

ORGANISERS



AAIL FOUNDATION



中国国际法学会
Chinese Society of International Law

2026 COLLOQUIUM ON INTERNATIONAL LAW

*CREATING
NEW FRONTIERS:*

**Law, Commerce and
ORDER IN
OUTER SPACE**

3 July



2026 COLLOQUIUM ON
INTERNATIONAL LAW

Public-Private Arbitration in Outer Space Activities: Lessons from Developing Countries

Professor Lalin Kovudhikulrungsri

Associate Professor of Faculty of Law
Thammasat University, Thailand

CREATING
NEW FRONTIERS:
**Law, Commerce and
ORDER IN
OUTER SPACE**

Outline

- Devas v. Antrix
- Example from Thailand
- Conclusion

Devas v. Antrix

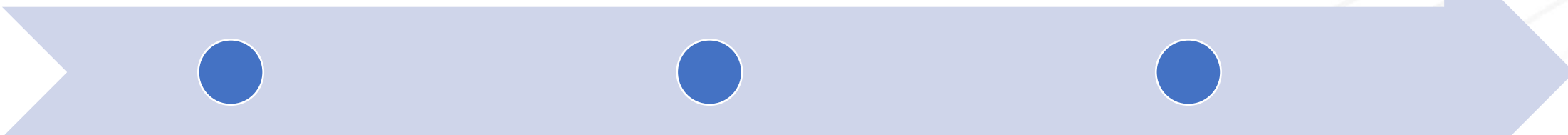
- **Devas Multimedia**
 - A provider of satellite communications services
 - Received funding from multinational investors
- **Antrix Corporation**
 - The commercial arm of Indian Space Research Organization
 - A private, unlisted Union Government Company (100% owned by the Government of India)
- **The 2005 contract to lease of space segment capacity on two Indian satellites that were yet to be built.**
 - An arbitration clause in accordance with the ICC or the UN Commission on International Trade Law

Devas v. Antrix

In Feb 2011, India decided to reserve the segment for national needs.

3 sets of proceedings

- Arbitration before the ICC tribunal
- Investment arbitrations
 - India-Mauritius BIT
 - India-Germany BIT



Antrix annulled the agreement.

Devas v. Antrix

ICC Tribunal

- In September 2015, the ICC Tribunal rejected Antrix's force majeure argument and awarded 562.5 million USD damages to Devas
- US
- France
- The Netherlands (March 2026)

UNCITRAL investment arbitration

- The PCA ordered under the India-Mauritius BIT (CC/Devas) to compensate (quantum award).
- The PCA ordered under the India-Germany BIT (DT) to compensate.

Devas v. Antrix

In May 2021, India's National Company Law Tribunal (NCLT) ordered the liquidation of Devas on fraudulent activities.

The Supreme Court upheld the judgments of NCLT and NCLAT to liquidate Devas.

The High Court of Delhi set aside the ICC award.

Devas v. Antrix

Enforcement (CC/Devas)

- Australian Federal Court
(Republic of India v CCDM Holdings [2025] FCAFC 2)
 - Reservations / immunity
- London Commercial Court
CC/Devas (Mauritius) Ltd and Others v. the Republic of India [2025] EWHC 964 (Comm)
 - Non-waiver of immunity

Enforcement (DT)

- Switzerland
 - 2018 Swiss Federal Supreme Court

Hopewell Construction v. Thai Ministry of Transport and SRT

- Arbitral Award - 30 Sept 2008
- Decision of the Supreme Administrative Court of Thailand - 22 Mar 2019
- Decision of the Constitutional Court of the Kingdom of Thailand – 17 Mar 2021
- Judgment of the Central Administrative Court of Thailand - 18 Sept 2023



Cabinet Resolutions

27/1/2004

- Concession agreements (Administrative contract) in Thai language
- No arbitration clause

28/7/2009

- All agreements between state organs and private entities
- Arbitration clause subject to the Cabinet's approval on a case-by-case basis

17/7/2015

- PPP / concession agreements
- Arbitration clause subject to the Cabinet's approval on a case-by-case basis

Conclusion

- The developing countries dilemma
- The need: technology transfer
- The demand: arbitration
- The sovereign realities
- The lock: concession restrictions & public policy
- The barrier: home-country export controls on know-how