

# International Dispute Resolution and Arbitration in the Oil , Gas & Petrochemical Industry

## INTRODUCTION

- The likelihood of disputes arising in the oil and gas industry is high due to the various types of contractual relationships that exist. Further, the costs of hydrocarbon exploration and exploitation is extremely high as are the value of oil and gas contracts and parties to a dispute need to have the necessary knowledge and skills to firstly avoid where possible the disputes and alternatively to manage the whole dispute resolution process in an efficient and effective manner.
- This International Dispute Resolution and Arbitration in the Oil & Gas Industry training seminar provides in-depth information on the types of disputes that can arise and the several available methods of dispute resolution, which can be consensual, adjudicative or hybrid. This training seminar further assists the participants to obtain effective skills in dispute management and conflict avoidance. Managing disputes using the most cost effective and efficient methods available would be a primary goal of the training during this training seminar.
- This International Dispute Resolution and Arbitration in the Oil & Gas Industry training seminar is designed to be highly practical and includes hands-on workshop sessions and a mock dispute demonstration. This training seminar focuses on the available institutional rules or the ad hoc procedures and the implications this choice may have on the outcome of the dispute. Taking into account cultural considerations specific to each dispute, the training seminar provides training on the choice of law, seat and venue for the arbitration.

This training seminar will highlight:

- The Fundamental Types of Disputes in the Oil and Gas Industry
- The Different Methods of Dispute Resolution Available
- Preference for International Arbitration over Litigation
- Dispute Resolution Clauses in various Oil and Gas Contracts
- Conciliation, Mediation and Settlement of Disputes
- Enforcement Proceedings

## OBJECTIVES

At the end of this training seminar, you will:

- Comprehensively understand the different types of dispute resolution methods
- Understand the main dispute resolution clauses in international oil and gas contracts
- Know the available mechanisms to resolving international oil and gas disputes
- Be aware of the approaches to conflict, management, avoidance and settlement
- Be able to assess and apply the best means to resolve disputes in different potential scenarios

## TRAINING METHODOLOGY

- Participants will gain greater understanding of the subject matter through presentations by an experienced international practitioner designed to both inform and broaden the perspectives of the participants. Case studies will be reviewed and discussed bearing in mind some of the realistic scenarios participants may encounter. Interactive discussions to encourage discussion of problems and possible solutions to it. Participants will view different videos on dispute resolution.

## ORGANISATIONAL IMPACT

The organisation will benefit by:

- Having personnel who will be well versed in international dispute resolution mechanisms
- Reducing the risks of losing a litigated case by using alternative dispute resolution methods
- Saving costs where possible in managing and resolving disputes
- Minimising management time used to handle international disputes
- Gaining a management team with an advantage over adversaries by having the best- informed team with all the necessary skill sets to deal international disputes

## PERSONAL IMPACT

Attendees will gain by participation in this training seminar as a result of:

- Obtaining a full understanding of international resolution methods
- Learning how to avoid disputes before they become litigious
- Anticipating potential claims and disputes and finding solutions to issues being raised prior to it becoming full blown disputes
- Obtaining a working knowledge of the different international arbitration institutions
- Knowing the benefits of ADR in resolving disputes

## WHO SHOULD ATTEND?

- This International Dispute Resolution and Arbitration in the Oil & Gas Industry training seminar will benefit all levels of personnel involved in resolution of oil and gas disputes. It will enable a broad range of disciplines to appreciate and understand the complexities of conflict resolution in particular in the Oil and Gas industry, and how best to manage disputes in the oil and gas industry.

This training seminar is appropriate to a wide range of professionals but will greatly benefit:

- Legal Managers, Legal Counsel
- Commercial and Business Managers
- Contracts Administrators, and Managers
- Commercial, Financial and Insurance Professionals
- Project and General Management

## Course Outline

### Introduction to International Disputes in the Oil and Gas Industry

- Overview of Types of Disputes in the Oil and Gas Industry
- Contribution of the Oil & Gas Sector to the Development of Arbitration
- Substantive / Commercial issues that have arisen in recent Oil & Gas Arbitrations

### Preference for International Arbitration to Litigation

- Neutrality of Process
- Party Autonomy
- Cost Effectiveness and Speed
- Enforceability of the Award
- Confidentiality of Proceedings

### International Arbitral Institutions

- International Chamber of Commerce (ICC) International Court of Arbitration
- The London Court of International Arbitration (LCIA)
- The American Arbitration Association's International Center for Dispute Resolution (AAA) / ICDR

## Dispute Resolution and Arbitration Clauses in Oil and Gas Contracts

### Dispute Resolution Clause in:

- Acquisition Contracts
- Production Sharing Contracts
- Joint Operating Agreements
- Service Agreements
- Charter Party
- Analysis of Various Clauses

### Disputes in the Oil and Gas Sector

- Disputes with Host Governments
- Environmental Claims
- Shareholder Value Related Issues
- Regulatory Issues
- Boundary Issues
- Trade Restriction Among Others
- Breach of Contracts

### Applicable Law and Dispute Resolution Legal Framework for International Arbitration

- Arbitration Agreement or Clause
- Arbitration Conventions and Investment Treaties
- Arbitration Procedural Rules
- National Laws
- National Courts



### Legal Environment in which Oil and Gas Contract Operates

- Constitution
- Domestic Law
- Common Law
- Civil Law
- Islamic Law
- International Law

### Multilateral and Bilateral Treaties

- Energy Charter Treaty
- Proper Law of Contract
- Law of Arbitration
- Procedure of Arbitration

## Various Modes of International Dispute Resolution

- Expert Determination
- Mediation
- Conciliation
- Arbitration
- Ad-hoc and Institutional Arbitration
- Venue of Arbitration
- Enforcement of Award
- Sovereign Immunity and Other Problems of Suing Foreign Governments
- Benefits and Challenges of Mediation of Oil and Gas Disputes over Arbitration

## Limitations of International Arbitration, Strategy, Tactics and Enforcement

### Limitations of International Arbitration

- Costs of Arbitration
- Limited Power of the Arbitrators
- The Difficulty of Bringing Three or More Parties Before the Same Arbitral Tribunal
- Delay due to the Difficulty of Communication and Language and Inconsistency
- Fees and Expenses of Arbitrators,
- Substantial Expenses Depending on the Weight of the Dispute in Question

### Litigation and Arbitration: Strategy, Tactics and Enforcement

- Appointment of An Arbitrator
- Appointment of Legal Counsel
- Making of Claim and Counter Claim
- Disclosure of Documents
- Witnesses and Cross – examination
- Injunctions and Other Interim Orders

### Enforcement Proceedings

- Identifying Assets
- Enforcement Methods
- Treaties
- Local Laws relating to Enforcement
- Problems in Multiparty Disputes
- Confirmation of Final Awards - The oil & gas experience

### Settlement of Disputes

- When to Consider Settlement
- Commencing Negotiation
- Documentation of Settlement