

ICC Annual Arbitration & ADR Conference

06 November | 2019

Freshfields Bruckhaus Deringer
28 Tudor Street, London, EC4Y 0AY

YAF BREAKFAST

08:15-08:30 REGISTRATION

08:30-09:30 BREAKFAST

How to be a successful arbitrator?

Juliet Blanch, Arbitrator, Arbitration Chambers

REGIONAL BREAKOUT SESSIONS

09:30-10:00 NETWORKING BREAK

09:30-10:00 REGISTRATION

10:00-11:15 **Regional Breakout Sessions**

1 - Latin America

Discussion on international arbitration trends in Latin America.

- Broader geopolitical trends with a focus on the impact of Chinese and Indian business activities in the region and how arbitration is playing a role in this respect.
- An overview of recent legislative and case law developments in some Latin American countries in respect of commercial arbitration.
- A discussion of topical issues including cultural awareness, corruption, mediation and the use of third party funding in Latin America in respect of commercial arbitration.

MODERATOR: **Alejandro Garcia**, Partner, Clyde & Co.

CONTRIBUTORS:

Frederico Singarajah, Barrister & Arbitrator, Hardwicke

Joe Tirado, Partner, Garrigues UK LLP

2 - Asia

Key issues and developments in Asian arbitration. The panellists will offer views from a pan-Asian perspective on hot topics such as:

- The Asian attitude towards ISDS - is the European backlash towards investment arbitration reaching Asia?
- Third party funding - how much ground is it really gaining in Asia?
- The impact of China's Belt and Road Initiative on arbitration.
- Will the new amendments to India's arbitration law improve Indian arbitration?
- The rise of Asian arbitration hubs - what's the secret of their success and how can they be emulated by others
- Political unrest and uncertainty - what impact does this have on the attractiveness of Asian seats?

MODERATOR: **Dipen Sabharwal**, Partner, White & Case

CONTRIBUTORS:

Roderick Cordara QC, SC, Essex Court Chambers

Cecilia Xu Lindsey, Barrister, Arbitrator, 9 Stone Buildings

Sudhanshu Swaroop QC, 20 Essex Street

3 - Middle East

The session will consider a number of issues concerning arbitration in the Middle East, including: its growth through the emergence of new arbitral centres, and their utility; whether the regional courts or mediation provide a serious, or better, alternative to arbitration; the prevalence of English-speaking common lawyers in the Gulf and what that means for Middle East arbitration; to what extent old issues to do with the enforcement of arbitral awards in the region still persist; and whether regional geo-political considerations are likely to play a part in shaping the future of the arbitration landscape.

MODERATOR: **Amir Ghaffari**, Partner, Vinson & Elkins LLP

CONTRIBUTORS:

Richard Harding QC, Barrister, Keating Chambers

Lord Thomas of Cwmgiedd, International Arbitrator, 24 Lincoln's Inn Fields

4 - Africa

The Talking Stick: an open debate over difficult issues in African arbitration: Karel Daele will moderate (and provoke) a respectful but challenging conversation over difficult issues facing arbitration in Africa in today's landscape. All delegates will be encouraged to join Karel and the panellists, Naomi Tarawali and Duncan Bagshaw, in questioning and exploring topics including the new generation of African BITs and foreign investment legislation, the potential impact of the African Continental Free Trade Agreement (ACFTA) on investment and arbitration, the enforcement of awards against African parties, the corruption and bribery defence in Africa related disputes and the participation of African stakeholders in international arbitration.

MODERATOR: **Karel Daele**, Partner, Mishcon de Reya LLP

CONTRIBUTORS:

Duncan Bagshaw, Partner, Howard Kennedy

Naomi Tarawali, Associate, Clearly Gottlieb Steen & Hamilton LLP

MAIN CONFERENCE - TECHNOLOGY IN ARBITRATION & ADR

11:15-11:30 REGISTRATION

11:30-11:40 OPENING REMARKS

Chairperson/s:

Ania Farren, Chair, ICC United Kingdom Arbitration & ADR Committee

Iain Quirk, Vice Chair, ICC United Kingdom Arbitration & ADR Committee

11:40-11:55 **Update from ICC Court**

Laetitia de Montalivet, Director, Arbitration and ADR, Europe, ICC International Court of Arbitration

11:55-12:20 **Commission Updates**

Learn about the latest reports, outcomes and future plans for the ICC Arbitration & ADR Commission and how you could benefit from them. Our panel of commission representatives will give some insights into the following task forces:

- Addressing corruption in arbitration
- Maximising the probative value of witness evidence
- ICC arbitration clause for trust disputes
- Emergency arbitrator proceedings
- Arbitration of climate change related disputes

MODERATOR: **Christopher Newmark**, Vice Chair of the ICC Commission for Arbitration & ADR and Arbitrator & Mediator, Spenser Underhill Newmark LLP

CONTRIBUTORS:

Sophie Nappert, Arbitrator, 3VB

Hussein Haeri, Partner and Co-Head of International Arbitration, Withers LLP

12:20-13:05 Breakout Sessions - Discussion Groups

1 - Cyber security and data protection

The integrity and security of the information and systems used in the arbitral process is an essential element of confidence in the system of international arbitration. Tribunals, parties and their representatives, and arbitral institutions all have a role to play in ensuring that reasonable measures are put in place to protect the information and systems used in arbitration from the threat of cyber-attack. The adoption of such measures can be a legal requirement under data protection regimes such as the European Union's General Data Protection Regulation. In this interactive session, we will explore the obligations that attach to the actors in the arbitral process, and the guidance available to discharge those obligations, including the forthcoming ICCA-NYC Bar-CPR Institute Protocol on Cybersecurity in International Arbitration and ICCA-IBA Roadmap to Data Protection in International Arbitration.

MODERATOR: **Brandon Malone**, Arbitrator, Quadrant Chambers

CONTRIBUTORS:

Kathleen Paisley, Partner, Ambos Belgium

Hanna Roos, Of Counsel, Quinn Emanuel

2 - AI, data analytics and e-disclosure

- How should parties/counsel best use technology to advise client, prepare for their case and present it at hearings?
- Should tribunals and institutions be encouraging a greater use of technology in arbitration? If so, what?
- Is arbitration lagging behind, or ahead of, court practice with respect to artificial intelligence and other data analytics tools for document production?
- Is predictive coding suitable for arbitration and how should parties, counsel and tribunal handle predictive coding issues?
- Can data analytics be used to predict case outcome and/or select arbitrators?

MODERATOR: **James Freeman**, Partner, Allen & Overy

CONTRIBUTORS:

Oliver Marsden, Partner, Freshfields

Claire Morel de Westgaver, Senior Associate, Bryan Cave Leighton Paisner

3 - The future of disputes and enforcement

How technology may revolutionise aspects of our 'traditional' dispute resolution procedures and consider what challenges may lie ahead.

- **PROCESS:**

How might the nature of evidence evolve and what will that mean for its presentation in proceedings? What sort of procedures will need to be developed to deal with these new types of evidence? What impact will that have on the form of arbitration proceedings and will it promote 'virtual' or 'online' procedures?

- **SUBSTANTIVE ISSUES:**

Who are the likely parties of the next wave of 'digital' disputes and where will they turn for dispute resolution? Will new law need to be developed to deal with new 'smart' contract and 'platform' (e.g. Blockchain) disputes? How will parties and tribunals deal with anonymous counter-parties?

- **ENFORCEMENT**

What is the role of traditional enforcement procedures in the future? Will courts recognise awards from 'online' or 'virtual' arbitrations? Can 'real-world' courts enforce (and convert) awards in virtual/crypto-currencies?

MODERATOR: **Guy Pendell**, Partner, CMS

CONTRIBUTORS:

Dorothy Murray, Partner, Dispute Resolution, KWM Europe LLP

Veronique Buehrlen QC, Barrister, Keating Chambers

4 - The green arbitration

With a panel representing the institutional, arbitrator and counsel's perspectives, this session will present an environmental impact assessment of a 'standard' international arbitration and will look at the ways in which changes can be made to the way arbitrations are managed in order to reduce the carbon footprint of an arbitration and how these changes could also reduce the costs of an arbitration. Through audience polling the panellists will discuss and highlight initiatives such as the Pledge for Greener Arbitration which are intended to encourage changes in behaviour.

MODERATOR: **Lucy Greenwood**, International Arbitrator, Greenwood Arbitration

CONTRIBUTORS:

Michelle Bradfield, Partner, Dechert

Laetitia de Montalivet, Director, Arbitration and ADR, Europe, ICC International Court of Arbitration

13:05-14:15 NETWORKING LUNCH

14:15-15:15 PLENARY SESSION

Moderators of each breakout to provide feed-back on key areas of discussion group

15:15-15:45 CLOSE

Sylvia Noury, Partner Disputes, Litigation and Arbitration

15:45-16:45 NETWORKING TEA & COFFEE

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