



Developed by:

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Programme

Date: Monday, 22 April 2024

Venue: 4th Floor Japan Chamber of Commerce & Industry meeting room A & B
3-2-2 Marunouchi, Chiyoda-ku, Tokyo 100-0005 Tel 03-3213-8585 (ICC Japan)

Co-Chairs:

- > **Hiroyuki Tezuka**, Partner, Nishimura & Asahi (Gaikokuho Kyodo Jigyo), Tokyo
- > **Ndanga Kamau**, Independent Arbitrator, Ndanga Kamau Law, Kenya/Netherlands; Vice President, ICC International Court of Arbitration

Speakers:

- > **Ing Loong Yang**, Independent Arbitrator
- > **James Morrison**, Partner, Peter & Kim, Sydney
- > **Wendy Lin**, Partner, WongPartnership LLP, Singapore
- > **Xin Zhang**, Counsel, ICC International Court of Arbitration
- > **Yoko Maeda**, Partner, City-Yuwa; Alternative Court Member, ICC International Court of Arbitration



Monday, 22 April 2024

08.45-09.20 Registration

09.20-09.30 **Welcoming Address**
Introduction and Presentation of the ICC Institute of World Business Law

09.30-10.10 **Strategic Considerations and Procedures: When, How and to Whom to Request Interim Measures?**

- Concept: must be temporary
- Powers of the ICC arbitral tribunals
- Role of the *lex arbitri*
- When can/should request for interim measures be made?
- To whom can/should interim measures be requested: emergency arbitrator, arbitral tribunal, national courts (concurrent jurisdiction)
- ICC procedure and statistics: Art. 28 ICC Rules
- Specific measures: security for costs, escrow accounts, stop payment orders relating to first demand bank guarantees, and counter-guarantees

10.10-11.10 **Mock Case**

11.10-11.25 *Coffee Break*

11.25-12.10 **Practical Considerations: The Counsel's Perspective**

- Burden of proof
- Types of measures that can be requested: a very broad range, but with limitations
- Ex-parte requests
- Discovery requests before national courts in aid of international arbitration (e.g., 28 USC 1782 requests)
- Most common defenses against requests for interim measures

12.10-13.20 **Mock Case**



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13.20-14.30 *Lunch*

14.30-15.00 **Practical Considerations: The Arbitrator's Perspective**

- Information with the parties (especially at the outset of the case)
- Urgency and due process (can an arbitrator award ex parte measures?)
- Risks: prejudgment, awarding or denying measures may have a permanent effect (e.g., where one of the parties risks liquidation, where assets may disappear, etc.)
- Can/should arbitrators take a more active role (e.g., escrow accounts managed by tribunals; order counter-security)

15.00-15.55 **Q&A**

15.55-16.25 **Compliance, Enforcement and Other Issues Arising after Interim Measures are Ordered/Awarded**

- "Order" v. "Award" of interim measures
- Enforcement considerations: what can the parties do?
- What can arbitrators do when faced with a party's refusal to comply with interim measures?
- Relevance of civil v. common law jurisdictions

16.25-17.20 **Q&A**

17.20-17.30 **Concluding Remarks**



Co-Chairs



Hiroyuki Tezuka

Partner, Nishimura & Asahi (Gaikokuho Kyodo Jigyo), Tokyo

Hiroyuki heads the international dispute resolution practice of Nishimura & Asahi. He specializes in international commercial litigation, arbitration, and mediation. He has represented many international clients, including multi-national manufacturers, banking and securities firms, insurance companies, and news media in disputes involving M&A, antitrust laws, corporate governance, insurance laws, intellectual property, defamation, joint ventures, licensing, construction, and other commercial matters, as well as international bankruptcy. He has been involved in a number of international arbitrations as counsel, sole arbitrator, and co-arbitrator (including chair) before the ICC, JCAA, AAA-ICDR, VIAC, KCAB, and SIAC. He serves as Vice President of the Japan Association of Arbitrators and as Chief Director of the Japan International Mediation Center in Kyoto, was Vice Chair of the Arbitration Committee of the IBA Legal Practice Division, and was Co-Chair of the Dispute Resolution and Arbitration Committee at the IPBA. He taught international arbitration and international dispute resolution at the University of Tokyo, School of Law as a visiting professor. He is also a member of the International Court of Arbitration of the ICC and a Council member of the ICC Institute of World Business Law. Since 2013, he has been a member of the SIAC's Court of Arbitration.



Ndanga Kamau

Independent Arbitrator, Ndanga Kamau Law, Kenya/Netherlands; Vice President, ICC International Court of Arbitration

Ndanga Kamau is an arbitrator based in The Hague, Netherlands. She has more than 15 years' experience in international arbitration, public international law, private international law, and investment law. Ndanga specialises in matters at the intersection of public international law and private international law, such as disputes arising out of contracts between private investors and states, or state entities. She has considerable expertise and experience in matters related to Africa, and is proficient in issues related to compensation, damages, costs, and interest. Ndanga regularly speaks, teaches, and writes on topics related to her areas of specialisation. She is a vice president of the ICC International Court of Arbitration and Council Member of the ICC Institute of World Business Law. She is also an Honorary Senior Fellow of the British Institute of International and Comparative Law (BIICL), a PRIME Finance Expert in Dispute Resolution, and a newly elected member of the ICCA Governing Board. Ndanga is recognised by Who's Who Legal as a Future Leader in International Arbitration - Partners (2022, 2023, 2024) and ranked in Chambers & Partners Global 2023, 2024: Dispute Resolution: Arbitrators - Africa-wide. She was Called to the Bar by the Honourable Society of the Middle Temple.



Speakers



Ing Loong Yang

Independent Arbitrator

Ing Loong is a highly respected international arbitration and cross-border disputes specialist advising clients across Asia and internationally. He is recognized as one of the foremost and top tier international arbitration and cross-border disputes practitioners in Hong Kong and ranked Tier 1 in Chambers Greater China 2023 and Chambers Global 2023 for Dispute Resolution: Arbitration (International Firms) in China. He also listed as a leading individual in the Legal 500 Asia Pacific 2023 in Hong Kong for Dispute Resolution: International Arbitration and as a global and national leader for Arbitration in Who's Who Legal Global Leader Arbitration 2023, Who's Who Legal National Leader Mainland China & Hong Kong SAR Arbitration 2023. He is a Solicitor-Advocate of the Hong Kong Courts, with full rights of audience in the Hong Kong Courts. Besides Hong Kong, Ing Loong is qualified in England and Wales, Singapore, and New York. Since January 2024, Ing Loong has commenced practice as an Independent Arbitrator, based in Hong Kong. Ing Loong has significant experience sitting as Arbitrator in international arbitrations including, among others, those conducted under the rules of the Hong Kong International Arbitration Centre (HKIAC), the China International Economic and Trade Arbitration Commission (CIETAC), the Singapore International Arbitration Centre (SIAC), International Court of Arbitration (ICC), the Asian International Arbitration Centre (AIAC) and the United Nations Commission on International Trade Law (UNCITRAL).



James Morrison

Partner, Peter & Kim, Sydney

James (Jim) Morrison is a specialist in international arbitration, acting as arbitrator and counsel, as well as having extensive experience working in multiple arbitral institutions. An Australian-qualified lawyer, Jim has worked at leading international law firms, representing leading companies in a wide variety of complex high-stakes commercial and investor-state disputes, including in the fields of construction, infrastructure, energy and resources, M&A, intellectual property, shipbuilding and joint ventures. Jim is formerly Counsel at the ICC International Court of Arbitration in Paris and Counsel (Acting Secretary General) at the Australian Centre for International Commercial Arbitration in Sydney where he managed teams of lawyers responsible for the conduct of hundreds of international arbitrations taking place all over the world (but particularly in Asia). He holds a Master's Degree in International Commercial Arbitration Law from the University of Stockholm. Jim was listed in the GAR 45 Under 45 in 2023 and has been regularly recognised in the WWL: Arbitration and Thought Leaders – Arbitration. He has participated in working groups to revise various institutional and ad hoc arbitration rules, including as co-chair of the committee revising the ACICA Rules 2021. He regularly speaks and lectures at arbitration conferences and universities. Jim is a former Co-Chair of Young ICCA, a coauthor of the first English language text book on Korean arbitration law and regularly publishes in international dispute resolution.



Wendy Lin

Partner, WongPartnership LLP, Singapore

Wendy LIN is the Deputy Head of the Commercial & Corporate Disputes Practice, and a Partner in the International Arbitration Practice. Wendy has an active practice spanning a wide array of high-value, multijurisdictional and complex commercial, fraud and asset recovery disputes before the Singapore Courts, as well as in arbitrations conducted under various arbitral rules. Wendy is widely recognised as one of the top enforcement / asset recovery practitioners in Singapore; she is one of two ranked Global Elite Thought Leaders (reserved for 5% of those ranked across the world) in Asset Recovery by Who's Who Legal, and the sole fellow of the International Academy of Financial Crime Litigators, based in Singapore. In addition to her busy practice as counsel, Wendy also sits as an arbitrator in cases administered by the Singapore International Arbitration Centre, the International Chamber of Commerce and the Hong Kong International Arbitration Centre. Wendy is presently serving her third term as Co-Chair of the YSIAC Committee, and is a member of the Singapore Academy of Law's Law Reform Committee.



Xin Zhang

Counsel, ICC International Court of Arbitration

Xin Zhang is Counsel at ICC International Court of Arbitration. She heads the Secretariat's office in Hong Kong. The Secretariat's Hong Kong office is one of the 12 case management teams of the ICC Secretariat, and manages around 90 ongoing ICC arbitration cases, seated in 20 different cities, including Hong Kong, Seoul, Tokyo, Beijing, Shanghai, Bangkok, Doha, London, Paris, etc. Before joining the ICC, Xin worked in arbitration at Freshfields and Zhong Lun Law Firm. She has also worked as an in-house counsel at a global environmental organization. She holds a law degree from China University of Political Science and Law and University of Oxford and is qualified in PRC and California.



Yoko Maeda

Partner, City-Yuwa; Alternative Court Member, ICC International Court of Arbitration

Yoko Maeda is a partner of the Dispute Resolution and Arbitration Practice of City-Yuwa Partners in Tokyo, Japan. She has an active practice as counsel, with a particular focus on international arbitration, litigation and mediation across a wide spectrum of matters from construction, energy, sales of goods, pharmaceutical and medical products, life science, joint venture, distributorship, licensing, intellectual property, to labor and employment. In addition to her work as counsel, she also regularly sits as an arbitrator. She has represented both domestic and international clients, as well as Japanese government and government-owned entities under the arbitration rules of AAA/ICDR, ICC, JCAA, SIAC and VIAC. Besides being a court member of ICC Court of Arbitration from Japan since 2018, she is a Fellow of the Chartered Institute of Arbitrators since 2019. Ms. Maeda is qualified in both Japan and New York. She graduated from University of Pennsylvania Law School, and Tokyo University.