



CALVIN A. HAMILTON

ARBITRATOR

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OVERVIEW

Calvin A. Hamilton has more than 3 decades of international arbitration experience under ICC, ICDR, LCIA, Madrid Court of Arbitration, Zurich Chamber of Commerce and UNCITRAL Rules in a variety of seats located in the Caribbean, Latin America, USA, Africa and Europe. Calvin is a highly regarded Member of the ICC International Court of Arbitration.

He is a Chartered Arbitrator and his experience lies in Investor State and Commercial disputes rising from administrative and public law, retail and consumer, energy and natural resources, mergers & acquisitions, cross-border transactions including distribution, agency, franchise and transfer agreements, and acquisition of assets and/or shares.

Calvin's construction experience lies in termination, modification and suspension; scope of works delays; misrepresentations; overpayments and abatements; breach; damages; change orders; fluctuations; force majeure; frustration; statute of limitations; extension of time claims; defect notifications; remobilization; site inspection vs supporting documents; delay under extension of time claims; estoppel; FIDIC contracts; defective product lines; acceptance & commissioning attempts; final acceptance; limitation of liability claims; timely delivery of production plant; delay penalties; deterioration of plant and equipment; depreciation; engineering costs due to lack of work; engineering charges to complete project; recovery of materials; performance guarantees; recovery of temporary advances; statute of frauds; exemplary or punitive damages.

His primary focus is in the Caribbean, London, Continental Europe and US. Appropriate to his practice experience, Mr Hamilton has developed a good understanding of the common law and civil law through his practice in Spain, the Commonwealth Caribbean, including Guyana and Barbados, and the US. His culture and language skills also enable him to properly conduct arbitrations, appreciate and anticipate cultural and other due process problems when sitting as an arbitrator.

Mr. Hamilton is a member of a task force commissioned by CARICOM to produce a Draft Arbitration Bill upon which respective jurisdictions are to be guided in enacting arbitration legislation. The BVI and Jamaica are now considered Model Law Jurisdictions. He has worked to create arbitration centers in the BVI, Jamaica and Barbados.

Mr. Hamilton is fluent in Spanish and conducts arbitrations in both English and Spanish. He is proficient in French and has a working knowledge of Portuguese. He is a dual national of Guyana and Spain and is admitted in New York and Madrid.

PRACTICE AREAS

- Investor State
- Corporate & Commercial
- Shareholder Disputes
- Joint Venture & Sale of Goods
- Energy & Natural resources
- Procurement
- Technology
- Manufacturing & Distribution
- Construction & Infrastructure
- Banking & Finance

ARBITRAL APPOINTMENTS

Sole Arbitrator

- International arbitration between foreign investor and a Caribbean government, concerning the breach of a Citizenship by investment agreement.. Seated in St. Kitts. ICC Rules. Applicable law is Kittitian law;
- International arbitration between a Caribbean government, government agency and foreign investor, concerning housing construction. Seated in Barbados. UNCITRAL Rules. Applicable law is Barbadian law;
- International arbitration between an Italian investor and a Spanish manufacturer of wind terminals concerning defective technology. Seated in Madrid. Madrid Court of Arbitration Rules. Applicable law is Spanish law;
- International arbitration between a Spanish international bank and an investor concerning the breach of commercial banking agreements. Seated in London. ICC Rules. Applicable law is English law;
- 4 concurrent arbitrations involving a major Spanish construction company and a contractor concerning construction defects, delays, cost overruns and changed specifications. Seated in Madrid. Madrid Court of Arbitration Rules. Applicable law is Spanish law;
- Arbitration between an international home improvement company and a construction company concerning wrongful termination and breach of contract. Seated in Madrid. Madrid Court of Arbitration Rules. Applicable law is Spanish law;
- International arbitration under the UNCITRAL Rules between a US manufacturer of electronic units and its Spanish distributor concerning the breach of a distribution agreement. Seated in Minneapolis Minnesota. UNCITRAL Rules. Applicable law is Minneapolis law;
- International arbitration between a Moroccan bank and Spanish state-owned insurer of Spanish foreign investments concerning the interpretation of contract provisions and duties and obligations of the insurer. Seated in New York. ICDR Rules. US \$8.2 million in dispute. Applicable law is New York law;

- International ad hoc arbitration between a US buyer and a Spanish manufacturing company regarding indemnity claims under an insurance policy. Seated in New York. UNCITRAL Rules. Applicable law is New York law;
- Sole Panelist on dozens of Domain Name disputes.

Chair

- Ad hoc arbitration under UNCITRAL Rules between British Virgin Islands company and a Caribbean State Agency for breach of contract. Seated in St. Lucia. UNCITRAL Rules. As of yet to be determined. Approx. US \$10 million in dispute. Applicable law is St. Lucian law;
- Request for Independent Review Process between Turkish investor and ICANN, concerning the interpretation of the ICANN bylaws and Articles of Incorporation. ICDR Rules. Seated in California. The investment at risk was over US \$163 million;
- Ad hoc arbitration under UNCITRAL Rules between US manufacturer of curtainwalls and Bermudan building contractor for breach of payment obligations. Seated in Bermuda. ICDR Rules. Applicable law Bermudan law;
- Chair in several Domain Name disputes.

Co-Arbitrator

- Multiparty international arbitration between a German contractor, its subsidiary and a Nigerian drilling company concerning hiring and operating equipment for drilling, work-over and remedial operations in Nigeria. LCIA Rules. Seat Dubai. Applicable law is Nigerian Law;
- International arbitration between a Spanish international bank and an investor concerning swap instruments with seat in Madrid. Madrid Court of Arbitration Rules. Applicable law is Spanish law;
- International arbitration between US multinational and Caribbean privately owned television consortium with seat in New York. ICDR Rules. Applicable law is New York law;
- International arbitration between a UK construction company and a Caribbean state-owned housing development corporation concerning cost overruns, delays, contract variations, etc. with seat in Port of Spain, Trinidad and Tobago. ICC Rules. Applicable law is Trinidad & Tobago law;
- International arbitration between Caribbean state-owned entity and a foreign investor concerning matters deriving from a reinsurance contract with seat in London. ICC Rules. Applicable law is English law;
- International arbitration between Uruguayan and British Virgin Islands parties with seat in Madrid concerning the breach of contract of an investment in mutual funds. ICC Rules. Applicable law BVI law;
- International arbitration between US companies on the one hand, and French and Swiss companies on the other, with seat in Madrid concerning the breach of a Share Purchase Agreement. ICC Rules. Applicable law is French law;
- International arbitration with seat in Zurich, between a Spanish manufacturer and Russian buyer concerning the delivery of a defective production line. Zurich Chamber of Commerce Rules. Applicable law is Swiss law.
- Co-Arbitrator in several Domain Name disputes.

As Counsel

- Act for Barbadian contractor in ICC arbitration against a government and its instrumentality concerning claims for damages for wrongful termination of a major development construction contract.

- Act for German consortium in an ad hoc arbitration against an oil exporting country concerning wrongful termination of an oil exploration agreement.
- Act for US manufacturer in an ad hoc arbitration against a Spanish contractor for breach of contract to construct curtain walls.
- Act for German car parts manufacturer in ICC arbitration against Spanish company for breach of shareholders agreement.
- Act for Spanish franchisee in arbitration against US franchisor for breach of franchise agreement.
- Act for a Spanish multinational manufacturer of industrial equipment against an English group of companies in ICC arbitration for breach of contract.
- Act for Italian Claimant in arbitration against Spanish contractor before the Madrid Court of Arbitration concerning the design and manufacturing of valves for a gas pipeline located in North Africa.
- Act for charterer in arbitration concerning a charter party.
- Act for multinational computer company against its exclusive distributor in ICC arbitration for breach of contract provisions.
- Act for large Spanish commercial airline broker in ICC arbitration case for commission payments.
- Act for Finnish voicemail systems manufacturer against Spanish mobile phone carrier in ICC arbitration for breach of payment terms and wrongful termination.
- Act for Spanish manufacturer and marketer of solar panels in LCIA arbitration brought by a Maltese company for breach of contract with seat in London.
- Act for Finnish Technology Company against Caribbean mobile carrier in ad hoc arbitration for breach of IP contract conditions.
- Act for Spanish distributor of pharmaceutical products against its sub-distributor for breach of contract.
- Counsel Venezuelan investors in BIT claim against Spanish government.
- Counsel US Construction Company in dispute against Government of Antigua.
- Counsel Belizean government in a matter before the CCJ concerning the constitutionality of an agreement which gave rise to an LCIA award.
- Counsel on legal implications of the application of Spanish arbitration law to BIT claims against government of Venezuela.

Transactions - Representative cases and clients:

- Acquisition of a hotel and surrounding infrastructures in Mallorca.
- Producer of electronic heating devices, in analysing its inter-company transactions and management charges and creating transfer pricing support documentation.
- US investment bank on its option and trading strategies in certain exchange rate transactions.
- Energy-management leader in management buy-out of Spanish company.
- Spanish theme-park and hotel consortium. Drafting document on gaming laws for approval and promulgation. Negotiating and drafting hotel management consultancy and construction contracts. Negotiating and structuring bank project financing. Counsel client and regional government on their negotiations with central government.
- Finnish company on acquisition of Spanish competitor.
- Joint venture between consultancy firm in a new technology system and leisure firms offering online services.
- Mexican Holiday Resort in the sale of debt to foreign Investors to raise financing for the resort.

- European investment funds (Irish and Luxembourgish) in their effort to register the funds in Spain for trading on the financial markets and sale of fund products. Advice on disclosure and listing requirements.
- Finnish telecommunications company in sales activities in Spain, the Caribbean and Latin America. Negotiating and licensing maintenance and service agreements with music companies, telephone carriers and collecting agencies.

DIRECTORIES

Calvin A. Hamilton is also regarded in **Who's Who Legal** as Arbitration Global Leader 2020.

PROFESSIONAL ASSOCIATIONS

- Chartered Arbitrator, Fellow, (FCI Arb)
- Member, ICC Court of International Arbitration (ICC)
- Madrid Bar Association (ICAM)
- New York State bar Association (NYSBA)
- Executive Committee Member, Caribbean Branch, CI Arb
- Chair, Barbados Chapter, CI Arb
- Spanish Arbitration Club (CEA)
- Arbitration and Litigation Committees, (IBA)
- Presidential Panel of arbitrators, CI Arb
- CPR Panel of Distinguished Neutrals
- International Center for Dispute Resolution (ICDR) Panel of Neutrals
- BVI International Arbitration Centre (BVIIAC) Panel of Neutrals
- Jamaica International Arbitration Centre (JAIAC) Panel of Neutrals
- London Court of international Arbitration (LCIA)
- Swiss Arbitration Association (ASA)
- Association for International Arbitration (AIA)
- Former, Senior Lecturer, Faculty of Law, University of the West Indies, Cave Hill Campus
- Former Lecturer, IE Law School, Madrid, Spain
- Founder Member, Board of Directories of the Spanish Arbitration Club
- Member of the European Advisory Committee of the Fletcher School, Tufts University
- Past Co-Chair, Madrid Chapter, International Law Section, NYSBA
- Past Vice Chair, Executive Committee, International Law Section, NYSBA
- Past Vice Chair, Section of International Law, International Commercial Transactions, Franchising and Distribution Committee, ABA

SPEAKING ENGAGEMENTS & PROFESSIONAL COMMITMENTS

As Senior Lecturer, Faculty of Law, University of the West Indies, Cave Hill Campus. He travelled the region speaking and conducting seminars and workshops on aspects of arbitration and significantly, the relevance of adoption of modern arbitration legislation.

Examples of his most recent speaking engagements include:

- March 11, 2021, The Truth About Evidence Before DB's and International ADR Tribunals
- February 19, 2021, CIArb 3rd Annual Student Day;
- January 26, 2021, AMCC-IAC, Light, camera International Arbitration-Caribbean;
- December 2-4, 2nd Annual ITA-ALARB Americas Workshop-Immunity of Arbitrators;
- October 27, 2020, BVIIAC Virtual Mock Arbitration Webinar;
- October 13, 2020 Using Mediation in International Commercial Disputes;
- October 4, 2020, Symposium on TDM OGEMID: International Commercial Arbitration in the Commonwealth
- December 2-4, 2020 ITA-ALARB Americas Workshop: "Arbitration: Immunity, Conflicts and New Challenges
- August 14, 2020, Young ICCA Webinar Series - Emerging Jurisdictions
- August 5, 2020, CADRI Connect Webinar: Drafting an Effective Arbitration Agreement
- May 29, 2020 COVID-19: Changing the Paradigm in Dispute Resolution, AMCC/ CIArb Online Panel Discussion
- December 4, 2019, Commonwealth International Commercial Arbitration Study British Institute of International and Commercial Law: Caribbean Perspective London, UK;
- November 20, 2019, Strategies for Engaging Caribbean Commercial Bar in Arbitration, 3rd BVI International Arbitration Conference, Road Town, BVI;
- November 21, 2019, Spotlight on the Americas: Developments Affecting the Hemisphere, 3rd BVI International Arbitration Conference, Road Town, BVI;
- September 9, 2019, Year in Review, A guide through the essentials, 2nd Annual GAR, Atlanta, Georgia;
- March 6, 2019, Does Barbados need 2 Arbitration Acts? Bridgetown, Barbados;
- April 26, 2018, Guyana Law Week: UNCITRAL Model Law and the Arbitration-friendly State, Georgetown, Guyana;
- August 28, 2017, ICC Conference in Jamaica: Boosting the use of Arbitration in the Caribbean, Kingston, Jamaica;
- May 31, 2017, BVI International Arbitration Conference: Complete Mock Arbitration Assimilation, Road Town, BVI;
- March 2-3, 2017, International Institute for Conflict Prevention and Resolution: the Role of Caribbean Courts in International Arbitration, Miami, Florida.

PUBLICATIONS

- "Spain: An emerging Seat for International Arbitration" (October, 2004); Mealey's International Arbitration Report.
- And Paula I. Rochwarger: "Trade and Investment: Foreign Direct Investment through Bilateral and Multilateral Treaties" (Winter 2005); Vol. 18, No.1 of the New York International Law Review.
- And Eva M. Vázquez "Discovery and Civil Law Systems" (October, 2006); Vol. 21, Issue 10 of Mealey's International Arbitration Report.
- "What U.S.C. 1782 Means for International Commercial Arbitrations in Spain"
- (2008); Issue 3 of Spain Arbitration Review, pp. 23-33.

- “Concurrence of Applicable Treaties Recognizing Arbitral Awards and The Unrelated Yet Binding Nature of an Award and its Recognition by the Judiciary in Country Where Award Was Rendered” (August, 2008) Mealey’s International Arbitration Report.
- “Madrid Update: Respect For Articles II, IV and V of the New York Convention”(July 2009); Vol. 24, Issue 7 of Medley’s International Arbitration Report.
- “Madrid Update: Executing Foreign Awards in Spain: Evidence of Why the New York Convention Remains Relevant”(August 2009); Vol. 24, Issue 8 of Mealey’s International Arbitration Report.
- And Luis Capiel “Pasado, Presente y Futuro de la Convención de Nueva York. Reseña con Consideración del Borrador de Van den Berg” in Carlos A. Soto Coaguila (ed) Arbitraje Comercial y Arbitraje de Inversión. La Convención de Nueva York de 1958: Reconocimiento y Ejecución de Laudos Arbitrales. Volume 2 (Magna Ediciones, Lima, 2009); pp. 345-371.
- Arbitration Clause Drafting: Court Examines meaning of “in connection with” (October, 2011); Mealey’s International Arbitration Report.
- “The Arbitration Court as part of a Chamber of Commerce: [Im]partial?” (August, 2012); Vol. 27, Issue 8 of Mealey’s International Arbitration Report, pp. 3-8.
- Commonwealth Survey: International Commercial Arbitration- Caribbean Country Reports on the state of Arbitration in the Region (August 2020).