

Treaty Tips

Treaty Tips: Prepared To Honorably Engage?

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The arbitrators shall interpret this contract as an honorable engagement and not as merely a legal obligation.

“Honorable engagement” clauses like this one appear in many reinsurance agreements, especially those drafted some years ago. Given the nature of some risks, those older agreements may be the subject of dispute resolution today, or even tomorrow. In any event, whether entering dispute resolution relating to an older agreement or drafting a new agreement, **it is important to keep in mind that the honorable engagement clause confers broad discretion on the arbitrators.** The presence of this clause allows a party to argue that equity and fairness, as opposed to strict interpretation of the agreement’s terms and conditions, should serve as the foundation of the arbitrators’ award. Such a clause could also affect the extent to which arbitrators follow, or even consider, relevant case law, or require procedural and evidentiary formalities. In the end, the honorable engagement clause could make it even more difficult to upend an arbitration award on the basis that the arbitrators exceeded their authority.



The rules of engagement: look them up in your arbitration agreement