



Comitê Brasileiro de Arbitragem

Economic Aspects of Arbitration
XI Congress of CBAr – 13 and 14 September 2012
Porto Alegre

FIRST DAY – 13 September 2012

09:20 – 09: 50 – Opening Session

Adriana Braghetta (President of the Brazilian Arbitration Committee - CBAr)
Justice Ari Pargendler (President of Brazilian's Superior Court of Justice - STJ)
Claudio Pacheco Prates Lamachia (President of the Rio Grande do Sul Branch of the Brazilian Bar Association – OAB/RS)
Heitor José Müller (President of FIERGS)

09:50 – 10:30 – Opening Conference: The Economy and the Development of Arbitration.

Chair: Pedro Baptista Martins (Arbitrator and Lawyer in Rio de Janeiro, Professor at GV Law)

Speaker: Thomas Clay (Vice Dean of the Law School of the University of Versailles)

10:30 – 11:00 - Coffee Break

11:00 - 12:30 - 1st PANEL: The Arbitrator and his/her Economic Relations.

Chair: Selma Ferreira Lemes (Arbitrator and Lawyer in São Paulo, Professor at FGV and GV Law)

1. The Arbitrator's Independence and his/her Economic Activities.
Maurício Gomm (Professor at *Miami University*, Lawyer in Miami)
2. The Arbitrator's Liability from an Economic Point of View.
Dietmar Praiger (Lawyer in New York)

Debater: Maria Claudia Procopiak (Lawyer in Paris)

12:30 – 14:00 – Lunch Break

14:00 – 15:30 – 2nd PANEL: Administration of Evidence – Economic Aspects and Costs.

Chair: Marcelo Muriel (Lawyer in São Paulo)



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1. The Arbitrator and his Duty to Manage the Arbitral Proceedings: Effectiveness VS. Legal Certainty.
Yves Derains (Arbitrator and Lawyer in Paris, Chairman of ICCA's Selection Committee)
2. Effective Production of Evidence by the Parties – Request for Production of Documents, E-documents, Duration of the Hearings.
Eduardo Zuleta (Arbitrator and Lawyer in Paris)

Debater: Joaquim Muniz (President of the Rio de Janeiro's Branch of the Brazilian Bar Association – OAB/RJ, Lawyer in Rio de Janeiro)

15:30 – 16:00 – Coffee Break

16:00 - 18:00 – 3rd PANEL – Arbitral Award: Efficiency of the Arbitration.

Chair: Miguel Ángel Fernández-Ballesteros (President of the Arbitration Court of the Chamber of Commerce of Madrid, Tenured Professor of Procedural Law at the *Complutense University of Madrid*)

1. Arbitral Award and Bifurcation of the Procedure.
Massimo Benedetelli (Arbitrator and Lawyer in Milan, Professor at the Law School of the University of *Bari*)
2. Preliminary Decisions and Interim Reliefs
José Ricardo Feris (Deputy Secretary General of the ICC International Court of Arbitration in Paris)
3. Recognition of Foreign Arbitral Awards and Provisional Measures.
Nádia de Araújo (Member of CBAr's Executive Council, Professor at PUC in Rio de Janeiro)

Debater: Luiz Fernando Henry Sant'Anna (Lawyer in São Paulo)

18:00 - Cocktail

SECOND DAY – 14 September 2012

09:00 – 10:30 – 4th PANEL - Domestic and International Arbitration and Assessment of Damages.

Chair: Justice Ellen Gracie (Former Chief Justice of the Federal Supreme Court of Brazil – STF, Vice President of CIESP/FIESP Arbitration Center)

1. Definition of Damages and International Commercial Arbitration. The Role of the Applicable Law.



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Walid Ben Hamida (Professor at *Evry Val d'Essone* and *Science Po* in Paris. Member of the International Court of Arbitration of the ICC International Court of Arbitration in Paris)

2. Limitation of Damages on Arbitral Case Law.
Giovanni Ettore Nanni (Member of CBAr's Executive Council, Professor at PUC in São Paulo)
3. Mitigation of Damages and Allocation of Liability.
Cristiano Zanetti (Professor of the Law School of the University of São Paulo, Lawyer in São Paulo)

Debater: Luciano Timm (CBAr's Director, Professor at UNISINOS)

10:30 – 11:00 – Coffee Break

11:00 - 12:30 – 5th PANEL – Criteria for Damages Assessment

Chair: Frederico Straube (President of the Arbitration and Mediation Center of the Chamber of Commerce Brazil-Canada)

1. The Various Criteria for Damages Assessment.
Greig Taylor (FTI Consulting, Consultant in New York)
2. The Arbitrator's Role in Assessing Damages.
Arif Ali (Professor at Georgetown University, Lawyer in Washington)

Debater: Edgard Pereira (Economist, Professor at PUC in Campinas)

12:30 – 14:00 – Lunch Break

14:00 – 15:30 – 6th PANEL: Costs of arbitration and penalties.

Chair: Judge Araken de Assis (Retired Judge of the Court of Appeal of Rio Grande do Sul – TJ/RS)

1. The Various Costs of Arbitration. The impossibility to pay costs and access to arbitration.
Carlos Alberto Carmona (Professor at the Law School of the University of São Paulo, Arbitrator and Lawyer in São Paulo)
2. Penalties for Non-Compliance with the Arbitral Award and for Bad-Faith Litigation.
Guy Horsman (Tenured Professor at the University of Leuven, International Arbitrator)

Debater: Caio Campello (Lawyer in São Paulo)



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15:30 – 16:00 – Coffee Break

16:00 - 17:40 - 7th PANEL – Third-Party Funding in Arbitration.

Chair: António Pinto Leite (Arbitrator and Lawyer in Portugal)

1. The Legality of Third-Party Funding in Arbitration.
John Rooney (Lawyer in Miami)
2. Conflict of Interests in Third-Party Funding (The Role of the Arbitrator).
José Emílio Nunes Pinto (Arbitrator and Lawyer in São Paulo, Vice President of the ICC International Court of Arbitration)

Debater: Leandro Rennó (Professor at PUC in Minas Gerais)

17:45 – 18:00 – Closing Ceremony