PROGRAMME

“Arbitration in Latin America: still Latin or mainstream?”

Sunday 10 November 2019

18.00 - 20.00  Cocktail reception on the pool deck of the Mandarin Oriental hotel

Monday 11 November 2019

07.30 - 08.45  Parallel sessions  
(in English only)

<table>
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<th>Doughnuts and Data Roundtable</th>
<th>ICC Young Arbitrators Forum (YAF): Discussion on amicus curiae: its use, lessons and regulations</th>
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<td>Hong Kong Rooms</td>
<td>Bangkok Rooms</td>
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| The ICCA-IBA Joint Task Force on Data Protection in Arbitration Proceedings has produced a Roadmap to assist the arbitration community in applying the data protection rules, including the GDPR, to arbitration proceedings. Together with other arbitration institutions, the ICC has been heavily involved in, and supportive of, the Task Force’s work, and we would like to invite you to an informal discussion over coffee to consider how data protection could impact arbitration proceedings and how best to practically manage these issues during the process.  
  - Alexander G. Fessas, Secretary General, ICC International Court of Arbitration; Director, ICC Dispute Resolution Services, Paris  
  - Kathleen Paisley, Partner, AMBOS Lawyers, Belgium/USA; Co-Chair, ICCA-IBA Joint Task Force on Data Protection in Arbitration Proceedings | - The intervention of amicus curiae in commercial arbitration: New Trends  
- Convenience of amicus curiae: advantages and pitfalls  
- Legal Standard Applicable to amicus curiae participation under the ICC Rules: Who can be labelled a “friend of the court”?  
- How the issue of amicus curiae is regulated in the ICC Rules of Arbitration: The scope of article 25.3. Experiences and lessons learned from recent ICC experiences.  
- Duties & Powers of the Arbitral Tribunals Regarding Amicus Briefs. Approaches to Unsolicited Evidence in Amicus Curiae briefs  
- Confidentiality and Privacy of the Arbitration: A limit to amicus curiae effectiveness  
  - Paul Di Pietro, Deputy Counsel, ICC International Court of Arbitration, Paris  
  - Analía González, International Counsel, Baker Hostetler LLP, Washington, D.C., United States  
  - Marcela Kohlbach, Associate, Leste Litigation Finance, Brazil  
  - Alberto Madero, Head of Arbitration, ICC YAF Representative for Latin America; Refinería de Cartagena, Colombia  
  - Patrick W. Pearsall, Partner, Jenner & Block, Washington D.C., United States |

08.00 - 09.00  Welcome coffee generously sponsored by Wolters Kluwer

09.00 - 09.40  Welcome address  
  - Alexander G. Fessas, Secretary General, ICC International Court of Arbitration; Director, ICC Dispute Resolution Services, Paris  
  - Katherine González Arrocha, Director for the Americas, Arbitration & ADR, ICC International Court of Arbitration, Panama City

09.40 - 10.00  Opening keynote speech  
  - Alexis Mourre, President, ICC International Court of Arbitration, Paris
10.00 - 11.30   **Roundtable: A deep look in seven Latin American jurisdictions: 90 minutes discussing the current state of affairs**

- Mexico: What is the landscape under the “New NAFTA”?  
- Uruguay and Argentina: the aftermath of new Arbitration Acts  
- Brazil: Calm sea and prosperous voyage or stormy weather ahead?  
- Venezuela: political and economic turmoil, is there an end in sight? Impact on energy arbitration  
- Colombia: Is it the time for the arbitration law to adopt a monist approach?  
- Peru: has it been the victim of its own success?

- **Claudia Frutos-Peterson**, Managing Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP, Washington DC, United States  
- **Fabiano Robalinho Cavalcanti**, Partner, Escritório de Advocacia Sergio Bermudes Advogados Associados, Brazil; Director, Brazilian Committee of Arbitration - CBA  
- **Diana Droulers**, Partner, Droulers & Asociados, Venezuela; Member, ICC International Court of Arbitration  
- **Sandra Gonzalez**, Partner and co-leader, Litigation and Arbitration team, Ferrere, Uruguay  
- **Alberto Zuleta-Londoño**, Partner, Holland & Knight, Colombia

*Chairled by:*  
- **Juan Pablo Argentato**, Counsel, ICC International Court of Arbitration, Paris

11.30 – 12.00   **Coffee break generously sponsored by Reed Smith and Squire Patton Boggs**

12.00 - 13.00   **“How to handle corruption allegations: experience drawn from cases involving Latin American parties”**

- Arbitrability and admissibility in cases of corruption  
- Interaction between the arbitrators and domestic courts. Do arbitrators have a duty to report?  
- The sua sponte obligation of the arbitral tribunal to investigate and prove acts of corruption  
- Applicable standard of proof. The desire for a consistent approach  
- Legal consequences of finding that the contract was tainted by corruption

- **Christian Albanesi**, Partner & Head of Latin American Arbitration, Linklaters, Washington DC, United States  
- **Eduardo Damião Gonçalves**, Partner, Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados, Brazil; Vice President, ICC International Court of Arbitration  
- **Elena Gutierrez García de Cortazar**, Independent Arbitrator & Professor at Law, Paris  
- **Luca Radicati di Brozolo**, Partner, ARBLIT - Radicati di Brozolo Sabatini Benedettelli Torsello, Italy; Professor, Catholic University of Milan

*Chairled by:*  
- **Ana Serra e Moura**, Deputy Secretary General, ICC International Court of Arbitration, Paris

13.00 - 13.30   **Discussion**

13.30 - 15.00   **Lunch generously sponsored by Hogan Lovells and Linklaters**
Monday 11 November 2019 (cont’d)

15.00 - 16.15  **Parallel sessions**

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<th>“Arbitration in the life sciences and pharmaceutical sector: has the time come for this sector in Latin America?”</th>
<th>Gas Pricing Disputes: How to make it predictable?</th>
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<td>Ballroom salon 1</td>
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- Type of disputes
- Drafting of arbitration agreements in Life Sciences contracts
- Complexity of life sciences disputes: privacy and data protection issues, intellectual property issues, participation of governmental institutions, security for costs and emergency measures.
  - **Philippe Cavalieros**, Partner, Simmons & Simmons, France (Discussion leader)
  - **Conna A. Weiner**, Arbitrator; former in-house counsel, Novartis, United States; Vice-Chair for the Northeast Arbitration Subcommittee for USCIB/ICC USA;
  - **Marek Krasula**, Counsel, ICC International Court of Arbitration®, New York

Gas price formulae
Price reviews
Price negotiation and arbitration
  - **Mónica Jimenez**, Alternate Member, ICC International Court of Arbitration, Colombia
  - **Carmen Martínez**, Partner, Three Crowns LLP, United Kingdom
  - **Michael Polkinghorne**, Partner, White & Case LLP, France; Council Member, ICC Institute of World Business Law

16.15 - 16.45  **Coffee break generously sponsored by Dechert LLP**

16.45 - 18.00  **Parallel sessions**

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**Complexity revisited**
More than 30% of the ICC caseload involves multi parties and often times multi-contract. This mock case will feature the most common issues arising out in such cases: jurisdictional pleas concerning the existence, validity or scope of the arbitration agreement or concerning whether all of the claims made in the arbitration may be determined together in a single arbitration. Also issues regarding consolidation and joinder will be addressed in the context of this mock case.
  - **Alexander G. Fessas** (Discussion leader)
  - **Jennifer Kirby**, Arbitrator, France

“Complex evidentiary issues”
Often time parties and arbitral tribunals face complex evidentiary issues in the context of trans border arbitrations. This session will present a mock case covering issues related to:
  - Evidence obtained illegally;
  - Evidence obtained in parallel administrative and criminal proceedings;
  - Negative inferences
to showcase how such issues might arise in a case and how an arbitral tribunal may decide on them.
  - **Deva Villanúa Gómez**, Lawyer, Armesto & Asociados, Spain (Discussion leader)
  - **Cristián Conejero**, Partner, Philipp Prietocarrizosa Ferrero DU & Uría, Chile

20.30  **Cocktail dinner party generously sponsored by Hogan Lovells**
Komodo (801 Brickell Avenue)
### Roundtable on witness evidence (Probative value of witness statements) Hong Kong Rooms

The ICC Commission on Arbitration and ADR created a Task Force on ‘Maximizing the Probative Value of Witness Evidence’ which was mandated to look at the practices that are commonly adopted for the preparation and presentation of fact witness evidence in international arbitration in light of the science of human memory. This latest Commission Report considers whether there are modifications that could be made to current practices, or alternative approaches that could be adopted, in order to enhance the probative value of fact witness evidence in international arbitration, particularly as it is affected by memory and sets forth some measures that can be taken to protect witnesses’ memories

- José Astigarraga, Partner, Reed Smith LLP, Miami, United States
- Sabina Sacco, Partner, Levy Kaufmann-Kohler, Switzerland

### ICC - AW session Bangkok Rooms

Global efforts to promote diversity have resulted in incremental progress in many parts of the world. What are the critical next steps to further diversity? Can regional diversity efforts pinpoint the specific changes needed within that region? What does the term “diversity” mean in different parts of the world and how can we achieve it?

- Dana MacGrath, ArbitralWomen President; Investment Manager and Legal Counsel, Bentham IMF, New York, United States (moderator)
- Rafael Gagliardi, Partner, Demarest Advogados, Brazil
- Diana Gárate, Senior Manager, EY Law, Peru; Member, ArbitralWomen and Women Way in Arbitration Latam
- Sandra González, Partner and co-leader, Litigation and Arbitration team, Ferrere, Uruguay; Member, ArbitralWomen; co-founder, Women Way in Arbitration Latam; Alternate Member, ICC International Court of Arbitration
- Enrique González, Associate General Counsel, UBER, Mexico

### 08.30 - 09.30 Welcome coffee generously sponsored by Hogan Lovells and Linklaters

### 09.30 - 10.30 Interest and inflation adjustment in international arbitration

- The law applicable to interest in international arbitration
- Can the right to be awarded interest be considered a trade usage or part of lex mercatoria?
- Do arbitrators have the power to grant interest ex officio? If yes, may or shall they grant it ex officio?
- What to do? Interest rates, calculation methods, simple or compound interest?
- Interest on arbitration costs

- John Adam, Partner, Latham & Watkins, France
- David Arias, Partner, Herbert Smith Freehills, Spain
- Valeria Galíndez, Partner, GalíndezArb, Brazil
- Anne Marie Whitesell, Professor and Faculty Director, Program on International Arbitration and Dispute Resolution, Georgetown University Law Center, United States

**Chaired by:**

- Juliana Castillo, Legal Director EMEA, Crown Europe, France

### 10.30 - 11.00 Discussion

### 11.00 - 11.30 Coffee break generously sponsored by Contract Administration Associates and Duff & Phelps
11.30 - 13.00  **The revision of final awards: when, if ever, is it acceptable?**
- Comparative legislative approach in Latin America and elsewhere
- Analyzing the principal grounds recognized for the revision of international awards: procedural fraud and discovery of new facts or evidence
- Dealing with requests for clarification seeking the revision of the award
- Challenging awards on a point of law: is it acceptable to see the Singaporean proposal in civil law jurisdictions?

- **Kate Brown de Vejar**, Partner & Global Co-Chair of International Arbitration, DLA Piper, Mexico
- **Eliseo Castineira**, Partner, Castineira, France
- **Felipe Ossa**, Partner, Claro & Cia, Chile
- **Ina C. Popova**, Partner, Debevoise & Plimpton LLP, New York United States

*Chaired by:*
- **Josefa Sicard-Mirabal**, Independent Arbitrator; Adjunct Professor of Law, Fordham University School of Law, New York, United States

13.00 - 13.15  Discussion

13.15 - 14.45  **Lunch generously sponsored by Dechert LLP**

14.45 - 15.15  **Closing speech: “International arbitration’s perpetual war for survival: the battle of Latin America”**
- **Eduardo Silva Romero**, Partner, Dechert LLP, France

*Introduced by:*
- **Patricia Ferraz**, Counsel, ICC International Court of Arbitration, Sao Paulo

15.15 - 15.45  Discussion

15.45 - 16.00  **Closing remarks**
- **Alexander G. Fessas**
- **Katherine González Arrocha**