



**C5**

Business Information in a Global Context

This year marks 30 years since the inception of C5 Group. It is time to match our brand with the dynamic strides we have made. See inside for details...

# UPSTREAM OIL & GAS DISPUTES

24-25 January 2017 | The Kensington Close Hotel, London

Join an exceptional line up of top international energy and disputes lawyers, arbitration experts, industry in-house counsel, barristers and litigation experts for advanced insight and discussions on:

- › **Decommissioning liability**
- › **A focus on upstream construction and drilling disputes**
- › **The impact of insolvency – What can you do under your agreement?**
- › **Best practice for legal and technical preparations when bringing a claim**
- › **Application and analysis of Force Majeure clauses**
- › **Joint operating disputes**
- › **Strategy planning and “future proofing”**

Maximise your learning by attending our exclusive Workshop:

**A DEEP DIVE INTO THE ENERGY CHARTER TREATY – Increase Protection of your Energy Investments**

## Sponsored by

Associate Sponsor



Executive Sponsor



Networking Drinks Sponsor



Daniele Novello  
*Head of Legal and Corporate Affairs*  
Total E&P



Chris Brierly  
*Legal Counsel for Dispute Resolution*  
BP



Kaj Hober,  
*Arbitrator, Chair*  
The Stockholm Chamber of Commerce  
3 Verulum Buildings (Chambers)



Paul Griffin  
*Senior Adviser and Counsel*  
White & Case



Paula Hodges QC  
*Partner*  
Herbert Smith



Ted Greeno  
*Partner*  
Quinn Emmanuelle



Lionel Persey QC  
*Counsel*  
Quadrant Chambers



Terry Kimber  
*Director*  
The Decommissioning Group



Gervaise McGregor  
*Partner*  
BDO

Register Now | +44 (0) 20 7878 6888 | [C5-Online.com/OGDisputes](http://C5-Online.com/OGDisputes)

a C5 Group Company  
Business Information in a Global Context

## Dear Colleague

The continuing erratic nature of the market has forced oil and gas companies, contractors and connected parties to adapt their businesses and their strategies. The potential for disputes in the upstream sector has increased significantly as parties seek to secure their positions, adopt new strategies and plan for the future. With huge sums of money involved, the stakes are high and an understanding of how to resolve key challenges with the best dispute resolution options has rarely been more important.

Bringing together a senior level audience of in-house counsel from oil and gas companies and contractors as well as their expert advisors, this conference will focus on common areas of disputes and what tactics parties can use to mitigate damage and liability.

Join C5's **Upstream Oil and Gas Disputes** conference to hear insight, analysis, discussion and solutions for pre-empting and dealing with the heightened risks of exposure to disputes. Attend to learn:

### How best to:

- › Respond to the disputes environment
- › Assess your options when facing an insolvency situation in the supply chain
- › Devise internal strategies for preventing disputes

### Effectively deal with the challenges of:

- › Joint operating disputes
- › Decommissioning liability
- › Construction and drilling disputes

### Benchmark your approach when:

- › Preparing for claims
- › Relying on force majeure clauses
- › Navigating through international law issues

Take advantage of our exclusive conference and learn from the experts as they advise on the best practice approaches to minimising exposure to sources of disputes environment in an erratic climate.

We look forward to welcoming you at the conference.

**Sarah Porch**  
Senior Conference Producer  
C5 Communications  
+44 20 7878 6897 | [s.porch@C5-Online.com](mailto:s.porch@C5-Online.com)



**C5**  
Business Information in a Global Context

The **C5 Group**, comprising C5 in Europe, The Canadian Institute, and American Conference Institute, is a leading global events and business intelligence company.

For over 30 years, **C5 Group** has provided the opportunities that bring together business leaders, professionals and international experts from around the world to learn, meet, network and make the contacts that create the opportunities.

Our conferences and related products connect the power of people with the power of information, a powerful combination for business growth and success.

### Global Sponsorship Opportunities

C5 works closely with sponsors to create the perfect business development solution catered exclusively to the needs of any practice group, business line or corporation. With over 500 conferences held in Europe, Russia and the CIS, China, India, the US and Canada, C5 provides a diverse portfolio of first-class events tailored to the senior level executive.

To find out how to position your firm as an industry leader by sponsoring this event, please contact **Chris Murphy** on **+44 (0)20 7878 6955** or email **C.Murphy@c5-online.com**

Join the Conversation  @C5Live #OGDisputes

 C5 Communications

# SUMMIT DAY ONE: Tuesday 24<sup>th</sup> January 2017

8:00 Registration and Coffee

## PRE CONFERENCE MASTERCLASS

08:00 – 10:00

### A Deep Dive into the Energy Charter Treaty Increase Protection of your Energy Investments

In the aftermath of Yucos and the ongoing suppression of oil prices, the energy market remains volatile and project structuring is riskier than ever. Whether you are about to start new projects in the energy sector or are concerned your existing project structuring is not as effective as it could be, join our highly practical and in depth masterclass to learn how to settle disputes and reduce your commercial risk when investing in the energy market.

This masterclass is designed to be participative throughout. The agenda will combine key formal presentations, case studies and syndicate discussion sessions. There will be ample opportunity for delegates to benchmark experiences with industry peers and raise issues of most concern to their organisation, either confidentially or in open session.

Attending this workshop will enable you to:

- › Understand how to use the Treaty from the outset to structure projects in the most effective and optimal manner
- › Acquire an appreciation of how disputes can be settled using the Energy Charter Treaty
- › Learn about the workings of arbitration under the Treaty when resolving disputes including investor-state arbitration and inter-state arbitration
- › Identify specific situations when you can invoke it in order to protect your investments
- › Benefit from knowing when you can rely on the Treaty in contentious situations
- › Understand when and how you could benefit from better protection when drafting contracts

Masterclass Leader

**Alejandro Carballo Leyda**  
*General Counsel*  
Energy Charter Secretariat

Dr Alejandro Carballo (LLB with Economics, Certificate on international conflicts, LL.M, European PhD in international law, Harvard Program on Negotiation) is the current General Counsel of the International Energy Charter. Alejandro is in charge of the discussions regarding modernisation and improvement of ECT dispute settlement mechanisms. Under his guidance, the Energy Charter Conference has endorsed a Guide on investment mediation (drafted with support of the IMI, ICSID, SCC, ICC, PCA and UNCITRAL), an amendment to the transit conciliation rules (with a commentary) and is discussing the current application of the standards of investment protection. The Secretariat is also successfully promoting its good offices in relation to energy disputes.

Previously, he worked for an international law firm where he advised states and private clients on a wide range of public international law issues. Alejandro has been a Visiting Fellow at the University of Cambridge and lectured in Public International Law. He was a member of the Executive Council of the American Society of International Law, and participated in the working groups of UNIDROIT Principles of International Commercial Contracts and the Hague Conference Principles on Choice of Law in international contracts.

## MAIN CONFERENCE

10:10 Opening Remarks from the Chair

### 10:15 How Has the Disputes Environment Changed in the Current Financial Climate?

**Paula Hodges QC**  
*Partner*  
Herbert Smith Freehills

**Liz Bossley**  
*CEO and Energy Trading Consultant*  
Consilience Energy Advisory Group

- › What kind of challenges are we now facing?
- › Deferral of projects already conceived or tendered
- › Suspension of projects let or commenced
- › Deliberate slowing down of let projects
- › How to deal with reluctance of OIC's to allow contract amendments even where they are due
- › Taxation Increases
- › Service contract disputes
- › How to deal with refusals to extend the works or increase budgets where necessary
- › How are people responding?
  - Fighting the cost and time implications of changes or delayed events
  - Taking disputes to third party settlement rather than settling face to face
  - Better negotiating
- › How to move forward in a choppy landscape

11:00 Morning Refreshments

### 11.15 The Impact of Insolvency of a Contracting Party: What Can You Do Under Your Agreement?

**Scott Vesel**  
*Barrister*  
Three Crowns

- › Consideration of pressures on the relationship in the current climate
- › Liquidity issues
- › Pressure to discount on current contracts
- › Distressed sales
- › Market response
- › Legal restrictions under the contract and on the parties
- › What options are available and proving to be effective?
- › Advanced asset tracing
  - Understanding where your opponent is based and their true position
- › Consideration of disputes in national courts
- › Restructuring options
  - What is the driver for the best approach to restructuring your business?
  - How is "contentious restructuring" working in practice?

## CONFERENCE ON DEMAND

Can't take time out of the office? View the conference from the convenience of your home or office. Save money on travel and view the conference according to your own schedule. This Conference recording allows you to view all the authorised sessions and handouts.

The recorded archives of the presentations will be available for you to view after the conference, so you can re-watch sessions, or view any sessions you may have missed.

## 12:15 Decommissioning Liability – A Growing Concern

Terry Kimber  
Director  
The Decommissioning Group

Ben Holland  
Partner  
Patton Squire Boggs

- › What are the standard decommissioning legal obligations under English law?
- › Why is early de-commissioning becoming such a problem?
  - Security spread over shorter timeframe
  - Serious funding challenges
  - Increasing number of disputes over amount of security set aside
- › Disputes over how funds are calculated
- › How to ensure there is sufficient security set aside to cover the liabilities
- › Guidance on strengthening your position in these circumstances
  - Resolving disputes through expert determination

## 13:00 Networking Lunch

## 14:15 The Difficulties of Marshalling the Evidence: Best Practise for Legal and Technical Preparations When Bringing a Claim

Gervaise McGregor  
Director  
BDO

Philip Haberman  
Senior Partner  
Haberman Ilett

Ben Giaretta  
Partner and Chartered Arbitrator  
Ashurst

Chris Longman  
Director  
SLR Consulting

- › Presentation of quantum evidence (to include all reporting matters)
- › The importance of the model
- › Rules for model design
- › Transparency if inputs
- › Interaction with technical experts
- › Agreement of models by experts
- › Adjusting models for rulings by the Tribunal
- › What happens when the rules are not adhered to?

## 15:15 The Perennial Dispute: Has the Nature of Joint Operating Disputes Changed?

Ted Greeno  
Partner  
Quinn Emmanuelle, Urquhart & Sullivan

How has the drop in oil prices impacted on the types of JOA disputes we are seeing?

- › Same old disputes or a new disputes environment?
- › What are the most pressing sources of contention?
  - Payment for marginal costs being squeezed
  - Intentional slowdown of activity by the parties
  - Slowdown in M&A activity generally
- › Ongoing issues around farm in and farm outs
- › How are defaults being dealt with in reality if they can't be remedied in the required time limits?

## 16:00 Afternoon Refreshments

### MEDIA PARTNERS



## 16:20 Application and Analysis of Force Majeure Clauses

Professor Paul Griffin  
Senior Adviser and Counsel  
White & Case

Michael Ashcroft QC  
Barrister  
20 Essex St

- › Analysis of Force Majeure in the context of the drop and sustained lowering of oil prices
- › Applicable law– how the drafting of your clause could impact on your position
  - Governing law position
  - What if no stipulated law?
  - Combined clause incorporating stipulated governing law and principles of international law
- › Force majeure events
  - What should be included in which situations?
  - Can you negotiate over drafting and use the clause more effectively?
- › Establishing causality
- › Arbitration perspective
  - What will be relevant if a dispute goes to tribunal
- › Consideration of recent and relevant decisions

## 17:05 Project Finance in the Oil and Gas Industry – How is this Changing in light of the Oil Price Drop?

Marc Hammerson  
Partner  
Akin Gump

- › How financial re-profiling of projects is causing friction in the current climate
- › Dispute triggers
- › Role of the banks
- › Who is winning and losing in the oil market?
- › Are the main players still buying and selling?
- › What kind of deals are still being done?
- › Predicting where the market is heading

## 17.45 Chair's Closing Remarks

## 17.50 End of Day 1

### ASSOCIATE SPONSOR

Exceptional client service, delivered across continents. With resources in more than 150 countries, **BDO Global Forensics** practice helps Oil and Gas companies identify and mitigate risks associated with fraud, corruption, international arbitration and court disputes through advisory services customised to meet their specific needs including:

- Litigation, Dispute Advisory and Expert Witness services
- Fraud and Corruption Due Diligence and Investigations
- Forensic Technology Services
- Anti-Fraud and Anti-Corruption Compliance



A key component of BDO's service philosophy is active and continuous involvement from our most senior resources. Our partners and senior professionals are actively involved throughout the engagement, delivering technical support, insights, and guidance. With relevant experience of all aspects of the Oil and Gas industry, our multidisciplinary teams are poised to serve the unique needs of our clients. For more information, visit [www.bdo.com](http://www.bdo.com)

### EXECUTIVE SPONSOR

**20 Essex Street** is a leading international commercial set of barristers' chambers with premises in London and Singapore. Members accept instructions to act across the full spectrum of energy disputes, including oil and gas, nuclear energy, and renewable energy litigation and arbitration. Barristers at 20 Essex Street are routinely sought after to act in energy disputes with an international dimension.



### NETWORKING DRINKS SPONSOR

**Quadrant Chambers** has been recognised for a number of years for its expertise in the technical area of Upstream Construction Disputes. Members have been involved in some of the leading and high profile arbitrations in recent years. The disputes range from the construction, maintenance and repair of Rigs/FPSOs to the exploration, extraction and exploitation of natural resources, sale contracts and related areas.



# SUMMIT DAY TWO: Wednesday 25<sup>th</sup> January 2017

## 8:30 Registration and Coffee

## 9:00 Opening Remarks from the Chair

## 9:10 Upstream Construction Disputes

Lionel Persey  
Barrister QC  
Quadrant Chambers

Will Marshall  
Partner  
Ince & Co

Shareena Edmonds  
Partner  
Reed Smith

- › Common causes of construction disputes in the current climate
  - Cancellation of ordered equipment
  - Delayed acceptance
  - Delayed payment
  - Non payment
- › Who is ultimately responsible?
- › Recent cases
- › How to anticipate and prevent construction disputes
  - What to consider during the negotiation stage
  - What kind of provisions can go into the contract to protect your position?
- › Guidance on resolving construction disputes

## 10:10 Disputes over Drilling Contracts

Nigel Cooper  
Barrister QC  
Quadrant Chambers

James Doe  
Partner  
Herbert Smith Freehills

- › Current market impact on drilling companies
- › Where are drilling disputes coming from?
  - Squeezing on day rates
  - Delays
  - Failure to drill wells correctly
- › Risk allocation provisions
- › Remuneration in your contract
- › Analysis of recent cases
- › How are these being resolved?

## 11:00 Morning Refreshments

## 11:30 International Law and State Immunity – How to Get More than a Pyrrhic Victory

Professor Kaj Hober  
Arbitrator  
3 Verulam Buildings

Darya Shirokova  
Counsel  
International Court of Arbitration

Graham Coop  
Partner  
Volterra Fietta

- › The nature of State immunity and the impact on:
  - Court action
  - Enforcement
- › Yukos Case
- › If you win your dispute you may still not be able to enforce – what are your options?
- › Enforcing awards around the world
- › How to improve your position
  - Waivers of immunity clauses incorporated into contracts
  - Obstacles to this – negotiating State agreement
  - Adopt a realistic approach to potential disputes

- Arbitration laws as a waiver of immunity
- Analysis of different approaches taken by the courts in various countries
- How could law makers facilitate the relationship between the parties?

## 12:30 Networking Lunch

## 14:00 THE VIEW FROM IN-HOUSE: AN INSIDE PERSPECTIVE ON THE CURRENT UPSTREAM DISPUTES LANDSCAPE

Listen to our distinguished senior in-house panel share their insight and experience of the upstream disputes landscape and how they see it developing.

Daniele Novello  
Head of Legal  
and Corporate Affairs  
Total Italia

\*Nigel Smith  
Legal Counsel  
Shell

Chris Brierly  
Legal Counsel  
for Dispute Resolution  
BP

## 15:00 Impact of the M&A Slowdown on the Disputes Environment

Peter Knight  
Partner  
Bird & Bird

- › New driver for both buyers and sellers in the market
  - How is the market responding on the M&A front?
- › Downsizing and asset selling
- › Potential for new opportunities for asset purchase if blocked capital is released
- › New parties looking to enter and invest in the sector

## 15:25 Afternoon Refreshments

## 15:45 Is it Possible to Avoid Disputes in the Current Climate? Strategy Planning and “Future Proofing”

Andy Moody  
Partner  
Baker & McKenzie

Joe Tirado  
Partner  
Garrigues

- › Future trends - where is the market going commercially?
- › How will sustained lower oil prices bode for potential disputes and those already happening?
- › Traditional methods of resolution
  - Arbitration or litigation?
- › Are alternatives being used in the current crisis?
- › How can you strategically time your claims to be in the best position?
- › Jurisdictions to choose – is forum shopping beneficial?
- › How to make your contract as watertight as possible and improve your position

## 16:30 Chair's Closing Remarks

## 16.40 End of Conference