



Media Release

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BIICL publishes a second Concept Note on the legal steps needed to encourage ‘breathing space’ in contractual relationships, and provide a foundation for a global economic recovery from the COVID 19 pandemic

This follows from [Concept Note 1](#) (reported on BBC Radio 4’s Today on 27 April 2020 - interview with Lord Neuberger at 2h33m, and in the Financial Times, Times, and other leading publications).

It explains in detail the steps that should be taken to minimise the risk of a deluge of disputes and increase the prospect of constructive outcomes.

[Concept Note 2](#) argues that: *“The effects of the pandemic are magnified by supply chains which over the past three decades have become increasingly global. This has implications for disputes as well, since the disruption of a single contract can disrupt the entire chain. One dispute can set off a chain reaction of disputes.”*

It argues (among other things) that the best policy approach in the case of many contracts is for the law:

- to support negotiated solutions to make viable contracts blighted by the pandemic work;
- to bring contracts made unviable by the pandemic to an end in an equitable manner;
- where negotiation fails, to encourage parties to undertake mediation or other alternative dispute resolution methods;
- where court proceedings are needed and cannot be safely carried on in person, to encourage online hearings – these will have a much more important role in the future even when no longer necessary for health reasons, and will help to avoid a backlog of cases clogging up the system.

The full list of recommendations is at paragraph 69 of [Concept Note 2](#).

Sir William Blair, a former Judge of the London Commercial Court, and one of the authors of Concept Note 2, said:

“Faced with an unprecedented crisis, the law must provide a solid, practical and predictable foundation for the resolution of disputes and the confidence necessary for a recovery. New thinking is required, and there is every reason for optimism that we can succeed.”

Professor Eva Lein, Director of BIICL’s Centre for Comparative Law said:

“BIICL looks forward to comments to Concept Note 2. As a global legal community, we must share best practices to be able to adequately respond to this crisis.”

BIICL will contribute to convene virtual meetings and hopes the Breathing Space project will act as a global exchange of ideas hub; details of forthcoming virtual conversations will follow.

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NOTES TO EDITORS:

- 1. The British Institute of International and Comparative Law (BIICL) provides informed, independent and practical legal ideas for a global community. Its high quality and respected work involves analysis and debate about contemporary issues on every continent, from its base in the heart of London’s energetic and multicultural legal network.**
- 2. Concept Note 2 arises out of a meeting hosted by the British Institute of International and Comparative Law on 7 April 2020, and work subsequently taken forward by Lord Phillips of Worth Matravers, Lord Neuberger of Abbotsbury, Sir David Edward, Sir William Blair, Professor Louise Gullifer, Professor Spyros Maniatis, Professor Eva Lein, Professor Malik Dahlan, Keith Ruddock, and Judy Fu.**
- 3. Concept Note 2 is authored by Professor Sir William Blair of Queen Mary University of London, Professor Eva Lein of the University of Lausanne, Professor Louise Gullifer of the University of Cambridge, and Judy Fu of 3VB Chambers.**
- 3. BIICL is encouraging global responses to Concept Note 2 via email submissions to breathingspace@biicl.org**
- 4. Lord Neuberger of Abbotsbury chairs the BIICL 60+ Appeal: Global challenges new perspectives. For more information please visit, www.biicl.org/60thappeal.**

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