

ARIF HYDER ALI



Washington, D.C. +1 202 261 3307

London +44 207 184 7372

arif.ali@dechert.com

PROFESSIONAL BACKGROUND

Arif Hyder Ali has nearly 30 years of experience in investor-state, international commercial and construction arbitration. He is currently the Co-Chair of Dechert LLP's International Arbitration Group. He has served as lead trial counsel and arbitrator in arbitrations under all of the major arbitral rule regimes, including DIAC, the ICC, ICDR, ICSID, LCIA, SIAC and UNCITRAL. He has also held positions at leading academic institutions (Georgetown University Law Centre, University of Dundee's Centre for Energy, Mineral Law and Policy) as an adjunct law professor, and worked as a senior lawyer in two international organizations: from 1993 to 1996, he was a section chief at the UN Compensation Commission, a special division of the United Nations Security Council, and from 2000 to 2001, he served as senior counsel at the World Intellectual Property Organization Arbitration and Mediation Center.

In 2001, he was decorated by the King of Bahrain with the Order of Bahrain (II) for his role in Bahrain's representation before the International Court of Justice. In 2016, he received Law 360's MVP Award, which is awarded to a select group of lawyers who have distinguished themselves from their peers by securing hard-earned successes in high-stakes litigation and complex global matters.

Mr. Ali was born in Bangladesh and has lived and worked around the world. Given his personal background, language skills, jurisdictional experience and professional activities, Mr. Ali brings a unique multi-cultural and multi-jurisdictional awareness and perspective to his work as an arbitrator and advocate. He is recognized by peers and clients as a *"polished maestro in his field,"* a *"brilliant lawyer,"* a *"great advocate,"* and *"a very intelligent and knowledgeable international arbitration expert"* with *"extensive knowledge of complex arbitration issues,"* and a *"pragmatic approach."* Peers note *"his knowledge of and sensitivity towards region-specific legal issues,"* *"outstanding intellect evident in his ability to quickly absorb relevant technical and scientific information,"* and *"absolutely brilliant ability to rapidly understand the complexities of a business operation in the context of a contentious dispute."*

Mr. Ali has advised numerous arbitration institutions on procedural tools and practices to improve efficiency, while ensuring that parties have a fair opportunity to present their case and that their due process rights are protected. He has deployed innovative procedural mechanisms in his work as an arbitrator, including med-arb and procedural facilitation.

INDUSTRY AND SECTOR EXPERIENCE

Mr. Ali's industry and sector expertise as an advocate and arbitrator include: oil and gas, energy, mining, precious metals, life sciences, telecommunications, hospitality, textiles, retail, amongst other industries and economic activity.

He has worked on disputes in a broad range of areas, including: mergers and acquisitions; post-acquisition valuations; joint ventures; contracts subject to the UN Convention on the International Sale of Goods and INCOTERMS; intellectual property licensing agreements; foreign direct investment; privatization; the construction, operation and commercialization of thermal, nuclear, and hydro power plants; oil and gas pipeline construction and concession-related matters; mining and minerals concessions; gas pricing disputes; natural resource exploitation projects and contracts; the development and operation of tourism and hospitality projects; project finance and development agreements; contract stabilization and renegotiation issues; patents and trademarks; Internet governance and top-level domains; and information technology-related disputes.

In the field of construction arbitration (civil, industrial and mechanical), Mr. Ali has worked on disputes involving design and construction; delay; defects; substantial performance; express and implied warranties; change orders; construction sequencing; site selection, suitability and access; and sub-contractor substitution.

JURISDICTIONAL EXPERIENCE

Mr. Ali has argued and arbitrated disputes under the laws of a number of civil and common law jurisdictions and is often sought out as an arbitrator in light of his understanding of the analytical, substantive and jurisprudential differences between the two systems, as well as his multi-cultural and multi-jurisdictional perspective.

He has been involved in arbitrations as counsel and arbitrator under the laws of Argentina, Bangladesh, Bahrain, Bolivia, Brazil, Canada, China, Costa Rica, Ecuador, Egypt, El Salvador, France, Guatemala, India, Iraq, Ireland, Japan, Kuwait, Lebanon, Libya, Malaysia, The Netherlands, Nigeria, Oman, Pakistan, Panama, Peru, Russia, Saudi Arabia, South Korea, Switzerland, Turkey, the United Arab Emirates, England and Wales, and several states of the United States (New York, California, District of Columbia, Massachusetts, Texas, Virginia, Maryland).

Mr. Ali is also recognized for his knowledge of the application of Shari'a law in commercial and contractual relationships, as well as evidentiary analysis. He has advised clients on various aspects of Shari'a law and lectured and authored articles on the relevance of Shari'a law in the field of international arbitration (*see, e.g., Shari'a Law Approaches to Arbitration – (2010, International Commercial Arbitration in Practice: 21st Century Perspectives)*).

LANGUAGES

Mr. Ali's working languages are English, Spanish and French. He is also conversant in Urdu, Hindi, Bengali and Portuguese.

RECENT ARBITRATOR APPOINTMENTS

- Party-appointed arbitrator in Cairo-seated ICC arbitration under Saudi law relating to a multi-billion dollar construction project.
- Party-appointed arbitrator in Erich Utsch Aktiengesellschaft, Helmut Jungbluth and Utsch M.O.V.E.R.S. International GmbH v. Arab Republic of Egypt (ICSID Case No. ARB/13/37)

- Party-appointed arbitrator in a Dubai-seated ICC arbitration under Qatari law relating to the construction of an oil platform.
- Sole arbitrator in a Dubai-seated DIAC arbitration under UAE law relating to a real estate project.
- Presiding arbitrator in a Sao Paulo-seated ICC arbitration under Brazilian law relating to the design and construction of a gas pipeline.
- Party-appointed arbitrator in a New York-seated ICC arbitration under New York law relating to the design and commissioning of gas turbines for a combined-cycle power plant.
- Presiding arbitrator in a New York-seated ICC arbitration under New York law relating to a distributorship agreement for agricultural equipment.
- Party-appointed arbitrator in a Washington, D.C.-seated ICDR arbitration under Texas law relating to a refinery construction project in Guatemala.

CASES AS LEAD COUNSEL

Investor-State Arbitration

- The investor in *AAN Digital Services Holding Company (Kuwait) v. The Democratic Republic of Congo*, ICSID Case No. ARB/19/24.
- The state in *Chevron Overseas Finance GmbH v. The Republic of the Philippines*, PCA Case No. 2019-25. The seat of the arbitration is Singapore.
- The investor in *MOL Hungarian Oil and Gas Company v. Republic of Croatia* (ICSID Case No. ARB/13/32), in which claims are asserted under the Energy Charter Treaty.
- MOL Hungarian Oil and Gas Company in *PCA Case No. 2014-15*, an UNCITRAL arbitration brought by the Republic of Croatia to terminate shareholder and gas master agreements. The seat of the arbitration was The Hague, the Netherlands. Croatian law governs.
- The state in *WNC Factoring Limited v. The Czech Republic* (PCA Case No. 2014-34-UNCITRAL), in which claims are asserted under the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic for the Promotion and Protection of Investments. The seat of the arbitration was The Hague, the Netherlands.
- The state in *EDF International v. Hungary* (PCA Case No. 2009-13), in which claims were asserted under the Energy Charter. The seat of the arbitration was The Hague, the Netherlands.
- A consortium of oil and gas companies in *Pluspetrol Perú Corporation and others v. Perupetro S.A.* (ICSID Case No. ARB/12/28) in a dispute arising out of the threatened termination of a gas supply contract for alleged failure to pay royalties. Peruvian law governed. The language of the arbitration was Spanish.

- The investor in the Republic of Peru's request to annul the award in *Duke Energy International Peru Investments No. 1 Ltd v. The Republic of Peru* (ICSID Case No. ARB/03/28).
- The investor in *Duke Energy International Peru Investments No. 1 Ltd v. The Republic of Peru* (ICSID Case No. ARB/03/28), a dispute concerning the alleged breach by the government of a legal stabilization investment agreement.
- The investor in *Duke Energy Electroquil Partners and Electroquil S.A. v. The Republic of Ecuador* (ICSID Case No. ARB/04/19) under the US-Ecuador bilateral investment treaty and a specifically-negotiated submission agreement in connection with claims arising out of the breach of power purchase agreements. International and Ecuadorian law governed.
- The investor in *Pac Rim Cayman LLC v. Republic of El Salvador* (ICSID Case No. ARB/09/12) under the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR) and El Salvador's foreign investment law.
- The investor in *Adel A Hamadi Al Tamimi v. Sultanate of Oman* (ICSID Case No. ARB/11/33) under the US-Oman Free Trade Agreement.
- The investor in *H&H Enterprises Investment Inc. v. Arab Republic of Egypt* (ICSID Case No. ARB/09/15) in ICSID arbitration under the US-Egypt Treaty for the Protection and Promotion of Investments.

Commercial and Construction Arbitration

- New York-seated JAMS arbitration under New York law relating to a post-acquisition price adjustment clause.
- Paris-seated ICC arbitration under Brazilian law arising out of a power purchase agreement.
- Zurich-seated ICC arbitration under Greek law relating to the refurbishment of a refinery in Greece and arising out of an EPCM contract.
- Paris-seated ICC arbitration under Lebanese and Maryland law arising out of a hotel management agreement.
- London-seated ICC arbitration under UAE law arising out of a hotel management agreement.
- Houston-seated ICC arbitration under Texas law relating to the construction and commissioning of a gas processing facility.
- Montevideo-seated ICC arbitration under Uruguayan law relating to the construction of a gas pipeline.
- Dublin-seated ICDR arbitration under Irish law arising out of a hotel management agreement.
- Miami-seated ICDR arbitration under Guatemalan law arising out of a power purchase agreement.

- New York-seated UNCITRAL arbitration under *lex mercatoria* relating to a procurement debarment dispute.
- London-seated LCIA arbitration under Chinese law arising out of the breach of a steel supply contract.
- Singapore-seated SIAC arbitration under Indian law relating to the termination of a licensing agreement.
- Dubai-seated DIAC arbitration under UAE law relating to a shareholder dispute.
- Afiliac plc in an ICDR arbitration with ICANN regarding the top-level domain .WEB.
- Dot Registry LLC in an ICDR arbitration against ICANN regarding the top-level domains .INC, .LLC and .LLP. The proceedings were seated in California and Washington, D.C. International and California law governed.
- DotConnect Africa in an ICDR arbitration against ICANN regarding the top-level domain .AFRICA. The proceedings were seated in Washington, D.C. International and California law governed.
- Employ Media LLC in an ICC arbitration against ICANN relating to ICANN's threatened termination of Employ Media's registry agreement to operate the top-level domain .JOBS. The seat of arbitration was Los Angeles, California.
- ICM Registry in the first ever full IRP arbitration against ICANN regarding the .XXX sponsored top-level domain. This was the first decision to state that general principles of international law apply to the governance of the Internet. The proceedings were seated in Washington, D.C.
- Amazon.com, Inc. in its dispute with ICANN regarding the top-level domain .AMAZON.
- Dot Gay LLC in its dispute with ICANN regarding the top-level domain .GAY.
- Dot Music LLC in its dispute with ICANN regarding the top-level domain .MUSIC.

ACADEMIC ACTIVITIES

From 2005 to 2015, Mr. Ali was an Adjunct Professor of Law at Georgetown University Law Centre where he taught international commercial and investment arbitration. From 2002 to 2006 he was an Honorary Lecturer at the University of Dundee's Centre for Energy, Mining and Petroleum Law and Policy where his lectures concentrated on dispute resolution in the extractive industries. He has lectured at a number of other law faculties, including at NYU School of Law, the Lauterpacht Centre for International Law at Cambridge University and Pepperdine Law School.

His current areas of academic research and writing are focused on evidence before international courts and tribunals, the principles and rules relevant to the application of adverse inferences in international commercial and investment arbitration, and investment law-based consents in investor-state arbitration.

PUBLICATIONS

Books

- *The International Arbitration Rulebook: A Practitioner's Guide* (2019, WoltersKluwer)
- *Protección Inversiones Españolas* (2017, Thompson Reuters Aranzadi)
- *A Liber Amicorum: Thomas Waelde: Law Beyond Conventional Thought* – (2009, Cameron May)

Articles: Investor-State Arbitration and Public International Law

- *Mining Arbitration in Latin America: Social and Environmental Issues in Investment Arbitration Cases* in *The Guide to Mining Arbitration* (2019, Global Arbitration Review)
- *The Arbitration of Corruption Allegations* (2018, *The International Comparative Legal Guide to: Investor State Arbitration*)
- *Adverse Inferences: A Proposed Methodology in the Light of Investment Arbitrations Involving Middle Eastern States* (2017, *Journal of the Bahrain Centre for Dispute Resolution*)
- *The Energy Charter Treaty and Related Jurisprudence* (2015, *The Leading Practitioners' Guide to International Oil & Gas Arbitrations*, Gaitis, J., ed.)
- *Principles of Valuation Taken from the UNCC Perspective* (2015, *War Reparations and the UN Compensation Commission – Designing Compensation After Conflict*, Feighery, T., Gibson, C. and Rajah, T., eds)
- *Improving the Process and Institutions of Investment Arbitration: A Modest Contribution to a Complicated Debate* (2014, *Essays in Honor of Kamal Hossain*, Bhuiyan, S., Sands P., and Schrijver, N., eds.)
- *In the Eye of the Storm: Spain's Nexus to Investment Disputes* (2013, *Spain Arbitration Review – Revista del Club de Arbitraje*, No.18/2013)
- *Duke Energy International Peru Investments No. 1 Ltd. v. República del Perú* – (2011, *Anuario Latinoamericano de Arbitraje* 3, Carlos A. Soto Coaguilia ed.)
- *10 Golden Rules for U.S. Investors to Follow in Dispute Resolution Negotiations with a Foreign State or State Entity* – (2010, *AAA Handbook on International Arbitration and ADR*, American Arbitration Association)
- *The Effect of BITs on the International Body of Investment Law: The Significance of Fair and Equitable Treatment Provisions* – (2009, *The Future of Investment Arbitration*)
- *Brevas Notas sobre el Arbitraje de Inversión* – (2009, *Revista Peruana de Arbitraje*, Vol. 9, P. 3)
- *ICSID Arbitration in the Americas* – (November 2007, *The Arbitration Review of the Americas* 2008, a Special Report of Global Arbitration Review)

Peru's Foreign Investment Framework Put to the Test: A Review of the Jurisdictional Award in Duke Energy International Peru Investments No. 1 Ltd. v. The Republic of Peru – (2007, Homenaje a Fernando de Trazegnies)

Articles: Commercial Arbitration

- *The International Arbitration Comparative Country Guide, USA Chapter* (2018, Legal 500)
- *Gas Pricing Disputes: Final and Binding Uncertainty* (2015, Contemporary Issues in International Arbitration and Mediation, The Fordham Papers 2013)
- *La responsabilidad civil de los arbitros y las instituciones arbitrales* (2013, Arbitraje Internacional – Pasado, Presente y Futuro: Libro Homenaje a Bernardo Cremades e Yves Derains, Tomo. 1, Instituto Peruano de Arbitraje)
- *Case Commentary, ICDR Case No. 236-04 – Part 2B* – (2012, ICDR Awards and Commentaries, Grant Hanessian ed., Vol. 1)
- *Directrices Prácticas Para la Redacción del Acuerdo Arbitral* – (March 2011, Tratado de Derecho Arbitral)
- *U.S. Judicial Policies in Arbitration* – (2008, Legal Business Arbitration Report)
- *Anti-Suit Injunctions in Support of International Arbitration in the United States and the United Kingdom* – (2008, International Arbitration Law Review)
- *Resolving Disputes in Cross-Border Commercial Transactions* – (June 2007, Inside the Minds: Best Practices for International ADR)
- *A Cross-Comparison of Institutional Mediation Rules* – (February 2007, Transnational Dispute Management)
- *Best Practices Series No. 7: Best Practices in Drafting International Arbitration Clauses* – (2003, UNITAR: Training and Building Programmes in Legal Aspects, Financial Management and Negotiations)
- *Considerations in Negotiating Arbitration Clauses with Certain Arab League States and Iran* (2002, Rocky Mountain Law Institute, 10-1)
- *Risk Management in International Commercial Transactions: Arbitration and Alternative Dispute Resolution* – (April 2003, International Quarterly)
- *A Cross-Comparison of Institutional Mediation Rules* – (July 2002, American Arbitration Association Dispute Resolution Journal)
- *Disputas en Materia de Tecnologías de Información y Comunicaciones: Arbitraje y Mediación Como Alternativas a los Litigios Judiciales* – (November 2001, Derecho de la Alta Tecnología)
- *From COPEL to CEEE – International Arbitrators and Brazilian Courts Agree on the Capacity of Brazilian Mixed Capital Companies to Arbitrate* – (Winter 2007, News and Notes, Institute for Transnational Arbitration)

Articles: Other Subjects

- *Shari'a Law Approaches to Arbitration* – (2010, International Commercial Arbitration in Practice: 21st Century Perspectives)
- *Project Management - Milestones on the Road to Commercial Operation* – (November 2007, Power Magazine)
- *The New Argentine Hydrocarbons Law: A Protected Bay for Energy Investors* – (June 2007, Latin Lawyer)
- *Is Arbitration Unfair to Parties from Developing Countries: A Study Proposal* – (May 2007, ABA International Law Section Annual Meeting)
- *Managing Legal Risk in an Uncertain World* – (November 27, 2001, LA Daily Journal)

SPEECHES

Mr. Ali has spoken at more than two hundred conferences around the world on a wide range of topics in the fields of international arbitration, public international law, dispute avoidance and risk management, evidence in state-investor and international commercial arbitration; globalization and international economic development; the rule of law and international investment; and diversity and the practice of international law.

PROFESSIONAL ASSOCIATIONS

Mr. Ali is active in the following professional associations: American Bar Association (Dispute Resolution Committee), International Bar Association (Arbitration Committee), International Law Association (American and Pakistani Branches), Association of International Petroleum Negotiators, American Society of International Law, Asociacion Latinoamericano de Arbitraje, British Institute of International and Comparative Law, Club Espanol de Arbitraje, Comite Arbitragem Brasileiro, International Council for Commercial Arbitration, IPBA, International Arbitration Institute, UNCITRAL Working Group III, Lauterpacht Linked, European Federation for Investment Law and Arbitration, ICC Institute.

EDUCATION

Mr. Ali received his Bachelor of Arts in Political Science (*Summa Cum Laude, Phi Beta Kappa*) from Columbia University in 1986 and his Juris Doctor from New York University School of Law in 1990 where he was awarded the Vanderbilt Medal.

PERSONAL

Mr. Ali was born in Bangladesh in 1964. He has resided in a number of countries including, Bahrain, Bangladesh, Brunei, Egypt, France, Libya, Malaysia, The Netherlands, Nigeria, Pakistan, Switzerland, the United Kingdom, and the United States.

He is a United States citizen.