PROGRAMME

Monday 10 February 2020

09.00-09.30 Welcome
- Eduardo Damião Gonçalves, Partner, Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados, Brazil; Vice President, ICC International Court of Arbitration
- Nelson Ogunshakin, Chief Executive Officer, FIDIC, Geneva

09.30-10.00 Keynote address

10.00-10.20 Coffee break

10.20-10.30 Introduction by conference Co-Chairs
- Christopher R. Seppälä, Partner of Counsel, White & Case LLP, France; FIDIC’s Observer, ICC International Court of Arbitration; Member, ICC Institute of World Business Law; Legal Advisor, Contracts Committee, FIDIC
- Ana Serra e Moura, Deputy Secretary General, ICC International Court of Arbitration, Paris

10.30-11.30 Session 1: An introduction to FIDIC and its Forms of Contract, including the 2017 FIDIC Suite of Contracts
FIDIC was established in 1913 and the first Red Book was published in August 1957. Since then, FIDIC contracts have evolved to what they are today – the international standard. This session will provide an overview of FIDIC and the organization of its forms of contract, before outlining the salient features of the 2017 Red, Yellow and Silver FIDIC conditions of contract.
- FIDIC: The organization
- Background and principles of the FIDIC forms of contract
- Overview and comparison of the Red, Yellow and Silver Books
- Salient features of the FIDIC 2017 update
- Aisha Nadar, Senior Consultant, Procurement Management and Dispute Resolution, Advokatfirman Runeland, Sweden; Member, FIDIC Executive Committee and Chair of Procurement Policy Sub-Committee

11.30-11.50 Q&A
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11.50-12.50  **Session 2: Dispute avoidance and resolution clauses in FIDIC Contracts**
Disputes have always featured in construction projects, but today's cost-sensitive clients demand that the parties focus on project success and effectively avoid disputes and resolve unavoidable disputes efficiently. The FIDIC contracts are especially noteworthy in the requirement that the parties constitute a Dispute Avoidance and Adjudication Board (DAAB) and that all disputes must go through the DAAB process. This session will provide an insightful perspective on this trend and will offer an overview of its impact on the dispute management tools and techniques provided for under the 2017 FIDIC Conditions.

- **Paul Battrick**, FRICS, MCIArb, CEDR Accredited Mediator; Managing Director International, Driver Trett, United Kingdom
- **David Brown**, Partner, Clyde & Co., France; Council Member, ICC Institute of World Business Law; FIDIC President's List of Adjudicators
- **Karen Gough**, Barrister, Attorney at Law and Chartered Arbitrator, 39 Essex Chambers, United Kingdom

  *Moderated by:*
  - **Aisha Nadar**

12.50-13.10  Q&A

13.10-14.40  Lunch

The Report provides guidance on a range of tools and techniques useful in developing cost-effective procedures in construction arbitration. It is intended for parties and arbitrators who do not have much experience in construction arbitrations conducted under the ICC Rules, or who wish to be reminded of the options available or of the practice of others. The speakers will give insights into the work of the ICC Commission on Arbitration and ADR, and an understanding of the specificities of construction arbitration, along with the salient aspects of the Report's main recommendations.

- **Stephan Adell**, Partner, Squire Patton Boggs, France/Dominican Republic
- **Christopher Seppälä**
- **Flávio Spaccaquerche Barbosa**, Partner, Mattos Filho, Brazil
- **Debora Visconte**, Founding Partner, Visconte Advogados, Brazil

  *Moderated by:*
  - **Ana Serra e Moura**

15.40-16.10  Q&A

16.10-16.30  Coffee break

16.30-17.30  **Session 4: Jurisdictional issues in construction arbitration**
- The breach of the multi-tier clause: A problem of admissibility or jurisdiction?
- Exercising jurisdiction and enforcing DAB decisions
- Construction projects and group of contracts: limits imposed by the privity of contracts
- The participation of the subcontractor in the arbitration under the main contract: the FIDIC Subcontract second option clause 20

- **Andrea Carlevaris**, Partner, Bonnelli Erede with Lombardi, Italy; former Secretary General, ICC International Court of Arbitration
- **Maria Claudia Procopiak**, Senior Associate, Dechert LLP, United Kingdom
- **Gustavo Scheffer da Silveira**, Counsel, Mayer Brown, Brazil
- **Gustavo Tepedino**, Partner, Gustavo Tepedino Advogados, Brazil; Professor, UERJ Law School

  *Moderated by:*
  - **Ana Serra e Moura**

17.30-18.00  Q&A

18.00-20.00  Cocktail reception
Tuesday 11 February 2020

09.00 - 09.40  **Session 5: Contract and claims administration in FIDIC contracts**
This session will discuss ways to try to avoid claims arising in the first place but then, if they do arise, how best to present claims under the FIDIC form with particular reference to:
- The enhanced claims provisions in the new suite
- The role of the Engineer
- The requirements for notices of claim and the time bar provisions
- How best to prevent claims from becoming disputes

- **Nicholas Gould**, Partner, Fenwick Elliott, United Kingdom
- **Cecilia Misu**, Chief Executive Officer, CMSQUARE, Germany
- **Rohit Singhal**, Chief Executive Officer and Construction Dispute Expert, Masin, India

**Moderated by:**
- **Jorge Diaz Padilla**, Chief Executive Officer, Systec, Mexico; Past President, FIDIC; Chair, FIDIC Integrity Management Committee

09.40 - 10.00  Q&A

10.00 - 10.45  **Session 6A: The use of FIDIC contracts by State Entities: Development bank perspective**
- Multilateral Development Bank (MDB) perspective: How standard contracts play a role
- FIDIC: Comparison of Red book & Pink Book & new conditions of particular application

- **Maria Eugenia Roca**, Procurement Advisor, Operations Financial Management and Procurement Office; Vice Presidency for Countries, Inter-American Development Bank (IDB), Washington D.C.
- **Aisha Nadar**

**Moderated by:**
- **Nelson Ogunshakin**

10.45 - 11.15  Coffee break

11.15 - 12.15  **Session 6B: The use of FIDIC contracts by State Entities: Practical Considerations**
- Compatibility of FIDIC contracts with Brazilian Administrative Law
- Environmental considerations
- Drafting particular conditions

- **Lyda Bier**, Lawyer admitted to the Netherlands Bar, Bier advocaat, The Netherlands
- **Eugenia Marolla**, Deputy Chief Attorney, State of São Paulo, Brazil
- **Giovanni Ettore Nanni**, President, Brazilian Arbitration Committee; Partner, Nanni Advogados, Brazil
- **Luminita Popa**, Managing Partner, Suciu Popa, Romania; Member, ICC International Court of Arbitration

**Moderated by:**
- **Patricia Ferraz**, Counsel, ICC International Court of Arbitration, São Paulo

12.15 - 12.45  Q&A Sessions 6

12.45 - 14.15  Lunch
Tuesday 11 February 2020 (cont’d)

14.15-15.15  

**Session 7: Liability issues during the life of the project in construction disputes**
- Global claims
- Liquidated damages
- Limitation periods and waivers of right
- Exceptional circumstances and Force Majeure in construction contracts: new developments?
- Third Party Liability: guarantors, subcontractors, suppliers, agents, funders, and/or insurers
  - Shelly L. Ewald, Partner, Watt, Tieder, Hoffar & Fitzgerald, L.L.P., United States
  - Jaime Grey, Founding Partner, NPG Abogados, Peru
  - Erin Miller Rankin, Partner, Freshfields Bruckhaus Deringer, United Arab Emirates
  - Leonardo Toledo da Silva, Partner, Toledo Marchetti, Brazil; President of the Brazilian Institute of Construction Law (IBDIC); Professor at FGV Direito-SP

*Moderated by:*
- Julie Bédard, Partner, International Litigation and Arbitration; Latin America, Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates, Brazil/United States

15.15-15.45  

**Q&A**

15.45-16.15  

**Coffee break**

16.15-17.00  

**Session 8: FIDIC in Central and South America**
- Júlio César Bueno, Partner, Pinheiro Neto, Brazil; President, Brazilian Society of Construction Law (SCL Brasil); Legal Director, Brazilian Association of Consulting Engineers (ABCE)
- Roberto Hernandez Garcia, Managing Partner, COMAD, S.C. Law Firm, Mexico

17.00-17.30  

**Session 9: Questions & answers session on FIDIC Contracts and ICC Arbitration**
This panel will address questions submitted by conference participants in advance. It will offer the participants a unique opportunity to have a dialogue with the ICC and FIDIC directly. The participants will hear international practitioners express their views on FIDIC contracts and practices related to ICC arbitration and other topics submitted by the participants.

- Patricia Ferraz
- Aisha Nadar
- Christopher R. Seppälä
- Ana Serra e Moura

17.30-17.50  

**Closing of the conference**
- Aisha Nadar
- Christopher R. Seppälä
- Ana Serra e Moura