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# Cross Border Arbitration & Dispute Resolution Conference 2009

## The Bulls and the Bears; Do you have the Solutions?



17th – 20th November 2009, Mayfair Conference Centre, London

The economic climate has increased the number of disputes and ultimately the volume of arbitrations and litigations worldwide. This conference is essential for those facing these challenges, dealing with key issues including:

- Has arbitration lost its way?
- Can the corporate dream of inexpensive dispute resolution be realised?
- What are the primary challenges faced by those involved in international arbitration and what are the latest solutions?
- How can you adequately prepare for the pitfalls?
- Formulating a company strategy for dealing with arbitrations and dispute resolution
- Shaping successful commercial relationships after a dispute
- How do alternatives to arbitration and litigation compare?
- Avoiding delays
- What are the recent case law developments? (including the *West Tankers* decision)
- Bilateral investment treaties and their impact on dispute resolution

### PLUS! 3 Interactive Workshops

#### Pre-Conference Workshop A

Afternoon, Tuesday 17 November 2009

**Arb-med – An Innovative Solution To The Unwieldy Beast**

#### Post-Conference Workshop B

Morning, Friday 20 November 2009

**Bilateral Investment Treaties – Working Through The Mire**

#### Post-Conference Workshop C

Afternoon, Friday 20 November 2009

**Cost Awards In Arbitrations – Making Them Bite!**

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CDR news

Up to 20 hours CPD!

#### KEYNOTE:

**J William Rowley QC**, Arbitrator, 20 Essex Street Chambers, Chairman Emeritus & Special Counsel, McMillan LLP, Canada

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**Kathleen Bryan**, President And CEO, The International Center For Conflict Prevention & Resolution (CPR), USA

**Mark E. Appel**, Senior Vice President, International Centre for Dispute Resolution, Ireland

**Ben Beaumont**, FRICS., Barrister, Clarendon Chambers, UK, Chair Forum International Conciliation and Arbitration

**Pierre Bernard**, Secretary General, Elia Group, Belgium

**Raja Bose**, Partner, K&L Gates LLP, Singapore

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**Andrew Clarke**, Vice President of the LCIA European Users' Council and Vice Chairman, Corporate Counsel International Arbitration Group, ExxonMobil, UK

**Louis Degos**, Partner, K&L Gates LLP, France

**Gonzalo Flores**, Senior Counsel, International Centre For Settlement of Investment Disputes (ICSID), The World Bank Group, USA (Invited)

**Daniel Gal**, Partner, Dechert, UK

**Judith Gill QC**, Partner, Allen & Overy LLP, UK

**Simon Greenberg**, Deputy Secretary General, ICC International Court of Arbitration, France

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**Hans Van Houtte**, Professor, Katholieke Universiteit Leuven, Vice President, CEPANI, Belgium

**Isabelle Vaughn**, Head of ADR Litigation and Arbitration Group Practice Group, Fidal International, France

**Wolf von Kumberg**, European Legal Director and Assistant General Counsel, Northrop Grumman Corporation, UK & Switzerland

# Cross Border Arbitration & Dispute Resolution Conference

I am extremely pleased and proud to partner with IBC Legal in presenting the upcoming **Cross Border Arbitration and Dispute Resolution Conference 2009**. As the leading think-tank on Alternative Dispute Resolution, the International Center for Conflict Prevention and Resolution (CPR) has joined forces with the premier provider of legal conferences to bring you the latest innovations, the most up-to-the-minute learning, and practical advice on conflict resolution from around the world.

Since the global economic crisis, it has become clear that business must change and adapt with fewer resources. So, must the legal business respond and find new ways to achieve the same or better results with lower cost. The single, **most effective cost-saving opportunity** comes from successful conflict resolution, and more specifically, from resolving disputes more quickly through alternatives to costly litigation or protracted arbitration.

This Conference brings together **world renowned experts** who will guide you through the **latest legal developments in arbitration** and provide the **practical guidance** you need to achieve a more efficient arbitration process. You will hear from leading practitioners and from highly experienced in-house counsel about techniques that work in their day-to-day practice.

The CPR Institute is known around the world for bringing together academic rigour, practical knowledge and real case examples, as well as for entertaining and enlightening panels and interactive sessions. This conference is no exception. In addition, you will have the opportunity to meet and network with prominent in-house and private practice lawyers from around the world.

Decide now to join us for this **exciting Conference on November 18th and 19th** and consider further expanding your knowledge through **workshops** offered before and after the main conference.

I look forward to seeing you in November.

Sincerely,



Kathleen A. Bryan  
President & CEO  
International Center for Conflict Prevention & Resolution (CPR)

## Pre-Conference Workshop A Afternoon, Tuesday 17 November 2009

### Arb-med – An Innovative Solution To The Unwieldy Beast

*Timings: Registration and coffee will be at 13.30.  
The workshop will commence at 14.00 and conclude at 17.00 with appropriate breaks for refreshments.*

**Lorraine Brennan**, Senior Vice President, CPR, USA

Equipping you to make the best of this pioneering, innovative and helpful tool to assist you in

- Speeding up arbitration
- Saving costs and management time
- Achieving successful commercial compromise.

Lorraine will show that under the right circumstances Arb-med can be a creative and appropriate mechanism for resolving a dispute.

## Conference Day One Wednesday, 18 Nov 2009

### Has Arbitration Lost Its Way? – The Bulls and the Bears

09.00 Registration & Morning Coffee

#### 09.30 Chair's Opening Remarks

- Arbitration and the ADR vision
- CPR – roots and reasons
- Is arbitration ADR?
- Can ADR save arbitration?

**Kathleen Bryan**, *President and CEO, CPR, USA*

#### Keynote Address

9.50

#### Do the Foundational Elements that make International Arbitrations Work Exist?

**J William Rowley QC**, *Arbitrator, 20 Essex Street Chambers and Chairman Emeritus & Special Counsel, McMillan LLP, Canada*

How you get your CPD Points: Main conference is worth 12 Hours 20 minutes SRA CPD 12 hours Bar Standards Board CPD and each morning workshop 3 hours CPD and each afternoon workshop 2.5 hours CPD

#### 10.45 International Arbitration - The Corporate Dream of Inexpensive Dispute Resolution

- What are the principal concerns corporate users have experienced in using international arbitration?
- Why has international arbitration not lived up to expectations?
- What are the primary challenges faced by those entering into international arbitration?
- Are CPR and its members still committed to international arbitration?
- What other tools are favoured by the panel? What works?
- What is the reality of arbitration?
- How can it be changed for the better?

**Pierre Bernard**, *Secretary General, Elia Group, Belgium*  
**Wolf von Kumberg**, *European Legal Director and Assistant General Counsel Northrop Grumman Corporation, UK & Switzerland*  
**Jean-Claude Najjar**, *Senior Counsel & Chief Compliance Officer, GE Commercial Finance, France*  
**Andrew Clarke**, *Vice President, LCIA European Users' Council & Vice Chairman, Corporate Counsel International Arbitration Group, ExxonMobil, UK*

11.25 Morning Break

#### 11.45 Are the Main Recent Legislative and Case Law Developments Improving Arbitration?

- A regional review of major developments in:
  - Europe
  - The Americas
  - Asia

**Raja Bose**, *Partner, K&L Gates LLP, Singapore*  
**Louis Degos**, *Partner, K&L Gates LLP, France*  
**Ian Meredith**, *Partner, K&L Gates LLP, UK*  
**Gerald A. Novack**, *Partner, K&L Gates LLP, USA*

13.00 Networking Lunch for Delegates & Speakers

#### 14.00 Improving Economic and Non-Economic Outcomes in Managing Business Conflicts

French corporate statistical survey results from FIDAL in collaboration with the American Arbitration Association (AAA) considering:

- The motives and reasons for using ADR
  - The timing and means of recourse to ADR
  - The extent to which the international dimension of a dispute has an influence on the use of ADR and of arbitration in particular
  - The frequency and types of ADR used (mediation, MEDARB, arbitration, dispute boards, expert appraisals, etc.)
  - The characteristics of companies' dispute management policies
- Mark E. Appel**, *Senior Vice President, International Centre for Dispute Resolution, Ireland*  
**Isabelle Vaugon**, *Head of ADR Litigation and Arbitration Practice Group, Fidal International, France*

#### 14.50 Arbitration Seat Focus

##### The Wake Of The West Tankers Decision

- Spotting the sneaky delay tactic
- Where are we now?
- The way forward
- Other caselaw to note
- Judge at first instance....was this a bad decision?
- Precise clause drafting - Can this deal with the problem?
- Where are the safe havens now?

#### Q and A

**James Clanchy**, *Registrar and Deputy Director General, London Court of International Arbitration, UK (Chair)*  
**Hans Van Houtte**, *Professor, Katholieke Universiteit Leuven & Vice President, CEPANI, Belgium*  
**Simon Greenberg**, *Deputy Secretary General, ICC International Court of Arbitration, France*

15.50 Afternoon Break

#### 16.10 Conflicts – A Question of Ethics

- Transparency
- Recent US decisions: Do they go too far?
- Are the IBA Conflict Rules helping or hindering?
- Is the arbitration world too small?
- Is the standard ever too high?
- How do we develop a deeper pool of arbitrators?
- How do we ensure arbitrators have the time to focus on their cases?

#### Q and A

**Judith Gill QC**, *Partner, Allen & Overy LLP, UK*

17.00 Chair's Closing Remarks

17.10 End of Conference Day One

**Conference Day Two Thursday, 19 Nov 2009**

**Making Arbitration Work**

09.00 Registration

09.30 **Chair's Opening Remarks**

09.40 **Arbitration on Technical Issues: How to Make Sure the Tribunal Understands Complex Technical Issues**

- Defining and identifying the issues
- Terms of Reference vs. No Terms of Reference
- Expert witnesses - witness conferencing and panel appointed experts

**Sophie Nappert, Arbitrator, 3 Verulam Buildings, UK**

**Q and A with Panel of Experts**

**Lorraine Brennan, Senior Vice President, CPR, USA**

**Gonzalo Flores, Senior Counsel, International Centre for Settlement of Investment Disputes (ICSID), The World Bank Group, USA (Invited)**

**Daniel Gal, Partner, Dechert, UK**

**Lord Hoffmann, Retired Law Lord, Arbitrator and Mediator, Brick Court Chambers, UK**

**John Marrin QC, Head of Chambers, Keating Chambers, UK**

**Wolf von Kumberg, European Legal Director and Assistant General Counsel Northrop Grumman Corporation, UK & Switzerland**

10.40 Morning Break

11.00 **Choose your Own Dispute Resolution Provisions**

- Pros and cons of institutional administration
- The institutions compared
- Arbitration under UNCITRAL rules
- Choice of forum
- Forum challenges
- Choice of law
- Enforcement issues

**John Marrin QC, Head of Chambers, Keating Chambers, UK**

12.00 **An Arbitrator's Advice – 5 tips in 50 minutes**

- Tip 1 - Arbitrator selection
- Tip 2 - Meeting the jurisdictional challenge
- Tip 3 - Anti suit injunctions
- Tip 4 - Managing the process - the roles and responsibilities of the parties & their lawyers
- Tip 5 - The arbitrator's role in narrowing the scope of the dispute - procedural orders, information exchange and early/partial awards

**Lord Hoffmann, Retired Law Lord, Arbitrator and Mediator, Brick Court Chambers, UK**

13.00 Lunch for Speakers and Delegates

14.00 **Bilateral Investment Treaties (BITs) – What You Need To Know...**

- A synopsis of the salient elements
- Gonzalo Flores, Senior Counsel, International Centre for Settlement of Investment Disputes (ICSID), The World Bank Group, USA (Invited)**  
**Dr. Sabine Konrad, Partner, K&L Gates LLP, France**

**Case Study: Dispute Resolution Success Story**

*Looking at a national cross jurisdictional BITs dispute and considering various approaches and strategies to its resolution*  
**Sophie Lamb, International Counsel, Debevoise & Plimpton LLP, UK**

**Panel Q and A**

**Daniel Gal, Partner, Dechert, UK**

15.20 Afternoon Break

15.50 **Paring to the Bone – Cutting Costs Without Causing Delay**

- Tactics for cutting costs?
- The areas you can target
- Making resources count
- Illegitimate clause
- In house and outsourcing
- Expedited procedures

**Q and A**

**Moderator: Andrew Clarke, Vice President, LCIA European Users' Council & Vice Chairman, Corporate Counsel International Arbitration Group, ExxonMobil, UK**

**Peter Morton, Partner, K&L Gates LLP, UK**

**Audley Sheppard, Partner, Clifford Chance, UK**

**Wolf von Kumberg, European Legal Director and Assistant General Counsel Northrop Grumman Corporation, UK & Switzerland**

16.40 **Alternative Mechanisms – How Do They Compare?**

- What are the 'real' options?
- Confidentiality – appealing on a point of law
- Publishing the decision - the judge's call?
- Cost & speed
- Preserving professional and commercial relationships
- Better the devil you know – certainty
- Getting results: Is it ever better to follow a litigious route?

**Q and A**

**Lorraine Brennan, Senior Vice President, CPR, USA**

17.30 **Chair's Closing Remarks**

17.40 End of Conference

**Who Should Attend?**

Responding to a need for a conference dealing with solutions to the problematic and often complex area of commercial disputes across international borders, this cutting edge conference has been researched with, and developed for all professionals involved in those disputes including:

- in-house counsel
- company and group directors
- lawyers and those acting for companies

**Post-Conference Workshop B  
Morning, Friday 20 November 2009**

**Bilateral Investment Treaties – Working Through The Mire**

*Timings: Registration and coffee will be at 09.00. The workshop will commence at 09.30 and conclude at 13.00 with appropriate breaks for refreshments. Lunch will be served at 13.00 following close of workshop.*

**Dr. Sabine Konrad, Partner, K&L Gates LLP, France**

Dr. Konrad will lead you in an accessible and practical way through this area which has grown enormously in importance and application.

Investment protection should be considered at every stage of the life of an international agreement. Dr Konrad will help you maximise your protection strategy and minimise risk at the planning stages as well as during the lifetime of the project. She will guide you through the continuous review of the necessary protective strategies you should employ and identify what is relevant when things turn sour and the project reaches dispute stage.

**Post-Conference Workshop C  
Afternoon, Friday 20 November 2009**

**Cost Awards In Arbitrations – Making Them Bite!**

*Timings: Registration and coffee will be at 13.30. The workshop will commence at 14.00 and conclude at 17.00 with appropriate breaks for refreshments*

**Ben Beaumont, FRICS, Barrister, Clarendon Chambers, UK  
Chair Forum International Conciliation and Arbitration**

This problematic area can result in costly outcomes. This workshop will prepare you to get the best out of cost awards and ensure that you focus your resources effectively

- Security for costs - jurisdiction to award, factors to be considered
- Relevance of lex contracti or lex arbitri to cost issues
- Relevance of unsuccessful allegations of fraud or bad faith
- Proportionality of costs to award
- Symmetricality of costs - high priced vs. low priced legal representation
- Distributive orders as to costs - issue by issue
- Relevance of conduct of the parties regarding settlement offers and willingness to mediate
- Relevance of cooperation with the arbitral process
- Sympathetic issues - David vs. Goliath, legitimate basis for arbitration despite lack of success
- Written reasons for cost awards - how detailed should they be?

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There is no other marketing medium available that can offer you these three features together. For more information on how IBC Legal can help you meet your business's development objectives, call Edward Low on +44 (0)20 7017 4196 or email on [edward.low@informa.com](mailto:edward.low@informa.com)

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### Web:

www.ibclegal.com/arbitration

Payment should be made within 14 days of registration. All registrations must be paid in advance of the event. Your VIP code is on the address label. If there is no VIP code, please quote

## HOW MUCH?

Conference Package	Book by 4th September 2009	Book by 9th October 2009	Standard Price (book after 9th October 2009)
Conference + 3 Workshops	£2196 + VAT (15%) = £2,525.40 (SAVE £700)	£2296 + VAT (15%) = £2,640.40 (SAVE £600)	£2396 + VAT (15%) = £2,755.40 (SAVE £500)
Conference + 2 Workshops	£1897 + VAT (15%) = £2,181.55 (SAVE £500)	£1997 + VAT (15%) = £2,296.55 (SAVE £400)	£2097 + VAT (15%) = £2,411.55 (SAVE £300)
Conference + 1 Workshops	£1598 + VAT (15%) = £1,837.70 (SAVE £300)	£1698 + VAT (15%) = £1,952.70 (SAVE £200)	£1798 + VAT (15%) = £2,067.70 (SAVE £100)
Conference Only	£1199 + VAT (15%) = £1,378.85 (SAVE £200)	£1299 + VAT (15%) = £1,493.85 (SAVE £100)	£1399 + VAT (15%) = £1,608.85
___ workshop(s) Only	Each workshop: £499 + VAT (15%) = £573.85	Each workshop: £499 + VAT (15%) = £573.85	Each workshop: £499 + VAT (15%) = £573.85

### Please select which workshop(s) you wish to attend:

- Workshop A (17th November): Arb-med An Innovative Solution to the Unwieldy Beast  
 Workshop B (20th November): Bilateral Investment Treaties – Working through the Mire  
 Workshop C (20th November): Cost Awards In Arbitrations – Making Them Bite!

### Please tick for 20% Public Sector discount

Savings include Early Booking Discounts. All additional discounts can only be applied at the time of registration and discounts cannot be combined. All discounts are subject to approval. Please note the conference fee does not include travel or hotel accommodation costs. **£200 discount for 3rd and subsequent delegates.**

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please note that credit cards will be debited within 7 days of your registration on to the conference

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**Additional Requirements** Please notify Informa at least one month before the conference date if you have any additional requirements e.g. wheelchair access, large print etc.

**Cancellations** Confirm your cancellation in writing two weeks or more before the event and receive a refund (if applicable), less 10% + VAT. Should you cancel 1 week before the event then you will receive a refund (if applicable), less 50% + VAT service charge. Regrettably, no refunds can be made for cancellations received less than one week prior to the event. If you're unable to attend, a replacement delegate is welcome at no extra cost, however sharing of tickets during the event is not allowed.

## WHEN AND WHERE

**KW8060**  
17th to 20th  
November 2009

**Venue:** Mayfair Conference Centre  
17 Connaught Place  
London, W2 2EL  
Tel 0207 706 7700  
Fax 0207 706 7711

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**1st Delegate** Mr/Mrs/Ms \_\_\_\_\_

Job title \_\_\_\_\_ Department \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

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Job title \_\_\_\_\_ Department \_\_\_\_\_

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**3rd Delegate** Mr/Mrs/Ms \_\_\_\_\_

Job title \_\_\_\_\_ Department \_\_\_\_\_

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