

## Litigation Trends in the Global Oil and Gas Industry: What You Need To Know

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Michael Davison is head of the Hogan Lovells Litigation, Arbitration, and Employment Practice Group. For close to 30 years, he has been helping clients avoid disputes. He is currently working from the firm's London office as an arbitration lawyer, handling the most complex international cases. In this [hoganlovells.com](http://hoganlovells.com) interview Davison talks about some of the factors driving supply chain disruption in the global oil and gas industry.

“For me, litigation is a tool to get a commercial result. It's not simply a means to get a judgment at the end of the day that you can pin on your wall,” explains Davison. “Hogan Lovells' approach to litigation is attractive to clients: we want them to improve their business through the effective use of litigation.”

### **Can you describe some of the factors that have led to an increase in litigation over supply chain disruption in the oil and gas industry?**

**Davison:** Companies often enter into long-term contracts, say for five years, to buy commodities at a fixed price. Whenever that fixed price changes, because for example the market collapses or there is commodity inflation or there is political upheaval, people will inevitably want to get out of those long-term contracts — either because they want to reduce their exposure or to maximize a return. That often directly leads to litigation.

But more interestingly for companies, this dynamic changes the approach companies adopt to purchasing commodities. It leads them away from the fixed long-term contract, towards operating more on the spot market. If they sense that the trend is downwards, they will stop entering into fixed-term contracts and just buy spot so that they can take advantage of the declining price. When the market turns and it goes back up, you'll suddenly see a trend back to fixed-term contracts because they will want to lock in the price in an increasing market.

### **How have oil and gas companies responded to the drop in oil prices? Have those actions in turn led to litigation?**

**Davison:** Oil and gas companies make their money by selling their commodities for the best return. When that price comes down, they go on to cost-cutting mode. They cut investment in infrastructure. They stop building refineries or LNG plants or they stop buying tankers — they

cancel all those contracts. And that too leads to litigation — that's a direct consequence. And they also then cut the cost of their suppliers — so to the extent that you are in an area of supplying services to an oil and gas major, you will find that your contracts are either being renegotiated or canceled. And what is your bargaining power in that situation?

The oil and gas market is fascinating because there are big and powerful companies that are in a position to exert a lot of influence and bargaining power but that also operate in the most competitive market in the world at the cutting edge of technical innovation. Those contract negotiations are pretty tough — that's what led to the consolidation in the oil and gas supply chain. The costs have been contracted and profits have been reduced. And we've seen some very interesting consolidations in the oil and gas industry. There have been lots of rumors of other service companies either cutting back dramatically on capital investment or consolidating with others in the same space. I don't think we are at the end of that cycle yet.

### **Do the litigation trends you are seeing vary at all by region?**

**Davison:** At Hogan Lovells, we see litigation in countries where the contracting regime is perhaps not quite as sophisticated as elsewhere. We are seeing a lot of issues in the Far East and the former Soviet Union. Hogan Lovells has a long track record of litigating these cases in these parts of the world. I've litigated this from Indonesia to China to Russia and Ukraine to Turkey, Central Asia to Africa.

Everyone expected the market to go all the way down and then to bounce back up. And what's interesting about this economic cycle is that the price of oil has plateaued at a low level but it hasn't come back up — yet. The open question for the industry is — what is the effect of this long-term reduction in the price of oil and what does that mean for the industry long term?

### **For More Information**

The long and complex supply chains relied upon by global businesses can easily be threatened by external forces such as oil price volatility and natural disasters, which is why Hogan Lovells has produced an [online Supply Chain Disruption Tool](#). “We are giving companies access to this tool so they can do their own assessment of the potential contractual risks they've got. And then when companies have done the assessment and they do need us, we will be there to leap in anywhere a company has a problem,” said Davison.

Visit our [Supply Chain Disruption Tool](#) for tailored guidance across different legal jurisdictions and industry sectors, including oil and gas, and how best to manage these risks.

# Contacts



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