



# David Holloway

**Year of Call:** 1996

**Direct Access:** Yes

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|-----------------------------------------------------------------------------------|--------------------------------|
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|  | 020 7353 6381                  |



David Holloway is a specialist in **international trade law** and **international commercial dispute resolution**. He has particular expertise in the field of **international arbitration** and has represented clients in numerous arbitrations conducted under various international institutional rules and in ad hoc arbitrations. He was one of the first lawyers to conduct an Emergency Arbitration Procedure under the ICC Rules of Arbitration.

David has appeared as counsel in the Courts of England and Wales at all levels and has extensive experience of working in cases involving issues of commercial law and multi-jurisdictional elements. He has been involved in leading cases involving the enforcement of foreign judgments and awards and various court proceedings ancillary to arbitration.

David has also successfully represented clients in significant negotiations, **meditations** and other ADR procedures. He is experienced in assisting clients in resolve disputes effectively and in the most appropriate manner/forum.

David's practice has extended to most aspects of **commercial** activity. Before qualifying as a lawyer he spent an early part of his career working in the Lloyds marine and energy reinsurance market. He also spent a spell of his early career as a lawyer working in the marine, energy and trade department of a major firm of City Solicitors in London. Throughout his career he has developed particular experience of the oil and gas industry and has been involved in several substantial disputes arising from oil exploration projects. He also has extensive experience of insurance and reinsurance disputes (particularly in the marine and energy sectors), disputes involving sale and carriage of goods, joint ventures and construction projects. He has been instructed in several cases involving State parties and in various matters involving public international law including claims arising under bilateral investment treaties and disputes involving issues of State Immunity before national courts.

David spent part of his career living and working in China (mainland and Hong Kong) and is a registered foreign lawyer (Hong Kong). He sits as an arbitrator and has been appointed to the panel of arbitrators by CIETAC (Beijing), SCIA (Shenzhen), C.A.A (Taipei) and THAC (Bangkok) . He is also a Tribunal Member of the Hong Kong Board of Review (the Hong Kong tax appeals Tribunal).

David is based in the Middle East, where he holds an academic appointment as Senior Lecturer in Law at the University of Birmingham and is Director of the LLM in International Commercial Law at the University's new Dubai campus. He has previously held academic appointments at the University of Edinburgh and at City University of Hong Kong (where he was the Director of the LLM programme in arbitration and dispute resolution). He was also formerly Chair Professor of Law at Jiaotong University, Xi'an P.R.C. He has a particular interest in international trade involving China and South East Asia.

## London (Main Office)

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## Abu Dhabi

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## Dubai

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David publishes regularly in the field of international trade law and international arbitration. He has been General Editor of International Arbitration Law Review (Sweet & Maxell) since 1999. He has also been co-author of Schmitthoff, the Law and Practice of International Trade Law (Sweet & Maxwell) since 2007. He regularly presents research at international academic and practitioner conferences and has been involved in various training projects for lawyers and commercial organisations in the field of international arbitration and dispute resolution.

David is licensed to represent clients directly under the direct access rules. He is also licensed to appear as an advocate in the DIFC courts.

## Background

David grew up in Ireland and is a dual Irish/UK national. He studied philosophy and law at Cambridge University, graduating with a BA/ MA in law and with a squire law scholarship.

He then studied for a higher degree in law and economics at Erasmus University Rotterdam, spending time during these studies in Rotterdam and at the universities of Hamburg and Madrid. In the early part of his career he worked in the Lloyds insurance market and in the Marine Energy and Trade department of a major firm of city solicitors.

Since being called to the bar David's practice has focused on the areas of international trade and international commercial dispute resolution. He has acted as counsel in significant commercial cases in the higher courts, including the Court of Appeal and House of Lords. Many of these cases involved multijurisdictional disputes and issues of private international law. David is also regularly instructed in high value commercial arbitrations and has extensive experience of institutional arbitrations involving most major institutional rules and of ad hoc arbitrations. David has also occasionally been instructed as counsel in investment disputes, and has acted for investors, States and State Owned enterprises in this context.

David has extensive international experience and has spent periods of his career living and working in China (mainland), Hong Kong and the Gulf. He is experienced in working with and accepting instructions from overseas law firms and acting for commercial clients directly under the foreign practice rules. David been instructed on complex high value litigation in the DIFC Courts.

## Areas of Expertise

### International Trade/ Commercial Law

David regularly acts in commercial disputes. Recent and ongoing cases include:

#### Notable International Trade/ Commercial Law cases

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Fal Oil Company Ltd. v Sharjah Electricity and Water Authority (SEWA)

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Instructed by Fal Oil Company Ltd in a dispute with the UAE authorities involving contested enforcement proceedings in the DIFC Court of a non DIFC judgment valued at US\$350million. The proceedings involved issues of the DIFC Court

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principles relating to enforcement of foreign judgments and awards.

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**Credit Suisse v Emirates Hospital Group and others**

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Acting for an international banking syndicate in claims for over US\$300 million arising out of personal and corporate guarantees following financial difficulties experienced in a major UAE group of companies operating in the healthcare sector. The proceedings involved issues of jurisdiction, international insolvency law and emergency legislation in the UAE relating to the covid pandemic.

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**KBC Aldini Capital Ltd v. (1) David Baazov (2) Canaccord Genuity Corp**

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Successfully defending a \$90 million claim based on fraud allegations made in DIFC proceedings relating to equity commitment letters filed in support of a 'go private' bid to acquire a global internet gaming company, Amaya Inc.

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**Kuwaiti Oil Tanker Company v Q, A and others.**

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Instructed on behalf of a state owned oil company in a dispute arising out of a US\$130million fraud. Appeared as junior counsel in one aspect of the case in the House of Lords- reported at (2004) 1 AC 300 : (2003) 3 WLR 14 : (2003) 3 All ER 501 appeared and advised in various related proceedings including various international enforcement applications over a number of years.

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**Thoresen (Bangkok) Ltd v Fathom Marine & Others**

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Instructed on behalf of the successful shipowner in a ship sale and purchase dispute involving ships with a value of US\$ 42 million. Reported at [2004] 1 Lloyd's Rep 622.- (whilst working with a firm of solicitors)

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**Rowan Gorilla V**

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Instructed on behalf of the successful reinsurer in respect of the unlawful failure to take delivery of an Oil Rig (Rowan Gorilla V).Reported at (2006) 1 Lloyds Rep 500.- (whilst working with a firm of solicitors)

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**Svenska v Government of Lithuania and Others**

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Instructed by the Government of the Republic of Lithuania to defend enforcement proceedings of an ICC arbitration award to the value of US\$15million. The case arose from a dispute involving a Joint Venture oil exploration agreement entered into at the time of Lithuanian independence (the first such investment contract signed by that State). The defence involved the law of State Immunity and its interrelation with the law relating to the enforcement of arbitral awards. Instructed as part of an international team of lawyers working on parallel enforcement proceedings in England, Lithuania and Germany.

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Appeared as junior counsel in the English Commercial Court and Court of Appeal hearings and drafted the relevant submissions which were extensive and involved both English and international jurisprudence.

Reported both at first instance and in the Court of Appeal

[2006] 1 Lloyd's Rep page 181 and in the Court of Appeal [2006]. EWCA Civ 1529, (2007) 2 WLR 876, (2007) 1 Lloyd's Rep 193 : (2006) 2 CLC 797, (2007) QB 886, Times 17/11/ 2006, Independent, 16/11/ 2006

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#### UNCITRAL Oil Arbitration- Seat Houston

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Instructed by an oil major as co- counsel and as part of a team of UK and US lawyers in a claim of over US\$200,000,000. The claim was heard under UNCITRAL arbitration rules in Houston before an eminent panel of arbitrators. David was heavily involved in all aspects of this claim and provided initial legal advice, much of the drafting of legal submissions and procedural correspondence as well as a substantial part of the oral advocacy. The case also involved working closely with an in house and external team of technical experts.

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#### International Distribution Arbitration (LCIA)

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Instructed as counsel by an English chemical company in a dispute with an Asian corporation (value \$3.5million). The dispute settled following a two day mediation immediately prior to a scheduled two week hearing in Osaka.

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#### Iraqi Sanctions Case

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Advised in relation to an oil company being investigated in the US for potential breaches of the trade sanctions against Iraq following litigation in the UK and the associated disclosure. Worked as correspondent with US defence counsel in the conduct of US Federal Court regulatory proceedings.

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#### Telecoms Dispute (CEDR Mediation)

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Instructed by a major telecoms company in a multimillion pound dispute with a competitor over breach of confidence and data protection issues. Acted as counsel in CEDR mediation which led to successful resolution of dispute (CEDR mediation).

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#### World wide Freezing Injunction

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Obtained a world wide freezing order against an overseas company valued at over US\$100,000,000.

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#### Vercoe & Others v Rutland

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Acted for a private equity firm in a claim for £44million arising out of a corporate take over and floatation and a claim for breach of confidence and breach of contract. [2010] EWHC 424 (Ch) (High Court, London, Chancery Division)

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### Oil Trading Arbitration

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Acted in US\$15million claim arising out of a long term oil sales agreement. The claim involved issues of frustration of contract and the construction of force majeure clauses following a State seizure of assets belonging to a Yukos related company. (LMAA arbitration proceedings, London)

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### Commodities Arbitration

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Instructed as counsel for overseas company in a dispute involving and fob contract for the sale of chemicals and the construction of independent inspection certificates. (LMAA arbitration proceedings, London)

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### Pablo Star v Du

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Represented a UAE telecoms company to challenge the jurisdiction of the English Courts. (Instructed by Clyde & Co, Dubai, Court of Appeal, London)

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### ICC Arbitration

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Instructed to represent a UAE client in ICC proceedings involving the construction and ownership of high value industrial plant (c\$500million), the import and export of commodities to the UAE and various associated claims. Worked with a team of English and UAE lawyers. (Instructed by Galadari law firm Dubai. ICC arbitration, London)

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### LMAA Arbitration

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Instructed to advise a client in a long term charterparty dispute involving the carriage of coal. The case involved the interaction of UK, Indian and Singapore law and various aspects of arbitration procedure relating to appointment of arbitrators. The substantive legal issues included the construction of the clauses relating to nomination of vessels and routes and the obligation to declare cargo, repudiation and fundamental breach of contract and aspects of damages law including the doctrine of minimum performance. (Instructed by Dentons, LMAA arbitration, London)

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### LCIA Arbitration London

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Instructed to advise a Finnish Company in a dispute arising out of the construction of an oil and gas pipeline. The case involved performance guarantees and construction of a complex international joint venture contract. (LCIA Arbitration, London)

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### Naraji v Shelbourne

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Instructed as junior counsel in an international professional negligence action against a US sports surgeon. I had responsibility for pleading and arguing specific issues relating to jurisdiction and conflict of laws. [2011] EWHC 3298. (High Court, London, Queen's Bench Division)

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#### ICC Arbitration London

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Instructed by an Indian Company in a dispute with a large English multinational in relation to an infrastructure project in India. The claim involved parallel proceedings and disputes about jurisdiction. The dispute was successfully resolved pursuant to a mediation under the ICC rules of conciliation. (ICC Mediation, London)

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#### ICC Emergency Arbitrator Proceedings

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Represented party in one of the first hearings under the new pre arbitral emergency procedure introduced in the ICC rules 2012. The application was for emergency interim relief in a case involving fraud in a commodities case. (ICC EAP, London)

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#### Iranian Sanctions

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Represented an overseas client in a dispute arising from high value sales transaction which was embargoed by a foreign government by virtue of international sanctions and assisting with pre arbitral dispute resolution. (LCIA, London, Governing Law CISG)

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#### UNCITRAL/ ICC Cases

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Advising an investor in claims against a former Soviet Republic in relation to the cancellation of various construction projects. Advising on the conduct of 3 interrelated arbitration claims against States/ State entities and related parties. (Related arbitrations ICC Rules Switzerland and ICSID rules)

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#### DIFC case

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Instructed on behalf of a UAE client in fraud litigation with claims valued at cUS\$50 million. (instructed by Allen & Overy)

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#### DIFC Enforcement case

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Instructed in proceedings involving the enforcement of a high value foreign judgment in the DIFC. (instructed by HFW)

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## International Arbitration

David has previously been listed as a "leader at the Bar" in the field of international arbitration by Chambers and Partners.

### Notable International Arbitration cases

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#### Svenska Petroleum Exploration v Government of Lithuania and Others

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Instructed by the Government of the Republic of Lithuania to defend enforcement proceedings of an ICC arbitration award to the value of US\$15million. The case arose from a dispute involving a Joint Venture oil exploration agreement entered into at the time of Lithuanian independence (the first such investment contract signed by that State). The defence involved the law of State Immunity and its interrelation with the law relating to the enforcement of arbitral awards. Instructed as part of an international team of lawyers working on parallel enforcement proceedings in England, Lithuania and Germany. Appeared as junior counsel in the English Commercial Court and Court of Appeal hearings and drafted the relevant submissions which were extensive and involved both English and international jurisprudence.

Reported both at first instance and in the Court of Appeal

[2006] 1 Lloyds Rep page 181 and in the Court of Appeal [2006]. EWCA Civ 1529, (2007) 2 WLR 876, (2007)

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#### UNCITRAL Oil Arbitration- Seat Houston

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#### Commodities Arbitration

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Pablo Star v Du

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Represented a UAE telecoms company to challenge the jurisdiction of the English Courts. (Instructed by Clyde & Co, Dubai, Court of Appeal, London)

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ICC Arbitration

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Instructed to represent a UAE client in ICC proceedings involving the construction and ownership of high value industrial plant (c\$500million), the import and export of commodities to the UAE and various associated claims. Worked with a team of English and UAE lawyers. (Instructed by Galadari law firm Dubai. ICC arbitration, London)

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LMAA Arbitration

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LCIA Arbitration London

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Instructed to advise a Finnish Company in a dispute arising out of the construction of an oil and gas pipeline. The case involved performance guarantees and construction of a complex international joint venture contract. (LCIA Arbitration, London)

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ICC Arbitration London

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Instructed by an Indian Company in a dispute with a large English multinational in relation to an infrastructure project in India. The claim involved parallel proceedings and disputes about jurisdiction. The dispute was successfully resolved pursuant to a mediation under the ICC rules of conciliation. (ICC Mediation, London)

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ICC Emergency Arbitrator Proceedings

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Represented party in one of the first hearings under the new pre arbitral emergency procedure introduced in the ICC rules 2012. The application was for emergency interim relief in a case involving fraud in a commodities case. (ICC EAP, London)

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#### UNCITRAL/ ICC Cases

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Advising an investor in claims against a former Soviet Republic in relation to the cancellation of various construction projects. Advising on the conduct of 3 interrelated arbitration claims against States/ State entities and related parties. (Related arbitrations ICC Rules Switzerland and ICSID rules). Counsel in the ICC proceedings.

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#### London Arbitration (current)

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Instructed by a Chinese distributor in disputes arising out of a long term distribution agreement. Claims valued at US\$15million. Dispute involves jurisdictional issues and issues of English law.

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#### DIFC-LCIA Arbitration (current)

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Instructed by a UAE client in an oil trading dispute. Claims valued at 27.8 million. Dispute involves applications for interim relief before local courts in support of the arbitration proceedings. (Instructed by Allen & Overy)

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## Memberships

- Arbitrator in ad hoc and institutional arbitrations. Selected on the panels of i.a. **CIETAC** (Beijing), **SCIA** (Schenzhen) **CAA** (Taipei), **THAC** (Bangkok)
- Member of the Hong Kong Board of Review (Inland Revenue appeals Tribunal)
- Registered foreign lawyer (Hong Kong)
- Senior Lecturer (Associate Professor) in Law at the University of Birmingham. Director of Birmingham Law School's LLM in international commercial law in Dubai
- **Member of Chartered Institute of Arbitrators (MCI Arb)**
- **Member of the commercial bar association (COMBAR)**

## Languages

- French and German (post A level standard)
- Mandarin Chinese (basic)

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## Recommendations



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