

## Simon C Milnes KC

**SILK: 2022 | CALL: 2005 (ENGLAND AND WALES); 2010 (BRITISH VIRGIN ISLANDS)**

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Languages: Mandarin Chinese (proficient)



### Overview

Simon specialises in advocacy and strategic advice in international commercial disputes, especially in the fields of energy and commodities, shipping, shipbuilding and offshore installation construction, insurance/reinsurance, infrastructure and projects, shareholder/post-M&A, and civil fraud. His caseload typically includes both contractual claims and fraud-related disputes requiring interim relief, including freezing and anti-suit injunctions.

Asia is a particular focus of Simon's work. He speaks and reads Chinese (Mandarin), which he uses in working with Chinese-language documents and presentation of evidence. He was based in Singapore from 2010 – 2016 and has acted in arbitrations seated in Singapore, Hong Kong, Korea, Malaysia, Thailand and the Philippines as well as the UK and Caribbean jurisdictions. He is experienced in handling and presenting submissions involving other systems of law and in cross-examining expert witnesses.

Simon was called to the British Virgin Islands (BVI) Bar in 2010 and has acted in multiple matters in the BVI High Court.

Simon regularly sits as an arbitrator in London, Singapore and Hong Kong, and is also a qualified mediator.

### Education

- Georgetown University Law Center: LLM, Distinction and Dean's List Honors
- City University, London: Postgraduate Diploma in Law
- London School of Economics: MSc in International Relations,

### Publications

- *MacGillivray on Insurance Law* (Sweet & Maxwell: 12th edn 2012, 13th edn 2015) (co-author).
- 'The Rise of Environmental Law in International Dispute Resolution: The Inter-American Court of Human Rights Issues a Landmark Advisory Opinion on the Environment and Human Rights' [2018] Yearbook of International Environmental Law (co-author).
- 'Bolivia and Chile in The Hague: Can They Quiet the Ghosts of the Pacific War, and Thrive Together in the 21st Century?' *Opinio Juris* (27 March 2018) (co-author).

### Professional memberships

- American Society of International Law
- National University of Singapore: Adjunct Fellow
- SIAC: member of reserve panel of arbitrators

Distinction

- University of Oxford, Lincoln College: BA in Modern History, First Class

## Lectures/talks

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- 'Remedies and Causation in Climate Change Litigation': Environmental Dispute Resolution and Small States conference, Queen Mary University and WilmerHale LLP (7 September 2018).
- 'Anti-Suit Injunctions': Second Annual Arbitration Conference, Centro de Arbitraje y Conciliación, Bogota, Colombia (April 2018).
- 'Thorny Issues on Termination of Ship and Oil Rig Building Contracts': Singapore Chamber of Maritime Arbitration (2017).

## Example cases

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### Energy and commodities

- LCIA Arbitration (confidential) (ongoing) – defending claim for non-performance of a term contract for sale of Russian coal (USD 70 million).
- SIAC Arbitration (confidential) (2022) – acting for claimant, a major Japanese trading house, in claim for damages for non-performance of contract with a Chinese state-owned company for sale/purchase of metallurgical coal.
- SIAC Arbitration (confidential) (ongoing) – acting for claimant invoice financing company in claim for payment on multiple assigned invoices on contracts for sale of iron ore to Chinese buyer.

### Civil fraud

- *Wenda Co Ltd v Wang Jinhong & others* (Commercial Court, ongoing) – claim by large China-based exporter of food ingredient chemicals against its former CFO and director for misappropriation of company assets.
- *SGS Universal v Domidias* (BVI, 2021; English Commercial Court, 2021), acting for defendants in claim for alleged fraud and unlawful means conspiracy related to a call option agreement in respect of a shareholding in Vladivostok commercial port.
- An arbitration (confidential) (2022) relating to claims for delivery-up and fraudulent disappearance of large volumes of fruit juice concentrate in bonded storage in the EU.

### Jurisdiction, conflicts and enforcement

- An arbitration claim in the Commercial Court (confidential) (2021 – 2022), obtaining urgent anti-suit injunction against Malta-based bank arising out of disputed invoices on sales of scrap steel.
- SIAC arbitration (confidential) obtaining an anti-suit injunction against a South Asian state-owned oil company.
- In English court (subject to confidentiality restrictions), advising a high net worth individual in relation to a potential anti-suit injunction application relating to harassment, threatened defamation and threatened litigation in US courts.

### Insurance and reinsurance

- *Greggs Plc v Zurich Insurance Plc* [2022] EWHC 2545 (Comm) – acting for the insured on high-value claim under business interruption insurance for losses caused by COVID-19: £150 million claim; litigation settled after preliminary issues trial (led by Christopher Hancock KC).
- An arbitration (confidential) – defending a claim under a reinsurance (retrocession) treaty on the ground that the treaty had been induced by fraudulent under-statements of premium income from certain high risk markets.

## Shipping, ship-building and offshore construction

- LMAA arbitration (confidential) (ongoing) – time charter, defending claim by owners for damages for alleged late delivery based on charterers’ deduction, later reversed, from purportedly last hire statement being a binding election as to redelivery date.
- LMAA arbitration (confidential) (ongoing) – ship conversion contract, defending shipyard on claim by buyer that shipyard negligence during works resulted in a fire and associated engine room damage.
- SCMA arbitration (confidential) (2021) – bareboat charter of large passenger cruise ship, representing owner in claim against charterer for failure to maintain the vessel and equipment in required condition (€15 million).

## Arbitration

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Simon has extensive experience of representing clients in arbitration under a range of institutional rules (ICC, LCIA, SIAC, HKIAC, LMAA and ad hoc arbitrations). His recent cases include:

- An ICC arbitration relating to a co-investment by Icelandic and Bulgarian investors in a Bulgarian bank, including allegations of fraud and dishonesty.
- An LCIA arbitration claim for c. US\$ 120 million relating to construction of the world’s largest drillship.
- A procedurally complex ICC arbitration on a US\$ 40 million term contract for the sale of coal from Venezuela.
- A groundbreaking arbitration under the SIAC expedited procedure and the ability of SIAC arbitration rules to prevail over other terms in the parties’ contract (appeal reported as [AQZ v ARA](#) [2015] SGHC 49).
- An ICC arbitration concerning an electricity offtake agreement involving a Romanian state hydropower company.
- An ICC arbitration arising out of a contract for earth observation satellite services.
- A LMAA arbitration concerning “hull-swapping” at a Korean shipyard.
- Several shipbuilding arbitrations for Chinese clients concerning issues of delay, technical defects and cancellations.

He also regularly acts in court proceedings connected with arbitration, such as applications for anti-suit injunctions, enforcement of arbitral awards and challenges/appeals from arbitral awards including:

- [Isabella v Shagang](#) [2012] EWHC 1077, [2012] 1 CLC 899, [2012] 2 All ER (Comm) 461, [2012] 2 Lloyd’s Rep 61 (challenge for procedural unfairness and appeal on a point of law).
- [Republic of Serbia v Imagesat International NV](#) [2009] EWHC 2859 (jurisdictional challenge).
- *Carbon Products International v Open Joint Stock Company Kremenchug Plant of Technical Carbon* (unreported) (enforcement of arbitral award).
- *Golden Feng Inc v Sanko Steamship Company*, 2013 Folio 385 (successfully defending shipowner against a s. 69 appeal on a point of law relating to alleged “hull swapping”).

Simon also sits as arbitrator and has conducted several arbitral proceedings up to and including the award stage.

## Banking and finance

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Simon has acted for various international banks, especially in cases concerning security for commercial transactions and financing of international trade. His areas of specialist expertise, in which he has acted in contentious cases, include:

- Letters of credit
- Bills of exchange
- Security documentation, pledges and liens

He has also acted in numerous disputes arising out of derivatives contracts on the ISDA 1992 form.

He also acted as junior counsel in UK and BVI proceedings in major international litigation concerning (*inter alia*) ownership and management of a bank based on the CIS region, including Russia, Kazakhstan, Ukraine, Armenia, and Georgia (*JSC BTA Bank v Abyazov and others*).

Simon also acted for the partial owner (via holding companies) of a Bulgarian bank in an ICC arbitration involving allegations of dishonest payments and breach of fiduciary duties.

## Commercial law

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Simon has wide experience in commercial dispute resolution, having acted as sole or lead counsel in disputes – mostly in arbitration – concerning:

- Commodity trading
- Infrastructure and projects
- Joint ventures and Post-M&A
- Mining
- Oil rig construction
- Power plant construction
- Shipping and shipbuilding

For more details, please see under ‘Arbitration’ and ‘Energy and Natural Resources’.

## Commodities and international trade

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Simon has specialist experience in commodity trading disputes. He has represented clients in contentious matters including:

- Representing a well-known independent oil trading firm in relation to a long-term supply contract for the sale of Low Sulphur Fuel Oil to the Sri Lanka state petroleum company for power generation.
- Representing a different well-known independent oil trading firm in relation to alleged frustration of a contract for the FOB sale of oil on barges in the Volga river.
- Various arbitrations concerning the sale of Indonesian coal, including issues of pricing, existence of an available market and alleged economic duress.
- A dispute concerning sale of a cargo of Nigerian crude oil to a Middle Eastern national oil company.
- Arbitrations under the GAFTA and FOSFA rules concerning sales of grain and vegetable oils.

## Conflicts of law and jurisdiction

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Simon is well versed in conflict of laws and jurisdictional issues (also known as private international law), having acted in the following mandates:

- Obtaining an anti-suit injunction against a Sri Lanka state-owned company.
- Advising a high net worth individual in relation to a potential anti-suit injunction application (English court, subject to confidentiality restrictions).
- Advising Munich Re Capital on a complex conflict of laws issue concerning European choice of law rules in reinsurance (*Munich Re Capital and others v Mareb Yemen Insurance Co.*, 2009 Folio 703).
- Representing a Serbian defence company in relation to a procedurally unusual ‘advisory opinion’ of the English Court on enforcement issues (*Westacre Investments Inc v Yugoimport SDPR*, [2008] EWHC 801 (Comm), [2009] 1 All ER (Comm) 780).

## Energy and natural resources

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Simon has extensive experience in energy-related disputes and has been consistently ranked as a recommended practitioner in this field (*The Legal 500*, 2016; *The Legal 500*, 2017 – Tier 1). His recent experience includes:

- Representing oil rig construction yards in Singapore on cancellation and postponement disputes.

- Representing a Chinese shipyard in a construction dispute arising out cancellation of the contract for the world's largest drillship, a 'Multi Purpose FPSO' combined with drillship.
- A joint venture dispute relating to the development of a coal mine and mine-mouth power plant in Kalimantan, Indonesia
- Representing UK contractors in a dispute regarding barges specially adapted for offshore wind farm construction work.
- Representing a well-known independent oil trading firm in relation to a long-term supply contract for the sale of Low Sulphur Gas Oil to the Sri Lanka state petroleum company for power generation.
- Representing an Indian company in a dispute over purchase of Indonesian coal (alleged *force majeure* and pricing issues).

## Environment and human rights

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Simon complements his energy-related work with an interest in disputes concerning environmental impacts. Simon recently advised a global NGO on issues of banking confidentiality relating to the controversial Adani mine / port development in Queensland Australia. He has also published [articles](#) on [cross-border environmental human rights claims](#).

## Fraud

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Simon has extensive experience of fraud-related disputes. He is currently acting in:

- Defending a claim for alleged fraud and unlawful means conspiracy related to a call option agreement in respect of a shareholding in Vladivostok's commercial port (led by Blair Leahy QC)
- A claim by a Chinese company for alleged fraud and breach of fiduciary duty (details confidential at present)

In 2010-11, Simon acted as junior counsel in *JSC BTA Bank v Ablyazov and others*, in both English and BVI proceedings. In March 2010, a team of Duncan Matthews QC with Simon as his junior succeeded in having the BVI freezing injunction against the bank's former chairman, Mukhtar Ablyazov, set aside on the basis that the case of fraud pleaded against him was too speculative. After relocating to Singapore in late 2010, Simon was retained as a member of the counsel team to continue advising on various aspects of the case.

Simon's other fraud disputes experience includes:

- Defending a Bulgarian financial investor against allegations of fraud and dishonesty (ICC arbitration).
- Defending a German financier against allegations of fraudulent secret payments (ICC arbitration).
- Representing the alleged victims of an allegedly fraudulent property investment scheme (English law).
- Advising in relation to allegations of breach of fiduciary duty by management of a tobacco firm involving alleged diversions of cigarettes for illicit sale (English law).
- Advising a former board member of a charity in relation to fiduciary liability (English law).

## Infrastructure projects

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Much of Simon's practice focuses on infrastructure and projects work, especially in emerging markets, above all the Asia-Pacific region, for example:

- A joint venture dispute relating to the development of a coal mine and mine-mouth power plant in Kalimantan, Indonesia.
- EPC contracts, e.g. disputes arising from the supply of specialised components for power plant construction.
- Advising in relation to a shareholder dispute over ownership of the Grand Bahama Port Authority.

## Insurance and reinsurance

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Simon has specialist knowledge of insurance and reinsurance law. He has acted in numerous reinsurance arbitrations, especially in the Asia-Pacific region including arbitrations seated in the Philippines, Malaysia and Thailand. He also undertakes advice and advocacy work in relation to business interruption policies, directors' and officers' liability insurance, and contractors all risks policies and all types of marine and transportation insurance.

His recent cases include:

- Defending a claim under a retrocession treaty on the ground that the treaty had been induced by fraudulent under-statements of premium income from certain high risk markets (arbitration).
- Advising on issues of coverage under marine insurance policies.
- Representing reinsureds in reinsurance claims arising from the catastrophic Thai floods losses of 2011.
- Advising in relation to aggregation of claims under a financial advisory firm's negligence liability insurance.
- Advised on constructive total loss under war risks insurance policy resulting from seizure of vessel by authorities in an African jurisdiction for suspected smuggling.

From 2010 to 2015, Simon was a co-author of the leading practitioner's textbook, MacGillivray on Insurance Law (12th Ed, 2012, 13th Ed, 2015, and interim supplements).

## Public international law

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Simon has strong credentials in the specialist field of public international law, having studied it at Masters level at Georgetown University (ranked no. 2 in the United States for international law) and having acted as junior to Maurice Mendelson QC in *Republic of Serbia v ImageSat International NV* [2009] EWHC 2859, an appeal arising from an ICC arbitration award concerned with State succession issues. Simon undertakes advisory work in relation to jurisdiction, immunities, international organisational law, treaty interpretation and international investment law.

In 2017, Simon addressed the Inter-American Court of Human Rights in oral submissions in the proceedings leading to its landmark [advisory opinion](#) on Environment and Human Rights, published in February 2018.

## Shipping and transport

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Simon regularly acts in cases relating to charterparties (time and voyage), bills of lading, sale of goods carried by sea and shipbuilding contracts.

He was named with Timothy Young QC as a "Top Ten" maritime lawyer (2015) by Lloyd's List and has regularly been ranked in leading directories for shipping work.

His previous cases include:

- *Isabella v Shagang*, 'The Aquafaith' [2012] EWHC 1077, [2012] 1 CLC 899, [2012] 2 All ER (Comm) 461, [2012] 2 Lloyd's Rep 61 concerning applicability of the *White and Carter* principle to time charters.
- The MSC Napoli group litigation (2008-2010) – bill of lading claims (eventually settled out of court) by the owners of cargo aboard the MSC Napoli which suffered a catastrophic hull failure and was deliberately beached on the English coast.
- *The MSC Napoli* – arbitration claims involving the salvors and recyclers of sections of the hull of the 'MSC Napoli' after its deliberate demolition.
- A claim under a container ship operators' joint venture arising out of a fire caused by allegedly dangerous cargo.
- Defending claims under a general cargo ships pooling agreement.

## Recommendations

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Simon is a very good advocate, very calm and persuasive, and his advice is very clear, practical and obviously the product of very careful consideration. [The Legal 500 UK Bar 2024](#)

His written advocacy is strong and he comes up with creative arguments. As an oral advocate, Simon can be incisive without being unnecessarily aggressive. [The Legal 500 UK Bar 2024](#)

Simon has a great legal mind and is a strong communicator and strategist. [Chambers UK Bar 2024](#)

Simon is an excellent barrister who is very amicable and user-friendly. [Chambers UK Bar 2024](#)

Simon is very sharp and commercially astute. [Chambers UK Bar 2024](#)

He is brilliant. The legal opinion he provided was very useful. It has helped me look at the issue with a fresh perspective. [Chambers Asia-Pacific 2024](#)

Combines legal skills such as writing and analysis and deduction, and legal knowledge with pure genius. [The Legal 500 UK Bar 2023](#)

He is a gift to the profession, a great counsel, quick to identify and comprehend the issues and mechanisms however intricate and technical. [The Legal 500 UK Bar 2022](#)

All the right cross-cultural skills, language skills and arbitrator skills. [Chambers Asia Pacific 2022](#)

Simon has great sense of how a judge will see the case and a great sense of bringing the various ingredients together. His knowledge of Chinese is useful, and his advocacy is tip-top. It is useful that Simon can handle cross border and multi jurisdictional issues. [The Legal 500 Asia Pacific 2023: The English Bar](#)

Simon is very commercial and practical in his advice and is able to understand Mandarin, which is extremely valuable in cases involving Chinese parties, particularly when the personnel and client representatives are more comfortable in Mandarin. [The Legal 500: Asia Pacific 2023: The English Bar](#)

A great strategist, a genius in getting the best out of his clients and instructing solicitors in building a case. [The Legal 500 Asia Pacific 2022: The English Bar](#)

A bright and commercial junior with experience in both London and Singapore. [The Legal 500 UK Bar 2021](#)

He is absolutely spectacular and his drafting is unimpeachably good. [Chambers Global 2020](#)

He is just a genius - his analysis is so thorough. [Chambers Global 2020](#)

Able to process both the legal and political nuances of even the most sensitive matters. [The Legal 500 Asia Pacific 2020: The English Bar](#)

A very bright and commercially astute barrister who gets to the point quickly. [The Legal 500 UK Bar 2020](#)

Insightful, and provides very helpful ideas. [The Legal 500 Asia Pacific 2019: The English Bar](#)

Extremely intelligent and simply brilliant. [The Legal 500 Asia Pacific 2016](#)

He is good on his feet, thinks off-the-cuff very well, speaks confidently without notes and is dogged and determined in pursuit of the case. [Chambers Asia Pacific 2015](#)

A source of well-thought-through pragmatic advice. [The Legal 500 UK Bar 2018](#)

He is very enthusiastic, with Mandarin skills that are helpful when dealing with Chinese parties. [The Legal 500 UK Bar 2018](#)