

TOBY T. LANDAU QC

MA, BCL (Oxon); LL.M. (Harvard); FCI Arb; C Arb;
Barrister (England & Wales), Attorney (New York)

ESSEX COURT CHAMBERS

24 Lincoln's Inn Fields London WC2A 3EG, UK
+44 207 813 8000, tlandau@aol.com

EDUCATION

Oxford University - Merton College (1987-1991):

- (1) BA (Law), First Class Honours: 1990 (MA: 1994)
- (2) BCL (Bachelor of Civil Law - a Masters degree), First Class Honours: 1991

Eldon Law Scholarship (University prize awarded to the most promising student intending to qualify at the Bar);
Slaughter & May University Prize (for the best performance in Contract in Final Examinations);
College Exhibition;
Fowler Prize.

Inns of Court School of Law, Grays Inn, London (1991-2):

BVC – Bar Vocational Course (1992)

Middle Temple Queen Mother's Fund major Bar Scholarship
Middle Temple Harmsworth Bar Entrance Exhibition

Harvard Law School, Cambridge Massachusetts, USA (1992-3)

LL.M. (1993)

Kennedy Scholar
Harvard University Lewis Fellowship

BAR ADMISSIONS

Called to the Bar of England & Wales: 1993

Appointed Queen's Counsel: 2008

Admitted as an Attorney and Counsellor-at-Law by the State of New York: 1994

Called to the Bar of Northern Ireland: 2000

Called to the Bar of the British Virgin Islands: 2011

Also admitted to practise in the Dubai International Financial Centre (DIFC)

CURRENT PROFESSIONAL POSITIONS & AFFILIATIONS

Barrister and Arbitrator in independent practice at Essex Court Chambers, London.

Member of the Board of Directors of the London Court of International Arbitration (LCIA)

Fellow of the Chartered Institute of Arbitrators (FCIArb); Chartered Arbitrator (Carb) (by special election)

Visiting Professor (International Arbitration Law), King's College, University of London

Visiting Lecturer, Pakistan College of Law, Lahore

Member of the Executive Committee, Swedish Arbitration Association

Editorial Board: Journal of International Arbitration;
 Journal of Arab Arbitration;
 Global Arbitration Review

Committee Member of the International Arbitration Club.

Member of: Swiss Arbitration Association; LCIA
 American Society of International Law; International Law Association
 International Arbitration Institute; Commercial Bar Association.

PRACTICE

As Counsel: In private practice as a Barrister since 1994, specialising in international and commercial law, and in particular international and commercial arbitration.

Regularly advise and appear as Counsel before the English Courts and international arbitrations worldwide.

Substantial experience in Foreign Investment; International Trade; Joint Ventures; Power and other large scale infrastructure projects; Oil & Gas; Telecommunications; Shipping; Agency and distribution (including commercial agency); Conflict of Laws; Public International Law.

Counsel in many of the leading arbitration cases before the English Courts, including the UK Supreme Court (e.g. *Jivraj v Hashwani* (2011) and *Dallah v Govt of Pakistan* (2010)).

Chambers & Partners Award for “*Silk of the Year*” in international arbitration, 2011. Prior to taking Silk in 2008: Chambers & Partners Award for “*Junior Barrister of the Year*” in international arbitration, 2005 and 2007 (and short-listed in 2006).

As Arbitrator: Chairman / Co-Arbitrator / Sole Arbitrator in numerous major international arbitrations, including appointments in:

- Bilateral Investment Treaty cases, both under ICSID Rules (e.g. *SGS v Pakistan*; *Impregilo v Pakistan*; *Biwater v Tanzania*; *GEA v Ukraine*; *Gustav Hamester v Ghana*; *Cambodia Power v Kingdom of Cambodia*), as well as Stockholm Chamber of Commerce Rules (*Renta 4 / Rovime Investments v Russian Federation*).
- Institutional and *ad hoc* arbitration cases, including ICC; LCIA; Stockholm Chamber of Commerce; Netherlands Arbitration Institute; International Arbitral Centre of the Austrian Federal Economic Chamber; ARIAS; CCIG (Swiss Rules); UNCITRAL.

As Expert: Experience as Expert on English and International law before courts and tribunals.

POLICY ADVICE AND LEGISLATIVE DRAFTING

Retained by the UK Government to advise on and assist in drafting the English Arbitration Act 1996, in conjunction with Lord Saville. Very closely involved in all policy aspects and all drafting of the Act, as well as the associated Rules of Court (1994-1997).

Advised on and co-drafted the Pakistan Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Ordinance, 2005 (implementing the New York Convention 1958 into Pakistan law).

Advised on the drafting of the Pakistan Arbitration (International Investment Disputes) Ordinance, 2006 (implementing the Washington Convention 1965 into Pakistan law).

Advised on and co-drafted the new Mauritius International Arbitration Act 2008.

2007-2008: Retained by Government of Bahrain to advise on and draft a new international arbitration regime, involving the compulsory transfer of commercial cases from the Bahrain Courts.

Member of the IBA Arbitration Sub-Committee, currently drafting the new (2009) IBA Rules on the Taking of Evidence.

United Kingdom Delegate at UNCITRAL (2000 to date). Closely involved in the negotiation and drafting of:

- the UNCITRAL Arbitration Rules 2010;
- the 2006 amendments to the UNCITRAL Model Law (Articles 2; 7 [writing requirement] and 17 [interim measures]);
- the “*Recommendation regarding the interpretation of article II, paragraph 2, and article VII, paragraph 1, of the New York Convention*” (adopted by UNCITRAL on 7 July 2006 at its thirty-ninth session);
- the pending work on transparency in investor-State arbitration.

Draftsman of the ACAS Employment Arbitration Scheme (instructed by the UK Department of Trade & Industry (2000-1).

Advised on the drafting of the arbitration provisions of the Contract (Rights of Third Parties) Act 1999 (instructed by Law Commission and Lord Chancellor’s Department).

OTHER PROFESSIONAL ACTIVITIES

Trustee of the Chartered Institute of Arbitrators (2004 – 2009); Deputy Chairman of the Board of Trustees (2006-2008).

Appointed by Lord Chancellor to UK Government Standing Committee on Private International Law (1997 to 2008).

Annual visiting lecturer on arbitration law: Asser Institute, The Hague (1995 -2004).

Visiting Lecturer (Arbitration Law) – Research Society of International Law, Pakistan (2006-7).

Visiting lecturer on arbitration law at the International Development Law Organisation (Rome, 2003 and 2004).

Lecturer (as a UN consultant) on arbitration training course for Yemen judges and government officials, Sana’a, 2004.

Speaker (at invitation of the Chief Justice of Pakistan) at the Supreme Court of Pakistan, Islamabad, in August 2006, on the occasion of its 50th year celebration.

Ministry of Justice, Thailand (Arbitration Office): Legal Consultant (Harvard University Lewis Fellow) (1994).

Director of Studies and Lecturer: arbitration course at Thai Ministry of Justice (1993).

Visiting Lecturer: Chulalongkorn University (LL.M. Class) and Judge's Institute (1993).

World Bank/UNDP/Harvard Project: Editor and Co-Author of an Arbitration Manual for Government of Lao PDR (1992-93).

University of London: Law Tutor in contract and tort (1991-92).

Court of Appeal (Civil Appeals Office), London: Office Lawyer (1991)

Frequent *ad hoc* lectures in England and abroad on international arbitration and many aspects of commercial law.

PUBLICATIONS

“Saving Investment Arbitration From Itself” The 2011 Freshfields Lecture (publication forthcoming).

“Tainted Memories: Exposing the Fallacy of Witness Testimony” The 2010 Kaplan Lecture (delivered in Hong Kong, Nov 2010, publication forthcoming) – short-listed for “Best Speech of the Year 2010” award, Global Arbitration Review.

“Reasons for Reasons: the Duty of Arbitrators in Investor-State Arbitration” (paper presented at the ICCA Congress in Dublin, June 2008, to be published by Kluwer in the ICCA Congress series, No.14 (2009)).

“Arbitral Lifelines”: The Protection of Jurisdiction by Arbitrators (paper presented at the ICCA Congress in Montreal, June 2006, published by Kluwer in the ICCA Congress series, No.12 (2007)).

Article II and the Requirement of Form, Chapter II.9 in Gaillard & Di Pietro (eds) “Enforcement of Arbitration Agreements and International Arbitral Awards – The New York Convention 1958 in Practice”, Cameron May, 2007 (with S. Moollan).

The Written Form Requirement for Arbitration Agreements: When “Written” Means “Oral” (paper presented at the ICCA Congress in London, May 2002, published by Kluwer in the ICCA Congress series, No.11 (2003)).

The Regularization of International Commercial Arbitration: Comparative Trends and Tensions (Chapter 17 of: *Dreams and Dilemmas: Economic Friction and Dispute Resolution in the Asia-Pacific*: ISEAS, Singapore, 2000)

The English Arbitration Act 1996: An Approach to Harmonisation. Revision des EUGVÜ, Neues Schiedsverfahrensrecht, 1999 (Band II)

UK government Consultation Report on the draft English Arbitration Bill (1994)

Hunter & Landau *The English Arbitration Act 1996: Text and Notes* (Kluwer, 1998)

Commentary on WIPO Arbitration Rules American Review of International Arbitration (Vol V - 1994), and published as a separate volume by Juris Publishing (2000)

The Effect of the New English Arbitration Act on Institutional Arbitration 13 J.Int.Arb.4 (1996) (cited by Mr Justice Lightman in *Nigel Peter Albon v Naza Motor Trading* [2007] EWHC 665 - ChD).

Introduction to the English Arbitration Act 1996: 35 I.L.M. 155 (1996)

1994 - to date: A large number of conference papers on arbitration law and practice.
