



PROGRAMME

The pandemic forced us into confinement. However, our arbitration work had to continue and thus we discovered working remotely. Through the ingenious use of technology, we realized that all of our constant traveling and face-to-face meetings were in fact not so essential. From our offices, and at the height of the pandemic from our own homes, we have come to discover that we are more efficient in this new, virtual world. Indeed, the world of arbitration flourishes without the need for the so-called arbitration tourism that made us waste significant amounts of time at airports and hotels, as well as in exhausting meetings. And whilst we were increasing the efficiency of our work, we were also questioning the way in which we had been conducting arbitration proceedings, questioning the very basis and, in turn, the foundations of international arbitration. We were Rethinking the Paradigms of International Arbitration.

Co-Chairs:

Bernardo M. Cremades

Partner, B. Cremades y Asociados, Spain;
Council Member, ICC Institute of World Business Law

Patricia Peterson

Independent Arbitrator, Peterson//ADR, France;
Member, ICC Institute of World Business Law

Monday 29 November 2021

All times shown are in CET

08.30 – 09.00 *Welcome coffee*

09.00 – 09.20 **Opening Session**

Welcome address

- **Eduardo Silva Romero**, Partner and co-Chair of International Arbitration Global Practice, Dechert LLP, France; Chairman, ICC Institute of World Business Law

Introduction of the conference

- **Bernardo M. Cremades**, Partner, B. Cremades y Asociados, Spain; Council Member, ICC Institute of World Business Law

09.20 – 10.05 Discretionary Powers of Arbitrators: Duties and Delimitations

Delimiting the role and powers of arbitrators to promote the efficiency of arbitration proceedings and to control costs.

Discussing the inherent and implied powers of arbitrators, including how to limit any due process paranoia.

Examining whether arbitrators should intervene more frequently regarding procedural aspects of proceedings as opposed to relying on the cooperation of counsel.

- **Catherine Kessedjian**, Professor Emerita of Université Panthéon-Assas (Paris II), France
- **Moderated by: Ndanga Kamau**, Independent Arbitrator, Ndanga Kamau Law, Kenya/Netherlands; Vice President, ICC International Court of Arbitration

10.05 – 10.20 Q&A

10.20 – 10.40 Coffee break

10.40 – 11.25 Technology and Arbitration: Revisiting the Paradigms of Case Management

Discussing how to reform the paradigms of case management on a practical level considering the increased use of technology (for example, the use of video conferencing to facilitate more interaction between the tribunal and parties at an earlier stage of the proceedings through techniques such as mid-stream conferences and the structuring of proceedings in a way that provides an opportunity to decide key issues at an earlier stage and possibly encourage settlements).

Examining the symbiosis that exists in international arbitration between civil and common law systems, and how this very symbiosis can lead to duplication (*e.g.*, from the request for arbitration to the memorials, the hearing, post-hearing briefs, etc.). Is this duplication and repetition necessary? How can we harness the opportunities that technology offers to minimize this repetition?

- **David W. Rivkin**, Partner, International Dispute Resolution Group, Debevoise & Plimpton, United States/United Kingdom
- **Moderated by: Mélanie van Leeuwen**, Partner, Derains & Gharavi International, France; Vice-Chair of the ICC Commission on Arbitration and ADR

11.25 – 11.40 Q&A

Monday 29 November 2021 (cont'd)

11.40 – 12.25 **Retiring the Redfern Schedule: Document Production and the Need for New Models**

Standard directions for document production with Redfern schedules have turned document production into an overly burdensome and excessive process in many cases.

Discussing possible alternatives and models.

Examining the use of technology to improve the speed and efficiency of document production (for example, the use of predictive coding tools).

- **Gonzalo Stampa**, Founding Partner, Stampa Abogados, Spain
- **Kathryn Khamsi**, Partner, Three Crowns, France
- **Moderated by: Erica Stein**, Partner, Dechert LLP, Belgium/France

12.25 – 12.40 **Q&A**

12.40 – 14.00 *Lunch*

14.00 – 14.05 **Introduction of the Afternoon Sessions**

- **Eduardo Silva Romero**, Partner and co-Chair of International Arbitration Global Practice, Dechert LLP, France; Chairman, ICC Institute of World Business Law

14.05 – 14.50 **The Use and Abuse of Factual Witnesses**

Discussing the role of witness evidence and when it is useful (or not).

Refocusing the way that we prepare, use and present witness evidence to maximize its value (for example, addressing issues related to influences on witnesses' memories, examined in the Report of the ICC Task Force on Maximising the Probative Value of Witness Evidence, and difficulties with lengthy witness statements that form part of a party's written submissions).

Analyzing how best to address the issues that arise with regard to witness testimony given remotely.

- **Christopher Newmark**, Partner, Spenser Underhill Newmark LLP, United Kingdom
- **Xavier Favre-Bulle**, Partner, Head of Arbitration, Lenz & Staehelin, Switzerland
- **Moderated by: Jennifer Kirby**, Independent Arbitrator, Kirby, France

14.50 – 15.05 **Q&A**

Monday 29 November 2021 (cont'd)

15.05 – 15.50 **Redefining the Role and Value of Expert Evidence**

Discussing new paradigms in the use and presentation of expert evidence to meet the needs of the tribunal, including exploring alternative models.

Discussing whether party-appointed experts are truly independent and when it is appropriate for the tribunal to appoint its own expert.

- **Doug Jones**, Independent Arbitrator, Doug Jones, Australia/United Kingdom/Canada
- **Moderated by: Sophie Nappert**, Independent Arbitrator, 3 Verulam Buildings Barristers, United Kingdom

15.50 – 16.05 **Q&A**

16.05 – 16.30 *Coffee break*

16.30 – 17.15 **Hearings: Remote vs. In-person vs. Hybrid**

Discussing the issues that arise in relation to remote hearings and how best to address them.

Examining the role of advocacy and whether effective advocacy differs in remote and in-person hearings.

Exploring ways in which remote and in-person hearings might be improved (for example, should there be limits to cross-examinations? Are there aspects of our experience with remote hearings that might be employed to improve in-person hearings in the future?).

- **Stephanie Cohen**, Independent Arbitrator, United States; Chair, Working Group on Information Technology in International Arbitration, ICC Commission on Arbitration & ADR
- **Mouhamed Kebe**, Managing Partner, Geni & Kebe, member of DLA Piper Africa, Senegal
- **Jason Chan, SC**, Partner, Allen & Gledhill LLP, Singapore
- **Moderated by: Carita Wallgren-Lindholm**, Arbitrator, Lindholm Wallgren, Attorneys Ltd., Finland; Immediate Past Chair, ICC Commission on Arbitration and ADR

17.15 – 17.30 **Q&A**

17.30 – 17.45 **Conclusion**

Closing remarks

- **Patricia Peterson**, Independent Arbitrator, Peterson//ADR, France; Member, ICC Institute of World Business Law

17.45 – 19.00 *Award Ceremony of the 2021 Institute Prize & Cocktail Reception*