

International Commercial Arbitration Summer Seminar

*Presented by
The University of Florence &
The ICC International Court of Arbitration*

*CLE Credits
Available!*

July 22-26, 2013

Florence, Italy



International Chamber of Commerce

The world business organization



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SCIENZE GIURIDICHE

Program

Monday July 22, 2013

9:00 a.m.

Registration and Continental Breakfast

10:00 - 10:30 a.m.

Welcome & Introduction

10:30 - 11:30 a.m.

Introduction to International Commercial Arbitration

- Introduction to international commercial arbitration
- Why choose arbitration over litigation
- Ad hoc vs. institutional
- United Nations Convention
- Important Terminology

This session will introduce international arbitration as a dispute resolution process and distinguish it from court litigation. We will also compare and contrast the types of international arbitration, such as ad hoc and institutional arbitration. We will conclude by explaining the primary method of enforcing commercial arbitration awards through the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention").

11:30 a.m. - 12:00 p.m.

Coffee Break

12:00 - 1:00 p.m.

Introduction to International Commercial Arbitration (continued)

1:00 - 3:00 p.m.

Lunch Break

3:00 - 4:00 p.m.

International Arbitration Doctrines

- International Arbitration Agreements
- Separability doctrine
- Competence-competence
- Validity and non-arbitrability

This session will address threshold issues that arise when determining the enforceability and interpretation of an arbitration clause. We will explain why the validity of the arbitration agreement is a separate determination from the validity of the underlying substantive contract and why the arbitral tribunal has the power to determine its own jurisdiction. We will also address issues involving the intersection of international and domestic law, such as determining the validity of the arbitration agreement itself and determining whether a specific subject matter or claim may or may not be arbitrated.

4:00 - 4:15 p.m.

Coffee Break

4:15 - 5:30 p.m.

International Arbitration Doctrines (continued)

Tuesday July 23, 2013

10:00 - 11:30 a.m.

The Parties' Choice

- Overview
- Arbitral Seat
- Applicable Law
- Language
- Arbitrator qualifications
- Number of arbitrators
- Choice of arbitration rules/institution

This session will address the quintessential freedom of choice that parties have to determine what shape their arbitral process will take. In addition to choosing their arbitrators, parties are free to determine the location, language, number of arbitrators and applicable law for their arbitration, as well as many other parameters. This freedom of choice is one of the most attractive features of international arbitration.

11:30 a.m. - 12:00 p.m.

Coffee Break

Program

Tuesday July 23, 2013 (cont.)

12:00 - 1:00 p.m.

The Agreement to Arbitrate

- Types of Agreements
- Indispensable elements
- Generally recommended elements
- Pathological elements

This session will dissect the wording of the arbitration agreement and examine its various components and elements. We will discuss types of arbitration agreements such as the contractual clause, the “compromis,” the *ad hoc* arbitration agreement and the institutional arbitration agreement. We will revisit the parties’ choices and examine how those choices are memorialized in writing in the arbitration agreement. We will also examine advanced elements of arbitration clauses, such as multi-staged dispute resolution processes, conflicts of law provisions, amiable *compositeur*, *ex aequo et bono*, evidentiary provisions, cost provisions and multi-party provisions. Finally, we will discuss what not to include in an arbitration clause and how pathological elements in arbitration clauses may affect the validity of the agreement or the procedural steps of the arbitration.

1:00 - 3:00 p.m.

Lunch Break

3:00 - 4:30 p.m.

Practical Session on drafting the arbitration agreement based on the ICC Rules, including discussing a handout of pathological clauses

4:30 - 5:00 p.m.

Coffee Break

Wednesday July 24, 2013

10:00 - 11:00 a.m.

The Arbitral Tribunal

- Selection of Arbitrators
- Number of Arbitrators
- Qualifications
- The Arbitrators’ Mission
- Scope of arbitrator authority
- Rights and Responsibilities
- The appointment process
- Impartiality, Independence, Availability
- Challenges to arbitrators

This session will address how arbitrators are selected. We will revisit the parties’ choices memorialized in the arbitration clause and examine how those choices are implemented during the arbitrator selection process. We will also examine the mission and authority of an arbitrator in contrast to the purview of a state court judge. We will discuss issues relating to bias, impartiality, independence and availability of arbitrators. We will examine the rights and responsibilities of the arbitrators vis-a-vis the rights and responsibilities of the parties. Finally, we will discuss how and why an arbitrator may be challenged and ultimately removed from the arbitral tribunal.

11:00 - 11:30 a.m.

Coffee Break

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

The Arbitral Tribunal (continued)

1:00 - 3:00 p.m.

Lunch Break

3:00 - 4:00 p.m.

Roundtable Discussion with In-House Counsel

During this session, in-house counsel from various corporations will discuss their experience and approach to dispute resolution. In particular, they will provide their views on arbitrator selection and their companies’ particular requirements, if any, for choosing arbitrators.

4:00 - 4:15 p.m.

Coffee Break

4:15 - 5:00 p.m.

Roundtable Discussion (continued)

Program

Thursday July 25, 2013

10:00 - 11:00 a.m.

Conducting the Arbitration

- The Request
- Terms of Reference
- Hearing and Evidence
- Discovery
- Experts
- Conservatory and interim measures
- Costs

This session will address how parties commence an arbitration and how the arbitral procedure is conducted. We will discuss the ICC arbitration process step-by-step, including the Request for Arbitration, the Terms of Reference, cost calculations, the hearings and the presentation of evidence. We will also address party requests for conservatory or interim measures.

11:00 - 11:30 a.m.

Coffee Break

11:30 - 1:00 p.m.

Conducting the Arbitrations (continued)

1:00 - 3:00 p.m.

Lunch Break

3:00 - 4:00 p.m.

Practical Session on Cross-Examination

- Comparative approach: EU vs. US
- Techniques
- Comparison to litigation

This session will delve deeper into the presentation of evidence. We will compare and contrast how various legal traditions handle questioning witnesses, with a particular emphasis on comparing and contrasting the practices of the European Union and the United States. During this session, we will present a brief mock cross-examination of a witness.

4:00 - 4:15 p.m.

Coffee Break

4:15 - 5:00 p.m.

Practical Session on Cross-Examination (continued)

Friday July 26, 2013

9:30 - 11:00 a.m.

The Arbitral Award

- Need for Reasoning in the Award
- Scrutiny of the Award
- Recognition and Enforcement
- Setting Aside an Award
- UN Convention and the public policy exception
- Review and Standards of Review

This session will address the final stages of an arbitration, including the rendering of the arbitral award and enforcement procedures. The ICC requires that arbitrators state reasons for their decisions. In addition, the ICC reviews each and every arbitration award during its scrutiny process to ensure consistency, quality and thoroughness. After the award has been issued, the parties will seek recognition and enforcement of the award. What are the parties' options for enforcing or for setting aside or blocking the enforcement of the award? We will look to the New York Convention for answers and explain the standards of review that a domestic court may or may not use when determining whether to grant or deny the recognition and enforcement of an international arbitration award.

11:00 - 11:30 a.m.

Coffee Break

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

The Arbitral Award (continued)

1:00 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; Director, Arbitration & ADR, North America, International Court of Arbitration®; Adjunct Professor of Law, Fordham University School of Law

- **Guido Alpa**, Professor of Civil Law, University “La Sapienza” of Rome; President, Italian Bar Council
- **Mark Beckett**, Partner, Chadbourne & Parke LLP; Lecturer, Harvard Law School
- **Andrea Carlevaris**, Secretary General, International Court of Arbitration®
- **Alessandro Curotti**, Head of Legal Department, Salvatore Ferragamo S.p.A.
- **Maria Beatrice Deli**, Professor of Private International Law, University of Molise-Campobasso; Secretary General, Italian Association of Arbitration
- **Ferdinando Emanuele**, Partner, Cleary Gottlieb Steen & Hamilton LLP
- **Pietro Gallizi**, Senior Vice President and General Counsel, Saipem S.p.A.
- **Francesco Gianni**, Founding Partner, Gianni, Origoni, Grippo, Cappelli & Partners
- **Franco Guariglia**, Group Legal & Corporate Affairs Director, Barilla Holding S.p.A.
- **Ettore M. Lombardi**, Assistant Professor of Law, University of Florence
- **Paola Lucarelli**, Professor of Commercial Law, University of Florence
- **Fernando Mantilla-Serrano**, Partner, Shearman & Sterling LLP; Lecturer, Université de Versailles and Université de Paris XI
- **Michael McIlwrath**, Associate General Counsel - Litigation, GE
- **Mark Morril**, former Deputy General Counsel, Viacom; Independent Arbitrator, MorrilADR
- **Angelica Nunez-Anico**, Legal Director, Stream/Repsol - Gas Natural
- **Luis O’Naghten**, Partner, Chair of the International Litigation and Arbitration Group, Akerman Senterfitt; Adjunct Professor, University of Miami Law School and Universidad Panamericana
- **Eridania Perez**, Partner, Patton Boggs LLP
- **Luca Radicati**, Partner, Bonelli Erede Pappalardo; Professor of Private International Law, Milan’s Catholic University
- **Kenneth Resnick**, Vice President & General Counsel, GE Oil & Gas; Professor of International Business Ethics, Syracuse University
- **Catherine A. Rogers**, Paul and Marjorie Price Faculty Scholar and Professor of Law, The Dickson School of Law, The Pennsylvania State University
- **Victoria Shannon**, Assistant Professor of Law, Washington & Lee University School of Law; former Deputy Director of the International Court of Arbitration®, North America
- **Peter Sherwin**, Partner, Head of the International Arbitration Group, Proskauer Rose LLP
- **Nancy Thevenin**, Special Counsel, Baker & McKenzie LLP
- **Federica Tognoni**, Legal Counsel, Tesmec Group
- **George von Mehren**, Partner, Global Chair, International Dispute Resolution, 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-234.html> and complete and return the indicated registration form to the contact provided

Email: segreteria.corsiperfezionamento@dsg.unifi.it

Fax: +39 055 4374903

Website: <http://www.dsg.unifi.it/cmpro-v-p-234.html>

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

Registration fee:

Until June 21, 2013:

After June 21, 2013

“Early bird special”

• € 800

• € 900

Fee for ICC/USCIB members, Academics, Corporate Counsel, Sole Practitioners, Government Representatives and Graduate Students under age of 28*:

• € 750

The fee includes working papers, continental breakfast, refreshments and reception.

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 24 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 charge:

50% of the contribution to costs will be refunded if notice of cancellation is received in writing before **July 5, 2013**. Cancellations after this date 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 segreteria.corsiperfezionamento@dsg.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 Hotels

- ❖ **Hotel Astoria:** 4 stars
via del Giglio n. 9, 50123, Florence
Price: single €86.00 + €4.00 city tax;
double €98.00 + €8.00 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: single €90.00 + €3.00 city tax;
double room for single use €95.00 + €3.00 city tax; double room for double use €99.00 + €6.00 city tax; price includes breakfast and VAT
Email: npl379@npl.com
Telephone: 055/288330
- ❖ **Hotel Orto dei Medici:** 3 stars
via San Gallo n. 30, 50129 Florence
Price: double room for single use €90.00; standard double €110.00; price includes breakfast, but does not include VAT
Email: hotel@ortodeimedici.it
Telephone: 055/483427
- ❖ **Hotel Londra:** 4 stars
via Jacopo da Diacceto, 16/20, 50123, Florence
Price: single €119.00 + city tax; double €119.00 + city tax
Email: info@hotellondra.com
Telephone: 055/27390
- ❖ **Hotel Adler Cavalieri:** 4 stars
via della Scala n. 40, 50123 Florence
Price: double room for single use €109.00; double room: 119.00; city tax €4.00 per person
Email: info@hoteladlercavalieri.com
Telephone: 055/277810
- ❖ **Nil Hotel:** 4 stars
Via Barsanti, n. 27, 50127 Florence
Price: double room for single use €96.00 + €4.00 city tax per person;
double room €100.00 + city tax
Email: info@nilhotel.it
Telephone: 055/795540
- ❖ **Auto Park Hotel:** 3 stars
via Lippi e Macia n. 22; 50127 Florence
Price: double room for single use €55.00 + €3.00 city tax per person;
double room €65.00 + €3.00 city tax per person
Email: info@hotelautopark.com
Telephone: 055/431771
- ❖ **Hotel Bernini:** 4 stars
Piazza San Firenze, 29, 50112 Florence
Price: double room for single use €174.00; double room €228.00;
price includes breakfast, city tax and VAT
Email: bookinghotelbernini@duetorrihotels.com
Telephone: 055268272
- ❖ **Hilton Garden Inn:** 4 stars
via S. Pertini, 2/9, 50127 Florence
Price: Special rate for the International Commercial Arbitration Summer Seminar
Email: flrnv_gm@Hilton.com
Telephone: 05542401