

Study of a Mock Case under the ICC Rules

International Commercial Arbitration Workshop

Presented by:

International Court of Arbitration® &

The University of Florence

*CLE Credits
Available!*

July 21-25, 2014

Florence, Italy



Program

Monday July 21, 2014

9:00 a.m.

Registration and Continental Breakfast

10:00 -10:30 a.m.

Welcome & Introduction

10:30 - 11:45 a.m.

Clause and Effect – the Arbitration Clause and Jurisdiction

- Types of Clauses and Jurisdictions
- The Request for Arbitration

In the momentum of closing an international business deal, parties may fail to give sufficient attention to the drafting of a sound arbitration clause. This haste could later lead to questions about jurisdiction of the arbitral tribunal, which is problematic for parties on both sides of the dispute. The best practice is to draft an enforceable dispute resolution clause during the most amenable phase of a business cycle – when drafting the contract. This session will discuss the importance of a contract's arbitration clause and how it can pave an otherwise rocky road in the event of arbitration.

11:45 a.m. - 12:00 p.m.

Coffee Break

12:00 - 1:00 p.m.

Clause and Effect – the Arbitration Clause and Jurisdiction (*continued*)

1:00 - 3:00 p.m.

Lunch Break

3:00 - 3:30 p.m.

Strategy and Analysis of the Mock Case

3:30 - 4:15 p.m.

Working Session: the Request for Arbitration

4:15 - 4:30 p.m.

Coffee Break

4:30 - 5:30 p.m.

Plenary Session: Discussion of the Request for Arbitration

Tuesday July 22, 2014

10:30 - 11:45 a.m.

The Best Offense – the Answer to the Request

- Answer to the Request
- General Tactics

The Answer to the Request is the first instance where the respondent communicates its case. Therefore, strategy is very important. This session will discuss various approaches and tactics to use when drafting the Answer to the Request, including: multiparty arbitration, multi-contract arbitration, joinder of third parties, parallel proceedings, consolidation of matters, jurisdictional objections, counter-claims and set-offs. Such considerations help set the stage for a successful defense, which is oftentimes the best offense.

11:45 a.m. - 12:00 p.m.

Coffee Break

12:00 - 1:00 p.m.

The Best Offense – the Answer to the Request (*continued*)

1:00 - 3:00 p.m.

Lunch Break

3:00 - 4:00 p.m.

Working Session: the Answer to the Request

4:00 - 4:15 p.m.

Coffee Break

Program

4:15 - 5:00 p.m.

Plenary Session: Discussion of the Answer to the Request

Wednesday July 23, 2014

10:00 - 11:15 a.m.

Terms of Reference

- Advantages, Function, and Legal Nature
- Contents and Particulars

The Terms of Reference are a device under the ICC Rules that fixes, by agreement between the arbitrator and the parties, the arbitrator's tasks and the procedural means for achieving them. They are executed at an early stage of the arbitration with the purpose of expediting the arbitral proceedings and the drafting of the award. This session will discuss the advantages, functions and legal nature of the Terms of Reference as well as the potential consequences of a poorly drafted set of terms. The workings of the ICC Secretariat will also be presented by the Secretary General so that workshop participants gain an understanding of how the ICC utilizes one of its distinguishing features.

11:15 - 11:30 a.m.

Coffee Break

11:30 a.m. - 12:15 p.m.

Working Session: Terms of Reference

12:15 - 1:15 p.m.

Plenary Session: Discussion of the Terms of Reference

1:15 - 2:45 p.m.

Lunch Break

2:45 - 4:00 p.m.

Costs and Efficiency of ICC Arbitration

- Complying with the ICC Rules
- Allocating Costs to Encourage Efficient Conduct

ICC arbitration remains an attractive form of dispute resolution due to its cost and efficiency. In order to retain these features, arbitrators and counsel must understand their significant roles in managing arbitration costs. This panel will go over the various ways to control costs at different stages. Such methods include the drawing of time tables, guidance on what issues to brief, legal costs prior to the final award and costs related to document production.

4:00 - 7:00 p.m.

Site Inspection: Chianti Region Wine Tour

- Afternoon visit and wine tasting at a renowned Chianti winery
- Scenic drive through the Tuscan countryside

Parties to arbitrations sometimes perceive a need for arbitrators to inspect a particular site. Such inspections allow for maximum evaluation of evidence prior to or during a hearing. In this spirit, workshop participants will venture offsite in order to "inspect" a Chianti region winery similar to the respondent party being studied in the mock case. Workshop participants will also enjoy samples of traditional Tuscan wine prior to returning to Florence through the countryside via tour bus.

Thursday July 24, 2014

10:00 - 11:15 a.m.

Tips on Oral Advocacy

- Ditch the Outline – Developing a Modular Approach
- Pairing Substance with Technique

To represent a client properly, advocates must understand the goals of oral arguments for each actor involved. For instance, parties want their voice to be heard, counsel aim to enhance credibility, and arbitrators aspire to thoroughly evaluate all claims. This session will shed light on the goals of oral advocacy while contextualizing the tips, techniques and approaches that are key to the strengthening of any argument.

Program

11:15 - 11:30 a.m.

Coffee Break

11:30 a.m. - 1:00 p.m.

Corporate Counsel Roundtable Discussion

- Communication between Outside Counsel and In-house Counsel
- Legal Personalities and Expertise

This session will consider the importance of outside counsel communicating with in-house counsel during all phases of a business cycle. While both have the best interests of the end-user client in mind, perspectives of each often diverge. A diverse panel of corporate counsel will discuss their perspective, providing a rare opportunity to address the co-managing of disputes.

This session will also address the freedom parties have in not only selecting their arbitrators, but challenging and potentially replacing them. As this freedom of choice is one of the features that attract parties to arbitration, it is important to consider what goes into the clients' decision-making process. The concepts of impartiality and independence will largely be discussed as well as legal personalities and expertise. Corporate counsel will participate in a way that sheds light on their corporations' risk equations; a grasp of which is fundamental when successfully serving as an arbitrator.

1:00 - 3:00 p.m.

Lunch Break

3:00 - 4:00 p.m.

Mock Hearing

- Presentation of Oral and Documentary Evidence

During the arbitration hearing, a claimant seeks to prove the claims that are alleged in the Statement of Claim, and respondents try to establish any defenses to those claims and seek to prove any counterclaims.

Arbitrators usually accept two types of proof: oral testimony and documentary evidence. Parties are required to inform the other party or parties of witnesses they intend to call and provide copies of any documents or other materials that they plan to use as evidence. Also, parties need to arrange for witnesses and all

documentary evidence to be available for presentation at the hearing. Witnesses will testify under oath.

In this session, participants will witness a demonstration of a mock hearing complete with clients, counsel, witnesses and arbitrators.

4:00 - 4:15 p.m.

Coffee Break

4:15 - 5:30 p.m.

Mock Hearing (*continued*)

Friday July 25, 2014

10:00 - 10:45 a.m.

How to Draft an Award

- Preliminary Considerations
- Form, Style, and Content

This session will provide basic guidance concerning the drafting of an award in ICC arbitration. Although there is no single 'correct' form of an award in an ICC Arbitration, there are general considerations that increase the likelihood of approval by the ICC International Court of Arbitration and the ultimate enforceability of the award at law. Guidance about required formalities, the duties of the arbitral tribunal in relation to its jurisdiction, adherence to principles of public policy and other aspects of drafting will be given in order to better produce effective and enforceable arbitral awards.

10:45 - 11:00 a.m.

Coffee Break

11:00 a.m. - 12:00 p.m.

Working Session: Analyzing the Award

12:00 - 1:00 p.m.

Plenary Session: Discussion of the Award

1:00 - 1:15 p.m.

Closing of Seminar; Final Remarks

Faculty

Giuseppe Conte, Co-Director of Florence Summer Seminar; Professor of Private Law, University of Florence School of Law

Josefa Sicard-Mirabal, Co-Director of Florence Summer Seminar; Executive Director, Arbitration & ADR, North America, International Court of Arbitration® / SICANA, Inc.; Adjunct Professor, Fordham University School of Law

- **Guido Alpa**, Professor of Civil Law, University of Rome “La Sapienza”; President, Italian Bar Council
- **John Beechey**, President, International Court of Arbitration®
- **Guglielmo Bevivino**, Faculty Researcher, University of Florence School of Law
- **Andrea Carlevaris**, Secretary General, International Court of Arbitration®; Director, ICC Dispute Resolution Services; President, SICANA, Inc.
- **Stefano Paolo Catelani**, Corporate Counsel, Du Pont
- **Cesare Cecchi**, Wine Producer, Cecchi – Casa Vinicola Luigi Cecchi e Figli srl
- **Rachel Clarke**, Deputy Director, Arbitration & ADR, North America, International Court of Arbitration® / SICANA, Inc.
- **Maria Beatrice Deli**, Secretary General, ICC Italy; Professor of International Organizations, the LUISS School of Government
- **Yves Derains**, Founding Partner, Derains & Gharavi
- **Paul Friedland**, Partner and Global Head of the International Arbitration Practice Group, White & Case LLP
- **Pietro Galizzi**, International Downstream Legal Assistance Senior Vice President, Eni S.p.A.
- **Francesco Gianni**, Founding Partner and Head of the Corporate/M&A Department, Gianni, Origoni, Grippo, Cappelli & Partners
- **Grant Hanessian**, Partner and Co-Chair of International Arbitration Group, Baker & McKenzie LLP
- **Kai-Uwe Karl**, Senior Litigation Counsel for Oil & Gas Division, General Electric Company
- **Richard Kreindler**, Partner, Cleary Gottlieb Steen & Hamilton LLP; Honorary Professor, University of Muenster
- **Ettore M. Lombardi**, Assistant Professor of Law, University of Florence School of Law
- **Paola Lucarelli**, Professor of Commercial Law, University of Florence School of Law
- **Fernando Mantilla-Serrano**, Partner and Global Co-Chair of the International Arbitration Practice, Latham & Watkins LLP; Lecturer, Université de Versailles and Université de Paris XI
- **Michael McIlwrath**, Senior Litigation Counsel for Oil & Gas Division, General Electric Company
- **Mark Morril**, Independent Arbitrator and Mediator, MorrilADR
- **Alexis Mourre**, Vice President, International Court of Arbitration®; Founding Partner, Castaldi Mourre & Partners
- **Angelica Nuñez-Anico**, Director of Legal Services, Repsol - Gas Natural LNG
- **Luis O’Naghten**, Partner and Chair of the International Litigation and Arbitration Practice, Akerman LLP; Adjunct Professor, University of Miami Law School and Universidad Panamericana
- **Luca Radicati di Brozolo**, Founding Partner, ARBLIT – Radicati di Brozolo Sabatini; Door Tenant, Fountain Court Chambers; Professor and Chair of Private International Law, Milan’s Catholic University School of Law
- **John Roesser**, Partner in Litigation & Trial Practice Group, Alston & Bird LLP
- **Michele Sabatini**, Founding Partner, ARBLIT – Radicati di Brozolo Sabatini
- **Peter Sherwin**, Partner and Head of the International Arbitration Group, Proskauer Rose LLP
- **Laurence Shore**, Partner, Herbert Smith Freehills LLP
- **Rachel Thorn**, Partner, Chadbourne & Parke LLP
- **Federica Tognoni**, Head of Legal Department, Tesmec S.p.A.
- **George von Mehren**, Partner and Leader of International Dispute Resolution Practice Group, Squire Sanders

Logistical and Registration Information

Venue:

University of Florence
Dipartimento di Scienze Giuridiche (DSG)
Via delle Pandette, 32
50127 Florence
Italy

How to register:

Please visit the University of Florence website <http://www.dsg.unifi.it/cmpro-v-p-272.html> and complete and return the indicated registration form to the contact provided:

Email: perfezionamenti@adm.unifi.it

Fax: +39 055 2759903

Registration will be confirmed upon receipt of registration form and payment.

Registration fee:

Until July 11, 2014:

After July 11, 2014

“Early bird special”

• € 850

• € 1000

Fee for ICC/USCIB members, Academics, Corporate Counsel, Sole Practitioners and Government Representatives:

• € 600

Graduate Students under age of 28*:

• € 800

The fee includes working papers and various listed social events.

CLE Credit

This program is approved for 20.25 California CLE credits, 19.75 Illinois and Texas general CLE credits, and 23.50 New York general CLE credits. Baker & McKenzie LLP is a California and Illinois CLE approved provider. Baker & McKenzie LLP has been certified by the New York State CLE Board as an accredited provider in the state of New York for the period 12/12/12-12/11/15. This non-transitional program is not appropriate for newly admitted New York attorneys. Baker & McKenzie LLP is an accredited sponsor, approved by the State Bar of Texas, Committee on MCLE.

This program is also approved for 19 credits for Italian lawyers by the *Consiglio dell’Ordine degli Avvocati di Firenze*.

Travel and accommodation:

Travel and hotel expenses are not included. Participants are responsible for making their own travel arrangements and hotel reservations. We have negotiated rates at a number of hotels in Florence for participants of the Summer Seminar. Please see the following hotel list for details and mention “University of Florence – International Commercial Arbitration Summer Seminar” when making your reservation. Additionally, please note that room availability is limited and cannot be guaranteed. Participants are responsible for making accommodation reservations and entering into an agreement with the hotel regarding credit card guarantees, cancellation terms and conditions, and room rates (should these differ from the special Summer Seminar rate). The International Court of Arbitration® and the University of Florence cannot accept responsibility for hotel accommodation disputes between a participant and the hotel.

Cancellation:

Cancellations are not refundable. However, registration may be transferred to another person from the same company or organization at no extra charge, provided that notice is sent to perfezionamenti@adm.unifi.it prior to the seminar.

*Pursuant to Article 5 of Rectorial Decree No. 166 of the University of Florence, February 22, 2011.

List of Social Events

Sunday, July 20th

6:30 – 8:00 p.m.

Welcome Cocktail Reception

Grand Hotel Baglioni Roof Garden
Piazza Unità Italiana 6, Florence

Tuesday, July 22

1:30 – 2:30 p.m.

Networking Lunch

Hilton Garden Inn Florence Novoli
Via Sandro Pertini, 2/9, 50127 Florence

Wednesday, July 23

4:00 – 7:00 p.m.

Visit to Winery and Wine Tasting

Villa Cerna
Castellina in Chianti, Siena
(transportation will be provided)

Friday, July 25

1:30 p.m.

Farewell Lunch

Ristorante Il Latini
via dei Palchetti 6/r (Palazzo Rucellai), 50123 Florence

List of Hotels

- ❖ **Hotel Astoria:** 4 stars
via del Giglio n. 9, 50123, Florence
Price: single €100.00 + city tax;
double €112.00 + city tax; price includes
VAT and breakfast
Email: mice.hotel.@astoria.boscolo.com
Telephone: 055/2398095
- ❖ **Hotel Il Guelfo Bianco:** 4 stars
via Cavour 29, 50129, Florence
Price: several rates to include single
€100.00 + city tax; double deluxe €145.00
+ city tax; price includes breakfast and
VAT
Email: npl379@npl.com
Telephone: 055/288330
- ❖ **Hotel Londra:** 4 stars
via Jacopo da Diacceto, 16/20, 50123,
Florence
Price: single €119.00 + city tax;
Email: info@hotellondra.com
Telephone: 055/27390
- ❖ **Nil Hotel:** 4 stars
via Barsanti, n. 27, 50127 Florence
Price: single €99.00 + city tax;
Email: info@nilhotel.it
Telephone: 055/795540
- ❖ **Auto Park Hotel:** 3 stars
via Lippi e Macia n. 22; 50127 Florence
Price: single €48.00 + city tax;
double €65.00 city tax
Email: info@hotelautopark.com
Telephone: 055/431771
- ❖ **Hotel Adler Cavalieri:** 4 stars
via della Scala n. 40, 50123 Florence
Price: single €109.00 + city tax; double
€129.00 + city tax; triple €159 + city tax
Email: info@hoteladlercavalieri.com
Telephone: 055/277810

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