BRICK COURT
CHAMBERS

Brick Court Chambers
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Alastair Sutton

YEAR OF CALL: 1972

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Practice Overview

Alastair Sutton has worked on the law of European integration and international trade law for 57 years, first as an academic at University College London (1967-73), then as an official of the European Commission (1973-89) and finally as a practitioner in Brussels and London from 1989 until now. He advised the UK Government (in the Civil Service College) during the UK's accession to the (then) EC (1970-73). Since 2016, he has advised clients on the UK's process of withdrawal from the EU, on the international trade law implications of the EU-UK Trade and Cooperation Agreement (TCA), as well as the UK's renewed (independent) membership of the World Trade Organisation (WTO).

Since 1967, he has also taught and practised international trade law. As a Commission official from 1973 until 1985, Alastair Sutton was Commission negotiator for the GATT Multifibres Arrangement (1974) and related bilateral agreements with exporting countries in Asia, South America and Central Europe. He was the lead negotiator in the first bilateral agreements concluded by the EC with Poland, Hungary and Romania. He was also a Commission negotiator for the anti-dumping, subsidy-countervailing duties and safeguards agreements in the GATT Tokyo Round. Since leaving the Commission in 1989, Alastair Sutton has advised clients on WTO law, including international trade in services.

Between 1979 and 1985, Alastair Sutton was the legal adviser to the Vice President of the European Commission (Lord Cockfield), dealing with the internal and external aspects of the Single Market. Subsequently, he was Head of Division for Insurance under Vice President Sir Leon Brittan.

Alastair Sutton's practice over the last 33 years, as an English barrister and Belgian avocat, has reflected his broad-ranging experience as an EU official, focussing largely on internal market and international trade issues. Latterly, these have included (in addition to "classical" issues such a

competition, state aids and the free movement of goods, services and capital), EU energy policy (gas prices and renewables), Green Europe (especially plastics and waste disposal), EU asylum and migration policy, EU anti-money-laundering law and EU tax law (especially the fight against tax fraud).

In 2022, Alastair Sutton was awarded recognising his 50 years work as a barrister/avocat since his Call by the Middle Temple in 1972 and his contribution, as a European official, academic and lawyer, to the post-War reconstruction of Europe.

Competition

Litigation

In the European Court of Justice and Court of First Instance (General Court)

- on behalf of the Applicants in *Liberal Democrats v. European Parliament* (action for failure to act) (1991);
- on behalf of the Applicant in *Titan Cement v. Commission* (state aids) (1992);
- on behalf of the Applicant in *Ferchimex S.A. v. Commission* (anti-dumping) (1993);
- on behalf of the Applicant in *UK Government v. Commission* (FEOGA payments - clearance of accounts - aid to fibre flax growers) (2000);
- on behalf of the Applicant in *Government of Gibraltar v. Commission* (state aids - interim measures and main application) (2001-2002);
- on behalf of the Applicant in *Forum 187 v Commission* (state aids - interim measures and main application) (2002-2005). Forum 187 is a Belgian association of "coordination centres";
- on behalf of the Applicant in *Common Market Fertilizers v Commission* (remission and reimbursement of customs and anti-dumping duties) (2004-2006);
- on behalf of the Applicant in *Forum 187 v Commission* (2008 - 2010) (fiscal state aids).

In the EFTA Court

- on behalf of the Applicants in the *Scottish Salmon Growers Association v. EFTA Surveillance Authority* (state aids) (1996).

In the English High Court and Court of Appeal (advice and instruction to English Counsel but not pleading)

- For *SRM (hedge fund) v. HM Treasury* (2009-2010) - state aids
- for *Epson v. HMRC* (2009) - customs classification

- on behalf of the Applicants in *R. v. Chief Constable of Sussex ex parte International Trader's Ferry Limited* (measures of equivalent effect to quantitative restrictions) (1995);
- on behalf of the Applicants in *R. v. HM Treasury & Others ex parte Shepherd Neame Limited*(excise tax on beer) (1997);
- on behalf of the Applicants in *Geiden, QUAFF and Hamilton v. MAFF* (action to secure abolition of UK animal quarantine rules) (1999).

In France

- representing IKEA in a customs classification matter to the Commission de Conciliation et d'Expertise Douanière (Ikea Distribution France v. French Republic) (2000).

In the World Trade Organisation (Geneva)

- representing the Turkish Government in a dispute under GATT Article XXIV on the automatic extension of EU textiles agreements to new Member States.

Current practice covers the following fields

- the internal and external law of the Single Market, including advice on proposed legislation in response to the economic and financial crisis;
- EU "constitutional" law especially inter-institutional relations, "comitology", decision-making procedures, law enforcement procedures, external competence under the Lisbon Treaty;
- UK constitutional law, especially the law relating to devolution, relations between the UK and its Crown Dependencies and overseas territories and judicial review;
- competition and state aids(in particular "fiscal" state aids, aids in the financial services sectors and investment aids)
- external relations - bilateral and multilateral aspects (especially EU-Japan, US and China, as well as with European neighbouring States, including micro-States); external competence under the Lisbon Treaty; EU activities in the G20, OECD, WTO, IMF/FSB, IAIS, IOSCO, FATF and UN Specialised Agencies);
- customs and indirect tax (especially classification, origin, duty suspension, remissions and repayments issues and derogation);
- direct tax, especially the Code of Conduct on harmful business tax and the savings tax directive (internal and external aspects), "tax havens", "off-shore" financial centres, fiscal cooperation,
- EU anti-money laundering legislation;
- financial services (regulatory and supervisory aspects in the banking insurance and securities

fields, including the current crisis measures and the European Supervisory Authorities); the audit directive (derogations and transitional periods);

- agricultural and fisheries law (regulatory, financial and international aspects), including state aids and safeguards;
- food law and animal feed (especially GMOs, labelling, health, phytosanitary and veterinary law) - EU decision-making procedures, including in the European Food Safety Authority, the law relating to product approvals;
- energy and environmental (climate change) law;
- International trade law, especially WTO accession procedures.

About

Mr. Sutton has devoted more than 40 years to the study and practice of European law. Following education at Fairfield Grammar School in Bristol and the Universities of Aberdeen and London, he taught public law (including European law) at University College London from 1967-73. He was called to the English Bar (Middle Temple) in 1972.

In July 1973, Mr. Sutton became an official of the European Commission. For 6 years he was a negotiator in the external affairs department of the Commission, working on multilateral and bilateral agreements on trade in textiles in the GATT (later the WTO) and the EU's trading partners in Asia, Latin America and Eastern Europe. He was also a member of the EU's team for the Tokyo Round of international trade negotiations, covering areas such as anti-dumping, subsidies and countervail duties and safeguards.

From 1979-84, Mr. Sutton was a diplomat in the European Commission's Delegation in Tokyo. This provided an opportunity to see the European Community (as it then was) from a Japanese perspective, at a time when European integration was hampered by economic recessions and protectionism and when Japan was seen by many as leading economy in the world.

Returning to Europe at the end of 1984, Mr. Sutton became the legal and external affairs advisor in the Cabinet of Lord Cockfield, Vice President of the European Commission under President Jacques Delors. The four years from 1985 till 1989 (and the 10 years of the Delors Presidency) are seen by many as the "golden period" of European integration, with the creation of a genuine Single Market without internal frontiers and the legal and institutional framework for economic and monetary union. Mr. Sutton's main tasks at this time were the enforcement of EU law against Member States and relations with the third countries affected by the establishment of the EU's Single Market. In 1989 Mr. Sutton was made Head of Division of Insurance, under Commissioner Sir Leon Brittan.

Against the background of the legal impact made by the Single Market on governments and

enterprises, both inside and outside the EU, in 1989 Mr. Sutton took personal leave from the Commission to practise European law in Brussels.. Initially, he established – with Ian Forrester and Chris Norall - the specialist EU law firm of Forrester, Norall and Sutton. Subsequently, following the merger of Forrester, Norall and Sutton with White and Case, he became a partner in this New York - based global law firm. His practice concentrated on the expanding Single Market legislation, including its impact on third countries. His practice also covered competition and state aids law, as well as the law of international trade.

Since 1999, Mr. Sutton's practice has concentrated increasingly on financial services and taxation, as well as the practical enforcement and external impact of the EU's Single Market legislation. He also continues to work on WTO law, as well as on trade and customs issues in institutions such as the World Customs Organisation (WCO) and the World Health Organisation (WHO). Measures to address international economic crime (e.g. fraud, illicit trade, fiscal evasion, counterfeit etc.) have recently become an important part of his practice, in particular in the tax and customs fields.

In addition to major multinational corporations from the United States and Japan, Mr. Sutton advised a number of large and small governments, including - for nearly 20 years until his retirement from White and Case in 2010 – the UK Crown Dependencies of Jersey, Guernsey and the Isle of Man, as well as the Ministry of Finance of the Government of Bermuda. Mr. Sutton has managed complaints before the European Commission on alleged breaches of EU law, conducted litigation in the European Courts in Luxembourg, as well as participating in cases involving European law in the English courts.

Since July 2010, Mr. Sutton has practised European law independently as an English barrister based in Brussels and London, as a member of Brick Court Chambers. In 2011, Mr. Sutton was appointed by the European Commission as a senior expert on regional integration and internal market affairs, with special responsibilities for relations between the EU and the African Union. A key feature of this work is to provide advice on the regulation of market integration (and the different means of enforcing this regulation) in order to promote confidence and economic growth. In this capacity Mr. Sutton has visited Addis Ababa (Headquarters of the African Union), Dakar (for UEMOA and ECOWAS), Lesotho (for SACU) and Lusaka (for COMESA and the EAC) to give seminars for African officials on the legal and practical aspects of market integration. He is also advising the COMESA Court of Justice on various aspects of law and procedure for courts involved in the process of regional economic integration.

Against the background of the global economic crisis, Mr. Sutton's current practice is dominated by the EU's regulatory and institutional reforms, especially as regards financial services, economic and monetary governance and law enforcement. The position of the UK in the process of European integration (including its internal constitutional developments, such as potential independence for Scotland), as well as the external impact of developments in the EU (especially for the United States and other G20 partners) are also important aspects of his current work.

In addition to his legal practice, Mr. Sutton has taught European law in Universities around the

world. He is currently Visiting Professor of European Law at the Europa Institute in Edinburgh, at Kings College London and at the Jersey Law Institute.

Qualifications

Education

Fairfield Grammar School, Bristol and the Universities of Aberdeen (LLB), London (LLM and Diploma in International Air and Space Law)

Career

2011 Barrister, Brick Court Chambers, London and Brussels
2010-present Barrister (sole practitioner), Brussels
1998-2010 Partner, White & Case
1993-2003 Barrister, Blackstone Chambers, London
1989-1997 Partner, Forrester Norall & Sutton, Brussels
1973-1989 Official in the European Commission
1973-1977 Negotiator for the GATT multifibres arrangement (MFA) and bilateral textiles agreements with Eastern European, Asian and South American countries
1978-1979 Negotiator in the GATT Tokyo Round negotiations on dumping, subsidies and safeguards and principal administrator for anti-dumping, subsidies and safeguard investigations
1979-1984 First secretary, Commission Delegation in Japan
1984-1985 Principal administrator for international trade policy in the Directorate-General for External Relations
1985-1989 Legal Advisor to Lord Cockfield (Vice President of the European Commission) on the legal and external aspects of the Single Market (especially infringements, state aids, competition policy and external relations)
1989 Head of Division for Insurance under Vice President Sir Leon Brittan
1967-1973 Lecturer in European Community law, public international law and UK constitutional law at London University (University College)

Academic and other appointments

2009-2010 Chairman of the Centre for European Policy Studies (CEPS) Task Force on state aids in the banking sector
2008 Chairman of the CEPS Task Force on "Concrete Steps to More Integrated Financial Oversight" on regulatory and supervisory reforms in European financial services
2007 Chairman of CEPS Task Force on "The Tax Regime of the European Company Statute"
2006-present Visiting Professor of European Law at King's College London, University of Edinburgh and Reykjavik University, Iceland
1999-2004 Visiting Professor of European Union and International Trade Law, University College

London
2004 Visiting Professorial Fellow at the Law School of Georgetown University, Washington, D.C.
2003-2004 Chairman of the Financial Regulation Task Force, CEPS

Languages

English (mother tongue), French, Spanish and Japanese