

## Wendy Miles KC

**SILK: 2015 | CALL: 2020 (ENGLAND AND WALES); 1994 (NEW ZEALAND); 2000 (SOLICITOR, ENGLAND AND WALES)**

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### Overview

Wendy is a specialist in international arbitration and dispute resolution with a focus on private and public international law.

With over 25 years of experience, Wendy has advised on international law matters and conducted arbitrations under all the major institutions and ad hoc. She has advised a wide range of multinationals, including corporates, sovereign States and State entities and multilateral State organisations.

Wendy has assisted clients across numerous sectors, including energy, natural resources, banking, insurance, financial services, gaming, manufacturing, pharmaceutical, licensing, telecommunications and construction. She has sat as arbitrator since 2005, as sole, co-arbitrator and chair under most major arbitral institutions. Wendy has been appointed by the United Kingdom to the ICSID Panel of arbitrators and ICSID Panel of conciliators effective from 10 November 2020.

In the field of climate change and finance, Wendy acts as global coordinating counsel to various major corporates in relation to climate change transition, disclosure, reporting, compliance and investment. She regularly advises investors and States in respect of climate related physical, transition and litigation risk. She works closely with a number of States in relation to climate transition regulatory structures to mobilise finance and formulate climate investment policy. She also works closely with the International Chamber of Commerce (ICC) and has represented it at the Conferences of the Parties on climate since 2015.

### Professional memberships

- Executive Committee, Foundation International Advocacy in Arbitration: Chair
- Swedish Arbitration Association: Board Member
- Arbitrators & Mediators Institute, NZ: Board Member
- P.R.I.M.E. Panel of Experts
- UK DIT Investment External Trade Advisor Group (ETAG)

### Recent publications

- *ICC Climate Change Related Disputes and Arbitration*, ICC Publications, (November 2019)
- "Arbitral Institutions and the Enforcement of Climate Change: The Role of ICSID", *ICSID Review*, Vol. 34, No 1 (2019), pp 1-31.
- "The OECD BEPS Action Plan and Tax Considerations for Investors," *AVCA Legal & Regulatory Bulletin* (2019)
- "The Inevitable Policy Response to Climate Change," *Private Funds Management* (November, 2018)

- “Climate Change Related Financial Risk, Spotlight on Reporting,” *Practical Law* (May, 2018)
- “International Boundary Disputes and Natural Resources,” *International Arbitration in the Energy Sector* (April, 2018)
- “Principled Approach Towards the Law Governing Arbitration Agreements” *Jurisdiction, Admissibility & Choice of Law in Inter-national Arbitration* (2018)
- Contributing Author *Williams & Kawharu on Arbitration* (June 2017)
- Editor “Dispute Resolution and Climate Change, the Paris Agreement and Beyond,” *ICC Publication* (June, 2017)
- *ICC Costs Allocation in International Arbitration* (2017)
- The Abyei Arbitration and Use of Arbitration to Resolve Inter-State/Intra-State Conflicts *Journal of International Dispute Settlement*, Volume 1, Issue 2, August 2010, Pages 313-340, 25 September 2010

## Education

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- University of Canterbury: LLM (First), NZ, (1998)
- University of Canterbury: BA LLB, NZ (1994)

## Energy and natural resources

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Wendy has considerable experience in the field of oil and gas, renewables energy and mining disputes, including climate change transition post-Paris Agreement. This includes advocacy, advisory work and sitting as arbitrator in commercial arbitration, investment treaty arbitration and public international law boundary disputes.

She acts as counsel and arbitrator in disputes arising under oil and gas exploration and production agreements (joint venture, farm-in, production sharing agreements, offshore petroleum licenses), wind, solar, hydro energy investments, mining development agreements and associated permitting/licensing disputes in Africa, CIS, Asia, financing and insurance.

Since 2015, Wendy has been a regular attendee and panellist at the United Nation Framework Convention on Climate Change (UNFCCC) Conferences of the Parties (COPs), advising States and representing private parties and the International Chamber of Commerce. She works closely with funders and fund membership organisations in transitional finance, as well as scientist members of the Intergovernmental Panel on Climate Change (IPCC).

Work examples:

- Lead counsel in a London seated LCIA arbitration between a multi-national oil and gas joint venture arising out of an African offshore petroleum license.
- Lead counsel in two London seated UNCITRAL arbitrations between a publicly listed UK mining company and an African State.
- Advisor in potential London seated KLIAC arbitration between a State-owned oil and gas company and multi-national arising out of interpretation of production sharing contracts.
- Advisor in PCA arbitration between a State-owned oil company and investors arising out of a carbon tax credit trading

agreement.

- Advisory counsel in LCIA dispute between State owned oil and gas company and private oil exploration companies arising out of regulatory acts by the State.
- Advisor to several small island State governments in respect of climate mitigation and adaptation legislative frameworks and transitional financing opportunities.
- Advisor to governments and multi-lateral organisations concerning the role of investment and trade protection in facilitating and enhancing climate change transition and its financing.
- Chair in a London seated LCIA arbitration between two oil and gas companies concerning a post-closing price dispute upon sale of shares in a joint venture petroleum exploration and production company.
- Advisory counsel in LCIA dispute between State owned oil and gas company and private oil exploration companies arising out of regulatory acts by the State.
- Advisor to several small island State governments in respect of climate mitigation and adaptation legislative frameworks and transitional financing opportunities.
- Advisor to governments and multi-lateral organisations concerning the role of investment and trade protection in facilitating and enhancing climate change transition and its financing.
- Chair in a London seated LCIA arbitration between two oil and gas companies concerning a post-closing price dispute upon sale of shares in a joint venture petroleum exploration and production company.
- Co-arbitrator in a Paris seated investor State arbitration between an investor and an Eastern European State concerning a major wind farm project.
- Sole arbitrator in a London seated ICC arbitration between two oil and gas companies concerning a dispute arising out of the sale or an exploration and production project in south-east Asia.

## **International commercial arbitration**

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Wendy's practice has centred on international commercial arbitration since 1999 and over 20 years she has acted as advocate and advisory in over 100 international cases. As a member of the ICC Court of Arbitration for almost a decade (the last five years as a Vice President) Wendy has had insight into hundreds more arbitrations, dealing with myriad ICC court-mandated procedural issues and final award scrutiny. She also regularly sits as arbitrator and has been appointed by the United Kingdom to the ICSID Panel of arbitrators and ICSID Panel of conciliators effective from 10 November 2020.

In addition to energy and natural resources, she has acted as counsel in arbitrations in various sectors including banking and finance, manufacture and licensing, pharmaceuticals, infrastructure and engineering and IP and technology.

Banking & finance work examples:

- Counsel in a potential LCIA arbitration seated in London between a former CEO of a major pan-African bank and the bank.
- Counsel in several investor State arbitrations concerning restructured banks in Russia, the CIS and Asia.
- Counsel in a fraud on the market proceeding arising out of sale of publicly listed shares in a State-owned oil company in Latin America.
- Counsel to a large US pensions fund in class action litigation and arbitration proceedings for market fraud in US and Brazil.
- Advisor to several large bank legal departments in relation to dispute resolution and governing law provisions and investment treaty structuring.
- Advisor to several venture capital, private equity and hedge funds concerning their investment protection strategy and deployment of international arbitration to facilitate exit strategies in fund management.
- Chair in a London seated LCIA arbitration between Middle Eastern parties arising out of a dispute under a deed of guarantee.
- Sole arbitrator in a BVI seated BVI IAC arbitration concerning a shareholder dispute between Middle Eastern and US parties concerning financial services.
- Sole arbitrator in a London seated LCIA arbitration between UK parties arising out of services provided pursuant to a family office arrangement.

Construction & engineering work examples:

- Counsel in a Middle East ICC arbitration seated in the DIFC between a major infrastructure company and sub-contractor

arising out of the construction of Qatar airport.

- Counsel in enforcement proceedings of ICC awards in multiple fora between a CIS State and Turkish construction company arising out of a road construction project in the CIS.
- Counsel in LCIA proceedings seated in London arising out of two insurance claims in respect of the construction of a major power plant in India.
- Chair in a Caribbean seated ad hoc arbitration between UK and US parties concerning sale and development of leisure properties in the Caribbean.
- Chair in a London seated ICC arbitration between two major construction companies concerning the construction of a fertiliser plant.
- Chair in an investor State arbitration between an investor and a central Asian State concerning a luxury property dispute.

Manufacture / licensing work examples:

- Counsel in two major ICC arbitrations seated in London and involving German and Japanese automobile manufacturers arising out of a share purchase agreement.
- Counsel in an LCIA arbitration seated in London between a Czech-owned gaming company and a European State concerning a dispute arising under a gaming license.
- Counsel in an LCIA arbitration seated in London between a Canadian gaming company and Israeli businessman concerning a dispute arising out of a share purchase agreement of a gaming business.
- Counsel in an ICC arbitration seated in London involving a Canadian generic drug company and a Scottish drug testing company arising out of a generic drug testing agreement.
- Co-arbitrator in a London seated ICC arbitration between metals traders concerning a dispute under a scrap metal trading goods and services agreement.
- Chair in a London seated LCIA arbitration between two travel services providers concerning a dispute arising out of a share purchase agreement concerning a joint venture for provision of tourism and travel agency services in Russia and the CIS.
- Chair in a London seated LCIA arbitration between two luxury goods providers concerning a dispute arising out of the share value determination mechanism under a call option in the share purchase agreement.
- Chair in several ICANN arbitrations between a domain name applicant and ICANN involving the review of an expert determination in respect of an unsuccessful application for the top level domain names.
- Chair in a London seated SCC arbitration between two pharmaceutical companies involving the interpretation of a license and supply agreement.

## **Public international law and investment treaty arbitration**

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Wendy also acts as counsel and advises in public international law, including human rights, and investment treaty arbitration disputes. She has worked with NGOs and multinational organisations as well as unrepresented nations and peoples in various land and natural resource disputes, which is the background to her more recent focus on climate change mitigation and adaptation.

Wendy has been appointed by the United Kingdom to the ICSID Panel of arbitrators and ICSID Panel of conciliators effective from 10 November 2020.

Work examples:

- Government of Sudan v Sudan People's Liberation Movement/Army (Abyei Arbitration), 2008, PCA 2008/007 (Lead co-counsel for the SPLM/A).
- Civil Appeal No. 309 of 2015, judgment dated May 2020, Nairobi, Kenya (amici brief).
- BIT claim for a UK gold mine investor against an African State.
- BIT claim for a Russian power plant investor against a CIS State.
- BIT claim for a US financial services investor against Russia.
- BIT claim for a European gaming investor against a European State.

## International arbitration related court proceedings

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- *P v Q and ors* [2017] EWHC 194 (Comms).
- *Ecobank Transnational v Tanoh* [2015] EWCA Civ 1309 (HC and CA).
- *Virgin Atlantic Airways Ltd. V KI Holdings Co. Ltd & Anor* [2014] EWHC (Comms) (22 May 2014).
- Confidential judgment in ex parte application for an injunction in support of arbitration proceedings.

## Recommendations

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Wendy is extremely intelligent, combining a deep understanding of both the law and the most complex factual matrices. She is a systemic thinker and excellent advocate. [The Legal 500 UK Bar 2024](#)

Wendy is very kind, very thorough and always at the top of her game. [Chambers UK Bar 2024](#)

Wendy is a leading thinker on climate law. [The Legal 500 UK Bar 2024](#)

Wendy Miles is very efficient, personable and experienced. [Chambers UK Bar 2024](#)

She is a real leading voice for making sure that climate-related disputes at an international level are effectively and efficiently resolved. [Chambers UK Bar 2023](#)

Thinks outside the box to preserve the client's interest in the best way possible. [The Legal 500 UK Bar 2023](#)

She is very responsive and commercially savvy. [Chambers UK Bar 2023](#)

She is willing to invest the time and effort to learn everything to give the best possible representation. [Chambers UK Bar 2023](#)

A trusted arbitrator for complex international matters. [Chambers UK Bar 2023](#)

She's vastly knowledgeable, an excellent advocate and a thoughtful arbitrator. [Chambers UK Bar 2023](#)

She's enormously responsive and the heavyweight on the team because of her expertise in this area. [Chambers UK Bar 2022](#)

Intelligent, hard working and always displays common sense. [The Legal 500 UK Bar 2022](#)

She's a big name in the market. [Chambers UK Bar 2022](#)

Wendy has great analytical skills and thinks through all the details. [Chambers UK Bar 2022](#)

Particularly good at arbitrations involving public international law disputes. [The Legal 500 UK Bar 2022](#)

She adjusts her approach for those with different temperaments. [Chambers UK Bar 2022](#)

She's collegial and accessible. [Chambers UK Bar 2022](#)

Very smart and proactive. [Chambers UK Bar 2021](#)

She is incredibly commercial and very practical, as well as being very strong technically. [Chambers Global 2020](#)

Very organised and diligent. [Chambers UK Bar 2021](#)

Leading individual in international commercial arbitration and recommended in the editorial in public international law. [The Legal 500 UK 2020](#)

Leading light described by interviewees as an exceptional partner who unravels the complex material. [Chambers Global 2020](#)

The Legal 500 inaugural International Arbitration Powerlist 2020

Particularly noted for her long-standing ICC expertise, which forms part of her strong commercial advocacy practice. [Chambers Global 2020](#)

Dedicated and technically excellent, while also being commercially minded and savvy and a lawyer who goes the extra mile and is willing and able to take on difficult cases. [The Legal 500 UK 2020](#)

Also well known for her role as arbitrator in a range of disputes. [Chambers Global 2020](#)

Advises a number of prominent clients on high-value arbitration mandates and has extensive ICC expertise. [Chambers UK and Europe 2020](#)

Excellent and draws strong praise for her considerable experience in the field. [Chambers UK 2019](#)

A leading light in the arbitration community and a fantastic, hands-on partner who is visionary in terms of the final goal. [Chambers Global 2019](#)

Well versed in representing clients in large-scale contractual and treaty disputes arising in a wide array of sectors. [Chambers UK 2019](#)

She balances advocacy in commercial arbitrations with sitting as an arbitrator. [Chambers Global 2019](#)

She is also regularly appointed to act as an arbitrator and is based in London. [Chambers UK 2019](#)

Superb and has arbitration running through her veins. [Chambers Europe 2019](#)