THE ACICA REVIEW

DECEMBER 2025

ACICA
Australian Centre for International Commercial Arbitration

ACICA
Australian Centre for International Commercial Arbitration

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THE
ACICA REVIEW

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Contents

THE ACICA REVIEW

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President's Welcome

Judith Levine
ACICA President

Welcome to the December 2025 edition of the ACICA Review.

As ACICA's 40th anniversary year comes to an end, it has been a busy and productive period marked by a high number of new cases, a wide range of initiatives and a record-breaking Australian Arbitration Week. It is my pleasure to share with you a selection of highlights from this milestone year in ACICA's history.

ACICA Welcomes New Counsel and Associate

In July, Amy Cable joined ACICA as Counsel. Prior to joining ACICA, Amy gained over a decade of experience in international arbitration teams of DLA Piper and Ashurst, in London and Australia. In November, ACICA welcomed Shania Elias as Associate. Shania has previously worked as Deputy Director at the ICC International Court of Arbitration in New Delhi. We are delighted to have Amy and Shania on board.

ACICA has also farewelled two brilliant Associates, Mayling Paton and Benjamin Batten. I thank Mayling and Benjamin for their invaluable contributions to ACICA and wish them the very best in their next chapter.

ACICA's Global Programme of Events

ACICA has proudly celebrated its 40th anniversary with a wide-ranging programme of events, engaging with the international arbitration community in major hubs across the globe.

In the second half of 2025 ACICA strengthened its global connections through hosting a series of well-attended events during Singapore Convention Week, Delhi Arbitration Weekend and Dubai Arbitration Week.

In August, ACICA continued the tradition of bringing together Australian arbitration practitioners and those with an interest in Australia at Singapore Convention Week. First, ACICA & ACICA45, together with Premium Corporate Member (PCM) Ashurst, held a panel discussion exploring the complex opportunities and challenges associated with the integration of AI in international arbitration and shared practical insights on how AI tools are already being used in practice. Towards the end of the week, ACICA co-hosted a networking breakfast with PCM Corrs Chambers Westgarth. This was an excellent opportunity to reconnect with old friends and meet new colleagues from Australia, Singapore and the broader Asia-Pacific region, set against the stunning views from the "Lighthouse" atop the Fullerton Hotel. Australian practitioners, arbitrators and experts were prominent at events throughout the week, showcasing the depth of their experience, including at two events in which I participated for ICC Australia, at the Australian High Commission and the GAR Live Singapore conference and debate.

Closer to home, in July, it was a privilege to join a wonderful line-up of speakers at the second edition of the Melbourne Arbitration Symposium. This year's theme, 'Managing Mega Disputes', resonated strongly and the event was a resounding success, with tickets selling out in record time (for the benefit of ACICA's Education

Fund). The Honourable Wayne Martin AC KC, Patron of ACICA's Western Australian State Committee, delivered an insightful and engaging Keynote Address. Two highly engaging and entertaining panel sessions followed. Finally, the Honourable Justice Stynes, the Victorian Supreme Court's representative on ACICA's Judicial Liaison Committee, closed the day with thoughtful reflections on how courts and arbitration practitioners can work collaboratively to achieve just, cost-efficient and timely outcomes for users. It was a pleasure for me to deliver the closing remarks to thank all involved in the Victorian arbitration community who organised this event, and PCM Allens for hosting the symposium and cocktails. The format will be emulated in future symposiums around Australia.

A Record-Breaking Australian Arbitration Week 2025

This year's Australian Arbitration Week (AAW) surpassed all expectations. The response from the international arbitration community was extraordinary: more delegates, more contributors and more events than we have ever seen.

The week began with the AAW Welcome Reception, generously hosted by ACICA PCM Corrs Chambers Westgarth at their spectacular Sydney offices, where attendees celebrated ACICA's 40th anniversary against the iconic backdrop of the Sydney Harbour Bridge and the Sydney Opera House.

Yvonne Weldon AM, Sydney City Councillor, commenced the formalities with an inspiring Welcome to Country, followed by remarks from host and ACICA Vice-President Joshua Paffey. I was honoured to introduce Her Excellency the Honourable Margaret Beazley AC KC, Governor of New South Wales, who offered thoughtful reflections on the enduring importance of institutions and the rule of law. ACICA's Secretary General, Diana Bowman, then introduced the Honourable Stephen Gageler AC, Chief Justice of the High Court of Australia, who spoke about the continued collaboration between ACICA and the judiciary, especially in harmonising approaches to arbitration-related proceedings.

The formalities finished with a memorable ceremony, during which I had the honour of awarding three former ACICA Presidents, Dr Michael Pryles AM PBM, Professor Doug Jones AO and Georgia Quick, with Life Fellow Memberships of ACICA for their outstanding contributions to ACICA over decades of service, with Her Excellency presenting the certificates. I would like to take this opportunity to thank Michael, Doug and Georgia once again for their vision and dedication to ACICA, which has helped to shape ACICA into the world-class arbitral institution that it is today.

Throughout the rest of the week, the sessions I attended were rich in content, well attended, and pertinent to my practice and the future of arbitration. I had the privilege of moderating ACICA's annual Arbitrator Roundtable alongside ACICA's Secretary General, Diana Bowman, with six outstanding international arbitrators from around the globe facilitating the discussion. The ACICA x ACICA45 Walk & Run for Wellbeing has become a real highlight of AAW, and this year it was a joy to get to know delegates while walking around the Sydney Opera House and Royal Botanic Gardens, finishing up with a coffee thanks to Ashurst, where Diana and I and our group of walkers reconnected with the running contingent led by ACICA Professional Advisory Council Vice-Chair Jeremy Chenoweth and ACICA45 SteerCo Member Reid Hadaway.

The breadth of engagement across over 60 sessions highlighted not only the depth of arbitration expertise in Australia, but also the eagerness of practitioners around the world to collaborate with and learn from our community. The smaller events allowed time to focus on certain industries (such as defence, renewables, mining and data-centres), practical issues (document production, integrity of proceedings, mega disputes), or recent case developments from Australian courts and ISDS tribunals involving Asia-Pacific parties.

International Arbitration Conference 2025

The flagship event of AAW was the International Arbitration Conference 2025, held at the Sofitel Wentworth in the heart of Sydney's legal precinct. With over 300 delegates from 18 countries, this year's Conference surpassed records for attendance and the global reach of its speakers and has been widely praised for the quality of the sessions. With the theme 'Revolutions and Solutions: Future-Proofing Arbitration', seven panels explored the challenges and innovations shaping arbitration in a rapidly changing world. Diverse and energetic speakers held engaging discussions

on disputes in the context of shifting geopolitical landscapes, shared practical insights on new areas of commercial disputes and exchanged ideas for maximising procedural efficiencies.

It was a privilege to present the Opening Address and introduce the Honourable Chief Justice Andrew Bell for his Keynote on 'AI in Arbitration'. Other highlights included the fireside chat between Premala Thiagarajan SC and Professor Bernard Hanotiau, marking the 20th anniversary of his book on multi-party and multi-contract arbitration. The final session provided an opportunity for young practitioners from the ACICA incubator program to elicit words of wisdom and entertaining insights from Kim Rooney, Wayne Martin and Hilary Heilbron KC before all participants could enjoy cocktails at the Wentworth Bar. I thank the ACICA Secretariat and the tireless efforts of my colleagues on the organising committee for putting together such a terrific program and seamless event.

Please "save the dates" for Australian Arbitration Week 2026, which will take place from 11-16 October 2026 in Melbourne, with the International Arbitration Conference 2026 taking place on Monday 12 October 2026. We look forward to seeing you in Melbourne!

An exciting year ahead: ACICA Arbitration Rules Revision, Australian Arbitration Survey and Pacific Islands Practitioner Scholarship

The review of the 2021 ACICA Arbitration Rules and ACICA Expedited Arbitration Rules is well underway, with special thanks to the ACICA Rules Committee Chair, James Morrison, and the rest of the Committee, consisting of experts from law firms, the Bar, in-house counsel and academia, based in Australia and abroad. Their lively event during Australian Arbitration Week entitled 'Revising the ACICA Rules 2021: Advance Screening for 2026 – Come and have your say!' previewed some of the proposed changes to the Rules ahead of the public consultation phase in early 2026.

At the time of writing, the launch of the next edition of the ACICA Australian Arbitration Survey (Survey), supported by HKA and FTI Consulting, is imminent. The Survey will build on the success of the inaugural 2020 Australian Arbitration Report and is anticipated to be the most comprehensive empirical study on the arbitration market in Australia to date. The results of the Survey will be shared in the second Australian Arbitration Report. We welcome contributions to the Survey from all members of the arbitration community, whose insights will be invaluable in capturing the commercial arbitration landscape in Australia. I look forward to completing the Survey and encourage all members of the ACICA and Australian arbitration community to participate. You can register your expression of interest to participate in the Survey here.

In 2026 we will also be launching the 2nd edition of the ACICA Pacific Islands Practitioner Scholarship (Scholarship), an initiative of ACICA's South Pacific Taskforce, which comprises practitioners with regional expertise and is dedicated to promoting education and capacity building efforts in the South Pacific. Awarded on a biennial basis, the Scholarship enables up to two legal practitioners admitted in the South Pacific region to attend AAW and the International Arbitration Conference.

Final reflections

Finally, I express my thanks to the Editorial Board for their work on this latest edition of the ACICA Review.

As I reflect on this remarkable 40th Anniversary year for ACICA, I am grateful for the leaders who helped to shape our foundations, the partners who support our work and the global community that continues to place its trust in Australia as a leading centre for international arbitration. Here's to the next 40 years!

On behalf of ACICA, I would like to wish you all a happy holiday season and a wonderful new year. ACICA looks forward to another year of collaboration, innovation and growth in 2026.

Faces of ACICA: Meet ACICA's Newly Appointed Life Fellows

Dr Michael Pryles AO PBM

Dr Michael Pryles is a distinguished international arbitrator and former President of ACICA (2002-2008). He is also a former professor at Monash University, Partner at Minter Ellison and Commissioner with the Australian Law Reform Commission. He is recognised globally for his extensive experience in arbitral practice. He has also held several international appointments including Commissioner with the United Nations Compensation Commission for over 8 years.

The ACICA lifetime fellowship has been awarded to Dr Pryles in recognition of his remarkable contribution to ACICA's institutional development and modern identity. His legacy includes relocating ACICA's head office to Sydney, and leading the creation of the Asia-Pacific Regional Arbitration Group. Dr Pryles oversaw the launch of the first Australian Arbitration Rules in 2005 and was instrumental in promoting diversity and inclusivity on the ACICA Board, while also strengthening Australia's international engagement in arbitration.

Asked to comment about his recognition as a Life Fellow of ACICA, Dr Pryles thanked ACICA and commented: *"International arbitration is the most exciting field of legal practice."*

Professor Doug Jones AO

Professor Doug Jones AO is a leading international commercial and investor-state arbitrator and now an International Judge of the Singapore International Commercial Court. Professor Jones was President of ACICA from 2008 to 2014 and has played and continued to play a pivotal role in the development and strengthening of ACICA.

During Professor Jones' presidency, ACICA was among the early movers in releasing it first set of Expedited Arbitration Rules and the second revision of the ACICA Arbitration Rules. He lobbied for ACICA to be the default appointing authority under the International Arbitration Act 1974 (Cth), and set up the ACICA Judicial Liaison Committee, which has become a distinctive feature of ACICA in the region. He also oversaw the launch of Sydney Arbitration Week, which later became Australian Arbitration Week, and continues to grow each year in the number of events held and the attendees from around Australian and internationally.

Professor Jones has continued to contribute to ACICA as a long-standing member of the ACICA Board and then as a member of the Professional Advisory Council, and training the next generation through tribunal secretary courses in Australia and internationally.

Of his recognition as a Life Fellow of ACICA, Professor Jones has this to say:

"I am honoured to have received the ACICA Life Membership, and to have played a role in the development of this organisation over the last 40 years. Established in 1985 under the auspices of the then Institute of Arbitrators Australia and reconstituted in 2003 by major national law forms under Michael Pryles AO PBM, ACICA has been a driving force in the growth of international and domestic arbitration in Australia. During my presidency from 2008 to 2014, ACICA launched initiatives such as Sydney Arbitration Week, the ACICA Review, and won and hosted the 2018 ICCA conference bid. A standout memory for me with ACICA is chairing this Conference in Sydney in 2018, the first "Olympics of Arbitration" to be held in the Oceanic region, showcasing Australia to over 900 delegates from all over the world. ACICA's global outreach, the leadership of subsequent presidents Alex Baykitch, Brenda Horrigan, Georgia Quick and Judith Levine, and a vibrant international membership of over 300, have together built a credible and growing organisation. I wish ACICA every success in the years ahead."

Georgia Quick

Georgia Quick served on the ACICA Board for over 15 years, including a decade on the executive, and as President (2021–2024). She is a partner and head of the Australian international arbitration practice at Ashurst, specialising in energy, construction and major projects.

Georgia has played a pivotal role in strengthening ACICA's institutional presence both in Australia and globally. During her presidency, ACICA achieved record growth, including the highest number of arbitration cases filed in a single year. She also introduced several initiatives that have enhanced accessibility and diversity in the arbitral practice including establishment of the inaugural Pacific Island Practitioner Scholarship, the creation of the Sustainability Taskforce and Diversity Committee.

Georgia's legacy includes the launch of ACICA Connect, ACICA's case management platform, and the release of the Evidence in International Arbitration Report, 2023. She also oversaw the expansion of ACICA's national and international networks, by establishing state-based committees and ensuring that Australian Arbitration Week rotates around Australia.

The ACICA lifetime fellowship award recognises Georgia Quick's outstanding contribution to ACICA's growth, modern identity, and broad stakeholder engagement. Her tenure has left an enduring mark on the institution and has promoted values of inclusivity, sustainability, and global engagement.

Of her recognition as a Life Fellow of ACICA, Ms. Quick has this to say:

"I am honoured to receive this lifetime fellowship award, alongside Dr Pryles and Professor Jones. It has been a privilege to be involved in so many worthwhile initiatives with the ACICA Secretariat, Board, Executive and broader arbitration community (which now squarely includes the judiciary, the bar, experts, funders, service providers and corporate counsel). ACICA is nothing without the generosity and enthusiasm of our community who provide time and energy in the pursuit of a thriving arbitration practice in Australia and for Australian's abroad. Arbitration is a uniquely collaborative area of practice and throughout these endeavours, with would be adversaries, awareness is raised, innovations encouraged, and practices improved. The annual ACICA executive planning days were always particularly inspiring as the executive brainstormed a never-ending list of ideas. For ACICA's 40 year anniversary, I reflected on some memorable moments which included representing ACICA at a meeting in Beijing regarding the Belt & Road co-operation initiatives between arbitral institutions, chairing ACICA's renewable energy panel at CAL Arb in San Francisco to promote awareness for ACICA in the United States of America, and seeing the success of both the 'Friends of ACICA' Initiative (harnessing the network of incredible Australian talent and connections abroad) and the Pacific Islands Practitioner Scholarship (building capacity with our important neighbours). In contrast, I am still smarting from losing an arbitral women debate on the role of diversity and so I would make a call to arms for us to continue the important work we have started on diversity in arbitration - I will assume it was not my oratory skills but that the topic was disappointingly unwinnable. I have made some fast friendships during my time at ACICA for which I am very thankful. And speaking of thanks, there are too many to give save for a call out to the incredible former Secretary General, Deborah Tomkinson, who was with me throughout and for whom significant credit for ACICA's achievements over a 10 year period should be given, and to Doug for his support, mentorship and tireless work in Australia and abroad for the benefit of us all. It is exciting to see the growth of ACICA from the time I returned from working in London back in 2006 to now and for it to be possible to have a thriving arbitration practice in Australia. ACICA is in great shape with a wonderful executive and the incredible Judith Levine as President and Diana Bowman as Secretary General to take on the continuing challenges ahead. I look forward to seeing ACICA's success continue to grow."

Latest News

New Members

We welcome the following new members to ACICA:

Fellows:

Andrea Stauber (London)
Marc Sukkar (Sydney)
The Hon. James Allsop AC (Sydney)
Lei Chen (Durham, UK)
Sarah Lancaster (London)
Vinh Luu (Hanoi)
Kate Buxton (Brisbane)
Arvin Lee (Singapore)
Cameron Sim (Sydney)
Dr Niels Schiersing (Dubai)
Lucinda Brabazon (Brisbane)
Dr Navid Sedaghati (Sydney)
Vincent Leloup (Nantes, France)
Kay Seto (Hong Kong)
Surya Golpan (New York)

Associates:

D'Arcy Hope (Melbourne)
Emma Salkavich (Sydney)
Julius Moller (Brisbane)
Katherine Sutton (Sydney)
Dymphna Hawkins (Sydney)
Fatimah El-Kordi (Sydney)
Richard Meade (Auckland)
Kym Fraser (Sydney)

Students:

Hamish Cameron (Melbourne)
Kartikeya Nair (Jabalpur)
Vincent Rose (Melbourne)
Yang Yang Jiang (Sydney)
Rochelle Harris (Sydney)
Sarah-Bronte Andrikis (Sydney)
Velika Kennedy (Melbourne)
Aina Serrano Bach (Amsterdam)
Emily Liu (Sydney)

ACICA Secretariat Team

We were pleased to welcome to the team Amy Cable, ACICA Counsel, and Shania Elias, ACICA Associate. Prior to joining ACICA as Counsel, Amy gained over a decade of experience in international arbitration as a member of the international arbitration teams of two global law firms both in London and Australia. Shania is Indian-qualified lawyer and prior to joining as an Associate in ACICA, Shania previously worked as Deputy Director at the ICC International Court of Arbitration in New Delhi. As an Associate, Shania who will be assisting Counsel in the administration of ACICA's institutional caseload of arbitrations and mediations under the ACICA Rules and UNCITRAL Rules, and the provision of ACICA services.

The ACICA Secretariat recently farewelled ACICA Associates, Mayling Paton and Benjamin Batten. ACICA wishes to give a heart-felt thank you to Mayling and Benji who for the past one and a half years have been an instrumental part of the Secretariat Team and the growth and achievements of ACICA.

Amy Cable
ACICA Counsel

Shania Elias
ACICA Associate

Benjamin Batten
ACICA Associate

Mayling Paton
ACICA Associate

Lexology Index 2026 – ACICA Board, Secretariat and Committee members Recognised

We are delighted to announce that members of the Australian Centre for International Commercial Arbitration (ACICA) Board and Secretariat have been recognised in the Lexology Index 2026 in the following categories:

- **Judith Levine**, ACICA President (Global Elite Thought Leader - Arbitration)
- **Gitanjali Bajaj**, ACICA Vice-President (Thought Leader - Arbitration)
- **Nick Longley**, ACICA Vice-President (Thought Leader – Construction)
- **Joshua Paffey**, ACICA Vice-President (Highly Recommended – Arbitration)
- **Chester Brown SC**, ACICA Board Member (Thought Leader - Arbitration)
- **Kanaga Dharmananda SC**, ACICA Board Member (Recommended – Arbitration)
- **Julia Dreosti**, ACICA Board Member (Future Leader – Partner – Arbitration)
- **Brenda Horrigan**, ACICA Board Member (Thought Leader - Arbitration)
- **Diana Bowman**, ACICA Secretary-General (Recommended – Arbitration)

A big congratulations to all other members of the ACICA community who have been recognised in the Lexology Index 2026, with special mention of the following ACICA Committee/Taskforce Chairs:

- **James Morrison**, Chair of the ACICA Rules Committee (Global Elite Thought Leader – Arbitration)
- **Jo Delaney**, Chair of the ACICA Professional Advisory Council (Thought Leader – Arbitration)
- **Mark Dempsey SC**, Chair of the ACICA NSW State Committee (Thought Leader – Construction)
- **Daisy Mallett**, Chair of the ACICA Sustainability Taskforce (Thought Leader – Arbitration)
- **Bronwyn Lincoln**, Chair of the ACICA Victoria State Committee (Thought Leader – Arbitration)
- **Elizabeth Macknay**, Chair of the ACICA WA State Committee (Recommended – Arbitration)
- **Bill Smith**, Chair of the ACICA Practice & Procedures Board (Recommended – Construction)
- **Deborah Tomkinson**, Chair of the ACICA Sustainability Taskforce (Recommended – Arbitration)

Congratulations to everyone on this well-deserved achievement.

ACICA Australian Arbitration Survey 2nd Edition – Register Your Interest!

ACICA is now accepting expressions of interest for the next edition of the ACICA Arbitration Survey, supported by HKA and FTI Consulting. The Survey will build on the success of the inaugural 2020 Australian Arbitration Report and is anticipated to be the most comprehensive empirical study of the arbitration market in Australia to date.

We welcome contributions to the Survey from all members of the arbitration community, including law firms, barristers, arbitrators, experts, funders, in-house counsel, tribunal secretaries and institutions. To participate in the Survey – please register your interest here.

Thank you to our Survey Team for their ongoing dedication and contributions: Brenda Horrigan (Independent Arbitrator), Nick Longley (HFW), Imogen Kenny-Bartlett (Herbet Smith Freehills Kramer), Victor Ageev (HKA), Dawna Wright (FTI Consulting), Diana Bowman (ACICA) and Amy Cable (ACICA).

ACICA Events

ACICA45 Young Practitioners' Lunch – Melbourne, 24 July 2025

On 24 July 2025, ACICA45 was thrilled to host a wonderful group of young arbitration practitioners for an informal lunch in Melbourne before the Australian Centre for International Commercial Arbitration (ACICA) Melbourne Arbitration Symposium.

It was fantastic to see so many emerging professionals come together to share experiences, make new connections, and strengthen ties within the arbitration community in Melbourne. The energy, enthusiasm and collegiality in the room were a true reflection of the bright future of arbitration in our region.

A big thank you to everyone who attended—and to ACICA Premium Corporate Members, Clayton Utz and Corrs Chambers Westgarth, for their generous support of the event.

We're proud to support the next generation of arbitration practitioners and look forward to welcoming you to more ACICA45 events soon!

ACICA x ACICA45 Panel Event, Singapore Convention Week – Singapore, 27 August 2025

As part of Singapore Convention Week, ACICA & ACICA45 hosted a panel discussion on 'Leveraging AI and machine learning in international arbitration: tips for practitioners'. The panel explored the complex opportunities and challenges associated with the integration of AI in international arbitration.

The esteemed panel featured Michael Weatherley (Ashurst), Daisy Mallett (Independent Arbitrator and Chair of ACICA's Sustainability Taskforce), Tom Uddin (Relativity) and Erick Gunawan (BRG), who all shared practical and engaging insights.

The discussion highlighted the exciting synergy between technology and the legal profession. The panellists agreed that while AI offers numerous benefits, human lawyers provide irreplaceable value. The key roadblock (and differential) between the two is trust. While we can trust lawyers, technology still needs to earn that trust. The "solution"? We should lean on the respective strengths

of each. That is, AI can enhance efficiency and clarity in disputes, allowing human lawyers to focus on what they do best. Applying our human judgment to critically analyse AI-generated content ensures responsible use for exceptional client outcomes. Indeed, in an era where AI can sometimes "hallucinate", the human ability to critically analyse is more important than ever. Continuous education and staying updated on technological advancements are essential in this evolving landscape.

ACICA and ACICA45 were well-represented at the event by Judith Levine (Independent Arbitrator and ACICA President), Georgia Quick (Ashurst and ACICA Immediate Past President), Samara Cassar (White & Case and ACICA45 SteerCo) and Thomas Fearis (BRG and ACICA45 SteerCo), who all delivered remarks in the course of the session.

We are grateful to ACICA Premium Corporate Member, Ashurst, for sponsoring and hosting the event.

ACICA Networking Breakfast, Singapore Convention Week – Singapore, 28 August 2025

Also, as part of Singapore Convention Week, ACICA co-hosted a morning of informal networking and conversation over breakfast with Corrs Chambers Westgarth. The event brought together distinguished professionals from Australia, Singapore and the broader Asia-Pacific region across both the ACICA and Corrs networks, which made for thoughtful and engaging discussions, all against the backdrop of stunning views from the Lighthouse at the Fullerton Hotel Singapore!

Members of the ACICA community in attendance included Judith Levine (Independent Arbitrator and ACICA President), Georgia Quick (Ashurst and ACICA Immediate Past President), Brenda Horrigan (Independent Arbitrator and ACICA Board Member), Professor Doug Jones AO (Independent Arbitrator and PAC Member) and Dr Caroline Kenny KC (Independent Arbitrator and PAC Member), Amanda Lees (ACICA Legislative Committee Member), Edwina Kwan (ACICA NSW State Committee Member) along with representatives from ACICA Premium Corporate Member, Corrs Chambers Westgarth, and many other members of the ACICA community.

We are grateful to Nastasja Suhadolnik, David Anthony and Jo Feldman for the initiative, and Corrs Chambers Westgarth for generously sponsoring the event.

ACICA Tribunal Secretary Course - Dublin, 6-7 September 2025

In September, ACICA held its first Tribunal Secretary Course outside of Australia, in Dublin, Ireland, in conjunction with The Bar of Ireland. The course was led by Course Director, Professor Doug Jones AO (Independent Arbitrator and PAC Member), and Course Tutors, Jonathon Redwood SC (former ACICA Vice-President and Chair of the ACICA Legislative Committee) and Anne Wang.

The course brought together 19 participants from diverse professional backgrounds, including barristers, solicitors, arbitrators, tribunal secretaries, and legal tech specialists, representing an international cohort from Ireland, the United Kingdom, the United Arab Emirates, Brazil, Poland, Australia and New Zealand. Participants who passed the course and are now eligible to apply to be on ACICA's Tribunal Secretary Panel.

We express our thanks to Professor Jones, Mr Redwood SC and Ms Wang for leading the course.

Delhi Arbitration Weekend – Delhi, 20 September 2025

As part of Delhi Arbitration Weekend 2025, ACICA co-hosted a breakfast panel event with JSA, a leading national law firm in India, entitled 'Not Just Cricket: Rule of law synergies in the Australia-India relationship and the Commonwealth'.

The panel was chaired by the Hon. Mr. Justice A. Aradhe, Judge of the Supreme Court of India, and was moderated by Jodi Steele SC (University Chambers). Mark Dempsey SC (Independent Arbitrator and PAC Member) was also a member of the esteemed panel, alongside Richa Kaushal (Counsel at ACICA Premium Corporate Member, Clifford Chance).

The panel explored the increasing trade ties and business opportunities between Australia and India and highlighted the common legal heritage between the two jurisdictions, including in the context of international commercial arbitration. The panel also touched on reasons to consider ACICA as an institution of choice in an appropriate case. ACICA is grateful to Gitanjali Bajaj (DLA Piper and ACICA Vice-President) for her efforts in bringing the event together.

Australian Arbitration Week: Sydney 12-17 October 2025

The 13th annual Australian Arbitration Week (AAW) was held in Sydney from 12-17 October 2025. It was the most successful to date, with a record number of delegates and events, highlighting Australia's growing role in the international arbitration community. More than 50 law firms, chambers, expert consulting firms, universities, service providers, bar associations, arbitrators, arbitral institutions and young practitioner groups from around the world contributed to the success of the week by organising more than 65 events.

Attendees enjoyed what they have come to expect of AAW, a week of high quality, dynamic and diverse panel discussions complemented by social events to connect and reconnect with friends and colleagues offering the genuine and warm hospitality Australia is known for.

AAW Welcome Reception and ACICA's 40th Anniversary Celebration

AAW 2025 officially commenced with a Welcome Reception and Celebration of ACICA's 40th Anniversary at the Sydney offices of Corrs Chambers Westgarth, bringing together more than 180 guests in a stunning setting overlooking the Sydney Harbour Bridge and the Sydney Opera House.

Yvonne Weldon AM, Sydney City Councillor, commenced the formalities with an inspiring Welcome to Country, followed by welcoming remarks from Joshua Paffey (Corrs Chambers Westgarth and ACICA Vice-President). Judith Levine (Independent Arbitrator and ACICA President) then introduced Her Excellency the Honourable Margaret Beazley AC KC, Governor of New South Wales, who delivered thoughtful opening remarks about the importance of institutions and the rule of law. Diana Bowman (ACICA Secretary-General) thanked Her Excellency and introduced the Honourable Stephen Gageler AC, Chief Justice of the High Court of Australia, who delivered remarks about the positive relationship between ACICA and the judiciary, including the combined effort to promote the harmonisation of approaches to arbitration-related court proceedings.

The formalities concluded with a Life Fellow Membership Ceremony, during which Judith Levine awarded Life Fellowships to three former ACICA Presidents – Dr Michael Pryles AM PBM (President from 2002–2008), PAC Member Professor Doug Jones AO (President from 2008–2015) and Ms Georgia Quick (President from 2021–2024) – for their outstanding contributions to ACICA, with the certificates being presented by Her Excellency the Honourable Margaret Beazley AC KC.








AAW Welcome Reception and ACICA 40th Anniversary Celebration

International Arbitration Conference Speakers' Lunch

ACICA was delighted to welcome the speakers, emcees, and hosts of the International Arbitration Conference 2025, along with the ACICA Secretariat, to a pre-conference lunch at the Fenwick on a sunny Sunday afternoon before the conference.

Many guests enjoyed a scenic ferry ride across the harbour, taking in Sydney's iconic skyline and setting the tone for a memorable afternoon. It was a wonderful opportunity to connect in a relaxed setting before the conference, with great food, engaging conversation, and even better company.

International Arbitration Conference 2025 – Revolutions and Solutions: Future-Proofing Arbitration

The IA Conference, the flagship event of AAW, took place on Monday 13 October 2025 at the Sofitel Wentworth, in the heart of Sydney's legal district. The theme of the IA Conference was 'Revolutions and Solutions: Future-Proofing Arbitration', inviting reflection on the innovations and challenges shaping the future of arbitration. More than 300 delegates from 18 countries benefitted from insights shared by eminent speakers from around the world, breaking all records for IA Conferences to date.

Following a Welcome to Country delivered by Melissa Stubbings (Merana Aboriginal Community Association Inc.), Judith Levine (Independent Arbitrator and ACICA President) set the tone for the day with an engaging Opening Address. The Honourable Andrew Bell, Chief Justice of the Supreme Court of New South Wales, then delivered a thought-provoking and insightful Keynote Address on 'AI in International Arbitration'. This was followed by seven panel sessions examining the evolving role of arbitration in an era of global change. Discussions spanned key developments across jurisdictions, the impact of economic and geopolitical disruption on dispute resolution and the challenges and opportunities presented by new technologies and emerging industries. Themes of procedural innovation, diversity and adaptability featured prominently throughout the day, underscoring international arbitration's continued strength as an effective and efficient means of resolving commercial disputes in a changing world.

ACICA is grateful to all of our IA Conference sponsors, whose generous support helped make the day such a success.


DLA PIPER
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Bird&Bird
CONFERENCE PARTNERS
LAW IN ORDER
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Australia Branch
King&Spalding
epiq
Deloitte.
Allens
ankura
CLIFFORD CHANCE
KING&WOOD MALLESONS


resolution community
– Supporting our members' careers
– Setting robust ethical standards
– Delivering high-quality, globally recognised training


epiq
DLA PIPER
LAW IN ORDER


epiq
DLA PIPER
KING&WOOD MALLESONS
Deloitte.


CLIFFORD CHANCE
PARTNERS


SESSION ONE:
Around the World and Back
INTERNATIONAL ARBITRATION CONFERENCE 2025
Revolutions and Solutions: Future-Proofing Arbitration
King & Spalding


Organised and Hosted By:
40 ACICA
Co-Hosted By:
ciarb. 30
Allens
HKA
epiq
CONFERENCE PARTNERS
ankura
Bird & Bird
LAW IN ORDER


LAW IN ORDER

AAW Well-Being Programme: Walk and Run Sessions 14 and 16 October 2025

In what has become a tradition at AAW, two morning walk and run sessions were held during the week as part of AAW's well-being initiative.

It was a beautiful morning in Sydney on Tuesday 14 October 2025 for the first walk and run with ACICA and the Sustainability Taskforce and Campaign for Greener Arbitrations! Attendees enjoyed walking and running routes from the Sofitel Sydney Wentworth, past the Sydney Opera House, finishing at Avenue On Chifley for coffee and sweet treats, thanks to our sponsor BRG.

Attendees also had the chance to learn about the ACICA Sustainability Protocol and connect in a relaxed, outdoor setting. It was the perfect start to the day! Thank you to our walk and run leaders Thomas Fearis (BRG and ACICA45 SteerCo Member), Daisy Mallett (Independent Arbitrator and ACICA Sustainability Taskforce member), Deborah Tomkinson (Peter & Kim and ACICA Sustainability Taskforce Member), and Caroline Swartz-Zern (SMEC and ACICA Sustainability Taskforce Member and CGA APAC Subcommittee Member).

The second event of ACICA's signature Australian Arbitration Week 2025 Wellbeing Programme saw participants join ACICA and ACICA45 for an energising Walk & Run on the morning of Thursday 16 October 2025.

The run was led by Jeremy Chenoweth (ACICA Professional Advisory Council Vice-Chair and Partner at Ashurst) and Reid Hadaway (ACICA45 SteerCo Member and Lawyer at Gilbert + Tobin), while the walk was led by Judith Levine (ACICA President and Independent Arbitrator) and Diana Bowman (ACICA Secretary-General).

The event provided a relaxed and refreshing way to connect with colleagues while enjoying Sydney's beautiful outdoors. The walk/run finished with barista coffee and sweet treats thanks to our sponsor Ashurst at the Avenue on Chiefly.

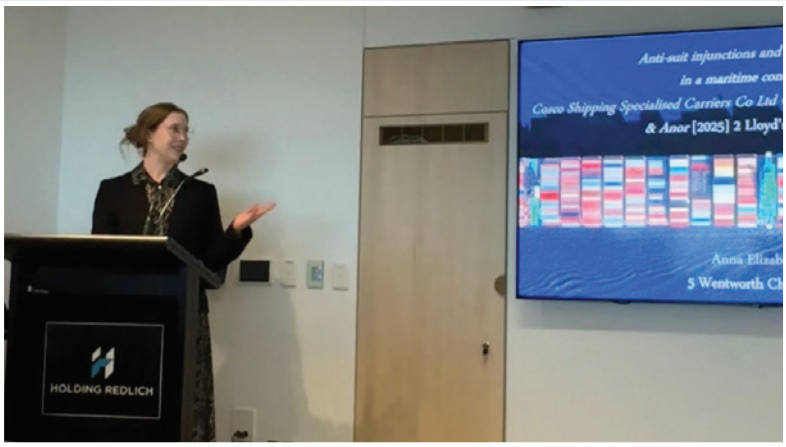
A perfect start to the day in Australian Arbitration Week!

ACICA45 – 40 years Forward: Arbitration in 2065 – Innovation Across Borders, 14 October 2025

In celebration of ACICA's 40th anniversary, ACICA45 hosted a breakfast panel discussion entitled '40 years Forward: Arbitration in 2065 – Innovation across borders' at Corrs Chambers Westgarth's Sydney office. The panel was moderated by Eden Jardine (Corrs Chambers Westgarth and ACICA45 SteerCo), who was joined by panellists Anna Grunseit (Special Counsel, Corrs Chambers Westgarth), Robert Kirkness (Barrister, Thorndon Chambers), Sareena Oberoi (Principal Corporate Counsel, Microsoft), Isaac Wong (Associate Director, BRG) and Carlotta Bruessel (Senior Associate, Nishimura & Asahi). The panellists predicted how technological innovation and shifting global dynamics may shape arbitration over the next four decades.

AMTAC: Charting a Course for the Resolution of Maritime Disputes – 14 October 2025

The Australian Maritime and Transport Arbitration Commission (AMTAC), an independent commission of ACICA, held a panel event on 'Charting a course for the resolution of maritime disputes', hosted by Holding Redlich. The panel, chaired by Gregory Nell SC (New Chambers and AMTAC Chair) and featuring the Hon. Steven Rares KC (12 Wentworth Selborne and former Judge of the Federal Court of Australia), Jesse Kennedy (Eleven Wentworth) and Anna Elizabeth (5 Wentworth), explored best practice and current trends in maritime dispute resolution.



ACICA Arbitrator Roundtable – 15 October 2025

Together with venue sponsor and ACICA Premium Corporate Member, DLA Piper, and lunch sponsor, FTI Consulting, ACICA hosted an exclusive Arbitrator Roundtable on procedural efficiencies and best practices in arbitration, focusing on the evolving role of the arbitrator.

The discussion was facilitated by Professor Bernard Hanotiau (Hanotiau Tossens Goldman), Hilary Heilbron KC (Brick Court Chambers), Professor Doug Jones AO (Sydney Arbitration Chambers, Atkin Chambers and PAC Member), Amanda Lees (King & Wood Mallesons), Salim Moollan KC (Brick Court Chambers), Michael Polkinghorne (White & Case) and Kim Rooney (Rede Chambers), with Judith Levine (Independent Arbitrator & ACICA President) and Diana Bowman (ACICA Secretary-General) moderating the event.

The session involved a comprehensive and practical examination of each stage of the arbitral process, from pre-appointment considerations and procedural timetables to the management of disclosure, evidence, and hearings. The discussion also explored the growing role of AI as a tool in the arbitrator's toolkit, before turning to reflections on tribunal deliberations and drafting enforceable awards. The session underscored ACICA's pivotal role in both supporting and scrutinising arbitrators, at the appointment stage and throughout the proceedings, while ensuring that the ACICA Rules remain effective and fit for purpose.

Revising the ACICA Rules 2021: Advance Screening for 2026

The ACICA Rules Committee held an event on 'Revising the ACICA Rules 2021: Advance Screening for 2026 – Come and have your say!'. The event gave a 'first look' at some of the proposed changes to the ACICA Arbitration Rules and ACICA Expedited Arbitration Rules, in advance of the public consultation phase to be launched in 2026. A lively and engaging discussion led by members of the ACICA Rules Committee with useful insights for the audience.

ACICA is grateful to ACICA Premium Corporate Member, White & Case, for hosting this event and to all of the ACICA Rules Committee members who participated: James Morrison (Chair) (Peter & Kim), Lee Carroll (Johnson Winter Slattery), Emily Hay (Arb Boutique), Diana Kuitkowski (Sydney Metro), Professor Darren Fitzgerald (Fitzgerald Lawyers), Robert Tang (Clifford Chance), Tom Webb (Quayside Chambers), Nick Gallus (LK Law) and Lucy Martinez (Independent Arbitrator), along with Daisy Mallett (Chair of the ACICA Sustainability Taskforce).

Law Rocks Sydney at Australian Arbitration Week 2025!

Australian Arbitration Week was literally rocking this year as we hosted the inaugural ACICA x Law Rock event!

After a marathon week of events, the legal and arbitration community let loose on the last night of AAW, as five incredibly talented bands battled it out on the main stage at the iconic Oxford Art Factory.

Massive congratulations to all of the bands who took to the stage, including our very own Secretary-General, Diana Bowman!

- **The Hutchinson Experience** from Hall & Wilcox featured: Adrian Verdnik (guitar, lead vocals), Jacob Uljans (guitar, violin, keys, backing vocals), John Hutchinson (bass) and Matt Newman (drums).
- **Litigate This** from Clayton Utz featured: Bernice Lethlean (vocals), Kurtis Mathie (guitar), George Stribling (guitar), Nicholas Parker (drums), and Frank Bannon (bass).
- **The Smoking Guns** from Greenway Chambers featured: Leah Reid (vocals), Lucas Shipway (guitar), Ian Roberts SC (guitar), Garth Campbell (bass, keys) and Alex Robinson (drums).
- **Billing in the Name Of** from Johnson Winter Slattery featured: Alena Titterton (vocals), Sharon Ragunathan (vocals), Sam Frieman (sax and vocals), Benjamin O'Mara (drums), Luka Komadina (bass), Damian Reichel (guitar) and Marko Komadina (keys).
- **The Transperfections** from TransPerfect Legal and friends featured: Tom Balmer (lead vocals), Samuel Harper (acoustic guitar, backing vocals), Joanne Sellathamboo (keyboard, backing vocals), Benjamin Forrest (guitar), Sally Davitt (drums), Stefan Fenk (bass guitar) and Diana Bowman (bass guitar, percussion, backing vocals).

Huge thanks to our rockstar judging panel, consisting of the legendary Paul Field AM and music industry gurus Lucy Songsmith (Sony Music) and John Oddy (Warner Music), who had the tough task of choosing the winner.

Congratulations to Billing in the Name Of from JWS for taking out the honours with a show-stopping performance!

All proceeds from the night went to two amazing local causes, Mary's House Services and St Canice's Kitchen.

Sincere thanks to our event sponsors HKA, Siera Data, TransPerfect Legal, and to supporting organisation the Society of Construction law Australia for your support. And finally, a big shout-out to our fantastic emcees and organisers Louise Santos, Andrew Wiseman, Rob Buchanan, James Stanton and Savannah S. for all their work on and off the stage.

We can't wait to welcome Law Rocks back to Australian Arbitration Week next year in Melbourne!

ACICA Supports the Friends of Africa in the Moot Trivia Fundraiser, 23 October 2025

ACICA was proud to be a Silver Partner of the Friends of Africa in the Moot Trivia Fundraiser 2025 held in Melbourne on 23 October 2025.

This annual event raises vital funds for Africa in the Moot (AitM), a volunteer-led non-profit dedicated to expanding opportunities for African law students in international commercial law and arbitration. Through initiatives such as the Willem C. Vis International Commercial Arbitration Moot (Vienna & Hong Kong) and the East Africa Pre-Moot & Conference (Nairobi), AitM helps empower the next generation of practitioners by building skills, networks, and global careers.

Congratulations to Pavan Swamy, Anna Nguyen, Amanda Wong, McKeely Hol and the Deakin Law School Vis Moot Team for organising such a successful evening for a very worthy cause! ACICA was represented on the night by ACICA Associate Benjamin Batten.

Friends of ACICA – Dubai, 9 November 2025

On the eve of Dubai Arbitration Week 2025, ACICA co-hosted a 'Friends of ACICA' networking event with sponsors 7 Wentworth Selborne, Bird & Bird Middle East and BRG. ACICA was delighted to welcome His Excellency Mr Ridwaan Jadwat, Australian Ambassador to the United Arab Emirates and Special Envoy to the OIC, and his wife, Ms Jessica Swann-Jadwat, at the event.

We are particularly grateful to PAC Member Duncan Miller SC for all of his work organising and hosting this event.

Annual Melbourne Arbitration Symposium - Mega Disputes have Mega Demands: Is Arbitration Equipped for the Task?

Kerryn Jayes
Law Graduate, Allens

The Second Annual Melbourne Arbitration Symposium was hosted by Allens Melbourne on 24 July 2025, bringing together Melbourne's arbitration community to explore the theme 'Managing Mega Disputes'.

Welcoming Remarks and Keynote Address

After a welcome from Allens' Nick Rudge, and opening remarks by Bronwyn Lincoln of Thomson Geer (Chair of ACICA's Victorian State Committee), The Honourable Wayne Martin AC KC delivered the keynote address which set the stage for an insightful discussion on Mega Disputes, exploring both the concept itself and the suitability of arbitration as a means of resolution. Noting the absence of a formal definition, Mr. Martin offered an analogy: a mega dispute is like a hippopotamus – 'you'll know it when you see it – it's large, it's complex, and potentially dangerous.'

Mega disputes typically share several key characteristics: high monetary stakes, multiple parties, complex technical or legal issues, extensive expert evidence, and significant procedural demands. Given these features, the most fitting definition is: 'a dispute that demands intensive and proactive case management to ensure proportionate handling and timely resolution'.

Against this backdrop, he considered whether arbitration is well-suited to meet the distinctive challenges posed by mega disputes. He acknowledged arbitration's established strengths – procedural flexibility, confidentiality, and party autonomy – which have long made it a preferred forum for resolving complex disputes. However, he also identified structural limitations that may undermine arbitration's effectiveness in this context. These include the limited enforceability of procedural orders, difficulties in managing multi-party proceedings, the lack of robust appeal mechanisms, and the practical challenges associated with arbitrator resignations.

Panel One: Complex Mega Disputes

The first panel, expertly chaired by Gemma Thomas of Pinsent Masons, explored the practical challenges of managing mega disputes. Topics included managing stakeholder expectations, considerations in arbitrator selection, evidence collection, insulating proceedings from court intervention, and the role of an arbitrator in handling party dynamics and tensions in high-stakes environments. The panel offered diverse insights by posing questions to Nick Rudge from a private practice perspective with Jeff Gleeson KC offering an arbitrator's view and Leah Ratcliffe, sharing the in-house counsel perspective.

The panel noted the key strengths of arbitration. The limited appeals mechanism in arbitration is often considered an advantage as it allows for more purified and refined submissions in contrast to court proceedings where arguments are crafted with appeals in mind. A further advantage of arbitration is procedural flexibility and confidentiality. The former allows a greater focus on substantive rights. The latter benefits commercial parties by allowing a greater focus on legal issues rather than decision making being clouded by reputational concern. In addition, comment was made about deliberate and intentional drafting of dispute resolution deeds. This is to ensure, for example, that all relevant parties to the dispute are capable of joining. The panel then considered selecting the right arbitrator. Practical factors such as availability, expertise, reputation, and efficiency were advised over trying to 'pick a winner'. Other factors to consider include the arbitrator's personality and character – paying particular attention to their ability to manage tone, tempo, and mood to ensure a productive arbitration.

Panel Two: Trends and Innovations in Dispute Resolution

The second panel, chaired by Matthew Harvey KC of the Victorian Bar, focused on emerging trends in arbitration and recent procedural developments in Victorian courts aimed at promoting arbitration as an alternative to court proceedings. This panel mostly focused on arbitration in the context of IP disputes, ESG and the defence

sector. Emma Iles of HSF Kramer explored the benefits and challenges associated with arbitrating IP disputes. Gitanjali Bajaj of DLA Piper, and Vice-President of ACICA, discussed the defence sector's increasing investments in technology, positioning it as a key candidate for mega disputes. Finally, Her Honour Judge Brimer of the County Court of Victoria outlined recent procedural innovations which promote arbitration as a suitable form of dispute resolution such as the introduction of the arbitration list in the County Court of Victoria which establishes a structured framework for referring matters to arbitration. Notably, the panel identified factors that have resulted in an increased use of arbitration to resolve disputes. These include a growing pool of expert arbitrators, a rise in cross-industry partnerships which call for neutral dispute resolution, and increasing encouragement towards arbitration from the courts.

Closing address

The Closing Address was delivered by the Honourable Justice Stynes, who concluded the symposium on an optimistic note. Her Honour highlighted the significant ways in which courts and arbitration practitioners can collaborate to deliver outcomes that are just, cost-effective, and timely. A key mechanism for achieving these objectives is the early facilitation of expert conclaves during the briefing process. Expert conclaves—structured meetings where opposing experts confer to identify points of agreement and disagreement—promote transparency, enhance the clarity and reliability of expert evidence, and ultimately support more efficient dispute resolution. Finally, Justice Stynes concluded by emphasising the value of drawing on international best practices to elevate the standard of service provided by both litigation and arbitration practitioners in Australia.

Vote of Thanks and Networking Drinks

Diana Bowman, Secretary-General of ACICA thanked Justice Stynes and introduced ACICA President Judith Levine who provided a Vote of Thanks and skilfully summarised the key themes and contributions at the Symposium. The symposium concluded with a drinks and canapé reception generously provided by Allens.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Facilitating international dispute resolution
Melbourne Arbitration Symposium 2025
THEME: MANAGING MEGA DISPUTES
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Melbourne Arbitration Symposium 2025
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An Australian Case Study on the Arbitrability of Disputes Involving Insolvent Parties: *Elecnor Australia Pty Ltd v Clough Projects Australia Pty Ltd* [2025] NSWSC 610

Luke Carbon
Partner, Ashurst

Jordon He
Lawyer, Ashurst

Background

Elecnor Australia Pty Ltd ('**Elecnor**') and Clough Projects Australia Pty Ltd ('**Clough**') entered into a joint venture deed ('**JV Deed**') to deliver a large-scale energy infrastructure project for NSW Electricity Operations Pty Ltd ('**Transgrid**') in accordance with an 'Engineer, Procure and Construct Contract' ('**EPC Contract**'). The JV Deed included a tiered dispute resolution process culminating in an arbitration seated in Singapore under the ICC Rules.

Elecnor claimed that Clough failed to provide the required security under the EPC Contract. Clough subsequently entered into voluntary administration and a deed of company arrangement ('**DOCA**'). Under the DOCA, administrators were appointed as trustees of a trust ('**Trustees**') for the property of Clough and its related parties.

Elecnor contended that Clough had committed a 'Material Default' under the JV Deed by failing to provide the required security. As such, Elecnor exercised step-in rights and sought to compulsorily acquire Clough's joint venture interest in accordance with the process set out in the JV Deed. The Trustees rejected that Elecnor was entitled to compulsorily acquire Clough's joint venture interest. They claimed that Clough's property and the property of its related parties was to be transferred to them under the DOCA. The Trustees said that this precluded Elecnor from exercising any rights that it had under the JV Deed against Clough, including the right to acquire Clough's joint venture interest.

Elecnor commenced proceedings in the Supreme Court of New South Wales seeking declaratory relief and specific performance in relation to the acquisition of Clough's joint venture interest.

Transgrid called on performance securities totalling around AUD110 million that Clough had procured after Elecnor had commenced proceedings. Clough and the Trustees filed a cross-claim for half the amount of the performance securities ('**Securities Recovery Claim**'). Clough and the Trustees further alleged that Elecnor had acted in bad faith in making its offer to purchase Clough's joint venture interest and breached its quasi-fiduciary and good faith obligations in the JV Deed ('**Bad Faith Contention**').

Elecnor filed an amended notice of motion seeking a stay of the Securities Recovery Claim and the Bad Faith Contention pursuant to s 7(2) of the *International Arbitration Act 1974* (Cth) ('***IAA***'), art 8 of the *UNCITRAL Model Law on International Commercial Arbitration*

('***Model Law***'), or cl 23.2 of the JV Deed, on the basis that the claims were arbitrable claims under the arbitration agreement in the JV Deed.

Clough and the Trustees opposed the motion and filed a cross-motion seeking that Elecnor's claims be stayed under the *IAA*, the *Model Law*, or as a matter of case management.

Issues to be considered by the Court

There were three primary issues that the Court had to consider:

1. the proper construction of the arbitration agreement in the JV Deed;
2. the application of s 7(2)(b) of the *IAA*, particularly whether the proceedings involved any 'matter' that was 'capable of settlement by arbitration'; and
3. if the proceedings involved arbitrable claims, whether Elecnor had repudiated, waived or abandoned any entitlement it may have had to arbitrate those claims by commencing proceedings, rendering the arbitration clause in the JV Deed 'null and void, inoperative or incapable of being performed' within the meaning of s 7(5) of the *IAA*.[1]

Court decision and analysis

Identification of 'matters' and arbitrability

Arbitration is a 'creature of contract', as readers of the ACICA Review know. The upshot of this is that the public policy considerations of party autonomy and freedom to contract have informed the development of the law such that claims between parties that are subject to a valid arbitration agreement must generally be resolved by arbitration.

However, in limited circumstances, an arbitration agreement between the parties may not allow certain claims to be resolved by arbitration, even if the parties may have intended for these claims to be resolved by arbitration, and the arbitration agreement is otherwise valid. One such circumstance is when a dispute involves non-arbitrable claims.

In this case, the Supreme Court of New South Wales (Stevenson J) distinguished between two principal 'matters' arising in the proceedings, being:

1. the 'Clause 21.3 Matter': the dispute concerning Elecnor's entitlement to compulsorily acquire Clough's joint venture interest, including the effect of the DOCA and the effect of Part 5.3A of the Corporations Act 2001 (Cth) ('Corporations Act'), and the Bad Faith Contention; and
2. the 'Call Contribution Matter': the cross-claim for contribution from Elecnor for the call on Clough's performance securities.[2]

Part 5.3A of the *Corporations Act* outlines the process for voluntary administration of a company, with the aim of executing a DOCA where its creditors are to agree upon how the company's affairs will be managed. This Part provides a framework for companies facing financial difficulties to potentially restructure and continue operating, or to wind up.

1 *Elecnor Australia Pty Ltd v Clough Projects Australia Pty Ltd [2025] NSWSC 610, [51] ('Elecnor').*
2 Ibid [102]. See also ibid [103]–[107].

Although the formulation of Part 5.3A was enacted as a 'flexible mechanism', positioning a registered administrator to manage the voluntary administration of a company and shifting the process away from the reliance on the courts,[3] the Court in this case held that there may be a 'legitimate public interest' in seeing disputes involving issues of Part 5.3A being resolved by public — rather than private — institutions.[4]

The Court ultimately found that the Clause 21.3 Matter was not capable of settlement by arbitration, as it raised issues of the efficacy of the DOCA and provisions of Part 5.3A of the *Corporations Act*, which may affect the rights of creditors.

In contrast, the Court found that the Call Contribution Matter was a private dispute which did not involve questions as to the operation of provisions of the *Corporations Act* and did not have the potential to affect the substantive rights of creditors to the same extent as the Clause 21.3 Matter. The Court therefore considered that it was capable of settlement by arbitration.[5] The Court notably found that the mere fact that a party is under voluntary administration does not render an arbitration agreement invalid.

Scope and effect of the arbitration clause

The Court also undertook a detailed analysis of the JV Deed's dispute resolution process and found that, despite the arbitration agreement containing the word 'may' in relation to submitting disputes to arbitration and it not including any express term prohibiting the parties from litigating disputes, arbitration was the mandatory procedure for the resolution of disputes between the parties.[6]

Properly construed, the Court considered that the arbitration agreement required that arbitrable disputes be resolved by arbitration, and that litigation was only available for non-arbitrable matters or by agreement of the parties as a waiver or variation of the arbitration clause.

Application of the IAA

The Court held that a stay of proceedings was mandatory for arbitrable matters unless the arbitration agreement was 'null and void, inoperative or incapable of being performed' under s 7(2) of the *IAA*.[7] The Court rejected Clough and the Trustees' arguments that Elecnor had repudiated, waived, or abandoned the arbitration agreement by commencing proceedings, including because the proceedings that Elecnor commenced concerned a non-arbitrable matter.[8]

The Court also found that the Trustees were claiming 'through or under' Clough in bringing the cross-claim and were therefore bound by the arbitration agreement.[9]

Procedural issues

The Court rejected Clough and the Trustees' submission that non-compliance with the preliminary steps in the dispute resolution process precluded a stay or rendered the arbitration agreement inoperative. The Court held that such non-compliance did not affect the operability of the arbitration agreement and would not justify refusing a stay.[10]

Orders

The Court ordered that the cross-claim (i.e. the Call Contribution Matter) be stayed in favour of arbitration, but declined to stay the main proceedings concerning the compulsory acquisition of Clough's interest (i.e. the Clause 21.3 Matter). The Court also declined to stay the main proceedings for case management reasons, finding that resolution of the main controversy would not depend on the outcome of the arbitration.[11]

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3 *Fowler v Lindholm (2009) 178 FCR 563, 579 [73]. See also Australian Law Reform Commission, General Insolvency Inquiry (Report No 45, 13 December 1988) vol 1, 29 [54].*
4 *Elecnor (n 1) [110].*
5 Ibid [111].
6 Ibid [71]–[81].
7 Ibid [91].
8 Ibid [125]–[131].
9 Ibid [121]–[124].
10 Ibid [112]–[120].
11 Ibid [132]–[136].

Implications

The decision provides guidance for parties to joint venture and other disputes involving insolvency claims that may be subject to an arbitration agreement.

It is instructive as to the scope of claims that may not be capable of being resolved via arbitration — including any matters which involve questions as to the operation of provisions of Part 5.3A of the *Corporations Act*, and potentially other provisions of the *Corporations Act* or other legislation if there is a 'legitimate public interest' for such matters to be resolved by public rather than private institutions.

It is important to note that disputes concerning 'core' insolvency functions such as winding-up proceedings are ordinarily considered non-arbitrable in most jurisdictions, including Australia.[12] However, different jurisdictions have come to different positions concerning whether the mere involvement of an insolvent entity would necessarily involve questions of insolvency law.[13]

Australian courts have long held the view that a dispute is not necessarily considered non-arbitrable merely because it involves elements of insolvency under the *Corporations Act* or otherwise under general law.[14]

This decision further clarifies Australia's position in its balancing of the competing public policy considerations in upholding party autonomy and freedom to contract on the one hand, and maintaining as non-arbitrable any proceeding which deals with insolvency claims on the other.

The implications of the decision are summarised as follows:

- Not all disputes subject to an arbitration agreement are necessarily arbitrable. Matters involving insolvency claims may remain within the exclusive jurisdiction of the courts.
- Arbitration agreements will generally be construed as mandatory for arbitrable disputes, even where the language appears to be permissive.
- Commencement of court proceedings in respect of non-arbitrable matters without more will not amount to repudiation or waiver of the right to arbitrate arbitrable disputes.
- Parties claiming 'through or under' a signatory to an arbitration agreement may be bound by the agreement.
- Parties to joint venture and other disputes should carefully consider the scope and operation of their dispute resolution process, particularly in the context of insolvency claims, and be mindful of the potential for parallel court and arbitral proceedings.

12 See Gary B Born, 'Nonarbitrability and International Arbitration Agreements' in Gary B Born, *International Commercial Arbitration (Kluwer Law International,* 3rd ed, 2021) 1084–5. See also *A Best Floor Sanding Pty Ltd v Skyer Australia Pty Ltd [1999] VSC 170, [18].*

13 Ibid. See also *Larsen Oil and Gas Pte Ltd v Petroprod Ltd (in official liquidation in the Cayman Islands and in compulsory liquidation in Singapore) [2011] SGCA 21, [1]; Sian Participation Corp (in Liq) v Halimedia International Ltd (Virgin Islands) [2024] UKPC 16, [1]–[4]; Sapura Fabrication Sdn Bhd v GAS [2025] SGCA 13.*

14 See, eg, *ACD Tridon Inc v Tridon Australia Pty Ltd [2002] NSWSC 896, [191]–[192]; In the matter of Ikon Group Limited (No 2) [2015] NSWSC 981; Robotunits Pty Ltd v Mennel [2015] VSC 268.*

A Note on Developments in International Commercial Arbitration in 2025

Dr Caroline Kenny KC
Chartered Arbitrator, AMDRAS Accredited Mediator
Trustee for Australasia of the Chartered Institute of Arbitrators
ACICA Fellow

There are three developments in 2025 which are likely to have a significant impact on the future of international commercial arbitration:

- first, innovative measures relating to ex parte protective orders were introduced by the 7th version of the rules of the Singapore International Arbitration Centre ('**SIAC**') which came into force on 1 January 2025;
- second, artificial intelligence ('**AI**') is being increasingly used in international arbitration and is the subject of a number of recent guidelines regulating its use, the most recent of which was introduced by the Chartered Institute of Arbitrators in April 2025; and
- third, there is a growing awareness by arbitral institutions of the importance of adopting sustainable measures for international arbitrations, as reflected in the Rules of the SIAC[1] and the Hong Kong International Arbitration Centre ('**HKIAC**'),[2] as well as ACICA's Sustainability Protocol, which was introduced in January 2025.[3]

The 2025 Queen Mary Survey confirmed that arbitration remains the preferred method of resolving international disputes.[4] It also confirmed Singapore and Hong Kong as the second and third most important arbitral jurisdictions in the world and the rules of the HKIAC and the SIAC as two of the most popular in the world. This means that any amendments to those jurisdictions' international arbitration legislation or institutional rules will be watched carefully by arbitration users and stakeholders the world over. The recent innovations made in the 2025 SIAC Rules and the 2024 HKIAC Rules are likely to help shape the future of arbitration. Although neither the 2024 HKIAC Rules nor the 2025 SIAC Rules address AI, this topic featured prominently in the 2025 Queen Mary survey, where respondents considered the use of AI would grow significantly in the next five years.[5]

The 2025 SIAC Rules – ex parte protective orders

On 1 January 2025 the 7th edition of the SIAC Rules came into force, being the first time the rules had been updated since August 2016. The SIAC Rules have had Emergency Arbitrator provisions for many years, however, in a world first, the 2025 SIAC Rules enable Emergency

1 Singapore International Arbitration Centre, *Arbitration Rules of the Singapore International Arbitration Centre 2025*, as at 1 January 2025 ('**SIAC Rules**').
2 Hong Kong International Arbitration Centre, *Hong Kong International Arbitration Centre Administered Arbitration Rules 2024*, as at 1 June 2024 ('**HKIAC Rules**').
3 Australian Centre for International Commercial Arbitration, 'The ACICA Sustainability Protocol: Towards More Sustainable Arbitral Proceedings' (January 2025) ('**The ACICA Sustainability Protocol**').
4 Queen Mary University of London and White & Case LLP, *2025 International Arbitration Survey: The Path Forward: Realities and Opportunities in Arbitration* (Report, 1 June 2025) 5 ('**Queen Mary Survey**').
5 Queen Mary Survey (n 4) 5.

Arbitrators to make ex parte orders which are called Preliminary Protective Orders or PPOs.

The ex parte PPO regime is found in schedule 1 of the SIAC Rules. Broadly, it provides:

- at the time of filing an application for interim relief an applicant may file an application for a preliminary protective order. The applicant does not have to give notice to all the parties;
- if the President of SIAC determines to accept the application, the President will appoint an Emergency Arbitrator within 24 hours;
- the Emergency Arbitrator will determine the application for an ex parte PPO within 24 hours of being appointed;
- within 12 hours of transmitting the order to the parties the applicant for the ex parte PPO is to deliver all the papers in the case to all the parties. This is a strict deadline. If the applicant fails to comply with the deadline the ex parte PPO expires within 3 days of the date it was issued;
- the Emergency Arbitrator is then required to provide an opportunity to all parties to object to the ex parte PPO, or present their case; and
- the ex parte PPO expires 14 days after the date it was issued. However, the Emergency Arbitrator can adopt or modify the order or grant such other relief as is appropriate.

In many respects the ex parte PPO regime functions in much the same way as an application for an interim injunction in national courts. There is an attempt to strike a balance between, on the one hand, maintaining the status quo so that the application for relief is not redundant and, on the other, giving the party against whom the order is made the opportunity to present their case before the order becomes permanent.

SIAC needs to be congratulated for addressing a problem that so far has eluded many other institutions. There are many circumstances where a party might want to get a protective order without alerting the other party to its intentions. Prior to the ex parte PPO regime, if a party to a Singapore-seated arbitration wanted to obtain ex parte relief, the party would have to approach a court. This was not ideal for users who had chosen arbitration in preference to litigation for the reasons that make it preferable to litigation – namely, the guarantee of confidentiality of the process, efficiency, neutrality, the ability to choose arbitrators and rules and the ease of enforcement of awards under the New York Convention.[6] It is, therefore, appropriate that users of arbitration should have a mechanism within the rules they have selected to obtain ex parte relief, rather than having to tackle the unfamiliar territory of a national court. The new ex parte PPO regime provides users with an additional tool and therefore fills an important gap.

However, there are obvious drawbacks with using rules to obtain ex parte orders – the primary one being that an order from the tribunal is binding only on the parties. So, for example, if an applicant is seeking to prevent the dissipation of assets from a bank account, the ex parte PPO regime will not work. It would be necessary to have the Tribunal's order turned into a court order before it could be enforced against a bank, in the sense that the bank would then have a mandatory obligation to comply with it. It follows that, if there is a need to convert a tribunal order into a court order, there is a question whether the party should have approached the court in the first place, thus avoiding two hearings.

Despite this limitation, there will often be circumstances where the interim relief sought is against a party and, in those circumstances, the ex parte PPO regime offers a valuable tool for those who choose to arbitrate under the SIAC Rules.

Another innovation introduced by the 2025 SIAC Rules is a new streamlined procedure for claims under SGD 1 million.[7] This procedure is mandatory for claims under $1 million, unless the President determines that it should not apply. Where the procedure does apply, the arbitration is conducted on the basis of written submissions and documentary evidence; requests for document production are not permitted. The award is to be delivered within 3 months of the constitution of the Tribunal. This rule is aimed at reducing cost and

6 *Convention on the Recognition and Enforcement of Foreign Arbitral Awards,* opened for signature 10 June 1958, 330 UNTS 3 (entered into force 7 June 1959) art III.

7 SIAC Rules (n 1) sch 2 paras 8–15.

increasing efficiency for smaller claims. This streamlined procedure is to be distinguished from the expedited procedure rules[8] which have been in HKIAC's and SIAC's Rules for many years.

It is very likely that SIAC's ex parte PPO regime and the streamlined procedure for low value claims will be adopted by many other institutions in the future.

The increasing use of AI in international commercial arbitration

There has been an increase in the use of AI in international commercial arbitration, and the problems to which it gives rise are starting to become apparent. The 2025 Queen Mary Survey found that the use of AI is expected to grow significantly over the next five years, driven by the potential for efficiencies. The survey found the principal drivers for the increased use of AI in international arbitration are: saving party and counsel time, cost reduction and reduction of human error. The general consensus is that, over the next five years, international arbitration and its users will adopt, and adapt to, AI. Respondents predict that arbitrators will increasingly rely on AI and that new rules governing the use of AI will emerge. The enthusiasm for greater use is tempered, however, by the desire for transparency, clear guidelines and training on the use of AI.[9]

The case of *LaPaglia v Valve Corporation,* currently pending in the United States District Court, Southern District of California, provides a cautionary tale on the improper use of AI. Mr LaPaglia made an application to vacate an award under the *Federal Arbitration Act* on grounds which included that the arbitrator outsourced his adjudicative role to AI.[10] The arbitrator had allegedly disclosed to the parties that he used AI to write articles for him.[11] He also told the parties that he wanted to issue a decision quickly because he had a trip booked to the Galapagos Islands.[12] The hearing took place over 10 days and an award was issued 15 days later (with Christmas and New Year in the middle) on the day the arbitrator was to leave for the Galapagos Islands.

In the application to vacate, the claimant argued that, just as courts vacate awards when the decision-making is outsourced to a person other than the appointed arbitrator, a court also should vacate an award if the decision-making is outsourced to AI.[13] The submissions pointed out there were many tell-tale signs of AI generation in the award, such as that the fact section of the award cited facts that were both untrue and not presented at the hearing. These uncited facts appeared symptomatic of AI hallucination.[14] The case is ongoing.

It was in anticipation of these sorts of problems that a number of arbitral institutions have been incentivised to introduce guidelines to regulate the use of AI in international arbitration.

In April 2025, Ciarb London launched "*Guideline on the Use of AI in Arbitration*" ('**Ciarb AI Guideline**'). The Ciarb AI Guideline builds on the existing body of general guidance introduced in 2024 and 2025. So far, there is the:

- *"Guidelines on the Use of Artificial Intelligence in Arbitration"* introduced by the 2024 Silicon Valley Arbitration and Mediation Center;
- *"Guide to the Use of Artificial Intelligence in Cases Administered under the SCC Rules"* introduced in October 2024 by the Stockholm Chamber of Commerce; and
- *"Note on the Use of Artificial Intelligence in Arbitration Proceedings"* introduced in April 2025, shortly after the publication of the Ciarb AI Guideline, by the Vienna International Arbitration Centre.

The Ciarb AI Guideline has four parts:

- Part I discusses the benefits and risks of the use of AI in arbitration;
- Part II makes recommendations on the use of AI in an arbitration;

8 Ibid r 14, sch 3.

9 Queen Mary Survey (n 4) 5.

10 'Petition to Vacate Arbitration Award; Memorandum of Points and Authorities in Support Thereof', *LaPaglia v Valve Corporation* (SD Cal, No 3:25-CV-00833, 8 April 2025) 1 ('LaPaglia').

11 Ibid 3.

12 Ibid.

13 See *Move Inc v Citigroup Global Markets Inc*, 840 F 3d 1152, 1159 (9th Cir, 2016).

14 *LaPaglia* (n 13) 8.

- Part III discusses arbitrators' powers to give directions and make rulings on the use of AI by parties in arbitration; and
- Part IV discusses the use of AI in arbitration by arbitrators.

The Ciarb AI Guideline also usefully provides a template agreement and template procedural order on the use of AI in arbitration.

Some of the benefits mentioned in the Ciarb AI Guideline are increased efficiency and reduced costs. More specifically, the Ciarb AI Guideline highlights the following benefits:

- AI-powered legal research and data analysis.
- Text generation: AI tools can assist with systemising, structuring, generating and summarising texts, as well as ensuring that the wording used is consistent, coherent, grammatically correct and clear.
- Streamlining the collection of evidence: AI has the potential of streamlining the taking of evidence in an efficient and consistent way.
- Translation and interpretation: AI tools have the potential to translate documents used in the proceedings and perform simultaneous translation of statements made during the proceedings, including witness examinations.
- Transcription of hearings: AI tools can generate hearing transcripts at a fraction of the cost of human stenographers.
- Detecting the use of AI: AI detection tools can detect deep fakes and assess the authenticity of evidence by ascertaining that it has not been fabricated by other AI technology. In the LaPaglia case, mentioned previously, the arbitrator's law clerk, perhaps unhelpfully for him, asked ChatGPT whether a certain paragraph was written by a human or AI and ChatGPT said that the paragraph's awkward phrasing, redundancy, incoherence and over-generalisations suggested that the paragraph was generated by AI, rather than a human.[15]

The Ciarb AI Guideline highlights several risks with the use of AI, including:

- concerns about the enforceability of arbitral awards;
- potential biases in AI algorithms;
- loss of confidentiality and data security; and
- the impact on due process rights.

The Ciarb AI Guideline provides four general rules applicable to parties and arbitrators:

- first, all participants should make reasonable enquiries to understand a proposed AI tool;
- second, all participants should weigh up the risks against the benefits of using AI;
- third, participants should make enquiries about the applicable laws and regulations in the applicable law governing the use of the AI tool; and
- fourth, unless expressly agreed in writing by the tribunal and parties (and subject to any mandatory rule), the use of an AI tool by any participant will not diminish their responsibility and accountability for submissions.

The Ciarb AI Guideline makes clear that it is part of the arbitrator's remit to regulate the use of AI tools in an arbitration, with a view to preserving the integrity of the arbitration and the enforceability of the award. Arbitrators may regulate the use of AI to the extent it impacts on the arbitration, but may not regulate the private use of AI by practitioners.

The Ciarb AI Guideline provides that arbitrators should not relinquish their decision-making powers to AI, but may use AI to support more accurate and efficient processing of submitted information, whilst always ensuring independent judgment.

A crucial provision is Article 8.4 of the Ciarb AI Guideline, which provides that an arbitrator shall assume responsibility for all aspects of an award, regardless of any use of AI to assist with decision making. This addresses the contentious issue of the limit of what may be delegated – either to a tribunal secretary or (by analogy) to technology – and the impact of the delegation on enforceability.

As yet, many of the major arbitral institutions, including the London Court of International Arbitration, SIAC and HKIAC, do not have a protocol on the use of AI in their administered arbitrations. It is very likely that other guidelines will emerge or parties will adopt the Ciarb AI

15 Ibid 9.

Guideline in Procedural Order 1 in much the same way as parties adopt many of the various International Bar Association guidelines.

The impact of ESG considerations on international commercial arbitration

Environment, Social and Governance ('**ESG**') considerations continue to have an impact on international arbitration. ESG is a concept that aims to promote sustainable, responsible and ethical corporate behaviour by incorporating ESG guidance in corporate decision making.[16] The term 'ESG' was coined in a 2004 landmark report by UN Global Compact, titled 'Who Cares Wins'.[17] This was a joint initiative of financial institutions invited by the United Nations Secretary-General to develop guidelines on how to integrate ESG concerns in managing assets, securities brokerage services and research functions.[18]

ESG issues are impacting international arbitration in at least two ways. On the one hand, ESG considerations are changing the nature of disputes. As ESG clauses are increasingly adopted in commercial and investment contracts, ESG issues have become prominent in investor-state arbitrations concerning climate change, corruption and human rights.[19]

It has been suggested that claims with a climate change or decarbonisation nexus broadly fall into two categories of disputes: first, state decisions to introduce new energy transition policies in pursuit of climate change or decarbonisation policies, and second, state decisions that deny or withdraw project approvals and licenses for climate change-related reasons.[20] One example of the latter type of dispute are claims filed in 2023 by Zeph Investments ('**Zeph**'), a Singapore-based mining company, against Australia under chapter 11 of the ASEAN-Australia-New Zealand Free Trade Agreement.[21] While minimal details are publicly available, the claims appear likely to arise from a decision of the Queensland Land Court in November 2022 recommending that the Queensland Department of Environment and Science authorities refuse to grant a mining lease and environmental authority to Zeph's wholly-owned subsidiary, Waratah Coal, for its proposed Galilee Coal Mine in Queensland.[22] Among other things, the Court based its recommendation on the evidence of climate change and human rights impacts deriving from the project, taking account of the Scope 3 emissions associated with the burning of coal produced by the mine.[23] The Queensland Department of Environment and Science subsequently followed that recommendation and refused the grant. On 29 May 2023, Zeph lodged claims under the treaty, claiming damages of AUD 41.3 billion.[24] There are similar disputes pending around the world.[25]

Apart from the types of disputes which are emerging, another aspect of ESG considerations in international arbitration is the response from the arbitration community to ways to reduce the carbon footprint from the practice of international arbitration. With these concerns in mind, the Campaign for Greener Arbitrations was launched in 2019 with the aim to minimise the carbon footprint of international arbitrations.[26] A study conducted by the campaign concluded that nearly 20,000 trees could be required to offset carbon dioxide and other greenhouse emissions in just one arbitration.[27] The arbitration community took notice and practitioners have signed up to the Green Pledge and generally made

16 Kariuki Muigua, 'The Place of Environmental, Social and Governance (ESG) in Arbitration' (2023) 3(3) *Nairobi Centre for International Arbitration Alternative Dispute Resolution Journal* 26, 26 ('Muigua').

17 John P Gaffney, 'In Praise and Criticism of Arbitration as a Means of Resolving ESG Disputes' (Blog Post, 18 April 2023) <https://legalblogs.wolterskluwer.com/arbitration-blog/in-praise-and-criticism-of-arbitration-as-a-means-of-resolving-esg-disputes/>.

18 The Global Compact, *Who Cares Wins: Connecting Financial Markets to a Changing World* (Report, 15 July 2004) vii.

19 Muigua (n 19) 29.

20 Louise Barber, 'Zeph Investments v Australia: The Latest in Investor-State Climate Change-Related Claims' (Blog Post, 24 August 2023) <https://legalblogs.wolterskluwer.com/arbitration-blog/zeph-investments-v-australia-the-latest-in-investor-state-climate-change-related-claims/>.

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

25 Ibid.

26 'Driving Sustainable Change in Arbitration', *Campaign for Greener Arbitrations* (Web Page) <https://www.greenerarbitrations.com/>.

27 See 'A Significant Impact', *Campaign for Greener Arbitrations* (Web Page) <https://www.greenerarbitrations.com/impact>.

efforts to reduce the carbon footprint from the practice of international arbitration.

There is scientific agreement that greenhouse gases ('**GHG**') (carbon dioxide, methane and nitrous oxide) as a result of human activity have led to global warming and other changes in the earth's climate systems. Climate extremes are increasingly being experienced in all regions of the globe, resulting in heatwaves, droughts, wildfires, reduced snowfall, glacier melt and tropical cyclones to mention a few.[28]

It is also known that international arbitration generates significant GHG in the form of carbon dioxide, primarily caused by transporting people and paper across borders and printing documents.[29] The arbitration community has attempted to reduce that carbon footprint by, among other things, holding remote hearings whenever it can by video-conferencing technology, dispensing with printed hearing bundles and using on-line document management platforms, such as Opus 2, which enable arbitrators and counsel to view and annotate documents digitally.

In the Asia Pacific, a number of institutional rules have recently sought to embrace ESG considerations as part of their administered arbitrations. Rule 13.1 of the 2024 HKIAC Rules provides that the arbitral tribunal shall adopt suitable procedures for the conduct of the arbitration in order to avoid unnecessary delay or expense, having regard to the complexity of the issues, the amount in dispute, the effective use of technology, information security, and the environmental impact, and provided that such procedures ensure equal treatment of the parties and afford the parties a reasonable opportunity to present their case. Additionally, rule 34.4 provides that in determining whether costs are reasonable, and whether and how to apportion the costs of the arbitration, the tribunal may take into account any factors it considers relevant, including but not limited to any adverse environmental impact arising out of the parties' conduct in the arbitration.

Similarly, the 2025 SIAC Rules also encourage environmentally sustainable practices.

Rule 32.4(b) provides that the tribunal shall convene a first case management conference and consult with parties on whether it would be appropriate to adopt environmentally sustainable procedures for the arbitration. Rule 4 provides that, after consultation with the parties, the Registrar may direct the parties to upload all written communications to SIAC Gateway. SIAC Gateway is SIAC's cloud-based case management platform offering features such as electronic filing, an integrated online payment system, secure document upload and storage, and real-time case management for use by parties and tribunals in SIAC arbitrations, at no additional cost.

This year, ACICA released its Sustainability Protocol advocating for a reduction of emissions by using electronic documents, conducting virtual hearings and carbon budgeting.[30] Many of the provisions are commonsense, but the ACICA Sustainability Protocol provides an important reminder to arbitration practitioners to consider sustainability issues at the outset of the arbitration and some of the provisions encourage accountability. Although the ACICA Sustainability Protocol is geared towards the ACICA rules, it can be adopted in any arbitration.

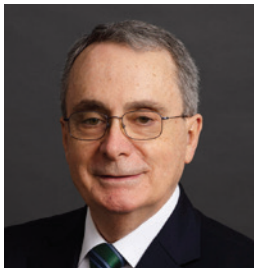
Since climate change issues are here to stay, we are likely to continue to see an increase in climate-related disputes which are referred to arbitration. It is also likely that more institutional rules will require parties to at least consider sustainable practices as part of an arbitration in the way that the rules of the HKIAC, SIAC and ACICA already do. As video-conferencing facilities and, more generally, on-line connectivity improve, the arbitration community will likely see more hearings conducted remotely as they were during the Covid pandemic. The arguments against having remote hearings, such as that the arbitrators are better able to assess the demeanour of witnesses and hearing time is wasted because of participants in the arbitration losing connectivity, are not convincing when measured against the environmental benefits of more sustainable hearing practices.

28 See Intergovernmental Panel on Climate Change, 'Chapter 11: Weather and Climate Extreme Events in a Changing Climate', *Sixth Assessment Report* (Web Page, 2021) <https://www.ipcc.ch/report/ar6/wg1/chapter/chapter-11/>.

29 The ACICA Sustainability Protocol (n 3) 3.

30 Ibid.

Dublin Tribunal Secretary Course



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On 6 – 7 September 2025, ACICA presented its Tribunal Secretary Training Course ("**TS Course**") in Dublin in collaboration with The Bar of Ireland. This year, the TS Course was delivered by Professor Doug Jones AO of Sydney Arbitration Chambers and Atkin Chambers with the assistance of Jonathon Redwood SC of Twenty Essex and Banco Chambers and Anne Wang.

The TS Course was established to provide aspiring practitioners interested in becoming accredited as a tribunal secretary an opportunity to gain practical insight into this role. Drawing upon the rules and guidelines of arbitral institutions, and the practical experience of tutors, the TS Course seeks to provide participants a comprehensive understanding of the steps required to contribute to the conduct of an arbitration as a tribunal secretary.

The 19 participants this year came from diverse jurisdictional backgrounds, including Australia, Brazil, Ireland, New Zealand, Poland, the United Arab Emirates, and the United Kingdom. The participants were also diverse in terms of professional backgrounds and expertise, including barristers, solicitors, arbitrators, academics, tribunal secretaries and legal tech specialists.

Role of a Tribunal Secretary

A tribunal secretary (also referred to as an administrative secretary in some institutions such as the International Chamber of Commerce ("**ICC**")), when used properly, can provide valuable assistance to the tribunal and improve the efficacy of the arbitration. A tribunal secretary is principally engaged to assist three-member tribunals, although they may also assist a sole arbitrator.[2] The appointment of a tribunal secretary requires the consent or non-objection from parties.[3] A tribunal secretary can be appointed at any time during an arbitration, although their administrative and procedural assistance can be valuable across all phases of the arbitral process and would be maximised if appointed early on in the pre-hearing stages.

Subject to any applicable institution rules or parties' agreement, the tribunal secretary generally assists with administrative and procedural tasks, and when

1 Independent Arbitrator at Sydney Arbitration Chambers: see Doug Jones, 'International Commercial Arbitrator' (Web Page) <www.dougjones.info>.

2 See, for example, International Chamber of Commerce Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration, Section XX, [217] ('ICC Note to Parties').

3 Ibid [220]–[221]. See also Young ICCA Guide on Arbitral Secretaries.

directed by the tribunal, may undertake tasks in relation to the preparation of the award. This may include, but is not limited to, the transmission of documents and communications on behalf of the tribunal to the parties and/or Secretariat of an institution (noting the online platforms now utilised by arbitral institutions), the organisation and maintenance of files, the arrangement of hearings and meetings, and the preparation of agendas.[4] The tribunal secretary can also be responsible for drafting procedural orders and factual portions of the award (such as the procedural history and summary of the parties' positions), provided that the tribunal subsequently reviews such work, as well as legal research and proof-reading of the award.[5]

Other miscellaneous tasks include monitoring the financial aspects of the case and ensuring that the arbitrator's timesheets are current and complete.

During the hearing, the tribunal secretary can be responsible for assisting the tribunal members with ad hoc tasks such as timekeeping, supervision of the transcript, managing attendance lists of the parties, filing exhibits, and more. In the case of virtual hearings, the tribunal secretary must also be familiar with virtual platforms.

The tribunal secretary should be appropriately supervised by the tribunal, otherwise the use of the tribunal secretary could undermine the legitimacy of the arbitral process. Note also that the solicitation or receival of any views of any kind from a tribunal secretary on the substance of the decisions "*does not of itself demonstrate a failure to discharge the arbitrator's personal duty to perform the decision-making function and responsibility himself*".[6]

Institutional Frameworks

The TS Course placed particular emphasis on the rules of various arbitral institutions which govern the appointment, fees and expenses, and the impartiality and independence of a tribunal secretary. This includes the ACICA Rules 2021,[7] HKIAC Rules 2024,[8] LCIA Rules 2020,[9] the recently updated SIAC Rules 2025,[10] and the SCC Rules 2023.[11]

These rules are complemented by practice notes, including the ACICA Guidelines on the Use of Tribunal Secretaries, HKIAC Guidelines on the Use of a Secretary to the Arbitral Tribunal, LCIA Guidance Note for Parties and Arbitrators,[12] ICC Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration,[13] SIAC Practice Note on the Appointment of Administrative Secretaries, UNCITRAL Notes on Organizing Arbitral Proceedings,[14] and the Young ICCA Guide on Arbitral Secretaries.

Discussion Points

Amongst many interesting points of discussion, there were three points which were of particular importance to the participants.

First, with the increasing prevalence of artificial intelligence ("**AI**") in the legal landscape, its uses and limitations were integrated into the discussion of the TS Course. Participants were drawn to the balancing act between utilising the benefits of AI, such as expediting the processing of intricate information and summarising text,[15] with the inherent risks of using such measures, such as the potential to compromise confidentiality and breach impartiality and independence.[16]

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4 Ibid [224].
5 Ibid.
6 *P v Q and Ors* [2017] EWHC 194 (Comm).
7 *ACICA Arbitration Rules 2021* r 48(c).
8 *HKIAC Administered Arbitration Rules 2024* rr 10.3(a), 13.4, 34.1(c), 45.1, 45.2, 46.1, 46.2; see also Part 6, which deals with the 'Fees and Expenses of Tribunal Secretary'.
9 *LCIA Arbitration Rules 2020* rr 3.3, 10.5, 13.4, 14.8–14.15, 18.3, 30.2, 31.1–31.3, 32.2. See also Annex to the LCIA Rules, 'General Guidelines for the Authorised Representatives of the Parties' (rr 18.5, 18.6 of the LCIA Rules), [6].
10 *SIAC Rules 2025* rr 24, 59, 65. It is noted that rule 24 ('Tribunal Secretary') has been newly inserted into the *SIAC Rules 2025*, which operates in conjunction with the practice notes (in force at the time) to govern the appointment and removal of a tribunal secretary.
11 *SCC Arbitration Rules* 2023 rr 3, 24, 52.
12 LCIA Guidance Note for Parties and Arbitrators, s 10 'Tribunal Secretaries'.
13 ICC Note to Parties, Section XX. It is noted that the ICC Rules are silent on the appointment of tribunal secretaries.
14 UNCITRAL Notes on Organizing Arbitral Proceedings (2016), s 4(b) 'Secretary to Arbitral Tribunal'.
15 CIArb AI Guidelines, [1.3]–[1.4].
16 CIArb AI Guidelines, [2.2], [2.4].

Secondly, participants learned about the online platforms adopted by arbitral institutions for the uploading and filing of documents, communications, and hearing bundles. For example, participants' attention was drawn to ACICA Connect as the e-filing and online case management system used by ACICA since 1 January 2024. Other institutions provide similar platforms, such as the CIETAC Online Filing Portal, HKIAC Case Connect, ICC Case Connect, LCIA online filing system, SCC Platform, and the SIAC Gateway.

Thirdly, seeking to provide participants with practical experience of the materials taught, ACICA provided exercises which simulate a real arbitration. For example, participants were tasked with completing a draft Procedural Order No. 1 based upon a Request for Arbitration and Response to the Request for Arbitration on a fictitious scenario.

Opportunities

Another valuable part of the TS Course centred around the discussion of opportunities which lead to the role of a tribunal secretary. This includes working at the Bar, in law firms, arbitration chambers and arbitral institutions. Further, the ACICA Panel of Tribunal Secretaries was also drawn to the attention of participants. The successful completion of the TS Course and assessments allow participants to become eligible for entry into the Panel.

Conclusion

More than an educational experience, the TS Course served as a platform for participants from various common law and civil law jurisdictions to share their experiences with each other. It was a great pleasure to see the exchange of perspectives between participants over celebrations which followed the program. Very many thanks to Arran Dowling-Hussey who served as the main contact with the Bar of Ireland, Cathy Smith SC who is the outgoing Chair of the ADR Committee of the Bar of Ireland, and Rose Fisher who is the Manager of the Dublin Dispute Resolution Centre. It is hoped that future TS Courses will be conducted as successfully and smoothly as the Dublin 2025 TS Course.

ACICA45 Arbitration Annal

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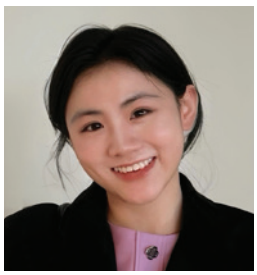

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I INTRODUCTION[1]

2025 has seen a number of interesting arbitration-related decisions from courts around Australia. In this year's ACICA45 Arbitration Annal, we summarise key decisions of Australian courts throughout the life cycle of an arbitration, from applications to compel compliance with arbitration agreements, to applications for enforcement or set aside of arbitral awards. These cases, along with others in the ACICA45 Case Archive at the conclusion of this article,[2] demonstrate that Australia's courts continue to merit their pro-arbitration reputation.

II STAYS IN FAVOUR OF ARBITRATION

Australian courts upheld several agreements to arbitrate in 2025, principally in the context of applications for the stay of court proceedings in favour of arbitration.

The first of these decisions, *Oil Basins Ltd v Esso Australia Resources Pty Ltd* [2025] VSC 34, arose in the context of a decades-long royalty dispute between Esso and Oil Basins over production in the Bass Strait oil fields. In the latest dispute, Oil Basins commenced court proceedings seeking declarations that certain issues were not arbitrable, as well as injunctive relief to restrain Esso from pursuing those issues in arbitration. Esso responded with an application for a stay of the proceedings pursuant to section 7 of the *International Arbitration Act 1974* (Cth) ('IAA'). In dismissing an earlier appeal against orders to hear those two applications together, the Victorian Court

1 The views and opinions expressed in this article are those of the authors and do not represent those of any organisation, institution or law firm with which an individual author is associated.

2 Please note that this selection is not intended to be an exhaustive list of every decision handed down in the past year that relates to arbitration.

of Appeal clarified that stay applications should ordinarily be heard before the substantive dispute to preserve the integrity of arbitration.[3] Following this approach, Justice Croft found that the arbitration clause was sufficiently broad to encompass the relevant dispute and that questions regarding arbitrability, or the operability of the arbitration agreement, were for the tribunal to decide under the *Kompetenz-Kompetenz* principle.[4]

Issues of arbitrability also arose in *Elecnor Australia Pty Ltd v Clough Projects Australia Pty Ltd* [2025] NSWSC 610. This case dealt with the scope and effect of an arbitration agreement in a joint venture deed between Elecnor and Clough, pursuant to which the joint venture undertook construction of a largescale energy project for Transgrid. After Clough entered administration, Elecnor applied to the Court seeking declarations and specific performance related to the buy-out of Clough's interest under the deed. Clough and its administrators cross-claimed for contribution to an AUD110 million call on performance securities by Transgrid under the construction contract and alleged breach of the deed by Elecnor. Elecnor argued those claims should be stayed and referred to arbitration in Singapore per the agreement in the deed. Clough and the administrators opposed the referral, but argued that if their claims were to be stayed, Elecnor's should be too.

Justice Stevenson held that the arbitration clause was mandatory and broad enough to capture disputes arising under the deed,[5] but stayed only the cross-claims. His Honour concluded that Elecnor's claims were not capable of settlement by arbitration as they involved not merely the settlement of a private dispute, but also questions under the *Corporations Act 2001 (Cth)* and the operation of a deed of company arrangement. The decision also observed that the administrators brought the cross-claim '*through or under*' Clough for the purposes of section 7(4) of the IAA because an '*essential element*' of that claim was '*vested in or exercisable by*' Clough under the terms of the joint venture deed.[6]

The application of section 7(4) was also considered in *China Civil Engineering Construction Corporation South Pacific (Fiji) Ltd v Sinclair Brook Pty Ltd* [2025] NSWSC 960. That case concerned a dispute under a contract between Carpenters, as owner, and China Civil, as contractor, for a construction project in Fiji. Sinclair was appointed by Carpenters as superintendent under the contract. Disputes ultimately arose and steps were taken to commence arbitration in Fiji in accordance with the contract. Objecting to the arbitration, China Civil commenced proceedings against Sinclair, its employee, Tucker, and Carpenters in New South Wales, which the defendants relevantly sought to stay under section 7 of the IAA.[7] In resisting the stay, China Civil advanced an array of claims to which Justice Hammerschlag gave short thrift. Significantly, his Honour upheld the principle of separability of the arbitration agreement such that the termination of the contract was inconsequential,[8] and, in rejecting China Civil's reliance upon the Fijian Parliament's recent approval of the New York Convention, confirmed that the relevant time at which a State must be party to the Convention to engage its operation is the time an application is made to the court.[9] Lastly, Justice Hammerschlag held that the claims against Sinclair and Tucker, as non-parties to the arbitration agreement, should also be stayed because they would be claiming their defences '*through or under*' Carpenter. This was because it was '*readily apparent*' that they had a '*direct interest in resisting China Civil's claims that Carpenters did anything unlawful*'.[10]

III ENFORCEMENT OF ARBITRAL AWARDS

Australian courts have been equally supportive in applications arising at the end of the arbitral process as in stay applications at the outset, in the recognition

3 *Esso Australia Resources Pty Ltd v Oil Basins Ltd* [2024] VSCA 240, [42]. This was adopted in *Oil Basins Limited vs Esso Australia Resources Pty Ltd* [2025] VSC 34 at [2].

4 *Oil Basins Limited vs Esso Australia Resources Pty Ltd* [2025] VSC 34, [67] – [68].

5 See *Elecnor Australia Pty Ltd v Clough Projects Australia Pty Ltd* [2025] NSWSC 610, [66] – [88] and [108] on the mandatory nature and scope of the arbitration agreement and [109] – [110] for the conclusion on arbitrability.

6 See ibid, [121] – [124].

7 *Forum non conveniens* was also advanced as an alternate basis for the stay. Although not necessary to do so in light of the conclusions on s 7 IAA, Hammerschlag J observed in *obiter dicta* that he would also have held that NSW was a clearly inappropriate forum in light of the dispute's almost exclusive connection with Fiji: see discussion at in *China Civil Engineering Construction Corporation South Pacific (Fiji) Ltd v Sinclair Brook Pty Ltd* [2025] NSWSC 960, [74] – [75] and [85] – [88].

8 *China Civil Engineering Construction Corporation South Pacific (Fiji) Ltd v Sinclair Brook Pty Ltd* [2025] NSWSC 960, [64] – [67].

9 Ibid, [68] – [71].

10 Ibid, [77] – [84].

and enforcement of foreign arbitral awards and also in granting ancillary relief to preserve assets pending enforcement. Recent decisions reflect the Federal Court's pragmatic approach to enforcement under section 8(3) of the IAA, extending to orders for specific performance, equitable receivership, and freezing orders maintaining worldwide effect.

A Enforcement by Way of Specific Performance

In *Roadpost Inc v Beam Communications Pty Ltd* [2025] FCA 120, the parties sought orders by consent to: (a) recognise and enforce a Canadian arbitral award; and (b) declare that the respondent was required to sell its shares in a joint venture to the applicant, reflecting the dispositive order in the award.[11] Justice Stewart held that the making of a declaration merely restating the dispositive section of the award would not constitute "enforcement" within the meaning of section 8(3) of the IAA.[12] The parties amended their proposed relief to instead seek a mandatory order for specific performance; an order the Court considered appropriate to make.[13] The Court also provided some guidance to practitioners on the practical benefits to the making of an order for specific performance (and not just seeking an order for recognition and enforcement). First, a separate order for specific performance gives effect to the order within the award as a court order, thereby creating a new enforceable obligation between the parties.[14] Secondly, if orders for specific performance are not complied with, a damages order may follow.[15]

B Equitable Execution and Appointment of a Receiver

In *Ningbo Weisheng Dingxuan Equity Investment Fund Partnership Enterprise (Limited Partnership) v Zhong* [2025] FCA 1053, the applicant successfully sought recognition and enforcement of a Chinese arbitral award against the respondent, who had limited assets save for a property owned by him and his spouse as joint tenants. The Court held that it possesses both an inherent equitable jurisdiction to enforce its own judgments and a statutory power to appoint a receiver over property in cases where it is 'just or convenient to do so'.[16] The Court addressed the complications of joint tenancy, which would necessarily be severed by the process of execution,[17] and ordered careful preservation of the proceeds of sale attributable to the non-debtor spouse's half-interest.[18] This underscores the Court's pragmatic use of equitable remedies to ensure effective enforcement of foreign arbitral awards in Australia.

C Preservation of Assets

In *Qinao Lianchuang (Zhuhai) Development Co Ltd v Shandong Yulong Gold Co Ltd* [2025] FCA 912, the Court ordered the continuation of freezing orders in support of a prospective enforcement application for a Chinese arbitral award. The evidence before the Court suggested that the Chinese-domiciled defendant caused its Australian subsidiaries to grant security interests over key assets to related Chinese entities without commercial justification. These transactions, combined with limited disclosure and the group's intricate cross-border structure, supported a real risk of asset dissipation.[19] In an attempt to defeat the injunction application, the respondent submitted that Australia, being a 'secondary jurisdiction', should not restrain a Chinese company from transferring assets held by its corporate group back to China in circumstances where China was the seat of the arbitration and the award was enforceable there.[20] The Court dismissed that submission, finding that an arbitral award, once recognised under section 8 of the IAA, is entitled to be enforced in Australia as if it is an order of the Court.[21] Accordingly, the freezing orders were

11 *Roadpost Inc v Beam Communications Pty Ltd* [2025] FCA 120, [6].
12 Ibid, [8] (citing *Tridon Australia Pty Ltd v ACD Tridon Inc* [2004] NSWCA 146, [10] – [11]; *Margulies Brothers Ltd v Dafnis Thomaides & Co (UK) Ltd* [1958] 1 Lloyd's Rep 205, 207).
13 Ibid, [11] – [13] (citations omitted).
14 Ibid, [11].
15 Ibid, [13].
16 *Ningbo Weisheng Dingxuan Equity Investment Fund Partnership Enterprise (Limited Partnership) v Zhong* [2025] FCA 1053, [12] – [15] (citations omitted).
17 Ibid, [19], [24] – [25].
18 Ibid, [11].
19 See generally *Qinao Lianchuang (Zhuhai) Development Co Ltd v Shandong Yulong Gold Co Ltd* [2025] FCA 912, [74] – [89].
20 Ibid, [70].
21 Ibid, [71] – [72].

continued pending the determination of that application.

The Infant Food Company Pty Ltd v Willis Trading Ltd [2025] FCA 682 concerned an application for the continuation of a worldwide freezing order against an award debtor domiciled in Hong Kong and its Australian subsidiaries. There were two key issues. First, Willis argued that the Court lacked jurisdiction to make a freezing order over a Hong Kong company that had not formally submitted to the Court's jurisdiction. The Court rejected this argument, finding that jurisdiction had been established upon service of the originating process on Willis in Hong Kong.[22] That is because the Court possesses 'long-arm' jurisdiction in respect of arbitrations held in Australia and proceedings concerning the enforcement of a Commonwealth law (*Federal Court Rules 2011* (Cth), rule 10.42).[23] The second issue concerned the risk of asset dissipation. Based on market announcements that Willis's parent company had 'scaled down' Australian operations and the proposed sale of a major warehouse asset, the Court found a real and present danger of dissipation, justifying continuation of the freezing order with worldwide effect.[24]

D Enforcement Against Sovereign States

The past year also saw several decisions concerning the enforcement of arbitral awards against sovereign states. *The Republic of India v CCDM Holdings LLC & Ors* (2025) 307 FCR 308 arose from an award obtained by investors in an *ad hoc* arbitration against India under the Mauritius–India BIT. India relevantly opposed enforcement in Australia on the basis that '*a foreign State is immune from the jurisdiction*' under section 9 of the *Foreign States Immunities Act 1985* (Cth). At first instance, Justice Jackman found that a statutory exception to State immunity applied: in signing the New York Convention, India agreed that Australia would recognise arbitral awards within the Convention's scope, including awards to which India is a party. India's ratification of the Convention thus constituted a '*submission by agreement*' to proceedings in Australia.[25]

This finding was overturned by the Full Court based on India's reservation under Article I(3) of the New York Convention. The effect of this reservation is that the Convention would only apply to legal relationships considered as commercial under Indian law. The Full Court found that (*i*) India did not submit to Australian proceedings falling outside of this reservation and (*ii*) the award in question did not concern a '*commercial*' relationship as it concerned India's obligations under the relevant BIT.[26] This decision may have broader implications given the number of States that have made similar reservations under Article I(3),[27] and that special leave has been granted by the High Court of Australia.[28]

Blasket Renewable Investments LLC v Kingdom of Spain [2025] FCA 1028 concerned the recognition of four ICSID awards handed down against Spain under intra-EU BITs following Spain's repeal of certain renewable energy subsidies. Spain argued unsuccessfully that it had not waived foreign State immunity in acceding to the ICSID Convention, and that the High Court's decision in *Kingdom of Spain v Infrastructure Services Luxembourg Sàrl* [2023] HCA 11 was wrongly decided.[29] In support of its position, Spain argued that any immunity it waived in acceding to the ICSID Convention could only apply to awards that are binding. Relying on the *Achmea* and *Komstroy* decisions, Spain argued that the four awards were not binding as they were inconsistent with EU foundational treaties.[30] Justice Stewart found in favour of the award creditors, dismissing Spain's EU law and State immunity defences.[31]

IV SET ASIDE APPLICATION

Consistent with the supportive approach to enforcement

22 *The Infant Food Company Pty Ltd v Willis Trading Ltd* [2025] FCA 682, [6] – [7].
23 Ibid, [6].
24 Ibid, [8] – [12].
25 *CCDM Holdings LLC v Republic of India (No 3)* [2023] FCA 1266, [43], [50] – [51].
26 *Republic of India v CCDM Holdings LLC* (2025) 307 FCR 308, 320 – 21, 322 – 23.
27 United Nations Treaty Collection, New York Convention Ratification Status, accessed 23 October 2025 at https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXII-1&chapter=22&clang=_en&_gl=1.
28 *n*.
29 *Blasket Renewable Investments LLC v Kingdom of Spain* [2025] FCA 1028, [4], [176] – [183].
30 Ibid, [186], [227].
31 Ibid, [174], [212], [222], [286].

of awards, the courts have also maintained a high intervention threshold for appellate and set aside applications, requiring clear procedural unfairness or manifest legal error.

A A High Bar for Appeals under State Commercial Arbitration Acts

Arbitration is valued for its binding finality. Under the uniform commercial arbitration acts in Australia, parties can, however, 'opt in' to appeal an award on questions of law. As exemplified in *ViaSat Inc v Hansen Yuncken Pty Ltd* [2024] NSWSC 1581, such appeals require leave of the court.

ViaSat, the head contractor under a construction contract, sought leave to appeal an award in favour of its subcontractor, Hansen Yuncken, on questions of law under section 34(3) of the *Commercial Arbitration Act 2010* (NSW). Importantly, a condition of the Court's leave is its satisfaction of the criteria set out in section 34A(3).[32] Paraphrased, this criteria includes that the question of law (*i*) will substantially affect the parties' rights, (*ii*) was one which the arbitrator was asked to determine, (*iii*) meets a threshold of legal merit (that it is '*obviously wrong*' or is of '*general public importance*' and is at least open to '*serious doubt*'), and (*iv*) is just and proper for the Court to decide.

Justice Rees held that ViaSat failed to meet each limb of the strict section 34A(3) criteria. Particularly, ViaSat failed on the third limb; to prove the questions were of general public importance or that the arbitral decision was 'obviously wrong' or 'open to serious doubt'. In her Honour's reasoning, the bespoke nature of the amended form contract limited its broader legal significance. Additionally, the arbitrator's decision was not susceptible to 'serious doubt' as it applied established legal principles of contractual interpretation.

This decision underscores that parties who wish to preserve appeal rights should be aware that 'opting in' to section 34A is no guarantee. Courts are reluctant to dispense with the finality of arbitration merely owing to the commercial interests of a party challenging an arbitral award.

B Standards for Set Aside Applications under State Commercial Arbitration Acts

A similarly high bar is set for applications to set aside awards as demonstrated by *Clarke Energy (Australia) Pty Ltd v Power Generation Corporation (Trading as Territory Generation) and Robert Holt KC* [2025] QSC 64. Here, a dispute arose between Clarke (as contractor) and Territory Generation ('TG') (as owner) under two EPC contracts for works at the Owen Springs and Tenant Creek power stations in the Northern Territory. The dispute concerned extensions of time ('EOT') and variation claims. The arbitrator delivered a partial award dismissing the bulk of Clarke's claims. Clarke subsequently sought an order to set aside the award under section 34(b)(ii) of the *Commercial Arbitration Act 2013* (Qld), on the ground that it conflicted with Queensland's public policy. Clarke alleged a denial of procedural fairness, arguing that the arbitrator failed to consider whether TG had acted '*fairly and reasonably*' when assessing its EOT claims.[33]

Justice Kelly rejected this argument, finding that the '*fairly and reasonably*' issue was not revealed in pleadings and did not come within jurisdiction by reason of the conduct of the arbitrations.[34] Clarke had only raised this issue during the arbitrations closing submissions. In any event, his Honour found that the arbitrator had considered this issue, emphasising that an issue need not be addressed expressly in an award but it may be implicitly resolved.[35] The resolution of an issue does not necessarily entail navigating through all the arguments and evidence, but can flow from the conclusion of a specific logically prior issue and in such circumstances an arbitrator can reasonably refrain from an in-depth examination.

The application to set aside was dismissed. The key takeaway is that arbitral awards will not be set aside for procedural imperfections unless they result in a fundamental denial of justice.

By contrast, this standard was found to be met by the Supreme Court of Western Australia in *Fremantle Port Authority v Martin* [2025] WASC 301. There, the Court set aside an award concerning the valuation of

32 *ViaSat Inc v Hansen Yuncken Pty Ltd* [2024] NSWSC 1581, [6].
33 *Clarke Energy (Australia) Pty Ltd v Power Generation Corporation (Trading as Territory Generation) and Robert Holt KC* [2025] QSC 64, [27] – [28].
34 Ibid, [131].
35 Ibid, [141].

improvements made by the second defendant lessee. The parties to the lease disputed whether the '*balance of the term remaining*' should influence '*fair*' valuation of the improvements.

In his award, the arbitrator (who was not legally qualified) adopted a valuation method not advanced by either party. The plaintiff, Fremantle Port, subsequently sought orders that the award be set aside under section 34(2) of the *Commercial Arbitration Act 2012* (WA). Of note, Justice Lundberg found:

That the arbitrator denied Fremantle Port a reasonable opportunity to make submissions on its central contention, being the proper approach to the question of '*fair value*' of the improvements.[36] If it had that opportunity, there was a real possibility it could have achieved a more favourable outcome.[37] This amounted to a material denial of procedural fairness.

That the arbitrator addressed a dispute not contemplated by the referral to arbitration and exceeded his authority.[38] Further, by determining broader matters beyond the resolution of the 'differences' in dispute, the arbitrator exceeded his jurisdiction.[39]

Ultimately, the ruling serves as a reminder that arbitral awards must be grounded in fair process and reasoned consideration of the parties' positions.

ACICA45 2025 Case Archive

NB: this table includes decisions of superior courts that are not addressed in the above article, however it is not intended to be an exhaustive list of every decision handed down in the past year that relates to arbitration.

Date issued	Decision
11 December 2024	*ViaSat Inc v Hansen Yuncken Pty Ltd* [2024] NSWSC 1581
20 December 2024	*Guoao Holding Group Co Ltd v Xue (Sentencing)* [2024] FCA 1503
31 January 2025	*Republic of India v CCDM Holdings LLC* (2025) 307 FCR 308
13 February 2025	*Oil Basins Limited vs Esso Australia Resources Pty Ltd* [2025] VSC 34
24 February 2025	*Roadpost Inc v Beam Communications Pty Ltd* [2025] FCA 120
27 March 2025	*Rimfire Pacific Mining Limited v Golden Plains Resources Pty Ltd* [2025] VSC 145
30 March 2025	*Clarke Energy (Australia) Pty Ltd v Power Generation Corporation (Trading as Territory Generation) and Robert Holt KC* [2025] QSC 64
9 May 2025	*Green Hospital Supply, Inc v Yi* [2025] VSC 250
12 June 2025	*Elecnor Australia Pty Ltd v Clough Projects Australia Pty Ltd* [2025] NSWSC 610
19 June 2025	*The Infant Food Company Pty Ltd v Willis Trading Ltd* [2025] FCA 682
18 July 2025	*Qinao Lianchuang (Zhuhai) Development Co Ltd v Shandong Yulong Gold Co Ltd* [2025] FCA 912
6 August 2025	*Fremantle Port Authority v Martin* [2025] WASC 301
22 August 2025	*China Civil Engineering Construction Corporation South Pacific (Fiji) Ltd v Sinclair Brook Pty Ltd* [2025] NSWSC 960
27 August 2025	*Ningbo Weisheng Dingxuan Equity Investment Fund Partnership Enterprise (Limited Partnership) v Zhong* [2025] FCA 1053
29 August 2025	*Blasket Renewable Investments LLC v Kingdom of Spain* [2025] FCA 1028
4 September 2025	*Mercedes Group Pty Ltd (t/a Zorzi Builders) v Cooah Investments Pty Ltd* (atf The Cooah Trust) [2025] WASC 361
17 September 2025	*Stantec New Zealand v Fiji Roads Authority* [2025] FCA 1149
22 September 2025	*Millwood Rise Developments Pty Ltd v Winslow Pty Ltd* [2025] QSC 238

36 *Fremantle Port Authority v Martin* [2025] WASC 301, [134].
37 Ibid, [148].
38 Ibid, [170].
39 Ibid, [177] – [178].

The Queen Mary University of London 2025 International Arbitration Survey: The Path Forward

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I Introduction

The 14th Queen Mary University of London Survey ('2025 Survey'), again conducted in collaboration with international law firm White & Case, was dissected at an Australian launch seminar (expertly moderated by partner Lee Carroll) at their Melbourne office on 22 July 2025. Some 'early insights' had been provided during Paris Arbitration Week, which was held on 7–11 April 2025, when the 2025 Survey was not yet public.[1] This analysis delves deeper into the report and its key findings, drawing also on the discussion with our co-panelists, including some suggestions for future research.

II Survey Methodology

This latest Survey's methodology shows how responses to the Queen Mary University of London's survey series have become more expansive and therefore reliable over time. Although not a random survey, 2402 responses were received for the written questionnaire (the response rate is unspecified). This is significantly greater than the 'more than 900' respondents for the 2022 Survey (which focused on capturing the views of a broad representation of those engaged in energy disputes),[2] 1218 for the general 2021 Survey,[3] and just 103 for the inaugural Survey in 2006.[4] This study was again mixed-method, adding qualitative research through 117 follow-up interviews.

This increase in Survey participation arguably indicates the growing awareness of the survey series and interest in its results, as well as the proliferation and diversification of international arbitration ('IA') over the last two decades. Overall, respondents in the 2025 Survey primarily practiced or operated in the Asia-Pacific (47%), illustrating the shift of arbitration (along with economic activity)

1 Michael Hingston, '2025 PAW: Early Insights from the 2025 Queen Mary University of London Arbitration Survey in Partnership with White & Case', *Kluwer Arbitration Blog* (Blog Post, 21 April 2025) <http://legalblogs.wolterskluwer.com/arbitration-blog/2025-paw-early-insights-from-the-2025-queen-mary-university-of-london-arbitration-survey-in-partnership-with-white-case/>.

2 Loukas Mistelis, '2022 Energy Arbitration Survey', *School of International Arbitration* (Web Page, 2022) <https://www.qmul.ac.uk/arbitration/research/2022-energy-arbitration-survey/>.

3 Norah Gallaher and Maria Fanou, '2021 International Arbitration Survey: Adapting Arbitration to a Changing World', *School of International Arbitration* (Web Page, 2021) <https://www.qmul.ac.uk/arbitration/research/2021-international-arbitration-survey/>.

4 '2006 Corporate Attitudes and Practices', *School of International Arbitration* (Web Page, 2006) <https://www.qmul.ac.uk/arbitration/research/2006/>. This (and the 2008 and 2013 surveys) focused on in-house lawyers, so respondents were fewer, and for this survey in 2006 (and in 2008) almost all interviews were in-person and involved travel. I am grateful to Professor Loukas Mistelis for clarifying for this point.

into Asia;[5] separately in North America (a further 10% of respondents), Central and Latin America (7%); plus Europe (10%) and Africa (6%).[6]

The primary roles of Survey respondents (Chart 23) were counsel (35%), arbitrators (17%), both (14%), arbitral institution staff (9%), academics (8%) and tribunal secretaries (2%). Surprisingly, there were few in-house counsel respondents (3%), who historically and anecdotally tend to be more concerned about costs and delays. Few respondents were primarily experts (1%), which may reflect declining professional diversity within IA.[7]

III Arbitration With Or Without Adr

The 2025 Survey asked, once again, about respondents' preferred methods of resolving cross-border disputes.[8] IA together with ADR was the most popular response (48%), compared to standalone IA (39%). The Survey contrasts this with 59% versus 31% in 2021.[9] That shift could indicate that IA has been working effectively to address, for example, persistent complaints about its costs and delays.

However, more work needs to be done by IA stakeholders, as in the 2015 Survey only 34% of respondents had preferred IA with ADR, as contrasted to 56% preferring just IA.[10] This indicates that the trend over the last decade remains towards combining IA with ADR. Additionally, future research could usefully ask what is meant by IA taken 'together with ADR'. As co-panelist Leah Ratcliff remarked from her experience (now as in-house counsel in Australia), parties are more comfortable with clauses providing for (structured) negotiations rather than (potentially still quite expensive) mediation before IA. It would also be interesting to assess respondents' preferences regarding Arb-Med (that is, arbitrators actively promoting settlement), or engaging an Arb-Med-Arb processes (as in Singapore – arguably appearing in the 2022 Singapore International Dispute Resolution Academy Survey, Exhibit 8.1).[11]

The 2025 Survey commentary also suggests that ADR preferences may be partly 'influenced by cultural factors',[12] noting that European respondents favoured more standalone IA (51%) compared Asia-Pacific respondents (37%). However, recall that overall 39% favoured IA anyway.

There also remains great diversity within Asia regarding legal culture – let alone general culture.[13] For example, first there are common law jurisdictions (eg Singapore, Hong Kong, Australia) with strong traditions now of domestic mediation for commercial disputes, due to high costs and delays in litigation initially (and sometimes still). This carries over into more willingness to agree to multi-tiered clauses mandating even mediation before arbitration. Secondly, however, there are some common law jurisdictions in Asia (notably India, despite extensive court delays) with no such tradition of privately-supplied mediation services. Relatedly, in those jurisdictions, legal advisors and parties are more reluctant to propose Med-Arb clauses in international contracts (although they may agree to them if proposed, if obtaining other benefits through negotiations). Thirdly, civil law jurisdictions (like Japan, with more efficient courts plus some court-annexed mediation, but also mainland China) also seem less amenable to Med-Arb clauses, although long comfortable with clauses providing for good faith negotiations prior to IA. In addition, there is even greater diversity across Asia regarding Arb-Med (which is basically only practiced intensively in China, and partly in Japan).

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5 See Luke Nottage et al (eds), *New Frontiers in Asia-Pacific International Arbitration and Dispute Resolution* (Kluwer Law International, 2020).

6 '2025 International Arbitration Survey: The path forward: Realities and Opportunities in arbitration', *School of International Arbitration* (Final Report, 2025) Chart 26 <https://www.qmul.ac.uk/arbitration/research/2025-international-arbitration-survey/> ('2025 Survey').

7 Nobumichi Teramura, Luke Nottage and James Tanna, 'Declining Professional Diversity in International Arbitration', *Kluwer Arbitration Blog* (Blog Post, 3 April 2022) <https://legalblogs.wolterskluwer.com/arbitration-blog/declining-professional-diversity-in-international-arbitration/>. See also Doug Jones, 'Diversity of Expertise in Arbitration: The Past, Present and Future' (CIArb Annual Lecture, 14 October 2025, Holding Redlich) <https://dougjones.info/content/uploads/2025/10/Doug-Jones-Diversity-of-Expertise-in-Arbitration-2025.pdf>.

8 2025 Survey (n 6) Chart 1.

9 Ibid 5.

10 '2015 International Arbitration Survey: Improvements and Innovations in International Arbitration', *School of International Arbitration* (Web Page, 2015) <https://www.qmul.ac.uk/arbitration/research/2015/>.

11 Nadja Alexander et al, 'Singapore International Dispute Resolution Academy, International Dispute Resolution Survey: 2022 Final Report' (Report, 2022) <https://sidra.smu.edu.sg/research-program/appropriate-dispute-resolution-empirical-research/sidra-survey-2022>.

12 2025 Survey (n 6) 6.

13 Luke Nottage, 'Cross-Fertilisation in International Commercial Arbitration, Investor-State Arbitration and Mediation: The Good, the Bad and the Ugly?' (2024) 50(3) *Monash University Law Review* (advance).

IV Preferred Seats And Rules

Earlier surveys had started to identify Singapore, Hong Kong and mainland Chinese cities within the range of top preferred seats, along with traditional venues like London and Paris. Yet it was unclear whether this reflected the growing proportion of Asia-Pacific (essentially Asian) respondents. The 2025 Survey helpfully addresses this question. Globally, that is among all respondents (Chart 3), the most preferred seat is London (chosen, among up to five seats, by 34%), then Singapore and Hong Kong (31% each), then Beijing and Paris (19% each). However, London and Singapore were ranked in the top four seats for all regional respondents, and Paris too except for the case of Asia-Pacific respondents (Chart 2). Otherwise, European and Asia-Pacific respondents 'show strong preferences for seats in their respective regions'.[14]

Similarly, the LCIA Rules (nominated globally by 25% of all respondents, again with up to five preferences) were preferred in all regions except the Asia-Pacific, whilst the SIAC Rules (chosen by 25%) and the UNCITRAL Rules (15%) were preferred for all regions except Central and Latin America (Charts 4 and 5). By contrast, the HKIAC Rules (25%) were most preferred by Asia-Pacific respondents (36%), but were not selected amongst the top 5 preferences by respondents from other regions. As co-panelist (and experienced arbitrator) Michael Pryles noted at the launch seminar, Hong Kong and the HKIAC Rules still benefit as a compromise for transactions and disputes involving mainland China. He also rightly suggested, as did an audience member, that asking about 'preferences' may not give the full picture. This could be usefully compared with evolving actual practice, including arbitration case filings. Over 2024, for example, HKIAC handled 352 new arbitration cases (77% international)[15] whereas SIAC handled 625 (91% international).[16]

Co-panelist Diana Bowman, the new Secretary-General of the ACICA, remarked that the ACICA Rules did not quite make Chart 5, despite the Australian Centre for International Commercial Arbitration's increased case filings in recent years.[17] As a former Rules Committee member (2004–2024), I added that arbitral institutions should not just be judged by case filing statistics. Those depend, for example, on geography, although there may be scope for Australia to focus on niches,[18] such as the South America – Southeast Asia or South Asia trades, or (as Pryles also observed) specialist fields such as disputes over resources. In addition, improving arbitral rules (and the status of seats more generally) can allow local parties to more credibly propose them but then compromise in negotiations to obtain other contractual benefits.

Pryles also shared experiences and views about the growing impact on IA from sanctions on parties or participants. Notably, 30% of respondents to the 2025 Survey identified that sanctions had led to a different seat being chosen (Chart 6).

The 2025 Survey also found that 39% of respondents thought awards set aside at the seat should be enforceable in other jurisdictions (Chart 8), whereas 61% thought not. The 39% proportion is surprisingly high, as only French courts uniformly adopt this approach.[19] Courts elsewhere will usually not enforce awards in such circumstances, unless there is some particularly egregious flaw regarding the seat court (such as proven corruption) or seat jurisdiction (such as legislation retrospectively impacting arbitration agreements or awards). Perhaps some of these 39% of respondents agreed with enforcement but only in such exceptional circumstances, which might then be separated out as a third possibility in future research. Meanwhile, this trend (and growing deference towards the decisions of seat courts instead of upholding challenged awards) should reinforce the importance of carefully choosing the seat.

14 2025 Survey (n 6) 7.

15 '2024 Statistics', *Hong Kong International Arbitration Centre* (Web Page) <https://www.hkiac.org/about-us/statistics>.

16 Pinsent Masons, 'Singapore International Arbitration Centre statistics reveal steady caseload and wider international reach', *Out-Law News* (Web Page, 16 April 2025) <https://www.pinsentmasons.com/out-law/news/siac-reveal-steady-caseload-and-wider-international-reach>.

17 'ACICA Releases Statistics for 2023', *Australian Centre for International Commercial Arbitration* (Web Page, 2024) <https://acica.org.au/2024/05/02/acica-releases-statistics-for-2023/>.

18 Luke Nottage and Nobumichi Teramura, 'Australia's (In)Capacity in International Commercial Arbitration', *Kluwer Arbitration Blog* (Blog Post, 20 September 2018) <https://legalblogs.wolterskluwer.com/arbitration-blog/australias-incapacity-in-international-commercial-arbitration/>.

19 Matthew Barry, 'The Role of the Seat in International Arbitration: Theory, Practice, and Implications for Australian Courts' (2015) 32(3) *Journal of International Arbitration* 289.

V IA Enforcement And Efficiency

Past Surveys (and other research)[20] typically identified the enforceability of IA awards (and agreements), the neutrality and expertise of arbitrators, flexibility in procedures, and then privacy and confidentiality, as major advantages of IA over cross-border litigation. The 2025 Survey innovated by focusing on the growing awareness and engagement in various public interest elements (eg environmental) even in commercial IA, including its perceived advantages instead of litigation. Arbitrator expertise (47%), avoiding local courts and laws (42%) and (broader?) neutrality (28%) were often chosen from among available options (Chart 15). Confidentiality was selected by 34% of respondents, which seems understandable given these are still commercial disputes (and not ISDS arbitrations involving greater public interests and already associated with increased transparency as a result). Enforceability of awards was only chosen by 32%, but this may reflect greater actual or anticipated problems with public policy or arbitrability exceptions to enforcement.

The 2025 Survey also usefully drilled down into another commonly posed question: voluntary compliance with IA awards (Chart 7). Interestingly, respondents said this happened at similar rates, almost always or often, for non-ICSID awards against states (33%) as for ICSID awards (34%): despite most of the latter involving the more de-localised *ICSID Convention* enforcement regime. Also surprisingly, good compliance for non-ICSID private awards was only reported by 40% of respondents. This may also indicate persistent questions around 'formalisation' and over-lawyering in IA, discussed more broadly under 'efficiency and effectiveness' in the 2025 Survey.[21] The 2025 Survey's treatment of this issue coincides with the publication of other empirical scholarship statistically assessing rates of voluntary compliance with awards:[22] laying the foundations for richer understandings of this matter that move beyond traditional anecdote.

Notably, respondents were asked to choose up to three options for processes that would most improve efficiency in IA (Chart 10). The most popular choices were expedited arbitration (50%, generating further questions) and early determination of unmeritorious claims or defences (49%). But there was also interest in non-binding pre-arbitral assessments by an expert (13%), mandatory settlement discussions (12%) or mediation (11%) in procedural timetables, and even 'baseball arbitration' (11%). Interestingly, as this remains a hot topic for multi-tiered clauses,[23] 7% chose 'limiting grounds to challenge pre-arbitration ADR outcomes in arbitration proceedings' (rather than in court). Less surprisingly, as these impact on fees earned by counsel (being the 2025 Survey's largest respondent group) and are rarely mentioned in arbitral rules, only 1% picked 'sealed offers' as a mechanism to improve efficiency.

The survey found (perhaps most surprisingly, given the respondents' generally favourable view of combining arbitration with ADR) the option of multi-tiered dispute resolution clauses with mandatory ADR processes was included by fewer than 1% of respondents as one of their three selections. To some interviewees, ADR adds an unnecessary procedural layer. Others 'question the utility'.[24] However, this low selection rate may be due to the question's phrasing, which asked about measures to improve efficiency *in arbitration* (not across the overall dispute resolution process).

A final hot topic canvassed in the 2025 Survey concerns AI in IA.[25] Pryles was skeptical about arbitrators delegating too much to AI for their reasoning. Surprisingly, however, although 71% of respondents had never used AI for 'evaluating legal arguments' in the past 5 years, for the next 5 years this was expected to drop to 31% (Chart 18). Admittedly, some of this may be done by lawyers and so may be thought less problematic than the same task being undertaken by arbitrators. Still, following the

20 Nadja Alexander et al, 'Singapore International Dispute Resolution Academy, International Dispute Resolution Survey: 2024 Final Report (Core Surveys)' (Report, 2024) <https://sidra.smu.edu.sg/research-program/appropriate-dispute-resolution-empirical-research/sidra-survey-2024>; Nadja Alexander et al, 'Singapore International Dispute Resolution Academy, International Dispute Resolution Surveys: 2024 Final Report (Intellectual Property and Technology Disputes' (Report, 2024)' <https://sidra.smu.edu.sg/research-program/appropriate-dispute-resolution-empirical-research/sidra-survey-2024>.

21 2025 Survey (n 6) 15–19.

22 Catherine A Rogers et al, 'Complying in the Shadow of the Award' (2025) 50(2) *Yale Journal of International Law 174.*

23 Nottage (n 13).

24 2025 Survey (n 6) 16.

25 Ibid 27–33.

2025 Survey's Australian launch seminar in September 2025, the AAA-ICDR has 'announced it will release an AI arbitrator to deliver fast, cost-effective, and trusted dispute resolution' – albeit keeping a human in the loop – to focus initially on the resolution of documents-only construction disputes.[26]

Less controversial is the existing use of AI for 'document review' (never used so far by only 41%, expected to drop to 10%). However, this finding raises a question as to whether an even more efficient approach would be for arbitrators to more pro-actively help identify the issues to be determined, and hence what might constitute relevant evidence. The 2012 Survey (Chart 9)[27] had found that to be the best means experienced to expedite arbitral proceedings, even when phrased as arbitrators doing this 'as soon as possible after constitution' of the tribunal (which is more controversial than as the arbitration progresses, which is the position taken, for example, under the JCAA Interactive Arbitration Rules).[28]

VI Conclusion

The 2025 Survey, especially read in light of previous Queen Mary University of London studies,[29] provides a rich resource to assist in understanding current practices and concerns in IA. It also helps identify future opportunities and challenges, as well as laying the foundations for promising ongoing research into this always-evolving field.

26 American Arbitration Association, 'AAA-ICDR to Launch AI-Native Arbitrator, Transforming Dispute Resolution', *News & Insights (Press Release, 17 September 2025)* <*https://www.adr.org/press-releases/aaa-icdr-to-launch-ai-native-arbitrator-transforming-dispute-resolution/*>.

27 Paul Friedland and Stavros Brekoulakis, '2012 International Arbitration Survey: Current and Preferred Practices in the Arbitral Process', *School of International Arbitration* (Web Page, 2012) <https://www.qmul.ac.uk/arbitration/research/2012/#d.en.493215> ('2012 Survey').

28 Lexi Takamatsu, 'The JCAA Interactive Arbitration Rules: A Settlement-Centered Approach to Arbitration', *Kluwer Arbitration Blog* (Blog Post, 21 May 2023) <https://legalblogs.wolterskluwer.com/arbitration-blog/the-jcaa-interactive-arbitration-rules-a-settlement-centered-approach-to-arbitration/>.

29 2012 Survey (n 27).

Australian Centre for International Commercial Arbitration

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