

THREE CROWNS



Kathryn Khamsi

Partner, Paris

kathryn.khamsi@threecrownsllp.com

+33 1 83 79 09 53

Kathryn, a partner in the Paris office of Three Crowns, acts for corporate clients and States in all types of disputes. She is particularly sought after in high value disputes that raise complex issues of fact and law. Clients have commended Kathryn's "grasp of the technical detail, and her ability to identify and articulate game changing arguments". She is recommended by *Chambers*, *Who's Who Legal*, and *The Legal 500*.

Kathryn also sits as arbitrator, and is serving a six-year term on the ICSID Panel of Arbitrators. She has lectured and published extensively on questions of international arbitration and public international law, including most recently on the subject of deep seabed mining, emissions trading schemes, and the use of artificial intelligence-based tools in arbitration.

Prior to entering private practice, Kathryn was a Legal Advisor to the Prime Minister of East Timor (Timor-Leste), based in East Timor, coordinating East Timor's negotiations with Australia over maritime boundaries and the drafting of a new regime for petroleum investments. Kathryn has also worked with the International Development Law Organization in Kabul, Afghanistan, and with Columbia Law School and the Carter Center in the Democratic Republic of Congo.

Kathryn speaks English and French, and is admitted in Paris, New York and Ontario. She holds an A.B from Harvard, LLB and BCL degrees from McGill, and an LLM from Columbia (where she was a James Kent Scholar).

Selected Experience

- Representing three ENI subsidiaries in an ICSID arbitration against the Federal Republic of Nigeria arising out the State's refusal to grant a license to allow production in Nigeria's deep offshore. The case involves allegations of corruption. US\$2.5 billion is at stake (ICSID Case No. ARB/20/41).
- Representing the Kingdom of Bahrain in a €180 million ICC claim by French company CNIM relating to a renewable energy sector investment that raised issues of project finance and environmental legislation; and representing the Kingdom in related proceedings before the French courts.
- Representing an Emirati-Algerian energy generation company in a US\$100 million ICC claim against an Algerian State-owned company.
- Advising a European industrial group in a dispute relating to photovoltaic plants in Iran, which raises issues relating to US sanctions.
- Representing a leading international financial services provider in an LCIA arbitration with its joint venture partner pertaining to the amounts owed under a joint venture agreement relating to credit card transactions.
- Representing a consortium of oil majors in a multibillion-dollar dispute with a Central Asian State over a complex formula for the sharing of petroleum under a production sharing contract (PCA Case No. 2017-11).
- Acting for a leading power generation company in a claim against a European State in connection with the cancellation of a new-generation coal-fired power plant project.
- Acting for a consortium of investors in an UNCITRAL claim brought by a Central Asian State relating to the recovery of over US\$10 billion in investment costs.

- Advising an oil & gas major on matters relating to their exit from various investments.
- Advising a major mining company in a dispute with its State-owned joint venture partner and the Central Asian State.
- Advising a European industrial group in a dispute regarding delays under an EPC Contract for a combined cycle gas turbine power project in Ghana, including regarding strategy for obtaining injunctive relief in domestic courts (both the UK and South Africa) against a call on a performance bond.
- Representing two separate consortiums of leading oil and gas investors in two distinct UNCITRAL arbitrations with a Central Asian State relating to the State's use of its audit and other regulatory powers.
- Representing three separate investors in investment treaty and contractual proceedings arising from a judgment issued by the Supreme Court of a West African State.
- Representing Puma Energy, a Trafigura subsidiary, in an arbitration against a Papua New Guinea (ICSID Case No. ARB/17/26).
- Representing Areva and Siemens in an ICC dispute against a Finnish utility company, TVO, to the OL3 nuclear power plant in Finland – the first third-generation nuclear plant to be built in Europe since the Chernobyl disaster. The dispute involved claims and counterclaims totalling in excess of €5.5 billion and presented extraordinarily complex design, regulatory, delay, and quantification issues.
- Representing the Arab Republic of Egypt in an arbitration initiated by Bawabet Al Kuwait Holding Company (ICSID Case No. ARB/11/6). The dispute related to measures relating to gas pricing and taxation.
- Representing the Arab Republic of Egypt in an arbitration initiated by Hussain Sajwani, Damac Park Avenue for Real Estate Development S.A.E., and Damac Gamsha Bay for Development S.A.E. (ICSID Case No. ARB/11/16). The dispute arose from a criminal conviction for corruption in relation to the purchase and development of land for tourism purposes.
- Representing the Democratic Republic of Algeria in an ICSID arbitration initiated by Mærsk Olie, Algeriet A/S (ICSID Case No. ARB/09/14). The dispute related to a windfall profit tax in the context of a production sharing contract.
- Representing Mercuria Energy Group Ltd. in an SCC arbitration against the Republic of Poland under the Energy Charter Treaty (SCC Case No. 096/2008).

Admissions

- Paris
- New York
- Ontario

Languages

- English
- French

Education

- LLM, Columbia University School of Law (James Kent Scholar)
- LLB & BCL, McGill University
- AB, Harvard University

Publications and Speaking Engagements

Publications

- Author, “Compliance with document production orders” chapter in “Rethinking the Paradigms of International Arbitration - Institute Dossier XX”, *ICC Institute of World Business Law* (June 2023)
- Author, “Emissions Trading: As COP26 is delayed by COVID-19, some thoughts on the international linking of domestic schemes,” *Blog of the European Journal of International Law* (May 2020)
- Author, “Investments in Unsettled Maritime Boundary Contexts: The Role of Bilateral Investment Treaties in Delivery Certainty,” *ICSID Review* (March 2020)
- Author (with L.-A. Bret) “Mining Arbitration in Africa”, *The Middle Eastern and African Arbitration Review, Global Arbitration Review* (2017)
- Author, “International Cocoa Agreement, 2010 – An Introduction,” 50 *I.L.M.* 669 (2011)
- Author, “Compensation for Non-expropriatory Investment Treaty Breaches in the Argentine Gas Sector Cases: Issues and Implications,” *The Backlash Against Investment Arbitration: Perceptions and Reality* (Kluwer, 2010)
- Author, “The Argentine Crisis and Foreign Investors: A Glimpse into the Soul of the Foreign Investment Regime”, *Yearbook on International Investment Law & Policy* (Oxford, 2009) (with José E. Alvarez)
- Author, “A Settlement to the Timor Sea Dispute? An Analysis”, IX:4 *Harvard Asia Quarterly* (2005)
- Author, “Concurrent Jurisdiction Under the Telecommunications Act and the Competition Act To Address Anti-Competitive Conduct By Dominant Canadian Telephone Companies”, 2002 *C.B.A. Sec. Competition LAW* (with Lorne Salzman)

Speaking engagements

- Speaker, “Technology in Arbitration: Your Friend, Not Your Replacement (yet)”, 18th ICC New York Conference on International Arbitration (September 2023)
- Speaker, “IA meets IA: International Arbitration in the Era of Artificial Intelligence” panel, Paris Arbitration Week 2023 (March 2023)
- Co-chair, “ITA Conference on International Arbitration in the Mining Sector”, Institute for Transnational Arbitration (ITA) (February 2023)
- Co-chair, “ICCA 2022 Congress”, International Council for Commercial Arbitration (ICCA) (September 2022)
- Moderator, “Emissions Trading in Asia: Opportunities, Risks and Disputes” webinar, Singapore International Arbitration Centre (SIAC) (June 2022)
- Speaker, “The Future of East African Energy and Infrastructure Disputes” webinar, Three

Crowns and Africa Energy Arbitrators' Forum (AEA) of the Lagos Chamber of Commerce International Arbitration Centre (LACIAC) (March 2022)

- Speaker, "Renewable Energies and Arbitration", Three Crowns, Paris Arbitration Week (March 2022)
- Speaker, "India Climate Change and Environmental Disputes Day" webinar, Three Crowns and Mumbai Centre for International Arbitration (December 2021)
- Speaker, "Retiring the Redfern Schedule: Document Production and the Need for New Models", 41st ICC Institute Annual Conference (November 2021)
- Speaker, "The future of arbitrating environmental, climate change, and sustainability disputes", Corrs Chambers Westgarth, Australian Arbitration Week (October 2021)
- Speaker, "Volatile Oil Prices and Disputes", GAR Live: Energy Disputes (September 2021)
- Speaker, "Damages in International Arbitration," Harvard International Arbitration Law Students Association (February 2021)
- Chair, "Emissions Trading: International Law and Dispute Resolution," British Institute of International and Comparative Law (BIICL) (November 2020)
- Speaker, "Investment and Commercial Arbitration in the Mining Sector," PDAC Annual Convention, Toronto (March 2020)
- Speaker, "GAR Live Inquisition – how can IA remain at the forefront of international advocacy?" 6th Annual GAR Live, Paris (November 2018)
- Speaker, "Artificial intelligence in arbitration: Insights from experience with 'System Dynamics,'" ICC Canada's Annual International Arbitration Conference (November 2018)
- Speaker, "Intra-EU BITs: Implications of Achmea," 2nd ICC European Conference (April 2018)
- Repeat lecturer, "Arbitration in the Energy Sector" for class on The International Oil & Gas Industry at the Law School of the Institut d'études politiques de Paris ("Sciences Po"), November 2015, 2016 and 2017
- Lecture on "Public Policy and Arbitrators" at the Arbitration Academy, Paris, 8 July 2016
- Speaker, "Interpretation of Investment Treaties," African International Legal Awareness Training Program on International Investment Law (September 2012)
- Speaker, "E&P in an unsettled maritime boundary context: The role of BITs in delivering certainty," International Boundary Disputes & Unitisation in E&P Conference (November 2011)
- Speaker, "Extractive Industries and Sustainable Development: Challenges of Implementation," Vale Columbia Center on Sustainable International Investment, (October 2010)
- Speaker, "Gender and Criminal Justice in Afghanistan," presented to United Nations Assistance Mission to Afghanistan, Human Rights Unit, Kabul, (November 2006)
- Speaker, "Building a Petroleum Sector in an Unsettled Maritime Boundary Context", IQPC Conference on E&P Boundary Disputes and Unitisation, Kuala Lumpur, Malaysia, (November 2004)