



Arbitration

Arbitration is often selected as an alternative to court to achieve important objectives: to promptly resolve a commercial dispute, in a confidential setting, using a tribunal that controls its own procedures and that may have industry expertise relevant to the disputed issues. In cross-border matters, arbitration has distinct advantages over traditional courts – including an award enforceable in over 140 countries under the New York Convention.

As experienced advocates and advisors who know both the arbitration and litigation processes, we work with our clients to understand their business objectives and to develop an effective strategic plan to achieve the desired results. We have particular expertise in arbitrations in the following industries:

- **Energy** – oil, natural gas, electricity and petrochemicals
- **International Trade and Investment** – including investor-state disputes, private disputes between trading companies, and international sale of goods and services
- **Construction** – from tendering to design and construction of major industrial facilities and plants
- **Natural Resources** – mining and development projects, forestry, pulp and paper, mineral processing facilities, mineral royalties and major capital equipment
- **Transactions** – arising from asset purchase agreements or the sale of shares
- **Joint Venture and Corporate Disputes** – partnerships, shareholder and investor disputes

Our extensive experience includes the full range of services related to commercial arbitration, including:

- Enforcing agreements to arbitrate in court;
- Obtaining injunctions and other preliminary remedies in court and from tribunals;
- Advocacy throughout an arbitration;
- Enforcing arbitral awards or other ancillary relief;
- Negotiating and drafting arbitration agreements;
- Advice concerning rights and obligations under investment treaties, arbitration conventions and rules; and
- Acting as arbitrators in both institutional and *ad hoc* arbitrations.

Bennett Jones lawyers have both Canadian and international experience in providing strategic advice and handling complex disputes under all major *ad hoc* and institutional arbitral regimes, including Canadian federal and provincial legislation and institutional rules, the International Chamber of Commerce (ICC), American Arbitration Association (AAA), International Centre for the Settlement of Investment Disputes (ICSID) Rules, and bilateral investment treaties.

Our roster includes lawyers who are trained in both the common law and civil law traditions; have authored textbooks on arbitration;



advised Parliamentary Committees, WTO and NAFTA working groups and CD committees on international trade and investment law; and speak many languages including French, Mandarin, Arabic, Spanish, German, Greek and Korean.

Our multi-disciplinary practice is bolstered by senior legal practitioners from all offices of our firm, including the Honourable John C. (Jack) Major, Q.C., who rejoined the firm in 2006 after 14 years as a Justice of the Supreme Court of Canada.

Select Experience

- A **leading cement manufacturer**, in arbitrations to enforce long-term contractual rights of raw material supply, territorial exclusivity, and royalty entitlement.
- The **owner of a major industrial plant**, concerning damages and business interruption claims arising from a power interruption.
- Arbitrations involving the manufacture of turbines for electricity plants in Chile and Hawaii.
- Representing **several investors**, in claims under the North American Free Trade Agreement (NAFTA) and bilateral investment treaties (including Canada's Foreign Investment Protection and Promotion Agreements) involving expropriations and discriminatory measures by national, state or provincial governments, which have been resolved favourably following negotiations.
- Arbitrations involving the **international sale of goods and services**, including under the Convention on Contracts for the International Sale of Goods (CISG).
- Arbitrations under a Canadian federal regime in the **telecommunications industry**.
- Representing **investors, owners and natural gas suppliers**, in several different arbitrations concerning natural gas cogeneration plants supplying electricity and steam to manufacturing facilities, such as pulp and paper plants.
- Representing **generic pesticide manufacturers**, with arbitrations under Canadian federal rules relating to the new data compensation scheme under the *Pest Control Products Act*.
- An arbitration between a U.S. hedge fund and a **Canadian property manager**, relating to the interpretation of an acquisition agreement.
- Major lease renewals, ground lease disputes and rent re-setting arbitrations for **significant Canadian real estate properties**.
- Numerous **shareholder** disputes resolved by arbitration.
- Arbitrations involving natural gas, coal, CBM (coalbed methane) and other natural resources, including price, royalties, technology and licensing issues.
- An arbitration involving an **estate** and the interpretation of a settlement agreement.
- Providing expert advice and testimony for **national and provincial governments**, in NAFTA chapter 11 claims and WTO disputes governments.

Recent Recognitions

- **Chambers Canada**
Ranked, Band 1, Dispute Resolution: Alberta
Ranked, Dispute Resolution: Canada
Ranked, Dispute Resolution: Ontario
- **Chambers Global The Worlds Leading Lawyers for Business**
Ranked, Dispute Resolution



▪ **The Legal 500: Canada**

Tier 1, Dispute Resolution: Alberta

Recommended, Dispute Resolution: Ontario

Key Contacts

John N. Craig Q.C.

403.298.3463

craigj@bennettjones.com

Stuart B. Hankinson Q.C.

604.891.5188

hankinsons@bennettjones.com