

# ESSEX COURT CHAMBERS

## BARRISTERS



### LUCAS BASTIN QC

Call: 2013 Silk: 2022

Call: 2007 (Australia)

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### PROFESSIONAL PRACTICE

Lucas specialises in investment treaty arbitration, public international law and international commercial arbitration. Lucas has a decade of experience practising in these areas, having previously practised for several years in the International Arbitration and Public International Law Groups of a global firm, and carried across to the Bar a strong full-time practice in these areas. The strength of his practice has been recognised through his ranking, since his first full year of practice at the Bar, as a leading junior in public international law and investment treaty arbitration.

Lucas has acted for claimants and respondents in investment treaty and commercial arbitrations under ICSID, SCC, LCIA, ICC, UNCITRAL and ad hoc Rules. Lucas is often engaged not only to advise on complex issues of public international law and international arbitration – including investment protection, State responsibility, State and head of State immunity, treaty interpretation, enforcement of decisions, extradition, WTO law, ECHR law, and EU and UN sanctions – but also to have full-time carriage and management of contentious matters in these areas. Lucas' law firm experience in handling large and complex arbitrations, and particularly investment treaty arbitrations, makes him well suited to this area of practice, and to understanding and answering the pressures teams face when instructed in such disputes. Lucas has acted as a member of a counsel team, sole junior to a leader, sole counsel, and as counsel leading junior counsel.

Lucas has published on State immunity, investment treaty arbitration, WTO law, public international law and commercial law. Lucas graduated Bachelor of Laws and Bachelor of Arts,

both with first class honours, and with the John George Dalley Prize for first in final year law courses, from the University of Sydney. He graduated Bachelor of Civil Law with Distinction and Doctor of Philosophy from Magdalen College, Oxford. He was world champion in three international moot competitions: the Jessup International Law Moot (Best Finalist Oralist), the WTO Moot and the ICRC International Humanitarian Law Moot. He is Adjunct Professor of Public International Law at Pepperdine University, and has lectured at Sydney University, Università degli Studi di Siena, Universidad de los Andes and King's College London.

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## AREAS OF EXPERTISE

- Investment treaty disputes
- Public international law
- Arbitration & related court applications
- Energy & natural resources

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## WHAT OTHERS SAY

Lucas is consistently ranked as a leading junior in the legal directories, and has been since his first full year of practice. His peers and clients have said he is:

- “Undoubtedly one of the leading juniors at the bar in international arbitration” and “the outstanding junior in investment treaty arbitration” – Who’s Who UK Bar 2019
- “Extremely dedicated to his work and hard-working. Excellent on public international law jurisdictional issues.” – Chambers UK Bar, 2018; also Chambers Global, 2019
- “For someone of his level of call, he is the best – an excellent strategic thinker”, “Simply superb, with vast experience in the field of arbitration” and “Has a brilliant mind, and is commercially astute” – Legal 500, 2018
- “Exceptionally bright and diligent” and with “clever strategy and well-prepared arguments” – Who’s Who Future Leaders, 2018
- He has “built up a very impressive practice in both public international and commercial arbitration” as “a standout name in the field”, who is “very commercially savvy” and a “top cross-examiner who gives the reassuring impression of having full control of the case and the procedure” – Who’s Who UK Bar and Rising Stars, 2018
- “the go-to junior at the London bar for investor state work – I can’t think of anyone smarter or more articulate and eloquent than him” – Who’s Who Arbitration, 2016
- “He is a go-to junior for investment treaty arbitration, and has superb drafting and communication skills. He has a background as a solicitor in this area, giving him the ability to

- step into teams and make a real contribution” – Chambers UK Bar, 2017
- “He’s extremely eloquent and very very personable – he does the client-facing stuff at the drop of a hat and combines charm with a powerful brain” – Chambers UK Bar, 2017
  - “A top cross-examiner and a standout name in the field” he has “a very impressive practice both in public international and commercial arbitration” – Who’s Who UK Bar, 2017
  - “A superb reputation” and “an extremely calm lawyer who always has full control of the case and the procedure” – Who’s Who Arbitration 2017
  - “A great junior in public international law and investment treaty arbitration. He has superb drafting and communication skills.” – Chambers UK Bar, 2018
  - “A valuable asset in any legal team, especially during arbitral proceedings.” – Legal 500, 2017
  - “He has extensive experience in investment disputes, acting for states and investors.” – Legal 500, 2017
  - “Clearly destined for great things” – Who’s Who UK Bar, 2016
  - “One of the rising stars of the junior public international law Bar” – Legal 500, 2016
  - “extremely talented and very, very intelligent – he’s an extremely effective lawyer” – Chambers UK Bar, 2015
  - “tremendously talented with extensive knowledge of public international law and investment treaty arbitration” – Legal 500, 2015
  - “very responsive and he thinks things through logically, with a view to achieving objectives” – Chambers UK Bar, 2015
  - “a superb all-round lawyer with a deep understanding of public international law” – Legal 500, 2014
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## **EXAMPLES OF RECENT CASES**

Examples of Lucas’ recent cases include:

- Acting for investors in arbitrations against an Asian State commenced under UNCITRAL Rules pursuant to bilateral investment treaties in the entertainment sector (details not public).
- Acting for the Respondent, as Respondent on Annulment, in *Alghanim v Hashemite Kingdom of Jordan*, ICSID Case No. ARB/13/38, a dispute under a bilateral investment treaty in relation to allegations of breach arising out of taxation in the telecommunication sector.
- Acting for a Middle Eastern investor in an arbitration against a West African State commenced under UNCITRAL Rules pursuant to a multilateral investment treaty in the mining sector (details not public).

- Acting for a British investor in an arbitration against an Eastern European State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the manufacturing sector (details not public).
- Acting for a South East Asian investor in an arbitration against an Asian State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the telecommunications sector (details not public).
- Acting for the Claimant in A11Y Ltd v Czech Republic, ICSID Case No. UNCT/15/1, a dispute under a bilateral investment treaty in relation to various breaches of the treaty.
- Acting for the Claimants in City-State N.V. et al. v Ukraine, ICSID Case No. ARB/14/9, a dispute under a bilateral investment treaty in relation to various breaches of the treaty.
- Acting for the Respondent in APCL Gambia B.V. v. Republic of The Gambia (ICSID Case No. ARB/17/40), an arbitration commenced pursuant to a bilateral investment treaty in the oil and gas sector.
- Acting for the Respondent African Petroleum Gambia Limited and APCL Gambia B.V. v. Republic of The Gambia (ICSID Case No. ARB/17/38 / ICSID Case No. ARB/17/39), two commercial arbitrations commenced pursuant to two separate contracts
- Acting for a Middle Eastern investor in an arbitration under *ad hoc* rules against a Middle Eastern State commenced pursuant to a multilateral investment treaty in the construction sector (details not public).
- Acting for a Mauritian investor in an arbitration against an Asian State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the information technology sector (details not public).
- Acting for a British investor in an arbitration against a South American State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the border services sector (details not public).
- Acting for a West African company as Respondent in an arbitration commenced under ICC Rules by a Dutch claimant in the pensions sector (details not public).
- Acting for the Claimant in Boonyanit v Malaysia, an arbitration commenced under UNCITRAL Rules pursuant to a multilateral investment treaty against a South-East Asian State in the property sector.
- Acting for a British company in an arbitration commenced under LCIA Rules against an East African State-owned company in the extractives sector (details not public).
- Acting for the Claimant in an arbitration commenced pursuant to a bilateral investment treaty and the SCC rules in the banking sector in relation to breaches by an Eastern European State of the BIT (details not public)
- Acting for the Respondent in OI European Group v Venezuela (Annulment), ICSID Case No. ARB/11/25, an annulment application by Venezuela following OI European Group's successful receipt of an Award in excess of \$450 million.

- Acting for the Respondent in *Alghanim v Hashemite Kingdom of Jordan*, ICSID Case No. ARB/13/38, a dispute under a bilateral investment treaty in relation to allegations of breach arising out of taxation in the telecommunication sector.
- Acting for the Claimant in *Gilward Investments B.V. v Ukraine*, ICSID Case No. ARB/15/33, a dispute under a bilateral investment treaty in relation to various breaches of the treaty.
- Acting for the Claimant in *Sudapet Company Limited v Republic of South Sudan*, ICSID Case No. ARB/12/26, a dispute under the South Sudanese Investment Promotion Act relating to an expropriation.
- Acting for the Claimant in an arbitration commenced pursuant to a shareholders agreement and the LCIA Rules (details not public)
- Acting for the Defendant in *Viorel Micula v Romania*, High Court, Claim 2014-1197, in proceedings relating to enforcement of an ICSID Award.
- Acting for the Claimant in an arbitration commenced pursuant to the Energy Charter Treaty and the SCC Rules in relation to breaches by an Eastern European State of the ECT (details not public).
- Acting for the Claimants in *Fábrica de Vidrios Los Andes v Venezuela*, ICSID Case No. ARB/12/21, a dispute under a bilateral investment treaty in relation to an expropriation.
- Acting for the Claimant in *OI European Group v Venezuela*, ICSID Case No. ARB/11/25, a dispute under a bilateral investment treaty in relation to an expropriation.
- Acting for the Respondent in *Tethyan Copper Company Pty Limited v Islamic Republic of Pakistan*, ICSID Case No. ARB/12/1, a dispute under a bilateral investment treaty, in relation to the refusal of a mining licence over very large-scale copper and gold deposits at Reko Diq, in Pakistan.
- Acting for the Respondent in *Tethyan Copper Company Pty Limited v Province of Balochistan*, ICC Case No. 18347/VRO/AGF, a dispute under an investment contract, conducted in parallel to the above investment treaty dispute, in relation to the refusal of a mining licence over very large-scale copper and gold deposits at Reko Diq, in Pakistan.
- Acting for the Claimant in *Indorama v Egypt*, ICSID Case No. ARB/11/32, a dispute under a bilateral investment treaty in relation an investment in the textiles industry.
- Acting for the Claimant in *Karmer v Georgia*, ICSID Case No. ARB/08/19, a dispute under a bilateral investment treaty in relation to wrongful State conduct in the construction and hospitality sectors.
- Acting for an Australian company as respondent in a commercial arbitration under ad hoc rules pursuant to a shipbuilding contract (details not public).
- Acting for a Ukrainian company in a commercial arbitration pursuant to the ICC Rules in relation to a dispute under a contract in the telecommunications sector (details not public).

Advising in relation to specific aspects of several other investment treaty arbitrations under the ICSID, UNCITRAL, ICC and SCC rules on an “as needed” basis.

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## INVESTMENT TREATY DISPUTES

Lucas has deep experience in investment treaty arbitration. He is consistently ranked as a leading junior in this field, with testimonials recorded above. Examples of his cases in this area are:

- Acting for investors in arbitrations against an Asian State commenced under UNCITRAL Rules pursuant to bilateral investment treaties in the entertainment sector (details not public).
- Acting for the Respondent, as Respondent on Annulment, in *Alghanim v Hashemite Kingdom of Jordan*, ICSID Case No. ARB/13/38, a dispute under a bilateral investment treaty in relation to allegations of breach arising out of taxation in the telecommunication sector.
- Acting for a Middle Eastern investor in an arbitration against a West African State commenced under UNCITRAL Rules pursuant to a multilateral investment treaty in the mining sector (details not public).
- Acting for a British investor in an arbitration against an Eastern European State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the manufacturing sector (details not public).
- Acting for a South East Asian investor in an arbitration against an Asian State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the telecommunications sector (details not public).
- Acting for the Claimant in *A11Y Ltd v Czech Republic*, ICSID Case No. UNCT/15/1, a dispute under a bilateral investment treaty in relation to various breaches of the treaty.
- Acting for the Claimants in *City-State N.V. et al. v Ukraine*, ICSID Case No. ARB/14/9, a dispute under a bilateral investment treaty in relation to various breaches of the treaty.
- Acting for the Respondent in *APCL Gambia B.V. v. Republic of The Gambia* (ICSID Case No. ARB/17/40), an arbitration commenced pursuant to a bilateral investment treaty in the oil and gas sector.
- Acting for a Middle Eastern investor in an arbitration under *ad hoc* rules against a Middle Eastern State commenced pursuant to a multilateral investment treaty in the construction sector (details not public).
- Acting for a Mauritian investor in an arbitration against an Asian State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the information technology sector (details not public).

- Acting for a British investor in an arbitration against a South American State commenced under UNCITRAL Rules pursuant to a bilateral investment treaty in the border services sector (details not public).
- Acting for the Claimant in *Boonyanit v Malaysia*, an arbitration commenced under UNCITRAL Rules pursuant to a multilateral investment treaty against a South-East Asian State in the property sector.
- Acting for the Claimant in an arbitration commenced pursuant to a bilateral investment treaty and the SCC rules in the banking sector in relation to breaches by an Eastern European State of the BIT (details not public)
- Acting for the Respondent in *OI European Group v Venezuela (Annulment)*, ICSID Case No. ARB/11/25, an annulment application by Venezuela following OI European Group's successful receipt of an Award in excess of \$450 million.
- Acting for the Respondent in *Alghanim v Hashemite Kingdom of Jordan*, ICSID Case No. ARB/13/38, a dispute under a bilateral investment treaty in relation to allegations of breach arising out of taxation in the telecommunication sector.
- Acting for the Claimant in *Gilward Investments B.V. v Ukraine*, ICSID Case No. ARB/15/33, a dispute under a bilateral investment treaty in relation to various breaches of the treaty.
- Acting for the Claimant in *Sudapet Company Limited v Republic of South Sudan*, ICSID Case No. ARB/12/26, a dispute under the South Sudanese Investment Promotion Act relating to an expropriation.
- Acting for the Claimant in an arbitration commenced pursuant to the Energy Charter Treaty and the SCC Rules in relation to breaches by an Eastern European State of the ECT (details not public).
- Acting for the Claimants in *Fábrica de Vidrios Los Andes v Venezuela*, ICSID Case No. ARB/12/21, a dispute under a bilateral investment treaty in relation to an expropriation.
- Acting for the Claimant in *OI European Group v Venezuela*, ICSID Case No. ARB/11/25, a dispute under a bilateral investment treaty in relation to an expropriation.
- Acting for the Respondent in *Tethyan Copper Company Pty Limited v Islamic Republic of Pakistan*, ICSID Case No. ARB/12/1, a dispute under a bilateral investment treaty, in relation to the refusal of a mining licence over very large-scale copper and gold deposits at Reko Diq, in Pakistan.
- Acting for the Claimant in *Indorama v Egypt*, ICSID Case No. ARB/11/32, a dispute under a bilateral investment treaty in relation an investment in the textiles industry.
- Acting for the Claimant in *Karmer v Georgia*, ICSID Case No. ARB/08/19, a dispute under a bilateral investment treaty in relation to wrongful State conduct in the construction and hospitality sectors.

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## **PUBLIC INTERNATIONAL LAW**

Lucas has advised governments, international organisations (including not-for-profit), corporations and individuals on a wide variety of international law issues, including investment protection, State responsibility, State and head of State immunity, treaty interpretation, enforcement of decisions, extradition, WTO law, ECHR law, and EU and UN sanctions.

- Advising an Eastern European State on the strengths and weaknesses of its investment treaty program, and recommending wholesale changes to same.
- Advising numerous companies and individuals on the application of the EU and UN sanctions regimes applied in respect of Russia/Crete, Libya, Syria and Iran.
- Advising companies on structuring of investments and deals in a manner that achieves optimal public international law protection, including in the energy, construction, aviation, textiles, insurance, manufacturing and other sectors.
- Advising a European State on dispute settlement options available to it in respect of a maritime boundary dispute with its neighbour.
- Advising an Asian government on claims to continental shelf entitlements by a provincial government.
- Advising an African State on the compliance with WTO law of certain investment-related domestic legislation.
- Advising a major international non-governmental organisation on various issues, including the WTO Customs Valuation Agreement and potential State-State litigation in respect of it, the method of treaty negotiation used in relation to the cluster munitions multilateral treaty, and the international law of women's rights.
- Advising a Middle Eastern State on issues of head of State immunity and extradition obligations
- Advising a Middle Eastern State on public international law issues, including the attainment of sovereignty by a self-determination movement in the region, head of State immunity, the means by which issues can be raised in the plenipotentiary forum of the United Nations and Arab League, and the commencement of international proceedings on the basis of alleged breaches of erga omnes obligations.
- Advising a Middle Eastern government on public international law human rights issues and potential civil claims for torture liability in the United Kingdom and the United States.
- Advising multi-national companies on issues of State immunity and recognition and enforcement of arbitration awards in the United Kingdom, Asia and the United States.
- Advising the Claimant in an application before the European Court of Human Rights in relation to a breach of Article 3 of the European Convention of Human Rights.



- Advising a French company in relation to the institutional law concerning the World Bank's lending agreements.
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## **ARBITRATION & RELATED COURT APPLICATIONS**

Outside investment treaty arbitration, Lucas also acts in international commercial arbitrations, and related court applications. Examples of his work in this area are:

- Acting for the Respondent African Petroleum Gambia Limited and APCL Gambia B.V. v. Republic of The Gambia (ICSID Case No. ARB/17/38 / ICSID Case No. ARB/17/39), two commercial arbitrations commenced pursuant to two separate contracts.
  - Acting for a West African company as Respondent in an arbitration commenced under ICC Rules by a Dutch claimant in the pensions sector (details not public).
  - Acting for a British company in an arbitration commenced under LCIA Rules against an East African State-owned company in the extractives sector (details not public).
  - Acting for the Claimant in an arbitration commenced pursuant to a shareholders agreement and the LCIA Rules (details not public)
  - Acting for the Defendant in Viorel Micula v Romania, High Court, Claim 2014-1197, in proceedings relating to enforcement of an ICSID Award.
  - Acting for the Respondent in Tethyan Copper Company Pty Limited v Province of Balochistan, ICC Case No. 18347/VRO/AGF, a dispute under an investment contract, conducted in parallel to the above investment treaty dispute, in relation to the refusal of a mining licence over very large-scale copper and gold deposits at Reko Diq, in Pakistan.
  - Acting for an Australian company as respondent in a commercial arbitration under ad hoc rules pursuant to a shipbuilding contract (details not public).  
Acting for a Ukrainian company in a commercial arbitration pursuant to the ICC Rules in relation to a dispute under a contract in the telecommunications sector (details not public).
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## **ENERGY & NATURAL RESOURCES**

Many of the matters Lucas handles are related to the energy and natural resources sector. Examples of this include:

- Acting for the Respondent in APCL Gambia B.V. v. Republic of The Gambia (ICSID Case No. ARB/17/40), an arbitration commenced pursuant to a bilateral investment treaty in the oil and gas sector

- Acting for the Respondent African Petroleum Gambia Limited and APCL Gambia B.V. v. Republic of The Gambia (ICSID Case No. ARB/17/38 / ICSID Case No. ARB/17/39), two commercial arbitrations commenced pursuant to two separate contracts in the oil and gas sector
- Acting for a British company in an arbitration commenced under LCIA Rules against an East African State-owned company in the extractives sector (details not public).
- Acting for the Claimant in an arbitration commenced pursuant to a shareholders agreement and the LCIA Rules in the energy sector (details not public)
- Acting for a Middle Eastern investor in an arbitration against a West African State commenced under UNCITRAL Rules pursuant to a multilateral investment treaty in the mining sector (details not public).
- Acting for the Claimant in Sudapet Company Limited v Republic of South Sudan, ICSID Case No. ARB/12/26, a dispute under the South Sudanese Investment Promotion Act relating to an expropriation.
- Acting for the Claimant in an arbitration commenced pursuant to the Energy Charter Treaty and the SCC Rules in relation to breaches by an Eastern European State of the ECT (details not public).
- Acting for the Respondent in Tethyan Copper Company Pty Limited v Islamic Republic of Pakistan, ICSID Case No. ARB/12/1, a dispute under a bilateral investment treaty, in relation to the refusal of a mining licence over very large-scale copper and gold deposits at Reko Diq, in Pakistan.
- Advising numerous companies and individuals on the application of the EU and UN sanctions regimes applied in respect of Russia/Crete, Libya, Syria and Iran.
- Advising an Asian government on claims to continental shelf entitlements by a provincial government.

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## CAREER

**2007:** Call in Australia

**2013:** Call in England & Wales

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## EDUCATION

**2016:** DPhil, Magdalen College, University of Oxford

**2008:** BCL, Distinction, Magdalen College, University of Oxford

**2006:** LLB, First Class Honours, University of Sydney

**2004:** BA, First Class Honours, University of Sydney

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## **AWARDS**

**2008:** Modern Law Review Scholarship, University of Oxford

**2008:** Justice Hely Scholarship, University of Oxford

**2008:** Travelling Scholarship, University of Oxford

**2006:** John George Dalley Prize (highest ranked student in final LLB year), University of Sydney

**2006:** Jessup Moot World Champion; Jessup Moot Best Finalist Oralist

**2006:** ICRC International Humanitarian Law Moot World Champion

**2006:** Corrs Prize in Industrial Law, University of Sydney

**2006:** NSW Law Society Human Rights Prize, University of Sydney

**2006:** Beauchamp Prize in Literature, University of Sydney

**2005:** ELSA WTO Moot World Champion

**2005:** Wentworth Medal, University of Sydney