CONCEPT

# International Arbitration: Commercial and Investment Treaty Practice

5 – 16 April 2027
Paris - Right Bank business hotel



# International Arbitration: Commercial and Investment Treaty Practice

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## Introduction:

International arbitration goes wrong for companies long before the hearing: a pathological clause, an unsuitable seat, a tribunal chosen without disclosure checks, or an award won against a party with no reachable assets. This Core Concept course trains counsel and contract managers to run cross-border commercial and investment treaty arbitration from clause to collection: drafting the agreement, choosing ICC, LCIA or UNCITRAL procedure, managing evidence and hearings, and enforcing under the New York Convention and the ICSID Convention. Participants assemble an Arbitration Case Package for a case dispute.

## Course Objectives:

- Draft arbitration agreements that fix the seat, rules, language, tribunal size and escalation steps and that survive arbitrability and validity challenges
- Select between institutional and ad hoc procedure and conduct tribunal constitution, arbitrator disclosure checks and challenges
- Prepare written submissions, document production requests, witness statements and expert instructions that meet procedural orders
- Assess investor-state claims under investment treaties and the ICSID Convention, including jurisdiction and standards of protection
- Manage interim relief, emergency arbitrator applications, costs exposure and third-party funding in construction, energy and supply disputes
- Plan set-aside defence, recognition and enforcement of awards against private and sovereign counterparties

## Target Audience:

- In-house counsel who instruct external firms and manage the company's portfolio of cross-border arbitrations
- Contract and commercial managers who negotiate dispute clauses in supply, distribution, construction and energy agreements
- Claims and project controls leads who assemble quantum, delay evidence and factual narratives for arbitral claims
- External lawyers moving from court litigation into international arbitral practice
- Legal advisers to investors and state-owned enterprises who assess treaty protection for foreign investments

## Course Outline:

### Day 1: International Arbitration Foundations: Consent, Seat and Arbitrability

- Arbitration Versus Court Litigation and Expert Determination for Cross-Border Contracts
- Separability Doctrine and Competence-Competence Applied to the Arbitration Agreement
- Objective Arbitrability Limits: Competition, Insolvency, Intellectual Property and Fraud Allegations
- Seat Versus Hearing Venue: Lex Arbitri, Supervisory Courts and Curial Powers
- UNCITRAL Model Law Architecture as the Template for Modern Arbitration Statutes

### Day 2: Arbitration Rules and Clause Drafting: Institutional and Ad Hoc Routes

- ICC Rules Walkthrough: Request, Terms of Reference and Scrutiny of the Draft Award
- LCIA Rules Walkthrough: Registrar Functions, Tribunal Formation and Expedited Appointment
- UNCITRAL Arbitration Rules and the Appointing Authority in Ad Hoc Proceedings
- Clause Drafting Checklist: Seat, Governing Law, Language, Tribunal Size and Rules
- Multi-Tier Escalation Wording, Condition Precedent Steps and Pathological Clause Repair

### Day 3: Constituting the Tribunal and Opening the Proceedings

- Party-Nominated Arbitrator Selection Matrix: Expertise, Availability and Neutral Nationality
- Arbitrator Disclosure Statements, Independence Tests and Challenge Procedure
- Request for Arbitration and Answer: Contents, Relief Sought and Counterclaims
- First Case Management Conference Agenda and Procedural Order No. 1
- Bifurcation, Joinder and Consolidation Applications in Multi-Contract Disputes

### Day 4: Written Submissions, Document Production and Evidence

- Memorial Style Versus Pleading Style: Statement of Claim, Defence and Reply
- Document Production Requests and the Redfern Schedule
- Privilege, Confidentiality and Electronic Document Review Protocols
- Witness Statement Preparation: Factual Narrative, Exhibits and Ethical Limits
- Tribunal-Appointed Versus Party-Appointed Experts and Joint Expert Memoranda

### Day 5: Hearings and Week-One Guided Case

- Hearing Bundle, Chess-Clock Time Allocation and Transcript Arrangements
- Opening Submissions and Cross-Examination Plans for Counsel
- Virtual and Hybrid Hearing Protocols and Data Security Safeguards
- Guided Case: Jurisdictional Objection in a Terminated Distribution Agreement
- Guided Case: Procedural Order and Redfern Schedule for a Supply Contract Claim

## Day 6: Investor-State Arbitration and Investment Treaty Protection

- ICSID Convention Jurisdiction: Protected Investor, Qualifying Investment and Written Consent
- ICSID Additional Facility and UNCITRAL Rules as Routes for Treaty Claims
- Investment Treaty Anatomy: Definitions, Denial of Benefits and Nationality Structuring
- Fair and Equitable Treatment, Full Protection and Security and Umbrella Clauses
- Direct and Indirect Expropriation, Compensation Standards and DCF Damages Valuation

## Day 7: Interim Relief, Costs, Funding and Arbitral Ethics

- Interim Measures: Security for Costs, Anti-Suit Relief and Asset Preservation Orders
- Emergency Arbitrator Applications and Parallel Court-Ordered Interim Relief
- Arbitration Cost Budgets, Allocation Principles and Sealed Offers
- Third-Party Funding, After-the-Event Insurance and Funder Disclosure
- Counsel Conduct, Guerrilla Tactics and the Role of the Tribunal Secretary

## Day 8: Construction and Energy Arbitration and Project Stakeholders

- Construction Arbitration Claims: Delay Analysis, Disruption and Variation Quantum
- Standard-Form Construction Dispute Ladders from Dispute Boards to Arbitration
- Energy Arbitration: Gas Price Reviews, Production Sharing and Offtake Disputes
- Multi-Party Project Disputes Involving Employers, Contractors, Lenders and Insurers
- Arbitration Exposure Briefings for Boards, Project Lenders and Insurers

## Day 9: Awards, Set-Aside and Cross-Border Enforcement

- Award Drafting Structure: Reasons, Dissenting Opinions, Interest and Costs Decisions
- Set-Aside Proceedings at the Seat: Grounds, Time Bars and Waiver
- New York Convention Recognition Procedure and Refusal Grounds
- ICSID Award Enforcement, Sovereign Immunity from Execution and Asset Tracing
- Award Recovery Scorecard: Cost-to-Recovery, Time-to-Payment and Settlement Leverage

## Day 10: Capstone: Mock Arbitration and the Arbitration Case Package

- Mock Arbitration Step One: Tribunal Formation and Draft Procedural Order
- Mock Hearing Step Two: Opening Statements and Witness Cross-Examination
- Case Package Build: Arbitration Clause for a Cross-Border EPC Contract
- Case Package Build: Statement of Claim Outline with Relief and Quantum Heads
- Case Package Build: Enforcement Plan Presented to a Mock General Counsel Panel

## Skills You Will Gain:

- Arbitration Clause Drafting
- Arbitral Tribunal Selection
- Document Production Management
- Arbitral Evidence Preparation
- Investment Treaty Claim Analysis
- Interim Relief Applications
- Arbitration Cost and Funding Control
- Award Enforcement Planning

## Why Attend This Course:

- Leave with an Arbitration Case Package: a drafted clause, a statement of claim outline and an award enforcement plan for a case dispute
- Practise counsel tasks in a mock arbitration, from procedural order to cross-examination, with structured feedback
- Know when a foreign investment can be protected through treaty arbitration and what ICSID adds to a commercial claim
- Compare arbitration practice with counsel and contract managers from construction, energy, trade and services

## Conclusion:

An arbitration is won or lost across a chain of decisions: the clause, the rules, the tribunal, the evidence, the hearing and the path to payment. Week one builds that chain for commercial arbitration, from consent and arbitrability through institutional and ad hoc rules, tribunal formation, submissions and hearings. Week two adds what a shorter course leaves out: investor-state claims under investment treaties and the ICSID Convention, interim relief and funding, construction and energy disputes, and award enforcement. The final day produces an Arbitration Case Package through a mock arbitration.