

A conference presented by the IBA International Construction Projects Committee



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8th Biennial Conference on Construction Projects from Conception to Completion



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16–18 March 2023

Hotel de Rome, Berlin, Germany

Working programme

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Conference Co-Chairs

Rouven Bodenheimer *BODENHEIMER, Cologne*

Rupert Choat KC *Atkin Chambers, London*

Thursday 16 March

1830 – 2030

Welcome reception

Chiaro Bar, Hotel de Rome

Behrenstraße 37, 10117 Berlin

The reception is open to all registered delegates.

Friday 17 March

All working sessions will take place in the Palm Court Ballroom

All coffee/tea breaks and lunch will take place in the Palm Court Ballroom Foyer

0800 – 1800

Registration

0850 – 0900

Introduction

Rouven Bodenheimer *BODENHEIMER, Cologne*

Rupert Choat KC *Atkin Chambers, London*

Joe F Moore *Hanson Bridgett, San Francisco, California; Co-Chair, IBA International Construction Projects Committee*

Jean-Pierre van Eijck *Spant Legal, Eindhoven; Co-Chair, IBA International Construction Projects Committee*

Project establishment sessions

0900 – 1020

SESSION ONE

Amending FIDIC conditions

There is plenty of advice against amending standard forms. However, the reality is that parties cannot resist amendments, particularly as amendments may be required by funders or to address aspects of the applicable law. The panel will discuss the pros and cons of amendments to FIDIC conditions which they have seen agreed.

Session Chair

Aisha Nadar *Advokatfirman Runeland, Stockholm*

Panellists

Frédéric Gillion *Pinsent Masons, Singapore*

Jarrod Gutsa *Vinson & Elkins, London*

Stephen Hibbert *Independent Arbitrator & Mediator, Dubai*

Ulrich Kugler *Andritz Hydro GmbH, Ravensburg*

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Delegates are requested to ensure that mobile telephones and any other portable devices are switched to silent in working sessions.

Friday continued

1020 – 1040 **Coffee/tea break**

1040 – 1140 **SESSION TWO**

The perfect variations clause

What should be included in the ideal variations clause, and what are the considerations when drafting? This session will review a draft clause for discussion by delegates.

Session Chair

Ricardo Barreiro-Deymonnaz *Barreiro Oliva De Luca Jaca Nicastro, Buenos Aires*

Panellists

Ian de Vaz *WongPartnership, Singapore; Treasurer, IBA International Construction Projects Committee*

Melis Mani *Strabag, Vienna*

Shane O'Neil *Arthur Cox, Dublin*

1140 – 1240 **SESSION THREE**

Avoiding construction arbitrations

What are the best ways of avoiding disputes which go to arbitration? The panellists will present and debate the procurement methods and contractual provisions which they consider to be the most effective.

Session Chair

Christopher Seppälä *White & Case, Paris*

Panellists

Alexandra Cunliffe *Bechtel Corporation, London*

Stefan Leupertz *Arbitrator, Adjudicator & Mediator, Cologne*

James Perry *PS Consulting, Paris*

1240 – 1340 **Lunch**

Project execution sessions

1340 – 1510 **SESSION ONE**

The importance of the applicable law: how far do lawyers from civil law and common law backgrounds view the same construction law issues differently?

Following the popularity of this session at the previous editions of this conference, delegates and panellists will work through a new case study explaining how they view the same construction law issues. The interactive case study will seek to highlight issues which are particularly affected by the applicable law.

Session Chairs

Rouven Bodenheimer *BODENHEIMER, Cologne*

Rupert Choat KC *Atkin Chambers, London*

Panellists

Katherine Bell *Schellenberg Wittmer, Zurich*

Jesse Gardner *Singleton Urquhart Reynolds Vogel, Toronto, Ontario*

Xingyu Huang *Zhong Lun Law Firm, Hong Kong*

David Hume *Shearman & Sterling, Abu Dhabi*

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Friday continued

1510 – 1530 **Coffee/tea break**

1530 – 1630 **SESSION TWO**

Constructive acceleration

It is often difficult to successfully pursue a claim for the costs of accelerating because an extension of time has not been granted that should have been. What are the challenges and how best are they overcome? The panel will provide a list of recommendations for discussion with delegates.

Session Chair

Albert Bates Jr *Troutman Pepper Hamilton Sanders, Pittsburgh, Pennsylvania*

Panellists

Tony Dymond *Debevoise & Plimpton, London*

Daewoong Lee *Kim & Chang, Seoul*

Anamaria Popescu *Berkeley Research Group, Pine, Colorado*

1630 – 1750 **SESSION THREE**

Jurisdictions of interest when defending calls against on-demand bonds

When a call on a demand guarantee (or 'on demand bond') is anticipated or in fact made, which jurisdictions are of interest to those trying to defend the call? The panellists will consider such jurisdictions and judgments issued by their courts. They will consider if there are preferred jurisdictions for those trying to defend calls against demand guarantees.

Session Chair

Michael Valo *Glaholt Bowles, Toronto, Ontario*

Panellists

Thaís Fernandes Chebatt *Pinheiro Neto Advogados, São Paulo*

Akihiro Hironaka *Nishimura & Asahi, Tokyo*

Andrew McKenzie *DLA Piper, Dubai*

Vishrov Mukerjee *Trilegal, New Delhi, Delhi*

1900 – 2200 **Conference Dinner**

Solar Sky Bar & Restaurant

Stresemannstrasse 76 (in the inner courtyard), 10963 Berlin

One place per registered delegate is permitted. Ticket price: €80 per person.

No transport will be provided.

Conference dinner sponsors



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Dispute resolutions sessions

0900 – 1020

SESSION ONE

Reinvigorating independence in expert evidence

It is commonly accepted that party appointed experts in arbitrations should give independent and impartial evidence. The perception, if not also the reality, is that this often does not happen. What, if anything, can be done? The panel will present its recommendations for discussion with delegates.

Session Chair

Alexis Mourre *Mourre Gutierrez Chessa Arbitration, Paris*

Panellists

Lynette Chew *CMS Singapore, Singapore*

Peter Fogh *Plesner, Copenhagen*

Kristoffer Löf *Mannheimer Swartling, Stockholm*

Graham Lovett *Akin Gump Strauss Hauer & Feld, Dubai*

1020 – 1040

Coffee/tea break

1040 – 1140

SESSION TWO

Addressing high volumes of low value claims in construction arbitration

Construction disputes often include many low value claims (eg, low value variations which are disputed in principle and/or quantum). Addressing them like other claims risks disproportionate costs. What are the options for addressing such claims (eg, sampling)? The panel will produce a menu of options and debate their advantages and disadvantages.

Session Chair

Bernd Ehle *Lalive, Geneva*

Panellists

Nils Brammer *Standardkessel Baumgarte, Mülheim*

Jane Davies Evans *3 Verulam Buildings, London*

Matei Purice *Freshfields, Paris*

1140 – 1240

SESSION THREE

When it all ends in disaster...

We each have a 'friend' who has worked on a big claim which was dismissed. What common lessons can be learned from discussing our friends' unsuccessful cases? The panel will present a list for discussion with delegates, who are asked to bring tales of their friends' unsuccessful cases to this session.

Session Chair

Virginie Colaiuta *LMS Legal, London*

Panellists

James Doe *Herbert Smith Freehills, London*

Jonathan Taunton *Squire Patton Boggs, Atlanta, Georgia*

Alfredo Yañez Matesanz *Acciona, Madrid*

1240 – 1255

Closing remarks

Rouven Bodenheimer *BODENHEIMER, Cologne*

Rupert Choat KC *Atkin Chambers, London*

1300 – 1400

Lunch