



James Kwan

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James Kwan is a Partner of Hogan Lovells. He is based in the Hong Kong office. He specialises in international commercial arbitration, with a focus on life sciences, chemicals, technology, infrastructure, and energy disputes. He has represented clients in arbitrations in Asia, the U.S., the Middle East, and Europe under the major institutional rules such as ICC, HKIAC, SIAC, CIETAC, AAA, LCIA, DIAC, CAS, and in ad hoc arbitrations.

James is widely recognised as a leading individual in International Arbitration by major legal directories, such as *Asia Pacific Legal 500*, *Chambers Asia Pacific* and *Global, Euromoney's Guide to the World's Leading Arbitration Lawyers*, *Practical Law Company's Which Lawyer?*, *Benchmark Asia Pacific: Arbitration*, *Global Law Expert* and named one of *Asian Legal Business's* Hot 100 Lawyers of 2008 and 2011. He is the author of a chapter in *The Hong Kong Arbitration Ordinance Commentary and Annotations*, Sweet & Maxwell, 2015 (2nd edition); *Arbitration in China: A Practical Guide*, Sweet & Maxwell, 2004; and co-editor of *Construction Arbitration in Hong Kong: A Practical Guide*, 2015, Wolters Kluwer.

Representative quotes include:

- **Legal 500 Asia Pacific 2017 edition:** "Hogan Lovells hired the '*particularly impressive*' James Kwan, who is praised for his '*thorough commercial understanding and strategic thinking*'."
- **Chambers Asia Pacific 2017 edition:** "Clients recommend James Kwan for his '*thorough understanding of commercial disputes and arbitration*,' along with his '*strategic thinking, research into key issues and structuring of arguments*.' He has a focus on international commercial arbitration, with a track record of involvement in disputes relating to the infrastructure, energy and life sciences sectors."
- **Chambers Asia Pacific 2016 edition:** James Kwan "is hailed by one source as a '*confident and reassuring*' provider of '*very precise advice*.'"
- **Chambers Asia Pacific 2015 edition:** "[James is] praised by both clients and peers as a commercially aware and highly active practitioner who '*knows his arbitration stuff*' and '*fully understands the characteristics and requirements of the companies he represents*', '*understands our business and what is important, which enables him to defend and respond effectively*', according to clients."
- **Benchmark Asia-Pacific: Arbitration 2014:** "James Kwan, leads the firm's arbitration practice in Hong Kong and is highly respected by his arbitration peers. '*James Kwan maintains a very busy practice and is a strong player in the market*,' says one."
- **Chambers Asia Pacific 2014 edition:** "James Kwan has a particularly good reputation amongst Hong Kong and Singapore clients and is regularly engaged on major commercial cases. Clients praise his diligent and dedicated approach to cases. As one observes, '*he went through all the documents with a fine-tooth comb and came up with some original lines of argument. He puts his heart and soul into things as if it's his own money and reputation at risk*.'"
- **Chambers Asia Pacific 2013 edition:** "James Kwan is '*an entrepreneurial, go-getter type*,' sources say. One client enthused: '*He was very committed to the case, not just the letter of the law but the concept of the case. His spirit was something we really appreciated; it was a long and drawn-out process, but even when we felt frustrated, he could put the fight back in us*.'"
- **Legal 500 Asia Pacific 2012 edition:** "genuine arbitration specialist James Kwan... has a fine reputation in CIETAC and Hong Kong arbitrations".

- **Chambers Global 2011 edition:** "[James is] best known for his tremendous skill in energy, infrastructure and construction disputes."
- **Asian Legal Business Hot 100 Lawyers of 2011:** "a world leader in arbitration and construction law", "has an intimate knowledge of the different arbitration models throughout the region" and "one of the finest international arbitration lawyers in Asia."
- **Who's Who Legal UAE 2008 edition:** "[James is] 'extremely good, quality lawyer', 'high profile', and 'a very fine practitioner.'"

Memberships:

- ICC Arbitration Commission
- Asia Pacific Forum for International Arbitration – Hong Kong representative and former co-chair
- Fellow of the Chartered Institute of Arbitrators and former Committee member of East Asia branch
- Fellow of the Hong Kong Institute of Arbitrators and former Council Member
- ICC Young Arbitrators' Forum – inaugural Asia Committee Member
- ICC Hong Kong Arbitration Committee
- Hong Kong Law Society – Arbitrators' Appointment Committee

Qualifications and Bar Admissions:

- Bachelor of Science and Bachelor of Laws (Honours), Australian National University (1996)
- Admitted in New South Wales, Australia (1997); Hong Kong (2000); England & Wales (2001)
- Diploma of International Commercial Arbitration from the Chartered Institute of Arbitrators (2003)

Arbitrator appointments:

- Sole arbitrator on a dispute concerning the Iris Amber development, Culture Village, Dubai, U.A.E. (**DIAC, Dubai**)
- Chairman of a three member tribunal in a construction dispute concerning the Jumeirah Village II - Infrastructure Works/Environmental Works, AED40 million dispute (**DIAC, Dubai**)
- Presiding arbitrator of a three member tribunal concerning a license agreement dispute (**HKIAC, Hong Kong**)

Representative cases as counsel:

- **Heavy equipment company** - US\$39 million arbitration against a Singapore company consisting of a private equity fund and financial institution in a private equity arbitration concerning the exercise of a put option **(HKIAC, Hong Kong)**
- **Chinese state owned enterprise** - US\$50 million arbitration against a Mongolian entity arising out of an EPC turnkey cement plant project in Ulaanbaatar, Mongolia **(ICC, Hong Kong)**
- **Taiwanese heavy machinery listed company** - US\$40 million arbitration concerning the supply of wind turbines to Vietnam wind farm project **(HKIAC, Hong Kong)**
- **Theme park owner** - US\$102 million arbitration against its consultant concerning the design of a theme park project **(HKIAC, Hong Kong)**
- **Indian photovoltaic company** - US\$407 million arbitration regarding the sale and purchase of solar wafers. This is the largest arbitration administered by the HKIAC involving an Indian company **(HKIAC, Hong Kong)**
- **U.S. medical devices manufacturer** - US\$200 million arbitration regarding the termination of a distribution agreement for the promotion and sale of radiosurgery equipment **(ICC, Hong Kong)**
- **Largest Asian medical devices manufacturer** - US\$50 million arbitration concerning the termination of a 10-year agreement for the production of autodisable syringes **(HKIAC, Hong Kong)**
- **U.S. medical devices company** - post acquisition arbitration concerning the adjustment of net working capital and claims for breaches of representations and warranties **(HKIAC, Hong Kong)**
- **Middle East hospital** - arbitration against Indian healthcare company involving disputes arising out of a hospital management agreement **(DIAC, Dubai)**
- **Taiwanese photovoltaic solar cells manufacturer and seller** - US\$100 million arbitration against Japanese supplier concerning the supply and production of PV lines and solar equipment manufacturing systems **(HKIAC, Hong Kong)**
- **Korean petrochemical company** - US\$200 million ICC arbitration for a Korean petrochemical company in an energy sales agreement dispute **(ICC, Singapore)**
- **U.S. recruitment listed company** - US\$170 million post M&A arbitration concerning breaches and representations and warranties **(HKIAC, Hong Kong)**
- **Chinese automobile manufacturer** - several concurrent arbitrations over US\$250 million relating to calls made to on demand performance guarantees issued by a Russian bank, and alleged breaches of the underlying operational contracts that the guarantees secured **(HKIAC, Hong Kong)**
- **Middle East trading company** - US\$90 million DIAC arbitration concerning a shopping centre complex. This involved one of the first applications for injunctive relief arising out of the new DIAC rules **(DIAC, Dubai)**
- **Indian solar company** - US\$16 million arbitration against a Chinese entity concerning a parent company guarantee for the supply of solar modules **(CIETAC, Shanghai)**
- **Steel producer** - three arbitrations concerning a casino development and suspended works **(UNCITRAL, Macau)**

- **Private client** - acting in a sale of goods arbitration against a trading company. A successful award on jurisdiction was obtained which resulted in a majority of the claims being stayed in favour of the PRC courts (**CIETAC, Shanghai**)
- **Korean technology company** - US\$16 million arbitration concerning the payment of royalties against a Taiwanese company (**ad hoc, Hong Kong**)
- **Hong Kong listed company** - acting for a Hong Kong listed company against a U.S. apparel company involving the termination of a joint venture agreement and purchase of the interests of the joint venture partner, with replacement license terms to be granted (**AAA, California**)
- **National shipping company** - acting for a national shipping company in Saudi Arabia in arbitration proceedings against its shipping agents in Hong Kong (**SIAC, Singapore**)
- **US non-profit foundation** - against a wealthy individual in an arbitration under the SIAC Rules over breaches of a loan agreement (**SIAC, Singapore**)
- **Iranian petrochemical company** - two arbitrations against a Philippines entity in a shareholders' dispute (**LCIA, London; UNCITRAL, Geneva**)
- **Chinese State Owned Enterprise** - in disputes relating to the termination of two petroleum concession agreements in the Middle East (**UNCITRAL, Geneva**)
- **Hong Kong listed company** - RMB65 million arbitration relating to offtake disputes arising out of shareholders' agreement (**ICC, Hong Kong**)
- **Hong Kong listed company** - RMB40 million arbitration relating to disputes arising out of distribution agreement (**ICC, Hong Kong**)
- **French fashion company** - US\$25 million arbitration in relation the termination of two license agreements and disputes concerning trademark and distribution rights in Korea and Malaysia (**ICC, Hong Kong**)
- **Airport corporation** – US\$86m arbitration concerning works the Airport Authority carried out for the MTR and its liability under an entrustment agreement (**Airport Authority Arbitration Rules, Hong Kong**)
- **Singapore property developer** – US\$142m arbitration for piling defects at Airport Railway, Kowloon station (**HKIAC, Hong Kong**)

Published works:

- Author of a chapter in *The Hong Kong Arbitration Ordinance Commentary and Annotations*, published by Sweet & Maxwell, 2015 (2nd edition)
- Co-editor of *Construction Arbitration in Hong Kong: A Practical Guide*, 2015, published by Wolters Kluwer
- Author of chapter on Interim Measures in *Arbitration in China: A Practical Guide*, published by Sweet & Maxwell, December 2004
- "How do I draft an arbitration clause" *China Law & Practice*, 2014
- "Out with the Old, In with the New" *The Asia-Pacific Arbitration Review*, 2012
- "Expert Evidence under the Civil Justice Reform in Hong Kong" *The Expert and Dispute Resolver*, Summer 2009

- "A New Solution" *AsiaLaw*, January 2009
- "The New DIAC Arbitration Rules - Adopting International Best Practice", *Mealey's International Arbitration Report*, December 2007
- "Middle East Overview", *The European and Middle East Arbitration Review*, 2007
- "Arbitration in the UAE: The Traps, the Tricks and Tips for the Unwary", *International Arbitration Law Review*, 2006
- "Practical Advice on Med-Arb", *Global Arbitration Review*, Volume 1, Issue 3, 2006
- "PRC Arbitration Law New Interpretation - One Step Forwards, Two Steps Back?", *Global Arbitration Review*, Volume 1, Issue 4, 2006
- "Arbitration Do's and Don'ts", *Corporate Counsel*, 2005

Recent representative presentations:

- *ACICA/Law Council of Australia/CI Arb 4th International Arbitration Conference* - "A Hypothetical in Ethical Considerations in International Arbitration" in Sydney Arbitration Week (Sydney, 2016)
- *HKIAC seminar* - "Honing the Art of Negotiation" - Arbitration Clause Negotiation Workshop (Mumbai, 2016)
- *CIETAC seminar* - "David v Goliath – Afternoon – Tea Time with War Stories" Hong Kong Arbitration Week CIETAC 60th Anniversary – China Arbitration Chronicles (Hong Kong, 2016)
- *Asia Pacific Regional Arbitration Group (APRAG) Conference* - "Should third-party funding in Investment and Commercial arbitration be allowed?" (Bali, 2016)
- *Asia Law Dispute Resolution Summit* - "Dispute resolution in China: has the arbitral market opened up?" (Hong Kong, 2016)
- *Chartered Institute of Arbitrators' Asia Pacific Diploma Course in International Commercial Arbitration* - "How Non-Signatories Can Avail Themselves of an Arbitration Agreement" "Med-Arb / Arb-Med" (Singapore, 2016)
- *HKIAC seminar* – "Arbitration Clause Negotiation Workshop" (Hong Kong, 2016)
- *Tenth Annual Generations in Arbitration Conference organized by Moot Alumni Association* - "Institutional Arbitration in Asia: Past, Present and the Future" (Hong Kong, 2016)
- *HKIAC seminar* – "Anti-suit injunctions in Asia" (Hong Kong, 2015)
- *Greater China Arbitration Forum* – "Issue Estoppel and Enforcement – Damned if you do and damned if you don't" (Hong Kong, 2015)
- *Presentation organized by CIETAC HK* – "Emergency Arbitrators under the CIETAC HK Arbitration Rules" (Hong Kong, 2014)

- *HK General Chamber of Commerce* - "Drafting Arbitration Agreements" (Hong Kong, 2014)
- *European Chamber of Commerce in Taiwan* - "The Hong Kong Arbitration Ordinance – A Reflection After Three Years and Recent Trends (Taipei, 2014)
- *HKIAC Mock Arbitration under the HKIAC Administered Arbitration Rules* - "New Rules and Recent Practice" (Hong Kong, 2014)
- *In-House Counsel Forum 2014 Spring Academy Seminar* in Seoul - Enforcement of foreign arbitral awards in Asia - the Good, the Bad and the Ugly (Seoul, 2014)
- *Friday Afternoon Tea Gathering: Legislative Council Office of Dennis Kwok* - The Hong Kong Arbitration Ordinance – A Reflection After Two Years and Recent Trends (Hong Kong, 2014)
- *Legal Week Commercial Litigation Forum* – "The Global Face of Commercial Arbitration" (London, 2013)
- *HKIAC* – "The New HKIAC Administered Arbitration Rules" (Hong Kong, 2013)
- *Belgium-Luxembourg Chamber of Commerce HK* – "The Tricks and Traps of Dispute Resolution in China" (Hong Kong, 2013)
- *Regional Arbitral Institutes Forum - International Arbitration Conference* – "Arbitration Agreements: Can Arbitration Agreements Bind Non-Parties?" (Cebu, 2013)
- *Presentation to Faculty of Law, HKU* – "Arbitration Agreements: Can Arbitration Agreements Bind Non-Parties?" (Hong Kong, 2013)
- *HKIAC ADR in Asia Conference 2012* – "Arbitration Agreement - Does Freedom of Contract have Meaning in Asia" (Hong Kong, 2012)
- *Generations in Arbitration Conference VI organized by Moot Alumni Association* – "Arbitration Friendly: Emerging Markets in International Arbitration" (Hong Kong, 2012)
- *HKIE-YMC, CIArb-YMG, CIBSE-YEN, HKIS-YSG, ICE HKA, G&S and Law Soc-YSG* – Contract Management (Hong Kong, 2012)
- *KCAB 2nd International Arbitration Expert Program* – "The Sins of Arbitration Clauses" (Seoul, 2012)
- *39th IFAWPCA Convention* – Immediate Dispute Resolution "Expert Determination" (Hong Kong, 2011)
- *Joint Evening CIArb, Bar Association and Law Society talk* – A New Ordinance with a New Interpretation "Highlights of the New Arbitration Ordinance" (Hong Kong, 2011)
- *HKIAC ADR in Asia Conference 2011* – "Mediation: Myths and Realities" (Hong Kong, 2011)
- *HKIAC in the Americas* – Managing Disputes in Hong Kong and China "Recent Developments on the Use of Arbitration Involving Chinese Parties" (New York, 2011)
- *ICC, CCOIC, and CIETAC seminar* – Arbitration in China and Beyond "The Future of the Arbitration Landscape in China" (Beijing, 2011)

- *HKIAC/China International Arbitration Club Seminar – New Law, New Case, New Rules “An Introduction to the UNCITRAL Rules 2010”* (Beijing, 2011)
- *ICC seminar – “ICC clauses and drafting clauses for China”* (Hong Kong, 2011)
- *HK Academy of Law, HK Bar Association, HK Law Society, ICC HK: Arbitration: Domestic, International and in China: “Enforcement of Foreign Arbitral Awards under the New York Convention and Hong Kong Arbitration Ordinance”* (Hong Kong, 2011)
- *Society of Construction Law International Construction Conference – “Procurement and Conditions of Contract”* (Hong Kong, 2010)
- *ICC Arbitration & ADR in Japan and Beyond – “Developments in Arbitration and ADR in Japan and Asia Pacific”* (Tokyo, 2010)
- *Lecturer in the University of New South Wales/Chartered Institute of Arbitrators (Australia) Diploma of International Commercial Arbitration Course* (Penang, 2010)
- *China Arbitration Club symposium – “ICC Arbitration from a User’s Perspective”* (Shanghai, 2010)
- *ICC Asia Pacific Conference East Meets West: Evolving Issues in International Arbitration in the Asia Pacific Region – “Multi Party Arbitration”* (San Francisco, 2010)
- *ADR in Asia Arbitration Conference 2009 - “Interim Measures and Evidence in International Arbitration”* (Hong Kong, 2009)
- *China Disputes Conference Resolving Business Disputes in Today’s China – “Use of Med-Arb in Resolving China Disputes”* (New York, 2009)
- Invited as a guest lecturer on arbitration (Enforcement of Arbitral Awards) for the *Masters in Arbitration and Dispute Resolution* degree at City University, Hong Kong (Hong Kong, 2008)
- *DIAC arbitration conference Activating Commercial Arbitration - “Recent Developments in Arbitration in Arab Countries”* (Dubai, 2008)