



“Vivek Kapoor ... is an excellent litigator, is always well prepared and has an excellent grasp of facts and law.”

The Legal 500 2020

Year of call: 2008 (India) 2018 (England & Wales)

Vivek Kapoor acts as counsel and advocate in large scale, complex and high value commercial disputes and investor-state disputes. He has particular expertise in disputes arising from energy, mining and natural resources, infrastructure, construction and engineering, manufacturing, telecom and technology sectors.

Vivek has a wide-ranging international arbitration practice. He has acted in arbitrations under a variety of institutional rules and ad-hoc arrangements. He is regularly instructed both as a sole advocate and as part of a larger counsel team.

He has also advises on a full spectrum of post-award remedies, enforcement, jurisdictional challenges and conflict of laws issues.

He has extensive experience of advising and representing private and state-owned entities from India, south-east Asia, Russia and CIS, Africa, and Middle East in disputes governed by a variety of common and civil law regimes, and public international law.

Vivek also advises foreign investors, particularly those investing in the emerging economies of Asia and Africa, on issues pertaining to investment protection notably under bilateral investment treaties and investor-state contracts, and the interaction between international law and domestic law in relation to international projects.

Vivek has full rights of audience in the Indian courts, and has successfully represented private parties, both Indian and Fortune 500 multinational corporations, before the Supreme Court of India and the High Courts of various States in India.

He also sits as arbitrator in international arbitrations and is presently appointed in arbitrations under the LCIA Rules. He was appointed to the Panel of International Arbitrators of ICADR (Ministry of Law & Justice of the Government of India).

Vivek was featured in the inaugural Legal 500 International Arbitration Powerlist, which listed 200 of the UK's

leading arbitration practitioners working in law firms and at the Bar. He was recognised in Legal 500 UK (2020) as a “Rising Star” for International Arbitration and has consistently been ranked in for Public International Law and International Arbitration.

Vivek regularly speaks at various forums on diverse issues of international law and international arbitration, and has published widely on this area of law. He also serves on the editorial advisory board of LexisNexis Arbitration and the management committee of the Asia-Pacific Forum for International Arbitration.

Prior to joining 39 Essex Chambers, Vivek spent nearly eight years in private practice with leading international law firms, before which he practised at the Bar in India. He has lived and worked in UK, US, Singapore, and India.

PRACTICE AREAS

- International Arbitration
- International Litigation
- Commercial
- Construction
- Energy & Natural Resources

PRACTICE AREAS

INTERNATIONAL ARBITRATION

Acted for a leading infrastructure company in a dispute under a Bilateral Investment Treaty against a South Asian State arising from the establishment of two power projects.

Acted for an investor in a dispute under a Bilateral Investment Treaty against a CIS State arising from the direct expropriation of a mining project.

UNCITRAL Arbitration – Acted for an investor in a dispute against a CIS State under the State’s Foreign Investment Law arising from the breach of the fair and equitable standard and indirect expropriation of a mining project.

SIAC Arbitration – Acting for a defence contractor against a South Asian State in a dispute arising out of the establishment of a major defence project in the State.

LCIA Arbitration – Acted for the former head of FX trading of a prominent British multinational bank in an insurance coverage dispute relating to ongoing DOJ, SEC and FCA investigations.

Singapore-seated ad-hoc Arbitration – Acted for a real-estate conglomerate in a joint venture dispute related to a major real estate project in east India.

LCIA Arbitration – Acted for a metals conglomerate in dispute against a Middle-Eastern state-owned entity over non-performance of agreement for the supply of coal.

LCIA Arbitration – Acted for a metals conglomerate in dispute against a mining company arising from a mining project in Brazil.

LCIA Arbitration – Sole Arbitrator in a telecom services dispute.

SIAC Arbitration – Acted for a mining company in a dispute against a prominent commodity trader over the impact of regulatory changes in Indonesia's mining sector on parties' obligations under long-term agreements for the supply of coal.

ICC Arbitration – Acted for a sub-contractor in a dispute with the main contractor in relation to civil works at a gas exploration site in South Asia.

ICC Arbitration – Acted for a fund manager in a dispute over management of a telecom asset-focussed fund with assets in Eastern Africa.

ICC Arbitration – Acted for an engineering subcontractor against the contractor in a dispute pertaining to the design and engineering works forming part of the development of an oil field in West Asia.

Singapore-seated ad-hoc Arbitration – Acted for a prominent metals company in a dispute against a South East Asian state-owned transport corporation arising from a transport agreement.

INTERNATIONAL LITIGATION

Acted for Indonesian state-controlled natural gas corporation PT Perusahaan Gas Negara (Persero) in the much controvertible setting aside proceedings in Singapore before the Court of Appeal and High Court, arising out of an ongoing ICC arbitration regarding a major gas pipeline project in Indonesia. Seminal case in the interpretation of the dispute resolution process under the FIDIC Red Book (1999), and prompted FIDIC Guidance Memorandum dated 1st April 2013.

Acted for PepsiCo India in proceedings against the Indian state of Punjab before the Punjab & Haryana High Court in a matter pertaining to arbitrary withdrawal of tax concessions awarded to the corporation for the setting up of three manufacturing units in Punjab.

Acted for a group of major FMCG companies and trade bodies before the Supreme Court of India in a petition seeking judicial review of a new environmental regulation with a possible multi-billion dollar exposure to the entire FMCG industry in India.

Acted for PepsiCo India before the Punjab and Haryana High Court in a series of litigations arising out of a dispute with the Indian state of Punjab over the imposition of market fee on agricultural procurement in the state.

Acted for PepsiCo India in a dispute involving the classification and tax incidence of Lays chips before the Uttarakhand High Court, Patna High Court and Bihar State Tax tribunal.

COMMERCIAL

LCIA Arbitration – Acted for the former head of FX trading of a prominent British multinational bank in an insurance coverage dispute relating to ongoing DOJ, SEC and FCA investigations.

ICC Arbitration – Acted for a fund manager in a dispute over management of a telecom asset-focussed fund with assets in Eastern Africa.

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LCIA Arbitration – Sole Arbitrator in a telecom services dispute.

SIAC Arbitration – Acted for a mining company in a dispute against a prominent commodity trader over the impact of regulatory changes in Indonesia’s mining sector on parties’ obligations under long-term agreements for the supply of coal.

Advised an UHNI on a dispute arising from a share purchase agreement for the sale of a construction conglomerate.

Acted for a media corporation in a dispute concerning the broadcasting rights in Indonesia of a premier international sporting event.

CONSTRUCTION

ICC Arbitration – Acted for a sub-contractor in a dispute with the main contractor in relation to civil works at a gas exploration site in South Asia.

ICC Arbitration – Acted for an engineering subcontractor against the contractor in a dispute pertaining to the design and engineering works forming part of the development of an oil field in West Asia.

Acted for a private equity firm in a dispute over development of a real estate project in Moscow.

Advised state-owned engineering corporation in a dispute over refurbishment works of hydroelectric power plant in West Asia.

Acted for Indonesian state-owned natural gas company PT Perusahaan Gas Negara (Persero) in the much controvertible setting aside proceedings in Singapore before the Court of Appeal and High Court, arising out of an ongoing ICC arbitration regarding a major gas pipeline project in Indonesia. Seminal case in the interpretation of the dispute resolution process under the FIDIC Red Book (1999), and prompted FIDIC Guidance Memorandum dated 1st April 2013.

ENERGY & NATURAL RESOURCES

Advised the owner and operator of a major gas pipeline in Africa in a dispute regarding the participation and rights of two sovereign shareholders.

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