

NICHOLAS FLETCHER KC

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Higher Education:

Balliol College, Oxford (B.A. (Hons) Jurisprudence, 1980)

London School of Economics and Political Science (LLM, 1981).

Professional Qualifications:

Called to the Bar of England & Wales 1982

Admitted to the Bar of the State of New York 1985

Admitted to practice in the US District Court for the Southern District of New York 1985

Admitted to the Roll of Solicitors in England & Wales 1989

Appointed Queen's Counsel 2014

Career history:

Undertook 12 months' pupillage at the Chambers of Michael Thomas Q.C. (now Quadrant Chambers)
1982-1983

Associate attorney at Haight, Gardner, Poor & Havens (now Holland & Knight) in New York 1983-1986

Associate and partner at Clifford Chance LLP (International Arbitration Group) 1986-2009

Head of International Arbitration at Berwin Leighton Paisner LLP (now Bryan Cave Leighton Paisner)
2009-2014

Independent Arbitrator practising from 4 New Square (2014 to date)

Professional memberships:

London Court of International Arbitration

International Chamber of Commerce (ICC)

ICC Commission on Arbitration (Member of the Task Force on the NY Convention on the Enforcement of International Arbitration Awards)

International Council for Commercial Arbitration (ICCA)

Rapporteur for England & Wales for the Institute of Transnational Arbitration

Trustee of the Foundation for International Arbitration Advocacy

Recent Publications:

A Guide to the IBA Rules on the Taking of Evidence in International Arbitration – Consultant Editor (OUP 2019)

Should ICSID Have or Not Have a New Appellate Process? (Fordham Law School Papers 2015)

Regular case notes on arbitration-related decisions from the English courts for Kluwer's on-line arbitration-research tool.

Relevant professional experience:

Extensive experience as presiding arbitrator, sole arbitrator and panel member in arbitrations conducted under a variety of institutional and procedural rules and on an ad hoc basis. Further details are set out below.

Over 30 years' experience as counsel engaged in commercial arbitration. Relevant details are also set out below.

Experience as Arbitrator:

Shareholder/Investment/Financing Disputes

- Chair of a tribunal appointed to determine a very high value dispute (in excess of US\$ 1 billion) over investment in and the management of a country-wide cellular telephone system in the Middle East (ICC);

- Chair of a tribunal appointed to hear a dispute over the ownership of share in a BVI corporation (Ad hoc);
- Chair of a three-person tribunal hearing a dispute between joint venture partners concerning real estate investments in Eastern Europe (LCIA);
- Chair of a tribunal hearing a claim under a corporate guarantee governed by Cyprus law (LCIA);
- Chair of tribunal appointed to hear dispute arising from share-sale agreement under UAE law (DIAC);
- Chair of a tribunal hearing claims against a borrower and guarantor for non-payment of bank loans (LCIA);
- Sole arbitrator in a breach of warranty dispute under a share sale agreement (LCIA);
- Sole arbitrator in respect of two arbitrations concerning investment in an infrastructure project vehicle in West Africa (LCIA);
- Sole arbitrator determining a dispute over a share sale and purchase governed by New York law (LCIA);
- Sole arbitrator in dispute concerning sums owed under loan agreements (LCIA);
- Member of a three-person tribunal appointed to hear a dispute concerning a guarantee agreement relating to an aircraft loan (LCIA);
- Member of a three-person tribunal hearing a dispute over alleged breaches of a facility agreement governing the loan of several hundred millions of dollars to a Central Asian copper mine (LCIA);
- Member of a three-person tribunal hearing an investment-banking dispute (LCIA);
- Member of a three-person tribunal hearing a dispute over loans to a hotel development project in East Africa (ICC);
- Member of a three-person tribunal hearing a dispute between shareholders concerning investment in a television station in Eastern Europe (ICC);
- Member of a three-person tribunal hearing a complex breach of warranty dispute arising out of the sale of an aviation service business (ICC).

General Commercial

- Chair of a tribunal appointed to hear a dispute arising out an abortive Initial Coin Offering in respect of a cryptocurrency (LCIA);
- Chair of a tribunal hearing a dispute arising out of a corporate transaction relating to a real estate development in Moscow (LCIA);
- Chair of an ad hoc tribunal appointed to hear a dispute between parties to a mobile telecommunications joint venture in South-East Asia (Ad hoc);

- Sole arbitrator of a dispute seated in Dubai concerning alleged breaches of a joint venture agreement to build and operate a hotel in central Africa (DIFC-LCIA);
- Sole arbitrator in two related arbitrations concerning fraud in the financing of the purchase and sale of consignments of copper ingots (LCIA);
- Sole arbitrator in ad hoc arbitration between a firm of lawyers and Leading Counsel in respect of allegations of professional negligence;
- Sole arbitrator in a dispute concerning sums owing to merchants from a credit card company (LCIA);
- Sole arbitrator of an English law dispute relating to commission alleged to be payable under a brokerage agreement (Ad hoc).
- Member of a three-person tribunal appointed to hear a dispute over a share purchase agreement (ICC);
- Member of a three-person tribunal appointed to hear a dispute over the usage of a trademark (ICC);
- Member of a three-person tribunal appointed to hear a dispute regarding breaches of an agreement for the supply of products in the defence sector (LCIA);
- Member of a three-person tribunal appointed to hear a dispute concerning the establishment of a company in India (Ad hoc);
- Member of a three-person tribunal hearing a dispute between shareholders concerning investment in a television station in Eastern Europe (ICC);
- Member of a three-person tribunal sitting in a dispute concerning claims of mismanagement of television stations in Asia (LCIA);
- Member of a three-person tribunal sitting in 4 related arbitrations involving disputes over the acquisition of an agricultural products trading business in Europe and the Far East (LCIA).
- Member of a three-person tribunal hearing a claim between an agent and a football player under the Football Association's Rule K.

Construction & Engineering

- Chair of a tribunal hearing a highly complex and very high value (circa. US\$1 billion) dispute under 3 design subcontracts for a light rail system in the Middle East (ICC);
- Chair of a tribunal appointed to hear a dispute over delays and cost overruns on a leisure complex in a Gulf State (DIFC-LCIA);
- Chair of tribunal appointed to hear a construction dispute arising under a steel structure subcontract governed by UAE law relating to a prestigious sports facility in the Gulf (DIAC);
- Chair of a three-person tribunal appointed to hear a dispute concerning an infrastructure project in the Gulf (LCIA);

- Chair of a three-person tribunal appointed to hear a dispute concerning intellectual property indemnity provisions in contracts for the design, construction, delivery and sale of four vessels from an Asian shipyard (LCIA);
- Sole arbitrator hearing a dispute involving US and Afghan law regarding sums paid under a final account in connection with an infrastructure project in Afghanistan (ICC);
- Sole arbitrator appointed to hear dispute concerning the provision of scaffolding services and supplies in a Gulf State (DIFC-LCIA);
- Sole arbitrator in a dispute concerning the construction of a luxury yacht (LCIA);
- Member of a three-person tribunal appointed to hear a \$500 million dispute concerning delay and changes said to arise out of the construction of a LPG storage and processing facility in a Gulf State (ICC);
- Member of a three-person tribunal appointed to hear a dispute regarding the alleged termination of a contract for the construction of an oil processing facility in the Middle East (ICC);
- Member of a three-person tribunal hearing claim for circa \$70 million for delay, disruption, prolongation and breach of contract under a project agreement for the construction of an oil processing facility in the Middle East (LCIA);
- Member of a three-person tribunal hearing a claim concerning the termination of a contract for the design, construction and operation of an LNG import and regasification terminal in SE Asia (LCIA);
- Member of a three-person tribunal hearing a dispute in respect of a supply and construction contract for gas facilities in Iraq (ICC);
- Member of a three-person tribunal appointed to hear a dispute over the construction of power transmission facilities in West Africa (LCIA);
- Member of a three-person tribunal hearing delay and prolongation disputes under two separate contracts concerning the construction of heavy oil processing facilities in a Gulf State (UNCITRAL);
- Member of a three-person tribunal hearing a dispute under a subcontract for the supply, delivery, installation, protection and commissioning of mechanical, electrical and plumbing services for the construction of a large development in the UAE (LCIA).

Oil & Gas/Energy/Mining

- Chair of a tribunal appointed to hear a dispute over intellectual property indemnity provisions in 5 contracts for the construction of dual-use, deep-water drillships (LCIA);
- Chair of a three-person tribunal appointed to determine accounting disputes arising out of two separate Joint Operating Agreements relating to oilfields in West Africa (ICC);

- Chair of a three-person tribunal hearing a dispute over a tender for an oilfield services contract in central Asia (UNCITRAL);
- Chair of a tribunal hearing disputes under a settlement agreement relating to an oilfield services agreement (LCIA);
- Sole arbitrator of a dispute concerning sums due under a contract for the sale and purchase of carbon credits governed by New York law (ICC);
- Sole arbitrator hearing an ad hoc dispute concerning rental payments for temporary power generation facilities in East Africa (UNCITRAL);
- Member of a three-person tribunal appointed to hear a dispute under a mining operations agreement in connection with a project in West Africa (ICC);
- Member of a three-person tribunal appointed to hear a dispute arising in connection with the alleged breach of a contract to deliver two drilling rigs (UNCITRAL);
- Member of a three-person tribunal appointed to hear multiple disputes arising out of the sale and purchase of LNG under a Master LNG Sale and Purchase Agreement (LCIA);
- Member of a three-person tribunal appointed to hear a dispute over the treatment of expenses and deductions for costs under an oilfield operating agreement (ICC);
- Member of an UNCITRAL tribunal appointed to hear three consolidated arbitrations concerning disputes over oilfield licences in Eastern Europe;
- Member of an UNCITRAL tribunal appointed to hear disputes governed by Alberta law between investors in an oilfield project in Central Asia (UNCITRAL);
- Member of an ICC tribunal hearing a dispute under an oilfield services agreement (ICC);
- Member of a three-person tribunal hearing a dispute concerning an oilfield services agreement (LCIA).

Pharmaceutical/Healthcare

- Sole arbitrator appointed to hear a dispute arising out of license agreement for the production of a COVID-19 vaccination (LCIA);
- Sole arbitrator appointed to determine dispute concerning the alleged termination of a medical equipment patent license agreement (LCIA);
- Member of an ICC tribunal considering a dispute between joint venture partners concerning the establishment of a pharmaceutical manufacturing plant in the Middle East/North Africa (ICC);
- Member of a three-person tribunal hearing a dispute over breaches of a manufacturing and supply agreement in relation to pharmaceutical products (UNCITRAL Rules/LCIA administration);

- Member of a three-person tribunal appointed to hear disputes under a contract for the purchase of medical and pharmaceutical products and related property and rights (LCIA).

Nicholas Fletcher KC

February 2023