

# 45th ICC Institute of World Business Law Annual Conference

Paris | 14 November 2025



## PROGRAMME

### Monetary Remedies in International Arbitration

Co-Chairs: Chié Nakahara & Michael Polkinghorne

#### Synopsis

This full-day conference will examine the intricacies of how monetary remedies are pleaded, assessed, and awarded in international arbitration. Drawing on diverse legal systems and practical experience, our expert panels will delve into foundational principles of monetary recovery, contractual remedies, long-term arrangements, and emerging areas such as environmental and competition law damages.

Speakers will explore key distinctions, such as direct vs indirect loss, liquidated damages, and hardship claims in assessing prejudice, and provide insights into arbitral discretion in awarding costs and interest. A debate-style closing panel will critically assess the evolving role of experts, featuring opposing views, war stories, and interactive discussion.

Designed for practitioners, counsel, experts, and arbitrators, the event offers practical takeaways and a clear view of current trends shaping damages in arbitration today.

#### Friday 14 November 2025

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09:00 – 09:30 *Registration and welcome coffee*

09:30 – 09:35 **Welcome remarks**

- **Chié Nakahara**, Partner, Nishimura and Asahi, Japan; Member, ICC Institute of World Business Law; Member, ICC International Court of Arbitration
- **Eduardo Silva Romero**, Founding Partner, Wordstone, France; Chair, ICC Institute of World Business Law

09:35 – 10:05 **The Framework: foundational approaches to damages**

This opening session lays the groundwork for understanding damages in international arbitration by comparing civil and common law approaches, and commercial versus treaty-based claims. It explores key concepts such as contractual limitations, direct and indirect loss, fault-based versus strict liability, and the role of comparative law and international instruments in refining and harmonizing damages assessment, including the treatment of punitive damages, loss of a chance. The panel will also discuss the distinction between indirect loss, remote loss, and lost profits.

- **Saemee Kim**, Partner, Lee and Ko, South Korea
- **Wolfgang Peter**, Founding Partner, Peter and Kim, Switzerland

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10:05 – 10:35 **Q&A**

10:35 – 11:00 *Coffee break*

11:00 – 11:35 **Emerging trends in damages**

This session examines emerging trends in the assessment of damages, with a focus on two rapidly evolving areas: environmental damages in climate change-related investment arbitration, and remedies for breaches of competition law. It will explore how the backlash against investment arbitration intersects with the demand for new mining projects essential to the energy transition. The panel will also analyze valuation methods drawn from U.S. antitrust practice—such as Monte Carlo simulations—and discuss the increasing influence of tort-based frameworks in both investment and commercial arbitration.

- **Saadia Bhatti**, Partner, Gide Arbitration, United Kingdom
- **Herfried Wöss**, Founding Partner and International Arbitrator, Wöss & Partners, United States/Mexico/Austria; Member, ICC Institute of World Business Law

11:35 – 12:00 **Q&A**

12:00 – 12:30 **Damages and compensation in light of contractually stipulated remedies or not!**

This session speakers will focus on damages and compensation where contracts contain pre-agreed remedies, such as Take-or-Pay clauses and liquidated damages. They will explore how tribunals approach claims when traditional proof of loss is lacking and consider the availability of alternative or non-traditional remedies and let alone those agreements where the contract does not provide specific relief.

- **Hilary Heilbron KC**, Barrister, Brick Court Chambers, United Kingdom
- **Patricia-Ann T. Prodigalidad**, Managing Partner, ACCRALAW, Philippines; Member, ICC International Court of Arbitration

12:30 – 13:00 **Q&A**

13:00 – 14:30 *Lunch*

14:30 – 15:00 **The devil in the detail**

This session delves into the often overlooked but critical details of arbitral awards: costs and interest. It will examine the extent of arbitral discretion in allocating costs and focus on the recent PWC survey on current approaches of interests, methods of calculation, and evolving trends in awarding interest across jurisdictions.

- **Caroline Duclercq**, Partner, Medici, France
- **Sirshar Qureshi**, Partner, PwC, Czech Republic

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15:00 – 15:30 **Q&A**

15:30 – 16:00 **Remedies and risks under long term arrangements**

Speakers will address the complexities of monetary remedies in long-term contracts, with insights from gas and pharmaceutical price adjustment disputes. They will cover damages for Take-or-Pay and Supply-or-Pay obligations, the role of hardship in assessing prejudice under applicable law, the use of post- versus ante-breach information, and how tribunals distinguish between indirect loss, remote loss, and lost profits.

- **Philip Dunham**, International Arbitration Partner, Signature Litigation, France
- **Philippe Pinsolle**, Head of international arbitration for continental Europe, Quinn Emanuel Urquhart & Sullivan LLP, Switzerland
- **Tania Tholot**, Senior Associate, The Brattle Group, France/United Kingdom

16:00 – 16:30 **Q&A**

16:30 – 17:00 *Coffee break*

17:00 – 17:50 **Experts from Mars, Lawyers from Venus: the Debate**

This closing session takes a dynamic, debate-style approach to the role of experts in arbitration. Panelists will present their views on whether experts are truly necessary, when they add value, and the merits of party-appointed versus tribunal-appointed experts. The discussion will also cover how arbitrators can navigate conflicting expert testimony, with panelists sharing memorable experiences and inviting audience participation on best practices and common pitfalls.

- **Nadia Darwazeh**, Managing Partner and Head of Arbitration, Clyde & Co, France
- **Jean-Luc Guitera**, Partner and Head of Dispute Advisory Services for the EMA Region, KPMG, France
- **Boaz Moselle**, Executive Vice President, Compass Lexecon, United Kingdom
- **Dharshini Prasad**, Partner, Willkie Farr & Gallagher LLP, United Kingdom

*Moderator*

- **Pierre Mayer**, Independent Arbitrator; Emeritus Professor of the Panthéon-Sorbonne University I, France

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17:50 – 18:00 **Closing remarks**

- **Michael Polkinghorne**, Head of Arbitration group and Partner, White & Case, France; Member, ICC Institute of World Business Law

18:00 – 19:30 *Award Ceremony of the 2025 Institute Prize & Cocktail Reception*