agreement was governed by Brazilian law.	any indication to the contrary, an express choice of law governing the substantive contract was a strong indication of an implied choice of the same law in relation to the agreement to arbitrate. There were two important factors indicating that the parties had not impliedly chosen Brazilian law to govern the arbitration agreement. First, the choice of London as the seat imported acceptance that the arbitration would be conducted and supervised according to the provisions of the Arbitration Act 1996. Secondly, if Brazilian law meant that the arbitration agreement was enforceable only with E's consent, that was an indication that the parties did not intend the agreement to be governed by that law. An agreement to resolve disputes by arbitration in London, and therefore in accordance with English arbitral law, did not have a close juridical connection with the system of law governing

					the policy of insurance, whose purpose was unrelated to that of dispute resolution; rather, it had its closest and most real connection with the law of the place where the arbitration was to be held and which would exercise the supporting and supervisory jurisdiction. Its closest and most real connection was with English law, and thus it was right that the arbitration agreement was governed by English law.
SECTION 18					
3.	Itochu Corp v Johann MK Blumenthal GmbH & Co KG	24 July 2012, [2012] EWCA Civ 996	A decision under the Arbitration Act 1996 s.18(3) appointing a sole arbitrator on the basis that, pursuant to s.15(3) of the Act, there had been no agreement as to the number of arbitrators was caught by the restriction on appeals in s.18(5).	The appellant applied for permission to appeal against an order providing for the appointment of a sole arbitrator in an arbitration between it and the respondents under a letter of guarantee. The letter of guarantee contained an arbitration clause stating that "Any dispute arising out of this letter of guarantee shall be submitted to arbitration held in London in accordance with English law, and the award given by the arbitrators shall be final and binding on both parties". The respondent asserted that the clause provided for a sole arbitrator, whereas the appellant argued that it provided for	Appeal dismissed. In *ad hoc* arbitrations without an appointing authority under the Arbitration Act 1996, unless the parties agree on the number of arbitrators, a sole arbitrator will be appointed even if the arbitration agreement suggests that the parties contemplated more than one arbitrator.

				more than one arbitrator so that the tribunal should consist of three arbitrators.	
SECTION 47					
4.	Rotenberg v Sucafina SA	16 May 2012, [2012] EWCA Civ 637	The issue was whether there was anything in the language of the Rules of the Coffee Trade Federation (rules 48 and 49) to suggest that an arbitral tribunal should not have the power to make interim awards which amounted to partial awards under the Arbitration Act 1996 s.47 and which were final and binding.	The appellant coffee trading company appealed against a decision that interim awards of an appeal board acting for the Coffee Trade Federation were final and binding in arbitral proceedings it had brought against the respondent coffee supplier. The parties were in dispute in relation to a series of coffee futures contracts and the disputes went to CTF arbitration. The CTF Appeal Board issued two appeal interim awards, the first dealing with the identity of the sellers under the disputed contracts and the second dealing with the quantum of the claims. The third award, the final award, dealt with costs but was not taken up or published because it was not paid for within the time period set down by the CTF Rules. The appellant sought an extension of time under section 79 of the Arbitration Act 1996 to take up the final award on costs, alternatively a declaration that in the event the final	The appeal was allowed in part. There was nothing in the language of rules 48 or 49 which amounted to an agreement that an arbitral tribunal under those rules should not have power to make partial awards under the Arbitration Act 1996 s.47. As there was no express or implied agreement to the contrary, there was power under s.47 to make partial awards. The terms of both interim appeal awards made it clear beyond doubt that the board of appeal considered each award was final and binding on the issues determined by it. The judge had plainly been right when he held that each of the appeal interim awards was an award under s.47 and final and binding by the terms of s.58 of the Arbitration Act

				appeal award was not taken up, the two appeal interim awards should remain final and binding between the parties. Sucafina argued that the Appeal Board's awards should be disregarded and the original awards reinstated.	The board of appeal had not specifically set aside the decision of the umpire on costs in either of the two appeal interim awards and it was not set aside by necessary implication. The umpire's original award on costs had to stand. S was entitled to enforce that part of the umpire's award relating to costs and fees.
SECTION 66					
5.	West Tankers Inc v Allianz SpA (The Front Comor)	24 January 2012, [2012] EWCA Civ 27	Did the court have power under section 66, Arbitration Act 1996 to order judgment to be entered in the terms of an arbitral award in a case where the award was in the form of a negative declaration?	The underlying dispute between the parties arises out of a collision between the vessel *Front Comor* and a pier serving an oil refinery belonging to the vessel's charterers, Erg Petroli SPA, in Italy. Following the collision with the pier, substantial claims for loss and consequential damage were made by Erg against the shipowners, West Tankers, which were referred to arbitration in accordance with the London arbitration clause in the charterparty. As the reference in London was progressing, Erg's subrogated insurers brought a claim against West Tankers in the Tribunale di Siracusa, in Italy, in	The Court of Appeal dismissed the appeal, and upheld the ruling of Field J. The Court stated that the phrase "enforced in the same manner as a judgment to the same effect" in section 66 was not confined to enforcement by one of the normal forms of execution of a judgment but could include other means of giving judicial force to the award on the same footing as a judgment.

				respect of the same incident. West Tankers deny that the Tribunale di Siracusa has jurisdiction, bearing in mind the agreement to arbitrate in London. The London Arbitration Tribunal issued an award in November 2008, declaring that it had jurisdiction and that West Tankers are under no liability (whether in contract or in tort or otherwise howsoever) to the insurers in respect of the collision. Simon J granted West Tankers leave to enforce the arbitration award as a Judgment and entered Judgment in the terms of the award, pursuant to section 66 of the Arbitration Act 1996. In April 2011, Field J dismissed an application by the insurers to set aside Simon J's order. The insurers appealed.	
6.	Nomihold Securities Inc v Mobile Telesystems Finance SA	19 January 2012, [2012] EWCA Civ 40 (Application for permission to appeal to	Whether a party who had been granted permission to appeal should be required to pay into court all or some of the judgment	The court, which had provisionally decided to grant the proposed appellant permission to appeal, had to decide whether, as a condition of granting permission, the proposed appellant should be required to pay	The court's jurisdiction to impose the condition sought should be exercised. If the proposed appellant was to have the benefit of the discretion exercisable by the

		Supreme Court was refused). [Separate Nomihold case included below in High Court section.]	debt entered in its favour under section 66, Arbitration Act 1996.	into court all or part of the amount of the judgment debt which had entered under section 66, Arbitration Act 1996 in favour of the proposed respondent. The proposed respondent argued that such a condition should be imposed: the proposed appellant was effectively a company with one asset; that asset was the indebtedness due from its parent company, a company of very considerable size and means, resulting from the on-lending by the proposed appellant of monies borrowed in Luxembourg by way of loan notes; those loan notes were shortly repayable; further, since the relevant arbitration award had been obtained, steps had been taken to avoid satisfying the debt; they had been taken at the instance of and by the parent company and consisted of the reduction of the indebtedness due from the parent to the proposed appellant by the parent directly paying the holders of loan notes; that, assuming that there was a set-off, reduced the liability of the parent to the proposed appellant by an equal amount; moreover, it was apparent that the proposed appellant	court in granting permission to appeal, it should pay into court the amount of the judgment debt.

				had no intention of meeting the award or the judgment debt.	
SECTION 69					
7.	Carboex S.A. v Louis Dreyfus Commodities Suisse S.A.	19 June 2012, [2012] EWCA Civ 838	Challenge to award under section 69.	Appeal from a decision of Field J which set aside an arbitration award under Section 69, Arbitration Act 1996.	Appeal dismissed. The Court held that the effective cause of any delay was a question of fact, but that on the natural meaning of the charterparty wording, the delay to the vessels was capable of being brought within the scope of the clauses if the strike was the effective cause of the delay.
8.	Polestar Maritime Ltd v YHM Shipping Co Ltd (The Rewa)	17 February 2012, [2012] EWCA Civ 153	Challenge to award under section 69.	Leave to appeal given based on section 69(8) Arbitration Act 1996. Field J allowed an appeal by the Sellers on three questions of law arising out of the arbitrators' award. The principal question on appeal was under the terms of the sale contract on an amended Norwegian Saleform 1993 (known as the "NSF") what certificates was the seller of the bulk carrier *"Rewa"* , ("the Vessel"), obliged to provide when the vessel was delivered to the buyer?	Judgment of Field J was affirmed, appeal dismissed. The buyer therefore failed to persuade the Court that it had been entitled to cancel the MOA under either clause 11 or clause 14. The court applied a commercial, common sense meaning to both clauses which it was required to interpret, and generally discouraged parties from referring to previous versions and drafting committee's commentaries to aid construction save where there are problems with ambiguous wording.
SECTION 91					
9.	du Plessis v	2 April 2012,	Whether para.28 of the	The appellant appealed against a	One element of the judgment

	Fontgary Leisure Parks Ltd	[2012] EWCA Civ 409	Code of Practice for Selling and Siting Holiday Caravans gave individual caravan owners the right to arbitrate about pitch fee increases, and whether this was fair in the circumstances.	decision that the respondent caravan park owner and operator had not wrongfully terminated its contract with her by increasing the fees it charged caravan owners for pitches. The appellant had purchased a caravan which stood on a pitch on the respondent's site and she entered into a licence agreement with the respondent. The agreement provided that it complied with the Code of Practice for Selling and Siting Holiday Caravans, as issued by the British Holiday and Home Parks Association and the National Caravan Council. Under cl.7 the agreement stated that the respondent was entitled to review the pitch fee and that, provided at least 51 per cent of the caravan owners affected by an increase in the fee objected, it could proceed to arbitration. At a later point, the appellant was required to pay a higher fee - she refused to do so and the respondent served a notice terminating the agreement. The appellant suffered a substantial loss and attributed it to breaches of contract by the respondent.	was whether the arbitration agreement was fair within meaning of the Unfair Terms in Consumer Contracts Regulations 1999. The Court found that it was fair. Accordingly, the claimant could not rely upon section 91 to establish unfairness.
SECTION 101					
10.	Yukos Capital	27 June 2012,		The respondent to the appeal and the	The Court of Appeal allowed

	Sarl v OJSC Rosneft Oil Co	[2012] EWCA Civ 855		claimant in the arbitration, Yukos, had obtained a Russian arbitral award against the appellant, Rosneft, which is owned by the Russian Federation. Rosneft succeeded in setting aside the arbitral award before the Russian Arbitrazh court. Notwithstanding that the award had been set aside, Yukos succeeded in enforcing the award in a foreign country (The Netherlands) pursuant to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Before the Amsterdam Court of Appeal the award was recognised for enforcement, while the Russian court's decision setting aside the award was refused recognition. Yukos proceeded to the English court seeking enforcement of the award (or more accurately post award interest as the award sum was paid in the interim) on the basis that the annulment of the awards by the Russian court should not be recognised. Yukos sought for the English courts to uphold the finding of the Amsterdam Court of Appeal that the refusal of recognition is on	the appeal. (1) The act of state doctrine did not prevent an investigation of or adjudication upon the conduct of the judiciary of a foreign state, whether that conduct lay in the past or in the future, and whether or not its conduct in the past was relied upon as the foundation for an assessment of the risk as to its conduct in the future. Whereas in a proper case comity required, as a matter of restraint rather than abstention, that the lawfulness of the legislative or executive acts of a foreign friendly state acting within its territory should not be the subject of adjudication in the English courts, comity only cautioned that the judicial acts of a foreign state acting within its territory should not be challenged without cogent evidence. Judicial acts were not acts of state for the purposes of the act of state doctrine.

				the ground that it [could] be inferred, from the general nature of the subservience of the Russian courts to state influence in matters of state importance, that the decision of the Russian court in setting aside the award was 'partial and dependent', in other words was dictated by bias or intimidation. Yukos succeeded at first instance. On appeal, Rosneft argued, inter alia, that the Act of State Doctrine prohibited the English courts from adjudicating on whether in general the judicial acts of the Russian courts were indeed "*partial and dependent*" on the state and therefore that the specific annulment of the awards should be recognised. Rosneft failed on that ground.	The act of state doctrine did not apply to allegations of impropriety against foreign court decisions, whether in the case of particular decisions or in the case of a systemic dependency on the dictates or interference of the domestic government. Nor was there an absence of justiciable standards by which to adjudicate such allegations (2) Yukos sought to show not only that certain events occurred in Russia as a matter of state policy, but also that such events were not to be regarded as valid or effective or lawful. The act of state doctrine did not bar any part of Yukos's case. Whether the annulment decisions should be recognised was a judicial question raised in respect of judicial acts. On the way to resolving the question whether the annulment decisions were corrupt the court was asked to take into account other judicial decisions which were said to be equally corrupt. Yukos's

					case was not an abuse of process and did not involve a collateral attack on a previous decision where the act of state doctrine was relied on for rejecting a claim for judicial review. (3) Rosneft was not estopped by the decision of the Amsterdam court of appeal from objecting to enforcement of the awards in England. The Dutch court held that the annulment decisions were not to be recognised because that would be contrary to Dutch public policy. The issue in England was not the same: it was whether the decisions were not to be recognised as contrary to English public policy, which was or might be different from Dutch public policy. There would have to be a trial of that issue.

TABLE C

HIGH COURT DECISIONS

No.	Name	Date, citation	Issue for the court	Summary
1.	Global Maritime Investments Limited v STX Pan Ocean Co. Limited Global Maritime Investments Limited v Navios International Inc. Navios International Inc. v Sangamon Transportation Group	8 August 2012, [2012] EWHC 2339	Three arbitration appeals as to which charterer or charterers in a string of charters of the m.v. "DIMITIRIS L" must bear the cost of US Gross Transportation Tax.	Clarke J held that the relevant clause only allows a disponent owner to recover the tax for which he himself is liable to the US Treasury, and so allowed the appeal of Global Maritime in respect of the Pan Ocean arbitration and dismissed the appeals of Global Maritime and Navios in the Global Maritime and Navios arbitrations.
SECTION 1				
2.	Bitumex (HK) Co Ltd v IRPC Public Co Ltd	2 May 2012, [2012] EWHC 1065	Dispute about service of an Arbitration Claim Form in Thailand - is the fact that this is an arbitration dispute a reason why the Court should be readier to make a retrospective order for service than it would be in other cases?	Retrospective service offered.
SECTION 9				
3.	Nomihold Securities Inc v Mobile Telesystems Finance SA	2 February 2012, [2012] EWHC 130	Did application for anti-arbitration injunction have to be stayed under section 9, Arbitration Act 1996?	Application did not have to be stayed because the issues raised by it were not matters "to be referred to arbitration", as they fell or could also fall to be decided by the court when exercising

				its supervisory jurisdiction.
4.	Citigroup Global Markets Ltd v Amatra Leveraged Feeder Holdings Ltd	18 May 2012, [2012] EWHC 1331	Whether court proceedings brought in England should be stayed while the real dispute between the parties was subject to arbitration in the USA	The court stayed English proceedings where the real dispute between the parties had been referred by the defendants to arbitration in the United States under the rules of the Financial Industry Regulatory Authority. The English proceedings risked unwarranted interference with that regulatory regime and in the unusual circumstances they should be stayed.
5.	Aeroflot - Russian Airlines v Berezovsky	18 June 2012, [2012] EWHC 1610 (appeal outstanding)	Whether a stay should be granted pursuant to section 9, Arbitration Act 1996.	A stay under section 9 was refused. It was arguable that the arbitration clause in the agreement was invalidated under Swiss law by the "double representation" rule on the basis that G was acting for both sides; but that issue could not be decided without a trial. Assuming that the arbitration clause was valid, it would be an abuse of right under Swiss law to rely on the arbitration clause since to do so would cause fragmentation of the dispute, and the stay was refused.
6.	Fortress Value Recovery Fund I LLC v Blue Skye Special Opportunities Fund LP	30 May 2012, [2012] EWHC 1486 (appeal outstanding)	Whether defendants were party to arbitration clause by virtue of Contract (Rights of Third Parties) Act 1999, and whether they could seek a stay.	Defendants who were not parties to a partnership deed, but were mentioned in it, were not to be treated as parties to an arbitration agreement in the deed by virtue of the Contracts (Rights of Third Parties) Act 1999 s.8 where they did not rely in their defence on a substantive term of the deed; and so

				could not seek a stay under section 9.
7.	Merit Process Engineering Ltd v Balfour Beatty Engineering Services (HY) Ltd	28 May 2012, [2012] EWHC 1376 (TCC);	Whether a stay could be granted under section 9, Arbitration Act 1996 in respect of three contracts between the parties.	The application to stay an action brought in relation to two contracts which included arbitration clauses was successful, but failed in relation to the third where the parties had not concluded a binding agreement that included an arbitration clause in relation to it.
8.	Lombard North Central Plc v GATX Corp	25 April 2012, [2012] EWHC 1067	Interpretation of whether an issue was "in respect of" a matter that was to be arbitrated; and whether a stay should be granted under section 9.	Applicant was entitled to a stay of proceedings under the Arbitration Act 1996 s.9 or the inherent jurisdiction of the court since the proceedings were "in respect of" a matter which they had agreed was to be referred to arbitration.
9.	Turville Heath Inc v Chartis Insurance UK Ltd (formerly AIG UK Ltd)	1 November 2012, [2012] EWHC 3019 (TCC)	Application for a stay, and whether a clause which provided for the parties to appoint independent appraisers who would submit any differences to an arbitrator and that a decision agreed to by the two appraisers or by an appraiser and the arbitrator would be binding was an arbitration clause within the meaning of the Arbitration Act 1996.	Applicant was entitled to a stay under the Court's inherent jurisdiction, but this was not an arbitration clause within the meaning of the Arbitration Act 1996.
SECTION 14				
10.	Finmoon Ltd v Baltic Reefers Management Ltd	17 April 2012, [2012] EWHC 920 (Comm)	(1) whether claimants had entered into a contract of affreightment with BRM; (2) whether BRM had	A contract of affreightment had been concluded by the conduct of the parties and an arbitration had been

			contracted as principal or as an agent for the other respondents; and (3) whether arbitration had been validly commenced.	validly commenced under it.
SECTION 18				
11.	Enercon GmbH v Enercon (India) Ltd	23 March 2012, [2012] EWHC 689	Whether claimants show a good arguable case as to the existence of an agreement to arbitrate in London and as to the seat of that arbitration being England, and whether the English Court had jurisdiction to grant an anti-suit injunction under s.37 of the Senior Courts Act 1981 and/or s.44 of the English 1996 Act.	English court declined to determine whether the seat of an arbitration would be in England for the purposes of service out of the jurisdiction under CPR r.62.5(1)(c)(ii) when that issue had been raised and remained to be determined in proceedings between the parties in India.
SECTION 34				
12.	Terna Bahrain Holding Co v Marzook	Queens Bench, unreported, 20 September 2012.	Interpretation of judicial note, and purpose of hearing.	Despite the importance of a policy behind the Arbitration Act 1996 that arbitration awards should be enforced without undue delay, the court could not deal with an application for the summary dismissal of an application to set aside an award that had not been raised according to normal procedures and timetables.
SECTION 44				
13.	Western Bulk Shipowning III A/S v Carbofer Maritime Trading ApS (The Western Moscow)	11 May 2012, [2012] EWHC 1224	Whether permission to serve a claim under the Arbitration Act 1996 s.44 could be granted under CPR r.62.5(1)(b) even if the charter provided for Greek law and arbitration. Court stated that it	

			could.	
SECTION 66				
14.	Aveng (Africa) Ltd v Government of the Gabonese Republic	18 June 2012, [2012] EWHC 1687	Related to a judgment entered against Government of the Gabonese Republic under section 66(1).	The Court held that an application to vary a freezing order made against the defendant would be allowed, where there was no arguable case that the defendant had a proprietary interest in funds transferred to the defendant's bank.
SECTION 67				
15.	Abuja International Hotels Ltd v Meridien SAS	26 January 2012, [2012] EWHC 87	Whether (1) the arbitrators lacked substantive jurisdiction under the Arbitration Act 1996 s.67 because the arbitration agreement was invalid under Nigerian law; or (2) the award was invalid for serious irregularity under s.68 because the arbitrators had exceeded their powers and failed to comply with their duties in making the award.	Appeal dismissed – law governing the arbitration agreement was English law, and the arbitration agreement was valid under that law; and the appellant had failed to establish any irregularity within s.68, still less a serious irregularity causing substantial injustice.
16.	PEC Ltd v Asia Golden Rice Co Ltd	17 October 2012 [2012] EWHC 846 (Comm)	Whether an extension should be granted in respect of PEC's challenge under section 67, Arbitration Act 1996.	Court granted the extension on the grounds that (1) the length of the delay was short – 8 days; (2) there was some uncertainty as to whether the time limit applied so that the failure to comply with it was explicable and, moreover, was fuelled by a desire to avoid any unnecessary costs; (3) no real still less irredeemable prejudice was suffered.
SECTION 68				
17.	Petrochemical Industries	11 October 2012, [2012]	Application against arbitration	Application dismissed.

	Company (K.S.C) v The Dow Chemical Company	EWHC 2739	award under section 68, Arbitration Act 1996 on whether the arbitral tribunal could award damages for consequential losses.	
18.	Michael Wilson & Partners Ltd v Sinclair	21 September 2012, [2012] EWHC 2560 (appeal outstanding)	Could the court strike out an action as an abuse of process where the tribunal whose decision was under attack was an arbitral tribunal.	Court found that there had been an abuse of process, and there could be no rule that the court could not strike out an action as an abuse of process merely because the tribunal whose decision was under attack was an arbitral tribunal.
19.	Latvian Shipping Co v Russian People's Insurance Co (ROSNO) Open Ended Joint Stock Co Ojars Vacietis, The	01 June 2012, [2012] EWHC 1412	The applicant sought to challenge an arbitral award on grounds of serious irregularity under section 68 and appealed on two questions of law under section 69.	There was no serious irregularity under section 68, and accordingly the award would be confirmed under section 69.
20.	L v R	24 October 2012 [2012] EWHC 2894	The applicant sought to challenge an arbitral award on grounds of serious irregularity under section 68.	Application dismissed.
SECTION 69				
21.	West Tankers Inc v Allianz SpA (formerly known as Riunione Adriatica Sicurta), Generali Assicurazioni Generali SpA	4 April 2012, [2012] EWHC 854	Whether the arbitral tribunal is deprived of jurisdiction to award damages for breach of an arbitration agreement by reason of EU law	An arbitral tribunal was not deprived of jurisdiction by virtue of a decision of the ECJ that an anti-suit injunction restraining proceedings in an Italian court on the basis they were contrary to an arbitration agreement was incompatible with Regulation 44/2001.
22.	Isabella Shipowner SA v Shagang Shipping Co Ltd	26 April 2012, [2012] EWHC 1077	Challenge to an award under section 69, Arbitration Act 1996 on whether the arbitrator was	Appeal allowed and award varied.

			wrong as a matter of law; and under section 68, that there was serious irregularity as the arbitrator failed to give any, or any sufficient, weight to the appellants' submissions (thus failing to comply with section 33, Arbitration Act 1996).	
23.	MRI Trading AG v Erdenet Mining Corporation LLC	20 July 2012, [2012] EWHC 1988 (appeal outstanding)	Challenge to an award under section 69, Arbitration Act 1996 on whether the arbitrator was wrong as a matter of law	Arbitration award set aside.
24.	DGM Commodities Corp v Sea Metropolitan S.A.	18 July 2012, [2012] EWHC 1984	Challenge to an award under section 69, Arbitration Act 1996.	Appeal dismissed.
25.	Taokas Navigation SA v Komrowski Bulk Shipping KG (GmbH & Co), Kent Line International Ltd., Solym Carriers Ltd	11 July 2012, [2012] EWHC 1888	Challenge to an award under section 69, Arbitration Act 1996 on whether by the terms of the charterparty construed in its factual context, the respondent accepted the risk of piracy in trading to Mombasa, Kenya.	Application rejected.
26.	Metall Market OOO v Vitorio Shipping Company Limited	4 April 2012, [2012] EWHC 844 (appeal outstanding)	Challenge to an award under section 69, Arbitration Act 1996.	Appeal allowed in part.
27.	Eitzen Bulk A/S v Ttmi Sarl	14 February 2012, [2012] EWHC 202	Challenge to an award under section 69, Arbitration Act 1996, and application for further reasons submitted under section 70(4).	Appeal under section 69 dismissed. Application under section 70 noted as being out of time and hopeless.
28.	Progress Bulk Carriers Limited v Tube City IMS L.L.C.	17 February 2012, [2012] EWHC 273	Challenge to an award under section 69, Arbitration Act 1996.	Appeal dismissed, award upheld.
29.	ED & F Man Sugar Ltd v	23 October 2012, [2012]	Challenge to an award under	Appeal dismissed, award upheld.

	Unicargo Transportgesellschaft mbH	EWHC 2879	section 69, Arbitration Act 1996	
30.	Wuhan Ocean Economic and Technical Cooperation Co Ltd v Schiffahrts-Gesellschaft "Hansa Murcia" MBH & Co KG	6 November 2012, [2012] EWHC 3104 (Comm)	Challenge to an award under section 69, Arbitration Act 1996	Appeal allowed.
SECTION 70				
31.	Navios International Inc v Sangamon Transportation Group	08 February 2012, [2012] EWHC 166	Application for further reasons pursuant to section 70 relating to three section 69 appeals.	It was not appropriate for the court to exercise its discretion under the Arbitration Act 1996 s.70(4) to order an arbitral tribunal to state the reasons for its award for the purposes of an appeal where what the applicant sought was the opportunity to present further evidence and seek further findings from the tribunal, which evidence and findings were not considered necessary at the time of the arbitration.
SECTION 80				
32.	Nestor Maritime SA v Sea Anchor Shipping Co Ltd	20 April 2012, [2012] EWHC 996	Was an extension of time available pursuant to section 80(5) to challenge an arbitral award made in the buyer's favour on grounds of serious irregularity under s.68(2)(g) on the basis of an alleged fraud, and had applicant satisfied burden of proof under section 73?	The application for an extension of time under section 80 was denied. If there had been fraud as alleged by the applicant, it could have been discovered sooner with reasonable diligence and so the applicant's burden under section 73 was not met.