



ICAL ALUMNI ASSOCIATION
stockholm



MASTERING THE CHALLENGES IN INTERNATIONAL ARBITRATION

29-30 AUGUST 2013
Grand Hôtel, Stockholm

An international conference celebrating a decade of study and research in international arbitration at the Master Program of International Commercial Arbitration Law at Stockholm University.

In partnership with



ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

SAA

The Swedish Arbitration Association



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Moscow Arbitration Forum **40**



CONFERENCE PROGRAM

DAY 1 – THURSDAY 29 AUGUST 2013

- 12:00 -12:45 Registration with coffee and sandwiches
- 13:00 Conference opening: Patricia Shaughnessy
- 13:05 Remarks from Jonas Ebbesson, Dean of the Department of Law, Stockholm University
- 13:15 Welcome address: Johan Gernandt
- 13:30 Key-note address: **Autonomy and regulatory controls in international arbitration**, Julian Lew

1ST MODULE - MASTERING ISSUES OF PUBLIC INTERESTS IN PRIVATE DISPUTES

- 13:50 **Session 1 - Dealing with arbitrability and mandatory law in arbitration: do new regulatory approaches require new solutions?**
- Moderators: Mark Kantor and Patricia Shaughnessy
Panelists: Lars Heuman, Julian Lew, Corinne Montineri, Tatyana Slipachuk
- Can parties avoid national or regional regulatory laws by choosing a favorable arbitral seat and substantive law?
 - Can arbitrators ignore “mandatory rules” regulating corporate governance, export trade sanctions, anti-money laundering rules, data protection laws and competition law?
 - Can UNCITRAL harmonization efforts accommodate varied national “public interests”?
 - Has arbitration become an autonomous legal system that can disregard national mandatory rules and instead create its own transnational rules?
- 15:15 Coffee/tea break

15:45

Session 2 - Corruption: arbitration for users or abusers, and whose problem is it anyway?

Moderator: Constantine Partasides

Panelists: Sophie Nappert, Ilya Nikiforov, Martina Polasek

- War stories
- What are the procedural challenges involving allegations of corruption?
- What standards of proof should apply to proving corruption, and what are the red flags?
- Distinguishing between cultural and corrupt practices: is there an international standard?
- Does so-called transnational public policy provide a tool to deal with corruption?

17:00

Short break

17:10

Session 3 - Aligning corporate compliance, risk avoidance, and dispute policies and strategies

Moderator: Jean-Claude Najjar

Panelists: Pierre-Jérôme Abric, Jonathan Robilotto, Ulf Sandlund

- Documenting and investigating compliance with laws and regulations: creating a future defense or leaving a smoking gun?
- Protecting confidential company information relating to compliance and corporate social responsibility programs from future disclosure
- What are the best methods for in-house and external counsel to work together in developing risk management policies that also ensure efficient dispute resolution?
- How can a company coordinate its positions when simultaneously engaged in private arbitration and proceedings before public authorities?

18:15

Concluding Remarks - James Hope

18:15 - 20:30

VINGE Networking event: Cocktail buffet reception hosted by VINGE



DAY 2 – FRIDAY 30 AUGUST 2013

09:00 Opening address: ***Education, research and scholarship in international arbitration***, Julian Lew

2ND MODULE - MASTERING CONFLICTS BETWEEN PARTY AUTONOMY AND ARBITRATORS' POWERS

9:15 **Session 4 - The managerial (or mismanaging) arbitrator: what are the limits of her power and the requirements of her duty?**

Moderator: Doug Jones

Panelists: Manuel Arroyo, Teresa Cheng, John Fellas, James Hope

- What are and who controls the sources and the limits of arbitrator power?
- What is the correct balance between the parties' procedural agreements and the tribunal's power to conduct the proceedings in a manner it deems appropriate?
- Do expedited or emergency arbitrator procedures require more management by the tribunal and less party control?
- Jura novit curia: Can the tribunal raise points of facts, contract provisions, or law on its own motion?
- Do arbitration institutions have a duty to ensure that arbitrators act efficiently and fairly?

10:30 Coffee/tea break

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11:00

Session 5 - Regulating counsel and arbitrator conduct: is international arbitration the Wild West of the legal community?

Moderator: Bo Nilsson

Panelists: Vladimir Khvalei, James Morrison, Robin Oldenstam, Neeti Sachdeva

- Will the new IBA Guidelines on party representatives bring needed order or create new issues?
- What role does culture have to play in determining what constitutes unethical behavior?
- Should a lawyer's duty to zealously represent his or her client be performed without regard to the arbitral process?
- Do arbitral institutions or tribunals have the power to sanction a counsel's particularly bad behavior or to sanction a party?

12:15

Lunch

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13:45

Session 6 - Preparing and pursuing challenges to arbitrators

Moderator: Annette Magnusson

Panelists: Chiann Bao, Andrea Carlevaris, Li Hu, Edgar Martínez

- The abuse of challenging an arbitrator as strategy: should it be controlled or are challenges a freely exercisable right?
- Are agreements to waive challenges enforceable?
- How far does an arbitrator have to go when investigating potential conflicts and does the arbitrators' duty of disclosure extend to secretaries to the tribunal?
- Is it appropriate for counsel to coordinate a defense to a challenge with the challenged arbitrator and should an arbitrator under challenge respond directly?
- How should arbitration institutes handle challenges: should they ever hold hearings, consult with the challenged arbitrator, give reasoned decisions, or publish their sanitized decisions?

15:00 Coffee/tea break

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3RD MODULE - MASTERING DISPUTES INVOLVING STATES AND STATE-CONTROLLED PARTIES

15:30 **Session 7 - Arbitrating with a state or state-controlled party: overcoming challenges and creating strategies**

Moderator: Luiz Olavo Baptista

Panelists: Crina Baltag, Yas Banifatemi, Johan Sidklev

- What are effective arbitration strategies for dealing with a change in government, a change in regulation, or a change in contracts?
- Should contracts with a state party have a specially tailored arbitration clause?
- Should institutional rules be adapted to meet the needs of arbitration with state-controlled parties?
- Does sovereign immunity extend to interim measures of protection?

16:45 **State Immunity: the last link in the arbitration chain** – Kaj Hobér

17:10 **Concluding remarks**

Robin Oldenstam on behalf of the SAA

Jeremy Zell on behalf of the ICAL Alumni Association

17:30 **End of Day**

19:30 **Gala dinner at the Opera Terrace**

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