



Legal finance for international construction disputes

Construction and engineering projects are prone to high-stakes disputes between project partners and stakeholders.

Contractors and owners in large construction projects frequently encounter cost and time overruns that lead to commercial disputes. Contractors often face delayed interim payments, unpaid additional work outside the contract's scope or other funding shortfalls on a project.

Not surprisingly, construction arbitrations historically are among the most prevalent disputes administered by leading institutions. In 2022, ICC reported that construction and energy disputes together accounted for 45% of registered cases;¹ the construction industry accounted for 1 out of 10 ICSID cases registered in 2023.²

HOW BUSINESSES USE LEGAL FINANCE

To help manage the high risk and costs associated with meritorious claims, companies in the construction sector and the outside law firms that work with them can look to legal finance. Legal finance enables businesses in the construction industry to maximize their recoveries in commercial disputes by covering lawyers' fees and expenses. Increasingly, however, monetization financing arrangements are gaining in popularity among claimants involved in arbitrations. In a monetization, capital is advanced against the future value of pending claims, and it can be used for general business purposes in addition to the pursuit of the claim.

Burford advances capital on a non-recourse basis, meaning that the businesses that work with us owe nothing unless and until the arbitration or litigation is successful, thereby eliminating the downside risk of loss. We provide financing at any stage, from pre-litigation to appeal as well as post settlement. And because Burford is a passive investor, we do not control a business's litigation decisions or impact existing attorney-client relationships.

BURFORD'S ARBITRATION FINANCE SOLUTIONS

We provide a range of custom capital solutions, at any stage of a dispute, that enable companies to address urgent business challenges and add quantifiable value to their organizations.

- **Monetization:** Burford provides an immediate, upfront payment as an advance on the expected value of a pending claim or award, enabling businesses with significant recoveries to accelerate cash payments and reduce risk.
- **Fees and expenses:** Burford provides capital to pay fees and expenses for a single, high-value commercial matter, relieving budget pressure and removing downside risk while enabling the business to hire its firm of choice.
- **Portfolio finance:** Businesses involved in several arbitration or litigation matters can use portfolio finance to cover all or partial fees or expenses and create significant liquidity.
- **Asset recovery:** Burford's global asset tracing team helps businesses address enforcement challenges, transforming award and judgment debts from "legal paper" into cash.
- **Risk management and insurance:** Burford Worldwide Insurance Limited offers adverse costs insurance for funded matters, mitigating risk in cost-shifting jurisdictions.

CASE STUDY

A company won a contract to build one of the largest dams on the continent. Despite being confirmed as the local partner more than a decade later, the national government instead attempted to proceed with the development of the project with a group of international entities. After initiating an arbitration, the parties reached a settlement agreement, which included a clause stating that government would be required to pay double the initial amount, plus interest. However, following an extended period of non-payment, the company needed capital. Burford provided \$20 million in monetization, which enabled the business's law firm to pursue additional claims so the company could be made whole.

Why Burford?

- **Team:** Burford's in-house underwriting team is ranked Band 1 by Chambers and draws from leading arbitration groups at top-tier firms and includes published experts in the field
- **Scale:** With a current investment portfolio of \$7.2 billion, Burford has unmatched capacity to finance commercial litigation and arbitration
- **Experience:** Burford has financed more than 50 high-value international arbitration matters in all the world's leading arbitration centers
- **Professionalism and transparency:** We are the institutional-quality legal finance partner—dual-listed on the New York Stock Exchange (NYSE: BUR) and London Stock Exchange (LON: BUR) and with a track record and reputation that reflect well on our counterparties

Jeffery Commission

Director
jcommission@burfordcapital.com

Christiane Deniger

Director
cdeniger@burfordcapital.com

Florencia Villaggi

Vice President
fvillaggi@burfordcapital.com

¹ "ICC reaches arbitration milestone with case 28,000," International Chamber of Commerce (Sep. 15, 2023). Available at: <https://iccwbo.org/news-publications/news/icc-reaches-arbitration-milestone-with-case-28000/>.

² "The ICSID Caseload—Statistics," International Centre for Settlement of Investment Disputes (2023-2). Available at: https://icsid.worldbank.org/sites/default/files/publications/2023.ENG_The_ICSID_Caseload_Statistics_Issue.2_ENG.pdf.