



Masterclass | Hong Kong | 7-9 March 2013

# ICC INSTITUTE MASTERCLASS FOR ARBITRATORS

Overview of fundamentals and best practices related to serving as an arbitrator

Under the auspices of the ICC Institute of World Business Law

**Date:** 7-9 March 2013

**Venue:** Herbert Smith Freehills  
23/F Gloucester Tower, 15 Queen's Road Central  
Central Hong Kong

**EARN**  
17 CLE credits  
14 MCLE credits  
14 CPD hours\*

## Objective

For the first time since the creation of this programme, the ICC Institute of World Business Law will bring its Masterclass for Arbitrators to Hong Kong.

As the practice area of international commercial arbitration has flourished within the last decade, the ICC Institute of World Business Law proposes its Masterclass for individuals interested in serving as international arbitrators. The condensed format as well as the reasonable pricing of this two and half day training makes it convenient and practical for working professionals.

This ICC Institute Masterclass for Arbitrators will provide participants with an opportunity to gain a deeper insight into some of the new provisions of the 2012 ICC Rules of Arbitration while learning about the latest developments and best practices related to serving as an international arbitrator.

In keeping with its commitment to excellence, ICC has recruited some of the world's leading practitioners and scholars as lecturers for this important event. Participants will have the rare opportunity to learn firsthand from them and to develop helpful contacts with arbitration practitioners from around the world. The course will consist of presentations and interactive discussions using mock cases designed to hone participants' understanding of critical theoretical concepts while also emphasizing many practical aspects involved in conducting an international arbitration.

The purpose of this course is to provide training with respect to serving as an arbitrator. Completion of the course will not result in students being awarded any type of certification or accreditation by ICC in terms of their fitness to serve as international arbitrators.

## Who should attend?

This **advanced level training** is designed primarily for practitioners who have a significant experience in international commercial arbitration as counsel, but who have little or no experience as arbitrators. Arbitrators wishing to reinforce their knowledge may also participate. Attendees are expected to have already mastered the essentials of arbitral proceedings and ICC Arbitration, as these will not be reviewed during the Masterclass.

## Key sponsor and host



HERBERT  
SMITH  
FREEHILLS



International Chamber of Commerce

*The world business organization*

Please note that a Curriculum Vitae is requested upon registration as candidates will be accepted depending on their experience.

\* approval for these credits has been requested





# PROGRAMME

## Thursday 7 March 2013

**Morning** 09:00 – 12:30

### Constitution of the arbitral tribunal

The appointment of arbitrators starts with a selection process often involving various issues such as the interview process, the initial disclosures and conflict checks. How should a potential arbitrator deal with these issues? What do the concepts of impartiality and independence require in concrete terms and what types and level of disclosure are required? How is the chairman selected by the co-arbitrators? The sensitive issue of the arbitrator's fees and expenses, notably institutional arbitration vs. ad hoc, will also be discussed.

### Mock cases and debate

### Establishing your authority over the parties and the framework for the arbitration

The arbitrator must establish his or her authority at the outset and create a suitable framework for the arbitration. This may pose particular challenges for young arbitrators or arbitrators dealing with experienced attorneys. Participants will learn manners of setting out the rules of the process at the very beginning and how to deal with issues related to the characteristics or behaviour of the parties, such as cultural differences, recalcitrant parties or how to maintain a level playing field in order to create a balance between the parties and the temptation of helping the less experienced/weaker party.

### Mock cases and debate

**12:30 - 14:15** Lunch

**Afternoon** 14:15 – 17:45

### Conduct of the proceedings and case management techniques

This session will focus on the general administrative as well as critical procedural matters that arbitrators and parties have to deal with in order to establish an orderly and efficient process. These include issues related to jurisdiction, terms of reference, the governing law and procedural rules, multiparty arbitrations, interim measures, standards of evidence, discovery and many more. Participants will also be provided with several demonstrations on the different case management techniques available for controlling time and costs.

### Questions and Answers

### Conducting hearings

Conducting hearings in an efficient and fair fashion is one of the most critical and challenging tasks faced by arbitrators. Because an arbitrator is not a judicial officer with state sanctioned authority to hold parties and advocates in contempt, maintaining control and decorum may pose a significant challenge for arbitrators. The experienced lecturers will share their insights notably on the questioning of witnesses or attorneys by arbitrators, deciding whether to request additional evidence not provided by the parties and evaluating the need to appoint an expert.

### Mock cases and debate

## Friday 8 March

**Morning** 09:00 – 12:30

### Relations between arbitrators - Part 1

The relationship and interaction between arbitrators is another important component of the arbitral process. This session will focus on specific issues pertaining to relations between arbitrators such as the pathological behaviour of party appointed arbitrators, dissenting opinions and truncated tribunals, and the role of the chairman.

### Relations between arbitrators - Part 2: Mock arbitral tribunal

Several demonstrations with a mock arbitral tribunal will be presented to explore and give a practical insight into the following issues: consultation with co-arbitrators before and during the hearing; getting along with your co-arbitrators; trying to build consensus; dealing with conflicting personalities or styles; dealing with perceived bias or other perceived inability to properly function.

### Debate on the mock arbitral tribunal

**12:30 - 14:15** Lunch

**Afternoon** 14:15 – 17:45

### Drafting enforceable awards

Participants will learn the general guidelines and best practices pertaining to what can be referred to as the most prominent duty of an arbitrator. Accordingly, the session will focus on the procedural as well as formal requirements, and cover the issue of the necessary substantive accuracy of the award.

### Questions and answers

### Working groups

Participants will be given the opportunity to study draft awards before scrutiny by the ICC International Court of Arbitration. Each working group will be responsible for reviewing part of the award and will make its comments as if it were a Counsel of the ICC Court of Arbitration Secretariat.

### Mock Court Session: scrutiny of draft awards and debate

This is an opportunity for participants to witness the type of discussions that are held between members of the Court and representatives of the ICC Secretariat when reviewing a draft award. The parties to this mock court session will debate on the draft awards reviewed by the working groups.



## SPEAKERS

### Saturday 9 March

**Morning** 09:00 – 13:00

#### Decisions as to the costs of the arbitration

The arbitral tribunal has the difficult mandatory duty to evaluate and fix the costs of the arbitration in the final award and decide in what proportion they shall be borne by the parties pursuant to article 37 of the ICC Rules. Such costs include the fees and expenses of any experts appointed by the arbitral tribunal and the reasonable legal and other costs incurred by the parties for the arbitration. Participants will benefit from the precious advice of learned practitioners on how to make such decisions.

#### Questions and Answers

#### Challenge and replacement of arbitrators

This session will focus on the different procedures applicable to the challenge and replacement of Arbitrators notably under the rules of the ICC International Court of Arbitration, but also before National Courts. The concepts of impartiality and independence will be largely discussed.

#### Questions and Answers

#### Arbitrator immunity

As in many legal endeavours, the world of arbitration involves issues related to an arbitrator's legal exposure. The faculty will discuss the nature and extent of arbitrator immunity and provide suggestions on what an arbitrator should do if he or she gets sued. The discussion will also touch upon matters relating to potential unauthorized practice of law issues.

#### Questions and Answers

#### The New ICC 2012 Rules of Arbitration's Emergency Arbitrator provisions

Participants will benefit from a comprehensive presentation of these brand new provisions, providing parties with potential emergency relief prior to the arbitral tribunal's receipt of case. The main questions why? when? who? will be addressed. Practitioners will present the general characteristics of the emergency arbitrator provisions and share their experience.

#### Questions and Answers

#### Concluding remarks

### Chair of the ICC Institute Masterclass for Arbitrators

#### Karyl Nairn

Partner, Skadden, Arps, Slate, Meagher & Flom, United Kingdom; Vice-President, ICC International Court of Arbitration

#### Speakers

##### Justin D'Agostino

Partner, Herbert Smith Freehills, Hong Kong

##### Bernard Hanotiau

Partner and Professor, Hanotiau & van den Berg, Belgium; Council Member, ICC Institute of World Business Law

##### Michael Hwang

Senior Counsel & Arbitrator, Michael Hwang Chambers, Singapore; Chief Justice, Dubai International Financial Centre Courts

##### Stuart Isaacs QC

Partner, Berwin Leighton Paisner LLP, United Kingdom

##### Lucy Reed

Partner, Freshfields, Bruckhaus Deringer, Hong Kong

##### Alan J. Thambiayah

Professional arbitrator, The Arbitration Chambers, Singapore

#### ICC Representatives

##### Andrea Carlevaris

Secretary General, ICC International Court of Arbitration, Paris

##### Cheng Yee Khong

Director and Counsel, Secretariat of the ICC International Court of Arbitration – Asia Office



# LOGISTICAL NOTES

## Registration fees

The registration fee includes all conference documentation, coffee breaks and lunches. Travel and hotel expenses are not included.

### Early Bird Special until 1 February 2013

☐ **US\$1,099**

### After 1 February 2013

☐ ICC members: **US\$1,399**

☐ Non-Members **US\$1,699**

*This event is exempt from VAT – Article 259A – 5ème bis of the General Tax Code*

## How to register

**Easier and faster, register online** (secured payment by credit card) at **www.iccevents.org**

Or return the registration form indicating method of payment to:

**E-mail:** events@iccwbo.org

**Tel:** +33 1 49 53 28 67

**Fax:** +33 1 49 53 30 30

**Post:** ICC Services, Training and Conferences, 38, Cours Albert 1er, 75008 Paris, France

Registration will be confirmed upon receipt of the registration form and registration fees.

To benefit from early bird rates, please note that ICC Services must receive the payment before the deadline.

## Travel and accommodation

Participants are responsible for making their own travel arrangements and hotel reservations. A **list of hotels** in Hong Kong, situated near to the Masterclass venue, will be sent to you upon request.

We are only able to dispatch **visa invitation letters** to support your visa application once we have received your registration form and full payment of your registration fees.

## Working language

English

## Credits and hours

ICC Training and Conferences is eligible for CLE credit under **New York's** approved jurisdiction procedures, is a State Bar of **California** approved MCLE provider and is a Solicitors Regulation Authority and General Council of the Bar of **England and Wales** External CPD Course Provider. **French Bars:** This training has been sent for CNB approval. Lawyers practising in France may apply for reimbursement from the FIFPL (Fonds Interprofessionnel de Formation des Professionnels Libéraux), subject to terms and conditions.

## Cancellation policy

50% of the registration fee will be refunded if notice of cancellation is received in writing **before Friday 8 February 2013**. Cancellations after this date are not refundable. Subject to agreement from ICC Training and Conferences prior to the event, the registration may be transferred to another person from the same company or organization at no extra charge. Updated registration information will be required.

Please note that ICC Services reserves the right to cancel this event or to make minor alterations to the content and timing of the programme or to the identity of the speakers. In the unlikely event of cancellation, delegates will be offered a full refund. ICC Services will not, however, be held responsible for any related expense incurred by the participant.

## Partnership opportunities

This training offers you an unrivalled opportunity to build worldwide partnerships. Partnering will get you visibility with the major decision makers in global business and/or within the international arbitration network.

For further information, please contact Ms Rodriguez at: **luz.rodriguez@iccwbo.org**



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## REGISTRATION FORM S 1303

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23/F Gloucester Tower  
15 Queen's Road Central  
Central Hong Kong

Register online\*  
**www.iccevents.org**  
\*Secured payment by credit card

or complete and return to  
**events@iccwbo.org**  
**Fax: +33 (0)1 49 53 30 30**

### Participant information

(Please print or type)

Title (Mr/Dr/Mrs/etc.) \_\_\_\_\_  
Family name \_\_\_\_\_ First/given name \_\_\_\_\_  
Position \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_  
City/state \_\_\_\_\_ CEP/postal code \_\_\_\_\_  
Country \_\_\_\_\_ E-mail \_\_\_\_\_  
Tel ( \_\_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_\_ ) \_\_\_\_\_

### Registration fees

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Special code (NC, etc.)

### Method of payment

☐ **By credit card:** ☐ American Express ☐ Euro/MasterCard ☐ Visa

Card number \_\_\_\_\_ Expiry date \_\_\_\_\_

Name of cardholder \_\_\_\_\_

☐ **By bank transfer: LCL**

Beneficiary: ICC Services Account No. 0000060021B Clé RIB 64 Bank Code 30002 Branch Code 04866  
Swift: CRLYFRPP IBAN: FR61 3000 2048 6600 0006 0021 B64

**Please indicate the reference "S 1303" and the name of the participant.**

Please note that transfer fees charged by the bank must be covered by the participants themselves.

Date \_\_\_\_\_ Signature \_\_\_\_\_

### Data protection information

The details you provide on this form will be used for registration purposes. They will be stored in ICC's databases for the sole use of ICC (the International Chamber of Commerce and its wholly-owned affiliate ICC Services). Under the French law 'informatique et libertés' of 6 January 1978, you may have access to these details and request deletions and corrections at any time by contacting ICC at [registrations@iccwbo.org](mailto:registrations@iccwbo.org). The details you provide may be used by ICC to keep you informed of developments in your area of activity through publications, subscriptions, events and other commercial offers. Please indicate if you wish to receive such information:

☐ Yes ☐ No

Please tick below if you wish to receive commercial offers from associated organizations, including in particular **ICC National Committees**:

☐ Yes ☐ No

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