

## Audley Sheppard KC

SILK: 2015 | CALL: 1985 (SOLICITOR, NEW ZEALAND); 1990 (SOLICITOR, ENGLAND AND WALES)

✉ [arbitralenquiries@twentyessex.com](mailto:arbitralenquiries@twentyessex.com)

☎ +44 (0)20 7842 6700



### Overview

Audley Sheppard KC has extensive experience of major disputes arising out of infrastructure and energy projects, and international trade and investment.

Audley joined Twenty Essex in June 2024 after 38 years at Clifford Chance (28 as a partner), where he was the co-Head of the International Arbitration and International Law groups.

He has been appointed as an arbitrator under the LCIA, ICC, SIAC, Bucharest IAC, LMAA and UNCITRAL Rules (including an investment treaty arbitration).

He is on the EU List Suitable for Appointment as Arbitrators (Trade).

Audley is a vice president of the International Council for Commercial Arbitration. He is a former chair of the Board and vice president of the Court of the LCIA, New Zealand member on the ICC International Court of Arbitration and Arbitration Commission, co-chair of the IBA Arbitration Committee, and rapporteur of the ILA Arbitration Committee.

He has a prominent role in sports arbitration, currently serving as chair of the Board of Sport Resolutions.

He has New Zealand and Ireland nationality.

### Publications

- 'Tax and ISDS (an ISDS Update)', in *Arbitration International* (2023, vol 39, in honour of Prof. William (Rusty) Park,) p. 314
- 'Loss of Chance Damages', in *Achieving the Arbitration Dream: Liber Amicorum for Prof. Julian D M Lew KC* (Kluwer, 2023) (ed Stavros Brekoulakis & ors), p. 247
- 'The Lawyer's Duty to Arbitrate in Good Faith and with Civility', in *Arbitration International* (2021, vol. 37, in honour of V V Veeder QC), p. 535
- 'Appointment of Arbitrators', in *Max Planck Encyclopaedia of International Procedural Law* (2021) (with Federico Ortino)
- 'Remedies for Breach of the India Model Bilateral Investment Treaty', in *International Arbitration and the Rule of Law: Essay in Honour of Mr Fali Nariman* (PCA, 2021) (eds Gourab Banerji & ors), p. 257
- 'Res judicata in English arbitration', in *Prevailing Principles of Fairness, Finality and Public Policy in International Commercial Arbitration* (Report of the 2<sup>nd</sup>

Athens Arbitration Day October 2019, Sakkoulas, 2021), p. 157

- 'The Risk of Groupthink in a Multilateral Investment Court', in *ICCA Congress Series* no. 20 (Wolters Kluwer, 2020)(with Daphna Kapeliuk)
- 'Dissents in International Arbitration', in *The Roles of Psychology in International Arbitration* (Wolters Kluwer, 2017)(ed Tony Cole)(with Daphna Kapeliuk)
- 'The Approach of Investment Treaty Tribunals to Evidential Privileges', in *ICSID Review* (2016, vol. 31(3)), p. 670
- 'Oaths and Perjury', in *Defining Issues in International Arbitration* (CI Arb, 2016)(ed Julio Cesar Betancourt)
- 'English Arbitration Act 1996', in *Concise International Arbitration* (Kluwer, 2014)(ed Loukas Mistelis)
- 'Commentary on UK Investment Treaty', in *Commentaries on Selected Model Investment Treaties* (OUP, 2013) (with Chester Brown)
- 'Applicable substantive law', in *Arbitration in England* (Kluwer, 2013) (eds Julian Lew & ors)
- 'Legal Privilege and Confidentiality in Arbitration', in *Privilege and Confidentiality: An International Handbook* (IBA, 2012) (with Fabian von Schlabrendorff)
- 'Are Stabilization Clauses a Threat to Sustainable Development?', in *Sustainable Development in World Investment Law* (Wolters Kluwer, 2010) (with A. Crockett)
- 'Arbitrator Independence in ICSID Arbitration', in *Liber Amicorum in Honour of Christoph Schreuer* (OUP, 2009)
- 'Mandatory Rules in International Commercial Arbitration - an English Perspective', in *The American Review of International Arbitration* (2008, vol. 18 at 121)
- 'The Jurisdictional Threshold of a Prima-facie Case', in *International Investment Law* (OUP, 2008)
- 'Res judicata and estoppel' in *Parallel State and Arbitral Procedures in International Arbitration* (ICC, 2005)
- 'Report on public policy as a bar to enforcement of international arbitral awards', in *ILA Reports, in Arbitration International* (2003, vol 14), p. 217

## **Professional appointments/memberships**

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- Vice-President, International Council for Commercial Arbitration (ICCA) (2023-) and co-chair of programme committee for ICCA HK Congress in May 2024

- Chair of Board of Sport Resolutions (2021-)
- Advisory Board of:
  - Lauterpacht Centre for International Law, Cambridge
  - BIICL Investment Treaty Forum
  - Arbitration Ireland
- Editorial Board of:
  - Journal of International Arbitration
  - International Arbitration Law Review
- Former
  - Chair of Board of the LCIA (2017-22)
  - Vice President of the LCIA Court (2011-16)
  - Member of the ICC Court (2008-12)
  - Co-Chair of the IBA Arbitration Committee (2006-08)
  - Rapporteur of the ILA Arbitration Committee (1996-06)
  - Visiting Professor, SIA, Queen Mary, London (2006-20)
- Other
  - Chair of Trustees, UK Friends of Victoria University of Wellington, NZ
  - Member of the HKIAC Panel of Arbitrators

## Education

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- LLB (Hons) and BCommerce – Victoria University of Wellington, NZ (1984)
- LLM – University of Cambridge, England (1986)
- Advocacy Higher Rights (Civil) (2012)
- FCI Arb

## Illustrative cases as arbitrator

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- Supply of machinery in China (chair, English law, seat Singapore, SIAC)
- Joint venture in telecoms in India (chair, India law, seat India, SIAC)
- Joint venture to export grain in Ukraine (co-arb, English law, seat England, UNCITRAL)
- Joint venture to upgrade power station in Iraq (chair, English law, seat England, ICC)
- Loan agreement (chair, English law, seat Bucharest, Bucharest International Arbitration Court)
- Law firm partnership dispute (sole, English law, seat England, LCIA)
- Meaning of UK regulated water supply contract (sole, English law, seat England, LCIA)
- Contract for sale of UK care homes (chair, English law, seat England, LCIA)
- Termination of Africa hotel management contract (chair, English law, seat England, ICC)
- Installation of pipes on FPSO (co-arb, English law, seat England, LCIA)

- Termination of luxury yacht refurbishment contract (chair, English law, seat England, LMAA)
- Termination of share option agreement (sole, English law, seat England, LCIA)
- Pipe manufacturing contract (co-arb, Indian law, seat India, ICC)
- Delay and disruption claims over mine in West Africa (sole, English law, seat England, ICC)
- Payment for services acquiring Nigerian oil block (chair, English law, seat England, LCIA)
- Termination of car distribution agreement (co-arb, Colombia law, seat Zurich, ICC)
- Performance of desalination pipelines in Caribbean (co-arb, Trinidad & Tobago law, seat London, IC)
- Development of tyre factory in Eastern Europe (chair, English law and international law, seat England, UNCITRAL).

## **Commercial arbitration (as counsel)**

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Experience as counsel includes representing:

- US insurance company v Brazilian company (share purchase agreement and withholding tax)
- International oil companies v Nigeria company (sale of oil block)
- International oil companies v Nigeria national oil company (breach of lifting provisions in production sharing agreement and tax implications)
- Albanian petroleum company v Cayman company (termination of concession contract)
- Middle East company v UK mining company (pricing of iron ore under supply agreement)
- Asian company v South African company (termination of franchise agreement)
- UK international bank v Indian company (escrow agreement re shares in Indian bank)
- Canadian individual v Hungarian company (JV agreement for shopping mall)
- Romanian company v Romanian oil company (supply of biodiesel, origin requirements)
- US company v Russian energy companies (contracts to apply sealant to pipelines to stop methane leakage)
- International development bank v US company (steel mill, tortious interference with test results)
- Nigerian bank v US company (contract for supply of credit cards)
- UK investor v India company (JV agreement for housing development project)
- Bank syndicates v Foreign Trade Bank of North Korea (loan agreements)
- UK bank v Sri Lanka oil company (ISDA, oil derivatives and hedging contract)
- Italian media company v international media company (access rights, breach of competition).

## **Investment treaty arbitration (as counsel)**

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Experience as counsel includes representing:

- Novonor (Odebrecht) v Peru (ICSID)
- China Machinery Eng Corp v Trinidad & Tobago (ICSID)
- Serbia v Coropi (ICSID)
- Invenenergy v Poland (UNCITRAL)
- Kingsgate v Thailand (UNCITRAL)
- Albania v Ivicom (SCC)
- Midus v Republic of Congo (ICSID)
- Tantalum v Egypt (ICSID)
- Pacific Wildcat Resources & Cortec Mining v Kenya (ICSID)
- Churchill Mining v Indonesia (ICSID)

- Manchester Securities Corp v Poland (UNCITRAL)
- Belekton v Kyrgyz Republic (UNCITRAL)
- Poland v Mercuria (UNCITRAL)
- Shell Nigeria Ultra Deep Ltd v Nigeria (ICSID)
- Bawabet Al Kuwait Holdings v Egypt (ICSID)
- Damac v Egypt (ICSID)
- Oxus Gold v Kyrgyz Republic (UNCITRAL)
- Electrabel v Hungary (ICSID)
- Bank syndicate v India (UNCITRAL)
- Czech Republic v Lauder & CME (UNCITRAL).