

Advanced training

# ICC Institute Masterclass for Arbitrators

## Overview of fundamentals and best practices related to serving as an arbitrator

*Under the auspices of the* **ICC Institute of World Business Law**

**Dates:** 15 – 17 March 2010

**Venue:** International Chamber of Commerce  
38 Cours Albert 1er, 75008 Paris, France

### EARN

16.5 CLE credits  
14 MCLE credits  
12.5 CPD hours  
14 CNB hours

### Objective

Although the practice area of international commercial arbitration has flourished within the last decade due to the emergence of a global economy, the existence and availability of training for individuals interested in serving as international arbitrators remains extremely limited. The few programmes that exist are either available only to individuals appointed to panels of arbitrators maintained by arbitral institutions, or are extremely expensive and involve weeks of training, thus making them impractical for most working professionals. Accordingly, the ICC Institute launches its second annual ICC Institute Masterclass for Arbitrators.

This training will provide participants with an opportunity to reinforce their knowledge of the fundamentals of international commercial arbitration and to learn about the latest developments and best practices related to serving as an international arbitrator. In keeping with its commitment to excellence, the ICC has recruited some of the world's leading scholars and practitioners as faculty for this important event. Participants will have the rare opportunity to learn firsthand from these leading practitioners and to develop helpful contacts with arbitration practitioners from around the world. The course will consist of presentations and interactive discussions using mock cases designed to hone participants' understanding of critical theoretical concepts while also emphasizing many practical aspects involved in conducting an international arbitration.

Attendees should understand that the objective of this course is solely to provide training with respect to serving as an arbitrator and completion of the course will not result in students being awarded any type of certification or accreditation by the ICC. In terms of their fitness to serve as international arbitrators.

### Who should attend?

This advanced level training is designed primarily for practitioners who have significant experience in international commercial arbitration as counsel, but who have little or no experience as arbitrators. Attendees are expected to have already mastered the essentials of arbitral proceedings and ICC Arbitration, as these will not be reviewed during the Masterclass. **Please note that a Curriculum Vitae is requested upon registration as candidates will be accepted depending on their experience.**



Monday 15 March 2010

MORNING

9.30 – 12.30

### Arbitrator: who are you?

This session will examine the role of the arbitrator, the contractual basis of the relationship and the major differences between a sole arbitrator, co-arbitrator, and the chairman.

### Appointment of arbitrators

The appointment of arbitrators starts with a selection process which often involves various issues, including the interview process (what areas are appropriate topics for discussion and which ones are off limits), the initial disclosures and conflict checks. How should a potential arbitrator deal with these issues? What do the concepts of impartiality and independence require in concrete terms and what types and level of disclosures are required? How is the chairman selected by the co-arbitrators? Is the IBA Code of Ethics useful? The sensitive issue of the arbitrator's fees and expenses, notably institutional arbitration vs. ad hoc, will also be discussed.

### Session with mock cases

This session will feature short mock cases designed to hone participants' understanding of critical theoretical concepts while also emphasizing many practical aspects involved in the appointment of arbitrators: "In such a case, what would you do?"

### Debate on the mock cases and general discussion

12.30 – 14.15 *Lunch*

AFTERNOON

14.15 – 17.15

## COMMENCEMENT OF PROCEEDINGS

### General matters to be dealt with at the commencement of proceedings

This session will focus on the general administrative matters that arbitrators have to deal with at the commencement of the proceedings in order to establish an orderly and efficient process. Such matters include interaction with the arbitral institution, routing of information involving communications with the tribunal and parties.

The session will also explore whether these initial matters should be handled in person with the parties at a hearing or through correspondence. Participants will further review the importance and manner of keeping an accurate record of the proceedings.

### Topics to be raised with the parties at the commencement of proceedings

One of the most important responsibilities of an arbitrator is to help the parties focus on critical procedural matters early in the arbitral process. These procedural matters can have a great impact on the efficiency and speed of the arbitral process and include the following issues: jurisdiction; terms of reference; venue; severability of issues; governing law and procedural rules; language of the arbitration (documents, witnesses, interpreters); multiparty arbitrations; interim measures; selecting rules or standards of evidence (establish burdens of proof); initial disclosure of estimated number of witnesses and essence of witnesses' testimony; requests regarding discovery; disclosure of categories of essential documents each party believes it will use to prove its case; and appropriateness of dispositive motions and hearings on same.

### Fixing a calendar

When fixing a calendar one needs to prepare a briefing schedule and set topics for written submissions as well as organizing and scheduling hearings.

### Discussion

17.15 *End of the first day*

*Dinner*



*Tuesday 16 March 2010*

MORNING

9.30 – 12.30

#### CONDUCTING PROCEEDINGS

##### **Establishing your authority and the framework for the arbitration**

The arbitrator must establish his or her authority at the outset and create a suitable framework for the arbitration. This may pose particular challenges for young arbitrators or arbitrators dealing with experienced attorneys who attempt to control the process. Participants will learn the importance and manner of setting out the rules of the process at the very beginning. The session will also focus on issues related to the characteristics or behaviour of the parties, such as the desire to maintain a level playing field in order to create a balance between the parties (the temptation of helping the less experienced / weaker party), managing cultural differences, a party's refusal to participate, and dealing with recalcitrant parties.

##### **Session with mock cases**

##### **Conducting hearings**

Conducting hearings in an efficient and fair fashion is one of the most critical and challenging tasks faced by arbitrators. Because an arbitrator is not a judicial officer with state sanctioned authority to hold parties and advocates in contempt, maintaining control and decorum may pose a significant challenge for arbitrators. The experienced faculty will share their insights involving the questioning of witnesses or attorneys by arbitrators, maintaining control over examination of witnesses, deciding whether to request additional evidence or legal arguments not provided by the parties, and evaluating the need for the tribunal to appoint an expert.

##### **Session with mock cases**

##### **Discussion**

*12.30 – 14.15 Lunch*

AFTERNOON

14.15 – 17.15

##### **Relations between arbitrators: mock arbitral tribunal**

The relationship and interaction between arbitrators is another important component of the arbitral process. Several demonstrations with a mock arbitral tribunal will be presented to explore issues pertaining to relations between arbitrators. The demonstrations and related discussion will touch on the following issues: consultation with co-arbitrators before and during the hearing; getting along with your co-arbitrators; trying to build consensus; dealing with conflicting personalities or styles; dealing with perceived bias or other perceived inability to properly function; notifying the institution or parties of problems; the particular responsibilities of the Chairman; truncated tribunals; and dealing with dissenting opinions.

##### **Discussion**

##### **Challenge and replacement of arbitrators**

Notably through the ICC International Court of Arbitration, with the ICC procedure, but also through the National Courts (i.e. Asia).

*17.15 End of the second day*

*Museum visit*



Wednesday 17 March 2010

MORNING

9.30 – 13.00

### Drafting enforceable awards

Participants will learn the general guidelines and best practices pertaining to drafting enforceable awards.

### Working groups

Participants will be given the opportunity to study a draft award before scrutiny by the ICC International Court of Arbitration. Each working group will be responsible for drafting part of the award and will make their comments as if they were ICC Court members.

### Scrutiny of the draft awards by the ICC International Court of Arbitration, and debate

#### Arbitrator immunity

As in many legal endeavours, the world of arbitration involves issues related to an arbitrator's legal exposure. The faculty will discuss the nature and extent of arbitrator immunity and provide suggestions on what an arbitrator should do if he or she gets sued. The discussion will also touch upon matters relating to potential unauthorized practice of law issues.

#### General discussion and conclusions

13.00 *Lunch and end of the Masterclass*

## Speakers

- **Phillip Capper**, Partner, White & Case LLP, United Kingdom; Member, Task Force on the Revision of the ICC Rules; Associate Member, ICC Institute of World Business Law
- **Fabien Gélinas**, Associate Dean and Associate Professor of Law, McGill University, Canada; Former General Counsel, ICC International Court of Arbitration; Member, Task Force on the Revision of the ICC Rules
- **Hilary Heilbron**, Barrister, Brick Court Chambers, United Kingdom
- **Martin Hunter**, Barrister, Essex Court Chambers, United Kingdom; Member, ICC Commission on Arbitration
- **Emmanuel Jolivet**, General Counsel & Deputy Director, ICC Dispute Resolution Services, Paris
- **Serge Lazareff**, Avocat à la Cour, France; Chairman, ICC Institute of World Business Law
- **Fernando Mantilla Serrano**, Partner, Shearman & Sterling LLP, France; Member, ICC International Court of Arbitration; Member, Task Force on the Revision of the ICC Rules
- **Pierre Mayer**, Partner, Dechert LLP, France; Member, Task Force on the Revision of the ICC Rules; Council Member, ICC Institute of World Business Law
- **Alexis Moure**, Partner, Castaldi Moure & Partners, France; Vice-President, ICC International Court of Arbitration; Council Member, ICC Institute of World Business Law
- **Pierre Tercier**, Emeritus Professor, University of Fribourg, Switzerland; Honorary Chairman, ICC International Court of Arbitration
- **Vera van Houtte**, Partner, Stibbe, Belgium; Vice-President, ICC International Court of Arbitration

#### *With the participation of the Secretariat of the ICC International Court of Arbitration*

- **José Ricardo Feris**, Counsel
- **Victoria Orłowski**, Counsel

#### *Representative of ICC Events and the ICC Institute of World Business Law*

- **Laetitia de Montalivet**, Director





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**Venue:** International Chamber of Commerce  
38 Cours Albert 1er, 75008 Paris, France

### Registration fees

Amount (**excluding VAT**) for taxable residents in the European Union, associations without an Intra-Community VAT No. and residents outside the European Union:

**Until 5 February 2010: "Early bird special"**

**After 5 February 2010**

- For ICC members: 1 010 euros
- For non-members: 1 180 euros

- For ICC members: 1 230 euros
- For non-members: 1 400 euros

Amount (**including VAT 19,6%**) for residents in France and any individual without an Intra-community VAT No.:

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**After 5 February 2010**

- For ICC members: 1 207,96 euros
- For non-members: 1 411,28 euros

- For ICC members: 1 471,08 euros
- For non-members: 1 674,40 euros

The registration fee includes participation in the working sessions, working papers and documentation, lunches from Monday to Wednesday, coffee breaks, dinner on Monday and a museum visit on Tuesday. Travel and hotel expenses are not included.

### How to register

**Easier, faster and save 20 euros, register online\* at [www.iccevents.org](http://www.iccevents.org)**

*(\*Secured payment by credit card)*

or complete and return the registration form indicating method of payment to:

**E-mail:** [events@iccwbo.org](mailto:events@iccwbo.org)

**Post:** ICC SERVICES

**Fax:** +33 (0)1 49 53 30 30

Events Department

**Tel:** +33 (0)1 49 53 29 34

38 Cours Albert 1er, 75008 Paris, France

*Please send your Curriculum Vitae (C.V.) to [events@iccwbo.org](mailto:events@iccwbo.org) in addition to your registration as candidates will be accepted depending on their experience.*

Registration will be confirmed upon receipt of the registration form and registration fees.

### Travel and accommodation

Participants are responsible for making their own travel arrangements and hotel reservations. A list of hotels in Paris, with which ICC has negotiated preferential room rates, will be sent to you upon receipt of the registration form. We are able to dispatch visa invitation letters to support your visa application only after receipt of your registration form and full payment of your registration fees.

**Working languages:** English.

### Credits and hours

ICC Events is eligible for CLE credit under **New York's** approved jurisdiction procedures, is a State Bar of **California** approved MCLE provider and is a Solicitors Regulation Authority and General Council of the Bar of **England** and **Wales** External CPD Course Provider.

**French Bars:** This conference has been sent for CNB approval.

### Cancellation

50% of the registration fee will be refunded if notice of cancellation is received in writing **before 5 February 2010**. Cancellations after this date are not refundable. Subject to agreement from ICC Events prior to the event, the registration may be transferred to another person from the same company or organization at no extra charge. Updated registration material will be required.

Please note that ICC Services reserves the right to cancel this event or to make minor alterations to the content and timing of the programme or to the identity of the speakers. In the unlikely event of cancellation, delegates will be offered a full refund. ICC Services will not, however, be held responsible for any related expense incurred by the participant.

# Registration form

**S 1004**

**Monday 15 – Wednesday 17 March 2010**

**International Chamber of Commerce**

38 Cours Albert 1er, 75008 Paris, France

**Save 20 euros!**  
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## ICC Institute Masterclass for Arbitrators

Participant  
information

TITLE / FIRST NAME / LAST NAME	<input type="text"/>	<input type="text"/>	<input type="text"/>
POSITION	<input type="text"/>		
COMPANY NAME	<input type="text"/>		
ADDRESS	<input type="text"/>		
CITY / STATE / ZIP CODE	<input type="text"/>	<input type="text"/>	<input type="text"/>
COUNTRY	<input type="text"/>	TEL.	<input type="text"/>
CONTACT E-MAIL	<input type="text"/>	FAX	<input type="text"/>

registration  
fees

Amount (**excluding VAT**) for taxable residents in the European Union, associations without an Intra-Community VAT No. and residents outside the European Union:

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Intra-Community VAT No. (Compulsory)\*  Special code (NC, etc...)

*\*As of 1st January 2010, in accordance with Article 196 of the Council Regulation (EC) N° 143/2008 of 12 February 2008, it is now up to the client to process VAT statements and returns with its tax authorities.*

Amount (**including VAT 19,6%**) for residents in France and any individual without an Intra-community VAT No.:

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Method  
of payment

**By credit card:**  American Express  Euro/MasterCard  Visa  
Card number..... Expiry date.....  
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**By bank transfer:** LCL  
Account No. 0000060021B Clé RIB 64 Bank Code 30002 Branch Code 04866  
Swift: CRLYFRPP IBAN: FR61 3000 2048 6600 0006 0021 B64  
**Please indicate the reference "S 1004" and the participant's name clearly.**

Date ..... Signature.....

Data  
protection  
information

The details you provide on this form will be used for registration purposes. They will be stored in ICC's databases for the sole use of ICC (the International Chamber of Commerce and its wholly-owned affiliate ICC Services). Under the French law 'informatique et libertés' of 6 January 1978, you may have access to these details and request deletions and corrections at any time by contacting ICC at **registrationevents@iccwbo.org**. The details you provide may be used by ICC to keep you informed of developments in your area of activity through publications, subscriptions, events and other commercial offers. Please indicate if you wish to receive such information:  
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