PREVIEWS, REVIEWS AND ANNOUNCEMENTS

Second Biennial Conference on International Arbitration and ADR Salzburg, Austria 20–23 June 2002 The Center for International Legal Studies ('CILS')

Arbitration has been likened to a runaway train. Nevertheless, internationally, it often remains the only way to get from A to B. The purpose of the CILS Conference is to examine and discuss important aspects of this journey with experienced international arbitrators, lawyers, and others.

The conference Chairman, James J. Myers of Gadsby Hannah LLP (Boston, Massachusetts), has assembled a team of 70 international experts on commercial arbitration and alternative dispute resolution to address the salient issues. From the choice of a dispute resolution method to enforcing an arbitration award, fourteen sessions (panel lectures, questions, and comments) and three fora (panel and audience discussion) will outline and discuss the most pressing issues along this path. Each panel consists of three to five speakers and a moderator.

Arbitration's rise has led to an explosion of arbitral institutions, rules, and approaches. Recognition that arbitration is no panacea has also spawned other non-judicial alternatives and even "back-to-the-courts" movements. Session 1 will consider the alternatives, whether the arbitration should be administered or *ad hoc*, and what the international arbitration clause should include or omit. Session 2 will put these choices and the subsequent processes into a cultural perspective, including a fresh look at the common law versus civil law chestnut and an examination of the impact of the cultural backgrounds of the parties, their counsel, and the arbitrators.

Session 3 will focus on the agreement to arbitrate, the essential elements of an enforceable agreement, recommended additional provisions, and the bases on which courts may refuse to enforce a written agreement to arbitrate. What the user of arbitration administering services expects and the impact of arbitration's localization on legal and practical issues will be the topic of Session 4. Appointing appropriate arbitrators may sometimes resemble a black art, but Session 5 will consider some of the – more scientific – approaches to this problem, appointment specifications in the arbitration agreement, the merits of party appointment versus list appointment, law applicable to arbitrators, the advantages of lawyer/non-lawyer arbitrators, and of one/three arbitrators.

Parties will want to monitor arbitrators after appointment and have remedies if they discover inappropriate circumstances. Disclosures (initial and ongoing) and disqualification (procedures and standards) of arbitra-

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tors will be the topic of Session 6. When the parties begin to find the initial arbitral circus a bit pythonesque, "something completely different" may be called for. Session 7 will look at how alternate dispute resolution methods, such as mediation, adjudication, and dispute review boards, can complement arbitration.

Determining the applicable law becomes a Gordian knot where with the arbitral rules, party autonomy, the *lex arbitri*, the public policy and mandatory rules of "interested" jurisdictions, and arbitrators' Solomonic inclinations interact. This together with enforcing international arbitration and ADR agreements will be the theme of a panel debate and audience discussion in Forum I.

Much as views on judicial discovery procedures are polarized, prehearing exchange of information is a divisive issue in arbitration. Session 8 will examine the desirability of and structures for the voluntary exchange of documents and whether and to what extent arbitrators should order exchange.

A historic disadvantage arbitration has had *vis-à-vis* judicial processes is in securing interim relief, either because the agreement or rules failed to provide such powers, or the courts have declined to support them. Session 9 considers how this has improved and what pitfalls remain.

There is much tension between the formalized submitting, presenting, and assessing of evidence in adversarial systems and these processes in inquisitorial regimes. Session 10 examines these choices and compromise solutions as well as the relative benefits of oral and documentary evidence.

Longer and more expensive proceedings have accompanied the increased sophistication of arbitration. Session 11 looks at means of keeping arbitration hearings lean and fleet, including pre-hearing techniques, direct testimony witness statements, bifurcation, and dealing with uncooperative parties.

In Forum II, the panel and audience will share their experiences and observations on preparation for and conduct of hearings.

Managing the international arbitral panel and the role of the chairperson are the objects of Session 12. Session 13 will focus on preparing the arbitration award, initiating a draft of the award, and attempting to gain consensus. Session 14 looks at grounds for vacating awards and the duty of tribunals to render enforceable awards.

A traditional attraction of arbitration over judicial resolution has been more universal international enforcement procedures (The New York Convention, The UNCITRAL Model Law, ICSID). Forum III hosts a colloquium on the current procedures, developments, and strategies.

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