

Malcolm Holmes QC

SILK: 1991 | CALL: 1977 (NEW SOUTH WALES)

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Overview

Malcolm is a chartered arbitrator primarily based in Sydney but with an international practice. He accepts sole, party and Chair appointments in international commercial, construction, infrastructure, maritime, joint venture, energy, and sport disputes.

He is a member of various arbitral bodies including the ICC, LCIA, SIAC, supporting membership of the LMAA, a former member of the Board of Trustees of CIArb, a director and fellow of the Australian Centre for International Commercial Arbitration and a fellow of the Resolution Institute.

Malcolm has also acted as an arbitrator with the Court of Arbitration for Sport (CAS) based in Lausanne, Switzerland since 1995. He was a member of the Ad Hoc Division of CAS at the Athens Olympic Games in 2004 and at the Torino Olympic Games in 2006.

He is an Adjunct Professor at the University of Queensland. Malcolm lectures on international commercial arbitration at other Australian universities including the University of Sydney, University of New South Wales and University of Technology Sydney, and also at Queen Mary University of London.

Malcolm has been recognised annually in The International Who's Who of Commercial Arbitration from 2013 to date, in Euromoney's The World's Leading Experts in Commercial Arbitration from 2008 to date, in **the Roster of International Arbitrators published by Juris Publishing Inc**, and in the Best Lawyers® list for arbitrators in Australia from 2008 to date.

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Publications

- *The International Arbitration Act 1974: A Commentary* (3rd edn, LexisNexis, 2018).
- 'Recent developments in relation to the use of mediation during an arbitration to facilitate a resolution of the dispute' (2017) 5(1) *The ACICA Review* 24.
- 'The 2016 Rules of the Australian Centre for International Commercial Arbitration: Towards Further "Cultural Reform"' (2016) 12(2) *Asian International Arbitration Journal* 211.
- 'The Multi-Door Courthouse; an international perspective' in Michael Legg (ed), *The Future of Dispute Resolution* (LexisNexis Butterworths 2013) (co-author).

Panel memberships

- Asian International Arbitration Centre in Kuala Lumpur
- Australian Maritime and Transport Arbitration Commission
- Badan Arbitrase Nasional Indonesia
- CIETAC
- HKIAC

Education

- University of Oxford, England: Bachelor of Civil Law (1976)
- University of Sydney, Australia: Bachelor of Laws (1973)
- University of Sydney, Australia: Bachelor of Arts (1971)

- ICDR
- Japanese Commercial Arbitration Association
- Korean Commercial Arbitration Board
- Mauritius Chamber of Commerce and Industry
- Shanghai Arbitration Commission
- Singapore Chamber of Maritime Arbitration
- SIAC
- X'ian Arbitration Commission

Lectures/talks

- 'What to do when a party to a maritime arbitration fails to appear': International Congress of Maritime Arbitrators, ICMA XX, Copenhagen (September 2017).
- 'International Commercial Arbitration': China Foreign Affairs University, Beijing (May 2017).
- 'Mediation & Arbitration in International Commercial Arbitration' Beijing Arbitration Commission (May 2017).
- 'Recent Developments in Costs including Third Party Funding': CIETAC, Beijing (May 2017).
- 'Maritime Arbitration, Old and New': The 10th Annual AMTAC Address, Sydney (September 2016).

Example case(s)

- *Cape Lambert Resources Ltd v MCC Australia Sanjin Mining Pty Ltd* [2012] WASC 228 (S) at [20] and also on appeal [2013] WASCA 66 at [31] and [45]: expert evidence as an arbitrator on international commercial arbitration matters in judicial proceedings.
- Sole arbitrator in a London-seated ICC Arbitration – licensing dispute between UK and Nigerian parties.
- Sole arbitrator in a joint venture land development dispute between an Australian party and a PNG party seated in Papua New Guinea.
- Sole arbitrator in an ad hoc arbitration between Fijian and New Zealand parties arising out of the partial destruction of a power plant in Fiji.
- Sole arbitrator in an ad hoc arbitration seated and heard in Hong Kong relating to a charter party dispute between parties in the PRC and Korea.
- Chair of an ad hoc arbitral tribunal hearing a dispute relating to the construction of a power plant in Singapore but seated in India.
- A party appointed arbitrator in an LCIA arbitration seated in Hawaii arising out of a dispute over the ownership of a business located in Ireland.
- Sole arbitrator in an ad hoc commercial arbitration relating to a major land development dispute seated in Malaysia.
- Chair of an UNCITRAL arbitral tribunal between Singaporean and British Virgin Islands companies relating to the shipment of iron ore from Western Australia to the PRC.
- Sole arbitrator in two SIAC construction arbitrations seated in Singapore between Singaporean and Japanese parties, one

conducted under the 2010 SIAC Rules, and the other under the 2007 SIAC Rules.

- Chair of an ICC arbitral tribunal in a construction arbitration relating to the construction of underwater gas pipelines to an offshore LNG plant.

Recommendations

“Malcolm Holmes QC is an ‘outstanding’ advocate who sources also praise highly for his strong experience acting as an arbitrator in international proceedings” [Who’s Who Legal, 2018, Arbitration, Australia](#)