

Achieving fast, innovative and cost-effective dispute resolution for businesses

Tim Hardy – Arbitrator

“ He has high professional standards, makes decisions carefully and fairly, and exercises good commercial judgment. ”

Arbitration Feedback

OVERVIEW

Since 2012 Tim has been accepting appointments as an arbitrator after obtaining a Post Graduate Diploma in International Arbitration from Oxford University and becoming a Fellow of the CI Arb in 2011. Tim has handled disputes under ICC, LCIA, SCC, ICAC, LMAA, GAFTA, UNCITRAL and ICSID Rules. He has been described as ‘the father’ of the CI Arb’s International Arbitration Guidelines produced while he Chaired the CI Arb’s Practice & Standards Committee.

STYLE AND APPROACH

Tim sees his role as an arbitrator to help the parties resolve their dispute fairly, without unnecessary delays and at a proportionate cost. He is acutely aware of the legal costs of the process and the need to keep them under control. As the length of time that a case takes to run will directly impact on the costs he encourages the parties to work to a timetable set as early as possible. He also maintains the pace by keeping a watchful eye on the timetable and proactively chasing parties who are falling behind. Tim’s approach to managing the different aspects of an arbitration is reflected in the CI Arb’s Arbitration Guidelines for which he was the leading draftsman while a member of the Institute’s Practice & Standards Committee. The Guidelines address all aspects of managing an arbitration including Interviewing Prospective Arbitrators, Jurisdictional Challenges, Interim Measures, Security for Costs, Party Non-Participation, Documents Only Procedures, Procedural Orders, Experts, Costs, Interest and Drafting Awards.

EXPERTISE

- Tim has been described as ‘the father’ of the CI Arb’s International Arbitration Guidelines because of his role as the leading draftsman while Chair of the Institute’s Practice & Standards Committee
- ‘Drafting the CI Arb’s International Arbitration Guidelines involved thorough research and wide consultation working out what was the best practice an arbitrator should adopt when facing tricky procedural issues taking account of different legal systems, traditions and practices. Armed with this knowledge I am skilled at finding a fair and efficient solution to the procedural complexities that frequently arise in complex international arbitrations’
- Based in London, Tim operates across the UK, Europe, North and South America, Africa, the Middle East and Asia, where appropriate, using the latest technology to handle hearings and mediations remotely with multi-parties and across time zones

EXPERIENCE

Arbitrator Appointments

- Third Party Funding - LCIA selected member of a tribunal seated in Jersey concerning a dispute between a third party funder and the funded party arising out of the withdrawal of the funding for an ICSID arbitration brought in Washington against an Eastern European State.

- Mining in Africa - Party appointed member of an ad hoc tribunal seated in an African State concerning a dispute related to mining and prospecting rights for precious metals pursuant to a licence governed by the law of that state.
- Engineering in Africa - Party appointed arbitrator in an ICC arbitration seated in London relating to a claim against an African State by a contractor for damages related to termination of a contract, for the management of an engineering project, governed by English law.
- Facilities Management - Sole arbitrator in an arbitration seated in London between the owners of premises providing conferencing, training and accommodation and a contractor employed under a Facilities Management Agreement as to damages for repudiatory breach arising from early termination and a counterclaim for recovery of sums overpaid.
- Contractual Claims - Sole arbitrator in three arbitrations seated in London relating to damages for breach of contracts.
- Shipping - Party appointed arbitrator in an LMAA arbitration seated in London, related to a Charter Party dispute concerning transport of commodities to North Africa and responsibility for charges due to cancellation because of problems with the charterer's supply chain.

Mediator Appointments re Arbitrations

- Investor State Africa - Mediator in a dispute between the beneficiaries of an ICSID arbitration award against an African State as to their competing entitlement to damages.
- ATE Insurance - Mediator in a dispute, subject to an arbitration, between a successful Defendant seeking to enforce a costs order against the Claimant's ATE insurer, the insurer having declined cover alleging misleading information had been given by the Claimant when applying for the insurance policy.

Counsel Appointments in Arbitrations

- Investor State Mining - Advocate for an Eastern European State in an Investor State Dispute subject to UNCITRAL Rules with particular responsibility for challenging the expert evidence adduced by the investor advancing a claim for US\$1.6bn.
- Hotel Management - Counsel in an LCIA arbitration seated in London concerning the termination of a Hotel Management Contract relating to a trophy property including obtaining an emergency injunction from the Commercial Court under s44 of the Arbitration Act 1996.
- Investor State Industrial - Counsel in an ICSID Investor State arbitration seated in Paris in a claim for damages arising from the State's expropriation of a heavy industry purchased by a private equity fund.
- Investor State Challenging Award - Counsel in an UNCITRAL Investor State

Arbitration seated in London challenging an Award on jurisdiction under s67 of the Arbitration Act 1996.

- Hotel Construction Middle East - Counsel in an UNCITRAL arbitration seated in the Middle East acting for a group of investors in a hotel development in connection with a claim arising from the wrongful release of milestone payments from a security escrow account governed by local law.
- Warranty Claim Russia - Counsel in an ICAC arbitration seated in Russia concerning alleged breaches of warranties in a Sale and Purchase Agreement governed by English law relating to shares in a company owning real estate in Russia.
- Shareholder Dispute Stockholm - Counsel in an SCC arbitration seated in Stockholm concerning a claim for the return of a premium paid for an Option to acquire shares in a company trading in the Russian Federation.
- Commodities - Counsel in a GAFTA arbitration seated in London concerning pricing of a commodity in a contract concluded over the phone between a Spanish purchaser and French seller governed by French law.
- Asset Sale Agreement - Counsel in an ICC arbitration seated in London acting for an Eastern European manufacturer concerning a damages claim arising out of its acquisition of liabilities in an Asset Sale Agreement governed by English law.

PROFESSIONAL QUALIFICATIONS

- LLM Advanced Litigation (with distinction) 1996.
- Higher Courts (Civil Proceedings) 2002.
- PG Dip Oxon International Arbitration 2009.

CAREER HISTORY

- 1986 - 2017 Head of Commercial Litigation, CMS Cameron McKenna LLP.
- 1996 - 2017 Head of Commercial Litigation.
- 1987 - 1995 Partner.
- 1986 - 1987 Senior Associate.
- 1980 - 1986 Associate Slaughter & May, London Commercial Litigation & Arbitration.

ACCREDITATION

- Accredited CEDR Mediator 2001.
- Fellowship Chartered Institute 2011.

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