


ICC Conference on Jurisdiction Clauses

The Institute of World Business Law at the International Chamber of Commerce will host a conference on May 23rd on Jurisdictional Choices in Times of Trouble. 

The following topics will be addressed:

Morning 09.30-13.00
Session I - Asymmetrical choices

The validity of unilateral optional clauses

- Overview of the jurisdictions which uphold unilateral option clauses and those that consider them void
- The resulting legal uncertainty
- Study of the causes, implications and solutions
- Is the situation the same if the option reserves the right to resolve disputes via recourse to an arbitral tribunal rather than courts?

Pr. Marie-Elodie Ancel, University Paris-Est Créteil Val de Marne

Dr. Anton Asoskov, Lomonosov Moscow State University

Pr. Alain Rau, University of Texas

Dr. Maxi Scherer, Queen Mary, University of London

Moderated by: Dr. Georges Affaki, Chairman of the Legal Committee of the ICC Banking Commission

Questions - Discussion

The limits to the parties' free choice of jurisdiction

- The requirement of an objective link between the choice of jurisdiction and the connection of the contract to a specific country
- Other formal requirements for the validity of jurisdictional choices (incorporation by reference, etc)
- News on the doctrine of forum non conveniens

- Debate on The Hague Convention on exclusive choice of court agreements: less favourable than the Brussels 1 bis Regulation but tendency to favourize relations with third parties

Marie Berard, Clifford Chance LLP, United Kingdom

Pr. Diego Fernández Arroyo, Sciences Po Law School

Khawar Qureshi QC, McNair Chambers

Moderated by: Dr. Horacio Grigera Naón, Independent Arbitrator, United States

Questions - Discussion

Disparities in the choice of arbitrators

Pr. Eric Loquin, University of Burgundy

Paolo-Michele Patocchi, Patocchi & Marzolini, Switzerland

Moderated by: Pr. Pierre Mayer, Dechert LLP Paris

Questions - Discussion

Afternoon 14.30-17.45

Session II - The influence of national laws on jurisdictional choices

Applicable law

- Sulamerica and Arsanovia—is there a contrast between these two English cases and national laws opting for a substantive approach (rather than a conflict of law approach) to determine the validity of the arbitration clause?
- Debate on Article 25 of the Brussels 1 bis Regulation on the validity of the jurisdiction clause in substance (cf recital 20): as in Sulamerica, the DIP of the chosen court is applied, not the law governing the contract.

Dr. Georges Affaki

Pr. Julian D.M. Lew QC, Queen Mary, University of London; 20 Essex Street Chambers

Pr. François-Xavier Train, University Paris 10

Pr. Laurence Usunier, University Paris 13

Moderated by: Dr. Horacio Grigera Naón

Questions - Discussion

The law applicable to the arbitrability of the dispute

Pr. Carlos Alberto Carmona, Marques Rosado Toledo Cesar & Carmona - Advogados, Brazil

Pr. Hans van Houtte, President, Iran-United States Claims Tribunal

Moderated by: Yves Derains, Derains & Gharavi, France

Questions - Discussion

Choice of a tribunal and lis pendens

- The conflict between the EU Brussels Regulation 1 bis and other legislations - which solutions?
- What are the consequences of the ratification of The Hague Convention on the choice of court?

Pr. Arnaud Nuyts, University of Brussels (ULB)

Pr. Gilles Cuniberti, University of Luxembourg

Pr. Horatia Muir-Watt, Sciences Po Law School

Moderated by: Dr. Horacio Grigera Naón

Questions - Discussion

Conclusions: Georges Affaki and Horacio Grigera Naón

Closing remarks: Yves Derains