

Dr. Fan Yang

In-house Counsel
China Harbour Engineering Company Limited
Director, International Dispute Resolution Academy
www.idracademy.org



Dr. Fan Yang is a legal counsel at China Harbour Engineering Company Limited.

Fan has advised on construction contracts including GCC, FIDIC and NEC contracts and reviewed claims and provided dispute resolution advisory and consultancy work focusing on ADR, adjudication and mediation strategies and effective management of parallel proceedings. Fan is a FIDIC Certified Adjudicator.

Fan is a listed arbitrator at the HKIAC, KCAB, KLRCA/AIAC, THAC, SCIA, HIAC. She is a CEDR and HKMAAL accredited mediator and an investor-state disputes mediator trained by ICSID, CEDR, Energy Charter Secretariat and IMI.

Fan is an active member of the arbitration and ADR community in Hong Kong, Macau and the Greater Bay and Greater China regions. She is the founding Director of the International Dispute Resolution Academy (IDRA).

Dr. Fan Yang obtained her LL.B. from Shanghai International Studies University. She subsequently studied law in Paris (Comparative Law Certificate), Birmingham (LL.M.) and London (PhD in Law). She was called to the Bar of England and Wales in 2005.

Before joining China Harbour, Fan was a partner of Stephenson Harwood LLP, London, and advises on the laws of England & Wales, having been one of the first Mainland Chinese called to the Bar of England and Wales.

Fan specialises in international arbitration and cross-border dispute resolution. In addition to representing clients as counsel in international arbitration and cross-border mediation, She has also acted as mediator and has been appointed as arbitrator (sole arbitrator, co-arbitrator and presiding arbitrator) under the rules of the ICC, HKIAC, AIAC, SCIA and HIAC.

Fan was previously appointed to China National Petroleum Corporation's (CNPC) first tier legal panels for international arbitration and construction.

Fan is fluent in English, Putonghua and Cantonese.

PRACTICE SUMMARY

Selected experience in Construction & Engineering Dispute Resolution

- Advised a main contractor against the Government of the Hong Kong SAR in its HKD7 billion+ claims arising from a major reclamation project; involved consideration of site conditions, liability for change and interpretation of technical specification in the mediation process.
- Advised a main contractor against the Government of the Hong Kong SAR in its HKD200 million+ claims arising from a road widening project in the adjudication process.
- Represented a contractor against the Government of the Hong Kong SAR in its HKD2 billion+ arbitration concerning the construction of waste treatment facilities (EPC contract) in Hong Kong; interviewed the factual witness and expert and drafted the witness statement to support the contractor's Fire Services Department claim arising from the delayed processing of the Fire Engineering Report (FER), General Building Plans (GBPs) and Dangerous Goods Licences (DG Licences).
- Represented a Chinese construction company 100% owned by the Chinese central government against an offshore property developer in their Foundation Contract dispute concerning a Proposed Industrial Development in Quarry Bay, Hong Kong; advised the Chinese contractor on its case strategy, arbitration preparatory work, drafted several rounds of legal opinions, the notice of arbitration, instructions to counsel, instructions to experts, and the pleadings; and successfully obtained interim measures.
- Advised a Chinese state-owned general contractor on third party funding for its main contract (superstructure works) dispute for a potential loss of profit claim of HKD161+ million; and successfully obtained funding terms (£1,522,393) offered by a London-based Third Party funder.
- Advised the respondent, a PRC construction engineering company in its defense strategy in the SIAC arbitration seated in Singapore and governed by Singaporean Law.
- Advised a Beijing construction engineering group on its dispute resolution clauses and claims for arrears of payment for the Hilton Hotel construction project in Ulaanbataar, Mongolia.
- Advised a Consortium of a Chinese construction and engineering company, a member company of the China Energy Engineering Corporation (Energy China) on their potential Advance Payment Guarantee and Performance Guarantee dispute arising from the Construction Contract for the 47 Buildings and Infrastructure works, a Turn-Key Project in Saudi Arabia.

- Appointed by the ICC Court directly as a co-arbitrator in an ICC arbitration concerning a Marine Works Contract governed by the Egyptian law (FIDIC Yellow Book).
- Assisted Neil Kaplan CBE QC SBS, former Hong Kong High Court judge in charge of construction and arbitration list, in several construction arbitration proceedings in Copenhagen, Munich, London, Hong Kong and Singapore.

Energy & Natural Resources

- Advised a subsidiary of a listed company (the Toronto and Hong Kong Stock Exchanges) in the arbitration proceedings brought by a Mongolian individual regarding their mining royalty dispute; worked together with the client's Mongolian lawyers team and provided legal advice and drafted correspondence to the ICC regarding jurisdictional challenge.
- Advised CITIC parties in the management and resolution of their dispute with Mineralogy arising out of multiple agreements concerning CITIC's mining operation in Western Australia; and delivered two rounds of legal advice and a presentation in Chinese to CITIC Board and management in Hong Kong.
- Represented a major Philippine energy company in relation to a USD9.4 million force majeure claim arising out of a long-term Gas Sale and Purchase Agreement.

Commercial, Outsourcing & Technology

- Advised Yuchai Dongte Special Purpose Automobile Company Limited against Suisse Credit Capital (2009) Limited Special Purpose in the English High Court Proceedings (Claim number: CL-2017-000044); provided instructions to the English barrister for Yuchai; managed Yuchai's witness for the hearing; and achieved a winning outcome for Yuchai.
- Represented the minority shareholder (49%) of a BVI company in its claim against the majority shareholder, a subsidiary of a state-owned Sinochem Corporation arising from their Share Purchase Agreement for valid termination and buy back the shares at the price of RMB385 million and USD64 million plus damages and interest; drafted the pleadings in Chinese language for this HKIAC arbitration and achieved a favourable settlement for the client.
- Represented a leading mobile phone brand and smart phone developer in Turkey in its USD30+ million claim against its suppliers based in Shanghai, China arising out of their international sale of goods contract in this HKIAC administered arbitration; and advised on its claim strategy; preparatory work; drafted the notice of arbitration, provided instructions to counsel and negotiated the appointment of a three-member tribunal.
- Represented a leading mobile phone brand and smart phone developer in Turkey in its USD2+ million claim against its suppliers based in Shanghai and

Shenzhen in their international sale of goods (mobile phone products) contract dispute; advised on its claim strategy; all preparatory work for the commencement of the arbitration inclusive of drafting the notice of arbitration.

International Commercial Arbitration

- Advised a Taiwanese family business, the claimant in an HKIAC arbitration concerning a dispute arising out of two sets of Lease Agreement with parallel PRC Court Proceedings; advised the client on its strategy, and managed parallel proceedings in both Chinese and English.
- Represented a major Chinese holding company whose subsidiaries mainly deal with insurance, banking, and financial services in a KRW 488 billion (approximately US\$430 million) dispute arising from a sale and purchase of shares of a leading life insurance company in South Korea, governed by English and Hong Kong law and arbitration seat in Hong Kong.
- Advised the respondent, a PRC construction engineering company in its defense strategy in the SIAC arbitration seated in Singapore and governed by Singaporean Law.
- Advised a Turkish and UAE based client on Indian arbitration law and dispute resolution clauses.
- Advised a Swiss Reinsurance company on Indian arbitration law and dispute resolution clauses.
- Represented a French purchaser against a German reinsurance company, in connection with a Share Sale Agreement.
- Represented buyers in a dispute concerning a Sale and Purchase Agreement for majority shares of a major Ukrainian bank.
- Advised a Chinese entity in a GAFTA arbitration seated in London.
- Advised a Chinese company on its charterparty dispute in an arbitration seated in London.

Pre-arbitration ADR advisory

- advised on whether the expert appraisals process had the effect of res judicata.
- reviewed and advised on the cooperation agreement between two individuals in Chinese language and its pre-arbitration ADR steps and dispute avoidance strategy.
- advised a European buyer on pre-arbitration risk analysis and dispute resolution strategy.

Appointment as Arbitrator:

- Appointed by the ICC Court directly as a co-arbitrator in an ICC arbitration concerning a Marine Works Contract governed by the Egyptian law (FIDIC Yellow Book).
- Appointed by the parties as the Sole Arbitrator in an HKIAC administered arbitration concerning a Sale of Iron Ore contract governed by the law of the Hong Kong SAR.
- Appointed by the KLRCA as a Sole Arbitrator in an ad hoc arbitration under the technology and manufacture agreement governed by the Malaysian law.
- Appointed by the Shenzhen Court of International Arbitration (SCIA) as the Presiding Arbitrator in a cross-border sale of goods dispute governed by the law of the People's Republic of China.
- Appointed by the Hainan International Arbitration Court (HIAC) as a co-arbitrator in a construction and refurbishment works dispute governed by the law of the People's Republic of China.
- Appointed by the Hainan International Arbitration Court (HIAC) as the sole arbitrator in two sale of commercial buildings dispute governed by the law of the People's Republic of China.