

Specialised Arbitration and Advocacy Skills in the International Minerals and Hydrocarbons Extraction Industries

City Grange Hotel, London
7 - 11 September 2009

Monday 7th September 2009

0845-0915 Welcome and Opening Remarks

0930-1015 The Oil & Gas Sector
T Martin

- Overview of the international oil and gas industry
- Profile of risks in and disputes that arise in international oil and gas contracts and investments
- Methods of dispute resolution - negotiation, mediation, litigation, expert determination, dispute resolution boards, arbitration
- Business, policy, legal and practical drivers behind dispute resolution strategies

1015-1100 The Mining Sector
P Cameron

- Overview of the international mining industry
- Profile of risks in and disputes that arise in international mining investments

1100-1115 Refreshment Break

1115-1230 The International Arbitral Framework
A Ali

- The international treaty framework
- The international arbitral framework viewed through the prism of drafting an arbitration clause - ad hoc versus institutional arbitration, institutional rules, number of arbitrators, place of arbitration, language of arbitration, governing law, single-step versus multi-tiered clauses

1230-1400 Lunch

1400-1530 Managing and Preparing for the Commencement of an International Arbitration
M McIlwrath, R Calabresi

- Preliminaries once arbitration is probable (pre-action letters and notices; document retention and new document creation; identifying key employees; establishing "ownership" of outcome)
- Anticipating media coverage
- The relationship between in-house and outside counsel: how to maintain, or ruin, the relationship
- In-sourcing, offshoring, and deciding whether to appoint outside counsel (and who)
- Preparing for the first meeting
- Early Case Evaluation (ECA)
- The mediation option
- FAS 5 (accounting) considerations; deciding on and maintaining reserves
- Cost estimates, fee arrangements, and budgeting
- Establishing dispute resolution objectives

1530-1545 Refreshment Break

1545-1700 PRACTICAL TRAINING SESSION I - A cocktail reception will follow

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0930-1100 Preparing and Filing an International Arbitration
T Martin, K Paisley

- Collection and evaluation of evidence
- Witness interviews and statements
- Selecting experts
- Party issues (consortia, joint ventures, multiple parties)
- Identifying/addressing threshold and preliminary issues (jurisdiction, issues capable of early determination)
- The Request for Arbitration
- Defaults and defaulting parties
- Collection and evaluation of evidence
- Witness interviews and statements
- Selecting experts
- Party issues (consortia, joint ventures, multiple parties)
- Identifying/addressing threshold and preliminary issues (jurisdiction, issues capable of early determination)
- The Request for Arbitration
- Defaults and defaulting parties

1100-1115 Refreshment Break

1115-1230 Selection and Appointment of Arbitrators & Mediators
T Martin, K Paisley

- Arbitrator and mediator ethics and independence
- Arbitrators: expectations for chairs vs. party appointees
- The truth on arbitrator and mediator selection: how it really gets done, the use of informal methods of information exchange
it work or fail miserably
- Trends in arbitrator selection; open and private databases, interviewing, and feedback
- Arbitrator disclosures and ethical considerations; what does (and does not) get disclosed
- Communications with arbitrators before and after appointment, and interviewing candidates
- Institutional and default appointment mechanisms
- "The Fourth Arbitrator?" (use of a secretary to the tribunal)

1230-1400 Lunch

1400-1530 Interim Measures
A Escobar

- Procedural options and institutional rules
- Applicable law
- Strategic considerations

1530-1545 Refreshment Break

1545-1700 PRACTICAL TRAINING SESSION II

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Wednesday 9th September 2009

0930-1100 Practice and Procedure in International Arbitration
K Hafez

- Defining the procedural framework: procedural orders and terms of reference
- Discovery and the taking of evidence
- Obtaining third party evidence
- On-site inspections
- Dispositive motions
- Presenting expert testimony

1100-1115 Refreshment Break

1115-1230 The Arbitral Award
N Rawdings

- Form of the award
- Arbitral deliberations and award drafting
- Institutional review
- Corrections to an award
- Arbitral secretaries

1230-1400 Lunch

1400-1530 The Enforcement of International Arbitration Awards
J Fellas

- The international treaty framework
- Interim and partial awards and orders
- Confirmation & setting aside, recognition & enforcement of arbitral awards
- The "where and how" of enforcing an international arbitral award

1530-1545 Refreshment Break

1545-1700 PRACTICAL TRAINING SESSION III

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Thursday 10th September 2009

- 0930-1100 **Investor-State Arbitration**
P Cameron, S Nappert
- The investor-state arbitral framework
 - Jurisdictional requirements and the requirement of consent - BITs, MITs, arbitration agreements, investment laws
 - Procedural issues: investor-state arbitration versus commercial arbitration
 - The role of arbitrators in investor-state arbitration
 - Overview of substantive protections and guarantees available to investors and state responsibility - fair and equitable treatment; failure to protect, expropriation, state-owned enterprises
 - Award enforcement
- 1100-1115 Refreshment Break
- 1115-1200 **Investor-State Arbitration continued**
P Cameron, S Nappert
- 1200-1245 **Stabilisation and Renegotiation Clauses, Force Majeure and Hardship**
P Cameron
- 1245-1400 Lunch
- 1400-1530 **Tax and Foreign Exchange Repatriation Issues in State-Investor Arbitration**
A Kolo
- Substantive considerations issues relating to tax and foreign exchange repatriation issues in investment arbitration
 - Special jurisdictional considerations relating to tax and foreign exchange repatriation issues in investment arbitration
- 1530-1545 Refreshment Break
- 1545-1700 **Practical Training Session IV**

Friday 11th September 2009

- 0930-1100 **Damages in International Arbitration**
L Hardin, C Byford
- 1100-1115 Refreshment Break
- 1115-1215 **Damages in International Arbitration continued**
L Hardin, C Byford
- 1215-1230 **CLOSING REMARKS**