



# Matthew Gearing KC

Silk 2014

*Matthew Gearing KC of Fountain Court Chambers has considerable experience behind him in commercial and investment treaty cases. He regularly acts on arbitration in the projects and energy sector. "He is an exceptional barrister when it comes to advocacy and the application of mind and facts. He has given us good results."*

*Chambers & Partners, Asia Pacific (Dispute Resolution: Arbitration)*

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Matthew Gearing KC is an exceptionally highly regarded litigation lawyer, with particular expertise in international arbitration, where he enjoys global recognition.

Matthew is a leading international arbitration lawyer. He has particular experience of acting in arbitrations across Asia, having been principally based in Hong Kong for many years prior to returning to the UK in 2020.

Within Chambers Global and Chambers Asia Pacific 2024, he is ranked in the Spotlight Table for Arbitration (International) in the Asia Pacific region, in Band 1 for his Dispute Resolution arbitration work in The English Bar – Singapore, and in Experts Based Abroad – Philippines. In recognition of his contribution to the Asian legal community, in 2019, Chambers & Partners awarded Matthew the Outstanding Achievement Award. He has also been listed in the Hall of Fame for International Arbitration in Hong Kong by The Legal 500 and is currently ranked by the directory for his commercial work across the Asia Pacific region. In 2023, Matthew was shortlisted for International Arbitration Counsel Silk of the Year by The Legal 500.

Matthew's experience extends to both commercial and investment treaty arbitrations, including under various rules such as ICC, UNCITRAL, SIAC, HKIAC, KLRCA, SCC, LCIA and ICSID, and in a variety of sectors including technology, financial services, energy and natural resources and manufacturing.

He spent 24 years at Allen & Overy before being called to the Bar. He was Chairperson of the Hong Kong International Arbitration Centre for three years and was previously co-chair of the LCIA Young International Arbitration Group. He is now a Vice-President of the LCIA Court. Matthew is also a Hong Kong solicitor-advocate (non-practising) and has been called to the Bar in Western Australia (2023).

In addition to acting as counsel, Matthew sits as arbitrator across a wide range of cases including in ICSID and other investment treaty matters.

## Recent Highlights

Acting for BG (now part of the Shell group) and Reliance in arbitration proceedings exceeding US \$5 billion commenced under the UNCITRAL Rules against the Union of India, in disputes arising out of two production sharing contracts, and also advising them in related court proceedings.

### London

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Acting for the Claimant in the SIAC arbitration proceedings, *Westbridge Investments v Anupal Mittal* concerning an investment in Shaadi.com, the Indian marriage website.

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Acting for an international energy company in a dispute with an Asian buyer concerning a long-term contract for the sale of LNG; ICC, Singapore seat.

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Acting for an investment bank in a dispute with a counterparty concerning derivatives documented under the ISDA Master Agreement.

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Acting for Nissan Motor Company in a claim against the Union of India pursuant to the 2011 Comprehensive Economic Partnership Agreement between Japan and India in connection with investment incentive sums owed to Nissan by the State Government of Tamil Nadu.

## Expertise

### International Arbitration (as Counsel)

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#### Notable International Arbitration (as Counsel) cases

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Acting for the Claimant in the SIAC arbitration proceedings, *Westbridge Investments v Anupal Mittal* concerning an investment in Shaadi.com, the Indian marriage website.

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Acting for various other private equity investors in disputes with promoters of Indian companies concerning exit rights, including related issues concerning the arbitrability of proceedings before the Indian Company Law Board (the NCLT).

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Acting for various investment banks in a dispute with counterparties concerning derivatives documented under the ISDA Master Agreement.

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Acting for the owner of a major hotel in an Asian jurisdiction in a dispute with the operator.

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Acting for an Asian life-sciences company in a dispute with a service provider concerning the development of a vaccine.

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Acting for the investee company in a dispute between a PRC based technology company and its private equity investors; HKIAC, Hong Kong seat.

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## Baggerwerken Decloedt En Zoon NV v Republic of the Philippines (ICSID, 2017, ICSID)

### Union of India v Reliance Industries Ltd & Anor [2022] EWHC 1407 (Comm)

Acting for the Claimants against India in long-running commercial arbitration proceedings arising out of two offshore Production Sharing Contracts in the Mumbai basin. The amount in dispute exceeds US\$3 billion. There have been three separate challenges to Awards issued in the case before the Commercial Court; *Union of India v Reliance Industries Ltd & Anor* [2022] EWHC 1407 (Comm) (09 June 2022); *Reliance Industries Ltd & Anor v The Union of India* [2020] EWHC 263 (Comm) (12 February 2020); *Reliance Industries Ltd & Anor v The Union of India* [2018] EWHC 822 (Comm) (16 April 2018).

### Nissan Motor Co Ltd v Republic of India (2017, PCA)

Acting for Nissan against India in respect of allegations of failure to provide stable investment conditions in respect of Nissan's large operation in Tamil Nadu. Claim under the Japan/India CEPA (investment treaty); *Nissan Motor Co Ltd v Republic of India* (2017, PCA).

Acting for an oil major in a SIAC arbitration against its joint venture partner relating to exploration activities in an offshore oil and gas block in the Philippines.

Acting for the Owner in two arbitrations relating to the Ichthys LNG Project, Darwin.

Acting for two oil majors in contractual and treaty proceedings concerning offshore oil and gas blocks in Thailand.

Acting for a major private equity group in an HKIAC arbitration arising out of an interest in a real estate fund.

## Baggerwerken Decloedt En Zoon NV v Republic of the Philippines (ICSID, 2017, ICSID)

Acting for the Claimants in an ICSID arbitration against the Republic of the Philippines, arising out of the cancellation of a €280 million infrastructure project. This was the first successful ICSID award obtained against the Republic of the Philippines; *Baggerwerken Decloedt En Zoon NV v Republic of the Philippines* (ICSID, 2017, ICSID).

### Deutsche Bank v Sri Lanka (ICSID, ARB09/02)

Acting for Deutsche Bank in its successful arbitration against Sri Lanka under the German-Sri Lanka bilateral investment treaty in respect of indirect expropriation of derivatives; *Deutsche Bank v Sri Lanka* (ICSID, ARB09/02).

Acting for the Belize Bank and various other investors in related treaty claims and investment treaty claims against the Government of Belize.

Acting for a Chinese SOE in an ICC arbitration in relation a project to redevelop an oil refinery in Central America.

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### **X, Y v ZPRC, ZHK [2020] HKCFI 631**

Acting for the Plaintiff in anti-suit injunction proceedings in Hong Kong against the Defendants in respect of proceedings commenced in the PRC in breach of the arbitration agreement; *X, Y v ZPRC, ZHK* [2020] HKCFI 631.

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### **Competition Commission v Nutanix & Others CTEA 1 of 2017**

Acting for a software company (1st Respondent) in the first set of breach proceedings brought by the Hong Kong Competition Commission; *Competition Commission v Nutanix & Others* CTEA 1 of 2017.

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## **International Arbitration (as Arbitrator)**

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### **Reported International Arbitration (as Arbitrator) cases**

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#### **Zhongshan v Nigeria**

Co-arbitrator in a claim by a PRC investor against Nigeria under the PRC/Nigeria bilateral investment treaty concerning the development of a free-trade zone in Nigeria.

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Presiding arbitrator in a SIAC arbitration concerning a joint venture in the agrochemical sector in the PRC.

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Sole arbitrator in respect of a disputed agency agreement relating to a diamond mine in Asia.

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Sole arbitrator in respect of a disputed real estate investment in Sri Lanka.

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Presiding arbitrator in respect of a disputed joint venture agreement relating to clothing stores in the PRC; HKIAC, Hong Kong.

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Co- arbitrator in substantial UNCITRAL arbitration between two large energy companies concerning supply obligations relating to a major pipeline.

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Co-arbitrator in ICC arbitration concerning the status of contractual obligations in the light of EU sanctions.

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Co-arbitrator concerning claims relating to an international beverage business; HKIAC, Hong Kong seat.

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*Aderlyne Limited v. Romania (ARB/22/13)*

Co-arbitrator in ICSID arbitration, *Aderlyne Limited v. Romania* (ARB/22/13). Claim under the Energy Charter Treaty.

*Company Holdings B.V., Ethiopian Capital Goods Finance S.C. (Ethiopia) v Federal Democratic Republic of Ethiopia*

Co-arbitrator in African Asset Finance Company Holdings B.V., *Ethiopian Capital Goods Finance S.C. (Ethiopia) v Federal Democratic Republic of Ethiopia*, under Netherlands/Ethiopia bilateral investment treaty; UNCITRAL Rules, administered by PCA.

*FCL Ambiente S.r.l. v. Republic of North Macedonia (ICSID Case No. ARB/23/31).*

Co-arbitrator in ICSID arbitration.

Co-arbitrator in arbitration under the ICC Rules concerning the supply of raw materials from a South American mining company to a Middle Eastern entity.

Co-arbitrator in a series of consolidated cases concerning inter alia allegations of fraud arising out of ship building contracts; London seated.

Co-arbitrator in a shareholders' dispute concerning a major commodity trading business; LCIA, London seat.

Presiding arbitrator in for consolidated cases concerning coal supply contracts; London seat.

Presiding arbitrator in ICC arbitration relating to the supply of equipment to a major infrastructure project in India; Singapore seat.

## Directory Quotes

*Matthew Gearing KC of Fountain Court Chambers boasts a very well-established profile on the international arbitration scene, grounded in extensive experience in the handling of commercial and investment arbitration mandates. His expertise was acquired in such roles as chair of the HKIAC and head of the Allen & Overy global arbitration practice. "For Asia-related arbitration, he's top drawer. He's an exceptional advocate. With a background at international firms, he knows how practice works, understands the framework and how you need to mobilise teams to win cases. I would strongly recommend him." "Matthew is an exceptional barrister when it comes to advocacy and application of mind and facts. He has given us good results."*

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Chambers & Partners, Asia Pacific (International Arbitration)

*Matthew Gearing KC of Fountain Court Chambers in London and Singapore is sought after for his expertise in international arbitration involving the Philippines. He is particularly experienced in disputes arising in the energy and infrastructure sectors.*

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Chambers & Partners, Asia Pacific (Dispute Resolution)

*"Matthew is a skilful advocate and engages with the intricate details of the matter. His oral advocacy and court craft are very good."*

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The Legal 500 (International Arbitration: Counsel)

*"He does an excellent job of handling the parties and at the hearing as well as rapidly producing a draft award following tribunal deliberations."*

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The Legal 500 (Asia Pacific – Regional International Arbitration: Arbitrators).

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Arbitration: The English Bar (Singapore) (Band 1)
- International Arbitration – The Bar – Asia-Pacific Region (Spotlight)
- Dispute Resolution – Philippines (Expertise Based Abroad)

### The Legal 500 – UK

- International Arbitration: Counsel

### Chambers & Partners – Asia Pacific

- Dispute Resolution: Arbitration: The English Bar (Singapore) (Band 1)
- International Arbitration – The Bar – Asia Pacific Region (Spotlight)
- Dispute Resolution – Philippines (Expertise Based Abroad)



## The Legal 500 – Asia Pacific

- The English Bar: Commercial
- Leading Arbitrator: Regional International Arbitration

## Education

- LPC, The College Of Law, Chester (1995)
- BA (Hons), Jurisprudence, Oxford University (1993)

## International Bar / Court Appointments

- Court-member elect, SIAC Court (2023)
- Called to the Bar of Western Australia (2023)
- Vice President of the LCIA Court (2022)
- Chairperson of the Hong Kong International Arbitration Centre (2017-2020)
- Solicitor-advocate, Hong Kong (2013)
- Solicitor, Hong Kong (2001)

## Appointments, Memberships and Prizes

- Awarded Outstanding Achievement Award by Chambers & Partners (2019)
- Named Arbitration Practitioner of the Year (*Asia Law and Benchmark Litigation Asia-Pacific Dispute Resolution Awards* 2017, 2019 and 2020)
- Solicitor, England & Wales (1997)
- Solicitor, Hong Kong (2001)
- Solicitor-advocate, England & Wales (2005)
- Solicitor-advocate, Hong Kong (2013)
- Queen's Counsel, England & Wales (2014)
- Lawyer, Western Australia (2023)
- Vice President, Court, London Court of International Arbitration (2022-)
- Panel member HKIAC, SIAC and various other arbitral institutions
- Appointed to Prime Finance's panel of Dispute Resolution experts
- Past Co-Chair of the LCIA Young International Arbitration Group

## Publications

- *Russell on Arbitration* 24th Edition, Thomson, Joint Editor, with David Sutton and Judith Gill KC (2015)



- *Russell on Arbitration* 23rd Edition, Thomson, Joint Editor, with David Sutton and Judith Gill (2007)
- “Reforming ICSID”, 20 *International Arbitration Report*, 1, p.29 – 38 (2005)
- “International Centre for Settlement of Investment Disputes (ICSID)”, *Arbitration World, The European Lawyer Limited*, p.57 – 78, contributed chapter (2004)
- “Contractual Claims and Bilateral Investment Treaties – A Comparative Review of the SGS Cases”, *Journal of International Arbitration*, 21 (5), p.397-412 (2004)
- *Arbitration in Hong Kong: A Practical Guide*, Sweet & Maxwell, Contributing Editor (2003)
- “Going Full Circle in Singapore – Dermajaya Properties”, 17 *International Arbitration Report*, 10, p.29 – 35 (2002)
- “A Judge in His Own Cause?": Actual or Unconscious Bias of Arbitrators, *Int/ALR*, 2, p.46 – 51 (2000)

## Languages

English (native); French (highly competent)

## Awards

