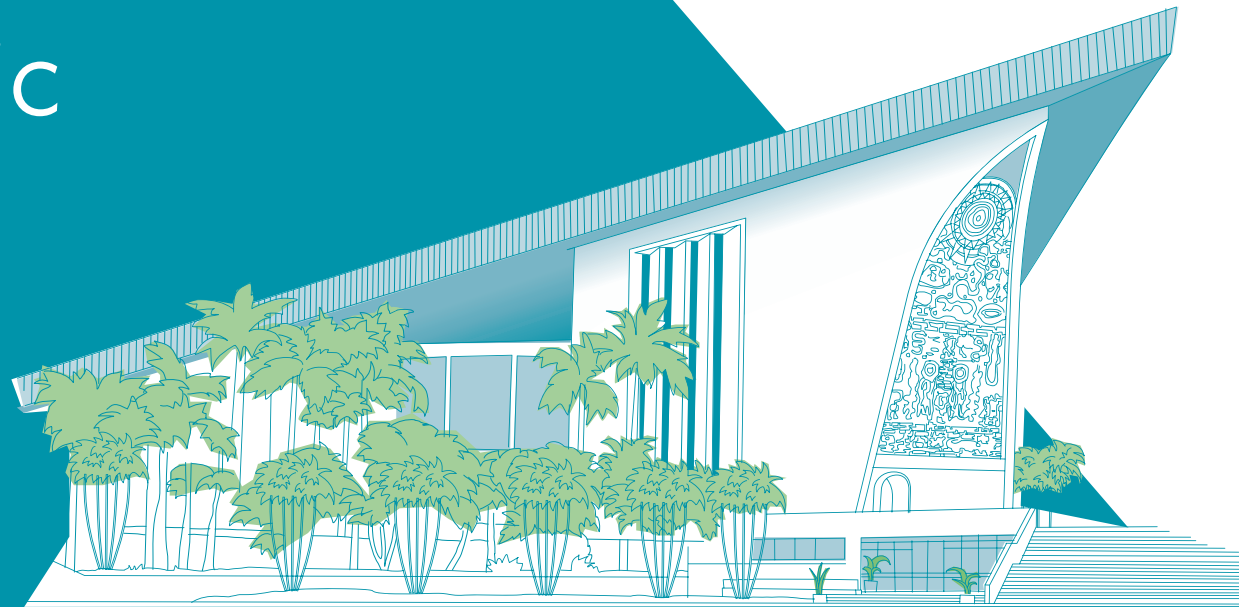


INTERNATIONAL MEDIATION AND  
ARBITRATION CONFERENCE

# 2nd South Pacific International Arbitration Conference

25-26 March 2019  
Stanley Hotel, Port Moresby  
Papua New Guinea

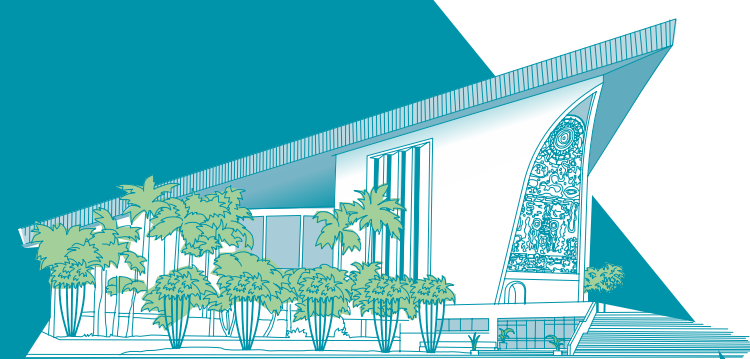




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## CONFERENCE PROGRAM

MONDAY, 25 MARCH 2019 – DAY ONE

### REGISTRATION & OPENING CEREMONY

9:30 a.m.–10 a.m.	<b>REGISTRATION AT THE STANLEY HOTEL &amp; SUITES</b>
10 a.m.–10:45 a.m.	<p><b>OPENING CEREMONY</b></p> <p>Master of Ceremonies: Hon. Justice Panuel Mogish, Supreme and National Courts of Justice of Papua New Guinea (PNG)</p> <p>Opening Address: Hon. Peter Charles Paire O’Neill, CMG MP, Prime Minister, PNG</p> <p>Address: Damien J. Eastman, Assistant General Counsel, Asian Development Bank (ADB)</p> <p>Address: Athita Komindr, Head, UNCITRAL Regional Centre for Asia and the Pacific</p>
10:45 a.m.–11 a.m.	<p><b>SECURITY BRIEFING</b></p> <p>ADB Representatives</p>
11 a.m.–11:45 a.m.	<p><b>GROUP PHOTO AND BREAK</b></p> <p>Cultural Entertainment – Senemai Local Hiri Dancers</p>

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11:45 a.m.–12:15 p.m.

**KEYNOTE ADDRESS**

- Mediation and Arbitration: Completing the Dispute Resolution Landscape

Hon. Chief Justice Gibuma Gibbs Salika, GCL, KBE, CSM, OBE, Supreme and National Courts of Justice of PNG

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12:15 p.m.–1:30 p.m.

**LUNCHEON**

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1:30 p.m.–2:15 p.m.

**Session 1: INTERNATIONAL ARBITRATION: PROMOTING CONFIDENCE IN INTERNATIONAL BUSINESS THROUGH BUILDING ON THE RULE OF LAW**

Moderator: Damien J. Eastman, Assistant General Counsel, ADB

Speakers: Christina Pak, Principal Counsel, ADB; Lillian Vevara, Deputy State Solicitor for Procurement Law, PNG Department of Justice and Attorney General; David Tonkin, Chief Counsel, Legal, Procurement and Fraud, Australian Trade and Investment Commission (Austrade); Prof. Dr. Jordi Paniagua, Professor of Economics, University of Valencia

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2:15 p.m.–2:30 p.m.

**BREAK**

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2:30 p.m.–3:45 p.m.

**Session 2: A JOURNEY THROUGH INTERNATIONAL ARBITRATION**

- An interactive session involving roleplay: Parties from Country X and Country Y enter into a commercial contract, which contains an arbitration clause. When a dispute arises under the contract, what shall they do? How will they initiate an arbitration? What can they expect during the arbitral process? How shall they enforce an arbitral award?

Facilitators: Christina Pak, Principal Counsel, ADB; Daniel Meltz, Barrister, 12 Wentworth Selborne Chambers, and International Arbitration Consultant, ADB

Participants: Client X (**George Koi**, Manager – Legal Services, Nambawan Super Limited); Counsel for Client X (**Goiye Gileng**, Principal, Gileng & Co. Lawyers); Client Y (**Maryanne Tusais**, Lawyer, Dentons, PNG); Counsel for Client Y (**José Augusto Fernandes Teixeira**, Partner, Da Silva Teixeira & Associados); Arbitral Tribunal (**Kevin Nash**, Deputy Registrar and Centre Director, Singapore International Arbitration Centre [SIAC]; **Fiona Anne Connell**, Principal Counsel, ADB; **Peter McQueen**, Independent Arbitrator and Mediator); Enforcing Judge (**Hon. Justice Jeffrey Leonard Shepherd**, Supreme and National Courts of Justice of PNG)

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3:45 p.m.–4:10 p.m.

**TEA/COFFEE BREAK**

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4:10 p.m.–5:10 p.m.

**Session 3: INTRODUCTION TO INTERNATIONAL COMMERCIAL ARBITRATION**

- How do you resolve a commercial dispute between parties from two different countries?
- Differences between arbitration and other forms of dispute resolution
- Anatomy of an international arbitration
- Ad hoc and institutional arbitration
- Recognition and enforcement of foreign arbitral awards (role of judiciary)
- Costs and time in international commercial arbitration

Moderator: **Wendy J. Miles**, QC, Partner, Debevoise & Plimpton

Speakers: **Kevin Nash**, Deputy Registrar and Centre Director, SIAC; **Wesley Pang**, Managing Counsel, Hong Kong International Arbitration Centre (HKIAC); **Abhinav Bhushan**, Director – South Asia, International Chamber of Commerce (ICC) Arbitration and Alternative Dispute Resolution (ADR) International Court of Arbitration, ICC; **Bronwyn Lincoln**, Partner, Corrs Chambers Westgarth

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5:10 p.m.–6 p.m.

**INTERVAL – FREE TIME**

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6 p.m.–7 p.m.

**COCKTAIL HOUR – THE STANLEY HOTEL & SUITES**

Cultural Entertainment – Siale Dance Troupe (Contemporary)

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7 p.m.–9 p.m.

**CONFERENCE DINNER – THE STANLEY HOTEL & SUITES**

Sponsored by ADB

Entertainment – Sambra Akit Jazz Trio

Dress Code: Tropical Formal

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**TUESDAY, 26 MARCH 2019 – DAY TWO**

8:30 a.m.–9:40 a.m.

**Session 4: SPECIAL BREAKFAST SESSION – WOMEN IN INTERNATIONAL  
COMMERCIAL ARBITRATION**

- Building a career in international arbitration with a particular focus on how women can avoid common pitfalls

Opening Remarks: **Damien J. Eastman**, Assistant General Counsel, ADB

Facilitators: **Christina Pak**, Principal Counsel, ADB; **Wendy J. Miles**, QC, Partner, Debevoise & Plimpton; **Jo Delaney**, Partner, Baker McKenzie, Sydney; **Koh Swee Yen**, Partner, WongPartnership LLP; **Bronwyn Lincoln**, Partner, Corrs Chambers Westgarth; **Jelita Pandjaitan**, Partner, Linklaters Singapore Pte. Ltd.; **Julian Cohen**, Barrister and Arbitrator, Gilt Chambers

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9:40 a.m.–10 a.m.

**BREAK**

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10 a.m.–10:45 a.m.

**Session 5: NEW YORK CONVENTION AND THE SOUTH PACIFIC COUNTRIES**

- Introduction to the New York Convention
- The New York Convention and the South Pacific Countries
- Update on International Arbitration Reform in the South Pacific
- Update on PNG’s Accession to the New York Convention

Moderator: **José Augusto Fernandes Teixeira**, Partner, Da Silva Teixeira & Associados

Speakers: **Hon. Deputy Chief Justice Ambeng Kandakasi**, CBE, Supreme and National Courts of Justice of PNG; **Koh Swee Yen**, Partner, WongPartnership LLP; **Daniel Meltz**, Barrister, 12 Wentworth Selborne Chambers, and International Arbitration Consultant, ADB

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10:45 a.m.–11:30 a.m.

**Session 6: ARBITRATING TECHNICAL ISSUES – CONSTRUCTION DISPUTES**

- Construction developments in the South Pacific
- Types of construction disputes
- Features of construction dispute resolution

Moderator: **Wesley Pang**, Managing Counsel, HKIAC

Speakers: **Julian Cohen**, Barrister and Arbitrator, Gilt Chambers; **John Green**, Director, New Zealand International Arbitration Centre (NZIAC); **Fedelma Claire Smith**, Senior Legal Counsel and Permanent Court of Arbitration (PCA) Representative in Singapore, PCA; **Andrea Martignoni**, Partner, Allens, and Vice President, Australian Centre for International Commercial Arbitration (ACICA)

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11:30 a.m.–12:15 p.m.

**Session 7: ARBITRATING TECHNICAL ISSUES – ENERGY DISPUTES**

- Energy developments relevant to the South Pacific
- Types of energy disputes
- Focus on renewable energy and future directions

Moderator: **Daniel Meltz**, Barrister, 12 Wentworth Selborne Chambers, and International Arbitration Consultant, ADB

Speakers: **Leah Ratcliff**, Of Counsel, Jones Day; **Steven Finizio**, Partner, Wilmer Cutler Pickering Hale and Dorr LLP; **Shai Wade**, Partner, Stephenson Harwood LLP; **William B. Panlilio**, Associate, King & Spalding

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12:15 p.m.–1:30 p.m.

## **LUNCHEON**

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1:30 p.m.–2:10 p.m.

### **Session 8: ARBITRATING TECHNICAL ISSUES – FINANCIAL DISPUTES**

- Types of disputes arising from the financial sector
- Increasing use of international arbitration for certain types of financial transactions (i.e., international loan agreements)
- Issues with split or hybrid clauses in financial agreements

Moderator: **Fiona Anne Connell**, Principal Counsel, ADB

Speakers: **Prakash Pillai**, Partner, Clyde & Co Clasis Singapore Pte. Ltd.; **Steven Finizio**, Partner, Wilmer Cutler Pickering Hale and Dorr LLP; **Jelita Pandjaitan**, Partner, Linklaters Singapore Pte. Ltd.

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2:10 p.m.–2:40 p.m.

### **Session 9: ARBITRATING TECHNICAL ISSUES – ARBITRATION AND CLIMATE CHANGE**

- Overview of climate finance needs and flows in the South Pacific
- Role of international arbitration reform in attracting international climate finance to the South Pacific region
- Types of emerging climate change and climate finance disputes

Moderator: **Christina Pak**, Principal Counsel, ADB

Speakers: **Ilona Millar**, Special Counsel, Environmental Markets, Baker McKenzie, Sydney; **Ruel Yamuna**, Managing Director, PNG Climate Change and Development Authority; **Wendy J. Miles**, QC, Partner, Debevoise & Plimpton; **Jo Delaney**, Partner, Baker McKenzie, Sydney; **Fedelma Claire Smith**, Senior Legal Counsel and PCA Representative in Singapore, PCA

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2:40 p.m.–3:10 p.m.

**TEA/COFFEE BREAK**

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3:10 p.m.–4:10 p.m.

**Session 10: CONCURRENT BREAKOUT SESSIONS**

**A. Concurrent Breakout Session for Lawyers: DRAFTING ARBITRATION AGREEMENTS**

Moderator: Ting-Chung Wu, Special Counsel, Dentons, PNG

Speakers: Peter McQueen, Independent Arbitrator and Mediator; Abhinav Bhushan, Director – South Asia, ICC Arbitration and ADR International Court of Arbitration, ICC; Fedelma Claire Smith, Senior Legal Counsel and PCA Representative in Singapore, PCA; Daniel Kalderimis, Partner, Chapman Tripp

**B. Concurrent Breakout Session for Private Sector: CONTRACTING WITH FOREIGN PARTIES AND CROSS-BORDER DISPUTE RESOLUTION**

Moderator: Prof. Khory McCormick, Vice President, ACICA

Speakers: Rio Fiocco, President, Port Moresby Chamber of Commerce & Industry; Koh Swee Yen, Partner, WongPartnership LLP; Shai Wade, Partner, Stephenson Harwood LLP; Hyungkeun Lee, Partner, Yulchon LLC

**C. Concurrent Breakout Session for Judges: IMPLEMENTATION OF THE NEW YORK CONVENTION – JUDICIAL PERSPECTIVE**

Moderator: Hon. Deputy Chief Justice Ambeng Kandakasi, CBE, Supreme and National Courts of Justice of PNG

Speakers: Hon. Justice Jeffrey Leonard Shepherd, Supreme and National Courts of Justice of PNG; Hon. Justice Leiatualesa Daryl Clarke, Supreme Court of Samoa; Hon. Justice Suresh Chandra, Justice, Supreme Court of Fiji, and Resident Justice of Appeal, Court of Appeal of Fiji; Julian Cohen, Barrister and Arbitrator, Gilt Chambers; Daniel Meltz, Barrister, 12 Wentworth Selborne Chambers, and International Arbitration Consultant, ADB

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4:10 p.m.–4:30 p.m.

**TEA/COFFEE BREAK**

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4:30 p.m.–5:10 p.m.

**Session 11: NEW DEVELOPMENTS IN DISPUTE RESOLUTION**

- Hybrid dispute resolution processes (Med-Arb)
- International arbitration developments (third party funding, cross-institution consolidation, code of ethics, and other developments)

Moderator: **Christina Pak**, Principal Counsel, ADB

Speakers: **Kevin Nash**, Deputy Registrar and Centre Director, SIAC; **Wesley Pang**, Managing Counsel, HKIAC; **Abhinav Bhushan**, Director – South Asia, ICC Arbitration and ADR International Court of Arbitration, ICC; **Catherine Green**, Executive Director, NZIAC; **Prof. Khory McCormick**, Vice President, ACICA; **Steven Finizio**, Partner, Wilmer Cutler Pickering Hale and Dorr LLP

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5:10 p.m.–5:30 p.m.

**Session 12: CONCLUDING REMARKS AND RECOMMENDATIONS**

- ADB's Technical Assistance: Promotion of International Arbitration Reform for Better Investment Climate in the South Pacific
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5:30 p.m.–6:30 p.m.

**INTERVAL – FREE TIME**

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7 p.m.–9 p.m.

**DINNER – APEC HAUS**

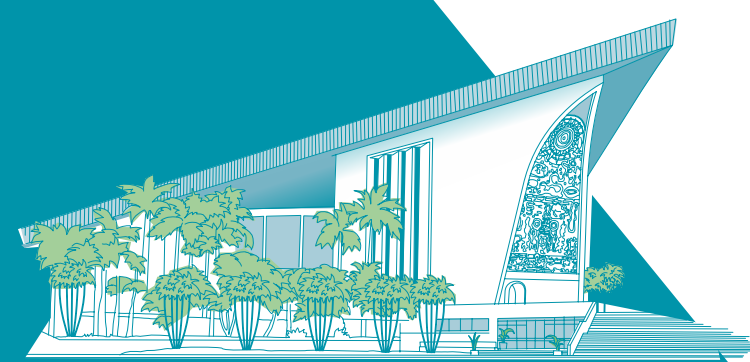
Sponsored by PNG Judiciary

Entertainment – Bamboo Band

Dress Code: Tropical Formal

# 2

## Background Paper



The South Pacific region is one of the last few regions in the world without an effective legal framework to resolve cross-border commercial disputes through international arbitration. This form of cross-border dispute resolution and enforcement regime is fundamental to foreign investment and trade. The absence of an international arbitration framework increases the risks and cost of doing business and stifles the economic growth potential of the region. International arbitration can also play a critical role in attracting more international climate finance and climate investments into the South Pacific region.

### **What is International Arbitration?**

International arbitration is a private dispute resolution mechanism that involves parties from different countries submitting their dispute to a neutral arbitrator or a panel of neutral arbitrators, who then render a decision in the form of an arbitral award that is capable of enforcement in 159 countries under the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (the “New York Convention”).

### **Advantages of International Arbitration**

In recent decades, international arbitration has become the preferred means of resolving international commercial disputes all over the world. International arbitration is preferred over litigation in the national courts because it offers certainty for commercial parties and allows parties greater autonomy to manage the risks involved in cross-border transactions. In particular, international arbitration provides parties with major advantages such as: (i) flexibility and ability to choose neutral forum, impartial arbitrators with subject matter expertise, procedure and governing law; (ii) confidentiality and privacy; (iii) cost-effectiveness; and (iv) finality and ability to enforce a foreign arbitral award in 159 countries pursuant to the New York Convention.

## Legal Framework for International Arbitration

There is already a well-established legal infrastructure in place for international arbitration, namely, (i) the New York Convention, and (ii) the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration (“UNCITRAL Model Law”). Both these instruments are relatively easy to adopt and have potentially outsized benefits for South Pacific countries. By adopting these two instruments, such countries can quickly establish a framework for resolving international commercial disputes by arbitration (or reform any existing frameworks in accordance with accepted international practices) and reap the corresponding benefits.

## Current Status in the South Pacific Countries

Currently, a majority of the South Pacific countries are not party to the New York Convention—out of 15 countries, only Cook Islands, Fiji, and Marshall Islands have acceded to the New York Convention. The following South Pacific countries have not signed onto the New York Convention: Kiribati, Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu. Moreover, many South Pacific countries do not have the domestic legal frameworks to support the recognition and enforcement of international arbitration agreements and foreign arbitral awards.

## ADB’s Technical Assistance on International Arbitration Reform in the South Pacific

Asian Development Bank (ADB), through the Office of the General Counsel’s Law and Policy Reform Program, implements a regional technical assistance entitled “*Promotion of International Arbitration Reform for Better Investment Climate in the South Pacific*” (the “TA”). The TA aims to establish an effective commercial dispute resolution regime in ADB’s Pacific developing member countries (DMCs) through international arbitration reform to boost regional and international investor confidence to lead to greater foreign direct investment and cross-border trade in the region. The TA has been assisting ADB’s Pacific DMCs to: (i) accede to the New York Convention; (ii) modernize existing arbitration law or draft new international arbitration law based on the UNCITRAL Model Law to implement the New York Convention and reflect international best practices; and/or (iii) provide related capacity building to the users and implementing parties. Under the TA, ADB has been supporting the governments of its Pacific DMCs to implement international arbitration reform, assisted by a dedicated team of international arbitration experts and in collaboration with UNCITRAL’s Regional Centre for Asia and the Pacific.

## **Second South Pacific International Arbitration Conference, 25–26 March 2019, Port Moresby, PNG**

To raise awareness and discuss the positive development impact of international arbitration reform in the South Pacific, the Government of Papua New Guinea, in conjunction with ADB, UNCITRAL Regional Centre for Asia and the Pacific and other development partners and arbitral institutions, will be hosting the Second South Pacific International Arbitration Conference (the “Conference”). The Conference will be attended by key government officials, policy makers, development partners, judges, law practitioners, and private sector participants from the South Pacific region, as well as international speakers. The Conference will also provide in-depth knowledge on the practical aspects of different type of disputes in the region and globally. There will also be specialized interactive concurrent breakout sessions tailored for different stakeholders such as private sector, law practitioners and judges.

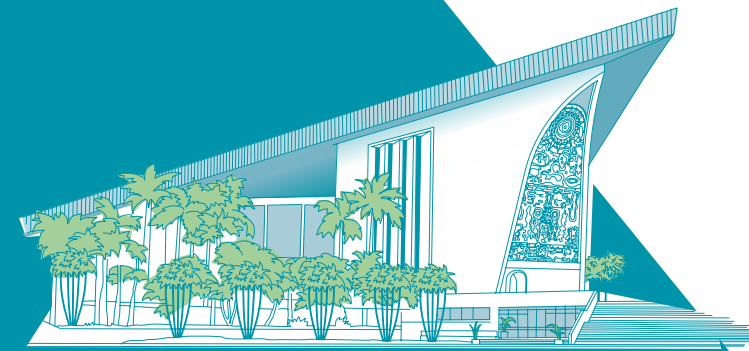
Conference topics will include:

- the promotion of confidence in international business through building on the rule of law, in particular, international arbitration reform;
- a “*Journey through International Arbitration*” designed to walk participants through the process of a typical international arbitration;
- introduction to international commercial arbitration;
- New York Convention and the South Pacific Countries;
- disputes in the South Pacific region, particularly on energy (including renewable energy), construction, financial sector and climate change;
- tailored breakout sessions for lawyers, judges and private sector/businesses; and
- new developments in dispute resolution, including hybrid dispute resolution processes, third party funding, cross-institution consolidation and code of ethics.

There will also be a special *Breakfast Session: Women in International Commercial Arbitration* to encourage more women to enter this interesting and rewarding field and companies and tribunals to select more women arbitrators. Both women and men are welcome!

# 3

## Opening Speeches



### OPENING ADDRESS

By Honorable Peter Charles Paire O'Neill  
CMG MP, PRIME MINISTER, PNG

I am very glad to be here today but firstly, let me acknowledge the presence of the Chief Justice of Papua New Guinea Sir Gibbs Salika, the Deputy Chief Justice Judge Kandakasi, the Judges of the Supreme Court and National Court of Papua New Guinea, all the other distinguished guests who are here today. Thank you very much for taking time to come and visit Papua New Guinea and be here with us today.

This is certainly the first international conference on mediation and arbitration to be held in our country. In that respect, I congratulate the Deputy Chief Justice, Justice Ambeng Kandakasi, and his committee for bringing this work together to ensure that this conference takes place in our country.

But I understand that it is going to be the first of many more international legal conferences that will be held in our country which will include the Commonwealth Magistrates' and Judges' Association Conference later in September.





These events are very much important for Papua New Guinea as well. This is not only coming at the back of an event such as the APEC which we held last November but more importantly, it is important for our emerging economy in our country and a growing development agenda for our country that compels us to discuss more policy agenda issues including those in the Judiciary. This is also the first time that PNG Judiciary, the Department of Attorney General and Justices, PNG Law Society, the Asian Development Bank and of course all the other partners have been able to come together to ensure that this conference takes place and succeeds.

The theme of the conference, which is “Enhancing the Rule of Law and Increasing Business Confidence in a Globalized Economy,” is very much relevant today, not only for the development of our country, Papua New Guinea, and the region, but as a global agenda.

When an international business community and the international investors look to place their investments, they look for confidence, and of course the legal system is one they very much look at so that they can have the confidence to invest their resources or their capital in any economy. For too many years, especially in our country, we have seen the lack of international confidence because of issues which compel them to make decisions which are going to ensure that their investment is safe and transparent and accountable. The particular issues about mediation and transparency process is very important to their decision making. The reality is that we are part of a global economy where we compete for investments and business. Therefore, clear and transparent mediation and arbitration process enabling effective resolution of commercial and other disputes is very much necessary. This enables businesses and of course our people to have confidence in the rule of law, and any economy that processes dispute resolution in a more transparent and effective manner will instill confidence. We are seeing very many positive changes taking place in our legal infrastructure in our country. This change is very independent of politics and is very much enshrined in the rule of law.

The conference today, I understand, brings more than 30 experts in the field of mediation and arbitration. Again, this will strengthen not only Papua New Guinea’s processes but also the region’s. We already have a very functional mediation process in our country today, but we are making it even better. When you think about it, we have one of the most important mediation processes already underway in our country.

In the 1990s and of course early 1980s, our country had to deal with internal conflicts like that in Bougainville. We had many lives lost and communities destroyed. But through our mediation process, we were able to develop what we call the Bougainville Peace Agreement, and the goodwill of our people was very much restored. And now we are working towards a lasting peaceful solution.

Our people in Bougainville will have a referendum in October so that we can hear their voices. This is again a mediation process that is very much installed in the cultural being of our society. We come from many different diverse communities and for thousands of years, our communities have resolved their disputes and their differences by way of mediation. In fact, there was actually no written law for thousands of years. But Papua New Guinea Judiciary is now providing that leadership and facilitating this process. That is now empowering our communities right throughout the country. But this process of mediation is also important for our businesses, both big and small, for every aggrieved person in our community to be heard.

Our next step is making sure that we take the international and domestic arbitration process to the next level. We are committed to the process of the United Nations Convention, which recognizes the enforcement of awards under the New York Convention. In fact, our country's cabinet made a decision in November last year that we will now formally accede to this convention.

The Arbitration Technical Working Committee, made up of key government departments, is now producing a draft Arbitration Bill which will be ready for consultation to complete the process. This committee includes the PNG Judiciary with the support and input of ADB, the United Nations Commission on International Trade Law, and other international bodies. And of course after the completion of the consultation process, we will take it to Parliament and have it enacted well before the end of this year.

The PNG Judiciary has also taken steps to make sure that the arbitration process continues to work in our country by providing the necessary facilities and annexing arbitration to court proceedings. This is to ensure that there are appropriate practices taking place in the arbitration process. The cases that have an arbitration clause will also be identified and removed from the court list and placed on the court's arbitration list. Our Judiciary is also establishing a list of approved persons to conduct both international and domestic arbitration and this will include some of the most experienced and eminent individuals who are also attending this conference today. I welcome you to Papua New Guinea.

The issues that are going to be covered in this conference are central to our nation's acceptance of the New York Convention. Equally, it is accepted as a national commitment by our country so that we can have a clear and transparent dispute resolution process. I think everyone agrees that going to courts to resolve disputes should always be the last resort. It is quite a costly exercise for all parties. But with a clear set of processes and trusted people mandated to arbitrate, all parties should have a better outcome.

Today, we live in a very much complicated world with many global issues becoming local issues. Topics, such as climate change and rising sea levels, which are already big concerns in factories in Europe, America, and Asia, are also matters of equal importance to our courts today.

I am certain that our Climate Change Development Authority will give you more details about these issues during the course of this conference. But again, your conference program also has a very good number of opportunities for you to have a pleasant experience in our country. There are dinners, cultural performances, and of course, tours. I encourage especially our international guests to take advantage of these opportunities to maximize your time here.

Our country has diverse cultures and incredible destinations that you will enjoy. But our country, as you know, saw a lot of changes taking place in recent years. That is because we have very good stability in the judiciary, and both also at the political and bureaucratic levels.

This is now becoming a hallmark for a modern Papua New Guinea. Before, governments would change every 24 months. But we have had only 1 change in the last 20 years. This stability creates a platform in which the legal fraternity can ensure that they have certainty. That certainty will make sure that we have confidence in the community and confidence in business. That is why it is important that this conference comes out with very positive outcomes that will guide us in the succeeding years.

Once again, let me take this opportunity to welcome each and every one of you to this conference. Welcome to Papua New Guinea. It gives me great pleasure today to declare the International Mediation and Arbitration Conference of 2019 in Papua New Guinea officially open. Thank you very much and best wishes.

# OPENING ADDRESS

By Damien J. Eastman

ASSISTANT GENERAL COUNSEL, ASIAN DEVELOPMENT BANK

The Honorable Prime Minister, Peter O’Neill, the Honorable Chief Justice Gibuma Gibbs Salika, the Honorable Deputy Chief Justice Ambeng Kandakasi, the Honorable members of the Judiciary, dignitaries, distinguished guests, ladies and gentlemen. Good morning. My name is Damien Eastman. I am an Assistant General Counsel in the Office of the General Counsel of the Asian Development Bank. I am honored to be here this morning.

ADB is honored to be partnering with the PNG Government, the PNG Judiciary, UNCITRAL and other development partners to bring all of you together for this Second South Pacific International Arbitration Conference.

This is truly a remarkable gathering of key government officials, policy makers, judges, lawyers, private sector and development partners, as well as world’s foremost experts on international arbitration and rule of law. We have come together for the next few days to continue a dialogue with the object and purpose of helping lift barriers to foreign direct investment and regional and international trade in the South Pacific region.

In my remarks this morning, I will cover three points. First, I want to take this opportunity to highlight the broader partnership between Papua New Guinea and the ADB. Second, I want to speak to ADB’s commitment to our South Pacific developing member countries, and finally, I will say a few words about how that commitment is translated into tangible initiatives, such as this technical assistance project to promote international arbitration reform for a better investment climate in the South Pacific.



I begin by taking the opportunity to highlight the long-standing partnership between Papua New Guinea and ADB, which began in 1971. PNG is ADB's largest Pacific developing member country (DMC) in terms of landmass, population, as well as gross domestic product. ADB is PNG's largest multilateral development partner and it provides lending and technical assistance with a focus on the development and improvement of transport and energy infrastructure, health services, and private sector participation.

To provide a few highlights, ADB is supporting PNG's health care services through policy reforms and direct investments in health systems, where ADB has committed \$195 million to an ongoing development program. ADB is administering a \$5 million grant from the Strategic Climate Fund and \$3 million from the Government of Australia to climate proof a provincial wharf in Milne Bay Province. ADB mobilized funds for relief supplies in provinces that were affected by the earthquake earlier in 2018. ADB looks forward to the continued prosperous partnership with PNG in the years to come.

Turning to ADB's commitment to our South Pacific developing member countries. For almost half a century, ADB has worked to support growth and development in the South Pacific region. This region comprises almost one-third of ADB's developing member countries. ADB has more than 65 ongoing projects across our Pacific member countries, with financing exceeding \$2.6 billion. This is a five-fold increase over our \$500 million portfolio in 2005. I am also pleased to note that ADB is now the Pacific's largest single source of renewable energy financing.

As has been mentioned, the private sector is the primary engine for growth and job creation. In this vein, ADB is working with its Pacific members to improve the business environment, supporting inclusive and private sector-led economic growth. This work is supported by the Governments of Australia and New Zealand both of which have co-financed a Private Sector Development Initiative, which has supported a range of reforms in the Pacific region, including in PNG, such as improving the reliability and security of PNG's Companies Registry by using cloud technologies. ADB's team also helped deliver PNG's first National Competition Policy, which provides definitive policy statement on the government's commitment to competition principles.

Alongside ADB's operations, ADB's Office of the General Counsel oversees a Law and Policy Reform Program (or LPR), in which we design technical assistance projects to work with our DMC partner governments. These projects are aimed at modernizing legal systems to encourage investment and trade, facilitate commercial activity, and build the capacity of their judicial, regulatory and administrative institutions.

In the area of Financial Law and Regulation, we are working with our Pacific DMCs to strengthen their legal and institutional systems to combat money laundering and the financing of terrorism. In PNG, we assisted private sector institutions in conducting customer due diligence and other AML/CFT preventive measures that are consistent with international best practice. In the area of Environment, Climate Change and Sustainable Development, we are helping to strengthen the legal frameworks of our DMCs to attract more international climate finance to help them achieve their commitments under the Paris Agreement. For all of us in ADB's Office of the General Counsel, we are proud to be involved in these Law and Policy Reform initiatives, and we feel that these are the kinds of activities that make a difference.

That brings me to my third and final point, which is the initiative to promote international arbitration reform in the South Pacific region. The South Pacific is one of the last few regions in the world without an effective legal framework to resolve cross-border commercial disputes through international arbitration. This form of cross-border dispute resolution and enforcement regime is fundamental to foreign investment and trade. The absence of an international arbitration framework increases the risks and cost of doing business and stifles the economic growth potential of the region.

To assist our Pacific DMCs in putting in place an appropriate legal framework, ADB's Office of the General Counsel launched a technical assistance project at the beginning of 2017. One significant outcome of this work has been the enactment of Fiji's International Arbitration Act 2017. I would like to take this opportunity to congratulate the authorities of Fiji, some of whom are with us today, for this tremendous achievement.

Another significant outcome is the approval by the National Executive Council (Cabinet) of the policy paper on accession to the New York Convention in PNG. We have also just heard from the Prime Minister that PNG will take the necessary steps to accede to the New York Convention and enact implementing arbitration law by the end of this calendar year.

ADB's Office of the General Counsel is also working with other South Pacific countries on (i) acceding to the New York Convention, (ii) putting in place the necessary domestic laws to support the New York Convention; and (iii) providing capacity building to the private sector as users, as well as the judges and lawyers as implementing parties. I tip my hat to our friends and colleagues at UNCITRAL, and all of the development partners, who have also been instrumental in working towards these objectives. So, there's lots of work to do and we look forward to collaborating with all of the key stakeholders to meet these challenges.

I will conclude by saying that over the next two days, we will hear from some of the foremost experts in the world on international arbitration and legal reform, discuss the issues and challenges, and share knowledge on best practices. Let's all use this incredible opportunity to work together towards common objectives that can produce substantial benefits to the people and countries of this region.

I also want to convey our special thanks to the people, and to the Government of Papua New Guinea, as well as to the PNG Judiciary for hosting us and for their generous and gracious hospitality.

So again, on behalf of ADB, I thank you all for coming to this conference and for your commitment to this region. I look forward to meeting and speaking with you all over the course of the next two days.

“TENK YU TRU”

# OPENING ADDRESS

By Athita Komindr

HEAD, UNCITRAL REGIONAL CENTRE FOR ASIA AND THE PACIFIC

*The Honorable Prime Minister,  
The Honorable Chief Justice, the Honorable Deputy Chief Justice,  
Honorable Justices from PNG and around the Pacific,  
Distinguished Speakers and Guests,*

It is an honor to be here this morning in beautiful Papua New Guinea amongst friends and key partners in the South Pacific. The United Nations Commission on International Trade Law (UNCITRAL) places great importance on this thriving region. This is my first engagement as newly appointed head of UNCITRAL's Regional Centre for Asia and the Pacific (RCAP), and my coming here after having been in RCAP's office in Incheon, Republic of Korea, for only a week, signifies UNCITRAL's continued confidence and belief in the positive development impact that commercial law reforms and legal harmonization would bring to the South Pacific region.

As the Prime Minister underlined, the theme for this conference is: "Enhancing the Rule of Law & Increasing Business Confidence in a Globalized Economy." UNCITRAL's central mandate of promoting the progressive harmonization and modernization of international trade law supports this theme perfectly. In an increasingly economically interdependent world, an improved legal framework to facilitate international trade and investment serves to enhance business confidence. UNCITRAL plays an important role in developing that framework by preparing and promoting the use and adoption of legislative and non-legislative instruments, as well as providing technical assistance and capacity-building, in key areas of commercial law including MSMEs, dispute resolution, international contract practices, transport, insolvency, electronic commerce, international payments, secured transactions, procurement and sale of goods.





The area of dispute resolution, central to this conference, has been a long-standing item on UNCITRAL's work programme. In this context, UNCITRAL's key instruments are well known to practitioners of international trade and commercial law, starting from the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), the 1976 UNCITRAL Arbitration Rules, the 1980 UNCITRAL Conciliation Rules, the Model Law on International Commercial Arbitration of 1985, as amended in 2006, and so forth.

More recently, the work of UNCITRAL has reached beyond purely commercial arbitration, with the adoption in 2014 of the Rules on Transparency in Treaty-based Investor-State Arbitration, and the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention), in force since 18 October 2017. The careful and effective work done by UNCITRAL on the Mauritius Convention eventually persuaded member States that UNCITRAL was also the proper forum for hosting a much broader and potentially far-reaching discussion, namely: the feasibility and desirability of a reform of the current investor-State dispute settlement system, which is the topic under consideration at UNCITRAL Working Group III. This is a consensus-based process led by governments, and the Secretariat has been asked to ensure that the views of practitioners, industry, academia and civil society are also heard and the work moves ahead in a transparent and inclusive fashion.

*Ladies and Gentlemen;*

I would also like to draw your attention to UNCITRAL's most recent instruments in the field of dispute resolution, namely, the United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Mediation Convention) and the Model Law on International Commercial Mediation, both of which were adopted by UNCITRAL in 2018.

The use of mediation as a preferred option to amicably settle commercial disputes has increased considerably since the adoption of the UNCITRAL Conciliation Rules and the Model Law on Conciliation. However, despite these benefits, the lack of a harmonized special mechanism to enforce settlement agreements until now has limited the effectiveness of mediation as a tool for resolving international disputes. As those in the field of arbitration well know, enforceability lies at the heart of the New York Convention which currently has a global reach of 159 states. Against this backdrop, the Singapore Mediation Convention and the Model Law on International Commercial Mediation have been produced aiming to provide an effective mechanism for parties seeking cross-border enforcement of a settlement agreement reached through mediation with other parties and concluded in writing.

Simply put, the Singapore Mediation Convention will essentially put mediation on equal footing with arbitration and provide yet another alternative for resolving commercial disputes in a manner ensuring that business relationships are preserved and not unnecessarily severed. It will also allow those cultures and legal traditions, such as the ones present in this room today, to cultivate less adversarial methods and to give full effect to their preference for mediation and conciliation.

The Singapore Mediation Convention will be open for signing at a ceremony in Singapore on 7 August 2019. UNCITRAL urges your governments to consider becoming early signatories to the Convention, as being among the first would show strong commitment and leadership in international trade and commerce to trading partners, businesses, and foreign investors. The signing ceremony is intended to be a ministerial event with a high-level panel discussing the Singapore Mediation Convention. If a representative from your government would be interested in signing the Convention or attending, please contact me for more details.

With your indulgence, I would now like to end by returning to the beginning.

The inaugural event of the South Pacific International Arbitration Conference was held last year in Fiji, and was earmarked by successful collaboration between the Government of Fiji, UNCITRAL, and our important partner ADB which led to the enactment by the Fijian Parliament of the International Arbitration Act 2017 implementing Fiji's obligations under the New York Convention. UNCITRAL hopes to help bring about further successes of similar magnitude in the South Pacific region. We welcome the promising indications by the Prime Minister that developments on accession to the New York Convention may soon take place here in Papua New Guinea, where UNCITRAL along with ADB have been providing technical assistance on commercial law and arbitration reform for some years. UNCITRAL stands ready to provide technical assistance needed for continued successful legal reforms in the South Pacific region.

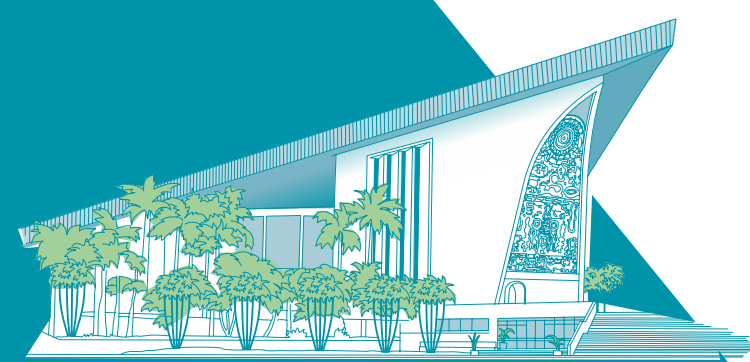
I thank you very much for your attention and wish you a very productive Conference.

# 4

## Keynote Address

By Chief Justice Gibuma Gibbs Salika

GCL, KBE, CSM, OBE, CHIEF JUSTICE OF  
PAPUA NEW GUINEA



PNG is no longer an isolated island nation tucked away hidden at the western end of the mighty Pacific Ocean. It might have been up to the end of 20th century a patriotic PNG. I can confidently say that PNG is geographically placed in close proximity between Australia and New Zealand to the South, Indonesia and other Asian countries to the North and North East of it, and the smaller Pacific nations to the East and North East. PNG in my respectful opinion is ideally located to be not only a player in global economy but a major player at that. In that regard PNG is well placed to be a globalized economy in terms of its economic activities between all the countries that PNG trades with and has business communications with.

The theme of the conference, “Enhancing the Rule of Law and Increasing Business Confidence in a Globalized Economy,” is specifically selected because this is a theme for the law and justice sector agencies to address and the PNG Judiciary is at the forefront of such law and justice sector. This is the area of interest that the business and the commerce world is interested in as to the capacity and capability of the PNG Judiciary as an institution to enhance business confidence in PNG. The business and the commercial world, before investing in PNG, must know in advance that if they come and invest their money in PNG, their investments will be sound and secure and that they are not making a mistake.

For the benefit of those who come to PNG to do business, I assure you that PNG has a vibrant independent judiciary, capable of dealing with and resolving any dispute that may arise between your company and the government or any other party for that matter. In that regard, the Judiciary has a specialized commercial track which deals with commercial cases that come before it. The specialized commercial track has a judge manager and two other judges who deal with those matters. There may be a need to increase that number depending on the volume of cases we receive at the registry.



Apart from the commercialized court track, the court has five other civil courts that deal with other civil litigation matters. Of the five, two are general civil track courts that deal with other variety of civil cases. One of the civil tracks is exclusively to deal with all state matters. I have plans to increase that one court to possibly two or three courts dealing with all state matters. The other civil courts are responsible for all judicial review cases. There are two full-time judges and one part-time judge dealing with all judicial review matters. The judge manager for that track has dedicated one more full-time judge on that track. The decision on that request will be considered positively if the workload warrants it.

This takes me to the last civil track responsible for mediation and arbitration. This is the critical track that our business and commercial investors will be most interested in. This civil court litigation track is managed by a judge and is assisted by another judge. It is in this track that parties indicate whether they want their conflict to be mediated. The parties there make that mediation to those two judges managing the track. Where the parties do not ask for mediation, the court will suggest the matter to go to mediation or arbitration. Mediation before litigation in court has almost become compulsory. The parties are urged to try mediation first before going to court.

We have trained a pool of PNG-accredited mediators internally, who are capable of mediating disputes that come before the courts. We also have a pool of overseas-accredited PNG mediators, who are also capable of mediating disputes. We are training more mediators to mediate disputes that come before these courts. We are very confident our mediation facility is fully functional with the PNG judiciary providing the necessary facilitators and leadership. The use of mediation to resolve conflicts is achieving the desired outcomes. We are not only seeing, but we are also experiencing, the joy in the faces of disputing parties after reaching an agreement at mediation. When this happens it means that the dispute or conflict is resolved fast by the disputing parties themselves with the help of some mediator and that the dispute is resolved efficiently with less cost and the agreement the parties reach are binding on themselves.

Mediation is indeed a better way, faster, less time consuming, cost saving, efficient, effective and increases user satisfaction. It is already working well in PNG. I recommend to the lawyers representing your clients in business and commerce to give mediation the chance it deserves. I further recommend it to the business and commercial community, both national and foreign enterprises, mighty and small to try mediation in our court annexed mediation case track. You will be pleasantly surprised with what you can achieve there.

Our Judiciary's mediation case track is returning results that I must say with much confidence enhances the rule of law. The rule of law is only enhanced when the institution of government responsible for delivering justice in an efficient, timely and cost effective manner is in fact delivering those services. We are delivering those services through mediation. The keeping of the rule of law in PNG, dare I say, is in good hands.

As alluded to by the Prime Minister in his opening speech, making international and domestic arbitration functional in PNG is next on the agenda. The Judiciary in PNG has taken steps to enable international and domestic arbitration functional in PNG by:

- (a) committing the necessary facilities for arbitration as an annex to the courts;
- (b) promulgating appropriate practice directions for arbitration;
- (c) identifying cases in the courts' lists that have an arbitration clause, for those cases to be removed from the courts' lists and placed instead on the courts' inaugural arbitration list; and
- (d) establishing a List of Approved Arbitrators who can conduct both international and domestic arbitrations. Some of the most experienced and eminent international arbitrators attending this Conference are on this list.

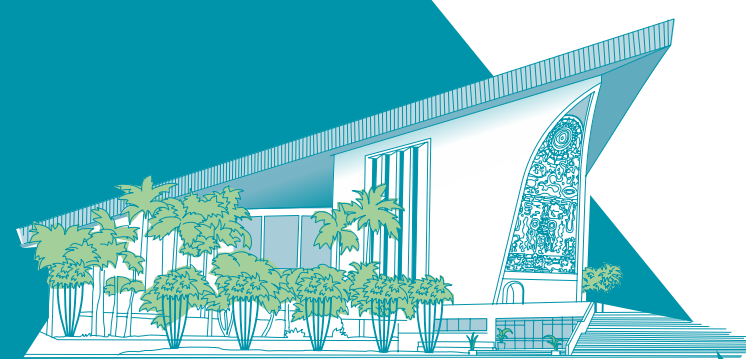
The Conference will take us through an exciting and informative arbitration and mediation journey, starting with a discussion of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and its Model Law of 1985. The program will take us further to topics such as resolution of international construction, financing, and other commercial disputes, a session on how arbitration is initiated and concluded, and how the brain can be used to find lasting solutions with the guidance of a trained mediator. There will also be sessions on how to assist parties to a dispute to work together to generate options that will enable them to resolve their issues in a lasting way, without going to trial in the court room. Also included in the topics are the current global issues of climate change and rising sea levels and the possible conflicts these issues create and their resolution through arbitration or mediation.

The Conference gives our visitors the chance to get a taste of PNG through wining and dining, cultural entertainment, and tours. Like our Prime Minister did, I also encourage our esteemed international guests to make the maximum use of available opportunities for networking so that you can get a better understanding of our country, PNG, and I do hope you can return to do business or visit as a tourist to see more of PNG and what PNG offers.

May you all have a wonderful PNG experience and God bless.

# 5

## Opening Speakers



### PETER CHARLES PAIRE O'NEILL



**Mr. Peter Charles Paire O'Neill**, CMG MP is the prime minister of Papua New Guinea. He served as minister for labour and industrial relations (2002–2003), minister for public service and leader of government business (2003–2004), and minister for public service (2007 to present).

He has a bachelor's degree in accountancy and commerce and an honors degree in accountancy from the University of Papua New Guinea. He became a certified practicing accountant in 1989 and president of the PNG Institute of Certified Practicing Accountants the year after. He was a partner in Pratley and O'Neill Accounting Firm and executive chairman in a number of public and private institutions.

## DAMIEN J. EASTMAN



**Mr. Damien J. Eastman** joined the Asian Development Bank in 2014 as Assistant General Counsel for Institutional and Administrative Affairs. He oversees the Institutional and Administrative Team, which provides legal advice and support on a wide variety of institutional, operational and administrative matters at the ADB, including advice on ADB's institutional governance and its legal framework; ADB's privileges and immunities, external litigation and arbitration; government relations; institutional procurement; and ADB staff grievances and disciplinary procedures, HR policies, ADB's internal staff rules and regulations, staff benefits, and pension matters.

Prior to joining ADB, Mr. Eastman spent more than 10 years in the Legal Department at the IMF in Washington, DC, where he advised on the Fund's legal relations with its member countries and other international organizations and was responsible for the oversight of the Legal Department's internal governance advisory group. In his role as a country lawyer, Damien was the Fund's lawyer for a number of European crisis programs and various HIPC debt relief operations in Africa and Asia. He also developed an expertise in the area of sovereign debt litigation and restructuring.

Before the IMF, Mr. Eastman practiced law in Sydney with Allens-Linklaters (1997–2000), and in London with Freshfields Bruckhaus Deringer (2001–2003) where he specialized in corporate and commercial litigation, international law and international arbitration. An Australian national, he holds a Master of Laws (LL.M) from Harvard Law School, and degrees in Arts (BA) and Law (LL.B, 1st Class Honors) from the University of Sydney and the University of Technology, Sydney. He is admitted to practice law in Australia, England, and Wales.

## ATHITA KOMINDR



**Ms. Athita Komindr** is head of the UNCITRAL Regional Centre for Asia and the Pacific. She manages UNCITRAL's technical assistance and capacity building programming available to over 50 states in Asia and the Pacific, namely least developed, landlocked developing and small island developing states. In that capacity, she coordinates with governments and international and regional organizations with respect to trade law reform activities. She also manages programmes to promote the rule of law in commerce in the context of UN Partnership Framework Agreements with the Lao PDR and Papua New Guinea, aimed at achieving the Sustainable Development Goals.

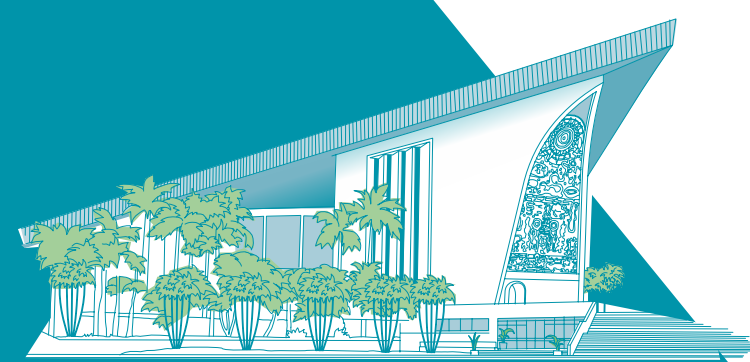
Ms. Komindr has over a decade of experience in the fields of international trade and economic law, arbitration, multilateral dispute resolution, negotiations and diplomacy, and the rule of law and development. Prior to joining the United Nations, Athita mainly advised and worked with numerous Thai agencies, including the Thailand Institute of Justice, the Thai Ministry of Science and Technology, and the Thailand Arbitration Center, where she managed the Arbitration and Legal Affairs Divisions. She also worked for the Thai Ministry of Commerce in Bangkok (2002–2005) and Geneva (2005–2010), representing Thailand in bilateral, regional, and multilateral trade negotiations, WTO dispute settlement, and treaty drafting.

Admitted to the New York Bar since 2002, Ms. Komindr has experience in both common and civil law traditions in the public and private sectors, and holds degrees from Harvard College, Georgetown University Law Center, and Harvard Law School.



# 6

## Keynote Speaker



### CHIEF JUSTICE GIBUMA GIBBS SALIKA



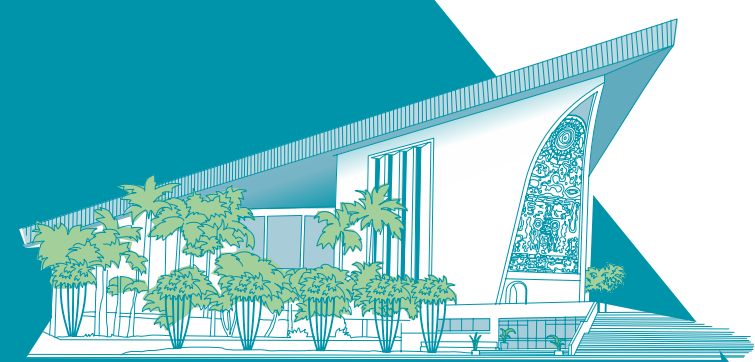
**Chief Justice Gibuma Gibbs Salika**, GCL, KBE, CSM, OBE is the chief justice of Papua New Guinea. He graduated with a Bachelor of Laws degree from the University of Papua New Guinea in 1978. He was admitted to the bar in 1979.

He worked at the Office of the Public Prosecutor, serving as a state prosecutor for more than 6 years, before being appointed as a magistrate (in 1988), and later as a judge of the National Court and Supreme Court of Papua New Guinea (in 1990). To date, he has served as a judge for 29 years, 9 years of which he has served as deputy chief Justice.

He is an elder of the Seventh Day Adventist Church and is the president of the PNG chapter of the International Religious Liberty Association.

# 7

## Moderators and Panel Speakers



### ABHINAV BHUSHAN



**Mr. Abhinav Bhushan**, as Director for South Asia of the ICC Arbitration and ADR International Court of Arbitration, ICC, focuses on helping companies, investors, and attorneys in the region understand how they can efficiently resolve international commercial disputes by raising their awareness on the ICC's Dispute Resolution Services and its commitment to international arbitration, the procedure, and thought leadership. Prior to serving as director, as the Court's first Indian Director, he was also the first Indian Deputy Counsel of the Court, where he gained first-hand experience working on arbitrations arising out of common law jurisdictions, in particular working with parties from the United Kingdom, India, Singapore and other regions of Asia. Mr. Bhushan is a regular contributor to various publications on developments in international arbitration and Indian arbitration law. He is also an avid promoter of arbitration-related training opportunities for lawyers, corporate counsels, judges and other important stakeholders.

Additionally, Mr. Bhushan is the co-chair of ICC Young Arbitrators Forum (YAF), Asia Chapter. Further, as part of the ICC's initiative to develop arbitration in India and South Asia, he advises and engages with the law firms, practitioners and users on the procedures and practices of international arbitration, especially ICC arbitration. Before joining the ICC, Mr. Bhushan completed his LLM at the Columbia Law School and earned a certificate in foreign and comparative law. He was also a member of the Columbia International Arbitration Association and a research assistant. He earned his first law degree from the Government Law College, Mumbai, India. Upon graduation, he worked as an associate with Mulla & Mulla & Craigie Blunt & Caroe, in Mumbai, India.

## JUSTICE SURESH CHANDRA



**Justice Suresh Chandra** serves as a judge of the Fiji Supreme Court and a resident justice of appeal of the Fiji Court of Appeal, after retiring from his position as judge of the Supreme Court of Sri Lanka in 2012. He is also the national coordinator of the National Judicial Education Committee, the chairperson of the Fiji Law Reports Committee, as well as a committee member and accredited mediator of the Fiji Mediation Centre.

Justice Chandra obtained his LLB and LL.M. from the University of Colombo and did private practice from 1972 to 2008. He served as a consultant to several leading banks and institutions, including the United States Agency for International Development (USAID) and the World Bank. He was also the deputy permanent representative of Sri Lanka to the United Nations in New York in 2009 and a member of the panel of arbitrators of the Sri Lanka National Arbitration Centre.

Justice Chandra has been a resource person for the International Labour Organization, the International Organization for Migration, the Sri Lanka Bar Association, and the Sri Lanka Judges' Institute. He also taught at the Faculty of Graduate Studies of Colombo University, the Open University of Sri Lanka, the Sri Lanka Law College, and the University of Moratuwa.

## JUSTICE LEIATAUALESA DARYL CLARKE



**Justice Leiatuaalesa Daryl Clarke** of the Supreme Court of Samoa is a graduate of the Australian National University and the University of Canberra. He was admitted as a Barrister and Solicitor to the Supreme Court of the Australian Capital Territory in 1998. He practiced both in government and private practice in Canberra Australia.

In 2002, Justice Clarke returned to Samoa and joined the Attorney General's Office as Principal State Solicitor leading the Attorney General's Office Civil Team responsible for constitutional, commercial and civil litigation. In 2003, he was appointed Assistant Attorney General.

In 2006, Justice Clarke joined the private practice and practiced law in the full gamut of legal matters, both commercial and criminal. In January 2016, he was appointed to the District Court and in December 2016, the Supreme Court.

Justice Clarke has a passion for the important role of NGOs in small communities. He was Vice President of the Samoa Chamber of Commerce and Industry, Vice President of the Samoa International Cricket Association and President of the Samoa Cancer Society for many years.

## JULIAN COHEN



**Mr. Julian Cohen** is a barrister and arbitrator at Gilt Chambers. He has more than 27 years of experience in heavyweight commercial dispute resolution in Hong Kong and across Asia and the Pacific, the Middle East, and Europe. He is particularly well known for his specialist practices in arbitration, particularly in relation to construction and engineering disputes. He is recognized as one of the world's leading construction lawyers.

In addition to acting as counsel, Mr. Cohen also regularly sits as an arbitrator in Hong Kong, Asia and the Pacific, and the Middle East in both commercial and construction cases. He has sat both as a sole arbitrator and a member of three-member tribunals under HKIAC, UNCITRAL, DIAC, and LCIA rules.

In addition to a substantial domestic Hong Kong practice, Mr. Cohen has been involved in disputes in Macau, PRC, Singapore, Indonesia, Malaysia, Philippines, Viet Nam, Thailand, Fiji, Guam, India, Pakistan, Dubai, Abu Dhabi, Qatar, Iran, Saudi Arabia, Oman, Yemen, Mali, Albania, Czech Republic, France, Belgium, Brazil, Turkey, and the United Kingdom.

Mr. Cohen has conducted disputes under a variety of common law and civil legal systems, and under most forms of international arbitration rules, including ICC, UNCITRAL, LCIA, SIAC, DIAC, and KLRC.

Mr. Cohen was called to the England Bar in 1990 before joining the construction disputes department of Pinsent Masons in London in 1993 and moving to Hong Kong in 1998. He left Pinsent Masons as a partner in 2009, and was called to the Hong Kong Bar in 2010. He teaches advocacy, and is regularly invited to speak in Hong Kong, and internationally, on arbitration and other topics.

## FIONA ANNE CONNELL



**Ms. Fiona Anne Connell** is a principal counsel at the Asian Development Bank's (ADB) Office of the General Counsel, a fellow of the Chartered Institute of Arbitrators and a trained mediator. Currently based in the People's Republic of China (PRC) Resident Mission in Beijing, Ms. Connell has been practicing law in Asia for over 25 years and has extensive experience in both commercial and sovereign transactions in the PRC and throughout Asia, with a specialty in infrastructure development and limited recourse project financing. Prior to her ADB career, she was chief Asia counsel for a global power plant developer, and she has acted as external and in-house legal counsel for developers and investors in companies and projects in many Asian countries. Since joining ADB in 2010, and particularly since moving to ADB's PRC Resident Mission in 2013, she has supported ADB's sustainable infrastructure projects and social sector projects in the PRC, and she leads ADB's PRC Law and Policy Reform work, working with government agencies on legislative improvements and capacity development.

## JO DELANEY



**Ms. Jo Delaney** is a partner at Baker McKenzie, focusing on international arbitration. She has extensive experience in commercial, construction, and investment arbitrations under the ICC, LCIA, SIAC, HKIAC, AAA, UNCITRAL, and ICSID arbitration rules relating to different industries.

Ms. Delaney has been involved in a number of investment arbitrations, acting for private parties and states. She regularly advises on all aspects of international arbitration and investment protection planning.

Ms. Delaney regularly publishes and speaks at conferences. She is a member of the ILA Management Committee, CIArb (Australia) Council, ICC Court of Arbitration, and ArbitralWomen. She is also a fellow of CIArb and ACICA.

## DAMIEN J. EASTMAN

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Please see page 27.

## STEVEN FINIZIO

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**Mr. Steven Finizio** is a partner in Wilmer Cutler Pickering Hale and Dorr LLP’s international arbitration and dispute resolution group, based in London. He has been an arbitrator or counsel in cases under most leading international arbitration rules, involving the laws of jurisdictions in Europe, Asia, Africa, and the US, and under bilateral and regional investment treaties. He has helped draft arbitration legislation and served as counsel in the first freedom of expression case in the African Court on Human and People’s Rights. His publications include *A Practical Guide to International Commercial Arbitration: Assessment, Planning and Strategy* (Sweet & Maxwell) and “International Commercial Arbitration,” in *The Law of Transnational Business Transactions* (Thomson Reuters).

Mr. Finizio is recognized as a leading international arbitration lawyer by various publications, including *Chambers*, *Legal 500*, and *Global Arbitration Review’s Who’s Who in International Arbitration*. He is also recommended for public international law. He is a member of the California and District of Columbia bars, and a registered foreign lawyer in England and Wales.

## Rio Fiocco



**Mr. Rio Fiocco** is the president of the Port Moresby Chamber of Commerce & Industry (POMCCI). He is a professional lawyer. He started his career as a solicitor in Brisbane and worked as a lawyer in Australia and PNG. He was admitted as a solicitor of the Supreme Court of Queensland and the High Court of Australia in 1986 and a lawyer of the National Court of Justice in 1987.

Mr. Fiocco is a member of the Queensland Law Society (since 1986) and the PNG Law Society (since 1987). He is also the vice chairman of the Cricket PNG, an alternate member of the APEC Business Advisory Council (ABAC), and an occasional lecturer at the Legal Training Institute.

## GOIYE GILENG



**Mr. Goiye Gileng** is the principal of Gileng & Co. Lawyers established in February 2019. Prior to that, he was a partner at Posman Kua Aisi Lawyers and the partner-in-charge of the firm's Litigation and Dispute Resolution Team. He specializes in commercial litigation and personal injury related cases. Before joining Posman Kua Aisi Lawyers, he worked with the Port Moresby and Perth offices of Blake Dawson Waldron (now known as Ashurst Australia).

He graduated with a diploma in Tropical Agricultural from the Vudal Agricultural College in 1989 and with a Bachelor of Laws degree from the University of Papua New Guinea in 1995. He completed his admission qualification studies at the Legal Training Institute in 1996.

He is a board member of Finance Corporation Ltd. and chairman of its Risk and Audit Committee, board chairman of Sunrise Assurance Brokers Ltd., member of the PNG Institute of Directors, and member of the PNG Law Society.



## CATHERINE GREEN



**Ms. Catherine Green** has her own private practice as an arbitrator, adjudicator, and mediator taking appointments with respect to both commercial and construction disputes. She is also the Executive Director of the New Zealand International Arbitration Centre (NZIAC) as well as its related domestic registry services, which cover a full spectrum of commercial, building and construction, and family and relationship disputes.

Prior to specialising in the design and delivery of private dispute resolution processes, Ms. Green practiced as a commercial litigator both onshore and offshore in New Zealand, London, and the Cayman Islands, gaining extensive experience in a wide range of matters, involving fraud, insolvency, contractual, financial services, tax avoidance and regulatory issues. These matters have included, among others, acting for liquidators of a Madoff-affected investment fund in relation to its investment and related large-scale litigation claims arising from the Madoff fraud, advising in relation to Royal Commission, Serious Fraud Office, and Securities and Exchange Commission inquiries, and acting for clients on a variety of commercial disputes across the globe covering Asia and the Pacific, Europe, the Middle East, the Americas, the Caribbean, and Africa.

Ms. Green writes and presents frequently on a wide range of matters relating to private dispute resolution practice.



**Mr. John Green** is a professional arbitrator, adjudicator and mediator based in Auckland, New Zealand. He has been appointed in more than 1,200 building, construction and infrastructure disputes over the past 28 years relating to residential, commercial and industrial construction projects, power stations, gas fields, manufacturing and processing plants, stadiums, hotels, land subdivisions, roading, railways, wharves, marinas, drainage, water and wastewater treatment plants, recycling plants, mining, services, and utilities, involving domestic and internationally based parties, complex technical and legal matters, and sums in dispute exceeding \$100 million.

Mr. Green is the founder and a director of the Building Disputes Tribunal, the nationwide, specialist dispute resolution service provider for the building and construction industry in New Zealand and an Authorised Nominating Authority under the Construction Contracts Act 2002. He is also the founder and a director of the New Zealand Dispute Resolution Centre (NZDRC), the New Zealand International Arbitration Centre (NZIAC), and the New Zealand Family Dispute Resolution Centre (FDR Centre).

He was appointed as Weathertight Homes Resolution Service mediator and adjudicator in 2003, when the Government service was formed and acted as an adjudicator until 2012.

Mr. Green has published and presented widely on dispute resolution. He is the editor of BuildLaw® and ReSolution® and is the author of Thomson Reuters: ‘The Leaky Building Crisis: Understanding the Issues’—Part 4 Dispute Resolution Options and the ‘Unit Titles Manual’—Chapter 14 Dispute Resolution.

He is a chartered arbitrator and fellow of the Chartered Institute of Arbitrators (UK), a fellow arb/med of the Arbitrators’ and Mediators’ Institute of New Zealand Inc., and a Resolution Institute professional panel member. He is a past president of the Arbitrators’ and Mediators’ Institute of New Zealand Inc., a past president of the Master Builders Association (Auckland) Inc. and a founding council member and honorary life member of the Society of Construction Law New Zealand Inc. for his contribution to the practice of construction law.

## DANIEL KALDERIMIS



**Mr. Daniel Kalderimis** leads Chapman Tripp’s international law team, representing clients on a wide-range of cross-border legal issues. In addition to New Zealand, Daniel is admitted to practice in England, Wales and New York. He is the only New Zealand firm practitioner listed in the *Who’s Who Legal: Arbitration* and Chapman Tripp is the only New Zealand firm listed in *Global Arbitration Review’s* Top 100. He is recommended in both *Chambers Global* and *Legal 500*. *Who’s Who Legal* says “he has real genius and a razor-sharp understanding of legal issues, which he translates into effective advocacy” (2019) and describes him as “exceptional; very smart guy and a really excellent advocate” (2018).

## DEPUTY CHIEF JUSTICE AMBENG KANDAKASI



**Deputy Chief Justice Ambeng Kandakasi**, CBE, of the Supreme and National Courts of Justice of Papua New Guinea was appointed justice in 2000 and deputy chief justice in 2018. An accredited mediator in Australia, New Zealand, and Papua New Guinea, he chairs the PNG Judiciary’s Alternative Dispute Resolution (ADR) Committee, a team of judges, magistrates, and lawyers, in designing and implementing the country’s ADR systems and structures, including arbitration and court annexed mediation. He is also the vice president of the Asia Pacific Mediation Forum.

He has a passion for continuing legal and judicial education and is actively involved in mediation skills training. Most of his trainees have been judges, magistrates, lawyers and other professionals in Australia, Fiji, Malaysia, PNG, and the Solomon Islands. He has attended and facilitated at a number of local and international workshops and trainings in a number of areas of law, especially mediation. He has promulgated several judgments on ADR and mediation. Further, he has presented and published several papers at local and international conferences and journals in the areas of ADR, mediation, and human rights.

He holds a Bachelor of Laws degree from the University of Papua New Guinea and a Master of Laws degree from the University of San Diego, USA.

## KOH SWEE YEN



**Ms. Koh Swee Yen** is a partner in the Commercial and Corporate Disputes and International Arbitration Practices at WongPartnership LLP. She has an active practice as counsel, with a particular focus on complex, high-value and cross-border disputes across a wide spectrum of matters from commercial, energy, international sales, trade to investment. She regularly appears before the High Court and Court of Appeal and in international arbitrations under the major institutional rules, including ICSID, ICC, ICDR, SIAC, and UNCITRAL.

Ms. Koh is the vice-chair of the IBA Arbitration Committee, and a member of the Editorial Board of the ICC Dispute Resolution Bulletin and the ICCA-ASIL Task Force on Damages. She has also served as co-chair of the YSIAC Committee and IBA Arb40, and is on the Panel of Arbitrators in the Asian International Arbitration Centre and Hong Kong International Arbitration Centre. She is a council member of International Law Association – Singapore Branch.

Ms. Koh is recommended in various legal publications, including *The Legal 500*, *Chambers Asia-Pacific Guide*, and *Benchmark Litigation Asia-Pacific*. Most recently, she has been listed as one of the world's leading arbitration practitioners in *Who's Who Legal: Arbitration 2019* and comes highly recommended for her expertise in resolving complex international disputes. Regarded as “exceptional”, “in a league of her own”, “an especially good courtroom advocate,” “brilliant, decisive and fearless,” and known to “fight tooth and nail for her clients,” sources also praise her for a “keen sense of strategy” and “great ability to quickly grasp her clients’ perspective and understand their commercial issues.”

## GEORGE KOI



**Mr. George Koi** is the manager for legal services at Nambawan Super Limited. He is experienced in commercial litigation, conflict resolution, legal drafting, corporate governance, risk management and compliance issues. Before joining Nambawan Super Limited, he practiced law in the private sector, working with Narokobi Lawyers, Yapao Lawyers, and Amet Lawyers.

He graduated with a Bachelor of Laws degree from the University of Papua New Guinea in 1998 and completed his post graduate legal training at the Legal Training Institute that same year. He graduated in August 2014 with a Masters in Commercial Law (LLM) at the University of Melbourne, Australia.

## HYUNGKEUN LEE



**Mr. Hyungkeun Lee** is a partner at Yulchon LLC. He practices primarily in the areas of international arbitration (both commercial and treaty), cross-border litigation, economic sanctions and outbound investment matters. Before joining Yulchon LLC in 2008, he worked for the Korean Ministry of Justice where he focused on the matters relating to international investment disputes, trade and investment agreements, private international law and legal market opening. He is also active in advising the Korean government and international organizations on matters relating to investment disputes and legal reforms in emerging countries.

Mr. Lee earned his Master of Laws at Stanford Law School. He completed his Bachelor of Laws and Master's Coursework on Intellectual Property Law from Seoul National University. He is qualified to practice law in the Republic of Korea and New York.

## BRONWYN LINCOLN



**Ms. Bronwyn Lincoln** is a partner at Corrs Chambers Westgarth. She practices international commercial arbitration and commercial litigation, with a focus on cross-border and multi-jurisdictional disputes. She is also an international arbitrator.

Ms. Lincoln has advised and acted for national and global clients across a range of industries, including telecommunications, resources and mining, infrastructure, consumer products, pharmaceuticals and real property. She has recent experience in assisting clients with high end disputes arising out of a range of commercial transactions, including joint venture agreements, shareholder agreements, distribution and licensing agreements.

Ms. Lincoln also works with clients to develop strategies to manage risks in offshore contracting and investments, including effective and enforceable dispute resolution processes, enforcement of contractual rights across jurisdictions and complex conflict of laws.

## ANDREA MARTIGNONI



**Mr. Andrea Martignoni** has over 25 years' experience in commercial litigation and arbitration, often acting in complex matters for clients in construction, energy, resources and infrastructure disputes.

Mr. Martignoni's experience extends to a broad range of contractual disputes, including major projects disputes, joint venture disputes and commodity price arbitrations. In addition to having acted in international and domestic arbitrations under various institutional and ad hoc rules, he is involved in many major commercial litigation matters. He is actively involved in the international arbitration community and is also vice president at Australian Centre for International Commercial Arbitration (ACICA).

Mr. Martignoni is, and has for several years been, recognized as a leading lawyer in *Chambers Asia-Pacific* (Dispute Resolution Band 1 Arbitration), and in *Legal 500* and other independent directories.

## PROF. KHORY MCCORMICK



**Prof. Khory McCormick** is a vice president and fellow of the Australian Centre for International Commercial Arbitration and the immediate past deputy chair of the Singapore International Dispute Resolution Academy.

With key roles across a range of alternative/appropriate dispute resolution bodies and with sector recognized expertise confirmed by independent publications, Prof. McCormick is a recognized market leader in the field of dispute and conflict resolution in the Australasian market.

After over 35 years of practice as a partner at the top end of the commercial, public and private sector markets, Prof. McCormick's opinion is widely sought across a broad spectrum of industry sectors. Peer rankings regularly rank him as a "go to" adviser and a thought leader in terms of the future of dispute resolution, particularly in cross-border and cross-cultural contexts.

Prof. McCormick has recently represented the Australian government in UNCITRAL Working Group II: Dispute Resolution, which has drafted the Singapore Convention on Mediation and associated model law.

He has been an institutional representative for entry into cooperation agreements in the ADR and arbitration spaces with both ICADR (India) and BANI (Indonesia) as well as spoken throughout the region in Korea, the United States, Taipei, China, Hong Kong, China, India, Indonesia, and elsewhere. He is also active in the educational space receiving a professorship and doctorate from the University of Griffith.

## PETER McQUEEN

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**Mr. Peter McQueen** practices globally as an arbitrator in respect of cross-border commercial disputes, in particular those relating to international trade and transport.

Mr. McQueen has acted as an arbitrator in both ad hoc and institutional arbitrations, including those conducted under the auspices of ACICA, HKIAC, ICC, LMAA, SCMA, and SIAC. He is a fellow of the Chartered Institute of Arbitrators (CI Arb), a member of ACICA, CMAC, HKIAC, LMAA, SIAC, and SCMA panels of arbitrators and of the LCIA European Users' Council. He is a member of Arbitration, Mediation and Dispute Board Chambers, London and the Australian Member of the ICC International Court of Arbitration.

Since admitted as a lawyer in Australia and in England and Wales, Mr. McQueen has practiced as a dispute resolution lawyer for over 35 years. He has lectured in international commercial arbitration and maritime law post graduate courses in universities in Australia and France and is a tutor in the CI Arb Approved Faculty List.

## DANIEL MELTZ

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**Mr. Daniel Meltz** is a Sydney-based barrister with over 20 years' experience in international commercial arbitration and has practiced in Australia, England and Switzerland. He is recognized internationally as a leader in the field of international arbitration and is listed in *Who's Who Legal* (Global Edition) and *Best Lawyers*. He is admitted in Australia, England, and Wales.

Mr. Meltz is an experienced arbitrator and arbitration counsel. He has conducted arbitrations across all major arbitral institutions including ICC, LCIA, SCC, ACICA, HKIAC, and SIAC.



He has advised several governments in the South Pacific on international arbitration reform in his capacity as arbitration consultant with the Asian Development Bank, including the Government of Papua New Guinea. This includes rendering technical assistance to governments on the drafting of arbitration legislation, advising on accession to the New York Convention and conducting capacity building amongst judiciary, government and private sectors.

Mr. Meltz has particular expertise both in the South Pacific and in the wider Asia Pacific region in the following sectors: oil and gas, mining, construction, commodities, commercial contracts, and shareholder disputes.

Between 2015 and 2017, Mr. Meltz was an adjunct professor in the Faculty of Law of the University of Technology, Sydney. He is currently a fellow of ACICA.

#### WENDY J. MILES



**Ms. Wendy J. Miles**, QC is a partner in Debevoise & Plimpton’s London office and a member of the International Dispute Resolution Group. Her practice focuses on international arbitration and public international law.

Ms. Miles is recognized as one of the market’s foremost lawyers in the fields of arbitration and public international law. With over 20 years of experience, she has conducted arbitrations under all the major institutions, as well as conducted ad hoc arbitrations and undertaken significant public international law cases. She has advised a wide range of multinationals, sovereign states and state entities. She represents clients across numerous sectors, including energy, natural resources, gaming, manufacturing, financial services, pharmaceutical, licensing, telecommunications, insurance and construction.

She is named a Thought Leader for Arbitration by *Who’s Who Legal* which notes her “pragmatic and insightful advice” in major public international law disputes. She was awarded “Best in Commercial Arbitration” in the 2015 and 2016 Euromoney Women in Business Law Awards, and continues to be listed by Expert Guides in its annual Women in Business Law list.

Ms. Miles is a vice president of the ICC Court of Arbitration and the ICC Commission on Arbitration and ADR. She co-chaired the Task Force on Costs Allocation in Arbitration and currently co-chairs the ICC Task Force on Climate Change Related Disputes. She also remains active on various other professional bodies including the IBA, Stockholm Arbitration Association and Foundation for International Arbitration Advocacy (FIAA). She is also co-chair of the gender diversity initiative Equal Representation in Arbitration Pledge ([www.arbitrationpledge.com](http://www.arbitrationpledge.com)).

She regularly teaches on arbitration and public international law related issues, including as a founding member of the Executive Committee for FIAA.

Ms. Miles is admitted to practice in England, Wales, and New Zealand. She became Queen's Counsel in 2015. As a QC, she is able to act as advocate at all levels of the UK courts.

## ILONA MILLAR



**Ms. Ilona Millar** is a special counsel in the Environmental Markets team at Baker McKenzie, Sydney. She is an environmental and projects lawyer with a diverse range of experience in domestic and international climate change law and finance, carbon markets, environmental law and policy. She joined the firm in 2008 from the Foundation for International Environmental Law and Development, and International Institute for Environment and Development, in London.

Ms. Millar regularly writes, teaches and presents on environmental topics. She has lectured on environmental law, environmental markets and international climate change law at UNSW, Sydney University and University College London and for the past 10 years, she has co-coordinated the international climate change law course at ANU where she is a visiting fellow at the College of Law. Her international climate law work includes advising a number of developing country governments and non-governmental organizations on international climate change negotiations, implementation of international commitments under the Paris Agreement, and creating enabling legal and policy environments to facilitate climate finance and investment.

Ms. Millar has been listed among the best lawyers for Climate Change by *Best Lawyers in Australia* since 2015.

## KEVIN NASH



**Mr. Kevin Nash** is the deputy registrar and centre director of the Singapore International Arbitration Centre (SIAC). In such capacity, he assists with the administration of all cases filed with SIAC and the supervision of SIAC's multinational Secretariat.

Since joining SIAC in 2012, Mr. Nash has assisted with and overseen the administration of more than 1,000 international cases under all versions of the SIAC Rules and the UNCITRAL Arbitration Rules, among others, and has significant experience in SIAC cases conducted under the Expedited Procedure and applications for the appointment of an Emergency Arbitrator. He also worked closely on the revisions to the SIAC Rules 2013, the SIAC Rules 2016, and the SIAC Investment Arbitration Rules 2017.

Mr. Nash holds a B.A. from Mount Allison University and a J.D. from Osgoode Hall Law School. Kevin worked at one of Canada's prominent 'Seven Sister' law firms and then went on to study an LL.M. in International Commercial Arbitration at Stockholm University. He is qualified as a Barrister and Solicitor with the Law Society of Upper Canada.

## CHRISTINA PAK



**Ms. Christina Pak** is a principal counsel of the Asian Development Bank, specializing in international finance and has been working on multi-sector projects across the Central West, Southeast, and East Asia regions. She is also responsible for developing and implementing environmental law, climate finance and international arbitration law reform technical assistance projects under the ADB Office of the General Counsel's Law and Policy Reform Program. She is also a member of the ADB Climate Change and Environment thematic groups.

Prior to joining ADB, Ms. Pak worked as legal counsel and vice president for markets and international banking at a UK bank in Singapore, and as a capital markets and structured finance associate at two large New York City law firms. She is admitted to the bar in the States of New York and New Jersey and is a member of the Chartered Institute of Arbitrators, International Union for Conservation of Nature World Commission on Environmental Law and International Bar Association.

## JELITA PANDJAITAN



**Ms. Jelita Pandjaitan** is a partner at Linklaters Singapore Pte. Ltd. She leads the Southeast Asia disputes practice, with a focus on complex, high value cross-border disputes and investigations for major international banks and corporations. She advises clients in arbitrations, litigation and mediations in Hong Kong, Singapore and throughout Asia and conducts proceedings in the English courts in association with the firm's London office.

Ms. Pandjaitan specializes in financial and energy and resource arbitration in the major Asian seats and using all the major institutions and rules (SIAC, HKIAC, ICC, UNCITRAL) including obtaining interim injunctive relief and enforcing arbitral awards in regional courts. She is a member of the Chartered Institute of Arbitrators. She regularly speaks at arbitration conferences and seminars and has published several articles on arbitration developments. She has conducted multiple appointments as sole or co-arbitrator.

Ms. Pandjaitan also has extensive experience in local and foreign regulatory and internal investigations, as well as advising on the contentious aspects of cross-border transactions, including conducting due diligence on bribery and corruption risks. She has been endorsed as a Rising Star for financial services regulatory in *IFLR1000* 2018.

Ms. Pandjaitan is admitted in Hong Kong and Australia and is fluent in English and Bahasa Indonesia.

## WESLEY PANG



**Mr. Wesley Pang** is managing counsel of the Hong Kong International Arbitration Centre. He was formerly a senior associate at Shearman & Sterling LLP where he worked in the firm's New York office, from 2008–2010, as a member of the Litigation Group, and as a member of the International Arbitration Group in Paris and London from 2010–2017. His practice focused on cross-border litigation and government regulatory investigations, as well as commercial and investor-state arbitrations, in which he advised and represented private and sovereign clients. He has served as a co-vice chair of the International Investment & Development Committee of the ABA Section of International Law (2016–2017). He holds a JD from Columbia University School of Law, as well as an LLB and BSc from King's College London. He is admitted to practice law in New York.

## PROF. DR. JORDI PANIAGUA



**Prof. Dr. Jordi Paniagua** is a professor of economics at the University of Valencia, Department of Applied Economics II. He has an academic and applied specialization in Foreign Direct Investment (FDI) and online networking. In his academic career, he has published papers in leading academic journals in the field of international economics and business. He has worked as telecommunications engineer in multinational enterprises and served in the public administration in the area of FDI promotion and policy-making. He has consulted to multinational companies and to public bodies, like NATO, the World Bank, the Asian Development Bank, and UNCITRAL. His research interests include gravity models of trade and FDI, and its interplay with migration, trade law, energy and social media networks. His personal web page is: [www.uv.es/~jorpasso2](http://www.uv.es/~jorpasso2).

## WILLIAM B. PANLILIO



**Mr. William B. Panlilio** is an associate in the Singapore office of the international law firm King & Spalding and a member of the firm's Trial & Global Disputes practice, with a focus on international arbitration and cross-border litigation. He represents clients in the energy, infrastructure, construction and mining sectors, and in arbitrations involving states and state-owned or affiliated entities. He also has experience in cross-border disputes, including in the enforcement of foreign arbitral awards, foreign sovereign immunities, and discovery in aid of foreign proceedings.

Prior to joining King & Spalding, Mr. Panlilio was an assistant legal counsel at the Permanent Court of Arbitration in The Hague, Netherlands. While at the court, he assisted arbitral tribunals in treaty and commercial arbitrations involving various combinations of states, state entities, international organizations and private parties. Before The Hague, William was a litigation associate at an international law firm in New York, specializing in complex commercial litigation, financial institutions litigation, and cases involving US foreign relations law, including in respect of corporations' responsibilities under international law.

Mr. Panlilio graduated with *magna cum laude* honors from Fordham University School of Law in New York, where he was inducted into the Order of the Coif (national law honors society) and was awarded the Whitmore Gray Prize for Excellence in International Law. He also has a Masters in International Affairs, with a specialization in international law, from Columbia University's School of International and Public Affairs where he was the recipient of the Robert and Buena Chilstrom Distinguished Fellowship. He finished his undergraduate degree, with honors, from the Ateneo De Manila University in the Philippines. He is admitted to practice in New York.

## PRAKASH PILLAI



**Mr. Prakash Pillai** is a partner at Clyde & Co Clasis Singapore Pte. Ltd. He focuses on dispute resolution and international commercial arbitration across a multitude of sectors including corporate, commercial, insolvency, trade and commodities, construction and engineering, and employment sectors. He also leads the insolvency practice in Singapore.

Described as “measured and strategic” by *Chambers and Partners Asia-Pacific* 2018 and “recommended as a leader in India” by *Legal 500 Asia Pacific* 2018, Mr. Pillai is recognized as a leading lawyer for his expertise in international arbitration. Leading industry journals such as *Chambers Global*, *Chambers and Partners Asia Pacific*, *Global Arbitration Review*, and *Legal 500*, have commended his knowledge and expertise consistently.

Mr. Pillai has appeared before various arbitral tribunals in both institutional and ad hoc arbitrations and advised on investor-state disputes under the UNCITRAL rules. He has extensive experience in SIAC arbitrations seated in Singapore, where he has represented a diverse set of clients.

Mr. Pillai speaks regularly in conferences and seminars focusing on international arbitration. He is the chairman of the Public and International Law Committee of the Law Society and an adjunct associate professor at the National University of Singapore’s Law faculty teaching international arbitration law and practice. He is also a fellow of the Chartered Institute of Arbitrators. He is an established legal author and writes and publishes regularly articles on arbitration and insolvency related issues.

He graduated from Queen Mary College, University of London and further obtained a Master’s degree in law from Cambridge University where he specialized in public international law including investment treaty law. He qualified as a barrister-at-law at the Middle Temple in London and as an advocate and solicitor in Singapore.

## LEAH RATCLIFF



**Ms. Leah Ratcliff** is an of counsel at Jones Day. She is a leading dispute resolution practitioner with over 15 years' experience of acting in and advising on complex cross-border disputes. Her practice encompasses disputes management and avoidance, international arbitration, litigation, regulatory investigations, crisis and risk management and governance.

Between 2015 and 2019, Ms. Ratcliff was Head of Dispute Resolution at BHP, one of the worlds' leading energy and resources companies, where she managed complex disputes and regulatory matters across four continents.

Prior to that, Ms. Ratcliff was a member of leading dispute resolution practices in London, Sydney, and Washington, DC. Her particular areas of focus included: (i) disputes and contentious regulatory matters in the energy and resources sector in Australia and internationally; (ii) joint venture disputes, including disputes arising in relation to incorporated and unincorporated joint ventures; (iii) institutional and ad hoc international arbitration (ICC, SIAC, LCIA, UNCITRAL, ACICA rules); and (iv) management of business risks related to emerging markets.

Ms. Ratcliff holds a Bachelor of Laws with Honors from the University of Adelaide and an LLM in international legal studies from Georgetown University. At Georgetown, she won the Chetwood Prize for having the best academic record leading to that degree. She is admitted to practice law in Australia and New York.



## JUSTICE JEFFREY LEONARD SHEPHERD



**Justice Jeffrey Leonard Shepherd** of the Supreme and National Courts of Justice of Papua New Guinea holds degrees in law and anthropology from the University of Auckland, New Zealand. He is admitted to practice in the High Court of New Zealand, the Supreme Court of New South Wales and the superior courts of Papua New Guinea. Formerly a senior partner with the litigation and intellectual property teams at the Port Moresby office of Ashurst Lawyers, Justice Shepherd was appointed a judge of the Supreme and National Courts of Justice of Papua New Guinea on 31 October 2016. He commenced judicial duties on 27 January 2017.

Justice Shepherd is a founding member with Deputy Chief Justice Ambeng Kandakasi of the PNG judiciary's ADR Committee established in 2001. Justice Shepherd is a fully accredited mediator under the ADR Rules 2010 of the National Court and is assigned to the ADR Track of the National Court. Apart from his role as a civil judge, he conducts court-annexed mediations and assists with workshops and training programs for PNG mediators. He is a member of the Rules Committee of the Supreme and National Courts and is adviser to the ADR Committee on matters relating to the implementation of new legislation dealing with international and domestic arbitration in Papua New Guinea.

## FEDELMA CLAIRE SMITH



**Ms. Fedelma Claire Smith** is a senior legal counsel and the Permanent Court of Arbitration (PCA) representative in Singapore. She joined the PCA as legal counsel in 2011 and served as the PCA Representative in Mauritius from 2012 to 2014. She has previously worked at the International Court of Justice (2008–2010), where she was law clerk to H. E. Judge Awn Al-Khasawneh and H. E. Judge Sir Kenneth Keith. She is a member of the Bar of England and Wales and completed pupillage at Field Court Chambers, London, in 2011. She holds a BA in English Law with German Law from Oxford University and an Advanced LLM in Public International Law from Leiden University.



**Mr. José Augusto Fernandes Teixeira** joined Da Silva Teixeira & Associados in 2012 after having served as a Member of National Parliament (2007 to 2012) and also a Member of Government (2002 to 2007). His practice focuses on environmental law, renewable energy, domestic and foreign investment, tourism, mining, oil and gas, international commercial arbitration and infrastructure. As a former Minister, Deputy Minister and Secretary of State for Natural Resources, Minerals and Energy Policy and Secretary of State for Tourism, Investment and Environment, Mr. Teixeira was one of the principal architects of Timor-Leste's petroleum laws and regulations, the sovereign wealth fund, the law on commercial companies, and domestic and external investment laws. He also oversaw the completion of the first Timorese Government studies on renewable energy such as solar, hydropower,

wind power and biogas and initiated the process for Timor-Leste to become a member of the Extractive Industries Transparency Initiative (EITI). In 2004 to 2006, he led the Timorese Government team in negotiations with the Australian Government over maritime resource sharing arrangements in the Timor Sea which resulted in the signing of the Treaty Concerning Certain Maritime Arrangements in the Timor Sea (CMATS). He also served as a Commissioner representing Timor-Leste in the Timor Sea Joint Petroleum Development Area (JPDA) Joint Commission and later as a member representing Timor-Leste on the Ministerial Council for the JPDA.

Mr. Teixeira holds a Bachelor of Arts (Politics and Economic History) from the University of New England and a Bachelor of Laws from the University of Queensland. Prior to returning to Timor-Leste, he was a lawyer in Queensland, Australia practicing mainly in commercial and property litigation, planning and development law, administrative and constitutional law, tax law, native title and resource law.

Mr. Teixeira is an Associate of the Chartered Institute of Arbitrators (Singapore Branch), holding a Certificate on International Commercial Arbitration from the American University, Washington College of Law. He was admitted to practice in the Queensland Supreme Court and High Court of Australia, is currently admitted as a lawyer in Timor-Leste and is a member of the New South Wales Law Society. He also served on the Timor-Leste Petroleum Fund Consultative Council 2013–2018 and is currently a member of the Supreme Council of the Attorney General.

## DAVID TONKIN



**Mr. David Tonkin** has been legal counsel for the Australian Trade and Investment Commission (Austrade) for the last 23 years, and in that time provided advice and represented Austrade in a number of major commercial disputes and international forums, particularly in cases involving bribery and fraud in trade.

He understands current issues impacting exporters seeking to trade in low governance/high risk markets, managing local agents and navigating the pitfalls of Australian extraterritorial legislation. He has represented Austrade at the OECD and consulted in proposed changes to Australian law that will impose serious new obligations on Australian businesses working off-shore.

Mr. Tonkin earned degrees in Law and Commerce from the University of Melbourne and prior to joining Austrade was a partner of a law firm working in Melbourne, and later started a legal research business in Los Angeles. He is a member of the Australian Centre for International Commercial Arbitration (ACICA) and has a particular interest in supporting trade in the South Pacific.

## MARYANNE TUSAIS



**Ms. Maryanne Tusais** is a lawyer in the Dentons Port Moresby office. She has a Bachelor of Laws from the University of Papua New Guinea and was admitted to practice in the National and Supreme Courts of Papua New Guinea in 2015. She practices in the litigation division, particularly in commercial and civil litigation. She has assisted in court annexed mediations and arbitration matters.

## LILLIAN VEVARA



**Ms. Lillian Vevara** is the deputy state solicitor for procurement law at the PNG Department of Justice and Attorney General. She has been with the department since 2006. Before joining government service, she worked as a private litigation lawyer.

Ms. Vevara obtained her Bachelor of Laws degree from the University of Papua New Guinea in 2004. In 2011, she completed her Master of Laws in Environmental and Natural Resources Law at the University of Oregon on a Fulbright scholarship.

## SHAI WADE



**Mr. Shai Wade** is the head of Stephenson Harwood LLP's Upstream Oil and Gas Disputes Team and a partner in the firm's International Arbitration Group. He enjoys more than 20 years of experience serving both as counsel and arbitrator in many large scale complex disputes arising in the oil and gas, energy, infrastructure, telecommunications, media, and other sectors.

Mr. Wade has co-authored the leading commentary on the latest version of the LCIA Rules and has published and lectured extensively on various aspects of international arbitration. He is an expert in international investment law and regularly advises clients on their rights under international treaties.

Mr. Wade is a former co-chair of the Young International Arbitration Group (YIAG) of the LCIA. As a young lawyer, he served as a staff attorney to the Claims Resolution Tribunal for Dormant Accounts in Switzerland. He later drafted the arbitration rules for the appeals process of the International Commission on Holocaust Era Insurance Claims.

## TING-CHUNG WU

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**Mr. Ting-Chung Wu** (also known as Danny Wu) is a special counsel at Dentons, PNG. He has practiced law in Australia, London, and New Zealand.

Mr. Wu attended Otago Boys High School in Dunedin. He holds a Bachelor of Science degree, majoring in Genetics, from the University of Otago, a Bachelor of Laws degree from Victoria University in Wellington, and a Graduate Diploma in Corporate and Commercial Law from the University of Sydney.

## RUEL YAMUNA

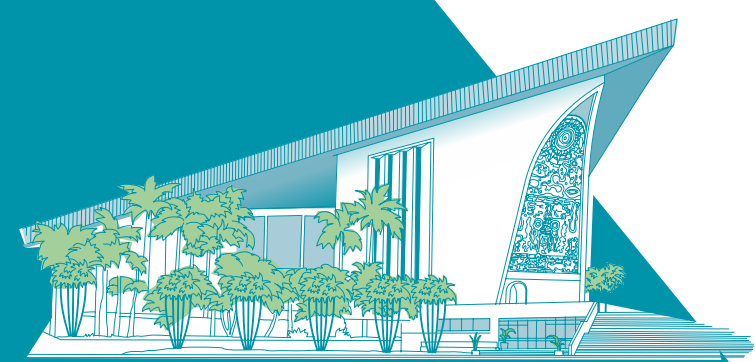
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**Mr. Ruel Yamuna** is the appointed managing director of the Climate Change and Development Authority of PNG. He worked with the Department of Justice and Attorney General for 6 years, starting as a junior legal counsel in 2011 before he was promoted as senior legal counsel in 2013. He was part of the core legal team that drafted the Climate Change (Management) Act 2015.

# 8

# Presentation Summaries



About 250 participants comprising government officials, judges, lawyers, and members of the private sector, including key Papua New Guinea stakeholders and high-level delegations from Palau, Samoa, Tonga, and Timor-Leste, attended the conference.

## Opening Ceremony

**Prime Minister Peter Charles Paire O'Neill**, CMG MP of Papua New Guinea (PNG), gave the opening address. He reaffirmed PNG's commitment to accede to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (also known as the New York Convention) and the government's intention to pass the draft arbitration bill by the end of 2019.

**Mr. Damien J. Eastman**, assistant general counsel of the Asian Development Bank (ADB), and **Ms. Athita Komindr**, head of the United Nations Commission on International Trade Law (UNCITRAL), also gave opening remarks. Mr. Eastman highlighted the broader partnership between PNG and ADB, ADB's commitment to help South Pacific countries eliminate barriers to foreign direct investment (FDI) and regional and international trade, and how ADB's technical assistance to promote international arbitration reform leads to a better investment climate in the South Pacific. Ms. Komindr stressed the role of an improved legal framework that facilitates international trade and investment in driving business confidence.

## Keynote Address

**Chief Justice Gibuma Gibbs Salika**, KBE, CSM, OBE, Supreme and National Courts of Justice of PNG, spoke about PNG's strategic positioning in trade and the globalized economy and the relevance of the conference theme in promoting foreign investments. As chief of the PNG judiciary, he assured potential investors about their independence and capability to deal with disputes that could arise between them and the PNG government or any other party.

Chief Justice Salika discussed the PNG judiciary's specialized commercial court track for dealing with disputes involving commercial transactions, trade, and other commercial dealings. The PNG judiciary also has civil courts, which encourage parties to undergo mediation or arbitration before going to court. For this purpose, they have a pool of internally-trained and PNG-accredited mediators who are capable of mediating disputes that come to court. A pool of overseas-accredited mediators are also available. He then stressed the advantage of mediation: the parties themselves arrive at a binding agreement much faster and more efficiently.

To end, Chief Justice Salika discussed how the PNG judiciary is supporting domestic and international arbitration by committing the necessary facilities for court-annexed arbitration, promulgating practice directions for arbitration, removing cases involving arbitration agreements from the courts' lists and placing them on the courts' inaugural arbitration list for resolution, and building a list of approved arbitrators who can conduct both domestic and international arbitration. He then mentioned what the conference has in store for the participants—from the session topics to the beauty of PNG.

## SESSION 1

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### **International Arbitration: Promoting Confidence in International Business through Building on the Rule of Law**

**Mr. Damien J. Eastman** moderated the session on the role of international arbitration law in stimulating business confidence to help South Pacific countries realize their economic potential.

**Ms. Christina Pak**, principal counsel at ADB, highlighted the need for international arbitration reform in the South Pacific countries. Although there has been steady growth in PNG and other South Pacific countries, there are still barriers to attracting more cross-border trade and investments. One important area of legal reform highlighted by PNG's trading partners is the lack of an effective dispute resolution system to resolve commercial disputes in the South Pacific region. In fact, only 3 out of 15 South Pacific countries have signed on to the New York Convention and many do not have an international arbitration legal framework. To help, ADB approved a technical assistance to enable South Pacific countries put in place a legal framework for international arbitration. Ms. Pak noted that the technical assistance is timely as ADB has been putting in place the most advanced legislative regime based on international best practices. In essence, the South Pacific countries are leap-frogging into the world's best legal framework for international arbitration.

# Economist hails O'Neill's call to strengthen arbitration rules

By PETER ESILA

AN international economist says Prime Minister Peter O'Neill's call to accede to the New York Convention is good news for opening Papua New Guinea to more investors.

Prof Jordi Paniagua, of the University of Valencia, Spain, said countries like PNG could significantly increase foreign direct investment (FDI) by strengthening arbitration regimes.

"Since 2003, there is an increasing number of companies which have invested in PNG," he said.

"Today, we have approximately US\$20 billion (K67.4bil) foreign direct investment in PNG and around 12,000 jobs directly created by these foreign companies, so that is sizeable.

"PNG is really open to foreign investment, and as PNG prime minister said, it is not only in capital investment, it is also jobs."

Paniagua said the largest share of investments was in extractive industries like oil and natural gas.

This is followed by more individual sectors like business services, food and tobacco, metals and financial services.

"The largest investment partner in PNG is naturally Australia because they are very close, not only geographically but historically," Paniagua said.



Prime Minister Peter O'Neill and Deputy Chief Justice Ambeng Kandakasi meeting at the international mediation and arbitration conference in Port Moresby on Monday (Nationalpic by Gevokila Alfred).

"The rest of the players are China, Korea, India.

"You can also see South Africa, USA, Netherlands, Great Britain.

"Why are these countries crossing half of the world to come here?"

"First is because these countries are big countries. Second is that these are all the countries that have a common law: Germany, Canada, USA, India, Australia, Singapore, Fiji."

Paniagua said a country's economic size, distance from PNG, and most importantly PNG's ability to change its contractual environment were reasons for trade and FDI. "Contracts are not complete when we have differences in the legal system," he said.

"PNG can increase contractual environment by increasing the quality of arbitration.

"I am really happy that PNG is going to rectify the New York Convention.

"Countries that have a better arbitration quality receive more investment across nearly every single sector, and they will invite more investors.

"Commercial disputes happen any time.

"Arbitration provides an effective and predictable dispute settlement mechanism which is flexible, confidential and final."

■ Source: <https://www.thenational.com.pg/economist-hails-oneills-call-to-strengthen-arbitration-rules/>



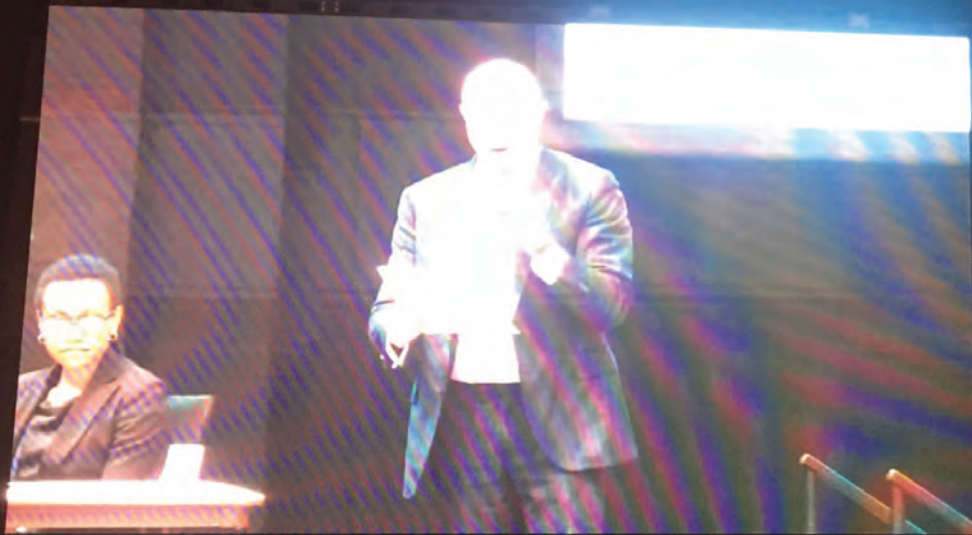
**Ms. Lillian Vevara**, deputy state solicitor for procurement law at the PNG Department of Justice and Attorney General, spoke about the steps the PNG government has been taking towards international arbitration reform and highlighted the benefits of this reform to PNG's economy. She informed the audience that in November 2018, PNG's National Executive Council (Cabinet) approved accession to the New York Convention and putting in place implementing law based on the UNCITRAL Model Law. Now the Government is taking further steps towards acceding to the New York Convention and conducting consultations on the draft Arbitration Bill, which has been prepared with the support of ADB.

**Mr. David Tonkin**, chief counsel for legal, procurement and fraud at the Australian Trade and Investment Commission (Austrade), briefed the participants about the economic challenges faced by the Pacific region owing to inefficient and burdensome regulation, ineffective contract enforcement, corruption, limited access to finance, and inadequate access to insurance and risk mitigation products. According to the Australian Government's Department of Foreign Affairs and Trade, the trade in 2017 between Australia and PNG was worth approximately \$6 billion only, compared to Australia's trade with Asia-Pacific Economic Cooperation (APEC) countries, which reached \$563.5 billion, and with Oceania and Antarctic countries, which totaled \$37.5 billion that same year. He stressed the importance of combating corruption, strengthening the rule of law, and establishing a legal framework that upholds reciprocal enforcement agreements and provides certainty in business transactions, in stimulating the business environment.

Mr. Tonkin added that implementing international arbitration reform will likely increase FDI and address the issues limiting investment by reducing the reliance of foreign investors on domestic courts, decreasing the potential for corruption, supporting the enforcement of foreign court judgments, and mitigating the effect of a small legal market.

Lastly, **Prof. Dr. Jordi Paniagua**, professor of economics at the University of Valencia, explained how international economic flows follow the gravity equation. FDI and trade increase with economic activity (meaning more producers and consumers) and decrease with certain frictions, comprising both natural frictions, such as distance and cultural and linguistic links, and man-made frictions, which include the contractual and institutional environment.

Prof. Dr. Paniagua also said that international commercial arbitration alleviates these man-made frictions that impede international flows of goods and services by providing an effective and predictable commercial dispute settlement mechanism. He identified the three main economic benefits of international arbitration. First, international arbitration is flexible, confidential, and final. Second, it increases trust between commercial parties. Third, it reduces the uncertainty of trade dispute litigation in domestic courts. Academic research shows that increasing the quality of arbitration laws significantly and positively impacts FDI and trade.



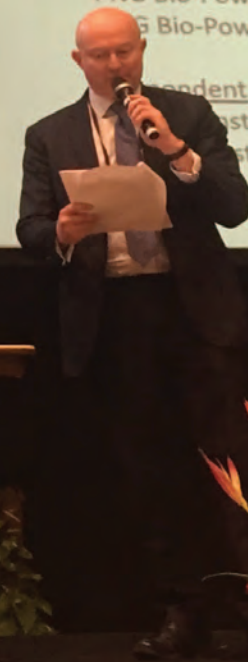
**Cast of Character**

Arbitral Tribunal: Peter McQueen  
Fiona Connolly  
Kevin Nash

Enforcing Judge: Justice Jeffrey

Claimant  
PNG Bio-Power (client):  
PNG Bio-Power's Counsel:

Respondent  
Respondent (Instructions Client):  
Respondent's Counsel:



**Session 2.** Mr. Peter McQueen, Mr. Kevin Nash, Mr. José Augusto Fernandes Teixeira, Mr. George Koi, Ms. Maryanne Tusais (participants), and Mr. Daniel Meltz (facilitator) walked the participants through a typical arbitration process.

## SESSION 2

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### A Journey Through International Arbitration

Session 2 involved a role play which walked the participants through the key stages of the arbitration process—from drafting an arbitration clause as part of a commercial contract to initiating an arbitration proceeding and finally to enforcing an arbitral award. **Ms. Christina Pak**, principal counsel at ADB, and **Mr. Daniel Meltz**, barrister at 12 Wentworth Selborne Chambers and an international arbitration consultant for ADB, facilitated the session. The cast comprised the following: (i) **Mr. George Koi**, manager for legal services at Nambawan Super Limited, as Client X; (ii) **Mr. Goiye Gileng**, principal at Gileng & Co. Lawyers, as Counsel for Client X; (iii) **Ms. Maryanne Tusais**, lawyer at Dentons, PNG, as Client Y; (iv) **Mr. José Augusto Fernandes Teixeira**, partner at Da Silva Teixeira & Associados, as Counsel for Client Y; (v) **Mr. Kevin Nash**, deputy registrar and centre director at the Singapore International Arbitration Centre (SIAC), **Ms. Fiona Anne Connell**, principal counsel at ADB, and **Mr. Peter McQueen**, independent arbitrator and mediator, as members of the arbitral tribunal; and (vi) **Justice Jeffrey Leonard Shepherd** of the Supreme and National Courts of Justice of PNG as the enforcing judge.

## SESSION 3

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### Introduction to International Commercial Arbitration

**Ms. Wendy J. Miles**, QC, partner at Debevoise & Plimpton, moderated the session, which explained the concept, types, and procedure of international arbitration and distinguished it from other modes of dispute resolution.

**Mr. Nash** discussed about the costs and time involved in international commercial arbitration, noting the differences between institutional arbitration and ad hoc arbitration as well as the varying cost structures across institutions including capped fees and hourly rates. He provided an analysis of how SIAC's special procedures, such as emergency arbitration, expedited procedure, early dismissal, and arbitration-mediation-arbitration may be used to help control costs and time. He also highlighted Rule 27 of the SIAC Rules, which allows parties to apply for an award on unpaid deposits prior to the issuance of the final award. Using SIAC's Costs and Duration Study as a model, which shows that a typical SIAC case concludes in less than 1 year, he also made the point that all institutions are now prioritizing costs and time in order to improve user experience.

**Mr. Wesley Pang**, managing counsel at the Hong Kong International Arbitration Centre (HKIAC), provided an overview of ad hoc and institutional arbitration, including the different roles that are played by institutions, tribunals and courts.

**Mr. Abhinav Bhushan**, director for South Asia of the International Chamber of Commerce (ICC) Arbitration and Alternative Dispute Resolution (ADR) International Court of Arbitration, ICC, discussed the anatomy of international arbitration, the various stages of an international arbitration, the timeliness and anatomy of expedited and emergency arbitration procedures, as well as the scrutiny of arbitral awards. He also explained the importance of seat and its difference from venue.

**Ms. Bronwyn Lincoln**, partner at Corrs Chambers Westgarth, spoke about ADR and the other ways of resolving commercial disputes between parties from different countries. She also stressed the role of the dispute resolution clause in ensuring the efficiency, effectiveness, and procedural fairness of the dispute resolution process.



**Session 3.** Ms. Wendy J. Miles, QC (moderator) briefed the participants about international commercial arbitration.

## SESSION 4

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### Special Breakfast Session: Women in International Commercial Arbitration

**Mr. Eastman** gave the opening remarks and encouraged men and women alike to explore the field of international commercial arbitration.

**Ms. Pak, Ms. Miles, and Ms. Lincoln**, as well as **Ms. Jo Delaney**, partner at Baker McKenzie, Sydney, **Ms. Koh Swee Yen**, partner at WongPartnership LLP, and **Ms. Jelita Pandjaitan**, partner at Linklaters Singapore Pte. Ltd., shared practical career tips for women in arbitration. Ms. Koh emphasized the importance of being substantively excellent and reliable. Ms. Pandjaitan suggested that interested practitioners become visible and actively engaged with the professional community. Both Ms. Koh and Ms. Pandjaitan also gave advice on how to get a work-life balance. Ms. Delaney encouraged the audience to look for role models and be a mentor to others, and together with Ms. Lincoln, she said that those aspiring to enter international commercial arbitration should be confident to put themselves forward and be conscious of the way they present themselves. Ms. Lincoln told the participants to trust themselves to choose a path that suits their strengths, interests, and wishes. Ms. Miles advised the audiences to tune into systemic issues and address them.

Ms. Miles discussed the measures to ensure the equal representation of women in arbitration, the steps being taken by institutions to guarantee more women appointments, the government efforts to make good candidates available for public international arbitrations, as well as the possibility of scholarships and support. **Mr. Julian Cohen**, barrister and arbitrator at Gilt Chambers, talked about ways of getting an arbitral appointment and shared his experiences in starting to get appointments. Lastly, Ms. Pak explained how arbitration affects women in developing jurisdictions before urging the audiences to ask questions.

Each speaker then facilitated a table with participants and addressed their questions over breakfast.

**Session 4.** Ms. Jo Delaney (facilitator) advised the participants to find role models and mentor others.



## SESSION 5

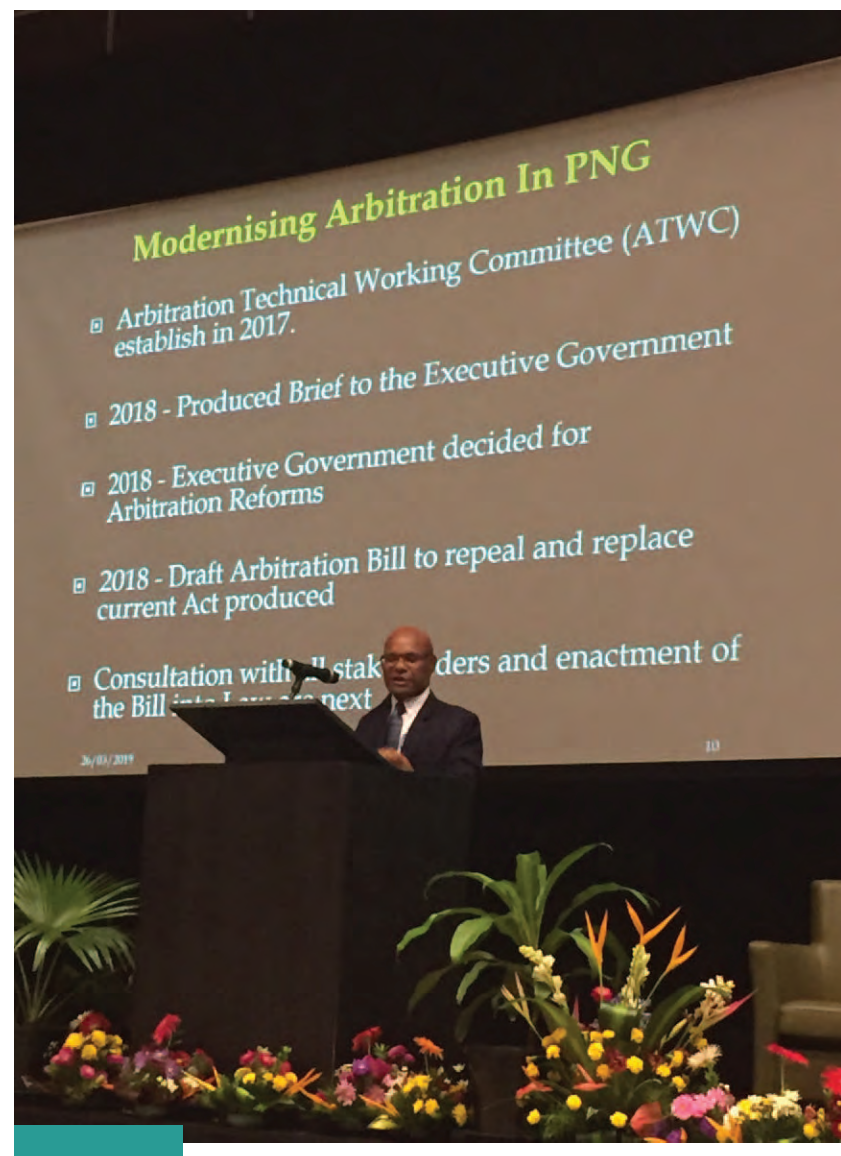
### New York Convention and the South Pacific Countries

**Mr. José Augusto Fernandes Teixeira**, partner at Da Silva Teixeira & Associados, moderated the session.

**Deputy Chief Justice Ambeng Kandakasi**, CBE, of the Supreme and National Courts of Justice of PNG, updated the participants about the status of PNG's accession to the New York Convention.

**Ms. Koh** introduced the audience to the New York Convention, which had 159 contracting parties at the time of the conference. The convention has been in effect for almost 60 years. It is widely lauded as one of the most successful United Nations treaty in the area of international trade law. Regarded as the cornerstone of international arbitration, the convention seeks to provide common legislative standards for the recognition of arbitration agreements and court recognition and enforcement of foreign and non-domestic arbitral awards. Ms. Koh focused on Article V, which sets out the exhaustive grounds for refusing the recognition and enforcement of arbitral awards.

**Mr. Meltz** spoke about the development of international arbitration in the South Pacific as a historic opportunity for developing economies to participate in the principal means of international dispute resolution, while benefitting from significant and substantial increases in FDI. Several countries have already moved either at the policy or legislative level to engage in international arbitration reform. ADB and UNCITRAL have partnered to provide countries with a complete start-to-finish support ecosystem designed to maximize the impact of the reform.



**Session 5.** Deputy Chief Justice Ambeng Kandakasi, CBE (speaker) talked about arbitration reforms in PNG.

## SESSION 6

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### Arbitrating Technical Issues – Construction Disputes

**Mr. Pang** moderated the session on arbitrating construction disputes.

**Mr. Cohen** explained why arbitration is particularly suitable for construction disputes. He noted that construction disputes tend to be technically and factually complex, with large volumes of documents. They also tend to involve multiple sub-disputes and specialized industry concepts and practices. He emphasized that arbitration can assist parties by allowing specialist, and sometimes multi-disciplinary, tribunals to settle construction disputes using their particular expertise and various case management tools, often not available to courts, to reduce hearing times. In construction disputes with foreign elements, arbitration can help bridge cross-cultural issues and expectations and facilitate the enforcement of arbitral awards internationally as compared to court decisions.

**Mr. John Green**, director at the New Zealand International Arbitration Centre (NZIAC), likewise presented on the benefits of resolving construction disputes through arbitration.

**Ms. Fedelma Claire Smith**, Permanent Court of Arbitration (PCA) senior legal counsel and PCA representative in Singapore, provided an overview of construction developments in the South Pacific, and drew the audiences' attention to the specific features of infrastructure disputes and other construction disputes involving a state or other public entity. She discussed about recent developments in construction arbitration in the Republic of Singapore, including the launching of the Singapore Infrastructure Dispute-Management Protocol. She also commented on the PCA's experience in administering disputes arising out of major infrastructure and construction projects, as well as construction-related disputes in the fields of sustainable development, environmental protection, and corporate social responsibility. Lastly, she highlighted the lessons from these experiences to encourage proactive and cost-efficient dispute management in the construction sector.



**Session 6.** Mr. John Green (speaker) identified the benefits of arbitrating construction disputes.



**Mr. Andrea Martignoni**, partner at Allens and vice president at the Australian Centre for International Commercial Arbitration (ACICA), elaborated on some of the unusual features of construction disputes, and how these features had been dealt with based on his arbitration experience. These features include multiple claims during the course of a project under one contract, multiple parties under different contracts relating to a particular dispute, and issues arising from multi-tiered dispute resolution clauses and accelerated dispute resolution processes. He also talked about the experience of ACICA and of many Australian practitioners in dealing with major project disputes, their process for managing these disputes efficiently, the complexity of some contractual arrangements, and important matters to keep in mind when drafting arbitration clauses in construction contracts.

## SESSION 7

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### Arbitrating Technical Issues – Energy Disputes

**Mr. Meltz** moderated the session and organized the presentations by type of energy disputes and their phase—whether the disputes concern the exploration stage, production, or the execution of sales contracts—in order to explain how arbitration might impact each phase and the parties involved.

**Ms. Leah Ratcliff**, of counsel at Jones Day, talked about upstream energy projects. According to her, these projects involve complex contracting structures that govern the rights and obligations of multiple entities, including host state representatives and multiple investors or joint venture participants. Further suites of arrangements are entered with many other parties, such as contractors, suppliers, financiers and insurers. International arbitration offers distinct benefits, especially neutrality, confidentiality, and enforceability of awards, to support the resolution of disputes that arise in connection with such projects. Careful contract drafting and dispute management are required to preserve long term commercial relationships as well as the economic benefits that derive from such projects. Particular issues to be considered include multi-party arbitration, consolidation of multiple arbitrations, and steps to preserve the ultimate enforceability of arbitral awards.

**Mr. Steven Finizio**, partner at Wilmer Cutler Pickering Hale and Dorr LLP, discussed about gas supply transactions and disputes. Gas supply disputes may involve prices in long-term gas and liquefied natural gas contracts, supply failures, violations of anti-trust or competition laws and regulations, transportation infrastructure, storage and title to disputes following additions or removals of gas, construction delays and defects.



## 1. Production and Processing

- **Gas extraction**
    - Gas is generally extracted on drilling gas wells
    - Producers often enter into drilling contracts with an oilfield services contractor
  - **Processing**
    - The producer enters into a gas processing contract with a processor
    - The producer constructs the processing facilities itself
- After processing, gas is ready to be transported and sold.*

**Session 7.** Mr. Steven Finizio (speaker) talked about gas supply transactions and disputes.

**Mr. Shai Wade**, partner at Stephenson Harwood LLP, focused on exploration and production, and the disputes that may arise during these stages, particularly consortium disputes and service contract disputes.

**Mr. William B. Panlilio**, associate at King & Spalding, zeroed in on renewable energy. He stressed that renewable energy will become an increasingly important component of the energy mix of many countries around the world, especially in Asia and the Pacific where vast renewable energy potential can be found. With the rise of renewable energy, people will witness more disputes in this sector for two main reasons. First, renewable energy is a state interest. It can be governed by international treaties; and states increasingly consider it a crucial part of their energy policy. Various state-owned or affiliated entities are also involved in renewable energy projects. Second, renewable energy projects are complex and large-scale. They can give rise to a multitude of project companies, contractors and sub-contractors, offtakers, and lenders (including multilateral institutions). These stakeholders often come from multiple jurisdictions and their interlocking relationships governed by separate contracts, can be affected by choice of law and dispute resolution provisions. He highlighted the suitability of arbitration as a means of resolving complex, multi-party renewable energy disputes.

## SESSION 8

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### Arbitrating Technical Issues – Financial Disputes

**Ms. Connell** moderated the session.

**Mr. Prakash Pillai**, partner at Clyde & Co Clasis Singapore Pte. Ltd., began by introducing the audience to the concept, parties involved, and typical structure of project finance transactions. He then identified the benefits of arbitration as a dispute resolution method in project finance transactions given the complex nature of such transactions, namely, the presence of multiple contracts, governing laws, jurisdiction, and parties. He also compared the ICC, SIAC, and the London Court of International Arbitration (LCIA) rules during consolidation of proceedings and joinder of parties before giving solutions in the absence of formal institutional rules for consolidation or joinder.



**Session 8.** Ms. Fiona Anne Connell (moderator) set the context for discussing the technicalities involved in arbitrating financial disputes.

**Mr. Finizio** talked about the state of use of arbitration amongst the financial sector. On the one hand, arbitration is advantageous because of its enforceability, procedural flexibility, confidentiality, finality, and choice of arbitrators with specialized financial expertise. On the other hand, arbitration is still largely considered disadvantageous because of (i) the belief that parties need to go to court to seek interim relief before they can constitute an arbitral tribunal; (ii) the absence of summary proceedings and the perceived inability of arbitral tribunals to issue a default award when a party fails to appear; (iii) the concerns about the availability of joinder and consolidation; (iv) the uncertainty caused by the inability to establish precedent; (v) the potential for higher expenses; (vi) the perceived lack of transparency and familiarity with arbitration; and (vii) the limitations of an arbitral tribunal's powers in insolvency proceedings. He pointed out that these perceived disadvantages of arbitration had already been addressed in several arbitral rules, which often now provide for the appointment of emergency arbitrators to decide applications for interim relief before a tribunal is constituted and the mechanisms for joinder of additional parties and consolidation of separate proceedings.

According to Mr. Finizio, financial institutions tend to favor arbitration over litigation when the transaction is significant or particularly complex, confidentiality is a concern, the counter-party is state-owned, or when the counter-party is a jurisdiction where recognition and enforcement of foreign judgments may be more difficult compared to the recognition and enforcement of arbitral awards. When they do choose arbitration, these institutions prefer institutional arbitration over ad hoc arbitration; the major seats; English as the language; three-member tribunals with the president chosen by the party-appointed arbitrators; and industry expertise and experience, availability and responsiveness, common sense, language skill, independence and impartiality in selecting arbitrators. Finally, Mr. Finizio highlighted the ICC Task Force recommendations for arbitration procedures for financial disputes.

**Ms. Pandjaitan** talked about the importance of expert arbitrators and independent experts in arbitrating financial disputes. Expert arbitrators, or those with expertise in financial products, give parties confidence that the arbitrators understand complex issues in dispute. Independent experts, or expert witnesses, proffer evidence that give parties an early assessment of prospects and exposure and give the tribunal an impartial opinion on the issues in dispute. Expert witnesses are often useful when there are disputed issues of liability that require specific expertise for resolution and when there are disputed issues of quantum.

## SESSION 9

### Arbitrating Technical Issues – Arbitration and Climate Change

**Ms. Pak** facilitated this free-flowing guided session on arbitration and climate change disputes.

**Ms. Ilona Millar**, special counsel in the Environmental Markets team at Baker McKenzie, Sydney, briefly explained the concept of climate finance and discussed about climate finance flows in the Pacific. In 2010–2014, climate finance to Pacific Island countries totaled \$1,762 million, of which \$1,455 million came from bilateral sources and \$307 million from multilateral sources. Likewise, of this amount, \$748 million had climate change as the main objective while \$1,014 million targeted climate change as a co-benefit. She also specified how much each Pacific country received and how the money was split among various sectors, including enabling environment, renewable energy, research, disaster prevention and preparedness, multi-sector aid, road infrastructure and vehicles, water supply and sanitation, biodiversity protection, irrigation, and capacity-building. She also touched on legal readiness for climate finance as a catalyst for facilitating a country's access to climate finance.

**Mr. Ruel Yamuna**, managing director of the PNG Climate Change and Development Authority, described PNG's nationally determined contribution and the steps the PNG government is taking in furtherance thereof.

**Ms. Smith** shared her insights on emerging trends in public climate finance disputes, including the various forms of disputes foreseen under the United Nations Framework Convention on Climate Change, the types of public climate finance disputes that could be resolved through international arbitration, and the PCA's experience with regard to innovations to adapt the features of international arbitration to the needs of this dynamic field, focusing on the perspective of South Pacific developing countries.

**Ms. Delaney** talked about emerging private climate finance disputes. Funding for climate-related projects may come from the public sector, the private sector, the Green Climate Fund, and the Clean Development Mechanism, through loans or equity arrangements. She described arbitration as particularly useful in resolving private climate finance disputes given its adaptability to legal and cultural differences, flexibility and efficiency, ability to choose arbitrators and experts with experience in climate change and climate finance, and enforceability.

The last speaker, **Ms. Miles**, elaborated on the role of arbitration in implementing the Paris Agreement and the significance of arbitration to South Pacific Islands insofar as it concerns their ability to access climate finance and to resolve broader climate change-related disputes.



**Session 9.** Ms. Christina Pak (moderator), Ms. Wendy J. Miles, QC, Mr. Ruel Yamuna, Ms. Ilona Millar, Ms. Jo Delaney, and Ms. Fedelma Claire Smith (speakers) engaged the audience in a free-flowing discussion about arbitrating climate change-related disputes.



## SESSION 10

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### Concurrent Breakout Sessions

#### A. Concurrent Breakout Session for Lawyers: Drafting Arbitration Agreements

**Mr. Ting-Chung Wu**, special counsel at Dentons, PNG, moderated the session and emphasized that arbitration has been and will continue to be a trend in dispute resolution. He emphasized the importance of a dispute resolution agreement, which unfortunately, is often overlooked. Only considered dispute resolution clauses will bring out an effective and efficient arbitration.

**Mr. McQueen** said that arbitration agreements form part of the “bargain” agreed between parties to a contract and evidence the terms of such agreement. Such terms must be drafted in clear, unambiguous language and adapted to the particular needs of the parties. Thus, those drafting arbitration agreements need to understand how they work in the context of the international arbitration system, the relevant international conventions, and the model and national laws.

**Mr. Bhushan** discussed the different aspects of drafting an arbitration clause, the important elements of an arbitration agreement and of a multi-tiered arbitration clause, and the impact of a poorly drafted arbitration clause on the resolution of disputes arising from the contract.

**Ms. Smith** advised the audience on how to promote efficiency and legitimacy in arbitration proceedings, with emphasis on disputes involving states, state entities, intergovernmental organizations, or the public interest. She highlighted emerging practices in the fields of transparency, corporate social responsibility, and new forms of dispute resolution, based on the recent experience of PCA. Lastly, she pointed out the impact of party choices on the constitution of the arbitral tribunal, the choice of seat, the efficiency of the proceedings, and the enforceability of the award.

**Mr. Daniel Kalderimis**, partner at Chapman Tripp, talked about the objectives of drafting an arbitration clause: to promote enforceability, to protect confidentiality, and to preserve flexibility. He explained that, usually, the best way to achieve these ends are to use, or at least to start with, the model arbitration clause of a selected institution and make only careful and incremental additions, where necessary. Often, adjustments suggested by the parties are not required because the matters these adjustments aim to cover are already adequately provided for by the chosen rules or the applicable national law. Sometimes, adjustments can even cause more harm than good. He concluded by briefly addressing two instances wherein adjustments may be required: (i) identification of rules to assist with evidence and (ii) joinder of third parties and consolidation of related disputes.

**Session 10-A.** Mr. Peter McQueen (speaker) emphasized the need to draft the terms of arbitration agreements in clear, unambiguous language, and suited to the particular needs of the parties.



## B. Concurrent Breakout Session for Private Sector: Contracting with Foreign Parties and Cross-Border Dispute Resolution

**Prof. Khory McCormick**, vice president at ACICA, moderated the session.

**Mr. Rio Fiocco**, president of the Port Moresby Chamber of Commerce & Industry, stressed the urgency of having an effective way of resolving disputes that may arise between the contracting parties, as an increasing number of PNG businesses take part in cross-border trade. He pointed at the New York Convention as the obvious solution and suggested that if the PNG government adopts the convention, then such disputes could be resolved by arbitration, and arbitral awards could be enforced by domestic courts.

**Ms. Koh** raised three questions that parties should consider in deciding the appropriate cross-border dispute resolution mechanism. Which arbitration rules should they adopt? How should they choose their arbitrator? Where should their arbitration be seated?

**Mr. Wade** directly answered the participants' questions on matters such as (i) the selection of arbitrators; (ii) the choice of arbitral institution; (iii) the procedure for enforcing an arbitration agreement with no prior decision made as regards seat; (iv) the choice of applicable law; and (v) the powers of arbitrators.

**Mr. Hyungkeun Lee**, partner at Yulchon LLC, highlighted the differences between arbitration and litigation, the advantages of arbitration vis-à-vis litigation when resolving cross-border disputes, the nature of an arbitration agreement and its key components, and the laws applicable to an arbitration proceeding.

## C. Concurrent Breakout Session for Judges: Implementation of the New York Convention – Judicial Perspective

**Deputy Chief Justice Kandakasi** moderated this special session for judges. He referred to the reform underway in PNG and in particular the Prime Minister's announcement that PNG would accede to the New York Convention and undertake a program of legislative reform to implement the Convention. He also talked about the work of the Arbitration Technical Working Committee (ATWC) and Justice Shepherd's contribution to the reform process, together with the other members of government making up the ATWC and the assistance being given by ADB.

**Session 10-B.** Mr. Hyungkeun Lee (speaker)  
distinguished between arbitration and litigation.



**Justice Shepherd** spoke about the status of international arbitration reform in PNG and the need to update outdated laws, which has stifled developments in the arbitration sphere. He mentioned about the ATWC's work on drafting a new law which, as currently proposed, would cover both domestic and international arbitration. The draft would shortly be subject to public consultation both through the PNG Law Society and across major towns in PNG. He also pointed out their Court Rules which were designed to assist parties in conducting arbitrations in PNG by making court facilities available and maintaining a register of voluntary arbitrations.

**Justice Leiatuaalesa Daryl Clarke** of the Supreme Court of Samoa spoke about arbitration law in Samoa and noted that although the current act permits enforcement of a foreign arbitral award, the act is now outdated by modern arbitration standards. Samoa has made an initial engagement with ADB in order to consider reform. Samoa has embraced mediation reform, and arbitration reform may be the next logical step. Consideration as to whether domestic arbitration alone or domestic and international arbitration reform needs to be undertaken remains under review.

**Justice Suresh Chandra**, justice of the Supreme Court and resident justice of appeal of the Court of Appeal of Fiji, shared Fiji's experience in ratifying the New York Convention on 27 September 2010 and passing the International Arbitration Act on 15 September 2017. The International Arbitration Act is a comprehensive, state-of-the-art legislation based on the UNCITRAL Model Law on International Commercial Arbitration and its amendments. The new law governs international arbitrations commenced after it took effect and incorporates international best practices in international commercial arbitration as well as provisions from the international arbitration laws of Australia, Hong Kong, and Singapore. He also explained the salient features of the new law and the role of courts when litigants have an existing arbitration agreement.

**Mr. Cohen** spoke about Hong Kong's experience as a pro-enforcement jurisdiction for arbitral awards under the New York Convention and more broadly. He discussed the approach to costs taken for failed challenges to enforcement together with the listing practices for disposing unmeritorious challenges. He also spoke briefly about the way that the People's Republic of China (PRC) is now perceived in the broad international dispute resolution community over the last 20 years as a result of the PRC Supreme People's Court's adoption of a pro-New York Convention enforcement stance.

Finally, **Mr. Meltz** talked about the development of international arbitration enforcement and resistance cases before Australian courts. He emphasized the courts' pro-enforcement attitude, which has characterized curial thinking in recent years. He also mentioned about specialist international arbitration lists and judges trained in the area.

**Session 10-C.** Mr. Daniel Meltz (speaker) related the development of international arbitration enforcement and resistance cases before Australian courts.



## SESSION 11

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### New Developments in Dispute Resolution

**Ms. Pak** moderated this penultimate session to highlight what the arbitration community is doing to meet client needs and innovating to address emerging issues. The session also informed the audience about other dispute resolution mechanisms such as mediation under the Singapore Convention on Mediation and adjudication by commercial courts.

**Mr. Finizio** identified the measures used to promote efficiency and cost-effectiveness, such as early determination of claims and defenses and expedited procedures for smaller claims. He also talked about amendments and proposed changes to institutional rules concerning transparency, settlement discussions, and appointment of emergency arbitrators and experts.

**Mr. Nash** discussed the procedural devices available to deal with complex, multi-party disputes. He examined the structure of the SIAC Rules on consolidation which allows parties to consolidate multiple arbitrations into a single proceeding even where there is no identity of parties. By looking at actual cases administered by SIAC, he showed how consolidation provides significant cost savings and avoids inconsistent decisions. He also introduced the participants to SIAC's 'Cross-Institution Consolidation Protocol,' which was authored by SIAC's President, Mr. Gary Born. Under this Consolidation Protocol, parties would be able to consolidate arbitrations that provided for different institutional rules into a single proceeding. Mr. Nash noted that the Consolidation Protocol is an example of SIAC's thought leadership and the increasing collaboration among institutions.

**Mr. Bhushan** spoke about transparency and code of ethics issues, particularly from ICC's ethos for transparency and accountability towards users, lawyers and arbitrators. He explained some of the ICC International Court of Arbitration's new policy decisions regarding the publication of awards, the industry sector involved, the identity of counsel representing the parties, the sanctioning of arbitrators, and the institution's administrative expenses.

**Mr. Wesley Pang** provided an overview of third party funding, its role in dispute resolution, and some developments about third party funding across Asia and the Pacific.

**Ms. Catherine Green**, executive director of NZIAC, presented on the hybrid arbitration-mediation (Arb-Med) process, explaining how it works in practice under the NZIAC Arb-Med Rules and commenting on the benefits and potential pitfalls of hybrid processes.

**Prof. McCormick** discussed the intersection between the New York Convention and the Singapore Convention on Mediation and the practices in recent years in the arbitration sector.



**Session 11.** Mr. Abhinav Bhushan (speaker), Ms. Christina Pak (moderator), Ms. Catherine Green, Mr. Wesley Pang, Mr. Kevin Nash, Mr. Steven Finizio, and Prof. Khory McCormick (speakers) stressed what the arbitration community is doing to meet client needs and innovating to address emerging issues.





**Session 12.** Chief Justice Gibuma Gibbs Salika, KBE, CSM, OBE (speaker) gave his concluding remarks. Joining him onstage are Deputy Chief Justice Ambeng Kandakasi, Ms. Christina Pak, Mr. Daniel Meltz, and Mr. Damien J. Eastman (speakers).



**Session 12.** Mr. Damien J. Eastman (speaker) also gave his concluding remarks.

## SESSION 12

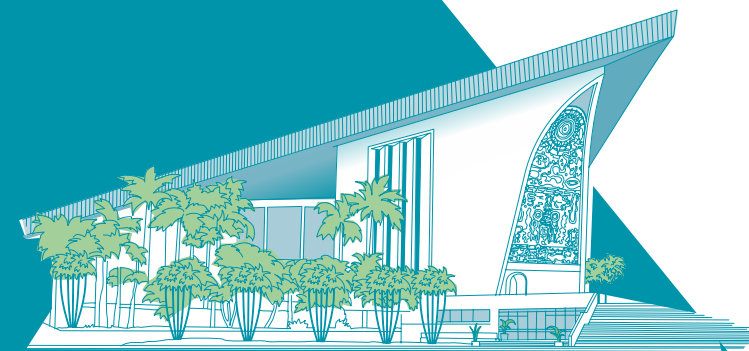
### Concluding Remarks and Recommendations

**Ms. Pak** talked about ADB's regional technical assistance project called Promotion of International Arbitration Reform for Better Investment Climate in the South Pacific and how ADB has assisted the Fiji government in enacting its International Arbitration Act to implement the New York Convention, which it signed in 2010, and organizing capacity building for its judiciary, the legal profession, and the private sector. Similarly, ADB, through this project, has been helping the PNG government undertake international arbitration reform.

**Chief Justice Salika** and **Mr. Eastman** delivered their concluding remarks.

# 9

## List of Delegates and Observers



Delegates (countries in alphabetical order)				
No.	Country	Name	Title	Organization
1	Australia	Brian White	Director	Marine Services Pacific Pty Ltd
2	Fiji	Suresh Chandra	Resident Justice of Appeal	Fiji Judiciary
3	Fiji	Preetika Prasad	State Solicitor	Fiji Judiciary
4	Fiji	Mary Lee Motofaga	Principal Legal Officer	Fiji Judiciary
5	Fiji	Ofa Solimailagi-Lemaki	Senior Legal Officer	
6	Fiji	David Solvalu	Senior Legal Officer	
7	Palau	Ernestine Rengiil	Attorney General	Office of the Attorney General
8	Palau	Kaleb Udui	Policy Advisor	Office of the President
9	Palau	John Austin Gaylord	Senior Legal Counsel to the President	Office of the President
10	Papua New Guinea	Nicholas Kirriwom	Justice	PNG Judiciary
11	Papua New Guinea	Les Gavara-Nanu	Justice	PNG Judiciary
12	Papua New Guinea	Ellenas Batari	Justice	PNG Judiciary
13	Papua New Guinea	George Manuhu	Justice	PNG Judiciary
14	Papua New Guinea	Allen Kingsley David	Justice	PNG Judiciary

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*Continued*

Delegates (countries in alphabetical order)				
No.	Country	Name	Title	Organization
15	Papua New Guinea	Joseph Yagi	Justice	PNG Judiciary
16	Papua New Guinea	Ere Kariko	Justice	PNG Judiciary
17	Papua New Guinea	Stephen Kassman	Justice	PNG Judiciary
18	Papua New Guinea	Jacinta Murray	Justice	PNG Judiciary
19	Papua New Guinea	Peter Toliken	Justice	PNG Judiciary
20	Papua New Guinea	Hitelai Polume-Kiele	Justice	PNG Judiciary
21	Papua New Guinea	Kenneth Frank	Justice	PNG Judiciary
22	Papua New Guinea	Frazer Pitpit	Justice	PNG Judiciary
23	Papua New Guinea	Leka Nablu	Justice	PNG Judiciary
24	Papua New Guinea	Robert Lindsay	Justice	PNG Judiciary
25	Papua New Guinea	Danajo Koeget	Justice	PNG Judiciary
26	Papua New Guinea	Thomas Anis	Justice	PNG Judiciary
27	Papua New Guinea	Ravu Auka	Justice	PNG Judiciary
28	Papua New Guinea	Daniel Liosi	Justice	PNG Judiciary
29	Papua New Guinea	Jim Wala Tamete	Justice	PNG Judiciary
30	Papua New Guinea	Oagile Bethuel Key Dingake	Justice	PNG Judiciary
31	Papua New Guinea	Teresa Berrigan	Justice	PNG Judiciary
32	Papua New Guinea	Nicholas Mivirri	Justice	PNG Judiciary
33	Papua New Guinea	John Kaumi	Acting Justice	PNG Judiciary
34	Papua New Guinea	John Numapo	Acting Justice	PNG Judiciary
35	Papua New Guinea	David Susame	Acting Justice	National Court of Justice

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*Continued*

Delegates (countries in alphabetical order)				
No.	Country	Name	Title	Organization
36	Papua New Guinea	Sinclair Peniel Gora	Acting Justice	National Court of Justice
37	Papua New Guinea	Jason Rotep	Solicitor General's Office	Solicitor General
38	Papua New Guinea	Roselyn Gwaibo	Deputy Secretary	Department of Justice and Attorney General
39	Papua New Guinea	Peter Palek	Public Solicitor's Office	Public Solicitor
40	Papua New Guinea	Doko Kari	Public Solicitor's Office	Public Solicitor
41	Papua New Guinea	Betty Jacobs	Magisterial Service	
42	Papua New Guinea	Regina Sagu	Magisterial Service	
43	Papua New Guinea	Sam Tatakali	Magisterial Service	
44	Papua New Guinea	Patricia Tivese	Magisterial Service	
45	Papua New Guinea	Samuel Lavutul	Magisterial Service	
46	Papua New Guinea	Deborah Komanrea	Magisterial Service	
47	Papua New Guinea	Bruce Tasikul	Magisterial Service	
48	Papua New Guinea	Pious Tapil	Magisterial Service	
49	Papua New Guinea	Josephine Nidue	Magisterial Service	
50	Papua New Guinea	Josephine Kilage	Magisterial Service	
51	Papua New Guinea	Wapu Sonk	Managing Director	Kumul Petroleum Holdings Ltd.
52	Papua New Guinea	Geoffrey Emang		Kumul Petroleum Holdings Ltd.
53	Papua New Guinea	Wayne Kasou	Manager Corporate Affairs	Oil Search Ltd
54	Papua New Guinea	Michael Henao	Head	Legal Department, Digicel PNG Ltd.
55	Papua New Guinea	Emmanuel Asigau	Partner	Pacific Legal Group
56	Papua New Guinea	Kenneth Imako	Special Counsel	Corrs Chambers Westgarth

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*Continued*

Delegates (countries in alphabetical order)				
No.	Country	Name	Title	Organization
57	Papua New Guinea	Karo Lelai		NortonRose Fulbright
58	Papua New Guinea	Franklyn Arthihulawa	Senior Lawyer	Eastern Highlands Provincial Government
59	Papua New Guinea	Michael Kambao	Lawyer	Enga Provincial Government
60	Papua New Guinea	John Munnnull	Lawyer	John P Munnnull Lawyers
61	Papua New Guinea	Brian Koning	Lawyer	Koningi Lawyers
62	Papua New Guinea	Kamo Pilisa	Lawyer	Pilisa Lawyers
63	Papua New Guinea	Roselyn Kot	Lawyer	Avross & Co Lawyers
64	Papua New Guinea	William Tekwie	Lawyer	Will Tekwie Lawyers
65	Papua New Guinea	Eva Ortlauf	Lawyer	Bewani Oil Palm
66	Papua New Guinea	Michael August	Lawyer	M. Smiley Lawyers
67	Papua New Guinea	Peter Yer	Lawyer	Peter Yer Lawyers
68	Papua New Guinea	Robert Mai	Lawyer	Robert Mai Lawyers
69	Papua New Guinea	Simon Alberic	Lawyer	Alberic Lawyers
70	Papua New Guinea	Josephine Waiwai	Lawyer	Emam Lawyer
71	Papua New Guinea	Paul Yange	Lawyer	Islands Legal Services
72	Papua New Guinea	Jacqueline Marubu	Lawyer	Marubu Lawyers
73	Papua New Guinea	Jan-Marie Ainui	Lawyer	Public Solicitor
74	Papua New Guinea	Michael Titus	Lawyer	Titus Lawyers
75	Papua New Guinea	Jane Dalton-Augaia	Lawyer	Warner Shand Lawyers
76	Papua New Guinea	Nigel Merrick	Lawyer	Warner Shand Lawyers

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*Continued*

Delegates (countries in alphabetical order)				
No.	Country	Name	Title	Organization
77	Papua New Guinea	Karo Gamoga	Lawyer	Gamoga & Co Lawyers
78	Papua New Guinea	Scholastica Nepel	Lawyer	Autonomous Bogainville Gov't
79	Papua New Guinea	Darius Wa'au	Lawyer	Ninerah Lawyers
80	Papua New Guinea	Deborah Onga	Lawyer	Steamships Trading Company
81	Papua New Guinea	Herman Krommong	Acting Provincial Legal Officer	Western Provincial Government
82	Papua New Guinea	Linus Lai	Principal Clerk	
83	Papua New Guinea	Malis Miningi	Acting Deputy Registrar	Companies, Legal & Compliance, Investment Promotion Authority
84	Papua New Guinea	Kamis Yalakun	Acting Manager	Investment Promotion Authority
85	Papua New Guinea	Bridgette Kamish	Assistant Secretary	Department of Trade & Commerce
86	Papua New Guinea	Philip Mercado	Assistant Secretary, Trade Policy	Department of Trade & Commerce
87	Papua New Guinea	Stanley Sam	Acting Assistant Director	Dept of Foreign Affairs
88	Papua New Guinea	Jack Parina	Company Secretary	National Superannuation Fund
89	Papua New Guinea	David Prest	Senior Legal Counsel	ExxonMobil PNG Limited
90	Papua New Guinea	Stephanie Alopea	Legal Counsel	ExxonMobil PNG Limited
91	Papua New Guinea	Kymerlee Cholai	Legal Counsel	ExxonMobil PNG Limited
92	Papua New Guinea	Samuel Tohui	Senior Legal Counsel	Kumul Petroleum Ltd
93	Papua New Guinea	Philip Poriei	Senior Manager Legal Services	PNG Power Limited
94	Papua New Guinea	Arun Kasi	Lawyer/Arbitrator	Construction Dispute Adjudicator
95	Papua New Guinea	Rhian Williams	Independent Mediator & Researcher on Law	

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Delegates (countries in alphabetical order)				
No.	Country	Name	Title	Organization
96	Papua New Guinea	David Denniston		
97	Papua New Guinea	Ruel Yamuna	Managing Director	PNG Climate Change and Development Authority
98	Papua New Guinea	Garau Podi		PNG Climate Change and Development Authority
99	Papua New Guinea	Akae Beach	Accountant	Beach Accounting and Advisory Services
100	Papua New Guinea	Lanna Assaigo-Kami	Principal	SL Kami Consultants
101	Papua New Guinea	Edward Wamp		Edward Wamp Lawyers
102	Papua New Guinea	Matthew Tamutai	Principal & Consultant	Tamutai Lawyers
103	Papua New Guinea	Michael Mumure	Public Solicitor	Public Solicitor's Office
104	Papua New Guinea	Pauline Stegman	Lawyer, Manager Commercial Services	Barrick Niugini Ltd
105	Papua New Guinea	Willie Kumanga	Act. First Asst Secty – Law, Justice & National Security	Department of National Planning & Monitoring
106	Papua New Guinea	Siboney Reuben	Acting Assistant Secretary – Law & Justice	Department of National Planning & Monitoring
107	Papua New Guinea	Rita Sisii	Senior Prog & Monitoring Officer – National Security	Department of National Planning & Monitoring
108	Papua New Guinea	Stephanie Kambuliagen	Actg Prog & Monitoring Officer – Judiciary	Department of National Planning & Monitoring
109	Papua New Guinea	Langa Kopio	Actg Asst Secretary – Social & General Policy	Department of National Planning & Monitoring
110	Papua New Guinea	Robert Numbaru	Actg Sr Policy Off – Comm Devt, Law & Justice	Department of National Planning & Monitoring
111	Papua New Guinea	Annie Pake	Acting Aid Coordinator – ADB Desk	Department of National Planning & Monitoring

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<b>Delegates (countries in alphabetical order)</b>				
<b>No.</b>	<b>Country</b>	<b>Name</b>	<b>Title</b>	<b>Organization</b>
112	Samoa	Hon. Sooalo Mene Siaosi	Associate Minister of Justice	Ministry of Justice and Courts Administration
113	Samoa	Talasa Saaga	Judge	
114	Samoa	Galumalemana Noumea L Teueli	Assistant Attorney General	Office of the Attorney General
115	Seychelles	Francis MacGregor	President Judge	Court of Appeal, Mahe, Republic of Seychelles
116	Solomon Islands	Emmanuel Kouhota	Justice	The High Court of Solomon Islands
117	Solomon Islands	Leonard Maina	Justice	The High Court of Solomon Islands
118	Solomon Islands	Ricky Iomea	Deputy Chief Magistrate	The High Court of Solomon Islands
119	Solomon Islands	Barnabas Lauiga Anga	Solomon Islands High Commissioner to PNG	Solomon Islands High Commissioner to PNG
120	Timor-Leste	Lukeno Alkatiri	Partner	JLA, Advogados e Consultores
121	Timor-Leste	Melisa Caldas	Advisor	Legislative Reform Office, Ministry of Legislative Reform
122	Timor-Leste	José Pedro Sousa	International legal adviser	Ministry of Legislative Reform
123	Tonga	Poinisetia Paongo	Principal Assistant Registrar	Business Registry Division

### **Moderators and Speakers**

#### **Host**

124	Papua New Guinea	Hon. Peter O'Neill	Prime Minister	Papua New Guinea
125	Papua New Guinea	Hon. Gibbs Salika	Chief Justice	Supreme and National Courts of Justice
126	Papua New Guinea	Hon. Ambeng Kandakasi	Deputy Chief Justice and Chair, ADR	Supreme and National Courts of Justice
127	Papua New Guinea	Hon. Justice Jeffrey Shepherd	Justice	Supreme and National Courts of Justice

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Moderators and Speakers				
No.	Country	Name	Title	Organization
<b>Guest</b>				
128	Australia	Jo Delaney	Partner	Baker McKenzie
129	Australia	Ilona Millar	Special Counsel	Baker McKenzie
130	Australia	David Tonkin	Chief Counsel	Australian Trade and Investment Commission (Austrade)
131	Australia	Bronwyn Lincoln	Partner	Corrs Chambers Westgarth
132	Australia	Leah Ratcliff	Partner	Jones Day
133	Australia	Andrea Martignoni (Italian)	Partner; Vice President	Allens; Australian Centre for International Commercial Arbitration (ACICA)
134	Australia	Khory McCormick	Vice President	ACICA
135	Australia	Peter McQueen	Independent Arbitrator	
136	Hong Kong	Wesley Pang	Managing Counsel	Hong Kong International Arbitration Centre
137	Hong Kong	Julian Cohen	Barrister	Gilt Chambers
138	New Zealand	Robert John Green	Director	New Zealand International Arbitration Centre
139	New Zealand	Catherine Green	Executive Director	New Zealand International Arbitration Centre
140	New Zealand	Daniel Kalderimis	Partner	Chapman Tripp
141	Papua New Guinea	Lillian Vevara	Deputy State Solicitor	Office of the State Solicitor
142	Papua New Guinea	Rio Fiocco	President	Port Moresby Chamber of Commerce & Industry
143	Papua New Guinea	Maryanne Tusais	Lawyer	Dentons PNG
144	Papua New Guinea	George Koi	In-House Counsel	Nambawan Super Limited
145	Papua New Guinea	Goiye Gileng	Partner	Posman Kua Aisi Lawyers

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*Continued*

Moderators and Speakers				
No.	Country	Name	Title	Organization
146	Papua New Guinea	Lanna Assaigo-Kami	Principal	SL Kami Consultants
147	Samoa	Leiataua Daryl Clarke	Justice	Supreme Court of Samoa
148	Singapore	Abhinav Bhushan (Indian)	Director	South Asia, ICC Arbitration & ADR
149	Singapore	Kevin Nash (Canadian)	Deputy Registrar & Centre Director	Singapore International Arbitration Centre
150	Singapore	Prakash Pillai	Partner	Clyde & Co Clasis Singapore Pte. Ltd.
151	Singapore	Koh Swee Yen	Partner	Wong Partnership
152	Singapore	Jelita Pandjaitan	Partner	Linklaters Singapore Pte. Ltd.
153	Singapore	William B. Panlilio	Associate	King & Spalding
154	Singapore	Fedelma Claire Smith	Senior Legal Counsel	Permanent Court of Arbitration
155	South Korea	Hyungkeun Lee	Partner	Yulchon LLC
156	Spain	Jordi Paniagua	Professor of Economics and Business	University of Valencia
157	Thailand	Athita Komindr	Head	UNCITRAL Regional Centre for Asia and the Pacific
158	Timor-Leste	José Augusto Fernandes Teixeira	Partner	Da Silva Teixeira & Assoc., Lda.
159	United Kingdom	Wendy Miles	Partner	Debevoise & Plimpton
160	United Kingdom	Fiona Anne Connell	Principal Counsel	Asian Development Bank
161	United Kingdom	Shai Wade	Partner	Stephenson Harwood LLP
162	United Kingdom	Steven Finizio	Partner	Wilmer Hale

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ADR Committee Members				
No.	Country	Name	Title	Organization
163	Papua New Guinea	Iova Geita	Justice	Supreme and National Courts of Justice
164	Papua New Guinea	Mark Selefkairu	Deputy Chief Magistrate	
165	Papua New Guinea	Dessie Magaru	Deputy Chief Magistrate	
166	Papua New Guinea	Prof. John Luluaki	Professor, School of Law	University of PNG
167	Papua New Guinea	Derek Wood	Partner	Ashurst
168	Papua New Guinea	Andrew Kwimberi	Lawyer & Mediators	
Others				
169	Australia	Dr. Paul Gibson	Independent Mediator	Gibson ADR, NSW
170	Australia	Prof. Tania Sourdin	Head of School & Dean	Newcastle Law School
171	United States	Michael Murphy	Attorney at Law	The Jacobson Law Group, a former Fulbright Scholar, United States
172	Australia	Prof. Rajesh Sharma	Senior Lecturer, Legal and Dispute Studies	RMIT University Australia
173	Malaysia	Justice Datuk Hamid Sultan Abu Backer	Judge of Court of Appeal	Court of Appeal, Malaysia
174	New Zealand	Prof Catherin Iorns	Reader in the School of Law	Victoria University, Wellington
175	Papua New Guinea	Joelson Anere		
176	Papua New Guinea	Nolpi Kilwa		
177	Papua New Guinea	Matthew Ree		
178	Papua New Guinea	Keith Iduhu		
179	Papua New Guinea	Jean Kalamo		NJSS
180	Papua New Guinea	Belinda Ale		NJSS
181	Papua New Guinea	Andrew Barila		NJSS

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Others				
No.	Country	Name	Title	Organization
182	Papua New Guinea	Bruce Ifina		NJSS
183	Papua New Guinea	Veratau Kekebogi		NJSS
184	Papua New Guinea	Victor Koaba		NJSS
185	Papua New Guinea	Vargha Mairu		NJSS
186	Papua New Guinea	Joyceline Matsi-Kurapa		NJSS
187	Papua New Guinea	Deslyn Mihire		NJSS
188	Papua New Guinea	Brendon Tirone		NJSS
189	Papua New Guinea	Elling Namean		NJSS
190	Papua New Guinea	Margaret Ngaffin		
191	Papua New Guinea	Eric Kisu		
192	Papua New Guinea	Francis Pina		
193	Papua New Guinea	Tonia K.		
194	Papua New Guinea	Debra Knight		
195	Papua New Guinea	Joe Kok Ry		
196	Papua New Guinea	Allan Parker		
197	Papua New Guinea	Katie Eberle		
198	Papua New Guinea	Mary Ikupu		
199	Papua New Guinea	Trina Ikupu		
200	Papua New Guinea	Carol Oeka		
201	Papua New Guinea	Veali Lama		

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*Continued*

Others				
No.	Country	Name	Title	Organization
202	Papua New Guinea	Hilan Kavon		
203	Papua New Guinea	Carl Ben		
204	Papua New Guinea	Andrew Baile		
205	Papua New Guinea	Marvin Fan		
206	Papua New Guinea	Samson Tanion		
207	Papua New Guinea	Theresa Kaiser		
208	Papua New Guinea	Julie Yan		
209	Papua New Guinea	Christine Pih		
210	Papua New Guinea	Anna Tutar		
211	Papua New Guinea	Tony Noke		
212	Papua New Guinea	Jon Darpuise		
213	Papua New Guinea	Joanna Tupul		
214	Papua New Guinea	Nerrie Eliar		
215	Papua New Guinea	Wilson Minga		
216	Papua New Guinea	Max Iled		
217	Papua New Guinea	Beverly Malken		
218	Papua New Guinea	Hillary Masiria		
219	Papua New Guinea	Gloria Salika		
220	Papua New Guinea	Eric Tamaan		
221	Papua New Guinea	Erastus Kaulavi		

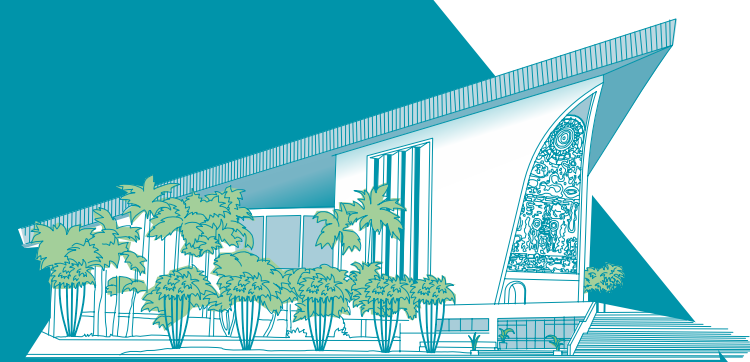
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<b>Others</b>				
<b>No.</b>	<b>Country</b>	<b>Name</b>	<b>Title</b>	<b>Organization</b>
222	Papua New Guinea	Mark Pupalea		
223	Papua New Guinea	Murphy Saesavia		
224	Papua New Guinea	Alex Alega		
225	Papua New Guinea	Elizabeth Suelip		
226	Papua New Guinea	Sampson Endehipa		
227	Papua New Guinea	Andrew Watson		
228	Papua New Guinea	Frank Kolina		
229	Papua New Guinea	Dianne Stephanie Aiking-Kwa		
230	Papua New Guinea	Ian Augereon		
231	Papua New Guinea	Fred Silao		
232	Papua New Guinea	Quentin Nukuita		
233	Papua New Guinea	Agiru Daniel		
234	Papua New Guinea	Peter Michael		
<b>ADB Delegates and Organizers</b>				
235	Australia	Damien Eastman	Assistant General Counsel	Asian Development Bank
236	United States	Christina Pak	Principal Counsel	Asian Development Bank
237	Philippines	Ma. Celeste Grace Saniel-Gois	Senior Legal Operations Officer	Asian Development Bank
238	Philippines	Imelda Alcala	Senior Project Coordinator (ADB Consultant)	Asian Development Bank
239	Australia	Daniel Meltz	Arbitration Specialist (ADB Consultant)	Asian Development Bank

# 10

## Conference Secretariat



### CHRISTINA PAK

Please see page 47.

### DR. YANYING LI



**Dr. Yanying Li** is a Counsel in the Office of the General Counsel at the Asian Development Bank, specializing in sovereign related finance and dispute resolution, and has been working on projects in South Asia and the Pacific. She is a member of the team responsible for the implementation of the international arbitration law reform technical assistance project in the South Pacific.

Dr. Li obtained her Ph.D degree on sovereign debt restructuring from Leiden University and is admitted to practice law in the state of New York. Prior to joining ADB, Dr. Li has worked in several countries across continents and has gained experience in Clifford Chance LLP (London), Permanent Court of Arbitration and United Nations Commission on International Trade Law.

## MA. CELESTE GRACE A. SANIEL-GOIS



**Ms. Ma. Celeste Grace A. Saniel-Gois** is a senior legal operations officer at the Office of the General Counsel (OGC) of the Asian Development Bank (ADB). She provides technical, analytical, and coordination support for OGC's Law and Policy Reform Program.

Ms. Saniel-Gois has been with ADB for 20 years. Before joining OGC, she was a member of the urban sector team, administering regional technical assistance (TAs) on urban infrastructure projects. She was also a member of the gender and development team of ADB, serving as coordinator for the multi-donor Gender and Development Cooperation Fund, which provided resources for regional TAs aimed at building gender capacity and conducting research on emerging and critical gender issues.

Ms. Saniel-Gois holds a masters degree in Social Services and Development from the Asian Social Institute, Manila; academic credits for masters in Women and Development at the University of the Philippines; and a Bachelor's degree in Communication Arts at St. Scholastica's College, Manila.

## ATTY. FRANCESSE JOY J. CORDON-NAVARRO



**Atty. Francesse Joy J. Cordon-Navarro** is a consultant senior legal and policy reform specialist at ADB's Law and Policy Reform (LPR) Program, working on projects focused on environment and climate change, corporate governance, and international arbitration since 2013.

Outside ADB, Atty. Cordon-Navarro worked as an associate at Siguion Reyna, Montecillo & Ongsiako Law Offices, consultant for the University of the Philippines Law Center, lecturer on law, children, and the environment at the Oxbridge Academic Programs in Cambridge, and a mandatory continuing legal education (MCLE) seminar lecturer on international environmental law at the University of the Philippines. She graduated magna cum laude in BS Business Economics in 2007 and with a dean's medal for academic excellence in Juris Doctor (Law) in 2011 from the University of the Philippines. She finished her masters in Environmental Policy at the University of Cambridge. Atty. Cordon-Navarro has published on international environmental law and sustainable development principles and international children's rights.



## IMELDA T. ALCALA

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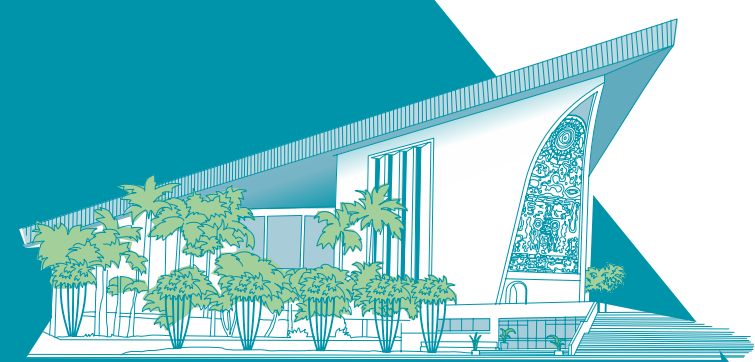


**Ms. Imelda T. Alcala** is a senior project coordinator for the Promotion of International Arbitration Reform for Better Investment Climate in the South Pacific and the Strengthening the Capacity for Environmental and Climate Change Laws in Asia and the Pacific technical assistance projects. She oversees and manages the roll-over of project logistics, coordination and administration.

Ms. Alcala has a Bachelor of Science in Business Administration degree major in Management. She has been with the Asian Development Bank as a consultant for various projects since 1996. Her 23 years in the bank have seen her handle projects in environmental law, energy and water regulation, climate change, food fortification and health policy, regional cooperation in law, justice and development, finance and risk mitigation, and commercial law reform.

# 11

## Conference in Colors



▲ The participants eagerly waited for the conference to begin.



▲ Ms. Athita Komindr (leftmost) and Mr. Damien J. Eastman (rightmost) gave opening remarks. Chief Justice Gibuma Gibbs Salika (second from left) served as keynote speaker. Deputy Chief Justice Ambeng Kandakasi (third from left) led in organizing the conference on behalf of the Papua New Guinea judiciary.



▲ The ADB organizing team onsite, comprising Mr. Damien J. Eastman, Ms. Christina Pak, Ms. Ma. Celeste Grace A. Saniel-Gois, and Ms. Imelda T. Alcalá, stood happily with Deputy Chief Justice Ambeng Kandakasi.



▲ Chief Justice Gibuma Gibbs Salika smiled proudly with delegates from Fiji.



▲ Deputy Chief Justice Ambeng Kandakasi and Ms. Ma. Celeste Grace A. Saniel-Gois posed for the camera.



▲ The participants and speakers engaged in networking over dinner.



▲ Ms. Imelda T. Alcala (right) bonded with Ms. Betty Kup Jacobs (left) and Ms. Elling Elliat Nameanlova (middle).



▲ The busy ladies of the onsite ADB organizing team, Ms. Christina Pak (middle), Ms. Ma. Celeste Grace A. Saniel-Gois (left), and Ms. Imelda T. Alcala (right), posed for posterity.



▲ Cultural performances entertained the participants.





## About the Asian Development Bank

ADB is committed to achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty. Established in 1966, it is owned by 68 members—49 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

ADB

**ASIAN DEVELOPMENT BANK**

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1550 Metro Manila, Philippines

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