

CONGRESS OUTLINE

*Attendance at the Opening Ceremony and Welcome Reception is included in the delegate/optional guest registration fees.

SUNDAY 12 MAY

- 1200 – 1700 hrs Registration
The Royal Lancaster Hotel
- 1800 – 1900 hrs OPENING CEREMONY*
The Royal Courts of Justice
- 1900 – 2100 hrs WELCOME RECEPTION*
The Inner Temple

MONDAY 13 MAY

- 0800 hrs Registration and Exhibition
- 0900 hrs OPENING ADDRESS
- 0915 – 1230 hrs Debate:
“THE PARTIES, NOT THE ARBITRATORS, CONTROL THE ARBITRATION”
- 1230 – 1400 hrs Lunch
- 1400 – 1730 hrs CONTEMPORARY QUESTIONS
- 1830 – 2000 hrs RECEPTION
The Joseph E Hotung Gallery of Oriental
Antiquities, the British Museum
- 2030 hrs Dinner at the Royal Lancaster Hotel

TUESDAY 14 MAY

- 0900 – 1230 hrs CONTEMPORARY QUESTIONS cont'd
- 1230 – 1400 hrs Lunch
- 1400 – 1530 hrs CONTEMPORARY QUESTIONS cont'd
CONCLUDING DISCUSSION
- 1600 – 1730 hrs THE PSYCHOLOGICAL ASPECTS OF DISPUTE
RESOLUTION
- 1930 for 2015 hrs RECEPTION AND GALA DINNER
The Guildhall

WEDNESDAY 15 MAY

- 0900 – 1215 hrs ARBITRATION UNDER INVESTMENT TREATIES
- 1215 – 1245 hrs POSTSCRIPT
- 1245 – 1300 hrs CLOSING CEREMONY
- 1300 – 1430 hrs Lunch

WORKING PROGRAMME

MONDAY 13 MAY

0900-0915 hrs

Opening Address

Fali S Nariman, India

President, International Council for Commercial Arbitration

0915-1015 hrs

Debate: "The parties, not the arbitrators, control the arbitration"

- Should institutions make it plain by rules and by conduct that the parties' will is to prevail? Or, are arbitrators to have an overriding duty which may cause them to disregard the will of the parties?
- What are the restraints upon arbitrators' powers under various statutory regimes?
- Should respect for the consensual nature of arbitration be tempered by the fact that arbitration is a vital part of the efficient functioning of international trade and investment, particularly given the growth of Bilateral Investment Treaties and Trading Blocs such as NAFTA?

Speakers for the motion will argue the case that the concept of party autonomy means that the agreement of the parties on issues to be decided, and on procedural matters, governs the arbitrators.

Those against will argue that party autonomy is no absolute concept: where necessary it must yield to the requirements of fairness, economy and expedition – the cardinal attributes of a contemporary system of international commercial arbitration.

Chair: Henri Alvarez, Fasken Martineau DuMoulin LLP,
Vancouver, Canada

For the motion:

Professor Hans Smit, Columbia University, New York, USA

Professor Gabrielle Kaufmann-Kohler,
Schellenberg Wittmer, Geneva, Switzerland

Against the motion:

The Rt Hon Lord Mustill, Essex Court Chambers, London, England

Sally Fitzgerald, Russell McVeagh, Wellington, New Zealand

1015 – 1045 hrs

Coffee

1045 – 1230 hrs

**Continuation of debate with contributions from the floor;
summing up by the Chair; vote**

1230 – 1400 hrs

Lunch

Contemporary questions

1400 – 1530 hrs

One: The requirement of a written form for an arbitration agreement

This topic has exercised the minds of practitioners, judges and legislators. See, for example: the Sixth Goff Lecture given in Hong Kong by Mr Justice Kaplan and his decision in *Small v Goldroyce*, and the work of the Departmental Advisory Committee which led to the enactment of Section 5 of the English Arbitration Act 1996. The subject has also been studied by a working group in UNCITRAL.

Chair: Jernej Sekolec, Secretary-General of UNCITRAL, Vienna, Austria

Speaker: Toby Landau, Essex Court Chambers, London, England

1530 – 1600 hrs

Tea

1600 – 1730 hrs

Two: Interim measures of protection

The rules of various institutions now provide for arbitrators to give interim relief of certain kinds and the power to do so is recognised in various jurisdictions. The exercise of this power by arbitrators is new and highly controversial. The principles to be followed and the limits of authority are not yet defined. Some believe that the exercise of a summary jurisdiction such as the grant of interim injunctive relief is best left to the courts, both as a matter of principle and of efficacy. Others consider that the effective conduct of modern commercial arbitration requires that arbitrators have such weapons in their armoury and are trained in their use.

Chair: Jernej Sekolec

Speaker: Donald Francis Donovan, Debevoise & Plimpton, New York, USA

TUESDAY 14 MAY

0900 – 1030 hrs

Three: Do we need a model law of conciliation?

Conciliation has a history as long as, perhaps longer than, arbitration, though its use to resolve modern commercial disputes has given way to arbitration. However, there are signs that conciliation or mediation (there is no conceptual difference) may well be growing in importance.

- Do we need a model law of conciliation and if so, what should it say?
- How should it address questions of mandatory versus voluntary use, the accreditation and selection of mediators, ethical standards, court supervision, protection against abuse of process, immunity of mediators, confidentiality and privacy?

Chair: Jernej Sekolec

Speaker: Dr Shavit Matias, Director, International Agreements and International Litigation Department, Ministry of Justice, Tel Aviv, Israel

1030 – 1100 hrs

Coffee

1100 – 1230 hrs

Four: Aspects of illegality in the formation and performance of contracts

Different aspects of illegality, both in the formation of contracts and in the conduct of arbitrations, will be discussed. These will include the problems which arise when it is suspected, or is perhaps known or obvious, that the contract in respect of which the dispute has arisen was procured by illegal means, particularly bribery and corruption, whether of public officials or employees of commercial concerns. How far should arbitrators, whose suspicions may be aroused, go in determining whether or not there has been bribery or corruption?

Chair: Jan Paulsson, Freshfields Bruckhaus Deringer, Paris, France

Speaker: Richard H Kreindler, Shearman & Sterling, Frankfurt, Germany

Paulsson → Interviews

Five: Illegality in the conduct of arbitration

What happens if a party fabricates evidence either before or during an arbitration and introduces documents or records which are forged? What happens if a party suborns a witness by bribery or by duress or attempts to bribe one or more of the arbitrators? What should members of a tribunal do if they suspect that one of their fellow arbitrators is corrupt? What is the role of institutions in such cases?

Chair: Jan Paulsson

Speaker: Professor Bernard Hanotiau, Hanotiau & van den Berg, Brussels, Belgium

1230 – 1400 hrs

Lunch

1400 – 1445 hrs

Six: The detection of forgery and fraud

Modern methods of forgery and computer fraud; discussion of recent developments in the detection of fraud and forgery.

Chair: Jan Paulsson

Speaker: Peter V Tytell, New York, USA

1445 – 1530 hrs

Discussion of the contemporary questions

Leader: Dr Julian Lew, Herbert Smith, London, England

1530 – 1600 hrs

Tea

1600 – 1730 hrs

The psychological aspects of dispute resolution

The 17th century English poet John Pomfret wrote "Law-suits I'd shun, with as much studious care, as I would dens where hungry lions are". Arbitration and litigation are not to be entered into casually for they impose considerable financial and psychological strain on the parties. Neither are arbitrators nor counsel immune from the pressures of the process; they are clearly swayed by instinct, experience, education and cultural upbringing. How do these forces show themselves? What influence do they have and how are they to be taken into account?

Chair: Cecil Abraham, Shearn Delamore & Co, Kuala Lumpur, Malaysia

Speaker: Professor Shari Seidman Diamond,
Northwestern University of Law and Psychology, Chicago, USA

Commentators: Anne-Marie Whitesell, Secretary-General,
International Court of Arbitration, Paris, France
Teresa Giovannini, Lalive & Partners, Geneva, Switzerland

WEDNESDAY 15 MAY

0900 – 1030 hrs

Arbitration under investment treaties

A striking feature of international commercial arbitration in the last decade has been the increase in the number of Bilateral Investment Treaties, now more than 1900 of them, and the introduction of arbitral schemes as part of the arrangements between states for the protection and furtherance of international investment and trade. Two significant examples are to be found in the arbitration provisions of Chapter 11 of NAFTA and in the significant increase in the number of ICSID cases. Another is arbitration under WTO. These developments give rise to a number of questions:

- Is the arbitration system working properly?
- Are common ideas of appropriate procedures emerging?
- Will governments view with favour the increasing role and authority of arbitrators and institutions in the regulation of trade and investment disputes?
- What will, or ought to, happen to such attributes of privacy and confidentiality?
- Does the public interest require transparency and accountability?
- What review should there be of arbitrators' decisions?
- How should arbitrators be selected for such cases?
- What protections should there be against abuse of power by arbitrators?

Chair: Nigel Blackaby, Freshfields Bruckhaus Deringer, Paris, France

Speakers:

Professor Dr Karl-Heinz Böckstiegel, Cologne, Germany

Professor Pierre Lalive, Lalive & Partners, Geneva, Switzerland

Professor William (Rusty) Park, Boston University, USA

Professor Guillermo Aguilar Alvarez, Serra & Associates International,
Santa Fe, Mexico

MONDAY 13 MAY

1830 – 2000 hrs

Reception

The Joseph E Hotung Gallery of Oriental Antiquities at the British Museum

The British Museum, founded by Act of Parliament in 1753, houses national collections of antiquities, pictures and drawings. The spectacular Joseph E Hotung Gallery presents the history of China and South and South East Asia through works of art and religious images.

Tickets: £36 (£30 excl. VAT) per person

2030 hrs

Dinner at the Royal Lancaster Hotel

Tickets: £58 (£50 excl. VAT) per person

(Transport provided from Museum to Royal Lancaster for those attending the dinner.)

TUESDAY 14 MAY

1930 for 2015 hrs

Reception and Gala Dinner

The Great Hall at the Guildhall

The Guildhall has been the centre of City government since the middle ages. Royalty and state visitors have been entertained down the centuries in the Great Hall with its beautiful stained glass windows and monuments to national heroes.

Guest Speaker: The Rt Hon Lord Irvine of Lairg, The Lord Chancellor

Tickets: £77 (£65 excl. VAT) per person

(Return transport provided from Royal Lancaster, Plaza and Thistle Marble Arch Hotels.)

GUEST PROGRAMME

An optional programme has been arranged for accompanying guests, particularly for those visiting from overseas. Guests participating in this programme may also purchase tickets for other individual social functions. The optional guest fee includes attendance at the following:

SUNDAY 12 MAY

Opening Ceremony at the Royal Courts of Justice and
Welcome Reception at the Inner Temple

MONDAY 13 MAY

Visit to Windsor Castle

The largest inhabited castle in the world, overlooking the River Thames and Windsor Great Park. Visit the state apartments or St George's Chapel and explore the historic town of Windsor, nestling up to the castle walls. A three-course lunch with wine will be served at Ye Harte and Garter restaurant in Windsor.

Depart from Royal Lancaster at 0915 hrs, returning at approximately 1500 hrs.

TUESDAY 14 MAY

Selfridges Fashion Show

The famous London department store will present an intimate salon show in the Premier Restaurant, exclusively for guests attending the ICCA Congress. After the show there will be time to look around the store, have lunch and take advantage of Selfridges' personal shopping service.

Depart from Royal Lancaster at 0900 hrs, returning at approximately 1500 hrs.

THE INTERNATIONAL COUNCIL FOR COMMERCIAL ARBITRATION (ICCA)

The International Council for Commercial Arbitration (ICCA), founded in 1969, is the leading world-wide organisation devoted to promoting international arbitration and other forms of dispute resolution.

In order to carry out its purposes, ICCA regularly convenes Congresses and Conferences for presentation of papers and discussion of topics concerning both the scientific and practical aspects of international dispute resolution. These meetings attract large numbers of participants from all parts of the world and have made significant contribution to the development and improvement of dispute resolution theory and practice.

ICCA's principal publications include the Yearbook on Commercial Arbitration, International Handbook on Commercial Arbitration and the Congress Series consisting of papers presented at ICCA meetings.

ICCA has official status as a Non-Governmental Organisation (NGO) accredited by the United Nations, and in that capacity has actively participated in the preparation of the UNCITRAL Arbitration Rules, the Conciliation Rules, the Model Arbitration Law and other UNICTRAL projects. ICCA has a co-operation agreement with the Permanent Court of Arbitration in the Hague.

ICCA is governed by Council Members who are recognised specialists in the field of dispute resolution and who serve in their individual capacities. ICCA's Charter provides that the Members "shall be elected from various parts of the world, from different legal and economic systems, and from developed and developing nations". Persons who have served as Members for long periods are eligible to be designated life time Advisory Members. There are presently 40 Members and 9 Advisory Members, coming from 30 countries.

OFFICE BEARERS:

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The Netherlands

Hon. Giorgio Bernini
Hon. President, ICCA
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Mr Fali S. Nariman
President, ICCA
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Judge Howard M.
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**International Council for
Commercial Arbitration**

**16th ICCA
CONGRESS**

**12-15 May 2002
Royal Lancaster Hotel
London**

www.icca-2002.org

**International Commercial Arbitration:
Important Contemporary Questions**



Hosted by
The Chartered Institute
of Arbitrators