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## SPECIALIST AREAS OF PRACTICE (Siddharth Dhar KC)

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### I. INTERNATIONAL COMMERCIAL ARBITRATION

Siddharth has vast experience acting for and advising clients in arbitral disputes arising under a wide variety of institutional rules (including ICC, LCIA, AAA, LMAA, SCC, HKIAC, DIAC, UNCITRAL and FOSFA) and at different arbitral seats (including London, New York, Paris, Geneva, Stockholm, Singapore and Hong Kong).

He has acted as counsel in over 100 international arbitrations.

For several years (including prior to taking Silk in 2023) he has acted as lead advocate in significant (+US\$0.5billion) and complex arbitration claims, across a wide range of industry sectors, and in respect of disputes arising under various substantive governing laws.

Examples of his recent work in this area, since taking Silk, include:

- Defending the investors in a leading luxury hotel group in a circa +US\$1billion LCIA claim relating to the valuation of certain landmark properties.
- Acting for one of the world's leading oil traders in its c.US\$75 million LCIA arbitration claim arising out of the termination of oil supply contracts.
- Defending a major US medical supplier in a substantial LCIA claim brought by a local distributor.
- Acting for a leading Singaporean shipyard in two heavy ad-hoc arbitrations (of c.4 weeks and 5 weeks respectively) worth a combined c.SGD 1 billion and relating to the construction and sale of deep-sea drilling rigs.

Much of Siddharth's international commercial arbitration work is energy/natural resource related. For his specific expertise in such disputes, please see below.

Siddharth supplements his active practice in the field by teaching international commercial arbitration for the past decade on the LLM course at King's College, London, and as a co-author of the 3<sup>rd</sup> Edition of *Mustill & Boyd*.

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### II. ARBITRATION-RELATED APPLICATIONS TO THE COMMERCIAL COURT

Siddharth regularly advises and acts for clients on the full suite of arbitration-related applications to the Commercial Court, and in particular on:

- (i) Challenges to English-seated awards under ss.67 to 69 of the 1996 Act;

- (ii) Enforcement of domestic or foreign awards under s.66 or the New York Convention/s.101 of the 1996 Act; and
- (iii) Applications for interim relief, in particular anti-suit relief.

He has vast experience as counsel bringing or resisting challenges to arbitral awards under sections 67 (substantive jurisdiction), section 68 (serious procedural irregularity) and section 69 (appeal on point of law). Examples of his work in this area which are in the public domain include:

1. **Investment authority vs. South Asian State (Comm) (October 2024).** Defending a State on a s.67 challenge to the award of an investment tribunal which had declined jurisdiction under a BIT. Instructed by Dentons.
2. **Cipla v Salix [2023] EWHC 910 (Comm)** (Moulder J). Successfully resisted challenge to an LCIA award under s.68(2)(a) (failure to account for evidence). Instructed by McDermott Will & Emory.
3. **A v B (Comm) (2022, Unreported)** (Knowles J). Successfully resisted challenge to LCIA award under s.68(2)(a) (alleged incorrect application of burden of proof). Instructed by Shearman & Sterling.
4. **Betamax v State Trading Corp [2021] UKPC 14** (Privy Council). Successfully overturned judgment of Supreme Court of Mauritius, which had set aside an arbitral award on grounds of a breach of public policy. Instructed by Fladgate.
5. **Nigeria v P&ID [2020] EWHC 2379 (Comm)** (Cranston J). Resisting application to extend time to challenge an award worth over US\$10 billion under ss.67-68. Instructed by Kobre & Kim.
6. **Obrascon Huarte v Qatar Foundation [2020] EWHC 1643 (Comm)** (Butcher J). Applications challenging an ICC award under ss.67 / 68(2)(b) (amendments to award, application of *functus officio* doctrine). Instructed by Shearman & Sterling.
7. **Obrascon Huarte v Qatar Foundation [2019] EWHC 2539 (Comm)** (Carr J). Application to set aside an ICC award under section 68(2)(a)/s.33 (failure to give fair opportunity to argue case). Instructed by Shearman & Sterling.
8. **Stockman v Arricano [2017] EWHC 2909 (Comm)** (C.Hancock KC). Application to set aside LCIA award on grounds of fraud under s.68(2)(g). Fraud demonstrated, but no substantial injustice. Instructed by Freshfields.
9. **Ruby Roz v Kazakhstan [2017] EWHC 439 (Comm)** (Knowles J). Successfully resisted s.67 application which sought to overturn finding of tribunal that it lacked jurisdiction over Kazakhstan under its Foreign Investment Law. Instructed by Curtis Mallet.
10. **C1 v D [2016] EWHC 1893 (Comm)** (Knowles J). Application to set aside award under ss.67-68(2)(a) on various grounds. Instructed by Stephenson Harwood.
11. **W v M Sdn Bhd [2016] EWHC 422 (Comm)** (Knowles J). Application to set aside award under s.68(2)(a) on grounds of apparent bias. Instructed by Clyde & Co.
12. **Stockman v Arricano [2015] EWHC 2979 (Comm)** (Burton J). Application to set aside LCIA award under 67-68(2)(a) on various grounds, including *functus officio*/inconsistency with prior decision. Instructed by Freshfields.
13. **C v D1 [2015] EWHC 2126 (Comm)** (Carr J). Successfully upheld award against challenge under sections 67- 68 (construction of competing jurisdiction clauses, joinder under LCIA Rules). Instructed by Stephenson Harwood.
14. **Interprods v De La Rue [2014] EWHC 68 (Comm)** (Teare J). Successfully upheld award against challenge under sections 67-68 on various grounds. Instructed by Clyde & Co.

15. **Habas v Sinai [2010] EWHC 29 (Comm)** (C.Clarke J). Challenge to award under s.67 on ground of failure to incorporate arbitration clause.

Much of his work in the latter two categories identified above (on enforcement and interim relief) is confidential or unreported. Recent examples, which are in the public domain, are:

- **Chenco v DFD [2021] EWHC 1052 (Comm)** (enforcement under s.101/NYC, ability to make new factual findings on enforcement application); and
- **Bayerische Landesbank & Anor v Ruschemalliance LLC [2024] EWHC 1822 (Comm)** (final anti-suit relief restraining Russian proceedings in favour of ICC arbitration in Paris, following *Unicredit* in SC).

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### III. ENERGY & NATURAL RESOURCES

Siddharth has considerable experience across the entire spectrum of Energy and Natural Resource-related disputes, both in terms of forum (Court, commercial arbitration and investor/state arbitration); and subject matter (oil, gas, nuclear, renewables, coal, and a wide range of other natural resources).

He has been involved in advising or acting in some of the largest energy/natural resource-related disputes of recent times (see below).

His work in this field has been consistently recognised for many years by the Legal Directories. The most recent client feedback notes that, as a silk, he “*has an impressive ability to identify strengths and weaknesses in an extremely succinct, coherent and commercial matter.*”

Representative examples across different industry sectors include the following.

- (1) **Oil.** Considerable experience of disputes under many types of contractual arrangement, e.g. production sharing agreements (POAs), JOAs, exploration/development agreements, and a wide variety of sale and purchase/supply agreements. Examples include:
- ***Vitol SA v Genser Energy Ghana Ltd [2022] EWHC 910 (Comm)***. Successfully acted for claimant in seeking recovery of sums due on termination of propane supply contracts for delivery into Ghana.
  - Currently acting for one of the world’s largest independent oil traders in its c.US\$75 million LCIA claim in respect of the termination of various oil supply contracts.
  - Lead advocate for an oil major in its successful defence of a c.US\$10m ICC claim made by a Libyan counterparty in relation to the operation of a shore base and associated drilling activities.

- Acting for a leading Singaporean shipyard in two recent ad-hoc arbitrations (of c.4 weeks and 5 weeks respectively) worth a combined c.SGD 1 billion relating to the construction and sale of deep-sea drilling rigs for the Nordic market.
  - Lead advocate for a Middle Eastern State in a \$ 25 million ICC claim relating to exploration in two on-shore oil blocks.
- (2) **Gas.** Considerable experience of disputes arising under various contractual arrangements, including GSPAs, in respect of price-review clauses, and “take or pay” claims. Examples include:
- Advising a leading energy company in its gas pricing dispute arising out of alleged disruption to the European gas market as a result of the war in Ukraine.
  - Acting as lead advocate for the claimant in a US\$25m Commercial Court claim in respect of royalty payments due under a gas supply arrangement in West Africa.
  - Acting for the defendant in an arbitration worth up to c.US\$10 billion arising out of a GSPA and failed construction of natural gas processing facilities in Africa.
  - Advising a European gas major in relation to its price review dispute under along-term LNG contract.
  - Acting for NIGC in its long-running \$25 billion price review dispute with Botas.
  - Acting and advising a Middle Eastern state-owned energy company in a multi-\$ billion ICC arbitration claim brought by a major energy interest under a long-term gas sale and purchase agreement for alleged failure to supply gas
- (3) **Renewables.** Examples of Siddharth’s work in this area include:
- ***Albaniabeg v Albania* (ICSID Case No.ARB/14/26, March 2020).** Acted as lead counsel for the State in a €440 million Energy Charter Treaty arbitration relating to a failed energy project near Tirana, Albania.
  - ***Hydro & Ors v Republic of Albania* (ICSID Case No. ARB/15/28, April 2019).** Acted as lead counsel defending Albania in a circa. €700 million ICSID arbitration relating to *inter alia* the failed construction of a hydroelectric power plant in Albania.
- (4) **Coal.** Examples of Siddharth’s work in this area include:
- Advising the holder of a petroleum development licence in respect of claims for wrongful extraction of methane from a disused UK coal mine.
  - Successfully acting as lead advocate for a major trading house in its circa \$40 million LCIA arbitration claim against a Chinese importer of coal in a dispute under a 12-month coal supply contract.
- (5) **Nuclear.** Acted for Siemens (with Toby Landau KC) in a circa \$700 million ICC arbitration claim brought by Areva under its joint venture agreement with Siemens.
- (6) **Oils/seeds/fats.** Considerable experience (where permitted) acting in FOSFA arbitration and advising on the underlying contracts, including acting for the importer in a multi-\$million FOSFA arbitration relating to the sale of palm oil into Mozambique.

- (7) **Other natural resources/mining disputes.** Regular advice to investors/states in the BIT context on potential claims in respect of the grant/revocation of mining licences and similar entitlements to other natural resources. A recent example is advising iron ore investors on potential BIT claims of up to US\$30 billion against a State.

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#### IV. INVESTMENT TREATY ARBITRATION

Described by the Directories as an “*exceptional barrister – routinely turned to for his treaty arbitration advice*”, Siddharth has a substantial practice in acting for and/or advising both States and investors in investment treaty disputes. This includes claims under BITs, multilateral treaties (e.g. ECT), and bilateral investment agreements.

For several years (including prior to taking Silk in 2023) he has acted as lead advocate in significant (+US\$0.5billion) and complex/sensitive investment treaty claims. He also has considerable experience of acting in or advising on ICSID annulment proceedings, similar challenges brought at the seat of arbitration, and associated enforcement issues.

Much of this work is confidential in nature or unreported. Representative matters (in the public domain, or suitably redacted) include the following:

- (1) ***Potential claimants vs. State X.*** Recently advised iron ore investors on potential BIT claims of up to US\$30 billion against a State.
- (2) ***Middle Eastern investment authority vs. South Asian State.*** Successfully defended State in resisting circa US\$250m BIT claim in relation to the operation of a bauxite mine. Instructed by Dentons. Jurisdictional challenge by the investor now pending before the Commercial Court (October 2024).
- (3) ***Albaniabeg v Albania (ICSID Case No.ARB/14/26, Decision on Annulment May 2022).*** Lead advocate for State resisting application for ICSID annulment. Instructed by Gowling WLG.
- (4) ***C v South Asian State (English enforcement).*** Acted/advised an investor in relation to enforcement in England of favourable ICSID award and potential challenges in that respect and preliminary issues hearing. Matter settled with successful outcome. Instructed by Arnold & Porter LLP.
- (5) ***Investor v Balkan State.*** Lead counsel for investor in a US\$450m claim in relation to the operation of a lead and zinc mine. Instructed by Clyde & Co.
- (6) ***Investors v Balkan State.*** Lead counsel instructed by the investors in a potential multi-million Dollar ICSID claim relating to the expropriation of a copper mine. Instructed by Charles Russell.
- (7) ***Albaniabeg v Albania (ICSID Case No.ARB/14/26, March 2020).*** Acted as lead counsel for the State in a €440 million Energy Charter Treaty arbitration relating to a failed energy project near Tirana, Albania. Instructed by Gowling WLG.
- (8) ***Hydro & Ors v Republic of Albania (ICSID Case No. ARB/15/28, April 2019).*** Acted as lead counsel defending Albania in a circa. €700 million ICSID arbitration relating to

*inter alia* the failed construction of a hydroelectric power plant in Albania. Instructed by Gowling WLG.

- (9) ***Ruby Roz v Kazakhstan* [2017] EWHC 439.** Successfully acted for Kazakhstan (with Paul Key KC) in the Commercial Court in its defence of a 5-day jurisdictional challenge to an UNCITRAL arbitration award regarding Kazakhstan's Foreign Investment Law. Instructed by Curtis Mallet.
- (10) ***Safa v The Hellenic Republic* (ICSID Case No. ARB/16/20).** Acted on behalf of Greece in defending a claim brought under the Lebanese/Greek BIT. Instructed by Holman Fenwick Willan.
- (11) ***BSG Resources Ltd v Guinea* (ICSID Case No. ARB/14/22).** Acted for the claimant investor in a very large ICSID claim arising out of the expropriation of its iron ore investments in Guinea. Instructed by Mishcon de Reya.
- (12) ***Agility v Pakistan* (ICSID Case No. ARB/11/8).** Acted with Paul Key KC for Kuwaiti investors in a complex \$450 million claim against Pakistan under the Kuwait/Pakistan BIT. Instructed by Kirkland & Ellis.
- (13) ***Investor v Central Asian State* (UNCITRAL).** Acted for multiple investors in a mass claim against the State under the applicable BIT.
- (14) ***Karkey v Pakistan* (ICSID Case No. ARB/13/1).** Advised Turkish investors in a \$2 billion-odd claim under the Turkey/Pakistan BIT. Instructed by Bird and Bird.

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