

# THREE CROWNS



## Todd Wetmore

Partner, Paris

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Todd Wetmore, a founding partner of Three Crowns, is based in Paris, where he has handled complex international commercial arbitration cases for over 30 years. As counsel, he represents clients in high-stakes disputes around the world in diverse sectors including high-tech manufacturing, automobile distribution, aviation, oil and gas, electricity, and mining.

He has deep experience with disputes presenting challenging financial and technical issues, such as those arising from banking operations, teaming arrangements, supply and M&A deals, and gas pricing, under both common law and civil law systems. Todd is also a recognised specialist in infrastructure and construction disputes and has led teams handling some of the largest construction disputes in arbitration.

Todd regularly sits as an arbitrator under the ICC, LCIA, Swiss, and UNCITRAL Rules. One prominent appointment includes the much-publicised *van der Garde v. Sauber* arbitration, which had an impact on the 2015 Formula 1 motor-racing season.

Lexology Index recognises him as a “Thought Leader” in arbitration and a “Recommended Global Leader” in construction and energy law and describe him as “a very brilliant advocate”. Chambers, which ranks him as a Band 1 lawyer, notes that Todd is “furiously bright, gets very deep into the case details and is very passionate about his work” and is “outstanding counsel” whilst The Legal 500 describes him as “tireless, very intelligent and pragmatic”.

Todd is a past Vice-President of the ICC Court and is qualified as an *avocat* in France and a solicitor in England.

## Selected Experience

### Counsel Experience

- Representing a Mytilineos S.A. against an Algerian electricity company in an ICC arbitration seated in Geneva arising out of a contract for the construction of a dual fuel (natural gas/diesel) power plant. The contractor sought €70 million in financial relief in connection with the engineering, procurement, installation, and commissioning of the plant. Algerian law applied. The matter settled following the conclusion of a merits hearing.
- Representing a Middle-Eastern automotive distributor in an LCIA arbitration to contest the termination or non-renewal of several long-term distributor agreements by two major carmakers. The distribution territories span several Middle-Eastern jurisdictions and the dispute raises issues of English, Japanese and Swiss law, as well as the application of mandatory laws protecting distributors in Middle-Eastern jurisdictions.
- Representing an aviation consultancy firm in a Geneva-seated ICC arbitration against a major aircraft manufacturer. The dispute arose from a series of consultancy contracts governed by French law. The consultant is seeking unpaid remuneration in the amount

of US\$80 million and financial relief in connection with the termination of the relationship.

- Representing a European banking resolution fund in an ICC arbitration against a European bank. The dispute arises out of a contingent capital agreement and relates to conditions requiring the banking resolution fund to make additional capital injections.
- Representing an individual in an LCIA arbitration arising from a repudiatory breach of an agreement relating to an option to purchase an interest in a Russian transportation and logistics business. The central issue in dispute concerned the valuation of the business. The client obtained a favourable award.
- Securing a comprehensive victory for Bahrain in an ICC arbitration initiated by French company, Constructions Industrielles de la Méditerranée (CNIM). The claims related to a project to design, build and operate a waste-to-energy plant. The tribunal rejected CNIM's claims, amounting to €180 million, relying on multiple and independent grounds of liability and causation, and awarded the Kingdom over US\$5 million in costs. We are currently representing Bahrain in related proceedings before various French courts
- Acting for an international engineering and contracting company in relation to the design and construction of an acid production facility and power plant as part of a larger phosphate production complex. The disputes relate to technical issues affecting the performance of the plant, delays and the timing of completion in the context of disputes over the take-over of the facilities. Saudi law applies.
- Acting for a subsidiary of SNC-Lavalin and Mubadala against a North African State-owned utility company in charge of electricity and natural gas distribution. The dispute arises from an energy conversion agreement (natural gas to electricity) and concerns the price to be paid for electricity capacity and production under the agreement. A favourable award was secured in this ICC arbitration securing substantial payments and clarifying the term of payment for future operations. Algerian law applied.
- Securing a landmark award for DEPA (the Public Gas Corporation of Greece) against the Turkish State-entity BOTAŞ in an ICC arbitration arising out of the interpretation of a price revision formula in the parties' long-term contract. The award resets the pricing formula and has already led to a payment of US\$220 million.
- Representing an African company in an LCIA arbitration against a port operator in a dispute arising from the termination of a joint venture agreement.
- Acting for the local subsidiary of a global contracting group in final and binding expert determination proceedings arising out of a significant infrastructure project in Qatar. The dispute concerned a variation request for the design and construction of an electrical distribution network and involved difficult questions of contractual interpretation and highly technical issues of electrical engineering. Favourable determinations on liability and quantum were secured. Qatari law applied.
- Acting for a European contractor against a North-African electricity utility in an ICC arbitration. The matter involves the contractor seeking financial relief in connection with the engineering, procurement, installation and commissioning of a dual fuel (natural gas/diesel) power plant. The law of the North-African State applies.
- Acting for a French-German consortium in a multibillion-dollar ICC arbitration in Stockholm against a Finnish utility company. The multi-year dispute, which settled in 2018 and was Finnish law governed, arose from an agreement for the construction of a

nuclear power plant in Finland.

- Acting for a Saudi Arabian company against a US Defence company in an ICC arbitration relating to a multi-billion sale of military aircraft to Saudi Arabia. The dispute arose under the parties' agreement to work together to bring about the sale, and involved complex national security, technical, and accounting issues. The arbitration settled on favourable terms on the eve of the hearing. The governing law was the State of Washington, USA.
- Acting for a leading Japanese automotive manufacturer in a dispute brought against it by a contractual counterparty. In its primary claim, the claimant sought substantial damages alleging that the non-renewal of an agreement for the marketing and distribution of automobiles had been unlawful. An award was secured dismissing the claimant's primary claim and upholding our client's counterclaim.
- Acting for one of the world's leading technology companies in a high-stakes dispute arising out of a cutting-edge, multibillion-dollar technology development and supply agreement. The dispute turns on the consequences of alleged under-utilisation of custom-built fabrication facilities in multiple jurisdictions and involves complex financial issues.
- Acting for a refining branch of a leading Portuguese entity in an ICC arbitration arising from a refinery expansion project. The dispute related primarily to the causes of extensive delays to completion of the project and focused heavily on project management and compliance with QA/QC standards in the context of facilities like refineries. Portuguese law applied.
- Acting for Belgian and Swiss companies in a US\$100 million-plus post-M&A valuation arising in the context of an acquisition of a specialized food commodity business. The arbitration was subject to SIAC Rules and seated in Singapore with Singaporean law governing.
- Acting for the power and water authority of a Middle Eastern country in expert determination and ICC arbitration against the owner/operator of a dual-fired power plant and desalination facility, constructed pursuant to an off-take agreement. The dispute concerned the compliance of the as-built facility with the detailed technical specifications, its operation and the application of the tariff regime under the off-take agreement. A favourable ICC award was secured. Bahraini law applied.
- Acting for a Kuwaiti national in an ICC arbitration valued at US\$1 billion and relating to the division of a multibillion-dollar international portfolio of commercial enterprises, real estate, and financial and other assets. The relevant agreements are governed by Kuwaiti law.
- Acting for a Lebanese contractor in a US\$150 million-plus ICC arbitration with claims arising from the construction of a slurry pipeline in Madagascar. The dispute was governed by Ontario law and the seat of the arbitration was Toronto.
- Acting for a consortium of European contractors in an ICC arbitration in Paris against a Middle Eastern State. The consortium was awarded significant damages, interest, and costs in respect of over 40 claims arising under a FIDIC contract for the construction of a dam and hydro-electric facility. Iraqi law applied.
- Acting for a multinational agribusiness company as respondent in a joint venture dispute over shareholder responsibility for cost overruns and delays in the completion of an

oilseed crushing plant. Claims for \$135 million were successfully defeated on the merits after an extensive hearing on the threshold issue of liability. The dispute was conducted in London under UNCITRAL Rules. English law applied.

- Acting for a North African energy company as claimant in two Geneva-based, French-language UNCITRAL arbitrations, with more than US\$2.3 billion at stake, against one of the world's largest petroleum and gas operators. The disputes arose from contracts concerning a petroleum field in North Africa. Following a partial award granting some of the claims made by each party, the parties entered into a global settlement agreement.
- Acting for a European-led joint venture in an UNCITRAL arbitration in Paris against a Middle East State. Claimants sought over US\$190 million in nearly 75 separate disputes relating to the reconstruction and extension of an international airport. After several favourable partial awards, the respondent agreed to pay a substantial settlement amount to bring an end to the proceedings. The respondent's national law applied and English and French were the languages of the arbitration.

### Arbitrator Experience

- Co-arbitrator in an UNCITRAL arbitration, administered by the ICC, concerning a contract for the reconstruction and improvement of a road in Armenia. Armenian law applies.
- Co-arbitrator in an ICC arbitration concerning the performance of one of the world's largest solar power facilities. Nevada law applies.
- Co-arbitrator in an ICC arbitration concerning the termination of a franchise agreement in Turkey. French law applied.
- Co-arbitrator in an ICC arbitration concerning a dispute under an agreement for the license and development of a pharmaceutical device between French and US companies. New York law applied.
- Chair of an LCIA arbitration concerning a share sale agreement dispute between two British companies involved in the metallurgy sector. English law applies.
- Co-arbitrator in an ICC arbitration arising from delays to completion of a cement project in Mongolia. The dispute arose under an EPC contract. Mongolian law applied.
- Co-arbitrator in an UNCITRAL arbitration arising under a BIT between France and Ethiopia in relation to an alleged investment in the railway sector. The appointment was made by an appointing authority for the Respondent state. The claims were dismissed for lack of jurisdiction.
- Co-arbitrator in an ICC arbitration arising from disputes related to the construction of a pulp and paper mill located in Uruguay. Uruguayan law applied.
- Chair of an ICC arbitration arising from a sale and purchase agreement between two Swiss companies. French law applied.
- Sole arbitrator in an LCIA arbitration between UAE and Indian parties arising out of a sales agreement. English law applied.
- Sole arbitrator under Swiss Rules (SCIA) in relation to a Formula 1 racing dispute between the Sauber team and its driver, Giedo van der Garde. The resulting award issuing an injunction was enforced and upheld on appeal before the courts in Australia.

## Admissions

- B.C., Canada (Barrister & Solicitor)
- Paris (Avocat)
- England & Wales (Solicitor)

## Languages

- English
- French

## Education

- LLB, McGill University (1992)
- B.Com (Finance), McGill University (1989)

## Professional Affiliations

- Vice-President, ICC Court
- Member, International Arbitration Institute (IAI)
- Member, London Court of International Arbitration (LCIA)
- Member, Swiss Arbitration Association (ASA)

## Publications and Speaking Engagements

### Publications

- Construction chapter of “International Arbitration and the COVID-19 Revolution,” with S. Elliot, Kluwer (October 2020)
- “Arbitration 2.0 – Navigating New Frontiers in International Dispute Resolution,” Young SIAC, Maxwell Chambers, Singapore (November 2019)
- France chapter of *Construction & Engineering Laws and Regulations 2020*, with S. Elliot, International Comparative Legal Guides (ICLG, 2020)
- COVID-19 and Construction Dispute chapter in *International Arbitration and the COVID-19 Revolution* (Kluwer, 2020) ed. M Scherer, N Bassiri, and M Abdel Wahab

### Speaking Engagements

- “Challenges of the 21st Century: Regulation of Use of AI in Dispute Resolution and Making ADR Work”, Hong Kong Arbitration Week 2023 (October 2023)
- “Working effectively with experts in international arbitration” panel, Muscat International Arbitration Workshop (February 2023)
- “Energy Market & Disputes in an Almost Post-Covid World” panel, 11<sup>th</sup> Asia- Pacific ADR Virtual Conference, Seoul ADR Festival (October 2022)
- “Top 10 Tips on How to Make an Award Work: Lessons from the ICC Scrutiny Process”, webinar, ICC panel, New York Arbitration Week (November 2021)
- “Our Brave New World – the Artificial Arbitrator”, webinar debate, ICC Canada 2021 Annual International Arbitration Conference (September 2021)
- “Expert witnesses: status, independence, duties and conflicts,” webinar, London International Disputes Week 2021 (May 2021)