



SI Arb Annual Lecture 2022

DETERMINING CONSENT TO ARBITRATION: FORMALISM, REALISM OR NEGATIVISM?

6 October 2022 • 05.30 - 07.15pm (SGT, GMT+8) • By Zoom Webinar

Consent is said to be the foundation of international arbitration. Is this postulate correct, or is it partially an overstatement?

It seems that in a number of factual scenarios, the implication of an individual or company in arbitration proceedings has never been based on consent. On the other hand, the increasing prevalence of multiparty - multi-contract disputes has highlighted the existence of different conceptions of the very notion and role of consent in international arbitration.

Is its expression to be found only within the four corners of the agreement? Or can it be implied and, in the affirmative, in what circumstances? Is it a legal or a factual issue, or both? And are there other considerations which tend to prevail over the existence of consent?

These issues receive different answers on the basis of the legal tradition and culture of the jurisdiction concerned. The analysis of the jurisprudence raises the question of whether the courts' approach in some jurisdictions is still truly based on consent and, more fundamentally, what approach should be preferred, taking into consideration the parties' expectations and the realities of the business community in the 21st century.

Programme:

5.30 - 5.45pm	Opening Remarks by Chairperson Mr. Yu-Jin Tay - Partner & Head, International Arbitration (Asia), Mayer Brown LLP; President, Singapore Institute of Arbitrators
5.45 - 6.45pm	Determining Consent to Arbitration: Formalism, Realism or Negativism? Mr. Bernard Hanotiau - Hanotiau & Van Den Berg, Brussels - Singapore
6.45 - 7.15pm	Q&A Session

Distinguished Speaker

BERNARD HANOTIAU

Hanotiau & Van Den Berg,
Brussels - Singapore



About the Speaker

Bernard Hanotiau is a member of the Brussels and Paris Bars, since 1976 and 1989 respectively. In 2001, he established a boutique law firm in Brussels concentrating on international arbitration and litigation. The firm has also an office at Maxwell Chambers, Singapore.

Since 1978, Bernard Hanotiau he has been involved in more than 500 international arbitration cases (commercial and investment) in all parts of the world.

Mr. Hanotiau is professor emeritus of the law school of Louvain University. He is a former vice-president of CEPANI, of the London Court of International Arbitration and a former vice-chairman of the Governing Board of DIAC (Dubai). He is an advisory member of the ICCA governing board (International Council for Commercial Arbitration) and of the Council of the ICC Institute. He is a member of the Court of Arbitration of SIAC (Singapore), of the Advisory Board of the Hong Kong International Arbitration Centre (HKIAC) and of the Seoul International Dispute Resolution Centre. He is on the list of arbitrators of most international arbitration institutions, including ICSID.

He is the author of *Complex Arbitrations: Multi-party, Multi-contract & Multi-issue* (Kluwer, The Hague, 2006, second edition 2020). In March 2011, Mr. Hanotiau received the Global Arbitration Review Award for Arbitrator of the Year. In April 2016, he also received the Who's Who Legal Award for Lawyer of the Year in Arbitration.

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About the Chairperson



Mr. Yu-Jin Tay is a partner in Mayer Brown's Singapore office and head of the international arbitration practice in Asia. He has practised in Singapore, London, Paris and Washington DC and has over 20 years of international arbitration experience across a wide range of sectors including energy, natural resources, technology and manufacturing, construction and infrastructure and investment treaty arbitration, involving the world's leading arbitral seats and institutions. Since 2001, he has practised investment treaty arbitration and in 2013 was designated to ICSID's Panels of Arbitrators and Conciliators. Yu-Jin was one among four Asian lawyers featured in *Global Arbitration Review's* 2011 global *45 under 45* ranking and has been ranked among the top partners in *Arbitration: Future Leaders* for consecutive years. He is listed annually as leading individual in legal directories including *GAR's International Who's Who* (since 2010), in the Singapore, Indonesia, South Korea, India and Asia-wide chapters of Chambers Asia-Pacific and Legal 500 (since 2008). In addition to counsel work, Yu-Jin sits regularly as presiding, sole and co-arbitrator in ICC, SIAC, HKIAC, LCIA, VIAC and ad hoc arbitrations. He is a Fellow and President of the Singapore Institute of Arbitrators. He is also a member of the specialist mediator panel of the Singapore International Mediation Centre.

REGISTRATION CLOSING DATE: 3 rd October 2022	FEES
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