

# Philip Riches

CALL: 2001

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Languages: Spanish (proficient); French (proficient); Mandarin (conversational)



## Overview

Philip is recognised as a leading senior junior barrister in international commercial dispute resolution. He appears regularly in the English courts and in international arbitrations in England and overseas.

Philip has a strong practice in complex, high-value commercial disputes across a range of business sectors. His work has been particularly focused in recent years on civil fraud disputes, often requiring urgent injunction applications, energy disputes and disputes relating to the enforcement of foreign arbitration awards. Philip's practice frequently involves state parties or state-owned entities, in both commercial and investment treaty disputes.

Philip is regularly instructed as an expert in foreign proceedings, particularly on issues of English arbitration law.

He also accepts appointments as an arbitrator, with experience as an ICC and as an SCC arbitrator.

[Privacy notice](#)

## Education

- University of Cambridge, Trinity College, BA (Hons) (First)

## Professional memberships

- Commercial Bar Association
- LCIA
- HKIAC
- International Bar Association: Guidelines and Rules Committee reporter

## Lectures / talks

Philip regularly gives talks at seminars and conferences and to firms of solicitors. On request he can develop new talks or tailor existing talks to relevant issues. Below is a selection of some recent talks given:

- Interim relief in support of arbitration: recent developments.
- Russian and Ukrainian natural resources disputes in London: pitfalls and ways through.
- Brexit: an update.
- Enforcing arbitration awards in England.
- The Chabra jurisdiction – what injunctive relief is available against third parties?

## Awards

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- Bar European Group/ICBET Scholarship (2001)
- Inner Temple Major Scholarships (1999 and 2000)
- Trinity College Senior Scholar
- Rajiv Gandhi Exhibition

## Example cases

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- *Carpatsky Petroleum Co v PJSC Ukrnafta* [2018] EWHC 2516 (Comm): action to enforce Stockholm arbitration award in England for US\$148 million. Issue of whether a fraud case could be pleaded to resist enforcement, applying the *Westacre*
- *John Paylor and others v Junie Conrad Omari Bowers and others* [2018] EWHC 826 (Ch): acted for insolvency practitioners in fraud action against bankrupts/directors of insolvent companies tracing proceeds of fraud held in complex offshore structures. Freezing injunctions and search orders. Issue concerning conduct of search order and if, and how, documents held by supervising solicitor should be produced to claimants.
- *Diag Human SE v Czech Republic* PCA Case 2018-20 – ongoing: US\$2.4 billion investment treaty claim against Czech Republic arising out of difficulties in enforcing a 2008 commercial arbitration award (including in England [2014] EWHC 1639 (Comm)).
- *PL Holdings v Poland* (Commercial Court) – ongoing: acting on behalf of PL Holdings in its action to enforce in England a Stockholm arbitration award for PLN 653 million (relating to the Benelux-Poland BIT) against Poland, being resisted by Poland in reliance on *Slovak Republic v Achmea BV* (ECJ case 284/16). Issue as to impact of Brexit on English court application of *Achmea*.
- *ICC arbitration Zurich* (2017-2018): US\$138 million dispute arising out of barter arrangements between foreign investor and Venezuelan state-owned mining company. Issues as to jurisdiction, fraud and corruption, application of mandatory laws, ability of state to rely on its own national law to negate arbitration agreement. Related LMAA arbitrations in London and arbitrations in New York.
- *Qingdao Huiquan Shipping Co v Shanghai Dong He Xin Industry Group Co Ltd* [2018] EWHC 3009 (Comm): anti-suit injunction to restrain foreign proceedings, obtained despite foreign considerable elapse of time.
- *Grove Park Properties Ltd v Royal Bank of Scotland plc* [2018] EWHC 3618 (Comm) and [2018] EWHC 3521 (Comm) – ongoing: claim concerning alleged fraud and forgery in respect of financing transaction documents, including swap agreement under ISDA Master Agreement.
- *Galas v McAleer* [2018] EWHC 2366 (QB): letter of request from Californian court, issues as to whether request satisfied test for specificity and test for relevance on examination.
- *CMOC v Persons Unknown* (Commercial Court): freezing injunctions against persons unknown in relation to email hacking fraud and illegal transfer of funds from London branch of Chinese bank.
- *IPM Energy Trading Ltd v Carillion Energy Services Ltd* (Commercial Court) [2017] EWHC 1399 (Comm): dispute concerning the implementation of the UK government CESP scheme imposing carbon offset obligations on power generators.
- *ICC arbitration London* (2017) and Commercial Court s 68 challenge (2018, private): dispute arising out of joint venture between Russian property developer and wholly-owned subsidiary of Russian state-owned bank concerning development projects in Moscow.

## Banking and finance

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Philip has a busy banking and finance practice, covering a wide range of disputes, including mis-selling claims, disputes under the ISDA Master Agreement, fraud on loans, sovereign bond disputes, trade finance matters and disputes arising out of banks investing as joint venture partners.

- *Grove Park Properties Ltd v Royal Bank of Scotland plc* [2018] EWHC 3618 (Comm) and [2018] EWHC 3521 (Comm) – ongoing: claim concerning alleged fraud and forgery in respect of financing transaction documents, including swap

agreement under ISDA Master Agreement.

- LCIA Arbitration (ongoing) – dispute concerning restructuring of loan arrangements between Russian lender and Dutch holding company borrower and its subsidiary Indonesian telecommunications business, in particular as to whether restructuring triggered the pledge obligations of the directors standing behind the borrower.
- *M-JWK v Polish Real Estate Investment* (Commercial Court, 2016) – claim by Polish commercial property group subsidiary against Cypriot parent in relation to payments of debts to Raiffeisen Bank under convertible bonds. The group’s assets were held in a closed-end investment fund managed by a fund manager regulated under by the Polish Financial Supervision Authority (the equivalent of the UK FCA). Issues as to: fraud and bad faith relevant to the founding of English court’s jurisdiction; compliance by the fund manager with its obligations under Polish law; whether, under Polish law, a third party payer of a debt to a bank is entitled to be subrogated to the bank’s rights as lender; validity of board resolutions under Cypriot law.
- LCIA Arbitration (2016) – claim by Russian shareholder in Moscow property joint venture with state-owned bank. Issues concerning improper related party transactions, diversion of bank investment funds, corruption and the jurisdiction of tribunal to consider certain fraud allegations.
- ICC Arbitration (2015) – complex multi-jurisdiction dispute involving English entity financing sale and purchase transactions between Chilean commodities traders and Chinese buyers, with disputes in ICC, HKIAC and Beijing Arbitration Commission. Issues include as to jurisdiction of English court in support of London arbitration to freeze proceeds of deceit in Singapore.
- *Diag Human SE v Czech Republic* (Commercial Court, 2013-14) [2014] EWHC 1639 (Comm) and [2013] EWHC 3190 (Comm) – Arbitration award enforcement action in English Commercial Court against sovereign state, including by way of third party debt order over sovereign bond payments through banks in London and Luxembourg. Enforcement action reported at [2014] EWHC 1639 (Comm). Additional question of whether security for costs is available to an award debtor in an enforcement action reported at [2013] EWHC 3190 (Comm).
- *A v B and ors* (Commercial Court, 2011) [2011] EWHC 2905 (Comm) unreported – Application for freezing injunction against London bank over sovereign bond payments by state for payment of bondholder coupons. Issues as to court jurisdiction to grant freezing injunction against third party under *Chabra* jurisdiction where possible sovereign immunity of primary respondent, as to nature of bond payments and whether constituted flawed assets and as to impact of freezing orders of this nature on sovereign debt market.

## Civil fraud

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Philip is recommended as a leading junior for fraud and is described as “*Creative and thorough – an ideal junior for fraud cases*” (The Legal 500 2016).

Recent years have seen Philip involved in a number of complex and very high-value fraud disputes both in court and in arbitration. His fraud cases generally concern cross-border commercial relationships and have particularly focused on work out of the CIS and Africa, especially in energy and natural resources and banking and finance matters. He has extensive experience of working with high net worth individuals and is alert to client sensitivities about litigation and arbitration. He is also familiar with the common features of fraud disputes arising in the CIS and in Africa, including political involvement and difficulties in securing witnesses. Recent work has included acting for a former chairman of a Ukraine bank in a claim brought by the bank, a claim against a Russian energy company relating to a sale and purchase contract with an offshore subsidiary and a dispute in respect of the forced sale by the SFO of a property owned by the convicted fraudster “Lord” Edward Davenport.

- *Grove Park Properties Ltd v Royal Bank of Scotland plc* [2018] EWHC 3618 (Comm) and [2018] EWHC 3521 (Comm) ongoing: claim concerning alleged fraud and forgery in respect of financing transaction documents, including swap agreement under the ISDA Master Agreement.
- *John Paylor and others v Junie Conrad Omari Bowers and others* [2018] EWHC 826 (Ch): acted for insolvency practitioners in fraud action against bankrupts/directors of insolvent companies tracing proceeds of fraud held in complex offshore structures. Freezing injunctions and search orders. Issue concerning conduct of search order and if, and how, documents held by supervising solicitor should be produced to claimants.
- *CMOC v Persons Unknown* (2018 Commercial Court): freezing injunctions against persons unknown in relation to email hacking fraud and illegal transfer of funds from London branch of Chinese bank.
- ICC Arbitration (2018) – dispute involving allegations of fraud and corruption in commercial transactions involving state-owned entity. Issues include identification of the applicable law under which allegations to be determined and consequent impact on validity of underlying contract and arbitration agreement, duty of tribunal to investigate fraud of its own motion and relevance of Interpol Red Notice in fraud allegations.
- *Sovarex v Markov* (Commercial Court, 2016) – claim for deceit in relation to creditworthiness of commodities buyer and associated interim freezing relief against buyer and its controlling shareholder. Issue as to jurisdiction of court to grant relief over non-party to arbitration following the clarification of the jurisdiction by Males J in *Cruz City*.

- *M-JWK v Polish Real Estate Investment* (Commercial Court, 2016) – claim by Polish commercial property group subsidiary against Cypriot parent in relation to payments of debts to Raiffeisen Bank under convertible bonds. Issues of fraud and bad faith relevant to the founding of English court’s jurisdiction.
- LCIA Arbitration (2016) – claim by Russian shareholder in Moscow property joint venture with state-owned bank. Issues concerning improper related party transactions, corruption and the jurisdiction of tribunal to consider certain fraud allegations.
- ICC Arbitration (2015) – complex multi-jurisdiction dispute involving English entity financing sale and purchase transactions between Chilean commodities traders and Chinese buyers, with disputes in ICC, HKIAC and Beijing Arbitration Commission. Issues include as to jurisdiction of English court in support of London arbitration to freeze proceeds of deceit in Singapore.
- LCIA Arbitration (2013) – US\$2 billion dispute concerning the Russian and Ukrainian mining and metals industry involving questions of fraud, reflective loss and entitlement to injunctive relief (led by Joe Smouha QC).
- ICC Arbitration (2013) – dispute arising out of fraudulent management of Caribbean investment trust (Bahamian law) in Italy and Switzerland.

## Commercial disputes

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Philip is recommended as a leading junior for Commercial Dispute Resolution in Chambers & Partners and in Legal 500. He is described as “A superstar junior who is responsive, commercial and bright” (Chambers & Partners UK Bar 2016) and as “An excellent junior, who is sound tactically and gets to the heart of the case quickly” (Legal 500 2016) and as “Intellectually great and commercially sound” (The Legal 500 Asia-Pacific, Commercial, 2017).

Philip’s commercial work covers a wide range of disputes in the energy, mining, banking and finance, telecoms, pharmaceuticals and trade and shipping industries. He also has experience in art disputes. His cases tend to be high-value and to have a multi-jurisdictional aspect.

He has a particular depth of experience in applications at an early stage in commercial proceedings (both in litigation and arbitration). His advice focuses on the commercial needs of the client and, where possible and appropriate, sets out options for clients to attain commercial objectives faster and more cost-effectively than simply progressing to a full trial. His applications work includes: urgent freezing injunctions and disclosure orders, both ex parte and on notice, anti-suit injunctions, passport delivery-up orders, jurisdiction challenges and summary judgment applications.

In addition, Philip has expertise in enforcement work in the English courts (including against sovereign states), both in respect of judgments and in respect of arbitral awards – English and foreign. This work includes applying for post-judgment/post-award freezing injunctions and for the appointment of receivers by way of equitable execution.

- *John Paylor and others v Junie Conrad Omari Bowers and others* [2018] EWHC 826 (Ch): acted for insolvency practitioners in fraud action against bankrupts/directors of insolvent companies tracing proceeds of fraud held in complex offshore structures. Freezing injunctions and search orders. Issue concerning conduct of search order and if, and how, documents held by supervising solicitor should be produced to claimants.
- *IPM Energy Trading Ltd v Carillion Energy Services Ltd* (Commercial Court, 2017) [2017] EWHC 1399 (Comm) – dispute concerning the implementation of the UK government CESP scheme imposing carbon offset obligations on power generators. Issues as to whether exclusion clause covering liability for OFGEM fines also extended to expenses incurred in mitigation of fines and as to meaning of “deliberate refusal” to perform.
- *Grove Park Properties Ltd v Royal Bank of Scotland plc* [2018] EWHC 3618 (Comm) and [2018] EWHC 3521 (Comm) – ongoing: claim concerning alleged fraud and forgery in respect of financing transaction documents, including swap agreement under the ISDA Master Agreement.
- *Qingdao Huiquan Shipping Co v Shanghai Dong He Xin Industry Group Co Ltd* [2018] EWHC 3009 (Comm): anti-suit injunction to restrain foreign proceedings, obtained despite considerable elapse of time.
- *Galas v McAleer* [2018] EWHC 2366 (QB): letter of request from Californian court, issues as to whether request satisfied test for specificity and test for relevance on examination.
- *Sovarex v Markov* (Commercial Court, 2016) – claim for deceit in relation to creditworthiness of commodities buyer and related interim freezing relief against buyer and its controlling shareholder.
- *M-JWK v Polish Real Estate Investment* (Commercial Court, 2016) – claim by Polish commercial property group subsidiary against Cypriot parent in relation to payments of debts to Raiffeisen Bank under convertible bonds. Issues of fraud and bad faith relevant to the founding of English court’s jurisdiction.
- *Arbor Inc v Exclusive SAS* (Commercial Court, 2016) – claim by US and UK anti-malware software (DDOS) suppliers against French distributor arising out of termination of distribution agreement, raising issues under Commercial Agents Regulations, in competition law and as regards privity of contract (in relation to liability of French distributor for sums

claimed against affiliates).

- *Laird Resources LLP v Aumm Holdings Ltd & ors* (Commercial Court, 2015) – claims against defendants in offshore corporate structure in disputes relating to UK property portfolio, with main issue being as to principles of construction of contracts and as regards meaning of “assets” in standard Commercial Court freezing injunction wording and “control” for purposes of enforcement. Post-judgment freezing injunction and disclosure orders against respondents in complex web of interconnected trusts (reported at [2015] EWHC 2615 (Comm)). Application for appointment of receivers by way of equitable execution for enforcement against offshore discretionary trust assets, raising issues as to role of “Protector” of trusts.
- *Bonhams 1793 Ltd v Lawson, Zanotti & Ors* (Commercial Court, 2015) – highly publicised dispute concerning the sale of a Ferrari, one of only 6 of its kind, with related arbitration in Florida and disputes over the application of New York law. Applications for security, for the hearing of a preliminary issue and on jurisdiction.
- LCIA Arbitration (2014) – acting for former chairman of a Ukrainian Bank, defending a US\$75 million claim brought by the bank, with related High Court proceedings concerning freezing and disclosure injunctions in support of the arbitration and contempt proceedings for alleged breach of injunctions (see *VAB Bank v Maksimov* [2013] EWHC 422 (Comm), [2013] EWHC 3203 (Comm), [2014] EWHC 1958 (QB) and [2014] EWHC 3771 (Comm)). The dispute centred on the “best endeavours” term and on the effect of conditions precedent.
- LCIA Arbitration (2014-15) – US\$80 million claims by offshore entity in two arbitrations against Russian state-owned energy company and its subsidiary, arising out of sale and purchase of Russian oil exploration company. Issues of fraud, the impact of the EU and US sanctions regime on Russian entities (including as to how they should be given security for costs) and joinder and consolidation under the LCIA Rules 1998 and 2014.
- ICC Arbitration (2014) – dispute involving South-American state-owned entity’s US\$1 billion claim against contractors. Principal issues included: the rights of a party to damages under a contract or at common law depending upon manner of termination; and ability to join a guarantor to arbitral proceedings.
- *Diag Human SE v Czech Republic* (Commercial Court, 2013-14) – arbitration award enforcement action in English Commercial Court against sovereign state. Principal dispute concerned the reliance on issue estoppel as a means of preventing enforcement under the New York Convention (Reported at [2014] EWHC 1639 (Comm)). Issues also as to whether security for costs is available to an award debtor in an enforcement action (reported at [2013] EWHC 3190 (Comm)) and whether sums paid by the state into a bank account for the purposes of coupon payments to bondholders could be the subject of a third party debt order.
- LCIA Arbitration (2013) – dispute concerning construction of licence agreement and cutting-edge research agreement between bio-tech research company and global pharmaceutical company, in particular as to the restrictions placed on the former in relation to its genetic engineering of applications (led by Steven Gee QC).
- *Chinacast Education Corp v Chan & ors* [2013] HKCFI 1855 – dispute concerning one of China’s largest education companies and use of offshore companies to avoid RMB convertibility restrictions. Issues include the extent of the *Chabra* jurisdiction in injunction proceedings.
- *Wu v Hillard, Wade And Others* (Chancery Division 2013) – appeal by Chinese directors of English company in liquidation. Dispute over existence, extent and application in practice of court’s inherent jurisdiction to order security for costs (reported at [2013] EWHC (Ch) LTL 26/11/2013).
- *A v B and ors* (Commercial Court, 2011) [2011] EWHC 2905 (Comm) unreported – Application for freezing injunction against London bank over sovereign bond payments by state for payment of bondholder coupons. Issues as to court jurisdiction to grant freezing injunction against third party under *Chabra* jurisdiction where possible sovereign immunity of primary respondent, as to nature of bond payments and whether constitute flawed assets and as to impact of freezing orders of this nature on sovereign debt market.

## Commodities

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Philip has a busy commodities practice, dealing with issues involving the trading, financing, storage and care for and delivery of commodities. His recent work has included acting for a London finance house in a fraud and conversion dispute with a Chilean agent purchasing iron slag on its behalf for on-sale to China, acting for Chinese purchasers of US\$180 million worth of iron ore from a West African mine, acting for a UK trading house involved in a quality dispute over Colombian coking coal delivered to Poland and acting for a collateral manager for European banks of rice in Liberia, 1.5 million bags of which was stolen during the recent Ebola outbreak.

Philip is recommended as a leading junior in commodities disputes and is described as “*highly intelligent and responsive*” with an “*excellent knowledge of commodities*” (The Legal 500 2016).

- ICC arbitration Zurich (2017-2018): US\$138 million dispute arising out of barter arrangements between foreign investor and Venezuelan state-owned mining company. Issues as to jurisdiction, fraud and corruption, application of mandatory laws, ability of state to rely on its own national law to negate arbitration agreement. Related LMAA arbitrations in London and arbitrations in New York.

- *Carpatsky Petroleum Co v PJSC Ukrnafta* [2018] EWHC 2516 (Comm): action to enforce Stockholm arbitration award in England for US\$148 million arising out of joint activity agreement to explore and develop Ukrainian gas field. Issue of whether a fraud case could be pleaded to resist enforcement, applying Westacre. Issue also of impact on quantum but-for scenario of Ukrainian law to impose a price cap on sale of gas in domestic market.
- *A v B* (UNCITRAL arbitration 2019): claim by Kazakh oil well engineering company against major Western oil company arising out of tender process in relation to drilling operations in Western Kazakhstan.
- *Sovarex v Markov* (Commercial Court, 2016) – claim for deceit in relation to creditworthiness of commodities buyer and associated interim freezing relief against buyer and its controlling shareholder.
- *GPT v E.ON* (Commercial Court, 2016) – claims in contract and unjust enrichment in relation to delivery of cargo of wood pellets for power generation, arising out of conflicting accounts as to the contract and bills of lading under which the cargo was said to have been delivered.
- *BCV & ors v DCL* (Commercial Court, 2016, and related ICC arbitrations) – claims against collateral asset manager by 5 banks arising out of the disappearance from a warehouse in Monrovia, Liberia, of 1.5 million bags of rice during the Ebola outbreak in 2014-2015 and the banks’ resulting loss of collateral.
- LMAA Arbitration (2016) – claim by owner of multiple vessels chartered to South American state-owned entity for carriage of iron ore and related products in respect of outstanding sums due by way of hire, with value to be paid in commodities. Issues as to jurisdiction, illegality under foreign law and construction of contracts and as to the manner of payment by way of commodity supply.
- LCIA Arbitrations (2015-2016) – related LCIA claims against a Russian mining company and, under a guarantee, against its parent, concerning the supply of coal from Siberia and the threatened insolvency of a related entity.
- SCC Arbitration (2010-2014) – US\$450m joint venture dispute between US and Ukrainian partners arising out of development of Ukrainian gas fields, with the principal issue being as to the valuation of the fields in circumstances where the Ukrainian government had imposed a cap on the sale price for gas (led by Clive Freedman QC).
- UNCITRAL Rules Arbitration (2014) – acting for Belgian trading company in dispute with Colombian coking coal distributor over force majeure allegations arising out of La Niña disruption to Colombian distribution in 2011.
- LMAA arbitration (2011) – acting for a state-owned Chinese chemical company in a LMAA dispute with an Indian commodities supplier.
- *Re Namco* (Commercial Court, 2003) – insolvency dispute concerning diamond mining vessel off South Africa (reported at [2003] EWHC 989 (Ch)).

## Energy and natural resources

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Philip’s practice has a particular focus on energy and natural resources. Recent years have seen him involved in a number of complex and very high-value energy and natural resources disputes both in court and in arbitration. Issues raised cover a broad range of contractual, tortious, civil fraud, jurisdiction, conflicts of laws and procedural matters.

His recent energy and natural resources work includes a claim against a Russian energy company concerning the sale and purchase of an oil exploration company and whether fracking technology has altered its value, a Commercial Court dispute concerning the UK government’s community energy scheme carbon reduction obligation imposed on power generators, a claim concerning plant and equipment in the Japanese nuclear industry and a US\$180 million dispute involving a Chinese purchaser of iron order from a West African mine.

- ICC arbitration Zurich (2017-2018): US\$138 million dispute arising out of barter arrangements between foreign investor and Venezuelan state-owned mining company. Issues as to jurisdiction, fraud and corruption, application of mandatory laws, ability of state to rely on its own national law to negate arbitration agreement. Related LMAA arbitrations in London and arbitrations in New York.
- *IPM Energy Trading Ltd v Carillion Energy Services Ltd* (Commercial Court, 2017) [2017] EWHC 1399 (Comm) – dispute concerning the implementation of the UK government CESP scheme imposing carbon offset obligations on power generators. Issues as to whether exclusion clause covering liability for OFGEM fines also extended to expenses incurred in mitigation of fines and as to meaning of “deliberate refusal” to perform.
- *Carpatsky Petroleum Co v PJSC Ukrnafta* [2018] EWHC 2516 (Comm): action to enforce Stockholm arbitration award in England for US\$148 million arising out of joint activity agreement to explore and develop Ukrainian gas field. Issue of whether a fraud case could be pleaded to resist enforcement, applying Westacre. Issue also of impact on quantum but-for scenario of Ukrainian law to impose a price cap on sale of gas in domestic market.
- *A v B* (UNCITRAL arbitration 2019): claim by Kazakh oil well engineering company against major Western oil company arising out of tender process in relation to drilling operations in Western Kazakhstan.
- *GPT v E.ON* (Commercial Court, ongoing) – claims in contract and unjust enrichment in relation to delivery of cargo of

wood pellets for power generation, arising out of conflicting accounts as to the contract and bills of lading under which the cargo was said to have been delivered.

- LCIA Arbitrations (2015-2016) – related LCIA claims against a Russian mining company and, under a guarantee, against its parent, concerning the supply of coal from Siberia and the threatened insolvency of a related entity.
- Ad hoc Arbitration (2015) – dispute involving Japanese nuclear industry supplier concerning rights upon termination of contract following the Tohoku 2011 earthquake and tsunami. Issues as to the English law approach to the rights of contracting parties upon termination and whether contractual provisions exclude rights to damages under the general law that would otherwise exist (following a number of significant judgments in recent years, including *The Astra*, *Newland Shipping*, *Spar Shipping* and others).
- Ad hoc Arbitration (2015) – Houston, Texas arbitration concerning the sale and purchase of an oil rig off the coast of Nigeria raising issues of construction of contractual provisions as to condition precedent and material adverse changes.
- SCC Arbitration (2010-2014) – US\$450m joint venture dispute between US and Ukrainian partners arising out of the development of Ukrainian gas fields, with the principal issue being as to the valuation of the fields in circumstances where the Ukrainian government had imposed a cap on the sale price for gas.
- Aynak Copper Project, Afghanistan (2012) – advising Global Witness pro bono in their consultation with the Afghan Government over the investment by a Chinese state-owned company into the Aynak Copper Project. This is the largest foreign investment in Afghanistan to date and raises issues of contract structure and of sovereign immunity of Chinese state-owned entities.
- *Re Namco* (Commercial Court, 2003) – insolvency dispute concerning diamond mining vessel off South Africa (reported at [2003] EWHC 989 (Ch)).

## International arbitration

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Philip is recommended as a leading junior in international arbitration (Chambers & Partners 2016, Chambers & Partners Global 2017, and Legal 500 and Legal 500 Asia Pacific 2016) and is described as “*very hard-working; he rolls up his sleeves, gets on with things and does a very good job*” (Chambers & Partners 2016), “*Extremely user-friendly...and knows arbitration inside out*” (Chambers & Partners Global 2017) and “*Intellectually great and commercially sound*” (Legal 500 Asia-Pacific 2016).

Philip’s arbitration work includes both ad hoc and institutional arbitrations, including LCIA, ICC, HKIAC, SIAC, SCC and LMAA.

His arbitration work has been particularly focused on high value emerging markets disputes. He has developed a particular expertise in applications in support of arbitration, in support of the commercial needs of the client, seeking to attain commercial objectives faster and more cost-effectively than simply progressing to a full trial. Applications in support of arbitration include those for urgent freezing injunctions and disclosure orders, both ex parte and on notice, anti-suit injunctions, passport delivery-up orders, jurisdiction challenges and summary judgment applications.

Philip has considerable expertise in arbitration hearings, covering both applications and final hearings. In addition, Philip has expertise in the enforcement of arbitral awards, including against sovereign states. This includes applying for post-award freezing injunctions and for the appointment of receivers by way of equitable execution.

Philip also accepts appointments as and has experience as an arbitrator, including as an ICC arbitrator.

- *A v B* (UNCITRAL arbitration 2019): claim by Kazakh oil well engineering company against major Western oil company arising out of tender process in relation to drilling operations in Western Kazakhstan.
- LCIA Arbitration (2016) – claim by Russian shareholder in Moscow property joint venture with state-owned bank. Issues concerning improper related party transactions, diversion of bank investment funds, corruption and the jurisdiction of tribunal to consider certain fraud allegations.
- LCIA Arbitrations (2015-2016) – related LCIA claims against a Russian mining company and, under a guarantee, against its parent, concerning the supply of coal from Siberia and the threatened insolvency of a related entity.
- LCIA Arbitration (2014-15) – US\$80 million claims by offshore entity in two arbitrations against Russian state-owned energy company and its subsidiary, arising out of sale and purchase of Russian oil exploration company. Issues of fraud, the impact of the EU and US sanctions regime on Russian entities (including as to how they should be given security for costs) and joinder and consolidation under the LCIA Rules 1998 and 2014.
- ICC Arbitration (2014) – dispute involving South-American state-owned entity’s US\$1 billion claim against contractors. Principal issues included: the rights of a party to damages under a contract or at common law depending upon manner of termination; and ability to join a guarantor to arbitral proceedings.
- *Diag Human SE v Czech Republic* [2014] EWHC 1639 (Comm) – arbitration award enforcement action in English Commercial Court against sovereign state. Principal dispute concerned the reliance on issue estoppel as a means of preventing enforcement under the New York Convention.

- UNCITRAL Rules Arbitration (2014) – acting for Belgian trading company in dispute with Colombian coking coal distributor over force majeure allegations arising out of La Niña disruption to Colombian distribution in 2011.
- Zim Integrated Shipping Services Ltd v European Container KS [2013] EWHC 3581 (Comm) – clarification of the court’s jurisdiction under section 44(3) Arbitration Act 1996 to grant interim injunctive relief in support of arbitration and of the extent to which contractual rights come within meaning of “assets” under section 44(3) following *Cetelem v Roust*.
- *Diag Human SE v Czech Republic* [2013] EWHC 3190 (Comm) – dispute over entitlement of award debtor to obtain order for security for costs against award creditor in arbitration award enforcement proceedings, whether permitted under New York Convention and who is the “claimant” for the purposes of the CPR security for costs regime.
- Ad hoc London Arbitration (2014) – high net worth family dispute between New York-based family members concerning high value, well-known works of art (in particular by Monet).
- LCIA Arbitration (2013) – US\$2 billion LCIA dispute concerning the Russian and Ukrainian mining and metals industry involving questions of fraud, reflective loss and entitlement to injunctive relief (led by Joe Smouha QC).
- SCC Arbitration (2010-2014) – US\$450m joint venture dispute between US and Ukrainian partners arising out of the development of Ukrainian gas fields, with the principal issue being as to the valuation of the fields in circumstances where the Ukrainian government had imposed a cap on the sale price for gas (led by Clive Freedman QC).
- ICC Arbitration (2013) – dispute arising out of fraudulent management of Caribbean investment trust (Bahamian law) in Italy and Switzerland.
- LCIA Arbitration (2013) – dispute concerning construction of licence agreement and cutting-edge research agreement between bio-tech research company and global pharmaceutical company, in particular as to the restrictions placed on the former in relation to its genetic engineering of applications (led by Steven Gee QC).
- Latvian Shipping Co v Russian People’s Insurance Co OJSC (“The Ojars Vacietis”) [2012] EWHC 1412 (Comm) (Field J) – section 68 and section 69 appeals arising out of LMAA award, raising issues as to the court’s approach to section 68 challenges and as to the jurisdiction of the court to address challenges to its own decision granting permission to appeal on a point of law.
- LMAA arbitration (2011) – insurance claim in respect of grounding of bulk carrier off Eastern USA raising issues as to scope of marine insurance policies and expert evidence as to damage caused by grounding.
- LMAA arbitration (2011) – acting for a state-owned Chinese chemical company in a LMAA dispute with an Indian commodities supplier.
- LCIA Arbitration (2010) – LCIA dispute arising out of non-performance of an underlying loan contract for a Russian textile company based in Hong Kong and of the loan guarantee. Issues included the validity of a guarantee when the underlying contract has been amended and the power of an arbitrator to order a party to put up security for the claim in LCIA arbitration.
- LMAA arbitrations (2008-2011) – acting for Chinese shipyard in 4 major LMAA arbitration disputes with German buyers of vessels regarding delayed delivery following Typhoon Morakot in 2009.
- *Alphapoint v Rotem Amfert Negev Ltd (“Agiros Dimitrios”)* [2005] 1 Lloyd’s Rep 23 – Commercial Court application under ss.68 and 69 of the Arbitration Act.

## Private international law

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Philip has expertise in a wide-range of private international law work – in jurisdiction and conflict of laws disputes. He is regularly involved in disputes over the jurisdiction of the English court to consider a claim and over the jurisdiction of English arbitral tribunals. He is also instructed as an expert in foreign proceedings on English jurisdictional matters. Philip now speaks regularly on the impact of Brexit on the English jurisdictional regime.

- *M-JWK v Polish Real Estate Investment* (Commercial Court, 2016) – claim by Polish commercial property group subsidiary against Cypriot parent in relation to payments of debts to Raiffeisen Bank under convertible bonds. The group’s assets were held in a closed-end investment fund managed by a fund manager regulated under by the Polish Financial Supervision Authority (the equivalent of the UK FCA). Issues as to: fraud and bad faith relevant to the founding of English court’s jurisdiction; compliance by the fund manager with its obligations under Polish law; whether, under Polish law, a third party payer of a debt to a bank is entitled to be subrogated to the bank’s rights as lender; validity of board resolutions under Cypriot law.
- *Sovarex v Markov* (Commercial Court, 2016) – claim for deceit in relation to creditworthiness of commodities buyer and associated interim freezing relief against buyer and its controlling shareholder. Issue as to jurisdiction of court to grant relief over non-party to arbitration following the clarification of the jurisdiction by Males J in *Cruz City*.
- LCIA Arbitration (2016) – claim by Russian shareholder in Moscow property joint venture with state-owned bank. Issues concerning improper related party transactions, diversion of bank investment funds, corruption and the jurisdiction of tribunal to consider certain fraud allegations.



- ICC Arbitration (2015) – complex multi-jurisdiction dispute involving English entity financing sale and purchase transactions between Chilean commodities traders and Chinese buyers, with disputes in ICC, HKIAC and Beijing Arbitration Commission. Issues include as to jurisdiction of English court in support of London arbitration to freeze proceeds of deceit in Singapore.
- LCIA Arbitration (2016) – claim by Russian shareholder in Moscow property joint venture with state-owned bank. Issues concerning improper related party transactions, corruption and the jurisdiction of tribunal to consider certain fraud allegations.
- *Bonhams 1793 Ltd v Lawson, Zanotti & Ors* (Commercial Court, 2015) – highly publicised dispute concerning the sale of a Ferrari, one of only 6 of its kind, with related arbitration in Florida and disputes over the application of New York law. Applications for security, for the hearing of a preliminary issue and on jurisdiction.
- *Zim Integrated Shipping Services Ltd v European Container KS* [2013] EWHC 3581 (Comm) – clarification of the court’s jurisdiction under section 44(3) Arbitration Act 1996 to grant interim injunctive relief in support of arbitration and of the extent to which contractual rights come within meaning of “assets” under section 44(3) following *Cetelem v Roust* (reported at [2013] EWHC 3581 (Comm) (Males J)).
- *Chinacast Education Corp v Chan & ors* [2013] HKCFI 1855 – dispute concerning one of China’s largest education companies and use of offshore companies to avoid RMB convertibility restrictions. Issues include the extent of the Chabra jurisdiction in injunction proceedings.

## Shipping

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Philip is recommended as a leading junior in shipping disputes. He is described in the shipping directories as “*simply excellent*” (Legal 500 2016). “*He is very hard-working; he rolls up his sleeves, gets on with things and does a very good job*” (Chambers & Partners 2016).

Philip’s shipping practice covers all aspects of dry shipping disputes, including cargo, charterparty, ship finance, and sale and purchase matters. He also has considerable experience of shipbuilding disputes, including those involving Chinese yards following the financial crisis and, more recently, a US\$1 billion dispute involving multiple Panamax vessels being built in South American yards.

- LMAA arbitrations (2017-2018): US\$138 million dispute arising out of barter arrangements between foreign investor and Venezuelan state-owned mining company, including as to shipping on the Orinoco river. Issues as to jurisdiction, fraud and corruption, application of mandatory laws, ability of state to rely on its own national law to negate arbitration agreement. Related ICC arbitration in Zurich and arbitrations in New York.
- *Qingdao Huiquan Shipping Co v Shanghai Dong He Xin Industry Group Co Ltd* [2018] EWHC 3009 (Comm): anti-suit injunction to restrain foreign proceedings, obtained despite considerable elapse of time.
- LMAA Arbitration (2016) – claim by owner of multiple vessels chartered to South American state-owned entity for carriage of iron ore and related products in respect of outstanding sums due by way of hire, with value to be paid in commodities. Issues as to jurisdiction of LMAA tribunal in circumstances of subsequent contracts subject to foreign court jurisdiction, illegality under foreign law and construction of contracts.
- LMAA Arbitration (2016) – claim by South Korean shipyard against buyer under shipbuilding contract in circumstances where payments ceased at early stage of construction, but where buyer alleged sale of vessel by shipyard to third party and claimed set-off for the sale value.
- *GPT v E.ON* (Commercial Court, ongoing) – claims in contract and unjust enrichment in relation to delivery of cargo of wood pellets for power generation, arising out of conflicting accounts as to the contract and bills of lading under which the cargo was said to have been delivered.
- ICC Arbitration (2014) – dispute involving South-American state-owned entity’s US\$1 billion claim against shipbuilders. Principal issues included: the rights of a party to damages under a contract or at common law depending upon manner of termination; and ability to join a guarantor to arbitral proceedings.
- *Zim Integrated Shipping Services Ltd v European Container KS* (Commercial Court 2013) – clarification of the court’s jurisdiction under section 44(3) Arbitration Act 1996 to grant interim injunctive relief in support of arbitration and of the extent to which contractual rights come within meaning of “assets” under section 44(3) following *Cetelem v Roust*(Reported at [2013] EWHC 3581 (Comm) (Males J)).
- *Latvian Shipping Co v Russian People’s Insurance Co OJSC* (“The Ojars Vacietis”) (Commercial Court 2012) – section 68 and section 69 appeals arising out of LMAA award, raising issues as to the court’s approach to section 68 challenges and as to the jurisdiction of the court to address challenges to its own decision granting permission to appeal on a point of law (reported at [2012] EWHC 1412 (Comm) (Field J)).
- LMAA arbitration (2012) – dispute as to liability for commission in a US\$63 million shipbuilding contract involving the London/Hong Kong shipbroker, Korean buyers and a Shanghai shipyard.

- HKIAC arbitration (2011) – dispute concerning alleged frustration in relation to Government Port Authority restrictions at Indian port and raising issues as to the calculation of damages and as to the nature of a State authority’s pronouncements on port entry restrictions.
- LMAA arbitration (2011) – proceedings concerning fire in hold of vessel off Shanghai, raising procedural issues over meaning of the LMAA procedural provisions for interim awards as well as substantive issues regarding apportionment of responsibility between Owners and Charterers as regards deck welding and fire on board.
- *A v B* (Commercial Court 2010) – dispute arising out of breached ship financing contract and subsequent litigation pursuing the debt in the Singapore High Court and in Luxembourg. Judgment successfully obtained following Unless Orders in relation to provision of information regarding Luxembourg banking arrangements.
- LMAA arbitrations (2008-2011) – acting for Chinese shipyard in four major LMAA arbitration disputes with German buyers of vessels regarding delayed delivery following Typhoon Morakot in 2009.
- *Parrott v Parkin* (Commercial Court 2007) – admiralty dispute concerning ownership of yacht, involving questions of constructive trust in circumstances of joint contributions to purchase sum (see [2007] EWHC 210 (Admlty) (Aikens J)).
- *Triton Navigation Ltd v Vitol SA* (“The Nikmary”) (Court of Appeal 2004) – dispute concerning the obligation of a charterer to deliver cargo (led by Vasanti Selvaratnam QC), reported at [2004] 1 Lloyd’s Rep 55 (CA), [2003] 1 Lloyd’s Rep. 151 (Commercial Court).

## Public international law

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Philip has seen an increasing amount of public international law work in recent years, in particular in arbitrations against states and in enforcement actions involving states or state entities. He regularly deals with disputes involving allegations of sovereign immunity, whether in respect of suit or of injunctive relief. Recent cases have included disputes over the rights of states to rely on their own laws to avoid arbitration agreements and to challenge standing in arbitration proceedings, sovereign immunity in the context of freezing injunctions and enforcement actions and the impact of sanctions on the provision of security for costs.

- *Diag Human SE v Czech Republic* PCA Case 2018-20 – ongoing: US\$2.4 billion investment treaty claim against Czech Republic arising out of difficulties in enforcing a 2008 commercial arbitration award (including in England [2014] EWHC 1639 (Comm)).
- *PL Holdings v Poland* (Commercial Court) – ongoing: acting on behalf of PL Holdings in its action to enforce in England a BIT award for PLN 653 million (relating to the Benelux-Poland BIT) against Poland, being resisted by Poland in reliance on *Slovak Republic v Achmea BV* (ECJ case 284/16). Issue as to impact of Brexit on English court application of Achmea.
- Bilateral Investment Treaty arbitration (ongoing) – arbitration and subsequent enforcement action against sovereign state under BIT in relation to allegations of expropriation of investments in banking sector. Issues include as to standing of investor under BIT and as to jurisdiction.
- ICC Arbitration (ongoing) – dispute involving allegations of fraud and corruption in commercial transactions involving state-owned entity. Key issue is as to the right of the state to rely on its own laws to avoid arbitration agreement.
- LCIA Arbitration (2016) – claim by Russian shareholder in Moscow property joint venture with state-owned bank. Issues concerning improper related party transactions, diversion of bank investment funds, corruption and the jurisdiction of tribunal to consider certain fraud allegations.
- LCIA Arbitration (2014-15) – US\$80 million claims by offshore entity in two arbitrations against Russian state-owned energy company and its subsidiary, arising out of sale and purchase of Russian oil exploration company. Issues of fraud, the impact of the EU and US sanctions regime on Russian entities (including as to how they should be given security for costs) and joinder and consolidation under the LCIA Rules 1998 and 2014.
- *Diag Human SE v Czech Republic* (Commercial Court, 2013-14) [2014] EWHC 1639 (Comm), [2013] EWHC 3190 (Comm) – arbitration award enforcement action in English Commercial Court against sovereign state.
- ICC Arbitration (2014) – dispute involving South-American state-owned entity’s US\$1 billion claim against contractors.
- *A v B and ors* (Commercial Court, 2011) [2011] EWHC 2905 (Comm) unreported – application for freezing injunction against London bank over sovereign bond payments by state for payment of bondholder coupons. Issues as to court jurisdiction to grant freezing injunction against third party under *Chabra* jurisdiction where possible sovereign immunity of primary respondent, as to nature of bond payments and whether constituted flawed assets and as to impact of freezing orders of this nature on sovereign debt market.
- Aynak Copper Project, Afghanistan (2012) – advising Global Witness pro bono in their consultation with the Afghan Government over the investment by a Chinese state-owned company into the Aynak Copper Project. Issues of contract structure and of sovereign immunity of Chinese state-owned entities.

## Recommendations

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Excellent - a QC in waiting, and an intelligent and creative advocate. [The Legal 500 UK Bar 2020](#)

He gets into the nitty gritty of cases and comes up with creative ideas and approaches. [Chambers UK Bar 2020](#)

A formidable advocate who rolls up his sleeves and immerses himself in the detail of cases. [The Legal 500 Asia Pacific 2020: The English Bar](#)

Efficient, diligent and intelligent, he is thorough and detailed with a no-nonsense style. [The Legal 500 UK Bar 2020](#)

Unflappable, resourceful and effective. [Chambers UK Bar 2020](#)

He has a very good analytical brain and helps navigate and dive through the case. [Chambers UK Bar 2020](#)

A thorough, diligent and perceptive adviser, willing to roll up his sleeves and really work alongside the client and solicitor team. [The Legal 500 UK Bar 2020](#)

Particularly adept at building relationships with Chinese clients. [The Legal 500 Asia Pacific 2020: The English Bar](#)

He's very thorough and bright, he looks at the detail and he's very creative in his legal arguments. [Chambers UK Bar 2020](#)

Philip is quite capable of handling silk-level work, drafts well and has sound judgement. [Chambers UK Bar 2020](#)

He is great at complex matters. [The Legal 500 UK Bar 2020](#)

A strong senior junior who is capable of handling silk-level work and is very good at drafting. [Chambers UK Bar 2020](#)

He's a very, very good shipping barrister. [Chambers UK Bar 2020](#)

A very strong senior junior who is capable of handling silk-level work... [Chambers UK Bar 2019](#)

A very good, elegant advocate. [Chambers UK Bar 2019](#)

He's very thorough, has an excellent manner with clients and good judgement of which legal arguments to pursue. [Chambers UK Bar 2019](#)

He has a real talent for taking on any kind of case and finding his way through. [Chambers UK Bar 2018](#)

A superstar junior who is responsive, commercial and bright. [Chambers UK Bar 2017](#)