



ICMA XX 2017 Copenhagen  
The Danish Institute of Arbitration

## WORK PROGRAMME - SESSIONS & PAPERS - 26 June 2017

### Monday 25 September

#### 11am-12.30pm

---

##### **Current Developments in Arbitration (PS1)**

Impact of Brexit on London Maritime Arbitration – Some Reflections from the Sharp End – Sara Masters and Belinda McRae (UK)

New York, New York – Highlights – John D Kimball (USA)

The Impetus and Obstacles in Amending China’s Arbitration Law 1995 – Beiping Chu (China)

Navigating through the maritime arbitration: Malaysia in focus – Sundra Rajoo (Malaysia)

Recent developments in Brazilian arbitration – Carlos S Forbes (Brazil)

#### 1.30-3pm

---

##### **National Arbitration Legislation and Institutions – Part 1 (CS1)**

- |              |   |
|--------------|---|
| China/Canada | Comparison of arbitral process between CMAC Arbitration Rules and the VMAA Arbitration Rules – J.J. McIntyre (Canada)                 |
|              | CMAC Hong Kong’s ad hoc Arbitration Rules – Brad Wang (HK)  |
| India        | Amendments to the Indian Arbitration Act – Amitava Majumdar (India)   |
| Indonesia    | Maritime Court and Arbitration in Indonesia – Husseyn Umar (Indonesia)  |
| Qatar        | Overview of recent reforms in arbitration rules: key changes and expected results – Minas Khatchadourian (Qatar)                      |
| UAE          | The benefits of EMAC to the Middle East region, its advantages over other alternatives for maritime and trade communities –EMAC (UAE) |

##### **Privacy, Non-Appearing Parties and Third Parties (CS2)**

If privacy matters in arbitration how do we preserve it? – Geoff Farnsworth (Australia)

What to do when a party to a maritime arbitration fails to appear? – Malcolm Holmes (Australia)

When may an arbitration clause be invoked by or towards third parties? Some reflections on UNCITRAL and the Nordics – Amund B Torun (Norway)

Status of non-signatory parties in maritime arbitration – New York and London compared – Andre Pereira da Fonseca (Portugal)

### **3.30-5pm**

---

#### **National Arbitration Legislation and Institutions - Part 2 (CS3)**

Brazil	“Public administration arbitration” in Brazil – Jose Roberto Castro Neves (Brazil)
Chile	The Chilean Compulsory Arbitration System for Maritime Disputes
Denmark	The advantages of the Danish system of arbitration – Dan Terkildsen (Denmark)
Germany	Judicial review of arbitration – Axel Salander (Germany)
Sweden	Nordic maritime and offshore arbitration – an evolution or just a copycat? – Jorgen Almelov (Sweden)
Turkey	Istanbul Arbitration Center – Silahtaroglu, Comert and Ciplak (Turkey)

#### **Dispute Resolution Clauses (CS4)**

Parties should not agree to arbitration clauses that require application of substantive law of any specific jurisdiction – Jack Vayda (USA)

Combined dispute resolution process – trends and challenges – heresy or what the market may want? – Michael Cover (UK)

Validity (and effectiveness) of forum selection clauses in combined transport bills of lading – Mario Riccomagno (Italy)

Maritime arbitration and mediation in international maritime conventions – Jose M Alcantara (Spain and Panama)

Governing law, jurisdiction and arbitration clauses in contracts of carriage by sea – Thomas Kolster (Finland)

Appoint an early resolution neutral and mediate early and safely – Jonathan Lux (UK)

---

**Tuesday 26 September**

**9-10.30am**

---

**Bills of Lading (CS5)**

Clean Bills of Lading and Letters of Indemnity – John Weale (Canada)

The Hague and Hague-Visby Rules duty to care for goods – Stephen Girvin (Singapore)

The order and burden of proof in cargo claims and the carrier’s “inherent vice” defence – David Semark (UK)

The shipper’s demand for the items to be shown in the Bill of Lading – Hague and Hague-Visby Article III Rule 3 revisited – Jorgen Rasch (Denmark)

The issue of misdelivery and LOIs – Richard Lord (UK)

Is the arbitration clause provided in the Bill of Lading binding on the insurer – Camila Mendes Vianna Cardoso (Brazil)

**Fraud, Corruption and Bad Faith (CS6)**

Fraud claims in London maritime arbitration – Charles Williams (UK)

Evidence of corruption in arbitration – John Passmore (UK)

Dual capacity brokers, seen through the prism of man-in-the-middle frauds – Matthew McGhee (UK)

To what extent may or should commercial arbitrators’ decisions be influenced by ‘sharp practice’ or dealings in bad faith – Bengt E Nergaard (USA)

**11am-12.30pm**

---

**Sale and Purchase of Commodities (CS7)**

The INCOTERMS rules for sea transport and court jurisdiction: a Belgian perspective – Dodo Chochitaichvili (Belgium)

Calculation of damages for wrongful rejection of documents in shipment contracts – Gill & Duffus v Berger revisited – Christian Schaap (Denmark)

Letters of Undertaking and Getting it Right – David Colford (Canada)



ICMA XX 2017 Copenhagen  
The Danish Institute of Arbitration

### **Arbitration and Arbitrators (CS8)**

Regulation of arbitration: where it comes from, who is it for, and its impact on maritime arbitrators – James Clanchy (UK)

A New Ideological Paradigm in Arbitration – the Need for an Industry Gold-based Standards of Conduct – Aleka Sheppard (UK)

International arbitrator: position, mission or career? – Piotr Nowaczyk (Poland)

The Arbitrator's Appointment – a frustrating business – Timothy Elsworth (UK)

Arbitrator, conflict of interest and duty of disclosure – Brazilian perspective

### **1.30-3pm**

---

### **Insurance and P & I (CS9)**

May a P & I Insurer invoke the jurisdiction clause in the insurer's policy when the insurer is met with third party direct claims? – Peter Appel (Denmark)

Freight, Demurrage and Defence Cover – Richard Corwin (USA)

When arbitration is not the perfect solution – a Club's view on counterparty risks – Stinne Taiger Ivo (Denmark)

How to understand the SCOPIC Clause – Philippe Delebecque (France)

### **Document Production and Evidence (CS10)**

Document production in international arbitration – is it a beneficial exercise? – Peter Schradieck (Denmark)

Disclosure in US maritime arbitration – Anthony J Pruzinsky (USA)

“Adverse Inference” – Lucienne C Bulow (USA)

“We'll take it and give it the weight it deserves”: an advocate's view of NY-SMA Arbitration – George M Chalos (USA)

### **3.30-5pm**

---

### **Experts and Technicalities (CS11)**

The Resolution of shipping disputes: a Product of Applied Expertise – Miriam Goldby (UK)



ICMA XX 2017 Copenhagen  
The Danish Institute of Arbitration

Wild parties and tame experts – the use of experts in international arbitration – Lars R Overby (Denmark)

Carriage of grain cargoes and fumigation – techno-legal issues in arbitration – John Prasad Menezes (India)

Using Arbitration Effectively to Resolve Bunker Disputes – Trevor Harrison (UK)

“Final and binding” quality/quantity determination clauses – are they really final? – Charles Baker (UK) and Paul David (NZ)

**Security for Costs and Third Party Funding (CS12)**

Security for costs in SCC arbitration – Niclas Martinsson (Sweden)

Third Party Funding for Arbitration in Singapore – Kenny Yap (Singapore)

Recovery of third party funding costs - Essar v Norscot – Chirag Karia (UK)

**Thursday 28 September**

**9-10.30am**

---

**Charterparties (PS2)**

The Global Santosh: Who risks hire on arrest? Unclearly defined? - Charles Debattista (UK)

The Ocean Victory – Unsafe ports and a time charterer’s entitlement to limit: a missed opportunity – Glenn Winter (UK)

The Athos 1 – safe port/safe berth and terminal operators’ negligence revisited – Alfred Kuffler (USA)

Time Trip Charters: what employment orders is a charterer permitted to give? – Tim Houghton (UK)

**11am-12.30pm**

---

**Interim Measures (PS3)**

CMAC protection measures/emergency arbitrator procedures in CMAC Arbitration Rules 2015 – Cai Hongda and Huang Chengliang (China)

Interim and emergency relief in support of maritime arbitration under English law – Ambrose, Collett QC and Maxwell (UK)

Interim measures in international maritime arbitration – Andre C. Martins (Brazil)

Enforcement of interim orders of protection and interim awards under the Arbitration and Conciliation Act of Nigeria – Emmanuel Dike (Nigeria)

### 1.30-3pm

---

#### **Contractual Interpretation (CS13)**

Differing approaches to construing force majeure clauses in American and English law – Robert G Shaw (USA)

The Supreme Court and Contractual Interpretation – Thomas Raphael (UK)

Penalties – a Game Changer – David Martin Clark (UK)

#### **Efficiency and Expedition (CS14)**

The problem with chain arbitrations – Clive Aston (UK)

The adoption of project management tools in international arbitration – Joaquim de Paiva Muniz (Brazil)

Improving the efficiency of maritime arbitration – George Lambrou (Greece)

A critical view on the trend of expedited proceedings in arbitration – Harald Sippel (South Korea)

E-arbitration – Marcel Verhagen (Netherlands)

### 3.30-5pm

---

#### **Damages (CS15)**

The New Flamenco – Mark Hamsher (UK)

Damages for breach/repudiation: Developments in current practice – Peter Daniel (UK)

The Impact of Hedging on Damages – Catherine Jago (UK)

Moneyball for Mitigating Losses with Derivatives. Can Owners and Charterers Be Expected to Hedge Their Losses? – Karina Albers (UK)

Agreed value or market value? – Patrick Simon (France)

#### **Shipping 4.0 (CS16)**

Law & Jurisdiction – Esther Mallach (Germany)

Electronic Bills of Lading – uncharted waters for maritime arbitration? – Sabine Rittmeister (Germany)

Cloud solutions in arbitration: chances and risks – Gregor Harbs (Germany)



ICMA XX 2017 Copenhagen  
The Danish Institute of Arbitration

Digitalization in arbitration – Considerations using the example of Disputes in Offshore Matters – Falk Fischer and Nicoletta Kroeger (Germany)

Arbitration as a target of cybercrime – Jan Wolper (Germany)

## Friday 29 September

**9-10.30am**

---

### **Insolvency and Maritime Claims (CS17)**

The Right of Arrest – Are we making it too difficult? – Sitpah Selvaratnam (Malaysia)

Contemporary Shipping Problems in Japan: Insolvency – Yosuke Tamaka (Japan)

Ship arrest and law reform as to maritime lien – Shohei Tezuka (Japan)

The Panama arresting experience in O. W. Bunker cases – Francisco Carreira-Pitti (Panama)

There is no wrong in The Halcyon Isle – A confirmation from Australia! – Poomintr Sooksripaisarnkit (Australia)

The Australian flirtation with foreign maritime liens – is all love lost? - Angus Stewart SC (Australia)

### **Shipbuilding and Offshore (CS18)**

Reflections on Arbitration of Shipbuilding Contract Disputes in London – Ian Gaunt (UK)

Security Risks and Dispute Resolutions involving Asian Shipbuilders - Peter S K Koh (Canada)

Defeasibility of Security Interests in a Shipbuilding Contract – Tung Chong Jun (HK)

My Shipbuilding Contract has been cancelled. What next? – Nick Vineall (UK)

Shipbuilding contracts – limitation of liability: The law of (un)intended consequences – Roderick Cordara (UK)

On the effectiveness of standard delay limitation of liability clauses in shipbuilding contracts governed by German law – Ulrich Helm (Germany)

Offshore Construction Law – between Construction and Shipbuilding – Niels Schiersing (Denmark)



ICMA XX 2017 Copenhagen  
The Danish Institute of Arbitration

**11am-1pm**

---

**Danish Industry Presentation (PS4)**

**2-4pm**

---

**Enforcement of Awards (PS5)**

Brazil	The new Brazilian Code of Civil Procedure: recognition of foreign arbitral awards etc. – Ana Tereza Basilio
China	Recognition and enforcement of a foreign arbitration award in China – David Zhou Yi (China)
Nigeria	Enforcement of Arbitral Awards in Nigeria – Issues Arising – Adedovin Afun (Nigeria)
Turkey	Res Judicata and Maritime Arbitration Awards – Melis Ozdel (UK/Turkey)
USA	How have the US courts enforced arbitration agreements in crew contracts? – Pamela Milgrim and Borianna Farrar (USA)
UK	The public policy defence to the enforcement of international arbitration awards under the New York Convention in England and other common law jurisdictions – Neil Henderson (UK)