



INVESTMENT ARBITRATION MASTERCLASS

4-7 November 2019

*International Energy Charter,
Boulevard de la Woluwe 46,
1200 Brussels*

Agenda

Monday, 4 November 2019

8:30-9:00 Registration

9:00-9:30 Opening remarks by the International Energy Charter

9:30 – 12:30 **PCA investment arbitration practice and procedure**

Speakers:

Martin Doe, Senior Legal Counsel, Permanent Court of Arbitration

Lisa Bingham, Legal Counsel, Permanent Court of Arbitration

Christophe Bondy, Special Counsel, Cooley

Juan Nascimbene, International Associate, Cooley

Yas Banifatemi, Partner, Shearman & Sterling

Maude Lebois, Partner, Shearman & Sterling

- Notice of Arbitration
- Appointment of arbitrators/constitution of the Tribunal
- Procedural and logistical choices at the beginning of the process
- Arbitrator challenges

With a short coffee break 11:00-11:15

12:30 – 13:30 Lunch

13:30 – 17:15 **PCA investment arbitration practice and procedure**

Speakers:

Martin Doe, Senior Legal Counsel, Permanent Court of Arbitration

Lisa Bingham, Legal Counsel, Permanent Court of Arbitration

Christophe Bondy, Special Counsel, Cooley

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Yas Banifatemi, Partner, Shearman & Sterling

Maude Lebois, Partner, Shearman & Sterling

- *Interim procedural decisions*
- *Evidence*
- *Preparation and conduct of the hearing*



- *Costs of arbitration*
- *Award and post-award remedies*

With a short coffee break 15:30-15:45

17:15 – 17:30 *Summary and close*



Tuesday, 5 November 2019

9:30-10:15 **Opening Remarks and introduction of the Stockholm Chamber of Commerce Arbitration Institute (SCC)**

Speakers: **Natalia Petrik**, Legal Counsel, SCC Arbitration Institute

- The SCC: background, organization and investment caseload
- Who does what at the SCC?
- The SCC Rules
- An SCC arbitration from beginning to end
- Challenges to arbitrators under the SCC Rules

10:15 – 11:00 **Introduction into investment arbitration**

Speakers: **Noah Rubins**, Partner, Freshfields

- Investment protections treaties and laws
- Meeting the jurisdictional thresholds
- Obligations of the State
- Enforcement of State obligations
- Recent trends

11:00 – 11:30 *Coffee Break*

11:30 – 12:15 **Admissibility of claims and jurisdiction of the Tribunal in investment arbitration**

Speakers: **Yas Banifatemi**, Partner, Shearman Sterling, Paris

12:15 – 13:00 **Investment treaty claim from the perspective of the respondent State**
Speakers: **Sebastian Seelmann-Eggebert**, Partner, LATHAM & WATKINS, Hamburg

13:00 – 14:00 *Lunch*

14:00 – 14:30 **Emergency arbitrations under the SCC Rules.**

Speakers: **Fredrik Andersson**, partner, Mannheimer Swartling, Stockholm

- Essential facts of Emergency Arbitration under the SCC Rules
- Statistics
- Procedure
- Which measures might be requested?
- Standards for granting of emergency relief

14:30 – 15:15 **Mock case with request for appointment of an emergency arbitrator, development of emergency proceedings, emergency decision**

Facilitators:



Ginta Ahrel, Partner, Westerberg & Partners, Stockholm

Sebastian Seelmann-Eggebert, partner, LATHAM & WATKINS, Hamburg

Fredrik Andersson, partner, Mannheimer Swartling, Stockholm

15:15 - 15:30 Coffee Break

15:30 – 16:15 **Mock case with request for arbitration, answer, jurisdictional objections**

Facilitators:

Ginta Ahrel, Partner, Westerberg & Partners, Stockholm

Sebastian Seelmann-Eggebert, partner, LATHAM & WATKINS, Hamburg

Fredrik Andersson, partner, Mannheimer Swartling, Stockholm

16:15 – 16:30 Summary and close



Wednesday, 6 November 2019

9:00 – 11:00 **ICSID investment arbitration practice and procedure**

Speakers: **Francisco Abriani**, Legal Counsel, ICSID
Alejandro A. Escobar, Partner, Baker Botts
Ucheora Onwuamaegbu, International Attorney, Arent Fox

- Introduction to ICSID
- ICSID and the Energy Charter Treaty
- ICSID Jurisdiction
- Notice of Dispute and Pre-Arbitration Phase

11:00 – 11:15 *Coffee Break*

11:15 – 12:00 **ICSID (with mock exercises)**

Speakers: **Francisco Abriani**, Legal Counsel, ICSID
Alejandro A. Escobar, Partner, Baker Botts
Ucheora Onwuamaegbu, International Attorney, Arent Fox

- Institution of Proceedings
- Constitution of the Tribunal; Disqualification of Arbitrators
- Commencement of Proceedings;
- First Session and Procedural Order No. 1
- Other Procedures: Manifest Lack of Legal Merit; Preliminary Objections; Bifurcation; Provisional Measures

12:00 – 13:00 *Lunch*

13:00 – 17:15 **ICSID (with interactive exercises)**

Speakers: **Francisco Abriani**, Legal Counsel, ICSID
Alejandro A. Escobar, Partner, Baker Botts
Ucheora Onwuamaegbu, International Attorney, Arent Fox

- Other Procedures: Production of Doc-s; Transparency; and Non-Disputing Parties
- Oral Process
- The Award or Termination of the Proceedings by Settlement/Discontinuance
- Costs of Arbitration
- Post-Award Remedies
- Recognition and Enforcement of Awards

With a short coffee break 15:30-15:45

17:15 – 17:30 *Summary and close*



Thursday, 7 November 2019

9:00 – 11:00

Determination of damages: practical issues (with mock exercises)

Speakers:

Joachim Knoll, Partner, Lalive

Stuart Dekker, Principal, Versant Partners

Discussion points:

- Introduction; What are damages?
- Framework for assessing damages – the Chorzów principle
- Damages case studies
- Mock exercises

11:00 – 11:15

Coffee Break and family photo

11:15 – 12:00

Determination of damages: methods of calculation with a mock case

Speakers:

Joachim Knoll, Partner, Lalive

Stuart Dekker, Principal, Versant Partners

Discussion points:

- The role of a damages expert
- Selecting a damages expert
- An overview of damages calculation – valuation approaches
- Information required – documentation, evidence, etc.
- Comparing assessment methods adopted in recent arbitral decisions
- Description of a hypothetical case; Mock exercises

12:00 – 13:00

Lunch

13:00 – 15:30

Strategic Communication

Speaker: **Pablo López-Álvarez**, Head of EU Competition, Trade and International Litigation, FTI Consulting

Discussion points:

- Management of the reputational, communication, diplomatic and political ramifications of the dispute
- Growing transparency requirements
- Communications plan development
- Stakeholder engagement/management
- Promotion of the right environment to achieve a negotiated solution
- Practical case study

15:30 – 16:00

Award ceremony and farewell