

# West Tankers Case: Articles by Max Planck Institute's Scholars

Following the **reference to the ECJ of the *West Tankers* case by the House of Lords**, first comments on the subject-matter of the preliminary question are provided by three articles written by scholars affiliated to the Max Planck Institute for Comparative and International Private Law (Hamburg).

Here's a presentation of the articles, from the Institute's website:

*On the occasion of the House of Lords referral, Institute researchers have renewed their engagement with the question of the reconciliability of the English anti-suit injunction in support of arbitration agreements with European procedural law. Their opinions conclude that the ECJ in continuance of the judicature it has thus far developed is also likely to declare that anti-suit injunctions supporting the implementation of arbitration agreements are incompatible with EC Regulation 44/2001 and other fundamental European laws.*

*As such, **Martin Illmer** and **Ingrid Naumann** explain in their article, appearing in *Internationales Handelsrecht* 2007, 64, that the rationale in the ECJ Turner decision is equally applicable to the legal context of arbitration agreements and that the economic considerations set forward by the House of Lords represent unjustified protectionism in favour of London arbitral settings.*

*In a continuation of their earlier published work on anti-suit injunctions, **Anatol Dutta** and **Christian Heinze** consider the English legal regulations and, moreover, comprehensively examine the legality of anti-suit injunctions in protection of arbitration agreements from a European legal perspective in light of EC Regulation 44/2001. In their article "Anti-suit injunctions zum Schutz von Schiedsvereinbarungen", *Recht der Internationalen Wirtschaft* 2007, 411, they similarly argue for applying the principles of the ECJ decision in Turner and thereby conclude a breach of EC Regulation 44/2001.*

*Finally, in "The Impact of EU Law on Anti-suit Injunctions in aid of English Arbitration Proceedings", *Civil Justice Quarterly* 2007, 358, **Ben Steinbrück** adopts the specific perspective of arbitration law and reasons why the decision*

*as to the effects and scope of English arbitration agreements may not permissibly be monopolised by English courts.*