

April 21, 2025

“DECIDES AND AWARDS” Means What It Says: Nigeria LNG Ltd v Taleveras Petroleum Trading DMCC [2025] EWCA Civ 457 (16 April 2025)

[Nigeria LNG Ltd v Taleveras Petroleum Trading DMCC \[2025\] EWCA Civ 457](#)

Date: 16 April 2025

Key Words:

Arbitral award, Dispositive section, UNCITRAL Rules, Final award, Functus officio, s.66 Arbitration Act 1996, Interpretation decision, Enforcement, Addendum award, Master Sales Agreement (MSA), Indemnity clause, Condition precedent, On-sale liabilities, Consent award, Reasonableness requirement, Interpretation of arbitral awards, Primacy of dispositive language, Commercial reasonableness, Form vs. substance, Tribunal's jurisdiction, Judicial deference to arbitral autonomy, Reasoned decision, Declaratory relief.

Case law/ Authorities:

- *Bank Mellat v GAA Development and Construction Co* [1988] 2 Lloyd's Rep. 44
- *ZCCM Investments Holdings plc v Kananshi Holdings plc and another* [\[2019\] EWHC 1285 \(Comm\)](#), [2002] 1 All ER (Comm) 132
- *French State v London Steam-Ship Owners' Mutual Insurance Association Ltd (The MT 'Prestige' (No 6))* [\[2023\] EWHC 2474 \(Comm\)](#), [2024] 2 All ER (Comm)
- *Obrascon Huarte Lain SA (t/a OHL Internacional) v Qatar Foundation for Education, Science and Community Development* [\[2019\] EWHC 2539 \(Comm\)](#); [2019] 2 Lloyd's Rep 559
- *Professor Gary Born, International Commercial Arbitration*

Summary

The Court of Appeal dismissed Nigeria LNG Ltd's (NLNG's) appeal against a High Court decision interpreting the scope of an arbitral award. The central issue was whether a specific paragraph (607) in the "Analysis" section of an arbitral award, requiring endorsement by third-party tribunals before an indemnity could be enforced, should be treated as an operative part of the award, despite not appearing in the formal "Award" section. The Court upheld the High Court's view that the dispositive section was intended to be the complete and final statement of the tribunal's orders, and paragraph 607 was not legally operative.

Key Themes:

1. *Interpretation of arbitral awards under English law*
2. *The function and primacy of the dispositive section in an arbitral award*
3. *The extent to which reasoning sections of awards can constitute operative orders*
4. *The importance of form and structure in award construction*
5. *Judicial deference to arbitral autonomy and clarity*

Background

- The dispute arose from a failed LNG sale under a 2020 Master Sales Agreement and Spot Confirmation Notice.
- The arbitral tribunal found NLNG liable for failing to supply cargoes, awarding:
 - \$24 million for lost profits.
 - Indemnity in respect of Taleveras' liabilities to Vitol and Glencore from on-sale agreements.
- NLNG disputed liability to indemnify Taleveras after the Vitol arbitration awarded over \$233 million against Taleveras.
- NLNG relied on paragraph 607 in the tribunal's Analysis section, arguing it made indemnity enforcement conditional upon endorsement by the Vitol tribunal.
- Taleveras maintained that only the dispositive Award section was binding.

Legal Issues and Analysis

1. Whether paragraph 607 had legal effect

1. NLNG argued paragraph 607 imposed a condition precedent (endorsement by third-party tribunals) before the indemnity could be enforced.
2. The High Court and Court of Appeal both rejected this, finding paragraph 607 did not appear in the dispositive section and was therefore not operative [18-25, 44].

2. Primacy of the dispositive section

1. The Court held the structure of the award — with a clear “DECIDES AND AWARDS” section — was conventional and signified finality [18-20, 31, 33].
2. Courts should interpret awards commercially and reasonably, avoiding a “meticulous legal eye” that hunts for inconsistencies [23, citing *Obrascon v Qatar Foundation*, 44].

3. NLNG's reliance on “further orders”

1. Though paragraph 607 used directive language (“further orders”), the Court found this insufficient to override the dispositive section [36-37, 47].
2. Section XVIII clearly limited endorsement to consent awards only [37].

4. Utility of endorsement requirement

The Court found it difficult to see the basis on which a third-party tribunal would have the jurisdiction or ability to “endorse” non-consent awards made in separate arbitrations between different parties — disputes over applicability would logically be settled between Taleveras and NLNG through arbitration [23, 30, 40].

5. The Interpretation Decision

The tribunal's later interpretation of its own award under UNCITRAL rules confirmed only the dispositive section (XVIII) defined the scope of the indemnity [43-44].

Conclusion

The Court of Appeal held that paragraph 607 did not form part of the tribunal's formal decision. The award's dispositive section (XVIII) was the sole operative part. There was no ambiguity or error in the High Court's analysis. The tribunal had clearly intended to separate reasoning from orders, and any ambiguity in paragraph 607's wording did not undermine the dispositive section's finality. Appeal dismissed. Judgment below affirmed [48].

Key Takeaway:

Only the formal dispositive section of an arbitral award constitutes the operative orders, especially when clearly structured and drafted by legally trained arbitrators. Narrative or reasoning sections, even if directive in tone, do not override this structure unless expressly incorporated.

Parting Thoughts

And so, with the decorum of judges in full robes and the restraint of a tribunal that's already written 234 pages of "what we mean is what we said," the Court of Appeal brought NLNG's argument to a merciful end.

Yes, paragraph 607 had a whiff of legal command — "further orders," a nice touch — but this was little more than the tribunal muttering to itself in the margins. The dispositive section was the stage. Paragraph 607 was standing in the wings, waving dramatically, but not actually in the play. The judges, correctly, declined to let the understudy steal the show.

What emerged from the wreckage of "form versus substance" is a strong reaffirmation of the obvious: if you want to bind someone to a tribunal's orders, put it in the bit titled "DECIDES AND AWARDS." That's not an artistic suggestion. It's legal architecture. If you choose instead to bury conditions in the analysis section like a squirrel hides nuts — don't be surprised when no one digs them up.

NLNG's attempt to revive paragraph 607 as a kind of interpretive zombie clause — lurking in the shadows, waiting to infect the dispositive — was politely but firmly sent back to its grave. The Court read the award commercially, reasonably, and above all, structurally. As did the first-instance judge, who must now be enjoying the rare pleasure of being not only correct but unanimously upheld.

Let's call this what it is: a judgment that politely tells parties (and arbitrators) to mean what they say, and say it like lawyers — in the part that counts.

**#Arbitration #ArbitralAward #DispositiveSection #ContractLaw #IndemnityClause
#AwardEnforcement #FormVsSubstance #AwardInterpretation #LegalReasoning
#CommercialAwareness #TribunalJurisdiction #FunctusOfficio #UNCITRAL
#ArbitrationAct1996 #CommercialCourt #CourtOfAppeal #EnglishLaw
#InternationalDisputes #LNGContracts #EnergyLaw #DisputeResolution #LegalUpdate**

Nigel Davies BSc(Hons) (Q.Surv), PGCert.Psych, GDipLaw, PGDipLP, DipArb, MSc (Built Environment), LLM (Construction Law & Practice), MSc (Mechanical & Electrical), MSc (Psychology), FRICS, FCIQB, FCInstCES, FCIArb, CArb, GMBPsS, Panel Registered Adjudicator, Mediator, Mediation Advocate, Chartered Builder & Chartered Construction Manager, Chartered Surveyor & Civil Engineering Surveyor, Chartered Arbitrator, Author, and Solicitor-Advocate

Adjudicator Assessor and Re-Assessor for the ICE and the CI Arb
Arbitrator Assessor for the CI Arb
ICE DRC Member
ICE DRC CPD Committee Chairman
Adjudicator Exam Question Setter for the ICE
CI Arb Adjudication Panel Member since 2006
CI Arb Arbitration Panel Member since 2006
CIC Adjudication Panel Member since 2010
Law Society Panel Arbitrator
RIBA Adjudication Panel Member since 2018
RICS Adjudication Panel Member since 2006
TECSA Adjudication Panel Member since 2012
FIDIC Adjudication Panel Member since 2021
ICE Adjudication Panel Member since 2021
RICS Dispute Board Registered since 2013

The information & opinions expressed in this article are not necessarily comprehensive, nor do they represent the trenchant view of the author; in any event, this article does not purport to offer professional advice. This article has been prepared as a summary and is intended for general guidance only. In the case of a specific problem, it is recommended that professional advice be sought.