School of International Arbitration and ICC Institute of World Business Law
35th Annual Joint Symposium of Arbitrators
London, 24 February 2020

Venue: Herbert Smith Freehills LLP, Exchange House, Primrose St, London EC2A 2EG

STATES AND STATE ENTITIES IN INTERNATIONAL ARBITRATION

PROGRAMME

Joint Chair. Julian Lew, QC, Head, School of International Arbitration & 20 Essex St
Yves Derains, Chairman, ICC Institute of World Business Law

09:00 – 9:30 Registration and coffee

09.30 - 09.45 Welcome address
Julian Lew, QC, Head, School of International Arbitration & 20 Essex St
Craig Tevendale, Partner and Head of the International Arbitration group in London and Head of Energy, UK, Herbert Smith Freehills

09.45 – 11.15 State Involvement in International Business and Trade and International Arbitration

Issues to be addressed:

• How are States and State Entities involved in International Business and Trade, and International Arbitration; Consent for arbitration in disputes involving States and State Entities: concession agreements, investment contracts, public-private partnerships, joint ventures, privatization contracts, government guarantees and assurances
• States’ standing and jurisdictional objections to arbitration for lack of States’ proper representation and ratification of arbitration agreements
• Sovereign immunity:
  • Under treaty
  • Agreed arbitration for dispute settlement.

Chair: Karyl Nairn, QC, Partner and European co-head of the International Litigation and Arbitration Group, Skadden

Speakers:
• Ali Malek, QC, 3 Verulam Buildings
• **Andrew Cannon**, Partner, Herbert Smith Freehills
• **Carmen Nuñez-Lagos**, International Arbitrator and Founding Partner, Nunez-Lagos Arbitration

11.15-11.30  *Coffee Break*

11.30-13.00  **Representing States and State Entities**

Issues to be addressed:

• Procurement and selection of counsel for representing States and State Entities
• Differences between representing States and representing State Entities
• Ensuring State and State Entity representatives are properly authorised to represent the State and State Entity in international arbitration
• Difficulties in representing States and State Entities, including in collecting evidence, communicating with State representatives, collaborating with in-house Government and State Entities lawyers, budget constraints
• Entering into settlement agreements for States and State Entities

Chair: **Stavros Brekoulakis**, Director School of International Arbitration, & 3 Verulam Buildings

Speakers:

• **Paolo di Rosa**, Partner & Global Head of International Arbitration at Arnold & Porter
• **Will Thomas**, Partner, Freshfields Bruckhaus Deringer LLP
• **Christina Hioureas**, Counsel, International Litigation & Arbitration Department and Chair, United Nations Practice Group at Foley Hoag LLP (New York)
• **Eduardo Romero Silva**, Partner, Dechert LLP

13.00-14.15  *Lunch*

14.15-15.45  **Representing Private Sector Parties against States and State Entities**

Issues to be addressed:

• Corruption related matters
• States’ failure to participate in the arbitration procedure
• States’ potential efforts to interfere with the arbitration procedure
• Collecting evidence against States and State Entities
• Entering into settlement agreements with States and State Entities
• Enforcing awards against States and State Entities.

Chair: Constantine Partasides, QC, Partner, Three Crowns

Speakers
• Ina Popova, Partner, avocat à la cour, Debevoise & Plimpton LLP
• Sabine Konrad, Partner, Morgan Lewis
• Epaminontas Triantafilou, Partner, Quinn Emanuel Urquhart & Sullivan, LLP
• Sarah Vasani, Partner, International Arbitration and Head of Investor State Disputes, Addleshaw Goddard

15.45-16.00 Coffee break

16.00-17.30 Investment vs Commercial Arbitration against States and State Entities

A panel discussion will address the following considerations as to whether to commence commercial or investment arbitration against States and State:

• Jurisdiction
• Tribunal, Evidence and Procedure
• Applicable law
• Liability
• Damages
• Enforcement of Arbitral Awards
• Possibility of Parallel Proceedings
• Transparency/Confidentiality/Publicity
• Non-legal Considerations: the role of public opinion, media pressure, change in governments and broader political considerations.

Chair: Phillip Capper, Partner and Co-Head of International Arbitration, White & Case LLP London, and Nash Professor of Engineering Law, King’s College London

Speakers
• Michael Schneider, Founding Partner, LALIVE
• Monica Jimenez Gonzalez, Secretary General, Ecopetrol S.A
• Norah Gallagher, School of International Arbitration, QMUL
• Massimo Benedettelli, Partner Arblit

17.30-17.45 Conclusion

Yves Derains, Chairman, ICC Institute of World Business Law