



Phillip Capper

Partner, London

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E pcapper@whitecase.com**Bars and Courts**

England and Wales, 1991

Solicitor Advocate, 2006

EducationBA in Law, University of Durham, with
First Class Honours, 1973BA and MA, University of Oxford, by
Special Resolution, 1977Nash Professor of Engineering Law,
King's College, University of London**Languages**

English

French

Citizenship

British

Practice Experience

Phillip is partner and Head of International Arbitration at White & Case LLP in London and his practice is focused in international arbitration, and engineering and construction. He has for years been recognised by legal directories as a "leading individual" in these fields. He is at ease in addressing highly technical engineering and technology issues, of which he has also had considerable experience. He is one of the very few lawyers worldwide who has been listed in the Most Highly Regarded Individuals – Global in the *International Who's Who of Business Lawyers in Construction*.

Phillip is a highly regarded advocate in arbitration. As counsel, under many applicable laws, common law and civil law, he has acted under the rules of the ICC, LCIA, and the Stockholm, Madrid and Prague Chambers of Commerce, as well as in contractual mediations and ad-hoc arbitrations under UNCITRAL Rules and otherwise. His cases have included cross-border investor disputes, engineering issues concerning process plant, rail infrastructure, highways, oil and gas facilities, and power and water plants, and applications of international technical standards (ISO, ASTM, etc).

He has led counsel teams in some of the largest projects in the world, from the Channel Tunnel to the expansion of the Panama Canal, and the new generation of nuclear power plants.

As arbitrator, Phillip has chaired ICC, LCIA and UNCITRAL arbitral tribunals, and has served as sole arbitrator and party appointed arbitrator in ICC and LCIA arbitrations. As arbitrator, all his cases have been international cross-border disputes concerning manufacturing facilities design and procurement, mineral supplies and processing, oil and gas plant processing, investor disputes, agency contracts, claims under guarantees, metal ore trading, construction contract disputes, sale and supply issues, and manufacturing plant commissioning; and were governed by the laws of Switzerland, United Arab Emirates, India, Kuwait, Egypt, France, Jamaica, and England.

Former Chairman of the Faculty of Law at the University of Oxford, Phillip is now also Nash Professor of Engineering Law at King's College London. He is an Honorary Member of the Society of Construction Law, an Honorary Member of the Royal Institution of Chartered Surveyors, and Honorary President of the Adjudication Society. For 15 years he was the Director of the Diploma in International Arbitration, held in Oxford each year, the flagship programme of the Chartered Institute of Arbitrators.

For the ICC in Paris he led small working groups drafting model clauses for ICC arbitration and ADR, and for use with the ICC Rules for Expertise. He drafted the disputes clauses in the *New Engineering Contract* 2nd edition and ICE 7th edition and was engaged as expert by

French Association of International Contractors (SEFI) to evaluate *FIDIC's EPC Silver Book*. For *CIRIA's Client's Guide to Risk in Construction* he wrote on legal risk management.

Internationally, he has by invitation lectured in most West European countries, in the USA, Canada and South America, the Middle East, and in Japan, Hong Kong, Singapore, Malaysia and China. These have included the Beijing Arbitration Commission; the keynote speaker to the major Kuala Lumpur conference on the new Malaysian Arbitration Act; the biennial conference of the German (DIS) and the Swiss Arbitration Association; the Vienna VIAC/UNCITRAL annual conference; CPR's annual European conference; IBA Arbitration Day in Geneva; the major international conference "Whose Risk?", informing the Tang Review, in Hong Kong; the XVIIth Annual Meeting of the ICC Institute of International Business Law and Practice in Brussels on dispute resolution within the performance of contracts; the AAA DART (Dispute Avoidance and Resolution Taskforce) Multi-Disciplinary Conference in Kentucky, USA, as special invited speaker on key provisions in the Channel Tunnel Contract; the inaugural Lloyds Register Lecture for the Royal Academy of Engineering on "Practical Management of Legal Risks"; and a colloquium at the French Senate on "L'Europe et les Marchés Publics" (1992) at the invitation of L'Association Promouvoir la France.

Publications

Books:

Arbitration World (5th Edition) (Thomson Reuters, 2015): chapter on the London Court of International Arbitration (co-author with Adrian Winstanley).

Inside the Black Box: How Arbitral tribunals Operate and reach their Decisions (Swiss Arbitration Association, JurisNet, 2014): chapter on dealing with bias and obstruction.

The Application of Substantive Law by International Arbitrators (International Chamber of Commerce, 2014): chapter on proving the contents of the applicable substantive law (2013).

Arbitration in England, with chapters on Scotland and Ireland (Kluwer Law International, 2013): chapter on Relevant Aspects of the English Legal System (co-author, with Julia Zagonek).

International Arbitration: A Handbook (3rd Edition) (LLP, 2004)

Emden's Construction Law (Butterworths, ongoing looseleaf): former General Editor, and contributions on aspects of construction contracts and variations

WHITE & CASE

Dispute Resolution in the Construction Industry (with N Gould, G Dixon and M Cohen) (Thomas Telford, 1999)

New Horizons in Construction Law (Construction Law Press, 1998): chapter on Construction disputes

Handbook of Arbitration Practice 3rd ed (Sweet & Maxwell, 1998): chapter on Construction Industry Arbitrations (with A Bunch)

Risk, Management and Procurement in Construction (Construction Law Press, 1995): chapter on Risk in Construction

Construction Disputes: Liability and the Expert Witness (Butterworths, 1989): chapter on Construction Liability

Construction Contract Policy - Improved Procedures and Practice (Construction Law Press, 1989): Editor, with John Uff

Latent Damage Law - The Expert System (Butterworths), (with R Susskind)

Latent Damage Act 1986 (Legal Studies & Services) Annual Survey of Commonwealth Law: chapters on Contract Law in the final series

Journals:

Construction Industry Law Letter: founding Editor and principal author from its inception in 1983 until 1990

"The Adjudicator under NEC 2nd edition: a new approach to disputes," article in *Engineering, Construction and Architectural Management*, Dec 1995

"Arbitration and Adjudication after 1996: Practice, Procedure and Opportunities," article in *Construction Law Journal*, 1997

"Basic Choices in the Allocation and Management of Risk," article in the *International Construction Law Review*, 2001

Mediation post-Woolf (ABA/Chartered Institute of Arbitrators): summary of contribution: *Arbitration*, 2001

Other publications include:

A Client's Guide to Risk in Construction, CIRIA (Construction Industry Research and Information Association) 1996: contribution on legal risk management aspects – report of research project jointly with Halcrow (Patrick Godfrey)

SEFI Report on the FIDIC Silver Book Turnkey EPC Contract: independent expert report and critical evaluation (with P Genton), commissioned by SEFI, the Association of French International Contractors

Regular specialist contributions and supporting papers on Construction Law to TEN (Television Education Network) video programmes for lawyers, civil engineers and other professionals (1991-1996)

Professional Associations

Honorary Member of the Society of Construction Law
Honorary Member of the Royal Institution of Chartered Surveyors
Honorary President of the Adjudication Society
International Bar Association, former Chairman of International Construction Disputes Committee
International Chamber of Commerce, member of Commission on Arbitration
LCIA, member
Chartered Institute of Arbitrators, Fellow, Chartered Arbitrator, Director of Diploma in International Commercial Arbitration
Construction Industry Council, UK, Liability Task Force
Construction Industry Development Council of India, former International Advisory Group

Awards and Recognition

"Phillip Capper is widely hailed for his abilities and market presence in international arbitration." - *Chambers UK 2016: Construction*

"Phillip Capper 'is particularly noteworthy for his experience and mastery of construction-related disputes'" – *Chambers Global 2015: International Arbitration*

In 2014, Euromoney's Global Commercial Arbitration Awards named Phillip "Construction Lawyer of the Year,"

In 2013 the Technology and Construction Solicitors' Association (TeCSA) awarded Phillip the Clare Edwards Award, which recognises "professional excellence and contribution to the legal profession serving the construction industry", and which is given "when an exceptional candidate is identified."

"Well-known Phillip Capper is described as the "doyen of construction" and praised for being "technically very good." – *Chambers UK 2014: Construction*

"Phillip Capper is recognised by peers as a "first-rate arbitration specialist." - *Chambers UK 2014: International Arbitration*

"The impressive Phillip Capper is respected by clients and colleagues alike as 'the doyen of construction law'." – *Chambers UK 2013: Construction: International Arbitration*

"very eloquent, inventive and highly experienced" – *Chambers UK 2013: Construction: International Arbitration*

"construction and engineering experience are second to none." – *Chambers UK 2013: Dispute Resolution: International Arbitration*

"think through strategy and tactics very carefully." – *Chambers UK 2013: Dispute Resolution: International Arbitration*

"Phillip Capper is 'a great strategist and a strong leader who understands the client's needs'." – *Chambers Global 2012: Arbitration (International): Europe-wide*

"highly regarded for his expertise in construction as well as on engineering sector arbitrations" – *Chambers Global 2012: Arbitration (International): Global-wide*

"Clients admire his 'stunning grasp of expert evidence and masterful cross-examination of opponents.'" – *Chambers UK 2012: Construction: International Arbitration*

"Phillip Capper is 'top of the class'" – *Legal 500 UK 2011: International Arbitration*

Phillip Capper receives praise for his "excellent knowledge of construction cases." – *Chambers Global 2011: Arbitration (International)*

"probably the top man in construction law today." – *Chambers UK 2011: Construction: International Arbitration*

"a great guy and an outstanding lawyer – he's one of the best and most persuasive speakers I've ever heard." – *Chambers UK 2011: Dispute Resolution: International Arbitration*

Phillip Capper is well known in the marketplace and has built up a sizeable reputation. He is described as "a real expert on construction disputes" by market sources, who highly praise his work as both arbitrator and counsel. – *Chambers Global 2010: Arbitration (International)*

"outstanding practitioner in every respect." – *Chambers UK 2010: Dispute Resolution: International Arbitration*

Phillip Capper is a 'first-rate arbitration lawyer'. – *UK Legal 500, 2010*

Having 'a fine analytical mind', Capper is praised for his ability to combine keen academic insight with 'agility and flexibility' when dealing with clients' particular situations." – *Chambers UK 2009*

"Any characterisation of international arbitration 'would be incomplete' without mention of Phillip Capper... the tenor of his work is set by his 'guru status' in the construction community." – *Chambers Europe 2007*

"The 'excellent, incredibly well-respected' Phillip Capper... his construction background shapes his practice and he also sits as arbitrator." - *Chambers Global 2007: Arbitration*

"Much ...success ... is attributed to the kudos associated with the name of Phillip Capper. Increasingly sitting as arbitrator, he is credited with a 'fantastic knowledge base' and specialist construction expertise." – *Chambers UK 2006: Arbitration (International)*

" 'genius' Phillip Capper." – *Chambers UK 2005: Introduction*