

# CHESTER BROWN

PROFESSOR OF INTERNATIONAL LAW AND INTERNATIONAL ARBITRATION  
FACULTY OF LAW, UNIVERSITY OF SYDNEY  
BARRISTER, 7 WENTWORTH SELBORNE CHAMBERS

## CURRICULUM VITAE

### **Brief biographical information:**

Professor Chester Brown is Professor of International Law and International Arbitration at the Faculty of Law, University of Sydney, Australia; a Barrister at 7 Wentworth Selborne Chambers Sydney, and an Overseas Associate at Essex Court Chambers, London, and Maxwell Chambers, Singapore. He practices, teaches and researches in the fields of public international law, international arbitration, international investment law, private international law, international trade law, and general commercial matters. He has been nominated by the Governments of Australia, New Zealand, and Canada for election to the United Nations International Law Commission, with the election to take place in November 2016.

Professor Brown is currently acting in a number of investment claims, including acting as counsel for the Government of Australia in the claim brought by Philip Morris Asia Ltd under the Australia – Hong Kong bilateral investment treaty. He is also engaged in proceedings commenced by Timor-Leste against Australia before an *ad hoc* inter-State arbitral tribunal (*Arbitration under the Timor Sea Treaty*). He recently served as counsel for the Government of Australia in proceedings before the International Court of Justice (*Questions Relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v Australia)*), as counsel for the Government of Iran in proceedings before the Iran-United States Claims Tribunal (Case A/15 (II:A), *Iran v United States*), and as counsel for the Government of India in the claim brought by White Industries Australia Ltd under the Australia – India BIT.

Before joining the Faculty of Law in 2009, Professor Brown served as Assistant Legal Adviser at the British Foreign and Commonwealth Office (2007–2009), and prior to this, he was a Senior Associate in the International Law and International Arbitration Group of Clifford Chance LLP, London (2004–2007). He was a Visiting Fellow at the British Institute of International and Comparative Law in 2006, a Visiting Scholar at Harvard Law School in 2011, and a Herbert Smith Freehills Visiting Professor at the University of Cambridge in 2013. He is a Research Consultant at the Centre for International Law at the National University of Singapore, and he co-teaches (with Professor David Williams QC) International Arbitration on the LLM programme at the University of Auckland.

Professor Brown is the author of *A Common Law of International Adjudication* (OUP, 2007), a major study dealing with the applicable procedure and remedies before international courts and tribunals, which was awarded the American Society of International Law's Certificate of Merit. He is the co-editor of *Evolution in Investment Treaty Law and Arbitration* (CUP, 2011), which was awarded the OGEMID Award for 'Book of the Year 2011'; co-author of *The International Arbitration Act 1974: A Commentary* (Lexis-Nexis Australia, 2011; 2<sup>nd</sup> edition, 2015); editor of *Commentaries on Selected Model Investment Treaties* (OUP, 2013); and author or co-author of more than 60 journal articles, book chapters, and notes. He serves as Associate Editor (Notes) of the

*ICSID Review – Foreign Investment Law Journal*, and is the Australia and New Zealand reporter for the International Law Reports.

Professor Brown has been appointed as presiding arbitrator in an arbitration governed by the Singapore International Arbitration Centre Rules of Arbitration. He is a member of the Academic Council of the Institute for Transnational Arbitration, a Panel Member of the Kuala Lumpur Regional Centre for Arbitration, and a Fellow of the Australian Centre for International Commercial Arbitration. He is also a member of the American Society of International Law, the European Society of International Law, the Australian and New Zealand Society of International Law (of which he co-chairs the International Economic Law Interest Group), the International Law Association, and the Oxford-Australia Scholarships Committee.

Professor Brown was educated at the Universities of Melbourne, Oxford, and Cambridge. He speaks German and French.

#### **Career:**

- 2013–present: Professor of International Law and International Arbitration, Faculty of Law, University of Sydney
- 2013 (July): Herbert Smith Freehills Visiting Professor, University of Cambridge
- 2011 (January–February): Visiting Scholar, Harvard Law School
- 2011–present: Barrister, 7 Wentworth Selborne Chambers, Sydney
- 2010–present: Overseas Associate, Maxwell Chambers, Singapore
- 2009–present: Overseas Associate, Essex Court Chambers, London
- 2009–2012: Associate Professor, Faculty of Law, University of Sydney
- 2007–2009: Assistant Legal Adviser, Foreign and Commonwealth Office, London
- 2006: Visiting Fellow, British Institute of International and Comparative Law, London
- 2005–2006: Lecturer in Public International Law (part-time), Faculty of Law, Queen Mary College, University of London
- 2004–2007: Associate, and subsequently Senior Associate, International Law and International Arbitration Group, Clifford Chance LLP, London
- 2003–2004: College Supervisor in Public International Law, Trinity Hall, Cambridge, and Wolfson College, Cambridge
- 2002–2003: Guest Lecturer in Public International Law (undergraduate) and Settlement of International Disputes (LLM), University of Cambridge, Faculty of Law
- 1999–2000: Articled Clerk and Solicitor, Mallesons Stephen Jaques, Melbourne

#### **Professional admissions:**

- New South Wales (2010)
- England and Wales (2007) (*non-practising*)
- High Court of Australia (2000)
- Victoria (2000)

#### **Education:**

- 2008: Certificate in Law, War and Human Rights, London School of Economics
- 2001 – 2004: PhD, St John’s College, University of Cambridge
- 2000 – 2001: BCL (Distinction), Magdalen College, University of Oxford
- 1992 – 1998: BA (German and French) (1<sup>st</sup> Class Hons), University of Melbourne
- 1992 – 1997: LLB (1<sup>st</sup> Class Hons), University of Melbourne

### **Representative case experience:**

- Counsel for the Government of Australia in *Arbitration under the Timor Sea Treaty (Timor-Leste v Australia)* (*ad hoc* arbitral tribunal) (with Justin Gleeson SC, Daniel Bethlehem QC, and Henry Burmester QC)
- Presiding arbitrator, arbitration under Singapore International Arbitration Centre Rules of Arbitration 2013 (details confidential)
- Counsel for Lighthouse Corporation Pty Ltd and Lighthouse Corporation Ltd, IBC in *Lighthouse Corporation Pty Ltd and Lighthouse Corporation Ltd IBC v Timor-Leste* (ICSID Case No ARB/15/02) (with John Karkar QC)
- Counsel for the Government of Australia in *Philip Morris Asia Ltd v Commonwealth of Australia* (Australia – Hong Kong BIT, UNCITRAL) (with Justin Gleeson SC, Tony Payne SC, Sam Wordsworth QC, and James Hutton)
- Counsel for the Government of New Zealand in *Neville James Gibson v Official Assignee of New Zealand & Ors* (Federal Court of Australia, NSD 186 of 2015) (with Justin Hogan-Doran)
- Counsel for the Government of Australia in *Questions Relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v Australia)* (International Court of Justice) (with Justin Gleeson SC; Professor James Crawford SC, Bill Campbell QC, and Henry Burmester QC)
- Counsel for the Government of Iran in *Iran v United States* (Case No A/15 (II:A), Iran – United States Claims Tribunal) (with Sam Wordsworth QC and David Davies)
- Advised a North American company in potential proceedings for the recognition and enforcement of a foreign judgment (with Andrew Bell SC)
- Acted as expert witness on issues of Australian law in Chinese court proceedings for the recognition and enforcement of an arbitral award
- Secretary to the President of the Tribunal in *St Marys VCNA LLC v Government of Canada* (NAFTA, UNCITRAL)
- Legal Assistant to the Tribunal in *Bosh International, Inc and B&P Ltd Foreign Investments Enterprise v Ukraine* (ICSID Case No ARB/08/11)
- Counsel for the Government of India in *White Industries Australia Ltd v Republic of India* (Australia – India BIT, UNCITRAL) (with Toby Landau QC and Salim Moollan)
- Advised the Government of Sri Lanka on issues of public international law
- Legal Assistant to the Annulment Committee in *RSM Production Corporation v Grenada* (ICSID Case No ARB/05/14)
- Deputy Agent of the United Kingdom in *Ashok Sancheti v United Kingdom* (United Kingdom – India BIT, UNCITRAL)
- Acted for a British investor in a dispute with Kyrgyzstan (*Oxus Gold plc v Kyrgyz Republic* (United Kingdom – Kyrgyzstan BIT, UNCITRAL))
- Acted for a Belgian investor and its local subsidiary in a BIT and Energy Charter Treaty dispute with Hungary (*Electrabel SA v Republic of Hungary* (ICSID Case No ARB/07/19))
- Acted for the Government of Hungary in a BIT claim brought under the ICSID Convention (*ADC Affiliate Ltd and ADC & ADMC Management Ltd v Republic of Hungary* (ICSID Case No ARB/03/16))

### **Professional memberships:**

- New South Wales Bar Association
- Fellow, Australian Centre for International Commercial Arbitration
- Panel Member, Kuala Lumpur Regional Centre for Arbitration
- Member of the Academic Council, Institute for Transnational Arbitration

- Member, International Council for Commercial Arbitration
- Member, International Chamber of Commerce (Australia)
- Member, Australian and New Zealand Society of International Law
- Member, American Society of International Law
- Member, European Society of International Law
- Member, International Law Association
- Fellow, Cambridge Commonwealth Society

#### **Awards and prizes:**

- OGEMID ‘Book of the Year Award 2011’ for *Evolution in Investment Treaty Law and Arbitration* (CUP, 2011)
- American Society of International Law Certificate of Merit for *A Common Law of International Adjudication* (OUP, 2007)
- Cambridge Commonwealth Trust Bursary (2003)
- McMahon Studentship in Law, St John’s College, Cambridge (2003)
- Lauterpacht Fund Stipend, Faculty of Law, University of Cambridge (2003)
- Overseas Research Student (Humanities and Social Sciences) Research Award, University of Cambridge (2003)
- Chevening Oxford-Australia Scholarship (2000)
- Freshfields Scholarship, Oxford University (2000)
- Sir Robert Menzies Memorial Scholarship in Law (2000)

#### **Publications:**

##### **Books:**

- *The International Arbitration Act 1974: A Commentary* (LexisNexis Australia, 2<sup>nd</sup> ed, 2015 (1<sup>st</sup> ed, 2011)) (co-author with Malcolm Holmes QC)
- *Commentaries on Selected Model Investment Treaties* (OUP, 2013) (editor)
- *Evolution in Investment Treaty Law and Arbitration* (CUP, 2011) (co-editor with Kate Miles)
- *A Common Law of International Adjudication* (OUP, 2007) (also in paperback 2009)

##### **Journal articles, chapters, and notes:**

- ‘The End of the Affair? *Hulley Enterprises Ltd (Cyprus) v. Russian Federation; Yukos Universal Ltd (Isle of Man) v. Russian Federation; Veteran Petroleum Ltd (Cyprus) v. Russian Federation*’ (2015) 17 *Journal of World Investment and Trade* (forthcoming)
- ‘National Report for Australia’, in George Bermann (ed), *Recognition and Enforcement of Foreign Arbitral Awards: Application of the New York Convention by National Courts* (Springer, 2015) (forthcoming) (co-author with Luke Nottage)
- ‘A Re-Run of *Siemens, Wintershall and Hochtief* on Most-Favoured-Nation Clauses: *Daimler Financial Services AG v Argentine Republic*’ (2015) 30 *ICSID Review – Foreign Investment Law Journal* 365-377 (co-author with Sam Wordsworth QC)
- ‘The Development by States of Model Bilateral Investment Treaties’, in Wenhua Shan and Jinyuan Su (eds), *China and International Investment Law: Twenty Years of ICSID Membership* (Brill, 2015), 116-140
- ‘The Evolution of the Regime of International Investment Agreements: History, Economics, and Politics’, in Marc Bungenberg, Jorn Griebel, Stephan Hobe, and August Reinisch (eds), *International Investment Law: A Handbook* (Nomos Verlagsgesellschaft, 2015), 153-185

- ‘Investor-State Arbitration: Getting More Bite out of your BIT’ [2014] *Australian Mining and Petroleum Law Association Yearbook* 204-220
- ‘The Enforcement of Interim Measures Ordered by Tribunals and Emergency Arbitrators in International Arbitration’, in Albert Jan van den Berg (ed), *ICCA International Arbitration Congress Series No 21* (2013), 279-291
- “‘The Tribunal Resolves the Dispute’: Summary of the Discussion’, in Albert Jan van den Berg (ed), *ICCA International Arbitration Congress Series No 21* (2013), 292-293 (co-author with Audley Sheppard)
- ‘Regional Economic Integration in Southeast Asia’ (2013) 4 *European Yearbook of International Economic Law* (co-author with Ashique Rahman)
- ‘Inherent Powers in International Adjudication’, in Cesare Romano, Karen Alter, and Yuval Shany (eds), *The Oxford Handbook of International Adjudication* (OUP, 2014), 828-847
- ‘Resolving International Investment Disputes’, in Natalie Klein (ed), *Litigating International Law Disputes: Weighing the Options*, CUP (2014), 401-435
- ‘Part IV: State Immunity from Measures of Constraint in Connection with Proceedings before a Court’, in Christian Tams and Roger O’Keefe (eds), *The United Nations Convention on the Jurisdictional Immunities of States and their Property: A Commentary*, Oxford University Press (2013), 287-292 (co-author with Roger O’Keefe)
- ‘Article 18: State Immunity from Pre-Judgment Measures of Constraint’, in Christian Tams and Roger O’Keefe (eds), *The United Nations Convention on the Jurisdictional Immunities of States and their Property: A Commentary*, Oxford University Press (2013), 293-307 (co-author with Roger O’Keefe)
- ‘Article 19: State Immunity from Post-Judgment Measures of Constraint’, in Christian Tams and Roger O’Keefe (eds), *The United Nations Convention on the Jurisdictional Immunities of States and their Property: A Commentary*, Oxford University Press (2013), 308-327 (co-author with Roger O’Keefe)
- ‘Article 21: Specific Categories of Property’, in Christian Tams and Roger O’Keefe (eds), *The United Nations Convention on the Jurisdictional Immunities of States and their Property: A Commentary*, Oxford University Press (2013), 334-347 (co-author with Roger O’Keefe)
- ‘Introduction: The Development and Importance of the Model Bilateral Investment Treaty’, in Chester Brown (ed), *Commentaries on Selected Model Investment Treaties*, Oxford University Press (2013), 1-13
- ‘United Kingdom’, in Chester Brown (ed), *Commentaries on Selected Model Investment Treaties*, Oxford University Press (2013), 697-754 (co-author with Audley Sheppard)
- ‘Article 59’, in Andreas Zimmermann, Christian Tomuschat, Karin Oellers-Frahm and Christian Tams (eds), *The Statute of the International Court of Justice: A Commentary*, Oxford University Press (2nd edition, 2012), 1416-1446
- ‘The Secretary-General’s Power to Refuse to Register a Request for Arbitration under Article 36(3) of the ICSID Convention’ (2012) 27 *ICSID Review – Foreign Investment Law Journal* 172-191 (co-author with Sergio Puig)
- ‘The Power of ICSID Tribunals to Dismiss Proceedings Summarily: An Analysis of Rule 41(5) of the ICSID Arbitration Rules’ (2011) 10 *Law and Practice of International Courts and Tribunals* 227-259 (co-author with Sergio Puig)
- ‘Introduction: Evolution in Investment Treaty Law and Arbitration’, in Chester Brown and Kate Miles (eds), *Evolution in Investment Treaty Law and Arbitration* (CUP, 2011) 3-16 (co-author with Kate Miles)
- ‘Bringing Sustainable Development Issues before Investment Treaty Tribunals’, in Markus Gehring, Marie-Claire Cordonnier-Seger, and Andrew Newcombe (eds), *Sustainable Development in World Investment Law* (2011) 177-190

- ‘The Relevance of the Doctrine of Abuse of Process in International Adjudication’ (2010) 7 *Transnational Dispute Management*, available at <[www.transnational-dispute-management.com](http://www.transnational-dispute-management.com)>
- ‘International, Mixed, and Private Disputes Arising under the Kyoto Protocol’ (2010) 1 *Journal of International Dispute Settlement* 447-473
- ‘Procedure in Investment Treaty Arbitration and the Relevance of Comparative Public Law’, in Stephan Schill (ed), *International Investment Law and Comparative Public Law* (2010) 659-688
- ‘Australian Cases before International Courts and Tribunals Involving Questions of Public International Law 2007’ (2009) 28 *Australian Yearbook of International Law* 255-282 (co-authored with Jacqui Mowbray, Tim Stephens, and Brett Williams)
- ‘Investment Arbitration as the “New Frontier”’ (2009) 28 *The Arbitrator and Mediator* 59-69
- ‘The Cross-Fertilisation of Principles relating to Procedure and Remedies in the Jurisprudence of International Courts and Tribunals’ (2008) 30 *Loyola of Los Angeles International and Comparative Law Review* 219-245
- ‘The Use of Precedents of other International Courts and Tribunals in Investment Treaty Arbitration’ (2008) 5(3) *Transnational Dispute Management*, available at <[www.transnational-dispute-management.com](http://www.transnational-dispute-management.com)>
- ‘The Protection of Legitimate Expectations as a General Principle of Law: Some Preliminary Thoughts’ (2008) 5(2) *Transnational Dispute Management*, available at <[www.transnational-dispute-management.com](http://www.transnational-dispute-management.com)>
- ‘The Inherent Powers of International Courts and Tribunals’ (2005) 76 *British Yearbook of International Law* 195-244
- ‘The Settlement of Disputes Arising in Flexibility Mechanism Transactions under the Kyoto Protocol’ (2005) 21 *Arbitration International* 361-389
- ‘Disputes Arising under the Kyoto Protocol’s “Flexibility Mechanisms”’ (2005) 3(2) *Oil, Gas and Energy Law Intelligence*, available at <<http://www.gasandoil.com/ogel/>>
- ‘Kyoto Protocol to Enter into Force on 16 February 2005’ (2005) 3(1) *Oil, Gas and Energy Law Intelligence*, available at <<http://www.gasandoil.com/ogel/>>
- ‘Access to International Justice in the *Legality of Use of Force* Cases’ (2005) 64 *Cambridge Law Journal* 267-271
- ‘The Kyoto Protocol Enters into Force’, *ASIL Insights* (February 2005), available at <<http://www.asil.org/insights/2005/03/insights050301.html>>
- ‘Disputes Arising in “Flexibility Mechanism” Transactions under the Kyoto Protocol’ (2005) 10(1) *International Bar Association Arbitration Committee Newsletter* 7-9
- ‘Comment: Jurisdiction and Admissibility in International Arbitration’ (2005) 2(1) *Transnational Dispute Management* 3-4, available at <[www.transnational-dispute-management.com](http://www.transnational-dispute-management.com)>
- ‘Hundert Jahre und kein bisschen weise? Zum 100. Jahrestag der Abkommen über Guantanamo Bay’ (2003) 78 *Die Friedens-Warte: Journal of International Peace and Organisation* 395-412 (co-author with Christian Tams)
- ‘Summary: *Leatch and National Parks and Wildlife Service v Shoalhaven City Council*’ in James Crawford, Daniel Bethlehem, Philippe Sands, Cairo Robb, and Alice Palmer (eds), *International Environmental Law Reports* (2005) vol IV, 57-66
- ‘Summary: *Commonwealth of Australia and Another v State of Tasmania and Others* (the *Tasmanian Dam Case*)’ in James Crawford, Daniel Bethlehem, Philippe Sands, Cairo Robb, and Alice Palmer (eds), *International Environmental Law Reports* (2005) vol IV, 13-56
- ‘Translation: *Lingen* case’ in James Crawford, Daniel Bethlehem, Philippe Sands, Cairo Robb, and Alice Palmer (eds), *International Environmental Law Reports* (2005) vol IV, 221-226 (co-author with Christian Tams)
- ‘Strasbourg Follows Suit on Provisional Measures’ (2003) 62 *Cambridge Law Journal* 532-534

- “Reasonableness” in the Law of the Sea: The Prompt Release of the *Volga*’ (2003) 16 *Leiden Journal of International Law* 621-630
- “The Evolution and Application of Rules Concerning Independence of the “International Judiciary”” (2003) 2 *Law and Practice of International Courts and Tribunals* 63-96
- ‘Armed Activities on the Territory of the Congo (New Application: 2002) (*Democratic Republic of the Congo v Rwanda*) Provisional Measures, Order of 10 July 2002’ (2003) 52 *International and Comparative Law Quarterly* 782-787
- ‘The Proliferation of International Courts and Tribunals: Finding Your Way Through the Maze’ (2002) 3 *Melbourne Journal of International Law* 453-475
- ‘Provisional Measures before the International Tribunal for the Law of the Sea: The *MOX Plant Case*’ (2002) 17 *International Journal of Marine and Coastal Law* 267-288
- ‘Privatising the Commons? A Global Greenhouse Emissions Trading Regime at COP-6’ (2000) 19 *Australian Mining and Petroleum Law Journal* 157-177 (co-authored)
- ‘The *Environment Protection and Biodiversity Conservation Act 1999* (Cth): A New Role for the Commonwealth in Environment Protection’ (2000) 28(9) *International Business Lawyer* 427-428 (co-authored)
- “‘People in Greenhouses ...’: The *Kyoto Protocol* and Its Impact on Australian Industry and Legal Practice’ (2000) 74(8) *Law Institute Journal* 54-57 (co-authored)
- ‘*Esso Australia Resources Ltd v Commissioner of Taxation*’ (2000) 23 *University of New South Wales Law Journal* 173-190
- ‘International Environmental Law and the Regulation of Offshore Installations: The Case for a South Pacific Regional Protocol’ (1998) 17 *Australian Mining and Petroleum Law Journal* 109-137
- ‘Facilitating Joint Implementation under the Framework Convention on Climate Change: Toward a Greenhouse Gas Emission Reduction Protocol’ (1997) 14 *Environmental and Planning Law Journal* 356-367

#### Book reviews:

- ‘Book Review of Hanno Wehland, *The Coordination of Multiple Proceedings in Investment Treaty Arbitration*’ (2014) 15 *Journal of World Investment and Trade* 1113-1116
- ‘Book Review of David Williams QC and Amokura Kawharu, *Williams & Kawharu on Arbitration*’ (2013) 87 *Australian Law Journal* 72-74
- ‘Book Review of Stephan Schill, *The Multilateralization of International Investment Law*’ (2012) 19 *Australian International Law Journal* 291-294
- ‘Book Review of Tai-Heng Cheng, *When International Law Works: Realistic Idealism after 9/11 and the Global Recession*’ (2012) 61 *International and Comparative Law Quarterly* 785-787
- ‘Book Review of Anna Riddell and Brendan Plant, *Evidence before the International Court of Justice*’ (2011) 10 *Law and Practice of International Courts and Tribunals* 205-210
- ‘Book Review of Dan Sarooshi, *International Organisations and their Exercise of Sovereign Powers*’ (2008) 67 *Cambridge Law Journal* 209-211
- ‘Book Review of Francisco Orrego Vicuña, *International Dispute Settlement in an Evolving Global Society: Constitutionalisation, Accessibility, Privatisation*’ (2005) 74 *Nordic Journal of International Law* 285-288
- ‘Book Review of Andrea Bianchi (ed), *Enforcing International Law Norms against Terrorism*’ (2005) 64 *Cambridge Law Journal* 757-758
- ‘Book Review of Société Française pour le Droit International, *La juridictionnalisation du droit international*’ (2004) 75 *British Yearbook of International Law* 390-392
- ‘Book Review of Yuval Shany, *The Competing Jurisdictions of International Courts and Tribunals*’ (2003) 14 *European Journal of International Law* 1045-1047

- 'Book Review of Laurence Boisson de Chazournes, Cesare Romano and Ruth Mackenzie (eds), *International Organizations and International Dispute Settlement: Trends and Prospects*' (2003) 62 *Cambridge Law Journal* 506-508
- 'Book Review of Patricia Birnie and Alan Boyle, *International Law and the Environment*' (2003) 62 *Cambridge Law Journal* 222-224
- 'Book Review of Bruno Simma (ed), *The Charter of the United Nations: A Commentary*' (2002) 23 *Australian Yearbook of International Law* 215-218
- 'Book Review of Philippe Sands and Pierre Klein, *Bowett's Law of International Institutions*' (2001) 22 *Australian Yearbook of International Law* 227-230