ICC Construction Industry Arbitrations: Recommended Tools and Techniques for Effective Management of Arbitrations

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Agenda

- The drafting group
- Mandate: The function of the updates
- The 2001 Report: What stays?
- The update
- Panel discussion
  - US perspective: Sarah
  - Greek perspective: Ioannis
  - International perspective: Audience participation
The Drafting Group

- **Co-chairs:**
  - Aisha Nadar
  - Christopher Seppälä

- **Members:**
  - Mohamed Abdel Wahab
  - Essam Al Tamimi
  - David Barry
  - Caroline Duclercq
  - Shelly Ewald
  - Robert Gaitskell QC
  - Crenguta Ioana Leau
  - Doug Jones AO

- **Advisors:**
  - Nael Bunni
  - HH Humphrey Lloyd QC
  - Pablo Laorden
  - Pierrick Le Goff
  - Christopher Lau
  - Erin Miller
  - Elena Otero-Novas Miranda
  - Vivian Ramsey
  - Juan Eduardo Figueroa Valdés

- **Commentators:** Patricia Galloway, John Hinchey, Troy Harris, Jane Jenkins
The Function of the Update

Narrow mandate:
To align the Report with the 2017 Arbitration Rules and recent developments in construction arbitration
The 2001 Report: What’s Staying?

- **Scope**
  - **Provides guidance on a range of tools and techniques to assist in developing cost-effective procedures for the arbitration**
    - Focus on case management
    - No single ‘right’ way in which a construction arbitration should be conducted
    - Commendable courses and the factors that arbitrators and parties may bear in mind when considering them
  - **Aimed primarily at arbitrators, but some proposals concern the parties.**
  - **The Report tries to accommodate the approaches of various jurisdictions.**
The 2001 Report: What’s Staying?

- Structure
  - The main headings continue as they currently exist, except:
    - 'Procedural Meeting' changed to 'Case Management Conference (CMC)';
    - 'Summary of Main Recommendations and Suggestions’ moved to front of report.
The Updates

- Update drafted by co-chairs
  - Based on comments received from drafting group and commentators
  - Reviewed by drafting group, commentators and ICC
  - limited to characteristics of construction arbitration specifically
    - Does not address general topics of arbitrations such as tribunal secretaries.
  - 'Summary of Main Recommendations and Suggestions' section updated after the update of the main body was completed
- Meant to complement rather than repeat other ICC publications
  - E.g. ICC Report on Reducing Time and Costs in Arbitration
The Updates
Report Structure

- Sections updated:
  - Background
  - Selection of Arbitrators
  - Initial Stages
  - Terms of Reference
  - Case Management Conference
  - Hearing
  - Timetable
  - Procedure
  - Further working documents
  - Tests
  - Programmes and Critical Path Networks
  - Splitting the Case

- Documents
  - Witnesses
  - Experts
  - Hearing

➢ New sections added:
  - Interim measures
  - Settlement in Arbitration
  - Translations

- Global launch: 18 February 2019, Stockholm, Sweden
A Critical View

**Sahar Biser** on ICC arbitrations in the US

and

**Ioannis Vassardanis** ICC arbitrations in Greece