



Business Information  
In A Global Context

## Negotiating and Structuring

Global Series –  
European Editions

# INTERNATIONAL COMMERCIAL TRANSACTIONS

29 & 30 September, 1 October 2008  
**LONDON**  
Radisson Edwardian Kenilworth

27-28, 29 October 2008  
**PARIS**  
Terrass Hotel

24-25, 26 November 2008  
**FRANKFURT**  
Hotel Hessischer Hof

**This is *the* Conference that has Prepared Over 2000 In-House Counsel, Executives and Their Legal Advisors to Effectively Conduct and Conclude Commercial Transactions Globally!**

### Special Feature!

Post-Conference  
“Roll your Sleeves Up” Workshop:  
A Step-by-Step Guide to  
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Arbitration

...see inside for full details

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- Get an in-depth understanding of how to manage international transactions
- Get strategic insight into drafting effective cross-border agreements to avoid common pitfalls
- Discuss tax, joint venture, competition and IP issues affecting international commercial agreements
- Ensure that your agreements reflect your business strategy
- Benefit from expert guidance on avoiding and managing disputes
- Ensure that you can identify, manage and turn cultural differences into commercial advantage



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## Negotiating and Structuring

# INTERNATIONAL COMMERCIAL TRANSACTIONS

To successfully compete in today's international marketplace, senior executives and their legal and strategic advisors must have an excellent grasp of how to negotiate, structure, manage and enforce international business agreements.

This **C5** programme will offer strategic insight into negotiating, drafting and structuring successful international commercial transactions and give attendees the opportunity to hear from seasoned practitioners. Our esteemed speaker faculty will offer expert guidance on the legal and business issues commonly encountered when working on international commercial transactions.

As well as leaving this programme with a strategic review of the latest legal developments and you will also benefit from real life examples of the common pitfalls you should avoid when managing international transactions.

This series of events will give attendees access to an international panel of experts, ready to share their experiences and ensure that you leave this conference with up-to-the-minute information, new industry contacts and a clear idea of best practices. In addition to covering the ins and outs of commercial agreements, this series will increase your understanding of factoring in business needs and economic drivers to devise agreements that are practical, enforceable and cost-effective.

**With three convenient central European commercial centres to choose from – London, Paris and Frankfurt – this event is designed to offer two days of in-depth learning and networking.**

Maximise your attendance by attending our post-conference workshop: **A Step-by-Step Guide to International Commercial Arbitration**. Discover why more and more companies are using arbitration to resolve their disputes and how to ensure that you have the skills required to plan and participate in an international arbitration.

## Hear from the Leading Industry Experts from:

- Allen & Overy LLP
- Clifford Chance LLP
- Crowell & Moring LLP
- Deloitte & Touche LLP
- GSK Stockmann & Kollagen
- Herbert Smith LLP
- Nabarro LLP
- Norton Rose LLP
- Powell Gilbert LLP
- Travers Smith
- White & Case (Europe) LLP

## Who Should Attend

- Heads of legal departments
- In-house counsel
- Lawyers in private practice
- Business executives and professionals responsible for handling strategic business issues and challenges including
  - CEOs, CFOs and directors
  - Commercial directors and managers
  - Procurement directors and managers
  - Consultants



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## Why C5?

Each year more than 25,000 in-house counsel, private practice lawyers and senior executives participate in **C5** Group events.

### Guaranteed Value, Based on Comprehensive Research

**C5's** highly-trained team of lawyer-producers are dedicated to developing the content and scope of our conferences based on comprehensive research with lawyers and corporate counsel facing similar challenges. We speak your language, ensuring that our programmes provide strategic, cutting-edge guidance of practical issues.

### Unparalleled Learning and Networking

**C5** understands that sharing experiences and building relationships with your fellow delegates during the breaks can be just as valuable as the structured conference sessions. We strive to make both the formal and informal aspects of the conference as productive as possible.

**Reserve your place at this invaluable conference today!** Register now by calling **+44 (0) 20 7878 6888**, by faxing your registration form to **+44 (0) 20 7878 6896** or by registering online at **www.C5-Online.com/commercial**

## DAY ONE AGENDA

### 8.30 Registration and Coffee

### 9.00 Chair's Welcome and Opening Address

*Jan Wrede, Partner, Clifford Chance LLP (Germany)*

### 9.30 Planning and Structuring International Transactions

*Richard Brown, Partner, Travers Smith (UK)*

- Getting involved early, managing the process and setting realistic timeframes
- Letters of intent, memoranda of understanding and heads of agreement
- Due diligence issues
- Exclusivity and lock-in
- Disclosure
  - how can you determine what to disclose during negotiations?
  - timing of disclosure
  - two-way disclosure considerations
  - required disclosure to third parties

### 10.15 Morning Refreshments

### 10.45 Drafting International Business Agreements: Common Clauses

*Gareth Jones, Partner, Nabarro LLP (UK)*

- Analysis of major elements and terms
- Key common law v civil law issues
- Essential confidentiality clause issues
- Exclusivity and non-competition clause issues
- Getting paid, including letters of credit and bank guarantees
- Terms of appointment and length of relationship
- Termination: events and consequences
- Planning for and managing currency and exchange issues arising in trans-national deals
- Using boilerplate clauses - more important than not

### 11.30 How to Protect Your Intellectual Property Rights in International Business Transactions

*Alex Wilson, Partner, Powell Gilbert LLP (UK)*

*Zoe Butler, Partner, Powell Gilbert LLP (UK)*

- Ensuring that you own the majority of the intellectual assets
  - ensuring you have the IP rights you need to operate under the agreement
  - qualifying criteria, ownership and maintenance of principal IP rights
- Protecting brands, trade secrets and patents generated under the agreement
- Protecting and enforcing IP rights world wide: international protection and ownership
- Protection and enforcement of IP rights in emerging economies
- How to resolve any issues that may arise
  - managing IP disputes with your partners: arbitration v mediation
  - defending and enforcing IP rights against others

### 12.30 Networking Lunch

1.45

### Choosing a Licensing Structure that Reflects your Business Strategy

*Guy Heath, Partner & Head of Intellectual Property Group Nabarro LLP (UK)*

*Joerg Alshut, Partner, GSK Stockmann & Kollegan (Germany)*

- How to make your license structure reflect your business strategy
- Negotiating and drafting enforceable licenses
  - what are the usual and recurring provisions?
  - what are the negotiation traps?
  - negotiating payment terms including royalty base, upfront payments and providing for currency fluctuations
- Assessing the UK and foreign laws that impact licensing and their effect on
  - ownership
  - competition
- Protecting your interests and evaluating your risks and liabilities

2.30

### Negotiating and Structuring International Joint Venture Agreements

*Philip Talboys, Partner, Herbert Smith LLP (UK)*

- Factors that influence selection of joint ventures and strategic relationships
  - risk sharing and cost savings
  - brand leveraging
  - acquisition of distribution channels
  - local expertise
- Contemplating the dissolution while negotiating the joint venture
- Administration of host country laws of foreign investments and joint ventures
- Kinds of relationships to consider including entity and non-entity
- Factors that influence choice of relationship
  - level of independence
  - tax and regulatory issues
  - local legal requirements
- Negotiating the joint venture relationship
- Major recurring negotiation issues
  - revenues, income, costs and expenses
  - management and control
  - IP and technology sharing
  - decisions, disputes and claims
  - termination of the relationship
  - term of the relationship: term, interim checks and extensions
- Exclusivity or non exclusivity of relationship
- Dissolution and exit strategies including contractual provisions and JV dissolution agreements
  - buyouts, indemnities and asset/liability splitting

3.15

### Afternoon Refreshments

3.45

### Managing Competition Law Issues and Cartel Risks in International Business Transactions

*Dorothy Livingston, Partner, Competition Law Committee Member of the City of London Law Society Advisory Board Centre of European Law, King's College London Herbert Smith LLP (UK)*

*Patrick Hubert, Partner, Clifford Chance LLP (France)*

- Current interpretation of articles 81 and 82 of the EU Treaty
  - update on recent case law including *Microsoft*
  - understanding the EU Competition Commission's current approach and enforcement priorities
- Horizontal and vertical agreements: current trends and lessons learned
- Understanding exceptions and block exemptions
- What to look out for in agreements to ensure you don't fall foul of anti-competitive provisions
  - exclusivity: duration, territory, customer
  - specific non-compete provisions
  - pricing and payment
  - promotional activities
- Drafting agreements to comply with UK and EU law
- What is the effect of a dominant position on agreements and corporate risk?
- Can a commercial agreement evidence a cartel?
- What types of commercial agreements might be affected by merger control requirements?

#### 4.30 **Key Tax Considerations and Strategies in Structuring International Commercial Agreements**

*Eric Tomsett*, International Tax Partner  
**Deloitte & Touche LLP (UK)**

*Edward Jones*, Senior Associate, **Allen & Overy LLP (UK)**

- Key tax issues and strategies to be considered
- How to select the best structures for an international investment transaction
- Tax considerations for choice of entity
  - mergers and acquisitions
  - divestitures
  - joint ventures
- Transfers of technology, products and services
- Capital structures and offshore financing
- VAT, withholding, permanent establishment, transfer pricing and other issues
- Intercompany pricing matters
- Foreign tax credit planning and tax holidays
- Key accounting issues: consolidation and beyond

#### 5.15 **End of Day One**

Places will go quickly - register today!  
[www.c5-online.com/commercial](http://www.c5-online.com/commercial)

### DAY TWO AGENDA

#### 8.30 **Coffee**

#### 8.45 **Chairs Introduction**

*Ellis Baker*, Partner, **White & Case LLP (UK)**

#### 9.00 **International Mergers & Acquisitions**

*Jan Wrede*, Partner, **Clifford Chance LLP (Germany)**

- Assessing the market for cross-border M&A today
  - understanding the effect of increasing consolidations
  - what is the impact of the credit crunch?
- Understanding differences in UK vs US vs continental approaches
- Statutory v non-statutory regulation
- Deal structure and documentation
- Due diligence and project management

#### 9.45

#### **Best Practices for Structuring International Outsourcing Agreements**

*Mark Turner*, Partner, **Herbert Smith LLP (UK)**

- Identifying the risks of global outsourcing with emerging countries
  - staff employment and retention
  - ineffective legal enforcement
  - immature infrastructure
  - limited or non-existent intellectual property protection
  - lack of understanding of foreign laws
- How should you structure an international outsourcing agreement or BPO agreement?
  - master services agreement
  - country agreements: are they necessary?
  - checklist of common issues
- The importance of protection regarding:
  - security and confidentiality
  - legal compliance
  - fees and payment
  - proprietary rights
  - auditing rights
  - dispute resolution process
- Reviewing examples of successful international outsourcing agreements

#### 10.30 **Morning Refreshments**

#### 11.00 **Planning for and Successfully Resolving International Disputes through the Use of Arbitration**

*Jane Wessel*, Counsel, **Crowell & Moring LLP (UK)**

- Deciding between international commercial arbitration v litigation in courts
  - recent trends and cases making the headlines
- Insight into choice of arbitration models and key arbitration institutions
- Effective drafting of international commercial arbitration clauses
- Governing law and dispute resolution clauses
- Understanding the United Nations Convention on contracts for the international sale of goods
- When are alternative dispute resolution methods worth consideration?
  - conciliation
  - mediation
- How to develop strategies for minimising commercial disputes

#### 11.45 **Lessons from the Construction Industry on Negotiating an Effective International Agreement**

*Ellis Baker*, Partner & Head of Construction and Engineering Practice, **White & Case LLP (UK)**

- Friend or foe across the table: negotiating traditional and collaborative contracts
- Understanding the dynamics of the relationship
  - relative bargaining strength of the parties and the "market factor"
- Identifying the heart of the project: securing the objectives of the purchaser/client
  - the perspective of the supplier/contractor
- Approaching risk allocation issues: identifying the crunch questions on time and money
- Establishing the machinery for dealing with claims and dispute resolution from the outset

## 12.30 Networking Lunch

## 2.00 Compliance Due Diligence Checklist for Corporate Transactions: How to Avoid the Common Pitfalls

**Heiner Hugger**, Partner, **Clifford Chance LLP** (Germany)

**Stephen Lewis**, Partner & Head of Forensic Accounting, **Clifford Chance LLP** (UK)

- Case study examples of avoiding non-compliance pitfalls relating to anti-trust, anti-corruption, employment law and data protection when structuring your agreements
- How to identify potential high-risk issues and implement the correct checks and controls
  - identifying deficiencies in compliance systems
  - reducing the risk of anti-trust and anti-corruption violations
- Successful investigation techniques
  - what to investigate and why
  - forensic accounting and IT issues
- Data-protection and employment law issues
  - recognising the importance of local data protection and labour laws
  - how do they affect multi-jurisdictional transactions
  - which jurisdictions do parties need to be particularly aware of now?
- How to comply with local reporting obligations

## 3.00 Afternoon Refreshments

## 3.30 Roundtable on International Transactions: Tips, Traps and Techniques

**Gareth Jones**, Partner, **Nabarro LLP** (UK)

**Jane Wessel**, Partner, **Crowell & Moring LLP** (UK)

**Patrick Hubert**, Partner, **Clifford Chance LLP** (France)

**Stephen Lewis**, Partner, **Clifford Chance LLP** (UK)

**Heiner Hugger**, Partner, **Clifford Chance LLP** (Germany)

*Our expert speaker faculty will give you their first hand tips, perspectives and experiences on international transactional work they have conducted. The session will also include a Q & A session to allow delegates to directly ask the experts any burning questions or discuss any current issues, trends, or ask for any hints and tips!*

The discussion will include topics such as:

- How early should you get involved?
- Setting realistic timeframes
- Managing international deals
- How to go about selecting local counsel
- Successfully obtaining foreign investment approvals
- Managing the process
- Global “clout” and how to use it wisely
- Ensuring flexibility, fairness and patience
- Staying involved and providing ongoing support of overseas ventures

## 4.30 Conference Adjourns



## Post-Conference Workshop

## A Step-by-Step Guide to International Commercial Arbitration

9:00 am - 12:30 pm

**Jane Wessel**

Counsel, **Crowell & Moring LLP** (UK)

Associate Editor, *Transnational Dispute Management*  
Member, *London Court of International Arbitration*

**Joseph Tirado**

Partner & Head of International Arbitration & ADR  
**Norton Rose LLP** (UK)

*Despite the fact that the majority of international contracts include an arbitration clause, many involved parties fail to recognise the unique problems that can arise during an international arbitration. This means that the problems must be recognised and planned for from the outset. This workshop is designed to build on the arbitration session in the main programme and to introduce you to the pitfalls of international arbitration, so you can learn how to minimise or avoid these pitfalls through proper planning and contract construction. Your workshop leaders will not only discuss the key decisions that must be made when drafting an international arbitration clause, they will also show you a series of flawed arbitration clauses and ask you to identify their defects. Your facilitators will then walk you through a mock ICC arbitration from start to finish, focusing on the legal, political and cultural issues that may rise and how to resolve these to your advantage. The workshop will also cover:*

- Litigation v arbitration v mediation: what's right for your dispute?
  - are some types of disputes more suited to arbitration proceedings than others?
  - what are the current trends and statistics?
- Cost and time factors
- Confidentiality issues
- Standard clauses vs tailored clauses
- Disputes with governments: special considerations
- Special expertise of arbitrators
- Using ad hoc vs institutional arbitration
  - comparison of major international institutions and regional alternatives, including UNCITRAL, LCIA and the ICC

## Global Sponsorship Opportunities

Maximise your organisation's visibility in front of key decision-makers in your target market. Contact: Colin Carter on +44(0)20 7878 6933 or email [c.carter@C5-Online.com](mailto:c.carter@C5-Online.com)

## Discounts for You, Your Colleagues and Your Team!

Many delegates bring colleagues and their teams with them, so that they can all benefit from hands on practical guidance. In recognition of this and to make multiple bookings easier, we offer special team packages. Contact customer services on +44 (0) 20 7878 6933

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Negotiating and Structuring

# INTERNATIONAL COMMERCIAL TRANSACTIONS

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To pay by Bank Transfer please quote the conference code 770L08 and the name of the delegate in the transfer instructions. Transfers should be made to Natwest Bank, Finsbury Sq. Branch, 78 Finsbury Pavement, London, UK, EC2A 1JA. Account Name: **C5**

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## ADMINISTRATION DETAILS

### CONFERENCE

#### LONDON

Date: 29-30 September,  
1 October 2008  
Time: 8:30 am (Registration &  
Distribution of Documentation)  
Venue: Radisson Edwardian  
Kenilworth  
Address: 97 Great Russell Street,  
London WC1B 3BL  
Tel: +44 (0) 20 7637 3477  
Fax: +44 (0) 20 7631 3133  
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#### PARIS

Date: 27-28, 29 October 2008  
Time: 8:30 am (Registration &  
Distribution of Documentation)  
Venue: Terrass Hotel  
Address: 12-14 Rue Joseph-de-  
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#### FRANKFURT

Date: 24-25, 26 November 2008  
Time: 8:30 am (Registration &  
Distribution of Documentation)  
Venue: Hotel Hessischer Hof  
Address: Friedrich-Ebert-Anlage,  
40, 60325 Frankfurt am Main,  
Germany  
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### WORKSHOP

#### LONDON

Date: 1 October 2008

#### PARIS

Date: 29 October 2008

#### FRANKFURT

Date: 26 November 2008

## HOTEL ACCOMMODATION

To book your accommodation please call Venue Search on tel: +44(0)20 8541 5656  
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## CONTINUING EDUCATION

11.0 hours (conference only) plus 3.5 hours per workshop towards Continuing Professional Development hours (Law Society Reference No: BJEUFO).

## DOCUMENTATION

If you are not able to attend, you can buy copies of the presentations provided to delegates on the day of the event. Please send us this completed booking form together with payment of £350 per copy requested. For further information please call +44 (0) 207 878 6888 or email [enquiries@c5-online.com](mailto:enquiries@c5-online.com).

## PAYMENT POLICY

Payment must be received in full by the conference date. All discounts will be applied to the Main Conference Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. Group discounts available to individuals employed by the same organization.

## CANCELLATION POLICY

All cancellations must be submitted to **C5** in writing, 6 weeks prior to the event and are liable to a 25% cancellation fee. We regret that cancellations or bookings received cannot be refunded or credited. Substitutions are permitted, and must be notified in writing.

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