

Insights: Publications

International Construction Arbitration: What can companies do to protect themselves from U.S. style discovery creeping into their international disputes in light of the ongoing debate as to whether US court discovery should be available in international construction arbitration?

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Despite many reforms, securing efficiency in international construction disputes remains a major concern. This concern could be amplified by the availability of new discovery procedures in aid of international arbitration, facilitated by U.S. District Courts. The availability of court ordered discovery procedures turns on the interpretation of an obscure U.S. civil procedure statute. The statute implicates the question of whether the district court may compel the witness testimony, along with the production of documents and electronic files for the purpose of using the evidence in a foreign arbitration. Thus far, the answer to that question has been mixed but clarity is on the horizon.