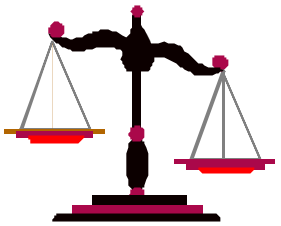
CENTER FOR INTERNATIONAL LEGAL STUDIES



ARBITRATING INTERNATIONAL DISPUTES IN THE NEW MILLENNIUM

15-18 JUNE 2000

HOTEL CROWNE PLAZA

SALZBURG, AUSTRIA

In cooperation with the John Marshall Law School of Chicago and the American Bar Association Section of International Law and Practice.

Schedule.....3

Participants 10

Outlines.....17

SCHEDULE

THURSDAY, 15 JUNE

6.30 p.m. Hotel Crowne Plaza-Pitter, Foyer Schlosssaal, Welcome Reception
Sponsored by Gadsby & Hannah LLP

7.30 p.m. Hotel Crowne Plaza-Pitter, Schlosssaal, Opening Dinner. **Greeting:** *Dennis Campbell*, Director, Center for International Legal Studies, Salzburg, Austria. **Introduction:** *James J. Myers*, Gadsby & Hannah LLP, Boston, Massachusetts, United States.

FRIDAY, 16 JUNE

8.30 – 10.30 a.m.

DECISION TO SELECT ARBITRATION IN INTERNATIONAL DISPUTES

Moderator: *L. Yves Fortier*, Ogilvy Renault, Montréal, Québec, Canada.

Speakers:

- *Michael Davis*, Herbert Smith, London, England, United Kingdom.
  Is International Commercial Arbitration Really an "Alternative"?
- *Eric A. Schwartz*, Freshfields, Paris, France.
  Should the Arbitration Be Administered or "Ad Hoc"?
- *Kurt L. Frazier*, Fireman's Fund Insurance Company, Novato, California, United States.
  Arbitration to Resolve International Insurance Claims.
- *John Bellhouse*, White & Case, London, England, United Kingdom.
  What the International Arbitration Clause Should Include or Omit.
- *Michael E. Schneider*, Lalive & Partners, Geneva, Switzerland.
  Commencing Arbitration in Cases Involving a Plurality of Parties and/or Contracts.
- *Louis B. Buchman*, Caubet Chouchana Meyer, Paris, France.
  How to Select an Arbitrator.

10.30 – 10.45 a.m. Coffee Break

10.45 – 11.50 a.m.

THE MOST IMPORTANT FACTOR IN SELECTING AN ARBITRATION ADMINISTERING ASSOCIATION

Moderator: *Richard H. Kreindler*, Jones Day Reavis & Pogue, Frankfurt, Germany.

Speakers:

- *Robert Rubenstein*, Bechtel Corporation, London, England.
  What the User of Arbitration Administering Services Expects.
- *O.L.O. de Witt Wijnen*, Nauta Dutilh, Rotterdam, The Netherlands.
  Factors that Could and Should Be Considered.
- *Marc Frilet*, Cabinet Frilet & Associés, Paris, France.
  Using Arbitration Clauses in International Contracts.

11.50 a.m.– 12.35 p.m.

PARTY-APPOINTED VS. LIST APPOINTED ARBITRATORS

Moderator: *M.I.M. Aboul-Enein,* Cairo Regional Center for International Commercial Arbitration, Cairo, Egypt.

Speakers:

- *Marie-Beatrix Tupy,* Internationales Schiedsgericht der Wirtschaftskammer Österreich, Vienna, Austria.
  How Appointments Are Made in Each System.
- *David A. Delman,* Fluor Daniel Inc. Fort Lauderdale, Florida, United States.
  Rationale of Each System/Advantages – Disadvantages of Each.

12.35 – 1.45 p.m. Lunch

1.45 – 2.40 p.m.

PARTY-APPOINTED VS. LIST APPOINTED ARBITRATORS (CONTINUED)

Moderator: *M.I.M. Aboul-Enein,* Cairo Regional Center for International Commercial Arbitration, Cairo, Egypt.

Speakers:

- *Claudine G.H. Maeijer,* Steins Bisshop Meijburg & Co, Amsterdam, The Netherlands.
  Arbitration Law Applicable to Arbitrators in Each System.
- *Wolfgang K. Peter,* Pirenne Python Schifferli Peter & Partners, Geneva, Switzerland.
  Lawyer vs. Non-Lawyer Arbitrators – One vs. Three Arbitrators.
- *The Rt. Hon. The Lord Hacking,* Littleton Chambers, London, England, United Kingdom.
  Did You Nominate the Right Arbitrator?

2.40 – 3.00 p.m.

DISCLOSURES AND DISQUALIFICATION OF ARBITRATORS

Moderator and Speaker:

- *Michael F. Hoellering,* American Arbitration Association, New York City, New York, United States.
  Initial Disclosures, Continuing Disclosures, Procedures and Standards for Disqualification

3.00 – 3.15 p.m. Coffee Break

3.15 – 4.55 p.m.

DECISION TO SELECT ARBITRATION IN INTERNATIONAL DISPUTES

Moderator: *Horacio A. Grigera Naón*, ICC International Court of Arbitration, Paris, France.

Speakers:

- *Stefan-M. Tiessen*, Smith, Gambrell & Russell, Atlanta, Georgia, United States.
  Common Law vs. Civil Law Regimes.
- *Philippe Nouel*, Gide Loyrette Nouel, Paris, France.
  Effect of Cultural Background on Dispute Resolution.
- *Eugen Salpius*, Salpius & Partner, Salzburg, Austria.
  Dealing with Uncooperative Parties.
- *Ricardo Moraes-Pinto*, Construtora Norberto Odebracht, Rio de Janeiro, Brazil.
  The Changing Arbitration Landscape in Latin America.
- *John B. Tieder*, Watt, Tieder, Hoffar & Fitzgerald, McLean, Virginia, United States.
  Is International Arbitration Transcending Cultural Differences?

4.55 – 5.15 p.m.

PRE-HEARING MANAGEMENT TECHNIQUES

Moderator and Speaker:

- *Nael G. Bunni*, Bunni & Associates Ltd, Dublin, Ireland.
  Value of Pre-Hearing Conferences, and Suggested Items to Be Covered at Pre-Hearing Conferences.

5.15 – 6.00 p.m.

ARBITRATION AND THE HIERARCHY OF DISPUTE RESOLUTION METHODS

Moderator: *Chris Shugart*, European Bank for Reconstruction and Development, London, England, United Kingdom.

Speakers:

- *Bettina Quintas*, New York City Transit Authority, New York City, New York, United States.
  Distinction Between Dispute Review Boards, Expert Determination and Arbitration.
- *Donald Marston*, Osler, Hoskin & Harcourt LLP, Toronto, Canada.
  Significance of Final or Binding or Final and Binding Determinations?
- *Robert A. Rubin*, Postner & Rubin, New York City, New York, United States.
  Effectiveness of Dispute Review Board or Expert Determinations?
- *Louise Barrington*, Shadbolt & Co, Hong Kong, China.
  Law Applicable to International Arbitrations.

6.30 Departure Latschenwirt

7.00 – 9.30 p.m. Dinner Latschenwirt

SATURDAY, 17 JUNE

8.30 – 9.30 a.m.

ARBITRATION AND THE HIERARCHY OF DISPUTE RESOLUTION METHODS (CONTINUED)

Moderator: *Chris Shugart*, European Bank for Reconstruction and Development, London, England, United Kingdom.

Speakers:

- *Bettina Quintas*, New York City Transit Authority, New York City, New York, United States.
  Distinction Between Dispute Review Boards, Expert Determination and Arbitration.
- *Donald Marston*, Osler, Hoskin & Harcourt LLP, Toronto, Canada.
  Significance of Final or Binding or Final and Binding Determinations?
- *Robert A. Rubin*, Postner & Rubin, New York City, New York, United States.
  Effectiveness of Dispute Review Board or Expert Determinations?
- *Louise Barrington*, Shadbolt & Co, Hong Kong, China.
  Law Applicable to International Arbitrations.

9.30 – 10.30 a.m.

THE MEDIATION ALTERNATE

Moderator: *Jean-Claude Goldsmith*, J.C. Goldsmith & Associés, Paris, France.

Speakers:

- *John Madden*, Canfield Venusti Madden & Rossi, New York City, New York, United States.
  Why Mediate?
- *Steven J. Comen*, Goodwin Proctor & Hoar, Boston, Massachusetts, United States.
  Mediation as an Aid to Arbitration.

10.30 – 10.45 a.m. Coffee Break

10.45 – 11.55 a.m.

PRE-HEARING EXCHANGE OF INFORMATION

Moderator: *Christoph Liebscher*, Wolf Theiss & Partner, Vienna, Austria.

Speakers:

- *Otto K. Hilbert, II*, Reinhard Boerner Van Deuren Norris & Rieselbach, Denver, Colorado, United States.
  Claim Statements and Position Papers.
- *John W. Hinchey*, King & Spalding, Atlanta, Georgia, United States.
  Exchanges of Documents and Depositions.
- *James M. Arnott*, MacRoberts, Edinburgh, Scotland, United Kingdom.
  Presenting Evidence and Arguments in International Arbitration.

11.55 a.m. – 1.10 p.m.

INTERIM RELIEF

Moderator: *William Lawrence Craig*, Coudert Frères, Paris, France.

Speakers:

- *Alan Whiteley*, Meighen Demers, Toronto, Ontario, Canada.
  The Pros and Cons of Authorizing Interim Measures.
- *Francois J. Knoepfler*, Etude Knoepfler Cabus & Gehrig, Neuchâtel, Switzerland.
  What Interim Measures Are Authorized and Are They Enforcable?
- *George Anthony Smith*, Sutherland Asbill & Brennan, Atlanta, Georgia, United States.
  What Are the Sanctions for Failure to Obey Order for Interim Relief?

1.10 – 2.15 p.m. Lunch

2.15 – 3.15 p.m.

SUBMITTING AND PRESENTING EVIDENCE

Moderator: *Eric E. Bergsten*, Pace University School of Law, Vienna, Austria.

Speakers:

- *Mauro Rubino-Sammartano*, Studio Rubino-Sammartano e Associati, Milan, Italy.
  The Choice Between Adversarial, Inquisitorial and Mid-Way Rules of Evidence.
- *Vera van Houtte*, Stibbe Simont Monahan Duhot, Brussels, Belgium.
  Oral vs. Documentary Evidence (including Whether Documents Attached to Statements of Claim Are Evidence).

3.15 – 4.10 p.m.

USE OF EXPERTS IN ARBITRATION

Moderator: *Matthieu de Boisséson*, Darrois Villey Maillot Brochier, Paris, France.

Speakers:

- *Andrew Foyle*, Lovell White Durrant, London, England, United Kingdom.
  Use of Expert Witnesses in International Arbitration.
- *Geoffrey M. Beresford Hartwell*, Wallington, Surrey, England, United Kingdom.
  Use of Experts in the Service of the Tribunal.
- *James H. Keil*, Adaptive Consulting Team, Portland, Maine, United States.
  When Experts Disagree.

4.10 – 4.25 p.m. Coffee Break

4.25 – 5.25 p.m.

TECHNIQUES FOR EXPEDITING ARBITRATION HEARINGS

Moderator: *Pierre A. Karrer*, Pestalozzi Gmuer & Patry, Zurich, Switzerland.

Speakers:

- *Jack J. Coe*, Pepperdine University School of Law, Malibu, California, United States.
  Pre-Hearing Techniques.
- *Daniel R. Wyss*, Walder Wyss & Partners, Zurich, Switzerland.
  Direct Testimony Witness Statements, Bifurcation and Other.

6.00 – 10.00 p.m. Departure Gala Dinner at the Fortress Hohensalzburg for those who have registered **– otherwise Free Evening**

SUNDAY, 18 JUNE

8.30 – 9.45 a.m.

MANAGING THE INTERNATIONAL ARBITRAL PANEL

Moderator: *Jacques Werner*, Werner & Associés, Geneva, Switzerland.

Speakers:

- *Marc Blessing*, Bär & Karrer, Zurich, Switzerland.
  Selecting the Chairman.
- *Hans van Houtte*, Stibbe Simont Monahan Duhot, Brussels, Belgium.
  Special Responsibilities of the Chairman.

9.45 – 10.00 a.m. Coffee Break

10.00 a.m. – 12.05 p.m.

CONFORMATION OR VACATION OF ARBITRAL AWARDS

ENFORCING ARBITRATION AWARDS

Moderator: *William W. Park*, Boston University School of Law, Boston, Massachusetts, United States.
Thomas J. Stipanowich, University of Kentucky School of Law, Lexington, Kentucky, United States.

Speakers:

- *Günther J. Horvath*, Bruckhaus Westrick Heller Löber, Vienna, Austria.
  Duty of Tribunal to Render Enforceable Awards.
- *Glower W. Jones*, Smith Currie & Hancock, Atlanta, Georgia, United States.
  Grounds for Conforming and Vacating Awards.
- *Laure Leservoisier*, Clifford Chance, Paris, France.
  Important Conventions.
- *Nora Wouters*, Simmons & Simmons, Brussels, Belgium.
  Grounds for Refusal to Enforce.
- *Tiziana Tampieri*, Studio Legale Bernini eTampieri, Bologna, Italy.
  Refusal to Enforce an Award Vacated in the Country of Origin.

12.05 – 12.15 p.m. Closing Remarks, James J. Myers, Conference Chairperson