

International Law Talk Podcast and Arbitration: Construction, Tender Disputes, and the Role for Arbitration, In Conversation with Jane Jenkins

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International Law Talk is a series of podcasts through which Wolters Kluwer provides the latest news and industry insights from thought leaders and experts in the fields of International Arbitration, IP Law, International Tax Law and Competition Law. Here at *Kluwer Arbitration Blog*, we highlight the podcasts focused on international arbitration. In this latest episode, Kiran Nasir Gore, Associate Editor of *Kluwer Arbitration Blog*, interviews Jane Jenkins, a Partner at Freshfields Bruckhaus Deringer in London.



Jane has expertise in providing whole-of-life service on the largest, most complex construction, procurement and engineering projects, including resolution of disputes as they arise in various stages. The podcast discussion considers and explores:

- The challenges for prospective engineering and construction bidders, who may be experienced contractors, but may not be familiar with the public procurement process. This is an important market segment, especially given the massive economic opportunities inherent among public contracts. Indeed, the World Bank estimates that Governments worldwide spend US\$9.5 trillion in public contracts every year.
- The essential features of an effective procurement law, and how it may balance both public interest and commercial objectives. Jane highlights the need for fairness and equal treatment, which can be ensured by openness, transparency, and market competition in a cross-border context. Jane discusses various regimes, including the WTO Government Procurement Agreement, the EU Rules for Public Procurement, and UNCITRAL Model Law on Procurement.
- In a post-Brexit environment, the UK Government's recently published Green Paper. Jane describes its proposed changes to the UK public procurement regime, including key changes to its tender disputes remedies procedure.
- Beyond administrative processes to resolve tender disputes, the role for international arbitration to resolve such disputes. By way of example, Jane explains that disputes may arise regarding the manner of award of public

contracts, such that aggrieved bidders may file an arbitration. Arbitration may also come into play where the State entity awarding a concession may claim that the tendering procedures used were in breach of contract.

This is a topic she also focused on in a recent post on the Blog.

- In parallel, the opportunities for and limitations to investment arbitration as a platform for tender process disputes.
- The future of international dispute resolution in the construction industry, including the role for mediation and hybrid dispute resolution processes.

As final thoughts, Jane offers advice to the next generation of emerging practitioners interested in international construction disputes.

Listen to the discussion: *Construction, Tender Disputes, and the Role for Arbitration*, in conversation with Jane Jenkins.

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