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Client Alert

International Disputes

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Supreme Court Rejects "Minimum Contacts" Analysis for Award Enforcement Under the FSIA

On June 5, 2025, the Supreme Court issued its unanimous opinion in *CC/Devas (Mauritius) Ltd. et al. v. Antrix Corp. Ltd. et al.* (605 U.S. ___ (2025)), holding that personal jurisdiction exists over an enforcement action against a sovereign under the Foreign Sovereign Immunities Act (**FSIA**) when (i) an immunity exception applies, and (ii) service is proper. The opinion is a significant development with respect to federal courts' jurisdiction over the enforcement of international arbitration awards in the United States under the FSIA, and particularly the relevance of the "traditional minimum contacts analysis," as set forth in *International Shoe Co. v. Washington*, 326 U. S. 310 (1945) and its progeny.

The decision on appeal was a Ninth Circuit decision in which the Court held that "personal jurisdiction under the FSIA requires a traditional minimum contacts analysis." The Ninth Circuit had overturned a Western District of Washington decision enforcing an international arbitral award in favor of CC/Devas (Mauritius) Ltd. (**Devas**) against Antrix Corp. Ltd. (**Antrix**), an Indian State-owned aerospace company, on the basis that Antrix did not have sufficient "minimum contacts" with the United States to establish personal jurisdiction.

The Supreme Court overturned the Ninth Circuit's decision, holding that under the FSIA, personal jurisdiction exists over a sovereign entity when (i) one of the statute's explicitly enumerated exceptions to sovereign immunity applies, and (ii) the plaintiff has properly served the defendant under the statute's requirements. Further, the Court held there is no requirement that a plaintiff prove a defendant has additional "minimum contacts" with the jurisdiction in which enforcement is being sought above and beyond the stated requirements in the FSIA.

HISTORY OF THE *DEVAS V. ANTRIX* DISPUTE

Devas is a telecommunications technology company that, in 2005, concluded a satellite lease agreement with the Indian government to provide multimedia broadcasting services in India. The agreement provided that Antrix would build and launch a new satellite network into orbit, and Devas would lease a portion of the network capacity of that satellite to provide services throughout India.

In 2011, just before the satellites were launched, the Indian government determined that it required more of the network capacity than expected for itself and could no longer provide the portion of the satellite frequency range (the S-Band) to Devas under the lease agreement. At the Indian government's behest, Antrix terminated the satellite lease agreement on force majeure grounds.

Devas then initiated arbitration against Antrix and won a US$ 562.5 million+ award against Antrix (the **Award**). Devas confirmed the Award in France and the United Kingdom, and then initiated enforcement and recognition proceedings before the District Court for the Western District of Washington under Section 1605(a)(6) of the FSIA (known as the "arbitration exception"). Under Section 1605(a)(6), a foreign state waives immunity for suits to confirm arbitration awards in circumstances where the arbitration agreement or award is "governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards."

After Devas sought to enforce the Award in the United States, several "dramatic" (in the Supreme Court's words) developments unfolded. First, an Indian corporate law tribunal (the Indian National Company Law Tribunal) held that Devas had procured its satellite lease agreement through fraud and corruption, and appointed an Indian government entity to take control of the company and wind down its affairs. Devas's shareholders and subsidiaries then intervened in the federal enforcement proceedings to enforce the judgment themselves. The Western District of Washington confirmed the Award in the shareholders' favor, granting them discovery to search for Antrix's assets in the United States as a means to execute the Award.

Antrix, however, appealed the Western District of Washington's decision, arguing that the district court lacked personal jurisdiction to enforce the Award because Antrix did not possess sufficient minimum contacts with the United States in accordance with *International Shoe Co. v. State of Washington et al.* (326 U.S. 310 (1945)).[i] The Ninth Circuit agreed with Antrix, explaining that "personal jurisdiction under the FSIA [also] requires a traditional minimum contacts analysis." Applying that standard, the Ninth Circuit held that Antrix lacked sufficient suit-related contacts with the United States and therefore the enforcement action should have been dismissed for lack of personal jurisdiction.

THE SUPREME COURT'S DECISION

Devas appealed to the Supreme Court on the grounds that the FSIA governed the issue of personal jurisdiction, and that it does not require proof of "minimum contacts" above the Act's enumerated requirements to abrogate foreign sovereign immunity.

The Supreme Court agreed with Devas. It explained that the Section 1330(b) of the FSIA provides that "[p]ersonal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have [subject-matter] jurisdiction under subsection (a) where service has been made under section 1608 of this title." The Court concluded that the FSIA "imposes two substantive requirements—one related to subject-matter jurisdiction, the other related to service of process." Approaching the question from a textualist perspective, the Court concluded that "the most natural reading of §1330(b) is that personal jurisdiction over a foreign sovereign is 'automatic' whenever (1) 'an exception to immunity applies' and (2) 'service of process has been accomplished.'" The Court further reasoned that "[n]otably absent from §1330(b) is any reference to 'minimum contacts.' And we decline to add in what Congress left out: the FSIA was supposed to 'clarify the governing standards,' not hide the ball."

The Supreme Court further explained that the absence of any reference to "minimum contacts" is sensible, given that "the FSIA's immunity exceptions themselves require varying degrees of suit-related domestic contact before a case may proceed." The Ninth Circuit's decision "read an additional requirement into one – and only one – of the FSIA's tethered immunity and jurisdictional provisions[,]" which, according to the Court, would both "weaken the link Congress forged among foreign sovereign immunity, subject-matter jurisdiction, personal jurisdiction, and the enumerated exceptions," and also "create a gap in the Act's otherwise 'comprehensive framework.'"

The Court briefly addressed the legislative history cited by the Ninth Circuit, concluding that it neither "overrides" nor "contra[dicts]" the "plain meaning" of the FSIA. The Ninth Circuit had cited to *Thos. P. Gonzalez Corp. v. Consejo Nacional de Produccion de Costa Rica*, 614 F. 2d 1247, 1255 (1980) as support for the conclusion that Section 1330(b) requires "satisfaction of the traditional minimum contacts standard." The *Gonzalez* Court had based this conclusion on its analysis of the FSIA's legislative history, and particularly a statement in the House Judiciary Report that "[t]he requirements of minimum jurisdictional contacts and adequate notice are embodied in the [personal jurisdiction] provision." H. R. Rep. No. 94–1487, p. 13 (1976).

The Supreme Court noted that the House Judiciary Report also made the "critical point" that "[t]hese immunity provisions [of the FSIA], therefore, prescribe the necessary contacts which must exist before our courts can exercise personal jurisdiction[.]" Accordingly, the Supreme Court concluded that "the FSIA's legislative history leads to the same result as §1330(a)'s text: personal jurisdiction rises and falls based on whether an immunity exception applies and the plaintiff has effectuated proper service."

Finally, the Supreme Court declined to address a number of additional arguments Antrix raised on appeal that the Ninth Circuit similarly did not address, including questions of *forum non conveniens* and whether the claims in dispute fall under the FSIA's arbitration exception. The Court also declined to rule on whether the Due Process Clause of the Fifth Amendment itself requires a showing of minimum contacts before a federal court may exercise personal jurisdiction over a sovereign entity. These questions remain open for the Ninth Circuit to address on remand.

KEY TAKEAWAYS AND IMPLICATIONS OF THE DECISION

The Ninth Circuit's decision defied what appeared to be settled practice under the FSIA: that the only requirements for personal jurisdiction in an award enforcement action against a sovereign are those expressly enumerated by the FSIA. The Supreme Court's decision reaffirms that standard.

Moving forward, parties seeking to enforce awards in the United States will still need to (i) establish that one of Section 1605's enumerated exceptions to foreign sovereign immunity applies and (ii) effect proper service under Section 1608. However, creditors holding an award against a sovereign can now rest assured that they will not be required to undertake a "minimum contacts" analysis to enforce that award in the United States. The decision affirms that the United States remains amenable to award enforcement against foreign sovereigns in its territory.

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[i] In order to satisfy the “minimum contacts” test for personal jurisdiction, a plaintiff must ordinarily prove that a defendant has sufficient contacts with the forum such that having to litigate in that forum would not be a violation of the defendant’s due process rights. This typically requires a showing that the defendant has “purposefully avail[ed] itself of the privilege of conducting activities” in that forum previously.