



“relentless excellence delivered with an unmatched speed of response.”

Chambers & Partners

“an incredibly strong reputation for international work.”

“He is extremely bright and probably the most responsive silk I have known in this sector. He gives very clear advice to clients and his advocacy is top-notch.”

Chambers Asia Pacific

Sean Wilken QC has practised in high profile, complex, international and domestic litigation for over 20 years. His caseload has included: the major litigation arising from the 1990's UK domestic property collapse; the consequences of 9/11 and 7/7 domestically and internationally; the international consequences of the 2008 collapse; as well as various international environmental and commercial crises.

He has detailed experience resolving or litigating disputes in the financial; energy; infrastructure; insurance; commodities and construction sectors.

His extensive domestic caseload ranges from N Sea energy disputes; to large scale PFI Projects (M6 Toll Road; Olympics infrastructure; the National Programme for Infrastructure in IT; numerous schools, hospitals, roads, prisons and light rail systems); to the application of UN sanctions in domestic law; to RIPA; to high value property developments in the UK; to the 2012 Olympics; to national security and telecoms issues.

Internationally, his case load has recently included: acting as Counsel for Leighton Contractors Asia in the Shatin-Central Link Public Inquiry in Hong Kong; a US\$5bn dispute over block allocation in the energy sector in Africa; a £1bn dispute over infrastructure in the Middle East; a US\$50m dispute over the funding of oil fields offshore Africa; a UD\$400m dispute over offshore drilling in Africa; disputes totalling over £1.5bn in the UAE; a HK\$3bn dispute over infrastructure; a US\$1.5bn dispute over energy in the Middle East; a BIT dispute over

inbound investment; as well as major mutual and bank collapses in the Caribbean.

In addition to the above, Sean has been instructed in multiple other cases in Hong Kong including: disputes over the design and construction of social housing; a dispute over the renovation of the water systems for Kowloon and Mong Kok; potential disputes over the financial issues arising from the redevelopment of properties in Sha Tin as well as advising on numerous property based HKSE issues.

He has advised and acted in numerous international investment and trade disputes covering international investment treaties, Bilateral Investment Treaties, sovereign guarantees and international financial instruments as well as World Bank, WTO and GATT issues.

He also has extensive experience in crisis management in multiple jurisdictions from the Far to the Middle East to Africa.

Sean has experience in all domestic courts and tribunals as an advocate or arbitrator. His institutional experience embraces (in no particular order) the ICC; LCIA; HKIAC; SIAC; DIAC; ICSID; SCC and UNCITRAL as well as ad hoc arbitrations.

Sean's recent arbitral experience includes: six ad hoc arbitrations; two SCC arbitrations; two DIAC arbitrations; HKIAC arbitrations; SIAC arbitrations; four ICC arbitrations; two LCIA Arbitrations; 3 UNICTRAL Arbitrations in the energy and projects sectors.

Sean has sat as an arbitrator and as Chair of the Appellate Panel on sports arbitrations arising out of the Winter and Summer Olympics (2010; 2012 and 2018).

Sean has also acted as an expert witness on English law before foreign courts and as an examiner taking depositions for US Courts.

As well as being a Silk at the English Bar, Sean is licensed to appear before the Singapore International Commercial Court (SICC).

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## PRACTICE AREAS

- Commercial
- Construction
- Banking & Finance
- Administrative & Public

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## SECTORS

- Energy
- Insurance

- Sport
  - Infrastructure
  - Shipping & Commodities
- 

## PRACTICE AREAS

### COMMERCIAL

Particular expertise in:

- energy – particularly upstream oil and gas including JOAs, PSAs/PSCs, tariffs, pricing, field allocation as well as nuclear energy, the handling and transport of nuclear materials, decommissioning;
- international trade, GATT and WTO as well as FTAs and BITs;
- company and insolvency law; directors' and fiduciaries' duties;
- corporate restructuring, M&A's, due diligence, indemnity and warranty claims, financing;
- banking/finance;
- insurance and reinsurance;
- financial regulation, anti-money laundering, FCPA, Bribery Act and sanctions;
- telecoms, emergent and convergent technologies;
- aviation: aircraft supply, purchase and leaseback; slot allocation disputes; domestic and international regulatory issues;
- private and public international law – including all aspects of conflicts of laws; international treaty interpretation and application; the law of war; control of nuclear energy and materials and UNCLOS III.

### RECENT CASES

Recent cases include a US\$5bn dispute over oil allocations offshore Africa; a US\$0.5bn oil exploration dispute offshore Africa; a US\$300m rig chartering dispute; a US\$2bn rig joint venture dispute; a £20m regulatory dispute over licensing and approvals of commercial waste water disposal; a £3m rail regulatory dispute

Additional expertise in: restitution; economic torts; relevant EU law including State Aids.

### CONSTRUCTION

Sean's construction practice covers domestic and international large scale development, infrastructure and energy projects. From early experience in the Carlton Gate Property Development litigation through the provision of infrastructure for the Olympics to social housing under the PFI regime, he has acted in all types of disputes for all sides of the industry. Recent instructions include acting for Leighton Contractors Asia Limited in the 12 month Shatin – Central Link Public Inquiry; a US\$1bn dispute over the provision of infrastructure in Dubai; a HK\$3bn dispute over the provision of water supplies; several disputes over the construction and operation of WTE plants and power station construction.

Sean has advised on and litigated all forms of contracting and the standard forms of contract with particular

experience in NEC, EPC, project management, financing and insurance issues. He has extensive international arbitration experience.

Sean has been involved in construction and engineering litigation for all of his career, including:

- luxury developments (Carlton Gate and PointWest) in London;
- signature buildings (No 1 Poultry, London);
- the construction of large scale infrastructure (roads, railways, schools, hospitals and docks); and
- complicated engineering projects (LNG facilities, chemical works and large scale water supply and sewage systems).

His experience of complicated engineering works includes:

- retaining wall design and construction for a large port;
- slab reinforcement design and construction for factories, docks and motorway facilities;
- large scale floating slab design and construction for a residential development; and
- groundworks and ground conditions disputes.

## BANKING & FINANCE

Sean has extensive experience of advising on and litigating all types of financial instruments (particularly relating to the financing of infrastructure and energy projects and international trade) including letters of credit, guarantees and bonds. He has advised on and litigated derivatives and swaps disputes including forex and interest rate transactions as well as pool facilities, CDOs and CDSs.

He has dealt with international and domestic accounting standards disputes from the earliest days of his practice ranging from a large scale property investment collapse in Hong Kong (Carrian) to HKSE issues through to regulation by the FRC and the Accounting Standards Board (as was) as well as auditor's negligence.

He has advised and acted in all aspects of domestic and international financial regulation and compliance including FCPA; Bribery Act, AML and sanctions issues. He has acted in several complex, international banking and finance frauds including the associated spin off tracing and asset recovery claims. He has experience of Islamic Finance disputes. He is currently instructed in relation to the investigation of a large banking collapse in the Caribbean.

## ADMINISTRATIVE & PUBLIC

Particular expertise in:

- statutory appeals;
- commercial judicial review;
- public procurement, PFI, PPP and government contracts;
- education and sporting bodies;
- local government finance, CCT and associated issues;
- national security.

Additional expertise in EU and public international law.

#### RECENT CASES

Recent cases include: an international border and force majeure dispute; a £20m commercial judicial review challenging the removal of water disposal licences and approvals and large rail regulatory dispute involving complex issues of public and commercial law

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## SECTORS

### ENERGY

Sean has long-standing experience and expertise in the oil and gas and energy sector. His work covers all aspects of upstream and downstream work: treaty issues; block allocation disputes; FOA/JOA issues; rig and pipeline construction and deployment; long term supply contracts; rig and pipeline deployment; transportation issues; the design, construction, financing and operation of power stations (coal, gas, WTE and nuclear) and grid connection issues. He has further knowledge and expertise in the regulation of nuclear materials and reactors, reprocessing, control and security.

Sean has been instructed in energy disputes throughout the world but with particular emphasis on the Middle and Far East and the former Soviet Union. He was instructed in the *Seadrill Ghana Ltd v Tullow Ghana Ltd* [2018] EWHC 1640 (Comm) case and also instructed by the world's largest oil futures trading company in a dispute arising from the treatment of gasoline cargos afloat. He has been instructed in major insurance and reinsurance claims in the nuclear industry. He was also lead counsel in the case of *Shell v HMRC* a leading case on the taxation and interpretation of long term oil and gas sale contracts in the North Sea. In addition he was junior counsel in the case of *Scottish Power v Britoil*, the leading case concerning the proper construction for long term oil and gas supply contracts.

### INSURANCE

Over the last 20 years, Sean has dealt with all types of insurance disputes: brokerage disputes; coverage issues; insurance frauds; and reinsurance treaties in the UK, USA and worldwide.

Sean has advised on and acted in insurance and reinsurance issues covering: nuclear incidents; the transport and refining of oil; the financial cover for large property developments; environmental incidents and accidents; aircraft supply and purchase; terrorism; financial services coverage and reinsurance; and insurance regulation.

### SPORT

- Chairing two Team GB selection Arbitrations for the 2018 Winter Olympics;
- Advising and acting for British Ski and Snowboard in relation to disputes over the appointment and removal of directors and officials;
- Acted for Team GB in the selection disputes for the 2012 Olympics;
- Sat as the legal member resolving Olympic and selection disputes in seven cases in 2010;
- Instructed by a prominent international test cricketer to challenge the ECB's Rules on qualifying cricketers;

- UK Representative on the Federation International du Ski Legal & Safety Committee. UK FIS delegate (2016)

## INFRASTRUCTURE

Sean's practice since being appointed Queen's Counsel in 2010 has primarily involved advising and acting in complex, high value international and domestic disputes.

In his recent practice, he has been heavily involved in high value cases emanating from large scale infrastructure and projects disputes across the Middle East and Asia involving – the KRI; UAE; Syria; Pakistan; the PRC and Hong Kong.

Sean has experience in rail and light rail disputes. He has acted:

- For Leighton Contractors Asia Ltd in the Shatin-Central Link Public Inquiry;
- for Croydon Tramlink against Transport for London in a long running series of cases;
- in a multi-party dispute over the construction of rail facilities for the London Olympics;
- for Virgin Rail in disputes over railway operations and infrastructure upgrades;
- against Network Rail in further disputes over financing and infrastructure upgrades;
- for a major financing house in arbitration and before the Commercial Court and the Court of Appeal relating to the provision of and financing for upgraded rolling stock in the UK.

Other items in Sean's recent work load has included – a £1bn UAE dispute; an HKIAC Arbitration over the HK\$3bn redevelopment of the Kowloon water supply; disputes over financing and security issues in Iraq; oilfield developments offshore Nigeria; oilfield development offshore Kenya; next generation electricity generation in E Europe; a €4bn M&A dispute over the acquisition of chemical and energy plants worldwide; international commodity and transport disputes involving Russia and Canada; international commodity and shipping disputes involving US, W Africa and E Europe; international aircraft sales between Russia, Germany and Switzerland and commercial and insolvency disputes in Hong Kong.

## SHIPPING & COMMODITIES

Sean has advised and acted in a wide range of commodity disputes including: international metals and rare earth trading; oil futures; long term oil and gas sales contracts; trading afloat; take and/or pay; and energy put and call options.

Sean's dry shipping experience runs alongside his commodities practice dealing with the transport of commodities by sea, rail and road under the various sets of standard terms as well as the associated private and public international law issues. By way of example, from 2006 – 2011, Sean was extensively involved the largest class action ever arising from the handling of oil cargoes afloat involving claims and litigation in five countries embracing issues of shipping, environmental, insurance, private international, public international and criminal law.

Sean has in-depth litigation and arbitration experience before all the relevant Courts and bodies – the English Courts, ICC, LCIA, HKIAC, SIAC, DIAC, UNCITRAL, SCC and ICSID – and is licenced in Singapore and registered with the Singapore International Commercial Court.

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## CASES

### INTERNATIONAL AND COMMERCIAL

**Shatin-Central Link Public Inquiry – 2018 – 2019 – <http://www.coi-hh.gov.hk>**

**Seadrill Ghana Ltd v Tullow Ghana Ltd [2018] EWHC 1640 (Comm)**

**Ad Hoc Arbitration 2016 – 7 –disputes over offshore field allocation**

**Ad Hoc Arbitration 2015 – a US\$5bn dispute over offshore field allocation**

**UNCITRAL Arbitration 2015 – a US\$240m dispute over copper mining in Africa**

**ICC Arbitration 2014 – a US\$50m dispute over oil field cash calls**

**ICC Arbitration 2014 – a \$1bn dispute over commodities trading**

**LCIA Arbitration 2014 – a US\$60m dispute over infrastructure in the Middle East**

**Section 67 Arbitration Act 1996 Appeal – an appeal against an LCIA award in a £100m privatisation dispute**

**DIAC Arbitration 2013 – a US\$1.5bn dispute over infrastructure in the Middle East**

**DIAC Arbitration 2013 – a US\$100m dispute over office development in the Middle East**

**LCIA Arbitration 2012 – a US\$150m dispute over oil field development in Iraq**

**HKIAC Arbitration 2012 – a HK\$3bn dispute over infrastructure**

**ICC Arbitration 2012 – a US\$20m dispute over oil field cash calls**

**200m pound Freezing Injunction 2011**

**ICC Arbitration 2011**

**ICC Arbitration 2011**

**Motto & Ors v Trafigura [2009 – 2011]**

Multi-jurisdictional, multi-million pound dispute arising out of the voyage of the Probo Koala

**Dana Gas v Woodside Exploration [2010]**

US\$1bn dispute over off shore development of oil fields

**ICC Arbitration 2008**

**UNCITRAL Arbitration 2008**

**LCIA Arbitration 2008**

**Shell UK v Revenue & Customs Commissioners (Sp Comm) 2 August 2007 Lawtel 28 August 2007**

£200m dispute over the tax liabilities flowing from the redevelopment of the infrastructure of the Brent Field

**Tramtrack Croydon Ltd v London Bus Services Ltd (QBD)** 31 January 2007 [2007] EWHC 107 (Comm)

**London Bus Services Ltd v Tramtrack Croydon Ltd (QBD)** 19 December 2006 [2006] EWCA Civ 1743

Long-term litigation arising out of the construction, management, operation and financing of the Croydon Light Rail system; a large tram network constructed in suburban London under the PFI regime.

**RWE Nukem Ltd v AEA Technology Plc (CA)** 20 October 2005 [2005] EWCA Civ 1192

**Thames Trains v Network Rail Infrastructure Ltd [2004]**

**Carmichael & Leese v National Power Plc 18 November 1999 IRLR 301; 1 WLR 2042** 18 November 1999

**Scottish Power v Britoil Exploration (CA)** TLR 2/12/1997

## CONSTRUCTION

2018 Acting for **Leighton Contractors (Asia) Ltd** in the **3 month MTR Public Inquiry** in Hong Kong

**Masons (A Firm) v WD King Ltd & Anor, Court of Appeal – Technology and Construction Court [2003] EWHC 3124 (TCC)**

**Secretary of State for the Foreign and Commonwealth Office v (i) Percy Thomas Partnership; (ii) Kier International Ltd (QBD)** 22 January 1998 (1998) 65 Con LR 11

**Mitsui Babcock v John Brown Engineering (QBD) 11 September 1996 (1997) 51 Con LR 129** 11 September 1996

## ADMINISTRATIVE & PUBLIC LAW

**U v SSHD SC/32/2005**

**MK v SSHD SC 33-39; 29/2004**

**Y & Ors v SSHD SC 33-39; 41/2005**

**Bedfordshire County Council v Fitzpatrick Contractors Ltd (QBD)** (2001) BLR 226; 62 Con LR 64; (1998) CILL 1440

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## RECOMMENDATIONS

Since taking silk in 2010, he has earned plaudits as a “heavyweight silk” (The Lawyer) who is “fantastically efficient and exceptionally user friendly” and whose intellectual capabilities and understanding of technically important details are widely recognised (Chambers & Partners). He is listed in Chambers and Partners as a leading silk in Energy, Construction and International Arbitration. The Legal 500 also list him in the fields of Construction and International Arbitration.

He was consistently named as a leading lawyer in International Arbitration (Counsel) and Construction Law by Legal 500 and by Chambers & Partners and in Legal Experts 2002-2015. He had been rated as a Leading Junior in Administrative and Employment Law by The Lawyer and Legal Business on three occasions and as one of the top 80 barristers under the age of 40 by Legal Business.

Sean has been shortlisted for Construction and Energy Silk of the Year at the Legal 500 UK Awards 2018.

## QUOTES

*"Relentless excellence delivered with an unmatched speed of response."* Chambers & Partners 2019

*"Bright, unbelievably quick and someone who knows the sector both legally and technically." "He provides excellence delivered with an unmatched speed of response."* Chambers & Partners 2019

*"A truly creative silk, his strategic thinking and advice is often many steps ahead of his opposing parties."* Legal 500 2018

*His advice is direct, concise and enables clients to formulate a successful commercial strategy without delay." "Has excellent advocacy skills. Sean is calm, certain and measured.* Chambers & Partners 2018

*"He is extremely clever, and hugely experienced in energy and resources disputes." "A great strategist."* Chambers & Partners 2018

*"Very clever, and always on top of the detail."* Legal 500 2018

*"Very responsive and a sharp intellect, he's a joy to work with."* Legal 500 2018

*"Very responsive and user-friendly. He has a very sharp, analytical mind and is a great team mate."* Chambers & Partners 2018

*"He attracts instructions such as multimillion-pound defect claims."* Legal 500 2017

*"An established practitioner with an international caseload."* Legal 500 2017

*"He has a very strong intellect"* Legal 500 2017

*"A very impressive and very clever man." "He really shone in his tactics both legally and commercially, and he was absolutely first class on his feet. He strikes the right balance between being forceful and gently persuasive."* Chambers & Partners 2017

*"He really shone with his legal and commercial tactics." "Incredibly quick and a fabulous advocate."* Chambers & Partners 2017

*"Recommended for complex international and domestic cases."* Legal 500 2016

*"He is unbelievably clever and turns work around in no time at all." "He gives robust advice."* Chambers & Partners 2016

*"A user-friendly barrister with incisive and strong analytical skills."* Legal 500 2015

*"Super-clever: he sees legal arguments no one else has, and is a brilliant strategist."* Legal 500 2015

*"He has a user-friendly, commercial approach."* Legal 500 2015

*"an incredibly strong reputation for international work."*

*"He is extremely bright and probably the most responsive silk I have known in this sector. He gives very clear advice to clients and his advocacy is top-notch."* Chambers Asia-Pacific 2015

*"He is very, very quick in terms of his turnaround of papers and he gives very pragmatic advice." "He gets to the*

*heart of the issue instantly, and it doesn't take him long at all to figure what a case is all about."*

*"He has seen all the arguments, and he knows what will work and what won't work. He has very good judgement and is quick and efficient."*

*"He is extremely good, unbelievably clever, efficient and attentive." Chambers & Partners 2015*

*"A key part of the client legal team."*

*"Unerring and efficient." "He impresses with his direct, succinct advice."*

*"He takes a robust, no-nonsense approach."*

*"His pleadings are particularly impressive and his ability to grasp the key issues quickly in a case is superb." "He turns work round fast and gives very clear advice."*

*"A highly intellectual silk with a good track record on public law energy disputes."*

*"He has impeccable technical knowledge of both the energy sector and black letter law." Chambers & Partners 2014*

*"Sean Wilken QC's "pleadings are particularly impressive and his ability to grasp the key issues quickly in a case is superb." Instructing solicitors value the speed with which he works: "He is one of the most responsive barristers that I have worked with, which makes complex and time-pressured matters easy.""*

*"so clever and so very cerebral," Chambers & Partners 2013*

*"ferociously clever"*

*"settled into his position as silk to great acclaim"*

*"one of the brightest men at the Bar."*

*"has particular expertise in matters arising out of the oil industry."*

*"exceptionally capable and intelligent"*

*"has a "fantastic intellect, is a brilliant team player and an effective advocate.""*

*"continues to be involved in a heavyweight roster of cases" Chambers & Partners 2012*

*"heavyweight silk" The Lawyer*

*"he is well known for possessing excellent drafting skills" Chambers & Partners*

*"fantastically efficient and exceptionally user friendly"*

*"wins recognition for his intellectual capabilities and understanding of often technically important details"*

*"Sean Wilken took silk this year, something which came as no surprise to anybody"*

*"reliable, clever, and very quick at turning around"*

*"extremely clever and incisive"; "always instills confidence" Chambers & Partners*

*"highly rated" Chambers & Partners*

*"impresses with his appetite for hard work and his "driven approach" to his cases. He has a particular interest in infrastructure projects, as well as bonds, warranties and guarantees, and is "the man you need if you want a case chiselled away at." Chambers & Partners*

*"phenomenally bright and enthusiastic" who "turns work round fast" and gives "clear statements" of his advice Chambers & Partners*

*"prompt, incisive, well-thought-out advice" Chambers & Partners*

*"clients find Sean Wilken's "short, pithy and intellectual" approach a tonic in complex many layered disputes ... a potent force in the marketplace" Chambers & Partners*

*"absolutely top-notch" "gets it right pretty much all of the time" Chambers & Partners*

*"brilliant on his feet", "infinitely better as an advocate than most of the construction bar" Chambers & Partners*

*"personable and ambitious" and "ferociously bright and with a first-class mind" Chambers & Partners*

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## APPOINTMENTS

QC (2010)

HM Attorney General's Junior Counsel 2003 – 2010

Legal Member of the Great Britain Selectors Panel (Skiing) for the 2010 Winter Games

UK Member of the Federation International du Ski Legal Committee

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## MEMBERSHIPS

- Bar European Group
  - COMBAR
  - IBA
  - International Law Association
  - London Common Law & Commercial Bar Association
  - TECBAR
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## QUALIFICATIONS

LCIA Member and listed Arbitrator

CEDR Accredited Mediator

ACI Mediator

LawWorks Mediator

City University, London Diploma in Law (Distinction): 1989-90

Universite d'Aix Marseilles III ISCL Diplome in French: 1989

Brasenose College, Oxford Double First in English: 1986-89

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## ADDITIONAL INFORMATION

### LANGUAGES

Sean speaks French, German and some Spanish.

### OTHER PROFESSIONAL ACTIVITIES

Head of Chambers in 39 Essex Street International, Maxwell Chambers, Singapore 2012 – 2014

Author of Wilken & Ors *The Law of Waiver, Variation and Estoppel* (Wiley then OUP) 1998; 2002; 2012 Eds 1 – 3

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Contributor to works on construction, commercial and media law

Interviewed by In House Lawyer on more than one occasion; by Legal Networks Television and writes for The Lawyer; Commercial Lawyer; and Legal Business

Advisor to several Bar Council Committees

Taught at the LSE, at St Edmund Hall, Oxford and on the LLM in Advanced Litigation at Nottingham Law School. Frequently lectures on commercial and public law.

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