

Course Outline

Specialized Arbitration and Advocacy Skills in International Oil & Gas Arbitration

FACULTY: Arif Hyder Ali (Course Director), Casey Ballard, Alan R. Crain, Jr., John P. Bowman, Barton Legum, A. Timothy Martin, Michael McIlwrath, William H. Knull, III, Thomas W. Wälde, Wayne Wilson

TIME	LEAD/COMMENTATOR	TOPICS
Monday, September 8		
09:00 - 9:30	H. Gunn, M. Desta, T. Rattray, A. Ali	Welcome, Opening Remarks and Administrative Issues
09:30 – 11:00	Lead(s): T. Martin Commentator(s): T. Walde, A. Ali	International Arbitration and the Oil & Gas Industry <ul style="list-style-type: none"> • 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
11:00 – 11:15	BREAK	
11:15 – 12:30	Lead(s): A. Ali Commentator(s): T. Martin	The International Arbitral Framework <ul style="list-style-type: none"> • 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
12:30 – 2:00	LUNCH	
2:00 – 3:30	Lead(s): A. Ali Commentator(s): M. McIlwrath	Preparing for the Commencement of an International Oil & Gas Arbitration <ul style="list-style-type: none"> • Preparing for the first meeting

TIME	LEAD/COMMENTATOR	TOPICS
		<ul style="list-style-type: none"> • Early case evaluation • Fee arrangements • Case management plans • Budgeting • Strategic considerations, ADR, contractual notice provisions
3:30 – 3:45	BREAK	
3:45 – 5:00	PRACTICAL TRAINING SESSION I (1) Critical examination of dispute resolution clauses (2) Drafting a dispute resolution clause (3) Preparing a case management plan and budget	
Tuesday, September 9		
09:30 – 11:00	Lead(s): A. Ali and M. McIlwrath Commentator(s):	Preparing and Filing an International Arbitration <ul style="list-style-type: none"> • Collection and evaluation of evidence • Witness interviews and statements • Selecting experts • The Request for Arbitration • Answer and Counterclaims
11:00 – 11:15	BREAK	
11:15 – 12:30	Leader(s): M. McIlwrath, A. Ali Commentator(s):	Selection and Appointment of Arbitrators <ul style="list-style-type: none"> • The truth on arbitrator selection: how it really gets done, the use of informal methods of information exchange and how to make 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 • Interviewing arbitrators • Institutional appointment mechanisms
12:30 – 2:00	LUNCH	

TIME	LEAD/COMMENTATOR	TOPICS
2:00 – 3:30	Leader(s): A. Ali, M. McIlwrath Commentator(s):	Interim Measures <ul style="list-style-type: none"> • Procedural options and institutional rules • Applicable law • Strategic considerations
3:30 – 3:45	BREAK	
3:45 – 5:00	PRACTICAL TRAINING SESSION II (1) Identifying, Interviewing and Selecting Arbitrators (2) Drafting a Request for Arbitration, and the Answer and Counterclaims	
Wednesday, September 10		
09:30 – 11:00	Leader(s): J.P. Bowman, W.H. Knull Commentator(s):	Practice and Procedure in International Arbitration <ul style="list-style-type: none"> • 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
11:00 – 11:15	BREAK	
11:15 – 12:30	Leader(s): W.H. Knull Commentator(s): J.P. Bowman	The Arbitral Award <ul style="list-style-type: none"> • Form of the award • Arbitral deliberations and award drafting • Institutional review • Corrections to an award • Arbitral secretaries
12:30 – 2:00	LUNCH	
2:00 – 3:30	Leader(s): J.P. Bowman Commentator(s): W.H. Knull	The Enforcement of International Arbitration Awards <ul style="list-style-type: none"> • The international treaty framework • Interim and partial awards and orders

TIME	LEAD/COMMENTATOR	TOPICS
		<ul style="list-style-type: none"> • Confirmation & setting aside, recognition & enforcement of arbitral awards • The “where and how” of enforcing an international arbitral award
3:30 – 3:45	BREAK	
3:45 – 5:00	PRACTICAL TRAINING SESSION III: (1) Responding to Production Requests and the IBA Rules on the Taking of Evidence in International Commercial Arbitration (2) Working with Experts	
Thursday, September 11		
09:30 – 11:00	Leader(s): B. Legum and T. Walde Commentator(s): J.P. Bowman, A. Kolo	Investor-State Arbitration in the Oil & Gas Sector <ul style="list-style-type: none"> • 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
11:00 – 11:15	BREAK	
11:15 – 12:00	Leader(s): B. Legum and T. Walde Commentator(s): A. Crain, J.P. Bowman, A. Kolo	Investor-State Arbitration in the Oil & Gas Sector (contd.) <ul style="list-style-type: none"> • 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

TIME	LEAD/COMMENTATOR	TOPICS
12:00 – 12:45	Leader(s): J.P. Bowman Commentator(s): A. Crain	Stabilisation Clauses, Force Majeure and Hardship
12:30 – 2:00	LUNCH	
2:00 – 3:30	Leader(s): A. Kolo Commentator(s): T. Walde	Tax and Foreign Exchange Repatriation Issues in State-Investor Arbitration <ul style="list-style-type: none"> • 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
3:30 – 3:45	BREAK	
3:45 – 5:00	PRACTICAL TRAINING SESSION IV: (1) Risk Management in Structuring Foreign Investment Transactions (2) Client Case Evaluation: Jurisdictional Requirements	
Friday, September 12		
09:30 – 11:00	Leader(s): A.R. Crain and A.T. Martin Commentator(s):	Managing International Oil & Gas Disputes from the Viewpoint of In-House Counsel Selecting outside counsel: when and how it is done (and how to maintain, or ruin, the client relationship) In-sourcing legal work, outsourcing, and partially doing both Reporting requirements Deciding on and maintaining reserves
11:00 – 11:15	BREAK	
11:15 – 12:30	Leader(s): W. Wilson, C. Ballard Commentator(s): T. Walde	Damages in International Oil and Gas Arbitration (contd.)
12:30 – 2:00	LUNCH	
2:00 – 3:30	Leader(s): W. Wilson, C. Ballard Commentator(s): T. Walde	Damages in International Oil and Gas Arbitration
3:30 – 4:00	T. Walde and A. Ali	Closing Remarks