



Co-organized by **ICC** and **FIDIC**

International Construction Contracts and the Resolution of Disputes

Under the auspices of the **ICC International Court of Arbitration®**

Date: 16 – 17 June 2011

Venue: São Paulo (SP), Brazil

EARN

13.5 CLE Credits
11.5 MCLE Credits
11.5 CPD Hours
11.5 CNB Hours

Objective

São Paulo, the economic capital of Latin America, will welcome this year's ICC/FIDIC conference on 16-17 June 2011. It will focus on the specific features of dispute resolution in international construction contracts and explore practical implications and current developments, with a special focus on Brazil and Latin America. The first day will include a discussion of the major forms of FIDIC contract, including the latest forms such as the new FIDIC form of subcontract, as well as analyze the procedure for claims and disputes under FIDIC contracts, the role of dispute adjudication boards, developments in, and challenges of, dispute adjudication and the role of the expert in international construction disputes.

Highlights of the second day will include sessions on initiating an ICC construction arbitration, construction arbitration involving State parties, multiparty and multi-contract issues, and the assessment of evidence and the calculation of damages in construction cases. Practical problems regarding the enforcement of arbitral awards will also be examined, as well as case management and the specificities of international construction arbitration in Brazil. The conference will end with an open debate on ICC arbitration, for which attendees will have the opportunity to submit their questions in advance.

This conference will be the perfect opportunity to express your views and experience in interactive debates with renowned experts in the field of construction and dispute resolution. Sessions will be in English and Portuguese with simultaneous translation.

Who should attend ?

Any professionals interested in dispute resolution in international construction contracts: Engineers, contractors, in-house lawyers from construction companies and construction lawyers, arbitrators and mediators, contract managers and financial institutions, amongst others.

Sponsors

PINHEIRO NETO
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International Federation
of Consulting Engineers



ICC International Court of Arbitration® is the leading body in international commercial arbitration. Founded to resolve business disputes of an international character, its strict impartiality and effectiveness are recognized everywhere. Countless business contracts, including many where one party is a government body, now refer to the ICC Rules of Arbitration. In 2010 the number of cases involving construction contracts represented 16,6%. www.iccarbitration.org

FIDIC is the French acronym for the International Federation of Consulting Engineers. It was founded in 1913 to promote the professional interests of member associations and to disseminate information of interest to members of its constituent national associations. FIDIC membership represents more than 80 countries and most of the practising consulting engineers in the world. www.fidic.org

Thursday 16 June 2011 (09.00-17.30)

CLAIMS AND DISPUTES UNDER INTERNATIONAL CONSTRUCTION CONTRACTS

MORNING

Welcoming addresses

Overview of the FIDIC contracts for major works

Presentation of the FIDIC Red Book, the Yellow and Silver Books.

- Who uses the contract forms and why?
- What are their specific features?
- The historic role of the Red Book
- How are the Yellow and Silver Books used in privatized Build Operate Transfer (BOT) projects?
- What is their future role?

FIDIC in Central and South America

The MDB Harmonised Construction Contract

The FIDIC Subcontract for Construction

FIDIC Construction and Plant and Design-Build Contracts: Recent experience

- The new Portuguese version of the FIDIC Construction Contract

Lunch

AFTERNOON

FIDIC EPC/Turnkey Contract: Recent experience

Role of the expert in international construction disputes

- Experts appointed by Parties and experts appointed by the arbitral tribunal
- Legal relationships and liability? The mandate given to the experts
- Power of the expert and procedures to be followed by him or her
- Practical advice
- ICC International Centre for Expertise

Dispute Adjudication Boards (DAB)

- What are DABs?
- What is the procedure for the pre-arbitral settlement of disputes by the engineer under the pre-1999 Adjudication editions and by a Dispute Adjudication Board (DAB) under the 1999 editions?
- Advantages and disadvantages of DABs?
- FIDIC's "standing" DAB versus an "ad hoc" DAB
- Similarities and differences between the FIDIC and the ICC Dispute Board Rules
- What qualifications should DAB members have? How should they behave?

Dispute Adjudication: Developments and challenges

- Practical issues and difficulties
- Lessons learnt from experience
- What is the prospect of enforcement of the DAB's decision by State court and arbitral tribunals?

Cocktail reception kindly hosted by Pinheiro Neto



Friday 17 June 2011 (09.00-17.45)

ICC ARBITRATION AND POST-ARBITRATION PHASE

MORNING

Welcome address

The revision of the ICC Arbitration Rules. An introduction to the ICC International Court of Arbitration, and an overview of its role in the Region. ICC experience under FIDIC contracts and on construction disputes.

Construction arbitration involving State parties

Involvement of state and para-state entities, parties in international commercial arbitration, Arbitrability.

Arbitrating construction disputes: Multiparty and multi-contract issues

Presentation of the different issues arising out of arbitration with multiple parties. Issues raised by arbitration relating to multi-contract situations.

Assessment of the evidence and calculation of damages in construction cases:

- How to organize and deal with documents
- Experts: Witness experts or appointed by the Arbitral Tribunal
- Interpretation of Model Contractual Clauses / General Conditions v. Specific Conditions
- Interpretation of Force Majeur Clauses in Construction Clauses
- Who bear additional costs in Turn Key Contracts

Lunch

AFTERNOON

Specificities of international construction arbitration in Brazil

Strategies and Case management issues in construction arbitration

- Preparation phase
- Beginning and pursuing an ICC construction arbitration
- Selection of Arbitrator(s)
- Time bars and other jurisdictional issues
- Strategies of the Claimant and the Respondent

Enforcement of arbitral awards – practical problems

- What are the current practical problems of enforcement?
- To what extent can contractors' liens or other security services be available to secure enforcement?
- How may the position of the contractor as creditor, be affected by the rights of lenders to the employer (e.g. in BOT type projects) at the enforcement stage?
- What happens when State immunity is involved?
- New trends & developments.
- Do's and Don'ts

Questions & answers session on ICC arbitration

This panel will address questions submitted by conference participants in advance. It will offer the participants a unique opportunity to have a dialogue with the ICC Court and the ICC Secretariat directly. The participants will hear international arbitration practitioners express their views on practices related to ICC arbitration such as the process of selection of arbitrators, the confirmation, nomination and challenges of arbitrators; how to reduce time and costs in arbitration; practices involving Brazilian parties in arbitrations and other topics submitted by the participants.

Synthesis and closing



Speakers

- [Theopilo de Azeredo Santos](#), Chair, ICC Brazil, Rio de Janeiro
- [Luiz Olavo Baptista](#), Arbitrator, Counsel, Partner, L.O. Baptista Advogados, Brazil; Council Member, ICC Institute of World Business Law
- [Ana Carolina Beneti](#), Associate, Pinheiro Neto Advogados, Brazil
- [Matthieu de Boissésou](#), Partner, Darrois Villey Maillot Brochier, France; Associate Member, ICC Institute of World Business Law
- [Adriana Braghetta](#), Partner, L.O. Baptista Advogados Associados S/C, Brazil; President of Brazilian Arbitration Committee - Cbar
- [Julio César Bueno](#), Partner - Projects, Construction and Engineering Contracts Area, Pinheiro Neto Advogados, Brazil
- [Carlos Alberto Carmona](#), Partner, Marques Rosado, Toledo Cesar & Carmona Advogados, Brazil
- [Eleonora Coelho](#), Partner, Castro, Barros, Sobral, Gomes Advogados, Brazil; Vice-President, Brazilian Arbitration Committee - Cbar
- [Donald Donovan](#), Partner, Debevoise & Plimpton, New York, USA
- [Siobahn Fahey](#), Chartered Engineer and Chartered Arbitrator, Ireland; Member, FIDIC Subcontract Task Group
- [Jose Ricardo Feris](#), Counsel, ICC International Court of Arbitration, Paris
- [Selma Ferreira Lemes](#), Professor, Lawyer, Arbitrator, Brazil; Member of the ICC International Court of Arbitration
- [Marcelo Ferro](#), Partner, Ferro, Castro Neves, Daltro & Gomide Advogados, Brazil
- [Roberto Hernandez Garcia](#), Managing Partner, COMAD Abogados, Mexico
- [Sebastian Hök](#), Partner, Hök, Steiglmeier & Kollegen, Germany; FIDIC Adjudicator
- [Emmanuel Jolivet](#), General Counsel and Deputy Director for ICC Dispute Resolution Services, ICC International Court of Arbitration, Paris
- [Volker Jurowich](#), Partner, JuCon International, Germany; FIDIC Adjudicator
- [Pablo Laorden](#), Partner, Lambal Abogados, Spain; FIDIC Accredited Trainer
- [João Bosco Lee](#), Partner, Castro & Lee Sociedade de Advogados, Brazil
- [Rodrigo Françoso Martini](#), Legal Counsel, Techint Engenharia e Construção, Brazil
- [Cecilia Misu](#), Senior Claims Manager & Consultant, Siemens AG, Germany
- [Aisha Nadar](#), Research Fellow, Construction Contracts and Dispute Resolution, Queen Mary, University of London, United Kingdom; Member, FIDIC Updates Task Group
- [José Emilio Nunez Pinto](#), Partner, José Emilio Nunez Pinto Advogados, Brazil
- [Eduardo Oliveira Gedeon](#), Legal Director, Odebrecht América Latina & Angola, Brazil
- [C. Ryan Reetz](#), Partner, DLA Piper LLP (US), Miami, United States
- [Christopher R. Seppälä](#), Partner, White & Case LLP, France; Alternate Member for the United States, ICC International Court of Arbitration; Associate Member, ICC Institute of World Business Law; Legal Advisor, FIDIC Contracts Committee
- [Pedro Siza Vieira](#), Managing Partner, Linklaters LLP, Portugal
- [Arnoldo Wald](#), Founding Partner, Wald e Associados Advogados, Brazil; Arbitrator; Professor of Private Law, University of the State of Rio de Janeiro; Member, ICC International Court of Arbitration
- [Herfried Wöss](#), Partner, Wöss & Partners S/C, Mexico



Dates

Thursday 16 - Friday 17 June 2011

Venue

Pinheiro Neto Advogados, Ground Floor Auditorium
Rua Hungria, 1.100 - Jardim Europa, São Paulo, SP (Brazil)

Working languages

English and Portuguese with simultaneous translation, working documents in English.

Registration fees

Until 29 April 2011: "Early-bird Special"

- For ICC and FIDIC members: **575 euros**
- For Non-members: **710 euros**

After 29 April 2011:

- For ICC and FIDIC members: **740 euros**
- For non-members: **830 euros**

The registration fees include all conference activities including documentation, lunches and the cocktail reception on Thursday evening. Travel and hotel expenses are not included.

How to register

Easier, faster and save 20 euros, register online* at www.iccwbo.org/events

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

E-mail: events@iccwbo.org

Tel: +33-1 49 53 28 91

Fax: +33-1 49 53 30 30

Post: ICC SERVICES / Training and Conferences
38, Cours Albert 1er, 75008 Paris, France

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

Travel and accommodation

Participants are responsible for making their own travel and hotel arrangements. A list of hotels close to the conference location is available on request.

Please note that we are unable to dispatch visa invitation letters to support your visa application prior to receipt of your registration form and full payment of your registration fees.

Credits and Hours

ICC 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 training has been sent for CNB approval.

Sponsorship opportunities

Companies that choose to become sponsors for the conference are given many opportunities to profile their business. They will receive maximum exposure during the event. If your company is interested in sponsoring this event, please contact **Aisling Achoun**, amt@iccwbo.org, Tel: **+33 1 49 53 28 69**

Cancellation

50% of the registration fee will be refunded if notice of cancellation is received in writing before **13 May 2011**. Cancellations after this date are not refundable. Subject to agreement from ICC 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.

The FIDIC Contract Guide will be referred to throughout the conference. Each participant is advised to have a copy. The guide contains the full texts of the FIDIC Construction, Design-Build and EPC/Turnkey contracts. Copies can be ordered by contacting the FIDIC Bookshop at www.fidic.org/saopaulo2011; Tel: +41 22 799 49 00, Fax: +41 22 799 49 01, E-mail: fidic.pub@fidic.org or order and pay on-line. The general conditions of the MDB Harmonised Edition of the FIDIC Construction Contract can be downloaded from www.fidic.org/mdb



Registration form

S 1105

Date: **16 – 17 June 2011**

Venue: **São Paulo (SP), Brazil**

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International Construction Contracts and the Resolution of Disputes

Participant information

(please print or type)

Title (Mr/Dr/Mrs/etc.)

Family name First/given name

Position

Company

Address

City/state Zip/postal code

Country E-mail

Phone (.....) Fax (.....)

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Method of payment

☐ **By credit card:** ☐ American Express ☐ Euro/MasterCard ☐ Visa

Card number Expiry date

Name of cardholder

☐ **By bank transfer: LCL**

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Please indicate the reference "S1105" and the participant's name clearly.

Date Signature

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