

IPBA Journal

June 2024

No

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NEWS & LEGAL UPDATE

Tokyo Annual Meeting and Conference



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BAR ASSOCIATION

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The President's Message

Miyuki Ishiguro
President



Dear Colleagues, Members and Friends,

The 32nd IPBA Annual Meeting and Conference in Tokyo (the 'Tokyo Conference') was successfully concluded on 27 April 2024. We had 1,369 registrants from 53 jurisdictions for the event, which is a record-high number. It was an unforgettable experience for me to organise the Tokyo Conference in terms of the length of the preparation period having been delayed twice and the order of the venue city changed once. The organising committee of the Tokyo Conference was formed at the end of 2018 and since then we had regular meetings once a month over a long interval due to the pandemic.

Based upon such preparations, the Tokyo Conference was designed to provide all participants with 'omotenashi' or Japanese hospitality, such as smooth conference progress, tasty lunches and dinners, quick responses to inquiries, Japanese traditional entertainment at the Gala Dinner and the Farewell Party, daily jogging sessions in the early morning and after-party drinking and dancing (both led by Tatsu Nakayama), sophisticated professional services rendered by the Hotel Okura, kimono wearing experience, and extensive provision of conference-related information to participants through the Tokyo Conference home page, the conference app and frequent emails during the conference period. It would make me very happy if the participants really enjoyed the Tokyo Conference.

This time, the Tokyo Conference was a very good occasion for old members to see their friends in person after most travel restrictions were lifted and for new members as well. At the New Members and Scholars Reception on the first day, we had so many new

members from all over the world and I am confident that the new members felt the IPBA's basic philosophy such as friendship, kindness and generosity.

At the Plenary Session and concurrent sessions, the theme related to AI gathered large audiences. This indicates that many IPBA members are interested in AI-related matters, such as legal work efficiency and possible threats to simple legal work. Based on such a hypothesis, we began discussions for the formation of a new ad-hoc committee dedicated to AI. I hope that we can introduce this new committee to our members soon.

Finally, in connection with the Tokyo Conference, let me thank the members of the organising committee who devoted their full efforts to organise the Tokyo Conference. I am very happy and lucky that I have such nice, kind and hardworking IPBA friends.

I hope to see you again in the near future.

Yours sincerely,

Miyuki Ishiguro | President



The Secretary-General's Message

Jose Cochingyan III
Secretary-General



Dear Fellow IPBA Members,

At the recently concluded - and highly successful - Annual Meeting and Conference in Tokyo, we have managed to fully implement the IPBA administrative process of improvements begun during the term of former Secretary-General, Michael Burian. You will notice that all conference registration fees are now paid directly to the IPBA. With this improvement, the IPBA enjoys the profits earlier and this allows for a far better financial outlook for our organisation. Likewise, there have been several tweaks to our website as well. In addition, we have gone to the heart of our systems to revamp them from top to bottom. My thanks to Catrina Lusching, our newly minted Deputy Chief Technology Officer, our new CTO Robert Quon and former CTO Riccardo Cajola, all of whom have been very active in making this a reality. My thanks also to our Secretariat, Randa Moriaka and Yukiko Okazaki, for pushing hard on this project.

The Tokyo Conference also saw the launch of the Nobuo Miyake Fellowship Fund, which will fund the conference fees for those with at least five years of membership in the IPBA and who can submit a project proposal that will benefit the IPBA. There will be three Fellows per year and US\$200,000 has been set aside for this fund. I hope to see applications with wonderful ideas soon.

I cannot end without congratulating Miyuki Ishiguro, our brand-new IPBA

President and her band of 40 dedicated Japanese lawyers, who since 2019 have been planning for this Conference. This year's Annual Conference had the highest number of delegates in the history of the IPBA and we all had a great time meeting old and new friends. My congratulations also to all who have organised our well-attended sessions that make our Annual Conference a unique market for the exchange of ideas. I now look towards the Windy City of Chicago with equal excitement!

Jose Cochingyan III | Secretary-General





Message to the Reader



Dear Reader,

Welcome to this special edition of the IPBA Journal. This issue is a dedication to our memorable and outstanding 32nd IPBA Annual Meeting and Conference held in Tokyo, Japan. As all of you are doubtless aware, the IPBA was founded in Tokyo in 1991, therefore, holding the conference back in Tokyo was particularly significant. The Conference was attended by over 1,300 members from all over the world and I would like to take this opportunity to thank the Host Committee led by our President and Chair, Miyuki Ishiguro and Vice Chair and Chief Entertainment Officer, Tatsu Nakayama for the detailed organisation and hospitality.

This edition of the Journal will highlight many of the significant events and panel discussions, as well as give you a glimpse of the fun and joy of the Conference. It is the fruit of hard work from many contributors including leadership, moderators, committee chairs and vice- chairs, host committees and members. I hope this issue can serve as a long-term memory for all of us to cherish. As mentioned during the Gala Dinner, the Spirit of Katsuura is fundamental to the IPBA. We have therefore deliberately included a section on this so that members can have a better understanding of this concept.

The next issue will be back to normal, and thanks to all of you who have already sent me articles on the main theme—Restructuring, Insolvency and Liquidation. For those of you who unaware of the total 'make-over' of the Journal, I would like to take this opportunity to explain further. In addition to the main theme, the following topics will also be added to future editions:

- Peculiar laws around the world (about 500 words)



- Committee updates (new laws or issues in the respective area of practice; about 500 words)
- Culture and festivals in different jurisdictions (about 500 words)
- IPBA events (annual conference, regional conference [about 1000 words], local gatherings [about 500 words])

The reason for the makeover is to provide more opportunities for members to contribute and to give the Journal a wider selection of topics to make it a 'lighter' read and follow in the spirit of Katsuura.

Finally, to keep up with the new way of learning, we have also started our own Law MasterClass know-how Knowledge Bank, exclusively available to IPBA members only. Instead of typical Q&A articles we normally submit to publish, we will do them in a video format instead. For example, for dispute resolution we can have a question on the court structure and members can then submit videos from different jurisdictions to tell us briefly about

the court structure in their own jurisdictions or how to start a claim in your jurisdiction, etc.

Here are some parameters to follow when making the videos:

- Image should be clear with good sound quality
- Up to five minutes in length
- Format could be one person talking to the camera or a two-person Q&A discussion

- Speaker(s) should be seated at a desk or table and facing the camera

- Videos should be taken in landscape orientation
- Clear intro, body and end of topic

For those of you who want to showcase your talents, please send me your videos.

I hope you will all enjoy this issue as much as I do. Happy reading!

Olivia Kung | Chair, Publications Committee

Publications Committee Guidelines for Publication of Articles in the IPBA Journal

We are pleased to accept articles on interesting legal topics and new legal developments that are happening in your jurisdiction. From time to time, issues of the Journal will be themed. Please send: (1) your article to both **Olivia Kung** at olivia.kung@onc.hk and **Scott Li** at lijian@jinmaopartners.com; (2) a lead paragraph of approximately 50 or 60 words, giving a brief introduction to, or an overview of the article's main theme; (3) a photo with the following specifications (File Format: JPG or TIFF, Resolution: 300dpi and Dimensions: 4cm(w) x 5cm(h)); and (4) your biography of approximately 30 to 50 words.

The requirements for publication of an article in the *IPBA Journal* are as follows:

1. The article has not been previously published in any journal or publication;
2. The article is of good quality both in terms of technical input and topical interest for IPBA members;
3. The article is not written to publicise the expertise, specialization, or network offices of the writer or the firm at which the writer is based;
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5. The article must be written in English (with British English spelling), and the author must ensure that it meets international business standards;
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IPBA Upcoming Events

| Event | Location | Date |
|---|------------------|----------------------|
| IPBA Annual Meeting and Conferences | | |
| 33rd Annual Meeting and Conference | Chicago, IL, USA | 23–26 April 2025 |
| 34th Annual Meeting and Conference | New Delhi, India | 1st Quarter 2026 |
| IPBA Regional Conferences | | |
| IPBA Arbitration Day | Shenzhen, China | 25 October 2024 |
| IPBA East Asia Forum | Tianjin, China | 15 November 2024 |
| Mid-Year Council Meeting and Regional Conference | | |
| Mid-Year Council Meetings (for Council Members only) | Warsaw, Poland | 28–29 September 2024 |
| Regional Conference ('Asia Pacific and CEE – Far Away, So Close! Opportunities for Developing the Cooperation') | Warsaw, Poland | 30 September 2024 |
| Mid-Year Council Meetings (for Council Members only) | Madrid, Spain | 27–28 September 2025 |
| Regional Conference (Topic TBD) | Madrid, Spain | 29 September 2025 |

More details can be found on our website: <https://ipba.org>
The above schedule is subject to change.

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Since its humble beginnings in 1991 at a conference that drew more than 500 lawyers from around the world to Tokyo, the IPBA has blossomed to become the foremost commercial lawyer association with a focus on the Asia-Pacific Region. Benefits of joining the IPBA include the opportunity to publish articles in this IPBA Journal; access to online and printed membership directories; and valuable networking opportunities at our Annual Meeting and Conference as well as 10 regional conferences throughout the year. Members can join up to three of the 24 committees focused on various commercial law practice areas, from banking and finance, to insurance, employment and immigration law, and more. We welcome lawyers from law firms as well as in-house counsel. IPBA's spirit of camaraderie ensures that our members from over 65 jurisdictions become friends as well as colleagues who stay in close touch with each other through IPBA events, committee activities, and social network platforms. To find out more or to join us, visit the IPBA website at <https://ipba.org>.



Opening Ceremony



At 10 o'clock in the morning of 25 April, 2024, Ms Miyuki Ishiguro, President-Elect of the IPBA and Chair of the Host Committee, officially kicked off the IPBA Annual Meeting and Conference in Tokyo ('Tokyo IPBA Conference') by welcoming attendees at the opening ceremony held at the Okura Tokyo located in Tokyo, the capital of Japan. The Host Committee of the Tokyo IPBA Conference was first organised in 2018 and began preparations for the annual meeting and conference to be held in Tokyo in 2021 in keeping with the plan to have the event in Japan each 10-year anniversary from the first IPBA annual conference held in Tokyo in 1991. As some may recall, the annual meeting and conference returned to Japan in 2001 and 2011 when it was held in Tokyo and Kyoto, respectively. However, as all of you know, the COVID-19 pandemic of 2019 to 2022 resulted in cancellations of IPBA in-person gatherings and after the first post-pandemic IPBA conference held in Dubai in 2023, the Tokyo IPBA Conference was eventually held in 2024 with the theme of 'New World, New Wisdom'.

In her opening remarks, President-Elect Ishiguro, who officially became IPBA president at the Annual General Meeting held on 27 April, emphasised that a

new wisdom, which transcends race, creed, gender, social status, country and origin, would enable us to create a new world which protects human rights and the environment, and in which everyone can live together in harmony. The ceremony was held at the Okura Tokyo's Heian room, the biggest meeting room of the hotel which was filled with attendees from around the world who listened to her speech intently, many taking pictures with their smartphones. She was thrilled to welcome more than 1,300 attendees, including many who had travelled from distant locations, which set a new record for the largest number of attendees for an IPBA annual conference to date. She expressed her gratitude to all attendees who visited Japan, taking this opportunity to travel to Tokyo after the long delay, suffering and hardships brought about by the pandemic, and conveyed her wish for everyone to enjoy the many scheduled conferences and social events as well as trips in Japan before or after the conference, or maybe both. The opening ceremony concluded with President-Elect Ishiguro expressing her wish for a successful conference, and was followed by the plenary session titled 'Generative AI from an Ethical and Legal Perspective'.

Gala Dinner

Hotel Okura

Thursday 25 April 2024



The number of registrations for the 2024 IPBA Annual Meeting and Conference in Tokyo exceeded 1,300, which is the highest ever in the history of the IPBA annual conference. Because of this large number of participants and the maximum capacity of the Heian Room, the largest banquet hall at the Hotel Okura accommodating up to 900 people, the dinner event had to be held in two venues within the Hotel Okura (the Heian Room at the first floor and the Orchard Room at the second floor). Approximately 900 attendees participated in a formal Western-style sit-down dinner in the Heian Room, while around 300 participants enjoyed a buffet-style meal, including Japanese cuisine, such as sushi, tempura and Japanese sake from the barrel, in the Orchard Room.

The Gala Dinner commenced at 6 pm. Ms Mitsuko Miyagawa, who has served as a Japanese Supreme Court Justice since last November and is a long-standing member of the IPBA, delivered the opening remarks. She spoke about the challenging work at the Supreme Court and the enjoyable memories she had from attending past IPBA events.

A highlight of the Gala Dinner was a memorial session for Mr Nobuo ('Nosei') Miyake, one of the founding members of the IPBA, who passed away in October last year. During the session, five IPBA leaders who knew Mr Miyake well (namely, Mr Kunio Hamada, Mr Mark Shklov, Mr Gerold W Libby, Mr Jose Cochingyan III as well as Mr Tatsuki Nakayama) shared anecdotes about Mr Miyake's significant contributions to the IPBA, including 'The Spirit of Katsuura' named after the place of his vacation cottage in the countryside of Japan. Several pictures of the late Mr Miyake were projected in the venue.

During the latter half of the dinner, the participants enjoyed listening to a music performance by the Aunj Classic Orchestra, who play Japanese traditional instruments, such as Wa-daiko (Japanese drum) and Koto (Japanese harp), in ensemble. The attendees were captivated by the enchanting melodies of the sounds of Japan spun by the artists.

These events held in the Heian Room were simultaneously broadcast via video to the Orchard Room. Some participants, including Miyuki Ishiguro, the Chair of the



Organising Committee, adorned in traditional garments from Japan's kimono to ethnic attire from around the globe, added vibrant colours to the event. Throughout the Gala Dinner, lively conversations flourished at each table. Gala attendees savoured delicious cuisine while thoroughly enjoying interactions with fellow attendees from all over the world. In particular, longstanding members of the IPBA, along with their accompanying families, were delighted to finally reunite in Tokyo after enduring the long period of seclusion brought about by the COVID-19 pandemic.

And thus, the Gala Dinner concluded at 9 pm amidst great success. There were quite a few participants who were reluctant to leave, enjoying the lingering atmosphere of the Gala with their companions in the lobby of the hotel for a while longer.



Farewell Dinner Party



IPBA 2024 Tokyo's Farewell Dinner Party was a blast. It took place at Happo-en, a beautiful traditional Japanese garden which is one of the most well-known wedding reception venues in Tokyo, located right in central Tokyo not so far from Shinagawa Station. It used to be the private villa of a prominent figure, Mr Hikozaemon Okubo, dating back to the Edo period. Historically, the current garden with a circular path around a pond has been enlarged and mostly formed by the Kuhara family in the Taisho and Showa periods, but some parts of the garden are more than 400 years old.

In the evening on 26 April 2024, on arrival from the Okura Hotel by coaches, our Farewell Party had already started at the garden entrance. Thanks to the perfect weather, the passage in the cobblestone garden from the entrance to the main building terrace was adorned on either side with historical



Japanese game stalls welcoming guests in a festive atmosphere in which many could enjoy playing and winning some gadgets as souvenirs. These stalls are quite typical and traditional for summer night festivals in Japan so it was a kind of cultural experience for many colleagues to experience the lives of ordinary



Japanese people. Since the terrace and the hall of the main building are nestled next to each other and all heavy glass doors were completely left open, everyone could enjoy fine dining, both Japanese and non-Japanese, and share a drink while chatting in the refreshing spring night air.

Inside the building, several separate halls catering to different tastes welcomed the crowd to relax, find some cozy space to stay and enjoy their last catch-up of the evening with various colleagues. People queued up quickly with a glass in hand for the sushi bar which was so popular it sold out very fast. In the

middle of the party, around and on the traditional Yagura stage in the hall's centre, professional dancers in early summer kimono paraded and some musicians performed in rhythm to softly accented music, inviting guests to join in on this age-old practice of Japanese night festivals. Many danced together at the end and had a fantastic time wearing big smiles on their faces. Our Host Committee gave greetings, inspired guests to look back on IPBA Tokyo 2024 and concluded their address with an announcement about the next Annual Conference in Chicago in 2025. Everyone regretted the last moments of the party, but they all knew that it had ended with great success.

What is the Spirit of Katsuura?



Gerold W Libby:

The 'Spirit of Katsuura' can be considered to be a set of principles which reflect the particular culture of the IPBA. Katsuura, Japan, a coastal city in Chiba Prefecture, outside Tokyo, was the site of a weekend meeting held in 1990 at the vacation home of Nobuo Miyake, one of the initial founders of the IPBA. As has been chronicled elsewhere, including on the IPBA website, at the Katsuura meeting a dedicated group of nine lawyers from a number of different jurisdictions developed a vision of the IPBA. The foundation of that vision was the conviction that the IPBA should expressly endorse, and nurture, the principles of friendship, democratic organisation and structure, candid exchanges of opinions, understanding and tolerance of each other's opinions, and affording opportunities to express those opinions. These principles came to be identified as the 'Spirit of Katsuura' and a stone monument still stands at the location in Katsuura where these principles were first articulated in connection with the IPBA.

Of course, many bar associations reflect these principles, along with more traditional goals of exchanging

professional information, establishing professional relationships, strengthening professional ethics, and enhancing professional education, among others. The issue is one of emphasis. The Spirit of Katsuura represents a conviction that these principles should receive particular emphasis in the IPBA and should be foundational. This was a by-product of the experience some of the original IPBA founders had had with other bar associations in the East Asia region and the belief that the cultures and legal traditions of many of the jurisdictions in that region made it imperative that principles articulated at the Katsuura meeting be core elements of the IPBA.

Most longtime members of the IPBA will likely agree that the IPBA has successfully adhered to the Spirit of Katsuura. At times there have been periods of turbulence within the IPBA and certainly the Covid pandemic hindered continued development of the IPBA. In some parts of the world, institutional (including law firm) support of bar associations has diminished, making it more difficult for younger lawyers to attend and participate in bar association events, particularly

those in remote locations. But as any attendee at the highly successful 2024 Annual Conference of the IPBA, recently held in Tokyo, would probably acknowledge, the IPBA continues to thrive. Generations of IPBA leaders have sought to instill and preserve the Spirit of Katsuura, and this is one element, perhaps the pivotal element, in enabling the IPBA to continue to develop and to maintain its collegial, supportive, inclusive culture.

Mark Shklov:

The article that I wrote, entitled 'The Spirit of Katsuura', describes the factual and philosophical foundations of the Inter-Pacific Bar Association and is included on the IPBA's website.

I was recently asked, 'What is The Spirit of Katsuura?' The answer to this question is especially relevant at this time in our lives, with wars and violence currently raging across the world.

The answer to this question is FRIENDSHIP!

Friendship was the spiritual foundation of the IPBA when, in March 1990, nine of us entered Nosei Miyake's vacation cottage in Katsuura, Japan, as a diverse group of attorneys, and ultimately left as a unified group of friends.

The IPBA's Spirit of Katsuura continues to be built on friendship. We are friends. We help each other. We are kind to each other. We do not have to agree on everything, but we live peacefully, inclusively, and collegially with each other.

Mark Twain wrote: 'Travel is fatal to prejudice, bigotry, and narrow-mindedness, and many of our people need it sorely on these accounts. Broad, wholesome, charitable views of men and things cannot be acquired by vegetating in one little corner of the earth all one's lifetime.'

Travel and friendship are life-changing, both personally and professionally. The IPBA provides the means and opportunity for us to travel and make friends, for legitimate business purposes, and to have 'broad, wholesome, charitable views of men'.

The IPBA's annual conferences have been 'fatal to prejudice, bigotry, and narrow-mindedness' because they have brought down barriers that might otherwise

have prevented communication and interaction among the participants. Although we are all lawyers, we have learned how to work collaboratively together, because we have met and continue to meet and get to know each other every year at various locations around the world. We all benefit personally and professionally from our friendships within the IPBA.

We are friends.

Tatsu Nakayama:

The IPBA was established in 1990 with nine lawyers at Katsuura, where the late Nobuo 'Nosei' Miyake's second house was located. The nine founders of the IPBA then debated for a couple of days about how to distinguish this new international lawyers' association from other associations.

After a long discussion, they come up with these five spirits—the Spirit of Katsuura:

1. fellowship;
2. friendship;
3. candid discussion;
4. opportunity for expression; and
5. sensitivity to each others' ideas.

The IPBA has long cherished this Spirit for decades since its foundation. Evidencing this, the IPBA is the only lawyers' association in the world whereby it stresses and appreciates the contribution of individual lawyers, rather than law firms or local bar associations.

Every association should change in some way in order to address the needs of the changing society. However, after the 2024 IPBA Tokyo Conference when we were reminded of this original Spirit of Katsuura after Nosei's demise, it would be the best opportunity to remember what we are and what makes us different.

If you find this Spirit of Katsuura worth maintaining, please continue to contribute to the IPBA with your own spirit reflecting the Spirit of Katsuura. The new program of Nobuo Miyake Fellows launched at the Tokyo Conference would be a good opportunity for you to know what the Spirit of Katsuura is.

IPBA Annual Meeting and Conference Tokyo 2024

Photo Gallery





IPBA Annual Meeting and Conference Tokyo 2024

Committee Session Highlights



The Annual Conference took place over a four-day period, featuring 55 sessions led by a variety of committees and a plenary session in two parts.



Plenary Session

The Plenary Session of the Tokyo Conference was entitled 'Generative AI From Ethical and Legal Perspectives'. The session focused on the current status of development, use and regulation of AI. The two-hour session included two keynote speeches and a roundtable discussion, moderated by Riccardo G Cajola, IPBA Chief Technology Officer.

The keynote speeches were delivered by Shoji Watanabe, Director-General of the Science, Technology and Innovation Policy, Cabinet Office (Artificial Intelligence Strategy Team at the Office of Global Startup Campus Initiative, Cabinet Secretariat), followed by Mr Antony Cook, Corporate Vice President and Deputy General Counsel (Customer and Partner Solutions) at Microsoft.

Mr Watanabe's keynote speech touched upon various topics, such as the history of the development of AI, status of the use of AI, risks of using AI, and how to respond to the risks (including inter-governmental discussions, which led to the G7 Leaders' Statement on the Hiroshima AI Process). It was interesting to hear the diverse views among countries on how to regulate AI stemming from differences in culture, history, legal systems and other factors. While mentioning that international consistency in rules is desirable, Mr Watanabe also acknowledged the reality and emphasised the importance of accountability; that is, the system of each country should be clearly explained.

In his keynote speech, Mr Cook introduced Microsoft's Responsible AI Governance Framework (including its proposals for AI regulatory frameworks in 'Governing AI: A Blueprint for the Future') and provided insights on how legal practitioners may utilise Generative AI effectively (with a visual demonstration). It was impressive to hear how Microsoft is keen on developing AI in a responsible manner and how attorneys' work can be further streamlined with the assistance of AI.

The roundtable discussion was comprised of the two keynote speakers and Prof Takayuki Matsuo, Partner at Momo-o, Matsuo & Namba, Tokyo. The panellists discussed the appropriate use of AI from various standpoints—namely from the public and private sector, as well as from the viewpoint of a legal practitioner. One key takeaway was that AI is a 'co-pilot' (as Microsoft named its product) rather than an 'auto-pilot'. Users should be well aware of the capabilities and limitations of

AI technologies and use them merely as a starting point, especially where accuracy of information is required. If, for example, users only want to know general tendencies, AI would fully achieve the purpose, even if there were a few minor inaccuracies.

Generative AI is expected to grow further and rapidly. With the development of technologies, new legal issues may arise and regulations also may be developed further. This Plenary Session provided all of us with deep insights and a great opportunity to consider how legal practitioners should utilise Generative AI in our daily work and deal with current and future issues surrounding Generative AI. The author was in charge of preparation for the Plenary Session as part of the Host Committee for the Tokyo Conference and hopes that everyone who attended the Conference enjoyed the session.

Authored by: Mihiro Koeda, Miura & Partners, Otemachi

Anti-Corruption & Rule of Law Committee

'How Should Companies React to Allegations of Corruption? A Look at Practical Measures to Protect the Company and its Employees with the Aim of Reaching a Successful Outcome'

Joint session with the Corporate Counsel Committee

Moderator: Anuj Berry, ACROL Vice-Chair (Partner, Trilegal, New Delhi)

Speakers: Dr Claudia Götz Staehelin (Partner, Bär & Karrer, Basel); Oscar Tutasaura (Partner, Posse Herrera Ruiz, Bogotá); and Shin Jae Kim (Head, Compliance and Investigation practice group, TozziniFreire, São Paulo)

The ACROL Committee explored the session topic through an illustrative case study involving a multinational Switzerland-based company with operations in India and Bogotá which was embroiled in a convoluted cross-jurisdictional, multi-faceted corruption scandal. With issues involving whistleblower complaints against high-ranking officials across multiple countries, serious reputational considerations and a dense factual matrix, the case study enabled a wider discussion on not only global anti-corruption laws but also practical business considerations at play while handling anti-corruption investigations.

The session was moderated by ACROL Vice-Chair, Anuj Berry, a specialist in white collar crimes and disputes. Enriching the panel with their wide and multi-jurisdictional experience in anti-corruption and corporate law, Dr

Claudia Götz Staehelin's practice focuses on complex investigation and litigation matters at the intersection of civil, criminal and regulatory proceedings, Oscar Tutasaura's practice focuses on corporate law, mergers and acquisitions and privatisations while Shin Jae Kim focuses on crisis management, compliance, investigation and mergers and acquisitions.

The panel thematically discussed various issues and considerations that would aid companies in appropriately reacting to allegations of corruption. Broadly, the themes involved identification and notification of relevant stakeholders, reputation management, constitution of investigation committees, the investigation process, preparation of final reports, and closure of investigation. Added complications that emerge in cases alleging cross-jurisdictional corruption including enforcement actions were also briefly discussed.

As companies globally continue to face and tackle increasingly complex anti-corruption allegations, discussions around similar topics will remain relevant and the Committee looks forward to hosting similar discussions in the future.

'A Tainted Arbitration: Allegations of Fraud and Corruption'

Joint session with the Dispute Resolution and Arbitration Committee'

Moderator: Denis Brock (Partner, O'Melveny, Hong Kong)

Speakers: Sitpah Selvaratnam (Independent Arbitrator, Sitpah Selvaratnam Arbitration Chambers, Greater Kuala Lumpur); Susan Munro (Registered Foreign Lawyer, K&L Gates LLP, Hong Kong); Ruzbeh Hosseini (Partner, Cambridge LLP, Toronto); Swee-Yen Koh (Senior Counsel, WongPartnership LLP, Singapore); and Ajay Bhargava (Partner, Khaitan & Co., New Delhi)

In the course of an arbitration, it may become known that criminal offences such as bribery, corruption, fraud and money laundering might have been committed. This may be in the context of the underlying contract being procured by bribery, corruption and/or fraud. Or there may be fraud or corruption of the arbitral process (for instance, fraudulent arbitrations, arbitral awards based on fraudulent evidence, sham arbitrations). What should the counsel and tribunal do in that situation? Is there a duty to investigate in order to ascertain whether these criminal offences have been committed, and if



so, what is the applicable standard of proof? Is there a duty to report these criminal offences to the authorities, and if so, which authorities? What are the implications when it comes to the setting aside and/or enforcement proceedings?

The panel explored, though a moderated interactive debate, these issues around the factual matrix including:

1. contracts procured by fraud/corruption;
2. fraud/corruption of the arbitral process (fraudulent arbitrations, arbitral awards based on fraudulent evidence, sham arbitrations); and
3. the implications of (1) and (2) when it comes to setting aside/resisting enforcement.

'Bribery and Corruption in the Digital Age: How are Bribery and Corruption Perpetrators Adapting to and Exploiting New Technologies?'

Moderator: Lim Koon Huan, ACROL Co-Chair (Partner, Skrine, Kuala Lumpur)

Speakers: Tao Tao (Counsel Lawyer, Beijing Globe-Law Law Firm); Nimi Aviad (Partner, Crowell & Moring LLP, Los Angeles); Yap Yeong Hui (Partner, Chooi & Company, Kuala Lumpur); and Edwin Morrison (Managing Director, K3 Legal, Auckland and Hong Kong)

The 'Digital Age', otherwise known as the 'Information Age' is the present era where everything is dependent on the widespread use of the Internet and the ability to transfer information freely and quickly. While the development of virtual data, digitalisation, software development, web design, cloud computing and artificial intelligence have brought about a more

productive and progressive society, the same technologies also present new opportunities for wilful abuse of power, including enabling fraud and corruption.

Sharing their wide and varied experience, the panel discussed the difficulties in prosecuting cryptocurrency crimes, development of proper compliance policies governing the rise in the use of messaging applications and recent trends in investigating digital and AI fraud cases.

Despite the panel session being scheduled on a late Friday afternoon, it was heartening to see an almost full audience at the session and enthusiastic participation from the floor. The Committee looks forward to more discussions in the coming meetings on this very topical area.

APEC Committee
'Transforming the Digital Landscape for Small Business Owners'

The Chair of the APEC Committee, Mr Wang Zhengzhi from Globe-Law (Beijing), moderated the session. There were four speakers on the panel. Vincenzo D'Antoni, who is a proactive member of his firm's Japan Desk, assisting Japanese businesses with operations in Italy/EU and Italian/EU SMEs with business in Japan or which do business with Japanese companies. Prof Dr Eckart

Brödermann from the University of Hamburg. Ms Guo Yiqian, an attorney and partner of Globe-Law (Beijing), who mainly practices in business law and has served as legal counsel for many listed companies, SMEs and large state-owned enterprises for many years. Jean Paul Chabaneix leads the M&A and Financing Practice Group in his firm and he has been consistently recognised as one of the most outstanding lawyers in the Peruvian legal market by prestigious legal market publications such as Chambers & Partners, Latin Lawyer and Legal 500. About 40-50 professionals attended the session involving a warm discussion.

Banking, Finance and Securities Committee
'Consolidated Supervision: How Financial Regulators Cooperate in a Global World'

Moderator: *Jeremy Heckman (Partner, Barack Ferrazzano Kirschbaum & Nagelberg LLP, Chicago)*

Speakers: *Minoru Aosaki (Director of Prudential Standards Office, Japan Financial Services Agency (JFSA), Tokyo); Catrina Luchsinger Gaehwiler (Partner, MLL Legal, Zurich); David Sewell (Partner, Freshfields Bruckhaus Deringer LLP, New York); Wai Ming Yap (Partner, Morgan, Lewis & Bockius LLP, Singapore); and Bahram N. Vakil (Co-Founder, AZB & Partners, Mumbai)*

The panel addressed the topic of regulatory supervision of financial institutions both within and across various



jurisdictions, engaging in a robust discussion on areas where cross-border issues frequently arise and emerging areas where there is a need for increased global cooperation.

The session began with a keynote from Mr Aosaki who provided an overview of regulatory and supervisory cooperation in Japan, including areas of fragmentation of cooperation. Following that, each of the panellists from the United States, Singapore, Switzerland and India discussed where cross-border issues frequently arise in the lifecycle of a financial institution in their jurisdiction, from the licensing phase to operations to the distress or 'end-of-life' phase. In the licensing phase, each panellist discussed how foreign institutions can gain entry into their jurisdiction (if at all) and structuring concerns particular to their jurisdiction, noting how differences in permitted structures in various locales can either facilitate or complicate supervision by regulators across jurisdictions. In the operations and distress phases, they noted compliance requirements and challenges, highlighting recent developments and proposed changes in law and regulations.

The panellists highlighted case studies from their respective practices and other war stories, including the rescue of Credit Suisse in 2023 and the shutdown of Binance by regulators in Singapore, which made for a lively and topical discussion. The session concluded with a focus on the need for consistent global standards for regulating new age and borderless innovation, including cryptocurrency, digital currency and payment systems. Furthermore, the discussions among the panel proved that applying international standards and therefore using the same terminology across the different financial centres often does not mean that the concepts are understood or applied in the same manner in the national regulations. This creates a need for a greater understanding both in the financial sector, as financial institutions may rely on the principles used in their jurisdictions in their cross-border risk assessments, but also for the advising lawyers when talking to their colleagues in other jurisdictions.

'CBDC and Digital Assets: Digitization is Happening'

Moderator: Vinay Ahuja (Partner, DFDL, Singapore)

Speakers: Richard Holbrook, Partner, Crowell &

Moring, Washington, DC); Eddie Hsiung (Partner, Lee and Li, Attorneys-At-Law, Taipei); Yuri Suzuki (Senior Partner, Atsumi Sakai, Tokyo); Anu Tiwari (Partner, Cyril Amarchand Mangaldas, Mumbai); and Thomas Zwissler (Partner, ZIRNGIBL, Frankfurt)

The panel discussion delved into the rapid evolution of Central Bank Digital Currencies (CBDCs) and digital assets, emphasising their transformative impact on the financial landscape. Moderated by Vinay Ahuja, the session brought together experts to discuss global adoption trends, legal and regulatory challenges, privacy and security concerns, and the role of law enforcement in the digital financial ecosystem.

Vinay Ahuja began with an overview of the current state of CBDCs and digital assets, noting their swift global adoption. He highlighted that out of the 131 countries tracked by the Atlantic Council, 11 have formally launched CBDCs, 21 are in the pilot phase, and 79 are in advanced development and research stages.

Global adoption and trends were discussed by Vinay and Anu forecasting trends in CBDC adoption over the next few years, pointing out challenges such as the need for robust technological infrastructure and public trust. They also discussed opportunities, including improved financial inclusion and efficiency. Moving to the legal and regulatory landscape, Yuri, Thomas and Anu explored how different countries are crafting legal and regulatory frameworks for CBDCs and digital assets. The panellists emphasized varied approaches and the critical need for international cooperation.

Eddie and Richard's discussion then focused on the difficulties of achieving a unified international regulatory framework for digital currencies. The panellists stressed the necessity of global coordination and standard-setting. On privacy and security concerns, Anu, Yuri, Richard and Thomas discussed measures to address privacy concerns associated with CBDCs and digital assets. The panellists highlighted the importance of robust security frameworks.

Moving on to balancing security and privacy, Eddie and Vinay highlighted the financial industry's efforts to balance the need for stringent security measures with protecting user privacy. Eddie and Yuri then examined how policymakers can balance fostering

innovation with ensuring effective regulation. The need for regulatory frameworks that support innovation was emphasised.

The role of law enforcement in maintaining the security and integrity of digital financial systems was discussed by Anu and Vinay, with a focus on combating fraud and ensuring compliance. The final segment on collaboration with law enforcement saw Thomas and Richard focus on improving collaboration between the private sector and law enforcement agencies to mitigate potential risks.

The session underscored the transformative potential of CBDCs and digital assets, highlighting the complexities and the need for collaborative efforts to navigate this new digital frontier effectively. There were several key takeaways from the various segments:

- *Global Momentum:* CBDCs are gaining significant traction worldwide, with substantial adoption and ongoing development in numerous countries.
- *Regulatory Challenges:* Crafting harmonized international regulatory frameworks for digital currencies remains a critical challenge requiring global coordination.
- *Balancing Act:* Ensuring security while protecting privacy and fostering innovation is crucial for the successful implementation of CBDCs.
- *Collaborative Efforts:* Enhanced collaboration between the private sector, policymakers, and law enforcement agencies is essential for mitigating risks and maintaining the integrity of digital financial systems.

Competition Law Committee 'Overview of the Competition Law in Various Jurisdictions with Special Reference to Hot Topics'

Moderator: Atsushi Yamada (Co-Chair of CBIC and Partner, AMT Law, Tokyo)

Speakers: Gong Mingfang (Partner, Jun He Law Firm, Beijing); Corinne Chew (Director Competition Law, Drew & Napier, Singapore); Anthony Baldanza (Partner, Fasken LLP, Toronto); and Marc Waha (Partner, Norton Rose Fullbright LLP, Hong Kong)

The Competition Law Committee of the IPBA which participated in the IPBA Annual Conference at Tokyo in April 2024 had discussed and deliberated upon various issues pertaining to competition laws and participating panellists shared their views from their respective jurisdictions on the theme of the session.

Each speaker shared updates of their respective jurisdictions on the latest issues engaging the attention of their respective competition agencies and governments. Amendments to the competition laws seemed common in respect of all jurisdictions. Enactment of digital competition law seemed to be at an advanced stage in some jurisdictions or was being considered at a preliminary stage in others. Data privacy, market studies, cross-border mergers and their overlaps with competition law were also discussed at length.

An important aspect engaging the attention of the speakers and moderator was that each jurisdiction was trying to come out of the Covid pandemic challenges and how the respective authorities were trying to adopt best practices to mitigate such challenges.

Comprehensive to moderate amendments to the principal competition legislation also seemed a common topic for all the panel speakers with some divergent views emerging depending on the overall economic policies of the jurisdictions. Topics like cartels, bid-rigging, abuse of dominance and complex multi-jurisdictional merger control cases found significant traction amongst the moderator on the one hand and the speakers on the other. Besides cross-border challenges, the panel speakers shared the overlap between sector regulatory laws and competition law and how the authorities and the governments try to harmonise them to the extent such harmonisation was feasible.

The session was very well attended and there were a few questions raised by the audience which were promptly responded to by the moderator and the speakers. The session ended with an expression of thanks from the moderator.

Corporate Counsel Committee 'Signs When an Organisation May be Insolvent and How to Address the Inevitable'

Moderator: Ng Say Yeang (Head, Dispute Resolution practice group, Raja, Darryl & Loh, Kuala Lumpur)

Speakers: *Misha (Partner, Dispute Resolution practice group, Shardul Amarchand Mangaldas, Delhi); Mitsuru Claire Chino (Managing Executive Officer, ITOCHU Corporation, Tokyo); Danny Kan (Partner, Stephenson Harwood, Hong Kong); and Christopher Mack (Turnaround and Restructuring Strategy Leader, EY Parthenon, Asia-Pacific and Japan, Tokyo)*

The speakers at this session included a diverse group of professionals who covered a wide range of scenarios in answering the question whether an organisation or its business partner may be insolvent and how to navigate through issues surrounding that, taking into account complex commercial arrangements that may be in place and that it may not always be a linear path towards insolvency or recovery and rehabilitation after a period of financial difficulties.

Companies in financial distress will typically display certain characteristics, such as delay in finalising audited accounts or breach of banking covenants. There are more subtle signals of insolvency that may creep in, though, that may be overlooked and the panel addressed what those signs may be and when they need attention. Among the topics covered were how to handle changing circumstances taking into account the different stages of financial difficulties, the different remedies that may be available and the cross jurisdictional challenges that may arise. The panel considered issues such as:

- the challenges an organisation may encounter in ensuring its business goals and objectives are met;
- matters that need to be escalated to the board and management;
- available legal remedies, including through court process;
- some tools and products that creditors may want to offer the organisation, such as types of securitisation that may be easy and efficient; and
- lessons learned from real case studies and how to regain customer confidence after a period of financial distress.

'Resolving Cross Border Disputes Under Social-Economic Conditions'

Moderator: *Dr Christopher To (Barrister, Gilt Chambers, Hong Kong)*

Speakers: *Alvin Sin (Counsel, O'Melveny, Hong Kong); Alipak Banerjee (Head of International Dispute Resolution Practice, Nishith Desai Associates, New Delhi); and Tatiana Polevshchikova (Senior Associate, RGD, Moscow)*

Moderated by Dr Christopher To, former Chair of the Corporate Counsel Committee, the panellists shared their views and practical observations on the topic. The discussion was aimed at highlighting the impact of socio-economic and cultural differences on resolution of disputes between the parties coming from different jurisdictions, reviewing common problems and solutions available in different legal systems and laws, as well as examining a related issue of delays and increasing costs.

Alvin Sin explained the role of socio-economic conditions in a party's strategy in cross-border dispute resolution. Alvin provided a comprehensive overview approaching the topic from the following three angles: nature of the party's organisation structure, nature of the dispute resolution forum, and nature of the jurisdiction. In particular, Alvin drew distinctions between considerations taken into account by privately owned enterprises and state-owned enterprises, as well as provided comments on the selection of litigation, arbitration and mediation as traditional dispute resolution forums. Lastly, the speaker shared his thoughts in relation to the factors to be taken into account by the parties when selecting between arbitration and litigation in a particular jurisdiction.

Alipak Banerjee continued the discussion focusing on the issue of delays and rising costs associated with the resolution of cross-border disputes. Following review of the reasons for delays and higher costs, Alipak suggested a detailed overview of mechanisms which can be employed to address both problems. In addition to emphasising the importance of dispute planning at the stage of entering into a commercial relationship, the panellist specifically pointed out a number of relevant procedural tools, such as impleadment of third parties, interim measures and emergency arbitration. In conclusion, Alipak elaborated on a number of enforcement matters in relation to arbitration and litigation.

Tatiana Polevshchikova, an incoming Vice-Chair of the Corporate Counsel Committee, shared her observations in relation to the selection and change of seats in international arbitration matters. Tatiana elaborated on the factors impacting the selection of arbitral seats in general, as well as discussed current trends and considerations of the CIS parties in relation to the selection of seats. The panellist specifically paid attention to the issues which are usually governed by the law of the seat of arbitration. Finally, Tatiana provided an overview of cases which involved the issue of change of an arbitral seat and explained the rationale behind the tribunal's decisions in such matters.

Cross-Border Investment Committee 'Intercultural Negotiations'

This session explored typical intercultural issues prevalent in cross-border M&A transactions. Speakers from diverse cultural and regional backgrounds (namely Japan, China, the Philippines, India, Germany and the USA) and with working experience in many parts of the world were ideally equipped to shed light on these topics.

At the core of the session, the panel intended to explore the following questions: When you advise on cross-border deals, have you seen any cultural differences between the parties hindering their mutual understanding? Why does this happen? How can lawyers play a role to overcome it?

To kick off the session, the moderators set the scene by introducing factors of intercultural communication that play key roles in negotiations of contracts: high context versus low context communication; feedback culture; hierarchy in organisations; the culture of coming to decisions; how trust is built in a culture; how parties disagree; and how they schedule meetings.

The speakers introduced a range of experiences in which intercultural issues between parties to a transaction have (almost or ultimately) led to failure of signing or closing an M&A transaction. Such issues ranged from a lack of understanding for levels of management remuneration between Japan and the USA to the lack of understanding of Chinese parties for long-form documentation as is customary in more Western jurisdictions.

The panel then continued to explore how more organisational factors play a role in intercultural

negotiations: the organisational structure in deal parties from various countries; decision-making processes; and the typical composition of a negotiation team. It became clear in the course of the discussion that these aspects are often very different, sometimes resulting in obscure situations. For example, the mere number of people present in a negotiation room can widely differ and the same is typically true for the authority of the persons physically present in negotiations. Whereas Western parties would often send a delegation that is able to decide even key issues on the spot (having pre-discussed acceptable ranges), this would be very untypical, for example, for a Japanese listed company or a Chinese state-owned enterprise. That said, such divide is not merely intercultural but also determined by the size and ownership structure of a company. Where for example a family-owned and owner-led business is involved, decisions can often be made very quickly, be it in Germany or the Philippines.

The panel then explored typical strategies for overcoming intercultural gaps that lawyers can employ, closing with the practical tips of the panellists. These can be simple, practical and human, such as catering for the parties well, letting fresh oxygen into the conference room and generally attending to human needs. Or they can be long-term and involve considerable effort, for example, developing a deep understanding of a certain culture, living and working in other cultures and ultimately developing a feeling for the structures, needs and behaviour of deal parties around the globe.

'FDI-ODI-Economic Security-Trade Wars'

Moderator: Marco Nicolini (Partner, Chiomenti, Milan)

Speakers: Ryoichi Kaneko (Partner, Anderson Mori & Tomotsune, Brussels); Patrick Marros Chu (Partner, Lee and Li, Taipei); and Rashmi Grover (Partner (Foreign Law), Nagashima Ohno & Tsunematsu, Singapore)

The panel discussion was attended by a crowded and very interactive audience. The main topics addressed by the speakers were the following:

- *The theory vs the practice of FDI-ODI governmental scrutiny in their jurisdictions:* Each panellist was asked to share whether there existed any FDI scrutiny in each respective country and what are the many scrutiny criteria. Most of the panellists highlighted how the issue relates mostly with investors from

China, particularly from Taiwanese and Indian perspectives. Each panellist was then asked to share whether in each country there exists any difference between theory and practice; for example: in Italy the scope of application of the scrutiny is very wide, but the actual cases in which transactions were blocked are quite limited.

- *How geopolitical turmoil and trade wars may have affected cross-border transaction in the last 2-3 years:* The panellists shared their views regarding how the general attitude towards FDI control is affecting cross-border investments. Again, an interesting perspective was the one shared from the Taiwanese and Indian perspectives, both pretty much focused on scrutinising investments from China. Panellists also evidenced how scrutiny is not only legally driven, but rather also heavily affected by geopolitical criteria and concerns. At the end of the day, most of the panellists agreed that it is also a matter of balancing the need to protect national interest assets vs the interest to attract foreign investment.
- *How clients perceive these constraints:* Panellists then moved on to discuss the clients' perspective and share if and to what extent clients are concerned about FDI controls. Panellists shared that these controls are a deterrent to initiate cross-border projects, but the obstacles, if any, are more of a political nature rather than business concerns. It was a common opinion of the panellists that the attitude towards foreign sell-side processes is critical, meaning that from a seller's perspective a foreign buyer coming from a scrutinised jurisdiction is of course heavily affected in a competitive bidding process.
- *How legal practitioners help clients to face these scrutinies:* Panellists shared that law practitioners can help clients by accompanying them of course through the scrutiny process. Also, that SPA's clauses such as condition precedents and "hell or high water" clauses are quite standard ways to address FDI clearance need in cross border transactions.

'EU—One Year into Foreign Subsidies Regulation'

Moderator: *Dr Till Koscher (Partner, Noerr Partnerschaftsgesellschaft mbB, Frankfurt)*

Speakers: *Jacques Buhart (Partner, McDermott Will*

& Emery, Paris); Antonia Tzinova (Partner, Holland & Knight LLP, Washington, DC); Francisco Martinez Boluda (Partner, URIA, Valencia); and Wen Li (Partner, Guantao Law Firm, Tianjin)

The moderator commenced the session with a brief introduction of the Foreign Subsidies Regulation ('FSR'). The Regulation was adopted on 22 January 2023. One hundred days after the entry into force of the FSR, the Commission has received 53 cases in pre-notification and, out of these, 14 cases were formally notified (nine cases fully assessed). More than half of those cases concerned a cross-border EU/non-EU transaction and a large number of cases involved an investment fund as a notifying party. All of these attract current or potential investors' attention with the awareness to be prepared in case there are investigations.

Mr Jacques Buhart introduced some background to the Regulation and also stated that, since the Regulation is very new the EU did not have enough staff or equipment for its implementation. He also introduced the first in-depth investigation that was opened on 16 February 2024—a public procurement procedure involving a Chinese state-owned company as bidder (CRRC Qingdao Sifang Locomotive Co., Ltd.); the first ex officio investigation opened as announced on 9 April 2024 focusing on Chinese suppliers of wind turbines. Also discussed were the different lines for financial M&A, joint ventures and public procurement; the ex officio tool and material review for all tools (after notification); and timing, process and possible sanctions.

The speakers shared their ideas from different perspectives and different jurisdictions (France and Belgium, USA, Spain and China). Ms Antonia Tzinova commented on how she sees the new Regulation in relation to US investors and that they need to prepare carefully for transactions, especially regarding the collection of documents on financial contribution subject to the FSR. But she didn't see a visible decline or a significant change with US investors in the near future.

Mr Francisco Martinez Boluda explained the role that the FSR plays when it comes to M&A transactions and he also provided preventive tips for players to avoid eventual negative consequences when purchasing a company. During the course of an M&A, FSR investigations may cause delay in closing and have an effect on the long stop date and break-up fee, but

he suggested some practical tips to carry out an M&A transaction where the FSR is applicable.

Ms Wen Li explained the very different understanding of the definition of a 'subsidy' from a PRC point of view which had caused a slow follow-up from Chinese investors. She also mentioned how PRC investors prepare for transactions subject to the FSR, especially with regards to the collection of documents on financial contribution. She also pointed out the incompatibility between the FSR and the WTO Rules.

The panel was very informative and had an active Q&A session.

'Choosing your camp in an increasingly multipolar world'

Joint session with the Corporate Counsel Committee

Moderator: Eric Marcks (Founding Partner, southgate, Tokyo)

Speakers: Ben Fouracre (Head of Japan, G3, Tokyo); Henry Huang (Partner, Grandall, Shanghai); William Moran (Partner, White & Case, Tokyo); Sean Stein, Co-Chair, Covington's China Public Policy Group and Chairman of the American Chamber of Commerce in China, Beijing); and Zhiguo Yu (Partner, Zhong Lun and a former official of the Chinese Ministry of Commerce, Beijing)

The moderator and panel of five experts in the areas of international trade and treaty disputes explored how FDI and export/import regulations targeting certain jurisdictions are making it harder for companies to satisfy the requirements of competing economic and political powers. The discussion focused on regulatory measures and retaliatory actions taken by the Chinese and US governments.

Notable manifestations of these measures are the US-enacted Uyghur Forced Labor Prevention Act (UFLPA), which has affected supplies of a wide variety of products from China, in particular textiles and materials for the solar and semiconductor industries. In 2022, the US also put into place the so-called October 7 Rule, which prohibits the export of certain advanced tools and chips for semiconductors.

China retaliated against the October 7 Rule by placing export restrictions on critical raw materials for

chipmaking, such as gallium and germanium products, and by imposing a limited product ban in China on Micron chip products. And in March 2024, China rolled out a new directive that will make it very hard for US chip makers, operating systems providers (such as Microsoft) and database software developers to supply products used by the Chinese government. A white list of safe chips, operating systems and database software has been issued, which contains only Chinese products.

In a survey recently conducted survey by the American Chamber of Commerce in China among US companies in China, 50% responded that Chinese restrictions were limiting their ability to do business in China, but the same number responded that US restrictions were having the same effect.

Chinese companies seek to evade the effect of these restrictions by relocating to the US or Canada and Mexico, and US companies are following a similar strategy by attempting to localise in China: selling majority stakes to Chinese partners, hiring local management, and so forth. Many of these efforts fail, however, and an increasing number of Chinese companies and US companies are pulling out of the other's market.

The adoption of exclusionary trade restrictions and the disavowal of global free trade rules by the US, China and other governments, combined with businesses reducing their presence in, or altogether leaving, territories with hostile regulatory regimes, signals a broader economic decoupling that shows no sign of abating in the near future.

The panellists all felt that the current regulatory trade situation is markedly better than it was 24 months ago and that the situation is not likely to improve; on the contrary, they all anticipated a severe worsening after the US elections and for the foreseeable future.

'Are SPAs Converging to an International Standard? Or Do Local Differences Remain?'

Moderator: Youn Nam Lee (Partner, BKL, Gyeonggi)

Speakers: Min Gon Kim (Partner, Demarest, São Paulo); Dierk Ullrich (Partner, Fasken, Vancouver); Chaiwat Keratisuthisathorn (Senior Associate, Tilleke & Gibbins, London); Saerim Kim (Trowers & Hamilins, UK); and Rishabh Shroff (Co-Head, Cyril Amarchand Mangaldas, Mumbai)

In cross-border M&A transactions, the terms of stock purchase contracts can vary significantly based on the countries involved. While there might be certain standardised clauses or principles commonly used across borders to ensure consistency and clarity, various factors influence the uniqueness of these contracts in different countries.

In this session, speakers from various jurisdictions first shared an overview of the recent M&A and FDI trends in their respective regions and then explained in detail each issue of convergence and differentiation in the share purchase agreement that appeared in recent cross border M&A transactions.

Legal frameworks, regulatory requirements, customary practices, tax implications, cultural differences and business norms all play pivotal roles in shaping the specifics of stock purchase contracts. These factors often lead to a degree of divergence in the terms, resulting in contracts that retain distinct characteristics based on the jurisdiction where the transaction occurs.

For instance, clauses related to warranties, representations, indemnities, dispute resolution mechanisms and closing conditions might differ due to country-specific legal requirements or customary practices. Additionally, accounting standards and financial reporting requirements can also impact the structuring of these contracts.

This topic was very interesting and had many issues to discuss for M&A lawyers, so the one-and-a-half-hour session time was very tight and the audience's response was very good. Through this session, we once again realised the importance of coordination in M&A and shared a sense that efforts are often made to harmonise and align these terms as much as possible to facilitate smoother cross-border transactions. However, achieving complete uniformity in stock purchase contracts across different countries remains a complex challenge due to the nuanced differences in legal systems, business cultures and regulatory landscapes.

'How to Enforce SPA Remedies'

Moderator: Ryo Kotoura (Partner, Anderson Mori & Tomotsune, Tokyo)

Speakers: Bernard Tézé (Partner, DS Avocats, Paris); Zakir Merchant (Partner, Khaitan and Co., Mumbai); and André Brunschweiler (Partner, Lalive, Zurich)

This session focused on typical disputes and remedies in a cross-border share purchase agreement, practical difficulties of enforcement of the remedies agreed in the sale and purchase agreement, and several practical solutions, including some alternative solutions, to ensure the enforcement of SPA remedies.

As the introduction, the panel indicated common causes for conflicts/disputes in cross-border share purchase transactions, which are, for example, unsatisfying conditions precedents, breach of delivery of shares/ payment of purchase price, breach of representations and warranties/covenants/other undertakings and specific indemnities. Also, the panel indicated several common remedies for cross-border share purchase transactions, which are, for example, indemnification for damages (penalty/liquidated damages), specific performance, and termination rights.

Then, as the first topic, the panel discussed the enforcement of a court order and arbitral award in cross-border transactions. The court order and/or arbitral award are the legal basis of 'enforcement'. In this part, the panel discussed in particular the advantages of arbitration to the litigation in cross-border transactions. There are many bars (for example, mutual recognition or lack of international regime) to enforce a judicial order in one country in another country. On the other hand, an arbitral award can be enforced in any country participating in the New York Convention. While an arbitral award is not freely enforced but often objected to by the losing party with a claim of violation of public order, etc., the arbitration is still the better method of dispute resolution for cross-border share purchase transactions.

The panel then moved to the second topic: the actual enforcement and how to prevent evasion or concealment. There are several prevention methods in advance, such as providing escrow/bank guarantees by the seller, providing for the joint and several personal liability of the sellers' key individuals, etc. Post-dispute, interim relief and emergency arbitration for the disclosure of assets/prohibition of the disposal of assets could be a good counter method against evasion or concealment of assets.

In the final topic, the panel explored the possibility of alternative methods to secure enforcement of remedies under the SPA. Escrow accounts, bank demand

guarantees, vendors' credit/price retention/holdback mechanisms were discussed as traditional methods to secure enforcement. The panel then focused on the recently trending method, representation and warranties insurance, which has been developed in the USA and UK significantly, but recently is now widely accepted in Continental Europe and Asia. The practice is fuelled by private equity fund managers who arrange the insurance contract through specialised brokers and pay for the premium; purchaser-arranged insurance is much more frequent and easier legally.

The audience raised questions and made comments very actively, which showed their high interest in the theme of this session.

'ESG and Sustainability Considerations in the Investment Lifecycle'

The session started with an overview by the moderator on ESG and the scope of discussion. Panellists from China, India, Indonesia, Hong Kong and Vietnam presented on the ESG regimes in their respective countries and the implications to investors. Despite some broad common areas of coverage, there are also some notable differences in how each country approaches legal reforms and regulation in this area. Finally, panellists were asked to comment on the Lynas rare earths case in Malaysia and how a similar case would pan out in their respective countries.

'What Do Transactional Lawyers Need to Know About ChatGPT?'

Moderators: Sara Zhang (Senior Partner, Y&T Lawyers, Suzhou); and Gabriel Kuznietz (Partner, Demarest Advogados, Sao Paulo)

Speakers: Glenn T Melchinger (Partner, Dentons US LLP, Honolulu); Markus Rasner (Partner, Oppenhoff & Partner Rechtsanwälte, Frankfurt); Santiago Fontana (Partner, Ferrere, Montevideo); and Shirley Tao (Senior Partner, Y & T Lawyers, Zhangjiagang)

Topics covered in this session included artificial intelligence ('AI') in the M&A process: contracts preparation, due diligence and the responsibility for lawyers using ChatGPT. This engaging breakout session also delved into the transformative role of AI in the realm of cross-border transactions and mergers and acquisitions.

This session brought about a lot of discussion and we had a very full room and a great time. Attendees gained valuable insights into key aspects of AI's impact on the M&A process including:

- *Contracts preparation:* Learning how AI streamlines and enhances the contract drafting and review process in M&A transactions, increasing efficiency and accuracy and reducing the risk of errors.
- *Due diligence:* Exploring the power of AI-driven due diligence tools that enable comprehensive analysis and identification of risks and opportunities, revolutionising the due diligence phase of M&A.
- *Responsibility for lawyers using AI:* Discussing the ethical and professional considerations surrounding the use of AI in M&A, including the evolving roles and responsibilities of lawyers in leveraging these advanced technologies.

We also discussed the potential pitfalls of AI use in legal practice, for example, breach of confidentiality, lack of transparency about the internal working of the technology, AI hallucination, bias in training data, inconsistency and lack of accountability.

Although we may not know the exact answers to these questions because the new technologies develop day by day, we should pay much more attention to this, using ChatGPT to help us on one hand, but being very cautious on the other hand: for example, asking permission from clients, double checking the authentication of cases, and communicating with the insurance company where there is an ethics insurance policy. We should continue to follow up on this topic in our future practice and share the insights with each other.

'Green Horizons: Navigating the Global Energy Transition through Clean Technologies and Strategic Mineral Resources'

Moderator: Sean Muggah (Partner, Borden Ladner Gervais, Vancouver)

Speakers: Pablo Hontoria (Partner, Pérez-Llorca, Singapore); Mihoko Shima (Partner, Mori Hamada

& Matsumoto, Tokyo); and Michael Chang (Partner, Shin & Kim, Seoul)

The panel began with a brief overview of the critical minerals sector. It was noted that critical minerals are essential for a broad range of clean energy technologies, with increased profile in policy, business and legal agendas over recent years. With reference to the International Energy Agency's 2023 Critical Minerals Market Overview, it was noted that a record deployment of clean energy technologies is propelling unprecedented growth in clean energy markets. While rapid growth in demand has provided new opportunities for the critical minerals industry, a combination of volatile price movements, supply chain bottlenecks and geopolitical considerations have created significant risks for secure and rapid energy transitions, and have triggered an array of new policy actions in different jurisdictions to enhance the diversity and reliability of critical minerals supply and distribution.

Panellists were asked to comment on critical mineral-related strategies, supply chain considerations, foreign investment controls and financing considerations in their respective jurisdictions. In connection with critical mineral-related strategies, panellists offered observations on recent trends and requirements in a variety of jurisdictions (including Japan, Korea, Europe, Australia and Canada) and commented on government financial and administrative contributions and supports that serve to buttress critical minerals project development. Specific reference was made to the impact of the US Inflation Reduction Act, the European Critical Raw Materials Act and Japan's Economic Security Promotion Act, and the related incentivisation of local development and supply stability. Discussion on critical minerals supply chain considerations addressed the impact of hard and soft ESG incentives and obligations in certain jurisdictions (e.g., in connection with decarbonization, forced labour prevention, etc.). Some recent examples of mining industry lead decarbonization initiatives were noted.

Panellists commented on foreign investment and national security controls that impact critical minerals investments and transactions. Recent trends across multiple jurisdictions include enhanced levels of state-level oversight and control in connection with critical

minerals foreign investment, and recent instances of forced divestment. Finally, panellists addressed funding considerations in the critical minerals sector, with commentary covering non-governmental sources of funding (e.g., multilateral financial institutions, commercial banks and end users (e.g., OEMs and large-cap EV materials producers), private equity, etc.), and key considerations for sponsors planning 'green' critical minerals projects (e.g., access to renewable power sources, transport arrangements for feedstock, treatment of waste from processing operations, risk of overstating a project's 'green' credentials, etc.).

Dispute Resolution and Arbitration Committee 'A New Angle on Well-Trodden Ground: Revisiting Issue Conflicts in Investment Arbitration'

Joint session with the Investment Arbitration Sub-Committee

Moderator: Mariel Dimsey (Managing Partner, CMS, Hong Kong)

Speakers: Lars Markert (Partner, Nishimura & Asahi, Tokyo); Elodie Dulac (Partner, King & Spalding, Singapore); Hu Ke (Partner, Jingtian & Dongcheng, Beijing); Peter Harris (Partner, Clifford Chance, Tokyo); and Saemee Kim (Partner, Lee & Ko, Seoul)

The question of when an 'issue conflict' results in an actual conflict of interest for arbitrators continues to capture the attention of the arbitration community. Investment arbitration jurisprudence has made many attempts at refining the nuances of this issue whereas draft codes of conduct for arbitrators focus on the risks flowing from so-called 'double-hatting', that is, the concurrent engagement as arbitrator and in other roles in multiple disputes with a subject-matter overlap.



Ms Dulac introduced the concept of an issue conflict and set out some examples of when an issue conflict is likely to appear, with Mr Hu providing some additional guidance. The panel then turned to the background to the current discussions around issue conflicts in investment arbitration, focusing largely on cases in which issue conflicts between the counsel-arbitrator roles have prompted discussion and analysis, with Mr Harris highlighting some of the points discussed in cases such as *Telecom Malaysia v Ghana* and *Consortium RFCC v Morocco*. Ms Kim addressed the related issue of scholarly materials, such as articles and publications, posing a problem for arbitrators who later face the same or similar issues to those on which they have expressed a prior opinion, including the *Urbaser v Argentina* case. Mr Markert highlighted potential 'conflicts' between different awards involving the same arbitrator and similar issues, including *CC/Devas v India*.

Existing legal instruments addressing issue conflicts were then discussed by the panel, with Ms Kim discussing the IBA Guidelines on Conflicts of Interest in International Arbitration, and Mr Markert and Mr Hu discussing the 2016 ICCA Report on Issue Conflicts.

The panel's focus then pivoted to the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution, which has prompted many recent discussions over the viability of delineating issue conflicts and the comparative advantages of having a code of conduct to attempt to regulate this issue. Mr Markert discussed the double-hatting provisions of Article 4, including the time period, while Mr Harris discussed the disclosure obligations in Article 11. Ms Dulac followed up on the practical implications of the Code of Conduct, with Mr Hu discussing whether codes of conduct were adequate to address issue conflicts.

As the final topic, the panel discussion switched to commercial arbitration, with Ms Kim and Mr Hu drawing on lessons learned in this context. To round out the discussion, Ms Dulac offered guidance on how issue conflicts could be managed in practice.

The panel discussion was lively and interactive, with several contributions from audience members in the packed room, including on the very fundamental questions of the role of advocates in the arbitration process and the right to change one's mind.



'Efficiency and Effectiveness of International Arbitration'

Moderators: *Samantha Rowe (Partner, Debevoise & Plimpton, London); and Anne-Marie Doernenburg (Counsel, Nishimura & Asahi (Gaikokuho Kyodo Jigyo), Tokyo)*

Speakers: *Yoshimi Ohara (Partner, Nagashima Ohno & Tsunematsu, Tokyo); Aoi Inoue (Partner, Anderson Mori & Tomotsune, Tokyo); Prof. Yoshihisa Hayakawa (Professor of Law, Rikkyo University and Uryu & Itoga, Tokyo); and Alec Emmerson (Independent Arbitrator, ADR Management Consultancies, Dubai)*

As international arbitration continues to develop and adapt to new trends, it remains subject to criticism that it is too slow and too costly. Recent revisions to institutional rules include more detailed provisions, including on 'case management techniques' that many parties and tribunals may resort to for a more tailored proceeding. However, rules can vary considerably, as can parties' preferences and practitioners' approaches, depending on the jurisdiction and culture. This session, organised together with three Tokyo Bar Associations, addressed some of the latest innovative solutions aimed at improving speed, cost-efficiency and enforceability—including settlement windows/mediation, expedited procedures and the role of technology and AI.

A live audience poll at the beginning of the discussion identified the three most commonly used innovations and 'case management techniques', namely: (a) issues lists, skeleton submissions (56 per cent); (b) expedited procedures, settlement windows/mediation (40 per cent); and (c) limited written submissions, evidence, document production and oral hearings (36 per cent). The poll further showed that it is usually parties' counsel

who suggest that these innovations be used in a dispute (66 per cent), not arbitral tribunals (39 per cent) or arbitral institutions (3 per cent).

Ms Ohara discussed the facilitation of settlement addressed in the ICC Commission on Arbitration and ADR's 2023 Report. Particularly, she reflected on ways to make settlement/mediation windows most effective. Noting that most arbitral rules (including the ICC Arbitration Rules) do not compel tribunals to encourage an amicable settlement, Ms Ohara welcomed the approach taken by the German Arbitration Institute ('DIS') Rules, stipulating a tribunal's duty to promote settlement at every stage of the process, except where a party objects (Article 26). To encourage practitioners who may be more cautious about attempting a settlement/mediation during an arbitration, Ms Ohara hoped that more institutions would introduce such tribunal duty and thereby create a new transnational trend.

Mr Inoue highlighted the key distinguishing characteristics of existing expedited arbitration procedures, including opt-in versus automatic mechanisms, threshold amounts, deadlines for the issuance of the award and number of arbitrators. He also considered the desirability of expedited procedures for either party and challenges, including the risk of artificially inflated (counter-)claims as well as the tribunal's mandate to guarantee the parties' right to be heard and the quality of its award.

Prof. Hayakawa provided an overview of the state of use of technology and AI in international arbitrations, noting the improvement of software and equipment as well as the increased use of online or hybrid methods of communication/hearings since the COVID-19 pandemic. He then addressed some short- to mid-term challenges, including data security and reliability of AI and quality of AI translations and transcription, as well as the risk of spiralling counsel fees and other costs. Overall, Prof. Hayakawa was optimistic, pointing out the efforts by private providers and law firms in developing state of the art digital products. Ms Ohara added that practitioners should be prudent and ready to include specific provisions on security and the reliability of technology and AI in procedural orders.

Mr Emmerson focused on practical aspects from an arbitrator's perspective and his experience working

in the Middle East, sharing techniques used in his arbitrations that he believes worked well to promote efficiency and highlighting some that did not.

The session concluded with a second audience poll. The results showed a preference for expedited procedures, bifurcation, early dismissals and preliminary determinations, as well as mediation/settlement windows and limited written submissions/evidence, document production and hearings. This is encouraging and may serve as food for thought to the arbitral community worldwide.

'Minority Report: Corporate Governance, Directors and the State of the Shareholder Litigation Playbook'

Moderator: *Tiong Teck Wee (Partner, Wong Partnership LLP, Singapore)*

Speakers: *Shanti Mogan (Partner, Shearn Delamore & Co, Kuala Lumpur); Emi Rowse (Partner, Kudun & Partners, Bangkok); Jeremy Lightfoot (Partner, Carey Olsen, Hong Kong); Ashish Kabra (Head—International dispute resolution and investigations, Nishith Desai, Singapore); and Edmund Wan (Partner, King & Wood Mallesons, Hong Kong)*

Minority shareholder litigation comprises a significant portion of corporate disputes. To kick off the session, the panellists provided an overview of the rights and remedies accorded to minority shareholders and the legal regime and framework governing minority shareholder litigation in their jurisdictions. The panellists also highlighted some of the recent key developments and case law in this regard in their jurisdictions. Common themes included mismanagement of the company's affairs, unfair and/or prejudicial treatment of the minority shareholder's interests and a buy-out of the minority shareholder and/or winding up of the company as a remedy.

The panellists then discussed the arbitrability of minority shareholder disputes and agreed that this would in the first instance depend on whether the subject matter of the dispute is covered by an arbitration agreement. The panellists also discussed whether the dispute would still be arbitrable if winding up is sought as a remedy, with panellists expressing the view that while whether winding up should be granted as a remedy may not be arbitrable, the specific dispute may still be carved out and submitted to arbitration.



A lively debate then ensued among the panellists as to the differing treatment by the Singapore and Indian courts of this issue in the recent Anupam Mittal case, where in what was essentially the same case brought before both courts, the Singapore courts favoured arbitration while the Indian courts found that such disputes should be brought before the Indian National Company Law Tribunal. This also triggered a discussion among the panellists as to whether minority shareholder disputes should be arbitrable, with the panellists favouring arbitration and respecting party autonomy if that was the contractual bargain that was struck.

The session then concluded with the panellists sharing their views on best practices for managing minority shareholder interests and litigation. Suggestions included transparent sharing of information with shareholders and active shareholder management, ensuring that all decisions taken by the company and its directors are supported by adequate rationale, maintaining complete and accurate records of all such decisions, proper drafting of shareholders agreements, and careful consideration and provision for which disputes should be subjected to what kind of dispute resolution mechanism.

Employment and Immigration Committee

The Employment and Immigration Committee was active and engaged during the Annual Conference with four conference sessions, an informal committee meeting and a designated area during the Gala Dinner.

'Employee International Assignments: Contractual and Legal Issues in a Mobile and Remote World'

Moderator: *Frédérique David (Partner, Harlay Avocat, Paris)*

Speakers: *Siva Kumar Kanagasabai (Partner, Skrine, Kuala Lumpur); Carolyn Knox (Shareholder, Ogletree Deakins, Nash, Smoak & Stewart, San Francisco); Hiroyuki Kanae (Partner, Anderson Mori & Tomotsune, Tokyo); José Cochingyan, III (Founder and Managing Partner, Cochingyan & Partners Law Offices, Makati City); Richard Goldstein (Senior Partner, Goldstein & Lee, P.C., London & New York)*

We started off the Conference with our first panel covering a topic that is at the top of every client's mind—regardless of where they are located. This panel was



co-sponsored with the Tax Committee and attracted a large audience. The panel covered assignments to subsidiaries and affiliates outside of a company's country of incorporation and the discussion was a very lively one thanks to the interaction of the audience but also to the keen insights of our speakers with their expertise in employment, tax and immigration law. The discussions were focused on building awareness of best practices when it comes to managing a flexible international workforce. The panel also touched on the challenges created by 'the disappearing employee' including tax and social security issues, visa issues, permanent establishment, dealing with the family-related hiccups, applicable employment law and more. This is a topic that will continue to create headaches for companies as more and more employees request to 'work from anywhere'.

'Roundtable: Diversity, Equity, Inclusion—How this Concept Intersects with National Law and Custom'

Joint session with the Women Business Lawyers Committee

Moderators: Yoko Maeda (Partner, City-Yuwa Partners, Tokyo); and Roland Falder (Partner, Emltc, Abu Dhabi)

The benefit of in-person gatherings such as the IPBA Annual Conference is to hear from all Employment and Immigration Committee members across the globe. With many of us working with multi-national employers, there are often interesting conflicts between legal requirements in a company's home jurisdiction and the national laws or cultural norms in countries where the company has operations. For this reason, the Committee began to host roundtable discussions so that members can participate and share thoughts, ideas, challenges and best practices. The Roundtable at the Tokyo Conference



focused on a recent surge in discrimination and harassment legislation, corporate DE&I initiatives and court decisions in many parts of the world that create numerous legal issues and cultural clashes. The discussion was lively and well attended. Many contributions gave evidence to the fact that gender discrimination remains a pressing issue for companies. The contributions confirmed that, despite a consensus on the importance of anti-discrimination legislation across the globe, different perspectives between jurisdictions remain. This is a topic the Committee will continue to address over the coming years.

'LLaMA2, Bard, ChatGPT and Co.—Just Tech Talk Acronyms or Serious Drivers for (Positive) Change in HR?'

Moderator: Björn Otto (Partner, CMS, Cologne)

Speakers: Rie Taiko (Partner, TMI Associates, Tokyo); Sky Yang (Managing Partner, Bae Kim & Lee, Seoul); Jenny Tsing (Partner, WongPartnership, Singapore); Cathy Qu (River Delta Law Firm); Katherine Weaver (Partner, Seyfarth Shaw, Hong Kong); and Alberto de Luca (Partner, De Luca & Partners, Milan)

What would a conference in 2024 be without a session on AI? The Employment and Immigration Committee focused on the use of AI in the employment context. Under the guidance of the moderator, this illustrious panel of dedicated experts from Japan, South Korea, Singapore, China, Hong Kong and Italy discussed crucial employment law aspects of Artificial Intelligence ('AI') that must be considered in a rapidly changing world rife with significant challenges. The panellists examined what's new in AI and the world of employment law and elaborated on how countries cope with AI-induced threats and changes on a regulatory/jurisdictional level. To that end, the panel covered recent developments and



trends in the field of AI, its impact on the HR cycle—from hiring to firing—and the relevant employment AI-related (current and upcoming) legislative framework including its relevance for the legal profession. Concluding, the esteemed experts identified a myriad of opportunities that these major changes are going to offer to disruptive thinkers determined to progressively transform their businesses. With a view to the legal profession, the general feeling was that, even though tasks for lawyers are likely to change with AI progression, legal guidance given by human beings will continue to be needed. This panel caught the attention of a large number of Conference attendees and it was standing-room only for many.

'Cross-Border Business Protections in the New World—Global Strategies to Protect Proprietary Information From Leaking to Competitors When Employees Wander'

Moderator: *Simon Gorham (Partner, Boodle Hatfield, London)*

Speakers: *Chisako Takaya (Partner, Mori Hamada, Bangkok); James Peng (Managing Partner, PW & Partners, Guangzhou); Leslie Ligorner (Partner, Morgan Lewis, Beijing); Cleber Venditti (Partner, Mattos Filho, Sao Paulo); and John Wilson (Managing Partner, John Wilson Partners, Colombo)*

Our Committee concluded our run of successful panels on Saturday morning with a panel on safeguarding trade secrets, and although it was the morning after the Gala Dinner, the room was at capacity. This panel brought together employment law experts from both civil and common law jurisdictions including Japan, China, Brazil, Sri Lanka and the UK to discuss approaches and strategies that are being deployed internationally to protect business assets when senior executives leave.

There was a lively and engaging discussion using a case study as the panellists tackled topics involving non-competes, approaches to protect proprietary information and intellectual property, practical steps to safeguard proprietary information and trade secrets and enforcement. The session also covered insightful comments on the recent FTC decision on banning non-competes in the US (the FTC decision had been announced a couple of days before the session, which was timely). The panellists also provided practical experiences and insights of the steps businesses can take in various jurisdictions to protect proprietary information,



trade secrets and business assets, strategies businesses can deploy to guard against employee breach and the remedies available if disputes arise.

There was a lot of common ground between the panellists as to the wider protections available to businesses and some interesting deviations in terms of approaches and methods that can be deployed across jurisdictions. In particular, the panellists discussed 'garden leave' and how the concept was not recognised in some jurisdictions, and it was interesting to hear how the scope and enforcement of post-termination restrictions differs across the jurisdictions. One particularly thorny issue which all panellists recognised was the issue of cross-border enforcement, an issue which is not only complex but a topic which businesses are increasingly having to consider.

The topics covered by the session are 'hot issues' in international employment law and we expect to see further developments and commentary in the coming months.

ESG Ad hoc Committee

'The ESG Dilemma: Balancing Ambition and Feasibility'

Moderator: *Fernando Hurtado de Mendoza (Partner, Kennedys, Lima)*

Speakers: *Jay LeMoine (Partner, Norton Rose Fulbright, Vancouver); Jean-Claude Beaujour (Of Counsel, Harley Avocats, Paris); Weronika Nalbert (Adwokat, Wardynski & Partners, Warsaw); Linda Yang (Founder Partner, Yingke Law Firm, Beijing); and Pavi Jain (Counsel, Khaitan & Co, Mumbai)*

The objective of this first solo session of the ESG Ad Hoc Committee was to examine current ESG issues and explore strategies for implementing ESG in a context

where its adoption in the corporate world is facing resistance in certain geographical regions. In order to gain a global perspective, the panellists presented an overview of the existing ESG regulations from the perspective of Canada, Europe, China, India and Latin America. In particular, differences and similarities in sustainability reporting requirements across jurisdictions were touched on. The panel also addressed other current issues, including greenwashing, ESG litigation trends and measures taken to identify and address risks in value chains—in this regard a great role of big players was emphasised in helping smaller contractors in terms of business ethics and decent business conduct, so they are not excluded from the supply chain. In view of this, it was interesting to consider the issue from the perspective of the national regulations regarding corporate due diligence in supply chains which are in force in Canada and France, as well as those recently adopted in the European Union.

The panel concluded with a lively debate with audience members, which provided a good opportunity to exchange perspectives on the practical challenges and benefits of implementing ESG globally, which should definitely not be limited to just 'ticking off the boxes', but be oriented at consistent and well-thought-out actions that will bring value to companies, society and the environment in the long term.

Anyone willing to join the ESG Ad hoc Committee can contact Fernando.HurtadodeMendoza@kennedyslaw.com. The ESG Ad Hoc Committee will be pleased to have you on board!

Insolvency Committee **'Challenges and Opportunities of Out-of-Court Restructurings'**

Moderators: David Ward (Partner, Miller Thomson LLP, Toronto)

Speakers: Rikita Karakawa (Partner, Abe, Ikubo & Katayama, Tokyo); Ajay Bhargava (Partner, Khaitan & Co, New Delhi); Heiko Wiechers (Partner, CMS Hasche Sigle, Stuttgart); Edward Tiong Yung Suh (Partner, Allen & Gledhill LLP, Singapore); and Nguyen Van Hai (Partner, YKVN, Ho Chi Minh City)

The Insolvency Committee presented a dynamic panel discussion focused on the strategic decision-making process relating to out-of-court restructurings.



Our panel of experts provided an overview of restructuring laws in various countries, highlighting the key factors influencing the choice between out-of-court and in-court options, including business size, creditor profile, capital structure and risk nature. The panel also discussed human resources considerations and shared insights drawn from leading case law. Our audience received a deep dive into the complexities of international restructuring, offering valuable comparative law perspectives for professionals in this evolving field.

Insurance Committee **'Spotlight on Artificial Intelligence: Opportunities, Risks and (Un)predictable Changes in the World of Work'**

The impact of artificial intelligence ('AI') on the work environment and the unforeseen changes it is bringing to various production sectors necessitate a reflection on the disruptive nature of this phenomenon in both the short and long-term. As with any form of progress, AI brings unexplored opportunities, benefits and risks that should not be underestimated.

This is particularly evident in the labour market, where in recent years, driven by technological evolution and pervasive digitalisation, companies worldwide have been grappling with significant changes. To catch a hint of how this impact might be significant, suffice it to say that AI has already been changing the content of all of those duties and tasks consisting of (or ending up in) decision making based on data (and big data) and information processing, quickly replacing manual activities which have typically required extra resources and have been particularly time consuming, until very

recently. Having machines processing information and data, to raise conclusions or form decisions, is self-explanatory of how deep this revolution can be in any work environment.

However, the strength of new technologies based on AI systems lies in their increasing impact on society and customs. From this perspective, it is also clear that AI will have significant consequences on the labour market, affecting the availability and demand for jobs, professions and tasks in general. The fact that AI can replace or reduce the number of human resources needed in certain sectors is already a reality, emblematic of how deep this revolution is and how it still requires human intelligence.

The changes we are witnessing also bring a lot of problematic issues, not only on the socio-economic side but also on the legal one. In this context, the main concerns relate to the right to data protection and the right to be free from discrimination: the current regulations, even at the international level, do not seem capable of addressing all the new risks arising from AI-based systems.

This highlights the need to develop a regulatory framework that can effectively safeguard fundamental rights as a whole, balancing technological progress (and its benefits) with the protection of individual and collective interests, while also considering the ethical, social and legal implications of the implementation of AI. Furthermore, in the work environment, the balance must also take into account the employee's socio-economic vulnerability and their personal involvement in the employment relationship.

A first step in this direction was taken at the European level with the approval on 13 March 2024 of the Artificial Intelligence Act. This regulation aims to discipline the use and development of AI-based systems in EU Countries, ensuring their ethical, safe and responsible use while protecting the fundamental rights and safety of European citizens. Of course, this is brand new legislation which will need to be further elaborated on and implemented, however, it provides an important source of regulation which should also be taken into account to imagine how AI regulation may be developed in the future.

Intellectual Property Committee 'International IP Protection-Challenges in the New Era'

Moderator: *Lidong Pang (Managing Partner, Reiz Law Firm, Shenzhen)*

Speakers: *Ichiro Fujimoto (Representative Attorney, Creativity & Insight Legal Professional Corporation, Tokyo); Muhammad Farrukh Irfan Khan (Chairman and Managing Partner, United Trademark of Patent Services, Lahore); Olivier Mandel (Managing Partner, Mandel & Associates, Paris); Jack Shaw (Partner, Procopio, Palo Alto); and Sam Wong (Chairman of Board of Directors, Wangjing & GH Law Firm, Guangzhou)*

In light of the prosperity of the digital economy and generative AI technologies, there are unprecedented legal challenges facing legal practitioners around the world today. During the IPBA Annual Conference 2024 in Tokyo, panellists from the IP Committee shared their experiences and insights on IP protections in their respective jurisdictions.

Mr Ichiro Fujimoto from Japan shared information about AI and copyright issues in Japan and how AI has changed the legal service industry in Japan. Former Justice Muhammad Farrukh Irfan Khan shared his perspective on the avant-garde and innovative legal approach adopted in Dubai to face the challenges imposed by AI. Mr Olivier Mandel from France shared his views and insights regarding various IP issues faced by the European Union in view of the omnipresence of AI technologies. Mr Jack Shaw from the United States shared the impact of AI on patent prosecution and litigation in the US. Mr Sam Wong from China shared how AI has changed the legal services industry in China with some very interesting statistics.

International Construction Projects Committee 'Sustainable Construction—Tools to Achieve Environmental Objectives in the Climate Change Crisis'

Moderators: *Mirella Lechna-Marchewka (Managing Partner, Wardynski & Partners, Wroclaw); and Alfred Wu (Partner, Norton Rose Fulbright, Hong Kong)*

Speakers: *Joaquin Terceño (Partner, Freshfields Bruckhaus Deringer, Tokyo); Bill Barton (Director, Barton Legal, Leeds); Paul Sandosham (Partner, Clifford Chance and Managing Partner of Cavenagh Law LLP, Singapore); Dr*

Helena Chen (Managing Partner, Chen & Chang, Taipei); and Miranda Liu (Senior Partner, Stellex Law Firm, Taipei)

This session, on the third day of the IPBA Annual Meeting and Conference 2024, brought together key experts who shared insights and strategies for sustainable construction. By emphasising eco-clauses, certifications, risk management and sustainable supply chain practices, the panel offered a comprehensive roadmap for the industry to follow, ensuring that green construction contributes effectively to global environmental goals.

The speakers focused on essential tools and strategies to achieve environmental objectives amidst the climate change crisis. Highlighting the critical role of the construction industry, which accounts for 36 per cent of global energy use and 40 per cent of CO2 emissions, the panel underscored the importance of green construction in meeting the targets set by the Paris Agreement.

The panellists focused on environmental and legal challenges in the construction industry and covered the following topics:

- *Eco-Clauses in Construction Contracts: A Pathway to Sustainability:* Joaquin Terceño explored the incorporation of eco-clauses in construction contracts as a crucial tool for attaining sustainability within the construction sector.
- *Certifications and Standards: Ensuring Compliance and Sustainability in Construction:* Bill Barton discussed the obligations on parties to obtain specific environmental certifications and how these standards serve as benchmarks for sustainability. He also highlighted several prominent certification systems, their impact on construction projects and how they can incentivise stakeholders to adhere to high environmental standards and prevent 'greenwashing'.
- *Managing Risks in Sustainable Construction: From Theory to Practice:* Paul Sandosham addressed the specific risks associated with sustainable construction projects and how these can be managed effectively and allocated through careful planning and contract negotiation.
- *Incentives and Sanctions:* Joaquin Terceño explored the critical role of incentives and sanctions in

encouraging and steering contractors to adhere to environmental standards and compliance obligations in sustainable construction projects. Various incentive models, such as bonuses for early achievement of sustainability targets or penalties for non-compliance, were also analysed and discussed by the panellists.

- *Navigating Material and Waste Management Risks in Sustainable Construction:* Dr Helena Chen delved into the complexities of sourcing eco-friendly materials and the implications for project timelines and costs. Dr Chen highlighted strategies for effective waste reduction, recycling and reuse within construction projects, emphasising the importance of early planning and ongoing management to minimise environmental impact. Additionally, the regulatory landscape affecting materials and waste management was covered.
- *Beyond the Building Site: Sustainable Practices in the Supply Chain:* Miranda Liu concentrated on the significance of sustainable practices within the construction supply chain, emphasising the controlled selection of subcontractors and sourcing of materials. Her presentation considered the challenges and opportunities to ensure sustainability from the ground up, including the management of materials and waste, the use of green technology and the broader implications of sustainable supply chain practices on the construction industry's carbon footprint.

'Where Restructuring Meets the Road: the Intersection of Construction Law and Insolvency'

Joint session with the Insolvency Committee

Moderators: Vivek Daswaney (Partner, V Law Partners, Mumbai); and Karen Gough (Barrister, 39 Essex Chambers, London)

Speakers: John Birch (Partner, Cassels Brock & Blackwell LLP, Toronto); Vyapak Desai (Senior Attorney, Nishith Desai Associates, Mumbai); and Ko Luen Lam (Partner, Shook Lin & Bok, Kuala Lumpur); Yuri Sugano (Nishimura & Asahi, Tokyo)

With the risk of insolvencies in global construction contracting as great or greater today than at any time in recent history, ICPC and the Insolvency Committee came together to present this joint session. The

moderators outlined the key challenges facing the global construction industry, in the post-pandemic era, as the sector faced increased costs and reducing government support while geopolitical risks and supply issues were continuing.

Yuri Sugano summarised the restructuring market in Japan and noted the challenges facing the sector which saw the second highest number of cases in the past decade caused by increasing costs, labour and materials shortages and poor cashflow. Recent limits on overtime working would exacerbate labour shortages. She noted that Japan had an effective restructuring regime that would benefit from streamlining, and companies had the ability to request financial assistance in order to keep trading and paying trade creditors. Court processes were swift and out-of-court ADR was available, typically taking about three months.

Vyapak Desai summarised the current status of the sector in India with a number of high profile infrastructure projects and a huge infrastructure programme often beset with delays from multiple causes and increased costs, sometimes 3-5 times the original price. These issues called for a strong legal framework which he considered to be lacking in India. Contracts were not generally standard forms, or were subject to heavy amendments. He noted an absence of dispute boards, a failure to address contract changes in real time, and observed that end-of-project dispute resolution meant that financial issues were a major problem. A new insolvency code in 2017 was helping Indian companies. Companies could not go into liquidation without trying to restructure. Restructuring delays had been shorted to between 270-330 days. He provided an overview of the process and noted that it had saved many companies from liquidation.

John Birch spoke about the vibrant Canadian construction sector. Commonly, 70 per cent of residential developments needed to be presold to obtain bank funding but pre-sale prices were no longer equal to the cost of building years later. Failures typically occurred in the later stages of construction. Smaller developments were failing unless well capitalised and efficient. He noted the increasing importance of bonds to secure payment obligations. The restructuring process could be very fast, between 45-70 days. Delay resulted in loss of value.

Lam Ko Luen discussed the Malaysian position. He noted the general principal of *pari passu* that applied to insolvencies. Insolvency proceedings tended to be swift and effective. Under s71 of the Contracts Act 1950 and CIPPA 2012, sub-contractors could pursue employers directly for payment if the contractor failed. Such action would not be taken as a breach of the *pari passu* principle.

Speakers were unable to foreshadow any imminent prospect of the sector returning to a more secure financial base.

'The Psychology of Decision Making and Rethinking the Art of Advocacy in International Construction Disputes'

Joint session with the Dispute Resolution and Arbitration Committee

Moderator: Steven YH Lim (Independent Arbitrator and Barrister, 39 Essex Chambers, Singapore)

Speakers: Ankit Khushu (Partner, Kachwaha & Partners, Delhi); Christopher Boog (Partner, Schellenberg Wittmer, Zurich); Jeremy Nicholson KC (Barrister and Arbitrator, Four Pump Court, London); Matthew Christensen (Foreign Attorney, Kim & Chang, Seoul); and Mariana Zhong (Partner, Hui Zhong Law Firm, Beijing)

Recent work in psychology, most prominently by Nobel laureate Daniel Kahneman and his collaborator Amos Tversky, shows we are not as rational as we like to think. As much as we pride ourselves as lawyers and arbitrators on our rationality and impartiality, we do not have computers for minds and we do not bring a completely blank slate to a case or hearing. We cannot avoid bringing with us our opinions, attitudes and beliefs, which will be unique to our backgrounds



(cultural and personal), experiences and education. Also, arbitrators do not always decide cases with inductive reasoning. Some may reason deductively, that is, reach a conclusion and then work backwards. This session surveyed the science of decision making and persuasion and discussed techniques that advocates can use considering the new science.

Jeremy and Christopher opened the session with an introduction to Kahneman's work on systematic cognitive errors. They discussed:

- *The 'Halo effect'*: The tendency for positive impressions to positively influence one's opinions or feelings.
- *Confirmation bias*: The tendency to search for, interpret, favour and recall information that confirms one's prior beliefs or values.
- *The 'Anchoring effect'*: A person's judgment or decision influenced by a reference point or anchor which may be completely irrelevant.
- *The 'Framing effect'*: Where decisions are influenced by the way information is presented; for example, saying that the odds of survival one month after surgery are 90 per cent is more reassuring than saying that mortality within one month of surgery is 10 per cent.
- *The 'Availability effect'*: the process of judging an issue by the ease it comes to mind.

Matthew, Ankit and Mariana then discussed the gap between theory and practice in implementing the science on decision making to practical advocacy. The question was whether one can really understand the mind of and thinking processes of another person (that's the theory—the holy grail—and the possible gap with practice).

The panel progressed to discuss practical advocacy techniques for the new science. Jeremy, Christopher and Ankit explained the power of simplicity—making the case clear and simple. Matthew, Jeremy and Mariana discussed the impact of broad merits on the halo effect—how painting a picture of the good guys and bad guys may help. Jeremy, Ankit and Mariana followed up with a look at the halo effect focusing on the

advocate and the power of reasonableness as a tool of persuasion. Matthew and Ankit explained the interface of classical rhetoric and the new cognitive science—how logos, ethos and pathos fit in with the new science. Jeremy, Ankit and Matthew then closed this section of the panel with a discussion of the availability effect and post-hearing briefs.

The final section of the panel looked at advocacy techniques specific to construction disputes. Jeremy, Christopher, Matthew and Mariana explored the benefit of breaking down a complex construction case to make it easily understood by a layman, extracting stories from technical details and the importance of mastering and levelling the mountain of documentation. Christopher and Ankit closed the session with a discussion of the use of demonstratives, physical and virtual site visits and using technical experts to advocate the case.

We had a very interactive discussion on all these topics with the audience even though the session was early in the morning on the very last day of the Conference!

International Trade Committee 'Navigating the Maze of Global Sanctions: A Business Perspective'

Moderator: Ngosong Fonkem (Attorney, Harris Sliwoski LLP, Seattle)

Speakers: Bruce Aitken (Vice Chairman, Computers Communication Industries Association, Washington, DC); Jack R Hayes (Partner, Steptoe & Johnson LLP, Washington, DC); Jana Del-Cerro (Partner, Crowell & Moring LLP, Washington, DC); Sergey Petrachkov (Partner, ALRUD, Moscow); and Tracy Wong (Partner, Christopher & Lee Ong, Kuala Lumpur)

The Inter-Pacific Bar Association ('IPBA') kicked off its 32nd Annual Meeting and Conference in Tokyo, Japan. This was the second time since its inaugural year over 30 years ago that the conference returned to Tokyo. Over 1,300 participants from over 60 jurisdictions participated, effectively marking the event's recovery from the COVID-19 pandemic. It also provided an opportunity for me to reconnect with old friends and make new ones.

Although the Conference covered several diverse topics, from the event's opening ceremony to the keynote sessions, it was quite evident that the session topics would follow and reflect on the conference theme,

'New World, New Wisdom'. Prevalent were several discussion sessions covering various topics related to the challenges that lawyers now face when advising clients in an increasingly multipolar world. In fact, our session, 'Navigating the Maze of Global Sanctions: A Business Perspective', addressed one component of that challenge. That discussion touched on the challenges that businesses in different jurisdictions now face when navigating the complex landscape of global sanctions that can have a significant impact on their operations.

The session's panel featured experts in international trade, sanctions compliance and legal affairs from five countries and four continents. Clearly, the countries were not chosen at random. They were chosen to provide different perspectives. The experts provided invaluable insights on areas such as the impact of sanctions on businesses in their jurisdictions, best practices to manage compliance and mitigate risks, and insights into what companies in their jurisdictions are doing to not only meet their compliance obligation under their respective sanctions and counter-sanction regulations, but also to survive and thrive. The comments highlighted by an audience member on a hypothetical scenario where compliance with one country's sanctions regulation could potentially trigger a violation of another country's sanctions regulation served to highlight the legal dilemma some multinational companies may now face having to not only balance, but also comply with, competing and adverse sanctions and counter/anti-sanctions regulations. We particularly appreciated the civility and professionalism demonstrated by the speakers given the sensitive nature of the topic. This, I believe, is a testament to the culture of friendship and collegiality built by the IPBA over the past 30 years.

Below is the session's program description and the key insights and perspectives on the topics covered by each speaker.

In an era of heightened global interconnectedness, the complexities of navigating international sanctions have become a critical concern for businesses worldwide. Addressing these complexities, the panel entitled 'Navigating the Maze of Global Sanctions: A Business Perspective' during the IPBA Tokyo 2024 Conference convened experts from diverse regions to provide insights into the intricate landscape of sanctions

regimes, their impacts on business operations and effective strategies for compliance and risk mitigation. Each speaker brought a unique perspective to the multifaceted nature of sanctions and their implications for businesses operating in a global market.

Historical Context and Effectiveness of Sanctions: Bruce Aitken commenced the discussion by providing an overview of the history of sanctions and evaluating their effectiveness. He highlighted how sanctions have evolved as a tool of foreign policy and economic control, emphasising their mixed success in achieving intended political outcomes. Aitken's historical perspective set the stage for understanding the current sanctions environment and its complexities.

US Sanctions Regime: Jack R Hayes offered an overview of the US sanctions regime, including providing updates on the latest developments. He discussed the comprehensive nature of US sanctions, which often have extraterritorial reach, impacting non-US companies that engage in transactions with sanctioned entities.

US Export Controls: Jana Del-Cerro provided a detailed background on US export control laws, explaining how these regulations intersect with sanctions. She discussed the critical need for businesses to understand export control classifications and licensing requirements, noting that violations can lead to substantial fines and restrictions on future exports.

Russian Perspective on Sanctions and Countersanctions: Sergey Petrachkov shared insights from Russia, focusing on the country's experience as a target of international sanctions and its response through countersanctions. He elaborated on how Russian businesses have adapted to sanctions by diversifying markets and sourcing alternative supplies and he highlighted the challenges posed by the evolving nature of sanctions and countersanctions.

Navigating Sanctions in Malaysia: Tracy Wong provided a perspective from Malaysia, a jurisdiction often caught between differing international sanctions regimes. Wong explained the challenges Malaysian businesses face in complying with global sanctions, despite Malaysia not implementing its own sanctions. She emphasised the importance of understanding the sanctions landscape and adopting best practices to manage compliance and mitigate risks effectively.

The panel concluded that while navigating global sanctions remains challenging, businesses can successfully mitigate risks through diligent compliance practices, staying informed and seeking expert guidance. As sanctions continue to be a dynamic tool of international policy, the ability to adeptly navigate this complex landscape is crucial for global business operations.

'Key Developments in Decarbonisation: CBAM, Carbon Tax and Trading—Impact on Businesses and Supply Chains'

Moderators: *Nahila Cortes (Counsel, Baker Hostetler, Washington, DC); and Augusto Vechio (Partner, Beccar Varela, Buenos Aires)*

Speakers: *Anna Dias (Partner, DLA Piper, Brussels); Kazuhide Ueno (Partner, TMI Associates, Tokyo); Seetharaman Sampath (Founder, Sarvada Legal, New Delhi); and Joshua Seet (Partner Rajah & Tann, Singapore)*

Sustainability and ESG have taken over the world like a storm. Globally, countries have progressed in their legislative frameworks and policies in these areas, of which a key aim is to decarbonise. All of these impact trade and businesses' supply chains. For instance, the EU Emissions Trading System ('ETS') currently subjects countries in the EU to a 'cap-and-trade' system. However, the new Carbon Border Adjustment Mechanism ('CBAM') will apply on a wider scale to address goods produced outside the EU. What impact

would this have on EU businesses looking to shift manufacturing to countries with laxer environmental compliance requirements? What legal and practical impact would this then have on businesses operating in such countries, say within Southeast Asia? In the US, decarbonisation developments differ from state to state, including cap-and-invest programs in California, New York and Washington, DC, carbon tax bills in Hawaii or new voluntary trading platforms for fuel suppliers in Oregon. How do these affect trade at a cross-border level? Within Southeast Asia, Singapore is an example of a country that has recently significantly amended its carbon tax regime, which increased the carbon tax. Yet, it now allows international carbon credits to be used to offset part of taxpayers' tax liability. With voluntary carbon exchanges also being set up in countries such as Singapore or Malaysia to trade carbon credits, what do these all mean for businesses looking to invest in carbon projects? What about other regions like Latin America? Whether you are an M&A lawyer, a general corporate lawyer, an employment lawyer or a trade lawyer, you need to know the issues that arise from these developments.

During the session, Anna Dias did a wonderful job explaining the complex EU regulatory ecosystem regarding the CBAM. Anna also addressed some remarks regarding deforestation rules and issues. Kazuhide Ueno provided an outstanding overview of the Japanese regulations that covered decarbonisation issues and shared the Japanese views of the EU's CBAM rules. Seetharaman Sampath shared with us important remarks about the Indian perspective on these new regulations and the eventual impact that the EU's CBAM may have on Indian industry and trade. Seetha identified many challenges and concerns in terms of implementation. Joshua Seet provided an in-depth update of Singapore's regulations and latest developments regarding trade and sustainability. He also shared the challenges and concerns of the European carbon adjustment mechanism for Southeast Asia's businesses. Nahila Cortes and Augusto Vechio had the pleasure of co-moderating this session, guiding the discussion and ensuring that everybody's views were shared with the very rowdy



audience that attended the session. At the end of the session, Augusto shared some words regarding the Latin American perspective of the subject.

Legal Development and Training Committee **'Empowering Tomorrow's Cross-Border Transactional Lawyers: A Panel Discussion on Training Lawyers for Transactional Practice'**

Moderator: *Raphael Tay (Partner, Law Partnership, Kuala Lumpur)*

Speakers: *James Jung (Director, College of Law Australia, Sydney); Chuyen Hong Huu Le (Partner, Tilleke & Gibbins, Ho Chi Minh City); and Rene Yang (Chief Partner, SGLA Law Firm, Guangzhou)*

This session hosted by the LDTC aimed to provide critical insights into the essential preparation and training required for aspiring cross-border transactional lawyers, offering a rich platform for both emerging and seasoned legal practitioners.

The panel discussion delved deeply into the unique skill sets necessary for success in cross-border transactional practice. Unlike litigation-centric law courses, transactional law requires a distinct set of skills that are often underrepresented in traditional legal education. This moderated session was designed to bridge this gap, offering young lawyers the tools and knowledge needed to excel in this demanding field.

The esteemed panellists, comprising seasoned practitioners and academics, shared their valuable perspectives on navigating the complexities of cross-border transactions. They discussed the following key points:

- *Unique Skill Sets for Transactional Lawyers:* Highlighting skills such as negotiation, international commercial practices and financial acumen.
- *Self-Training and Preparation:* Providing practical advice for young lawyers on how to independently develop and hone the necessary skills for cross-border transactional work.
- *Mentorship and Training:* Offering insights to senior practitioners on how to effectively train and support the next generation of cross-border transactional lawyers.

Raphael Tay, as the moderator and then-Chair of the LDTC guided the discussion with his extensive experience and insight. James Jung, then-IPBA Officer and Chair of the IPBA's Publications Committee, shared his expertise on cross-border practices and talent cultivation. Chuyen Hong Huu Le brought a practical perspective from his extensive experience in corporate law. Rene Yang provided a unique viewpoint on the legal implications of the Belt and Road Initiative and its impact on cross-border transactions.

This session was particularly significant as it marked Raphael Tay's final event as the Chair of the LDTC. Attendees expressed their gratitude for his contributions to the committee and the IPBA community, acknowledging his dedication and leadership. It was noted that James Jung, a former LDTC Chair and one of the panellists, had also significantly contributed to the Committee's development.

Looking forward, Martin Polaine and Keanu Ou will take over as Co-Chairs of the LDTC, promising to continue the momentum and work towards attracting more young professionals to the IPBA. Their leadership is expected to bring fresh perspectives and continued growth to the Committee.

The LDTC session at the Tokyo Annual Conference was a resounding success, providing valuable insights into the evolving demands of cross-border transactional practice. The Committee remains committed to fostering the next generation of legal professionals, ensuring that they are well-equipped to meet the challenges of an increasingly globalised legal landscape.

Legal Practice Committee **'Evolving Strategies and Trends to Attract and Retain Legal Talent'**

The session was packed to the rafters. The panel was of diverse backgrounds: the Singapore-based partner of one of India's largest law firms; the managing partner of an established Hawaiian law practice; the founder of a leading law firm from Brazil; the CEO of a UK barrister's chambers; and the dynamic head of a technology-enabled platform to support small law practices.

The panel dived into a number of interesting themes around attracting and retaining legal talent. Discussions were highly interactive with the audience



participating actively, adding to the richness of the views and ideas exchanged.

Despite the pandemic subsiding, work from home and other flexible work arrangements continue to be important across jurisdictions and practices. This was especially important in attracting new associates. For lateral talent it was noticed that the demand for such flexibility was generally lower. The panel then discussed the impact these work arrangements were having on aspects such as mentorship and teamwork. The consensus was that while in-person interactions remain critical, one could not deny the role of technology as the great enabler even in interpersonal relations. It was discussed how retention policies have changed post the pandemic as well. Financial rewards and career growth still are the key drivers for retention. However, other aspects such as meaningful work, the opportunity to do pro bono work, and work-life balance have assumed greater importance among younger lawyers.

The role of tech within law practices and the dawn of the AI era was also discussed in the context of legal talent. The fact that it is now easier to establish oneself as an independent practitioner and free agent in a gig economy with the help of tech tools and accessible and affordable platforms for networking and legal support presents opportunities for talent and a challenge for established law practices.

On future trends, an interesting point came up on how often associates and partners should be provided feedback on performance. The consensus was that the feedback loop can be an effective tool for talent retention as there is an increasing expectation that a younger lawyer's views and expectations can be aired and would be acted upon. Challenges with implementing this especially in larger firms did not



go unnoticed. Another trend that was discussed was whether the structure of the current day law firm would undergo radical change, given the way in which talent was now engaging with firms. Overall, it was an enlightening and highly participative session.

LPC Chair, Abraham Vergis SC announced that the LPC was forming a mutual support group for Law Firm Leaders—a safe space to discuss practice challenges and to glean ideas and inspiration from other law firm leaders on how to deal with issues and solve problems. Those interested to join this group may contact Abraham directly.

Maritime Law Committee

During the IPBA Annual Meeting in Tokyo, the Maritime Law Committee held two lively and extremely informative sessions. Each session was very well attended and included presentations given by leading maritime practitioners from around the world and a high-level government official from Japan.

'Case Study under Maritime Law—Collision & Mis-Delivery'

Moderator: Yosuke Tanaka (*Main Partner, Tanaka and Partners LPC, Tokyo*)

Speakers: Yutaka Akatsuka (*Partner, Sago Law Office, Tokyo*); Weiming (Nick) Yuan (*Senior Partner, Zhong Lun W & D (Tianjin) Law Firm, Tianjin*); Robert Scrivener (*Barrister, 4 Pump Court, London*); Noppramart Thammateeradaycho (*Partner, Tilleke & Gibbins International Ltd., Bangkok*); and Kirsty MacHardy (*Partner, Stephenson Harwood LLP, London*)

During the first session, panellists were presented with a vessel collision scenario and asked to apply the law of their individual jurisdictions in determining liability. In addition, attendees were treated to a very interesting

presentation given by the former Japan Deputy Foreign Minister and Ambassador to the United States, Mr Shinsuke J Sugiyama. The topic of His Excellency's presentation was 'The Importance of Open Navigation to the Japanese Government'. During his presentation, Ambassador Sugiyama discussed how Japan maintained open seaways. He also discussed certain shipping hotspots, including the Red and Black Seas and issues relating to Taiwan.

'Panel Discussion under Maritime law—Lien, Arrest, Hague-Visby Rules, Subrogation, Ship Finance and Others'

Moderators: Yosuke Tanaka (Main Partner, Tanaka and Partners LPC, Tokyo); and Rong (Shirley) Liu (Partner, Globe-Law Lawyers, Dalian)

Speakers: Immanuel A Indrawan (Partner, Indrawan Darsyah Santoso, Jakarta); Damien Laracy (Partner, Hill Dickinson, Hong Kong); Daniel Liang (Partner, Allen & Gledhill, Singapore); Song Dihuang (Partner, Hui Zhong Law Firm, Beijing); and Nicholas Vineall KC (Barrister, 4 Pump Court, London)

During the second session, the panellists were asked to respond to the following seven questions, applying the law of their respective jurisdictions:

- Do bunker suppliers have a maritime lien under your laws?
- Can creditors who have a maritime lien arrest 'sister ships' under your laws?
- Can creditors who do not have a maritime lien arrest the vessel?
- Can owners release the arrested vessel without acceptance of creditors?



- How can an arbitration clause in the charter party be incorporated into bills of lading under your laws?
- Has your country ratified the Hague-Visby Rules and does it have the domestic laws to incorporate it into your system of laws?
- What is the effect of payment of insurance to the damaged person, i.e., 'subrogation' under your insurance law?

Following the second session, Mr Tanaka, after serving as Chairman of the Maritime Law Committee for five years, handed over the chairmanship to Mr George Doub of the United States.

Next Generation Committee

The Next Generation Committee ('NGC') conducted two concurrent sessions during the Tokyo Conference. Centred around topical themes, the sessions strived to expand participants' perspectives on emerging legal needs and trends.

The first session 'Legal Minds Matter: Prioritising Mental Health in the Legal Profession' on 25 April 2024 focused on sensitisation around mental health challenges in the legal profession, expected outcomes and potential strategies for cultivating a culture of wellbeing. The NGC has been pioneering the cause of overall wellbeing for legal professionals amidst disruptions and mental wellbeing remains a core objective. Aligned with this, our panellists, representing a global demographic of next-generation and seasoned legal professionals, voiced the unique propositions and disruptions for the legal industry, the need to build a sustainable culture at the workplace and the means through which the legal community could minimise the mental toll that prevails in this highly demanding profession.



The second session 'Navigating the Pixels and Pitfalls: Gaming Law in Cross-Border Operations' on 26 April 2024 delved into the endless possibilities of the multi-billion-dollar online gaming industry. The panellists provided insights into different trends in the online gaming ecosystem in China, India, Singapore and the USA. From critical regulatory tests to intellectual property rights, taxation to data privacy, content moderation to scalability, safety and player welfare, the session saw active participation from the attendees. Apart from the sessions, the NGC had the privilege of collaborating for a lunch with the International Association of Young Lawyers (AIJA) with members from both associations benefitting from shared goals, community spirit and stronger networking ties.

The Tokyo Conference saw increased traction for the NGC, and in the future, the Committee would strive to create more opportunities for members and the IPBA to explore, participate, contribute and forge friendships that benefit all. We appeal to all next-generation and seasoned lawyers to support us in making the IPBA the preferred international association for the global legal community and encourage everyone to join us.

'Legal Minds Matter: Prioritising Mental Health in the Legal Profession'

Joint session with the Scholarship Committee and Intellectual Property Committee

Moderator: Lin Yuankai (Partner, RPC Premier Law, Singapore)

Speakers: Li Yixiao (Associated Partner, Gleiss Lutz, Stuttgart); Alexandra Geiger (Legal Counsel, MME/ Foreign Counsel, Rajah & Tann Singapore LLP, Singapore); Claire Stein (Associate, Bredin Prat, Paris); and Edmund Kronenburg (Managing Partner, Braddell Brothers, Singapore)

The legal profession comes with demanding professional commitments, a need for unmatched dedication to one's calling, and is prone to disruptions with the advent of new global realities and laws. This can result in a significant toll on mental health and wellbeing, resulting in demotivation, burn-outs and various other mental conditions that have a direct bearing on the willingness to be a high performer, and even in some cases, the desire to leave the profession. This calls for a supportive and solution-based approach. The panellists vocalised their independent experiences,



challenges encountered and candidly conversed on this rather nuanced subject, setting the tone for a larger reception and community solidarity. The dialogue also clearly indicated the urgency for awareness and sensitisation with a top-down approach, calling upon law firms and organisations to provide holistic growth opportunities emphasising professional progress and physical and mental well-being. Key support systems and action points identified during the discussions were the need for stigma reduction around mental illness conversations and promotion of a workplace culture that values work-life balance. The panellists also spoke about the importance of accessibility to mental health resources and services, practical strategies for self-care, success stories witnessed and best practices. The session witnessed a full-house attendance, with attendees feeling supported and encouraged to normalise the discussion around mental wellbeing for lawyers.

'Navigating the Pixels and Pitfalls: Gaming Law in Cross-Border Operations'

Moderator: Arya Tripathy (Partner, PSA, New Delhi)

Speakers: David Hoppe (Founder and Managing Partner, Gamma Law, San Francisco); Meryl Koh (Director, Intellectual Property & Dispute Resolution, Drew & Napier, Singapore); and Xijie Wei (Partner, Reiz Law Firm, Shenzhen)

Gaming stands out as a multi-billion-dollar industry and is no longer limited to entertainment, as regulators across the globe encounter unique legal challenges. This session, jointly organised with the Scholarship and IP Committees, focused on delving into the different legal trends and nuances to pique the interest of legal professionals in exploring the limitless opportunities that



this booming sector promises. The speakers discussed the judicial approach around games of skill versus chance in dominant jurisdictions, namely, China, India, Singapore and the USA.

Setting the context with their initial views about the state of the gaming industry, the panellists dived into complex issues around virtual assets, intellectual property rights, publicity rights, individual safety, data protection and privacy, children and minority safety, taxation, content moderation, dispute resolution, mental wellbeing, gaming addiction, and the need for a supportive plus safe ecosystem to foster the growth. They also, with experience narratives, emphasised the many possible avenues through which legal professionals could capitalise on this booming sector and shape the industry's course. The session attendees contributed to the dialogue by suggesting systematic changes including setting up of online sports federations, international competitions and dedicated resolution structures for the development of the industry and participating stakeholders.

Tax Law Committee

'Transfer Pricing and Customs Duties in the Post COVID-19 World: Is it "Business as Usual" or is New Wisdom Required?'

Joint session with the International Trade Committee

Moderators: Liyao Wang (Head of China Business & Migration, Finlaysons, Adelaide); and Jeff Snyder (Partner, Crowell & Moring, Washington, DC)

Speakers: Conchi Bargalló Garcia (Senior Associate, Cuatrecasas, Barcelona); Nazly Parlindungan Siregar (Partner & Head of Tax & Customs, Assegaff Hamzah & Partners, Jakarta); Siong Sie Khong (Partner, Jason



Teoh & Partners, Kuala Lumpur); Jorge Mayora (Partner, Allende & Brea, Buenos Aires); Michael Butler (Partner, Finlaysons, Adelaide); Reena Asthana Khair (Senior Partner, Kochar & Co, New Delhi); and Yiping Chen (Founding Partner, Ruilai Law Firm, Wuxi)

The Tax Law and International Trade Committees held the latest version of a perennial favourite joint session: 'Transfer Pricing and Customs Duties in the Post COVID-19 World: Is it 'Business as Usual' or is New Wisdom Required?' With seven speakers, the panellists addressed key questions for international business lawyers in Asia. Over the years, these joint sessions have focused on how a very common event—import purchases by related parties—are addressed by tax authorities, who seek a lower import price to increase taxable income versus customs authorities who seek a higher price to maximise duty revenue. Not only are the authorities at odds, policy-wise, they rarely cooperate, leaving international business exposed.

For 2024, the Committees gathered experts from important IPBA jurisdictions. The moderators kicked off the session welcoming a standing-room-only audience with background on the issues and the speakers.

The first speaker was Conchi Bargalló Garcia who addressed 'Transfer Pricing and Customs Duties: Interaction from the Spanish Perspective', providing the audience with a lively and engaging summary of Spanish law. Next was Nazly Parlindungan Siregar who provided a very dynamic overview of the very real risks in Indonesia in a presentation entitled 'Trade in Indonesia Post COVID-19', followed by Siong Sie Khong with an expert presentation (including valuable information with a quiz on national treasures in Malaysia), speaking

on 'Transfer Pricing and Customs Duties in the Post C-19 World: A Malaysian Perspective'.

The next set of speakers included Jorge Mayora on 'Transfer Pricing Issues in LATAM', including, perhaps for the first time because of issues particular to Argentina, the issue of outbound transfer pricing conflicts in the case of important minerals, here lithium; Michael Butler, who addressed the fascinating and challenging recent case in Australia of *PepsiCo v Cmmr of Taxation* and the issue of 'embedded royalties', a novel concept created by the court to address national tax issues; Reena Asthana Khair, with an expert presentation on 'Transfer Pricing in India' and, completing the panel presentation, Yiping Chen spoke on 'Transfer Pricing and Customs Valuation' in China.

The session finished with a lively Q&A, with many in the audience sharing their experiences and comparing notes with the speakers. This was a popular session that will no doubt be repeated.

Technology, Media & Telecommunications Committee

'Convergence of Antitrust Laws and TMT/Data Privacy'

Joint session with the Competition Law Committee

Moderator: Tong Lai Ling (Partner, Raja, Darryl & Loh, Kuala Lumpur)

Speakers: Manas Kumar Chaudhuri (Partner, Khaitan & Co, New Delhi); Eva Cole (Partner, Winston & Strawn, New York); Janet Hui (Partner, JunHe LLP, Beijing); and Kentaro Toda (Partner, TMI Associates, Tokyo)

The TMT sector includes telecommunications companies, internet service providers and Big Tech players consisting of Google (Alphabet), Apple, Facebook (Meta), Amazon and Microsoft, collectively known as GAFAMs. These companies often play a significant role in, and greatly influence, the ecosystem in which they operate.

The speakers covered the following topics:

- *Killer acquisitions:* Killer acquisitions refers to a strategy where GAFAMs acquire a potential competitor, often a smaller startup, to prevent future competition. This can be particularly prevalent in industries like technology, where large firms

may buy innovative startups not only to integrate new technologies or products but also to prevent these smaller companies (that hold valuable data or intellectual property) from becoming future rivals. While the Japan Fair Trade Commission has not publicly singled out specific cases as 'killer acquisitions', it has expressed concerns about large firms potentially stifling competition by acquiring startups that hold valuable data, technology or intellectual property.

- *Recent antitrust developments in the China TMT sector:* There have been recent amendments of the Anti-Monopoly Law ('AML') which expressly highlighted the TMT sector in the abuse of market dominance sections. The applicable policy has changed from strict supervision to regulatory supervision in the TMT sector. The *JD v Alibaba* case was highlighted as an example of a civil action, where JD launched a civil litigation against Alibaba for Alibaba's abuse of market dominance.
- *Recent Big Tech antitrust case law such as the Google cases:* The US has seen a surge in enforcement activity in recent years due to concerns about market dominance and anticompetitive behaviour by big tech companies. Concerns about the collection, use and potential misuse of consumer data by GAFAMs, leading to privacy violations or harm to consumers have also been raised. While not strictly antitrust issues, these privacy concerns are often intertwined with broader competition issues and have been raised in investigations and lawsuits against the GAFAMs. US enforcers have recently been making a more explicit link between competition and consumer privacy, especially in the



tech sector where having more market share means having greater access to data. This is part of a larger trend at the Department of Justice and Free Trade Commission to look beyond price impacts and to consider things like loss of privacy or innovation as harms that antitrust laws should address.

- *Essential Facilities Doctrine ('EFD') and abuse of dominance in telecommunications law:* The concept of EFD was explained and EFD behaviour is typically found in dominant enterprises. Telecommunications and/or digital enterprises have inherent dominance due to the very nature of their businesses. These segments substantially rely upon their own networks and intend to operate such networks independent of competition. Such independence is frowned upon by competition authorities vis-à-vis public interests unless the owners of the network show legal exemptions and/or share their networks with new entrants against payment of a reasonable licence fee via contracts.

'Pioneering Space: Commercial Opportunities and Legal Challenges'

Moderators: *Miriam Rose Ivan Pereira (Counsel, Oh-Ebashi LPC & Partners, Tokyo); and Doil Son (Partner, Yulchon LLC, Seoul)*

Speakers: *Rodolphe Ruffie-Farrugia (Senior Associate, Clifford Chance, Perth); Yumiko Tatehita (International Relations Department, The Japan Aerospace Exploration Agency (JAXA), Tokyo); Huzefa Tavawalla (Head—Disruptive Technologies Practice, Nishith Desi Associates, Bangalore); and Yi-Shun Teoh (Partner, Reynolds Porter Chamberlain (RPC), Tokyo)*

Miriam 'Marose' Pereira and Doil Son moderated a fascinating panel on the current state of space law and the enormous commercial opportunities—and legal challenges—that await this new frontier of human endeavour.

The panellists, in introducing themselves, also provided key areas of insight which were discussed throughout the session. Rodolphe began by providing attendees with a succinct and thorough history of space law, from its inception during the Cold War to the present. Rodolphe's summary included a brief overview of how space law is governed by national treaties, but this does not contemplate the commercial aspects

of space exploration, such as liability, indemnification and ownership rights, and how the absence of such legal provisions is impacting the way in which countries internationally are proceeding with their space initiatives.

Huzefa followed by discussing his perspective on the way in which intellectual property and the concept of 'ownership' in the legal sense will be front and centre in how the law develops around space law. On the backdrop of Rodolphe's summary, key issues include the fact that courts, both with domestic and international jurisdiction, have not yet tested these issues. Arbitration was seen as a potential forum for such dispute resolution going forward.

Yi-Shun provided an excellent overview of Chinese space initiatives and the country's ambitious goals for its national space program. China, having recently landed personnel on the Moon in a first-of-its-kind landing, is making space exploration a priority in research, development and commerce.

Yumiko, a special guest of the IPBA, provided the attendees with an detailed overview of the Japan Aerospace Exploration Agency ('JAXA'), its initiatives, organisation, goals and mission. Yumiko's presentation was rich with insights into Japan's approach to space exploration and the exciting application of future technologies. Central to her presentation were elements of exploring how space exploration and initiatives can benefit humanity and examples of current collaborations between the JAXA and other national space agencies.

In moderating the Q&A session and discussion, the moderators and the panellists discussed what types of disputes might arise and the appropriate fora for such dispute resolution. Furthermore, Rodolphe also contributed important insights and trends in the space industry vertical, namely that certain countries, such as the United States, are breaking from tradition in that space belongs to the World and are looking to create frameworks around legal concepts such as ownership for objects in space, such as asteroids. The commercial and legal implications for such frameworks, especially in an environment that has no unified perspective or approach to this question, seems to be a key topic of discussion among the international community. As more and more countries successfully launch their space programs and initiatives, the panel agreed that policymakers, governments and lawyers will all play a key role in shaping this future as more private

actors begin to enter the 'space' space, traditionally the province of national governments.

Review provided by: Kan Morimoto Lew, SSM Law, San Francisco.

Women Business Lawyers' Committee 'Empowering Connections': Women Business Lawyers' Reception'

On 24 April 2024, the Women Business Lawyers' ('WBL') Committee hosted its annual event, the WBL Reception, during the Inter-Pacific Bar Association (IPBA) Tokyo Conference. The event was held in the beautiful Orchard Ballroom at the Hotel Okura.

The event saw a strong turnout, with over 100 participants attending the reception prior to the formal opening reception of the Conference. The attendees included business lawyers from diverse nationalities and industries. There was a healthy mix of senior and junior lawyers present, fostering a dynamic and inclusive atmosphere.

The evening began with an opening speech by Winnie Tam SC, the Chair of the WBL Committee. Her opening remarks set the stage for a night of meaningful connections and professional development. Winnie emphasised the importance of collaboration and support among women business lawyers and gathering support from male lawyers as well.

Following the opening remarks, the reception featured a 'speed networking' activity led by Emi Rowse (Igusa). In order to encourage networking across practice groups, attendees were invited to join one of ten tables, each representing a specific industry group:

1. Automotive/Industrials/Transport;
2. Life Sciences/Pharmaceutical and Healthcare;
3. Construction/Infrastructure;
4. Energy (Renewables, Oil and Gas);
5. Technology, Media, Telecommunications ('TMT'), Artificial Intelligence ('AI'), Fintech;
6. Consumer Goods & Retail, Food and Beverage ('F&B');

7. Sports, Media, Entertainment;
8. Financial Institutions/Services;
9. Manufacturing; and
10. Real Estate, Environment, Environmental, Social and Governance ('ESG').

At each table, attendees were instructed to engage in short discussions with the person sitting next to them for approximately three minutes before switching to another attendee at the same table. This format encouraged participants to interact with a variety of individuals with a common interest in a particular industry and to engage in discussions pertinent to their fields.

The speed networking session was highly energetic, with participants deeply engrossed in conversations. Many attendees were so engaged that they were reluctant to move on to speak to another attendee after just three minutes!

After the speed networking activity, Olivia Kung, a past WBL Committee Vice-Chair, gave a speech sharing insightful thoughts on the WBL's activities in line with the Conference theme, 'New World, New Wisdom'. Yoko Maeda, a Vice-Chair of the WBL Committee, then concluded the reception by celebrating the (almost) 33rd anniversary of the IPBA and highlighting the future of the WBL.

The WBL Committee received positive feedback on the event, with attendees appreciating the opportunity to meet new people with similar professional interests in a fun, inviting and friendly environment. The event successfully achieved its objectives of uniting and empowering the WBL community and welcoming new members. The WBL Committee looks forward to continuing this tradition and hosting more events that support the growth and success of women business lawyers globally.

IPBA New Council Members

The following IPBA Council members were approved by the Council at the Mid-Year Council Meeting in Jakarta on 17 September 2023, and confirmed by IPBA members at the Annual General Meeting in Tokyo held on 27 April 2024. They began their terms immediately thereafter. Information about all Council members can be found on the IPBA website.

Officers

Vice-President
Priti Suri
PSA, New Delhi



Jurisdictional Council Members (JCM)

Australia
Marcus Connor
Connor & Co
Lawyers Pty Ltd,
Sydney



At-Large Council Members

China
Zhengzhi Wang
Beijing Globe-Law
Law Firm, Beijing



*Membership
Committee Vice-Chair*
Angela Lin
Lee and Li, Attorneys-
at-Law, Taipei



Canada
Dierk Ullrich
Fasken Martineau
DuMoulin,
Vancouver



Osaka
Nae Iijima
Dojima Law Office,
Osaka



*Deputy Committee
Coordinator*
Shigehiko Ishimoto
Mori Hamada &
Matsumoto, Tokyo



China
Jason Lu
River Delta Law Firm,
Shanghai



Regional Coordinators

United States
Christopher Kao
Pillsbury Winthrop
Shaw Pittman LLP,
San Francisco CA



*Publications
Committee Vice-
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Japan
Hiroyuki Tezuka
Nishimura & Asahi,
Tokyo



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*Deputy Chief
Technology Officer*
Catrina Luchsinger
MLL Legal AG, Zurich



Pakistan
**Mohammed Fazil
Bharucha**
Bharucha & Co,
Karachi



*Banking, Finance &
Securities*
Stéphane Karolczuk
Hong Kong



Dispute Resolution & Arbitration

Lars Markert

Nishimura & Asahi,
Tokyo



International Construction Projects

Mirella Lechna

Wardynski Wspólnicy
sp.k., Warsaw



Next Generation

Yusuke Mizuno

Nishimura & Asahi,
Tokyo



Dispute Resolution & Arbitration Investment Arbitration Sub-Committee

Kyongwha Chung

Covington & Burling
LLP, Seoul



Legal Development & Training

Martin Polaine

Brooke Chambers,
London



Next Generation

Arya Tripathy

PSA, New Delhi



Energy & Natural Resources

Alberto Cardemil

Carey y Cia. Ltda.,
Santiago



Legal Development & Training

Keanu Ou

Jin Mao Partners,
Shanghai



Technology, Media & Telecommunications

Miriam Pereira

Oh-Ebashi LPC &
Partners, Tokyo



Intellectual Property

Jack Shaw

Procopio, Cory,
Hargreaves & Savitch
LLP, Palo Alto, CA



Maritime Law

George Doub

International
Registries, Inc.,
Washington DC



Women Business Lawyers

Meryl Koh (Acting Chair)

Drew & Napier LLC,
Singapore



IPBA New Members March to May 2024

We are pleased to introduce our new IPBA members who joined our association from March to May 2024. Please welcome them to our organisation and kindly introduce yourself at the next IPBA conference.

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| Australia , Shane Prince SC <i>State Chambers</i> | China , Na Wang <i>Y&T LAWYERS</i> |
| Australia , Tin-Lok Shea <i>H & H Lawyers</i> | China , Jiaying Wang <i>Shimin Law Offices</i> |
| Australia , Dominic Villa <i>New Chambers</i> | China , Gary Wu <i>Zhonglun W&D Law Firm</i> |
| Bahrain , Nicolas Bremer <i>Bremer LF WLL</i> | China , Paulina Xiao <i>Grapevine Asia Partners Company</i> |
| Bangladesh , Sabel Nawaz <i>Sadat Sarwat & Associates</i> | China , Weiqiang Xue <i>China Commercial Law Firm</i> |
| Bangladesh , Al Rahman <i>Fox Mandal</i> | China , Ruobing Xue <i>Yingke Law Firm</i> |
| Bangladesh , Omar Sadat <i>Sadat Sarwat & Associates</i> | China , Jiashu Yan <i>Help Reaching Law Firm</i> |
| China , David Boitout <i>Gide Loyrette Nouel A.A.R.P.I.</i> | China , Aoshuang Yang <i>Beijing Dacheng Law Offices, LLP (Shanghai)</i> |
| China , Ben Z. B. Cen <i>Yingke Law Firm Guangzhou Office</i> | China , Xueyu Yang <i>Hui Zhong Law</i> |
| China , Liang Ding <i>DeHeng Law Offices</i> | China , Xu Yibai <i>Zhong Lun Law Firm</i> |
| China , Shu Ding <i>Yingke Law Firm Yinchuan Office</i> | China , Paula Yu <i>Beijing Dacheng Law Offices, LLP (Shanghai)</i> |
| China , Zhongshu Dong <i>Zhonghao (Chengdu Branch) Law Firm</i> | China , Xiao Yu <i>YingKe Law Firm</i> |
| China , Yang Hu <i>Guantao Law Firm</i> | China , Chris (Yong) Zhang <i>Dacheng Law Offices</i> |
| China , Xinyan Jiang <i>Jingtian & Gongcheng</i> | China , Joanie Zhang <i>Dentons</i> |
| China , Minsky Li <i>Hansheng Law Offices</i> | China , Baicheng Zhang <i>Beijing Zihua Law Firm</i> |
| China , Yong Liao <i>Shimin Law Offices</i> | China , Mariana Zhang <i>Hui Zhong Law</i> |
| China , Lucy (Qiong) Lu <i>DaHui Lawyers</i> | China , Yuke Zhou <i>Beijing Yingke Suzhou Office</i> |
| China , Bin Qi <i>Shanghai Pacific Legall</i> | France , Julie Allais <i>Cabinet Julie ALLAIS</i> |
| China , Yabo Sun <i>Everwin Law Office</i> | France , Marie Bouvet-Guiramand <i>Gide Loyrette Nouel A.A.R.P.I.</i> |
| China , Xuefei Sun <i>Beijing Yingke Law Firm</i> | France , Thomas Urlacher <i>Gide Loyrette Nouel A.A.R.P.I.</i> |
| China , Tsai Tianxiao <i>Capital Equity Legal Group</i> | Hong Kong , Patty Chan <i>Vivien Chan & Co.</i> |

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| Hong Kong , Kin Pong Ho <i>Hugill & Ip</i> | Indonesia , Albert Situmorang <i>Assegaf Hamzah & Partners</i> |
| Hong Kong , Danny Kan <i>Stephenson Harwood</i> | Italy , Patrizio Bernardo <i>Delfino Willkie Farr Gallagher LLP Studio Legale</i> |
| Hong Kong , Michael Padarin <i>Carey Olsen Hong Kong LLP</i> | Japan , Yutaka Akatsukai <i>Sago & Co.</i> |
| Hong Kong , Man Lung Tong <i>The Law Society of Hong Kong</i> | Japan , Hiroshi Ishihara <i>Anderson Mori & Tomotsune</i> |
| Hong Kong , Marc Waha <i>Norton Rose Fulbright</i> | Japan , Akimoto Kawamura <i>Atsumi & Sakai</i> |
| Hong Kong , Yi Yang <i>Carey Olsen Hong Kong LLP</i> | Japan , Hiroki Kobayashi <i>OMRON Corporation</i> |
| India , Abhishek Singh Baghel <i>DSK Legal</i> | Japan , Kunio Miyaoka <i>Mori Hamada & Matsumoto</i> |
| India , Rupin Chopra <i>S.S Rana & Co.</i> | Japan , Takanori Nakajima <i>Kitahama Partners</i> |
| India , Gautam Ganjawala <i>AZB & Partners</i> | Japan , Takahiro Nakayama <i>Oh-Ebashi LPC & Partners</i> |
| India , Sangna Swar Kansagra <i>With Law</i> | Japan , Akinobu Nishioi <i>Authense legal professional corporation</i> |
| India , Mahesh Kumar <i>Legalics Law Offices</i> | Japan , Shunsuke Nohara <i>Kohwa Sohgo Law Offices</i> |
| India , Misha <i>Shardul Amarchand Mangaldas & Co</i> | Japan , Masako Takahata <i>Exponential Design Inc.</i> |
| India , Chakrapani Misra <i>Khaitan & Co</i> | Japan , Tomotaka Tokuno <i>Atsumi & Sakai</i> |
| India , Altamash Qureshi <i>Altamash Qureshi</i> | Japan , Natsumi Tonedachi <i>TMI Associates</i> |
| India , Arindam Sarkar <i>Fox & Mandal</i> | Japan , Kazuhide Ueno <i>TMI Associates</i> |
| India , Sudish Sharma <i>AZB & Partners</i> | Korea , Hwanoh Chung <i>Markkorea Patent and Law Firm</i> |
| India , Rohan Singh <i>Fox Mandal & Associates LLP</i> | Korea , Jaekyoung Han <i>Lee & Ko</i> |
| India , Nilanjana Singh <i>AZB & Partners</i> | Korea , Woosang Jo <i>Kim & Chang</i> |
| India , Anu Tiwari <i>Cyril Amarchand Mangaldas</i> | Korea , Jiyong Kim <i>Kim & Chang</i> |
| India , Mithun V Thanks <i>Shardul Amarchand Mangaldas & Co</i> | Korea , Yunsoo Shin <i>Peter & Kim</i> |
| India , Bahram Wakil <i>AZB & Partners</i> | Luxembourg , Philippe Harles <i>Arendt & Medernach</i> |
| Indonesia , Muhtar Ali <i>MHP Law Office</i> | Malaysia , Weili Chan <i>Rahmat Lim & Partners</i> |
| Indonesia , Albertus Andhik <i>Mochtar Karuwin Komar</i> | Malaysia , Nick Edmondes <i>Trowers & Hamlins LLP</i> |
| Indonesia , Noor Prayoga Mokoginta <i>ATD Law In Association with Mori Hamada & Matsumoto</i> | Malaysia , Yeap Poay Nee <i>Messrs Teoh Pek Wei</i> |
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| Philippines , Erika Paulino <i>Martinez Vergara & Gonzalez Sociedad</i> | Thailand , Nathee Silacharoen <i>Chandler MHM Ltd</i> |
| Philippines , Gil Roberto Zerrudo <i>Quisumbing Torres</i> | Thailand , Chotiwut Sukpradub <i>Chandler MHM Ltd</i> |
| Poland , Weronika Nalbert <i>Wardyński & Partners</i> | Thailand , Worapan Wuttisarn <i>Chandler MHM Ltd</i> |
| Poland , Adam Smuga <i>Tias Legal Smuga</i> | United Arab Emirates , Vivian Ch'ng <i>Alsuwaidi & Company LLC</i> |
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| Switzerland , Xin Ye <i>Lenz & Staehelin</i> | |
| Taiwan , Yi-Wei Chuo <i>Titan Attorney-at-Law</i> | |
| Taiwan , Shih-Feng Hsieh <i>Titan Attorney-at-Law</i> | |
| Taiwan , YenLing Liu <i>Tsar & Tsai Law Firm</i> | |

IPBA Scholarship Programme 2025

The Inter-Pacific Bar Association (IPBA) is now accepting applications for the IPBA Scholarship Program to enable practicing lawyers to attend the IPBA Annual Meeting & Conference to be held in Chicago, Illinois, USA 23-26 April 2025.

The IPBA Annual Meeting and Conference provides an opportunity for lawyers to meet colleagues from around the world and to share the latest developments in cross-border practice and professional development in the Asia-Pacific region. During the four-day conference, IPBA Scholars will have the opportunity to network with key members of the legal community in the Asia-Pacific region through a series of seminars on legal topics and social events. The program aims to provide Scholars with substantial tools and cross-border knowledge to assist them in building their careers in their home country.

What is the IPBA Scholarship Programme?

The IPBA Scholarship Programme was originally established in honour of the memory of M.S. Lin of Taiwan, one of the founders and a Past President of the IPBA. Currently, the scholarships are funded by The Japan Fund, established and supported by lawyers in Japan to honor IPBA's accomplishments since its founding; the Host Committee of the Annual Meeting and Conference in Vancouver, Canada, 2014; and a generous donation by the family of M.S. Lin.

Chosen Scholars will receive:

- Roundtrip airfare (conditions apply)
- Nightly accommodations during the conference
- Full conference fee waiver
- 3-year membership in the IPBA

Who is eligible to be an IPBA Scholar?

There are two categories of lawyers eligible to become an IPBA Scholar:

1. Lawyers from Developing Countries

To be eligible, the applicants must:

- a. be a citizen of and be admitted to practice in Bangladesh, Cambodia, Laos, Mongolia, Myanmar, Nepal or the Pacific Islands;
- b. be fluent in both written and spoken English (the conference language); and
- c. currently maintain a cross-border practice or desire to become engaged in cross-border practice.

2. Young Lawyers

To be eligible, the applicants must:

- a. be under 35 years of age at the time of application and have less than seven years of post-qualification experience;
- b. be fluent in both written and spoken English, the official language of the IPBA;
- c. have taken an active role in the legal profession in his/her country; and
- d. currently maintain a cross-border practice or desire to become engaged in cross-border practice.

How to apply to apply for the IPBA Scholarship Program

Application forms are available either through the IPBA website (<https://ipba.org/about-us/scholarships/156/>) or by contacting the IPBA Secretariat (ipbascholarships@ipba.org).

Completed applications for the Annual Meeting and Conference in Chicago 2025 must be submitted by 30 September 2024 by e-mail attachment to:

The IPBA Secretariat

E-mail: ipbascholarships@ipba.org





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