



Kobre & Kim's Cross-Border Disputes Team

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Chinese Infrastructure Investors Can Effectively Challenge Sovereign Debtors



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Chinese investors are playing an increasingly significant role in sovereign-related investments worldwide, especially in Europe, Africa, and Latin America. This raises enforcement challenges linked to sovereign immunity. Investors and claimants facing sovereign debtors should adopt bold, non-traditional strategies beyond litigation to effectively protect their interests and navigate these complexities.

Chinese investors have become increasingly prominent in sovereign-related investments, particularly through acquisitions, joint ventures, and critical infrastructure projects in Europe, Africa, and Latin America. Recent reporting on Chinese involvement in strategic ports across Latin America highlights how these investments can blur the lines between commercial interests and sovereign influence. This exposure increases the likelihood of investors facing enforcement challenges abroad, implicating a sovereign's unique powers and immunities.

Investors and other claimants should not be afraid to stand up to sovereign debtors with aggressive non-traditional strategies. Litigation is but one element of an effective strategy:

1. **Focus on Outcomes, Not Assets.** Given the protection of sovereign immunity, creditors cannot always rely on conventional asset recovery solutions. Award holders should focus their resources on strategies most likely to cause the sovereign debtor to agree to (and quasi-government bodies, like the World Bank.
2. **Preserve Assets with Interim Applications.** Where available, discovery, charging orders, third-party debt orders, or the appointment of a post-judgment receivers in key jurisdictions can be crucial in preserving the value of assets that have not yet matured or that require management by a third party. Appointment of a receiver can cause cross-defaults on other debt and impact future capital raising.
3. **Remember: A Settlement is Not the Finish Line.** A sovereign that incurred a large bond, loan, judgment, or award liability may be just as willing to renege on a settlement agreement. Crafting a settlement agreement that protects against these risks is key to securing a substantial return. When the sovereign insists on deferring payments over time, creditors should consider security, consent judgments, choice of law, as well as the deployment of contractual receivers to take control of assets if the settlement agreement is breached. Thinking ahead to the subsequent default will help protect a hard-won victory.

follow through on) a resolution. They can also consider going beyond assets, such as striking alliances with other government and

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An unconventional cross-border enforcement strategy may increase private Chinese investors' chances of achieving an acceptable settlement and significant return.

About Kobre & Kim

Kobre & Kim is a conflict-free global law firm focused on disputes and investigations, often involving fraud and misconduct. The firm:

- Acts on behalf of creditors to monetize high-value judgments and arbitration awards. Most of our matters involve awards and judgments with face values of US \$100 million to several billion USD.
- Often works with other law firms as special counsel in cases beyond their geographic reach to enforce high-value judgments and arbitration awards around the world with our integrated team of former ex-government lawyers, Hong Kong solicitors, UK solicitors, barristers (including King's Counsel), and offshore lawyers.
- Has extensive experience handling arbitration awards and judgment enforcement matters against sovereign governments and related entities and understands the unique issues and opportunities in such enforcement campaigns.
- Can act in jurisdictions across North and South America, EMEA, Asia, and key offshore financial centers in cases involving closely coordinated, cross-border proceedings.