

International Commercial Arbitration in Latin America:
The ICC Perspective

Under the auspices of the **International Court of Arbitration®**

Date
Sunday 5 – Tuesday 7 November 2006
Venue
The Mandarin Oriental Hotel, Miami, Florida

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Objective

As approaches to key issues may differ from one region to another, the success of an arbitration depends greatly on an understanding of local legal cultures and attitudes. The purpose of this 4th Annual ICC Conference on International Commercial Arbitration in Latin America will be to shed light on aspects of international commercial arbitration that are particularly relevant to Latin American cases.

ICC arbitration specialists will lead discussions on a wide range of topics of central importance in a Latin American context, including:

- ICC experience in cases involving Latin American parties
- Analysis of recent judicial decisions concerning arbitration in Latin America
- Non-signatory parties in Latin America: a mock case
- The impact of State constitutions on international arbitration in Latin America
- Arbitrating energy disputes in Latin America
- Ethics in international arbitration

The speakers are all practitioners and will share their first-hand experiences and anecdotes, giving participants a rare opportunity to become fully informed about the current state of international commercial arbitration in Latin America.

International Court of Arbitration®

The ICC International Court of Arbitration has a distinguished and long-standing history of international dispute resolution. In 2005 alone it received over 500 requests for arbitration from all over the world. Of the 1,422 parties involved in the cases filed with the ICC Court in 2005, 12% came from Latin America and the Caribbean.

Participants

The topics covered will be of interest to practicing lawyers, corporate counsel, arbitrators, mediators, academics, ADR experts and users, and business persons who come from Latin America or do business there, or simply wish to increase their understanding of international commercial arbitration in that region.

With the support of


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Program

Sunday 5 November 2006

6:00 – 8:00 **Welcome Reception**

Monday 6 November 2006

8:00 – 9:00 **Registration**

9:00 – 9:15

Welcoming Remarks and Conference Overview

Aims of the conference

- PIERRE TERCIER, Chairman, ICC International Court of Arbitration

ICC dispute resolution services in Latin America: developments and new challenges

- DYALÁ JIMÉNEZ FIGUERES, Director, ICC Dispute Resolution Services, Latin America

The status of international arbitration in Latin America from a North American viewpoint

- JOSEFA SICARD-MIRABAL, Director, Arbitration and ADR, North America, ICC International Court of Arbitration

9:15 – 10:15

An Update on ICC Dispute Resolution in Latin America

Representatives of the International Court of Arbitration and its Secretariat will relate recent ICC experience in cases involving Latin American parties and assess current attitudes to international arbitration in Latin American courts, with an analysis of the most recent judgments. The panel will also look at ICC's other dispute resolution services that may be used in conjunction with, or separately from, arbitration.

- CRISTIÁN CONEJERO ROOS, Counsel, ICC International Court of Arbitration
- FERNANDO MANTILLA SERRANO, Partner, Shearman & Sterling LLP, Paris; Member for Colombia, ICC International Court of Arbitration
- KATHERINE GONZÁLEZ ARROCHA, Senior Counsel, ICC Dispute Resolution Services

Moderator

- RAFAEL BERNAL, ICC Colombia, Bogotá

10:15 – 10:30 **Discussion**

10:30 – 11:00 *Coffee break*

11:00 – 12:00

Non-Signatory Parties in Latin America: A Mock Case

An increasing number of arbitration requests involving Latin American parties seek to extend the arbitration clause to non-signatory parties. Through the study of a mock case, this session will examine the doctrines on which such extension is based and their compatibility with the UNCITRAL Model Law on International Commercial Arbitration.

Particular attention will be given to the requirement that the arbitration clause be in writing, which has been strictly interpreted in several Latin American countries. This panel will also consider whether domestic contract law in Latin American countries may have a bearing on these issues.

- NIGEL BLACKABY, Partner and Head of the Latin American Practice, Freshfields Bruckhaus Deringer, Paris
- EDUARDO SILVA ROMERO, Partner, Dechert LLP, Paris; former Deputy Secretary General, ICC International Court of Arbitration
- HORACIO GRIGERA NAÓN, Independent Arbitrator, Washington DC; former Secretary General, ICC International Court of Arbitration

Moderator

- KATHERINE GONZÁLEZ ARROCHA, Senior Counsel, ICC Dispute Resolution Services

12:00 – 12:30 **Discussion**

12:30 – 2:30 *Contact lunch*

2:30 – 3:30

Ethics in International Arbitration

Arbitration brings together several players: the parties, their counsel and the arbitrators. Each player has a particular role to play in the proceedings and is bound by different ethical requirements. Much has been said about the ethical demands laid on arbitrators, but little about those incumbent on the parties' counsel. This panel will consider what the duties of counsel are, how they can best be observed and enforced, and the role of arbitrators, if any, in deciding issues concerning the conduct of the parties' counsel during the proceedings. The panel will also provide an update on recent ICC experience concerning these issues.

- CLAUD VON WOBESER, Founding Partner, Von Wobeser y Sierra S.C., Mexico City; Vice-Chairman, ICC International Court of Arbitration
- ROBERT SMIT, Partner, Simpson Thacher & Bartlett LLP, New York; Member for the United States, ICC International Court of Arbitration
- CRISTIÁN CONEJERO ROOS, Counsel, ICC International Court of Arbitration

Moderator

- DONALD HAYDEN, Partner, Baker & McKenzie, Miami

3:30 – 4:00 **Discussion**

7:00 *Dinner*

Program

Tuesday 7 November 2006

9:00 – 10:00

The Impact of State Constitutions on International Arbitration in Latin America

This panel will share practical experience and views concerning the interplay between Latin American constitutions and international arbitration, particularly in the light of actions brought by parties and judicial decisions allowing courts to intervene in international arbitrations on the basis of an alleged violation of constitutional rights. The issues to be addressed by the panel include the constitutional limitations, if any, on State recourse to arbitration, the powers vested in the courts to monitor arbitral proceedings, and special appeals used against arbitral awards enshrined in Latin American State constitutions.

- GUILLERMO AGUILAR ALVAREZ, Partner, Weil, Gotshal & Manges LLP, New York; former General Counsel, ICC International Court of Arbitration
- MARCELO MURIEL, Partner, Mattos Muriel Kestener Advogados, São Paulo
- J. ELOY ANZOLA, Independent Arbitrator, Caracas

Moderator

- NANCY M. THEVENIN, Deputy Director, Arbitration and ADR, North America, ICC International Court of Arbitration

10:00 – 10:30 **Discussion**

10:30 – 11:00 *Coffee break*

11:00 – 12:00

Arbitrating Energy Disputes in Latin America

Most Latin American countries expressly allow for the use of arbitration in the energy sector. In this session, current issues and potential pitfalls in arbitrating energy disputes with Latin American parties will be discussed by US and Latin American practitioners. The panel will also examine the involvement of State parties, the benefits and risks of the arbitral process and the enforcement of awards in energy arbitrations.

- EMILIO CÁRDENAS, Partner, Emilio Cárdenas Abogados, Buenos Aires
- CHARLES BEACH, Coordinator, Corporate Litigation, Legal Department, Exxon Mobil Corporation, Irving, Texas
- LUIS ENRIQUE BOTTARO LUPI, Partner, Hogan & Hartson LLP, Caracas

Moderator

- RYAN REETZ, Partner, Greenberg Traurig LLP, Miami

12:00 – 12:30 **Discussion**

12:30 – 2:30 *Contact lunch*

2:30 – 3:30

The Arbitrator's Role in the Arbitral Proceedings

This panel will focus on the role of arbitrators in the conduct of the proceedings from the arbitrator's and the counsel's perspectives. In particular, it will address the arbitrator's power to overcome disruptive behaviour by the parties and consider the extent to which arbitrators are bound to abide by the parties' agreements regarding the conduct of the proceedings. The panel will also examine an arbitrator's role in achieving a settlement between the parties, especially in the light of Latin American laws that require an arbitrator to attempt conciliation. Attention will also be given to the arbitrator's role in deciding the dispute: Are arbitrators limited in their search for the material truth? Should they raise *sua sponte* legal or factual issues not raised by the parties?

- YVES DERAIS, Founding Partner, Derains & Associés, Paris; former Secretary General, ICC International Court of Arbitration
- LOUIS B. KIMMELMAN, Partner, O'Melveny & Myers LLP, New York; Chair, USCIB Arbitration Committee
- KARL-HEINZ BÖCKSTIEGEL, Arbitrator & Sole Practitioner, Germany; President, International Law Association (ILA); President, German Association for International Law

Moderator

- JOSEFA SICARD-MIRABAL, Director, Arbitration and ADR, North America, ICC International Court of Arbitration

3:30 – 3:45 **Discussion**

4:00 – 5:15

Q & A Session

Arbitration has become an appropriate means of settling commercial disputes in Latin America; however, new challenges and problems continue to arise. This panel will address questions submitted by conference participants in advance. It will be a unique opportunity to hear international arbitration practitioners express their views on problems and uncertainties in arbitration relating to Latin America.

- WHITNEY DEBEVOISE, Partner, Arnold & Porter LLP, Washington D.C.
- ARNOLDO WALD, Senior Partner, Wald Asociados Advogados, São Paulo; Member for Brazil, ICC International Court of Arbitration
- JOSÉ ANTONIO CAÍNZOS, Partner, Clifford Chance, Madrid
- PIERRE TERCIER, Chairman, ICC International Court of Arbitration

Moderator

- LORRAINE M. BRENNAN, Partner, Kilpatrick Stockton LLP, New York; former Director, Arbitration and ADR, North America, ICC International Court of Arbitration

5:15 – 5:30 **Closing Remarks**

- PIERRE TERCIER, Chairman, ICC International Court of Arbitration

Arbitral Awards and ICC Experience

In association with the USCIB Young Arbitrators Forum (YAF)

Program designed for arbitration practitioners under 40

Program

Sunday 5 November 2006

2:30 – 2:40

Welcoming Remarks

- KATHERINE GONZÁLEZ ARROCHA, Senior Counsel, ICC Dispute Resolution Services
- NANCY M. THEVENIN, Deputy Director, Arbitration and ADR, North America, ICC International Court of Arbitration

2:40 – 4:00

Arbitral Awards vs. Procedural Orders

Discussions will focus on factors that may have a bearing on deciding whether a decision should take the form of an award or an order. The possible consequences of rendering an award, as opposed to a procedural order, will also be addressed, with particular reference to the ICC system.

- ADRIANA BRAGHETTA, Senior Lawyer, Trench, Rossi & Watanabe associated with Baker & McKenzie International, Swiss Verein, Sao Paulo
- PAOLO DI ROSA, Partner, Winston & Strawn LLP, Washington, D.C.

4:00 – 4:20

Coffee break

4:20 – 5:40

Partial Awards vs. Final Awards

Discussions will focus on practical issues to be considered when determining whether an arbitral tribunal should render a partial award rather than a final award (i.e. bifurcation of proceedings to deal separately with jurisdiction and the merits, or liability and damages) and the consequences and problems that may arise as a result. Consideration will also be given to awards by consent.

- ELENA M. MARLOW, Partner, Astigarraga Davis, Miami
- GUSTAVO PARODI, Lawyer, Marval, O'Farrell & Mairal, Buenos Aires

5:40 – 6:00

Closing Remarks

- DYALÁ JIMÉNEZ FIGUERES, Director, ICC Dispute Resolution Services, Latin America
- CRISTIÁN CONEJERO ROOS, Counsel, ICC International Court of Arbitration

6:00 – 8:00

Reception

Logistical Note

English and Spanish with simultaneous interpretation.

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Registration will be confirmed upon receipt of the registration form and contribution to costs.

Contribution to costs

- **US\$ 900** for ICC/USCIB members
- **US\$ 980** for non-members
- **US\$ 250** for accompanying person
- **US\$ 50** ICC Meeting for Young Arbitrators

Until Friday 6 October 2006

- **780 US\$ “early-bird” special** applies to all participants

The contribution to costs covers the following:

- 1. Conference:** all conference activities, including documentation, lunches and coffee breaks, Sunday reception and dinner on Monday.
- 2. Accompanying person's fee:** Sunday reception and dinner on Monday (sessions and networking lunches are restricted to participants only).
- 3. ICC Meeting for Young Arbitrators:** all meeting activities, coffee break and reception.

The contribution to costs does not cover travel and accommodation.

MCLE / CLE / CPD Credits



An application has been made for CLE credits under the State Bar of **Florida**. ICC Events is a State Bar of **California** approved MCLE provider, is eligible for CLE credits under **New York's** approved jurisdiction procedures and is a Law Society and the General Council of the Bar of **England and Wales** External CPD Course Provider.

Travel and accommodation

Participants are responsible for making their own travel and hotel arrangements.

A hotel reservation form for “**The Mandarin Oriental Hotel**”, with which ICC has negotiated preferential rates at 285 US\$ per night (+prevailing city and state taxes), will be sent upon receipt of the registration form and contribution to costs. All room reservations must be guaranteed by a credit card. **The pre-reservation cut-off date is Wednesday 4 October.** Hotel reservations received after 4 October will be accepted on a space and/or rate available basis only.

Dress code

Business casual for both Sunday cocktail reception and Monday dinner.

Sponsorship opportunities

Companies that choose to become Conference Sponsors are given many opportunities to profile their business. They will receive maximum exposure during the event. If your company is interested in sponsoring this conference, *please contact:* **Aisling Mullett**, amt@iccwbo.org, telephone +33 1 49 53 28 69

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Dates

Sunday 5 – Tuesday 7 November 2006

Venue

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