

## Sir Daniel Bethlehem KCMG QC

### *Summary Curriculum Vitae Principal Cases, Appointments and Publications*

Daniel Bethlehem is a barrister practising in the field of public international law from *Twenty Essex* chambers in London, in which role he acts both as arbitrator and as counsel / adviser. From May 2006 to May 2011, he was the principal Legal Adviser of the U.K. Foreign & Commonwealth Office (FCO). Prior to this, he was in practice at the Bar from 1990 until 2006. In parallel with his Bar practice, he was Director of the Lauterpacht Centre of International Law at the University of Cambridge and a Fellow of Clare Hall, Cambridge. In addition to his legal practice, Daniel is the founder and director of *Legal Policy International*, a discreet strategic consultancy advising on high legal content international policy and political issues. He was knighted in the Queen's Birthday Honours' List in June 2010.

As arbitrator, Daniel has been appointed in both investor-State and non-investment cases, with notable experience in both PCA and ICSID-hosted arbitrations. While he sits frequently as presiding arbitrator, he has also been appointed by both claimants and respondents. Daniel is a member of the ICSID Panel of Arbitrators, designated by the United Kingdom pursuant to Article 13(1) of the ICSID Convention, and a panellist, designated by the United Kingdom, on the WTO Indicative List of Panellists maintained by the WTO Secretariat in accordance with Article 8.4 of the WTO Dispute Settlement Understanding. Given the extent of his investor-State arbitral practice as arbitrator, Daniel does not as a general matter accept instructions as counsel in investor-State cases.

As counsel, Daniel has appeared in every major international forum, including the ICJ, ITLOS, UNCLOS VII tribunals and the so far sole UNCLOS Annex V conciliation commission, WTO panels, the Iran – U.S. Claims Tribunal, European Court of Human Rights, and others. He is frequently asked to put together and lead specialist strategic advisory and litigation teams advising on complex and multi-faceted disputes. He is experienced in both behind-the-scenes advisory and upfront litigation roles. On high legal content policy matters, he has been consulted on issues ranging from peace negotiations to third-party conciliation processes and engagement in multilateral and regional diplomatic fora. He has extensive experience of engagement with and at the United Nations, various of its Specialised Agencies, and other inter-governmental and supra-national organisations.

In parallel with his legal and advisory practice, Daniel is Visiting Professor in the Department of War Studies at King's College London and has an affiliation with the Department of Law at Columbia University in New York, where he has previously been a visiting professor. He remains a Senior Fellow at the Human Rights Institute of Columbia Law School. Daniel's previous academic appointments include the London School of Economics and Cambridge University, at which he taught graduate courses in United Nations law, GATT/WTO and international trade law, and advanced general courses in public international law, including the use of force, the law of armed conflict / international humanitarian law, the law on State responsibility, immunities, and more.

Amongst other affiliations, Daniel is a member of the Board of Palantir Technologies UK Ltd, Chair of the Advisory Board of the Lauterpacht Centre of International Law at the University of Cambridge, and a Member of the Advisory Committee on International Law of the U.S. Department of State.

#### **ARBITRAL APPOINTMENTS AND PRINCIPAL CASES AS COUNSEL OR ADVISER**

From May 2006 to May 2011, in his capacity as FCO Legal Adviser, Daniel had a close involvement in all litigation involving the UK Government, or engaging UK Government interests, involving questions of public international law (including under the European Convention on Human Rights) before UK courts, foreign domestic courts, EU courts, and international courts and tribunals. With the exception of proceedings before the International Court of Justice, these cases are *not* listed below. The details below refers to principal cases or matters that are in the public domain.

#### **Arbitral appointments**

ICSID Panel of Arbitrators, designated by the United Kingdom pursuant to Article 13(1) of the ICSID Convention

Panellist, WTO Indicative List of Panellists maintained by the WTO Secretariat in accordance with Article 8.4 of the WTO Dispute Settlement Understanding

#### ***Current cases and appointments***

Arbitrator, *Aeroporto Belbek LLC and Mr. Igor Valerievich Kolomoisky v. The Russian Federation* (PCA Case No. 2015-07)

Arbitrator, *PJSC CB PrivatBank and Finance Company Finilon LLC v. The Russian Federation* (PCA Case No.2015-21)

Arbitrator, *KS Invest GmbH and TLS Invest GmbH v. Kingdom of Spain* (ICSID Case No. ARB/15/25)

Arbitrator, *Cavalum SGPS, S.A. v. Kingdom of Spain* (ICSID Case No. ARB/15/34)

Presiding Arbitrator, *Hela Schwarz GmbH v. People's Republic of China* (ICSID Case No. ARB/17/19)

Presiding Arbitrator, *Igor Boyko v. Ukraine* (PCA Case No. 2017-23)

Arbitrator, *Tennant Energy LLC v. Government of Canada* (PCA Case No. 2018-54)

#### **Concluded cases**

Arbitrator, *Bank of Cyprus Public Company Limited v. Hellenic Republic* (ICSID Case No. ARB/17/4)

Presiding Arbitrator, *Itisaluna Iraq LLC and others v. Republic of Iraq* (ICSID Case No. ARB/17/10)

Arbitrator, *UP and C.D Holding Internationale v. Hungary* (ICSID Case No. ARB/13/35)

Presiding Arbitrator, *JSC BTA Bank v. Kyrgyz Republic* (PCA-administered BIT arbitration)

Arbitrator, *Aktau Petrol Ticaret A.Ş. and Som Petrol Ticaret A.Ş. v. Republic of Kazakhstan* (ICSID Case No. ARB/15/8)

Arbitrator in a PCA-administered non-BIT arbitration

Arbitrator, *Eli Lilly and Company v. Canada* (ICSID Case No. UNCT/14/2)

Arbitrator in three UK Arbitration Act 1996 cases

Presiding Arbitrator, *Spence International Investments et al. v. Republic of Costa Rica*, subsequently renamed *Aaron C. Berkowitz et al. v. Republic of Costa Rica* (ICSID Case No. UNCT/13/2)

*Arbitrator* of the Court of Arbitration for Sport – various cases (*not involving any question of public international law*)

*US v. Canada (Agricultural Tariffs)* (1996-1997), Assistant to the Chairman of the Panel in proceedings under Chapter Twenty of the NAFTA

*US v. Canada (Softwood Lumber)* (1999-2000), Assistant to the Chairman of the Panel in *ad hoc* proceedings under the Canada–US Softwood Lumber Agreement

#### Counsel / Adviser

#### *International Court of Justice*

#### *Pending cases*

*Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar v. United Arab Emirates)*, counsel to the United Arab Emirates

*Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*, counsel to the United States

*Certain Iranian Assets (Islamic Republic of Iran v. United States of America)*, counsel to the United States

Counsel/adviser in one other pending case

#### *Concluded cases*

*Application for revision of the Judgment delivered on 23 May 2008 in the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (Malaysia v. Singapore)*, counsel to Malaysia

*Request for Interpretation of the Judgment of 23 May 2008 in the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (Malaysia v. Singapore)*, counsel to Malaysia

*Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, counsel to Chile

*Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. United Kingdom)*, counsel to the United Kingdom

*Certain Documents (Timor-Leste v Australia)*, counsel to Australia

*Advisory Opinion on Accordance with international law of the unilateral declaration of independence in respect of Kosovo*, representative of, and counsel to, the United Kingdom

*Case Concerning Sovereignty Over Pedra Branca / Pulau Batu Puteh, Middle Rocks and South Ledge*, counsel to Malaysia

*Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, counsel to Israel

*Legality of Use of Force (Yugoslavia v. Belgium)*, counsel to Belgium

*Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, counsel to Belgium

*Advisory Opinion on Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, counsel to Malaysia

*Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, counsel to the United Kingdom

*Advisory Opinion on Legality of the Threat or Use of Nuclear Weapons*, counsel to the United Kingdom

*Advisory Opinion on Legality of the Use by a State of Nuclear Weapons in Armed Conflict*, counsel to the United Kingdom

### ***Ad hoc and other inter-State proceedings***

Counsel in a pending inter-State human rights complaint proceeding and a pending inter-State conciliation proceeding

*Arbitration pursuant to Article 32 of the Constitution of the Universal Postal Union (The State of Qatar v. The United Arab Emirates)*, arbitration under Article 32 of the Constitution of the Universal Postal Union, administered by the PCA (PCA Case No.2020-28), counsel to the United Arab Emirates

*Re Application (A) of the State of Qatar Relating to the Disagreement with the Arab Republic of Egypt, the Kingdom of Bahrain, the Kingdom of Saudi Arabia and the United Arab Emirates Arising under the Convention on International Civil Aviation*, counsel to the United Arab Emirates in proceedings before the ICAO Counsel under Article 84 of the Chicago Convention

*Re Application (B) of the State of Qatar Relating to the Disagreement with the Arab Republic of Egypt, the Kingdom of Bahrain, the Kingdom of Saudi Arabia and the United Arab Emirates Arising under the Convention on International Civil Aviation*, counsel to the United Arab Emirates in proceedings before the ICAO Counsel under Article II, paragraph 2 of the International Air Services Transit Agreement

*Case B1 (Claims 2 & 3), Iran v. United States*, counsel to the United States in proceedings before the Iran – U.S. Claims Tribunal

*Timor-Leste / Australia*, adviser/counsel to Australia in UNCLOS Annex V Conciliation Commission proceedings administered by the PCA (PCA Case No.2016-10)

*Arbitration under the Timor Treaty (Timor-Leste v. Australia)*, counsel to Australia in an inter-State arbitration administered by the PCA (PCA Case No.2015-42)

*Enrica Lexie Incident (Italy v. India)*, counsel to Italy in UNCLOS Annex VII arbitration proceedings

*Enrica Lexie Incident (Italy v. India)*, counsel to Italy in provisional measures proceedings before the International Tribunal for the Law of the Sea

*Arbitration under the Timor Sea Treaty (Timor-Leste v. Australia)*, counsel to Australia in an inter-State arbitration administered by the PCA (PCA Case No.2013-16)

*Case A/15 (II:A), Iran v. United States*, counsel to the United States in proceedings before the Iran – U.S. Claims Tribunal

Counsel in an inter-State boundary mediation

Adviser in a number of matters concerning maritime boundary delimitation

*Xenides-Arestis v. Turkey*, counsel to Turkey in proceedings before the European Court of Human Rights

*Case B/61, Iran v. United States*, counsel to the United States in proceedings before the Iran–US Claims Tribunal

*Channel Tunnel Group v. Secretary of State for Transport*, counsel to the United Kingdom in *ad hoc* proceedings under the Eurotunnel Concession Agreement and Treaty

*MOX Plant Case (Ireland v. United Kingdom)*, counsel to the United Kingdom in UNCLOS Annex VII arbitration proceedings

*MOX Plant Case (Ireland v. United Kingdom)*, counsel to the United Kingdom in proceedings before the International Tribunal for the Law of the Sea

*Ireland v. United Kingdom*, counsel to the United Kingdom in *ad hoc* arbitration proceedings under the OSPAR Convention

Counsel / adviser in two proceedings before WTO panels and Appellate Body

*EC–Restrictions on Butter Products*, counsel to New Zealand in WTO panel proceedings

#### ***Other international proceedings and processes***

Counsel / adviser in two on-going inter-State legal-diplomatic disputes

Adviser in proceedings before the International Criminal Court

Adviser in a matter concerning an UNCLOS International Seabed Authority exploration license

External Legal Counsel to the Government of Bahrain on the implementation of the recommendations of the Bahrain Independent Commission of Inquiry

*Mitchell Committee of Inquiry*, counsel to Israel in respect of its submissions to an *ad hoc* committee of inquiry into the violence between Israel and the Palestinians

Adviser to Israel on certain matters relating to the peace negotiations between Israel and Jordan leading to the conclusion of the 1994 Treaty of Peace

Counsel / adviser on various WTO matters, including in respect of proceedings before WTO panels and Appellate Body

#### **Other**

Numerous cases as counsel representing both States and private parties before all levels of English courts and tribunals, including the UK Supreme Court, engaging a wide range of questions of public international law

Numerous cases before the Court of Justice of the European Union on questions of European Union and public international law as counsel for the United Kingdom and other parties

Cases as counsel before the Court of Arbitration for Sport engaging questions of public international law

*Expert witness* on questions of State succession to treaties in proceedings before the Singapore courts concerning a challenge to a BIT award: *Sanum Investments Limited v. The Lao People's Democratic Republic*



## PUBLICATIONS, PARLIAMENTARY EVIDENCE AND MAJOR PUBLIC PRESENTATIONS

### Books

*The Oxford Handbook of International Trade Law* (2008), Ed., with McRae, Neufeld and van Damme

*International Environmental Law Reports* (5 Vols.), Ed., Cairo Robb; Gen. Ed., with Crawford and Sands

*The 'Yugoslav' Crisis in International Law: General Issues, Part I* (1997), Ed., with Weller

*The Kuwait Crisis: Sanctions and Their Economic Consequences* (1991), 2 Vols., Ed.

*The Kuwait Crisis: Basic Documents* (1991), Ed., with Lauterpacht, Greenwood and Weller

### Articles, Chapters and Comments

*The Supremacy of International Law?* – The 2<sup>nd</sup> Annual British Embassy (The Hague) International Law Lecture (23 May 2016), EJIL: *Talk!*, Part One, 2 June 2016; Part Two, 3 June 2016

Miscellaneous responses to comments on the *Self-Defense Principles* (see principal publication below):

- JustSecurity blog (20 June 2016): “*Material Support*” and *Targeting*
- Lawfare Blog (7 April 2016): *Not By Any Other Name: A Response to Jack Goldsmith on Obama's Imminence*

“When is an act of war lawful?”, in *The Right to Life under Article 2 of the European Convention on Human Rights: Twenty Years of legal Developments since McCann v. the United Kingdom* (WLP, 2016), pp.231–240

“The End of Geography: The Changing Nature of the International System and the Challenge to International Law”, *European Journal of International Law* (2014), Vol. 25(1), 9-24

“Stepping Back a Moment – The Legal Basis in Favour of a Principle of Humanitarian Intervention”, *EJIL:Talk!*, 12 September 2013

“Principles of Self-Defense – A Brief Response”, 107 *American Journal of International Law* 579 (2013)

“The Relationship between International Humanitarian Law and International Human Rights Law in Situations of Armed Conflict”, 2(2) *Cambridge Journal of International and Comparative Law* 180 (2013)

Written evidence to the UK Parliamentary Joint Committee on Human Rights on the Justice and Security Bill, 15 October 2012

“Self-Defense Against an Imminent or Actual Armed Attack by Nonstate Actors”, 106 *American Journal of International Law* 769 (2012)

“The Secret Life of International Law”, 1(1) *Cambridge Journal of International and Comparative Law* 23 (2012)

“After the Arab Spring – Part II”, *YaleGlobal Online*, September 2011

“Mopping Up the Last War or Stumbling Into the Next”, *Harvard National Security Law Journal*, October 2011

Written evidence to the (Chilcot) Iraq Inquiry, 24 June 2011

“The methodological framework of the Study”, in *Perspectives on the ICRC Study on Customary International Humanitarian Law* (2007), Eds., Wilmshurst and Breau

“Domestic Implementation of Security Council Sanctions Decisions: A Comparative Approach – The European Union”, in *Domestic Implementation of Security Council Sanctions Decisions: A Comparative Approach* (2004), Ed., Gowlland-Debbas

“International Law and the Use of Force: The Law as it is and as it Should Be”, evidence to the House of Commons, Foreign Affairs Committee, Foreign Policy Aspects of the War against Terrorism (Seventh Report of Session 2003–04; Vol.II, pp.100–116)

“The scope and content of the principle of *non-refoulement*: Opinion”, with Sir Elihu Lauterpacht QC, in *Refugee Protection in International Law* (2003), Eds., Feller, Türk and Nicholson

“Regional Interface Between Security Council Decisions and Member States Implementation: The Example of the European Union”, in *United Nations Sanctions and International Law* (2001), Ed., Gowlland-Debbas

“Submissions on Points of Fact and Law: Written and Oral Pleadings Before the International Court of Justice”, in *Improving WTO Dispute Settlement Procedures: Issues & Lessons from the Practice of Other International Courts & Tribunals* (2000), Ed., Weiss

“International Law, European Community Law and National Law: Three Systems in Search of a Framework”, in *Legal Aspects of the European Union* (1997), Ed., Koskenniemi

#### **Notable Public Lectures**

“The Greening of International Dispute Settlement? Stepping Back a Little”, Eighth Annual Charles N. Brower Lecture on International Dispute Resolution, American Society of International Law, 26 June 2020

“The End of Geography?”, a comment on the address by Professor Andrew Hurrell, Montague Burton Professor of International Relations at Oxford University, to the Biennial Conference of the European Society of International Law, Cambridge, 2 September 2010

“A Transatlantic View of International Law and Lawyers: Cooperation and Conflict in Hard Times” Annual Meeting of the American Society of International Law, Washington DC, 28 March 2009

“Aspects of Dispute Resolution in the International World”, Middle Temple King James Lecture, 25 February 2008

“The Principle of Distinction”, Second Commonwealth Red Cross and Red Crescent Conference on International Humanitarian Law, Wellington, New Zealand, 30 August 2007

“The ICRC Customary Law Study: An Assessment”, Chatham House Conference on *The Law of Armed Conflict: Problems and Prospects*, 18 April 2005

“Is There a Role for Law in the Middle East Peace Process?”, Annual Meeting of the American Society of International Law, Washington DC, 1 April 2005

## **PERSONAL DETAILS**

Born in London, June 1960

Grew up in Johannesburg, South Africa (1963–1982)

Nationality – British

Working language – English

## **Education**

BA (Political Science and International Relations), University of the Witwatersrand, Johannesburg, South Africa (1979–1981)

LLB, University of Bristol, Bristol, UK (1982–1985)

Barrister, Middle Temple, London (1988)

LLM, Queen’s College, University of Cambridge, Cambridge, UK (1989–1990)

## **Professional experience**

Corporate finance adviser and European equity strategist, Barclays de Zoete Wedd, London (1985–1986; 1987–1989)

Corporate finance adviser, Nikko Securities, London (1986–1987)

Barrister (1988) and Queen’s Counsel (2003), Twenty Essex Chambers (formerly 20 Essex Street and 3 Essex Court), London (1991–2006; 2011– )

Of counsel, Forrester, Norral & Sutton, Brussels (1991–1992)

Lecturer in International Law, London School of Economics (1992–1998)

Deputy Director (1998–2002) and Director (2002–2006), Lauterpacht Centre for International Law, and Lecturer in International Law (1998–2006), University of Cambridge

Fellow, Clare Hall, University of Cambridge (1998–2006)

Principal Legal Adviser, UK Foreign & Commonwealth Office, London (2006–2011)

Director, Legal Policy International Ltd (LPI), London (2011– )

Director, Palantir Technologies UK Ltd (2013– )

### **Appointments, Honours and Affiliations**

Queen’s Counsel (2003)

Bencher, Middle Temple, London (2008– )

Knighted (KCMG), June 2010

Member (WEOG nominee), Search Committee for the Prosecutor of the International Criminal Court (2011)

Member, UK Foreign Secretary’s “Locarno Group” of external advisers on UK foreign policy (2011–2020)

Consulting Senior Fellow on Law and Strategy, International Institute of Strategic Studies, London (2011–2016)

Member, Advisory Committee on International Law, U.S. State Department (2012– )

Visiting Senior Fellow (2011) and Visiting Professor (2012–2014), Columbia University Law School, New York City

Senior Fellow, Human Rights Institute, Columbia University Law School (2012– )

Member, Advisory Council, Restatement Fourth of the Foreign Relations Law of the United States (2012–2019)

Sometime Member of the Executive Council and Councillor, American Society of International Law

Sometime Member of the Advisory Council, British Institute of International and Comparative Law

Sometime Member of the Council, British Branch of the International Law Association, London

Sometime Member of the Advisory Council, Institute of Advanced Legal Studies, London

Chair, Advisory Board, Lauterpacht Centre for International Law, University of Cambridge (2014– )

Visiting Professor, War Studies Department, King's College London (2015– )

### **Pastimes**

Master scuba diver

Trekking / climbing (Everest base camp, Kilimanjaro, Alps, Patagonia)