



The Character of Oil and Gas Arbitrations

by

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Oil and gas arbitration differs from, for example, construction arbitrations in that claims are often limited yet the amounts in dispute are large. On the face of it they appear to be less cumbersome than hearing numerous inter-related claims.

However, the inherent political character of the oil and gas industry and its front-end capital investment, means that such disputes give rise to subtle legal issues. These in turn have often led to innovative legal solutions. For example, the development of the laws on compulsory acquisition and corresponding remedies. Oil and Gas disputes will be more political than most other industries. Not least due to the resource itself knowing no boundaries.

Equally, due to the amounts in dispute any final arbitration award or settlement will invariably have a significant economic effect. For example, the modification of the price formula, in a long-term energy supply contract will have a major impact.

Highlighted below are some arbitration features particularly important to the Oil and Gas industry:

Choice of Arbitrator

As with all arbitrations the choice of arbitrator is extremely important. Arbitrations can be conducted by either a single arbitrator or through a Tribunal, where a party appointed arbitrator, together with the other party appointed arbitrator appoint a Chairman. What makes the choice of arbitrator or arbitrators particularly crucial in an Oil and Gas dispute, is the political nature of the industry. With this in mind a certain degree of *gravitas* and credibility is required from the arbitrator. Oil and Gas disputes especially where concession and licence agreements are involved raise complex legal issues as much on the technicality of procedure as the substantive issues themselves. This is especially true when a State is involved as a Party and to account for this, it is crucial to ensure any