



**International Arbitration: promoting
legitimacy and robustness in a globalised
arbitration world**

Tribunal Selection – Friend or foe?

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Agenda

1. The right to choose the decision-maker
2. How does arbitration ensure legitimacy?
3. Examples of challenges to arbitrators

(1) The right to choose the decision-maker

- Arbitrators are (generally) selected by the parties
- Benefit = parties choose suitably qualified decision-makers
- BUT – can pose a threat to legitimacy of the process
- Arbitrators are not judges – they are private persons, usually from a narrow pool, with a commercial interest in their appointment and often already known to the parties
- And parties want to win!
- These factors can affect impartiality and legitimacy of the process

(2) How does arbitration ensure legitimacy?

1. Arbitrators' duties – “cardinal duty” of impartiality
2. Arbitrators' disclosure obligations
3. Role of institutions – the front-line
4. IBA Rules on Conflicts of Interest – red, orange and green
5. Right to challenge – not only appointment but award and enforcements

(3) Examples of challenges to arbitrators

1. Halliburton v. Chubb [2020] UKSC 48
2. DJO v DJP [2024] SGHC (I) 24
3. Aiteo Eastern E & P Company Ltd v Shell Western Supply and Trading Ltd & Ors [2024] EWHC 1993
4. Port Autonome de Douala v Douala International Terminal

