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# 6th Asia Pacific Regional Forum Biennial Conference: Unified Asia

27 February – 1 March 2019, Hotel New Otani, Tokyo, Japan

## Topics include:

- Shall we arbitrate or mediate, and where?
- Cryptocurrency at the crossroads
- Mergers and acquisitions in unified Asia
- Antitrust in Asia – increased risks, greater convergence?
- Going international – foreign offices and/or international alliances for Asian law firms
- Insolvency/restructuring
- Business and human rights – local and global trends and future of legal practice
- Asia in the crosshairs of a new world trading system
- Collaboration of lawyers/law firms and bar associations in their jurisdiction
- Can litigation keep pace with the rise of machines?
- Internal and external counsel – helping each other drive business forward
- Investing and financing in property and infrastructure projects in the Asia Pacific region, from both an investor's and target's perspective
- Deferred prosecution agreements: a game changer for corporates in Asia Pacific and beyond
- Tax havens: is there a case for their continued existence?

THE WORKING LANGUAGE OF THE CONFERENCE IS ENGLISH, HOWEVER WE WILL BE PROVIDING SIMULTANEOUS TRANSLATION (ENGLISH/JAPANESE) FOR SELECTED SESSIONS. THESE SESSIONS ARE MARKED 同時通訳.

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# Programme

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**Shin Fukuoka** *Nishimura & Asahi, Tokyo; Senior Vice Chair of Membership, IBA Insolvency Section*

**Hideaki Roy Umetsu** *Mori Hamada & Matsumoto, Tokyo; Treasurer, IBA Asia Pacific Regional Forum*

## Organising Committee

**Sunil Abraham** *Cecil Abraham & Partners, Kuala Lumpur; IBA Legal Practice Division Council Member*

**Ameera Ashraf** *WongPartnership, Singapore; Co-Chair, IBA Asia Pacific Regional Forum*

**Peter Bartlett** *Minter Ellison, Melbourne; IBA Legal Practice Division Secretary-Treasurer / IBA Treasurer*

**Clare Corke** *Corrs Chambers Westgarth, Brisbane; Secretary, IBA Asia Pacific Regional Forum*

**Dinesh Dhillon** *Allen & Gledhill, Singapore; Co-Chair, Asia Pacific Arbitration Group, IBA Arbitration Committee*

**Cameron Ford** *Rio Tinto, Singapore; Corporate Counsel Forum Liaison Officer, IBA Asia Pacific Regional Forum*

**Yoshimasa Furuta** *Anderson Mori & Tomotsune, Tokyo*

**Satyajit Gupta** *Star India, Mumbai; India Contact Group Liaison Officer, IBA Asia Pacific Regional Forum*

**Akil Hirani** *Majmudar & Partners, Mumbai; Co-Chair, IBA Asia Pacific Regional Forum*

**Sun Hee Kim** *Yulchon, Seoul; M&A Liaison Officer, IBA Asia Pacific Regional Forum*

**Mangyo Kinoshita** *Southgate, Tokyo; Treasurer, IBA Pro Bono Committee*

**David Dali Liu** *JunHe, Shanghai; Chair, Project Finance Subcommittee, IBA Banking Law Committee*

**Ryo Okubo** *Nagashima Ohno & Tsunematsu, New York; Membership Officer Asia, IBA Insolvency Section*

**Preetha Pillai** *Skrine, Kuala Lumpur; Litigation Liaison Officer, IBA Asia Pacific Regional Forum*

**Takashi Toichi** *TMI Associates, Tokyo; Scholarship Officer, IBA Corporate and M&A Law Committee*

**Ramesh Vaidyanathan** *Advaya Legal, Mumbai; Newsletter Officer, IBA Asia Pacific Regional Forum*

**Sky Yang** *Bae Kim & Lee, Seoul; Vice Chair, IBA Asia Pacific Regional Forum*

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**Alan Cannon** *Simpson Thacher & Bartlett, Tokyo*

**Toshio Dokei** *White & Case, Tokyo*

**Jesse Gillespie** *Morrison & Foerster, Tokyo*

**Jon Gray** *Davis Polk & Wardwell, Tokyo*

**Naoki Hieda** *Ushijima & Partners, Tokyo*

**Hirota Honda** *Honda Law Office, Tokyo; Asia Pacific Regional Liaison Officer, IBA Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Law Committee*

**Shigeji Ishiguro** *Oguri & Ishiguro Law Office, Nagoya*

**Osamu Ito** *Allen & Overy, Tokyo*

**Ayako Kanamaru** *Oh-Ebashi and Partners, Tokyo*

**Tatsu Katayama** *Anderson Mori & Tomotsune, Tokyo*

**Takeo Kosugi** *Matsuo & Kosugi, Tokyo*

**Yasuyuki Kuribayashi** *City-Yuwa Partners, Tokyo*

**Yuto Matsumura** *Mori Hamada & Matsumoto, Tokyo; Membership Officer, IBA Corporate and M&A Law Committee*

**Yoshiaki Muto** *Baker & McKenzie, Tokyo*

**Mikiko Otani** *Otani & Partners, Tokyo; Council Member, IBA's Human Rights Institute*

**Damien Roberts** *Herbert Smith Freehills, Tokyo*

**Asa Shinkawa** *Nishimura & Asahi, Tokyo; Vice Chair, Public Company Practice and Regulation Subcommittee, IBA Securities Law Committee*

**Fumihide Sugimoto** *Nagashima Ohno & Tsunematsu, Tokyo*

**Shinichi Sugiyama** *Harago & Partners Law Offices, Tokyo*

**Isomi Suzuki** *Koga & Partners, Tokyo; IBA Council Member, Japan Federation of Bar Associations*

**Yuki Suzuki** *Atsumi & Sakai, Tokyo*

**Tatsuhiko Takahara** *TMI Associates, Tokyo*

**Kimitoshi Yabuki** *Yabuki Law Offices, Tokyo; Officer, IBA Bar Issues Commission*

## Continuing Professional Development/Continuing Legal Education

\*The number of CPD/CLE hours available may vary depending on the rules applied by the members' bar association/law society on time recording criteria.

For conference delegates from jurisdictions where CPD/CLE is mandatory, the IBA will provide a Certificate of Attendance for the conference. Subject to CPD/CLE requirements, this can be used by conference delegates to obtain the relevant number of hours' accreditation.

A CPD/CLE Certificate of Attendance is available to conference delegates on request. Please ask at the IBA conference registration desk for information on how to obtain the certificate.

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# Wednesday 27 February

1830 – 2030 **Welcome reception**

*Hotel New Otani*

*4-1 Kioi-cho, Chiyoda-ku, Tokyo 102-8578, Japan*

This event is open to all delegates and registered guests.

# Thursday 28 February

0800 – 1800 **Registration**

0915 – 0920 **Opening remarks** 同時通訳

**Shin Fukuoka** *Nishimura & Asahi, Tokyo; Senior Vice Chair of Membership, IBA Insolvency Section*

**Hideaki Roy Umetsu** *Mori Hamada & Matsumoto, Tokyo; Treasurer, IBA Asia Pacific Regional Forum*

0920 – 0940 **Welcome remarks** 同時通訳

**Peter Bartlett** *Minter Ellison, Melbourne; Legal Practice Division Secretary-Treasurer / IBA Treasurer*

**Horacio Bernardes-Neto** *Motta Fernandes Advogados, São Paulo; IBA Vice President*

**Yutaro Kikuchi** *President, Japan Federation of Bar Associations*

0940 – 1000 **Keynote speech** 同時通訳

**Ministry of Justice of Japan** *(invited)*

## 1000 – 1130 Plenary session 1

### Shall we arbitrate or mediate, and where?

同時通訳

Arbitration and mediation have long been an important dispute resolution mechanism for a variety of international business disputes. A number of Asia-Pacific jurisdictions are very active in promoting international arbitration and mediation. Further, some jurisdictions also promote “international commercial court”. Although Japan has not traditionally been viewed as a significant proponent of international arbitration and mediation, this is quickly changing. In June 2017, the Japanese Government published its policy to develop a foundation to activate international arbitration. In February 2018, the Japan International Dispute Resolution Centre, or JIDRC, was incorporated, which

began operating their state-of-the-art permanent arbitration facilities in Osaka in May 2018. The JIDRC plans to launch similar facilities in Tokyo by March 2020. Additionally, the Japan International Mediation Centre-Kyoto, or JIMC-Kyoto, became available to the global mediation community in September 2018.

In light of recent developments in various Asia-Pacific jurisdictions, the panel will discuss the strategic considerations to be paid in adjudicating international business disputes, including the right choice of seat and venue for litigation, arbitration and/or mediation. As arbitration and mediation is an increasingly preferred method of dispute resolution in regards to international commercial and financial matters, this plenary session is recommended to all of participants.

*Session Chairs*

**Akira Kawamura** *Anderson Mori & Tomotsune, Tokyo;*

*IBA Honorary Life Member of Council and Association*

**David W Rivkin** *Debevoise & Plimpton, New York; Immediate*

*Past IBA President*

*Panellists*

**Masato Dogauchi** *Director, Japan Commercial Arbitration Association, Tokyo*

**Mingchao Fan** *Director, International Chamber of Commerce ADR & Mediation, Shanghai*

**Sarah Grimmer** *Secretary-General, HKIAC, Hong Kong SAR*

**Sundra Rajoo** *Director, Asian International Arbitration Centre, Kuala Lumpur*

**Justice Sir Bernard Rix** *International Judge, Singapore*

*International Commercial Court, Singapore*

1130 – 1150 **Coffee/tea break**



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## 1150 – 1320 Breakout session 1A

### Cryptocurrency at the crossroads 同時通訳

The Fourth Industrial Revolution is under way. The next 20 years will be a time of upheaval. Old patterns of human endeavour and commerce will vanish as new technologies and business models such as artificial intelligence, super-connectivity, Internet of Things, new energy, gig economy – take over. This session will focus on blockchain technology and cryptocurrency, potentially the gearbox for much of the “New Order”.

Will cryptocurrency turn out to be paradigm-shifting? Our panel will survey the regulatory and policy landscape for cryptocurrency and crypto trading around the region, with comparison to the United States and European Union. Among the patterns and trends to be covered, we will consider crypto transactional structuring in the context of general securities regulation, and look at the impact of Anti-Money Laundering rules and other banking constraints. Aspects will include cross-jurisdictional trading, tax issues, and controversies surrounding Initial Coin Offerings.

#### Session Chair

**Sky Yang** *Bae Kim & Lee, Seoul; Vice Chair, IBA Asia Pacific Regional Forum*

#### Panellists

**Matthias Kuert** *CMS, Zurich*

**Masakazu Masujima** *Mori Hamada & Matsumoto, Tokyo*

**Ramiro Rodriguez** *Duane Morris & Selvam, Singapore*

**Benjamin Sauter** *Kobre & Kim, New York*

## 1150 – 1320 Breakout session 1B

### Mergers and acquisitions in unified Asia

As per market surveys, deal-making activity involving Asia Pacific grew significantly in 2018. China and India M&A demonstrated strong growth, including mega deals above US\$ 1b in size. Outbound deals also showed good growth after a slow period in 2017. The year demonstrates a deal ticker that has been snaking upwards as Asia delivers on the unbelievable growth rates predicted. The strength of the strong M&A activity lies partially on the massive consumer base which has hitherto been untapped. The panel composed of lawyers from across Asia will discuss trends, issues and sentiments across geographies. The discussion will be driven and supported by a brief introduction and a few discussion themes:

- What sectors/industries and type of transactions are you seeing increasing activity?
- What legal issues, including regulatory and other governmental related issues, are impacting M&A in your jurisdictions?
- What are the experiences for Asian investors acquiring assets/targets outside Asia?

#### Session Chairs

**Satyajit Gupta** *Star India, Mumbai; India Contact Group Liaison Officer, IBA Asia Pacific Regional Forum*

**Takashi Toichi** *TMI Associates, Tokyo; Scholarship Officer, IBA Corporate and M&A Law Committee*

#### Panellists

**David Patrick Eich** *Kirkland & Ellis, Hong Kong SAR*

**Hanim Hamzah** *ZICOLAW, Singapore; Co-Vice Chair,*

*IBA Alternative and New Law Business Structures Committee*

**Wai King Ng** *WongPartnership, Singapore*

**Kaye Yoshino** *Paul Weiss Rifkind Wharton & Garrison, Tokyo*

## 1320 – 1440 Lunch

## 1440 – 1610 Breakout session 2A

### Antitrust in Asia – increased risks, greater convergence? 同時通訳

These days, companies are dealing with numerous investigations in antitrust matters and competing information requests in merger cases by multiple antitrust authorities in the region. The session focuses on new regimes and more established ones that have adopted competition law and examines the differences in practices and substantive law in these jurisdictions. For companies and practitioners alike, this raises the question of whether we are witnessing the birth of an ever expanding universe of individual antitrust environments or whether the forces of convergence will result in a common approach to antitrust enforcement. Should individuality or conformity prevail?

Aimed at general practitioners just as much as those who specialise in the field, panellists in this session will discuss the current state of antitrust play in various Asian jurisdictions to see where we stand but also to discuss where the state of antitrust regulation is headed in these jurisdictions. The aim of the session is to create awareness, exchange experiences and foster the ability of participants to advocate for sound antitrust rules and procedures in Asia.

#### Session Chair

**Marc Reysen** *RCAA, Frankfurt; Co-Chair, IBA Antitrust Section*

#### Panellists

**Ameera Ashraf** *WongPartnership, Singapore; Co-Chair,*

*IBA Asia Pacific Regional Forum*

**Rachelle M. Diaz** *PJS Law, Makati*

**Sebastien Evrard** *Gibson Dunn & Crutcher, Hong Kong SAR*

**Tsuyoshi Ikeda** *Mori Hamada & Matsumoto, Tokyo; Asia Pacific Region Liaison Officer, IBA Antitrust Section*

## 1440 – 1610 Breakout session 2B

### Going international – foreign offices and/or international alliances for Asian law firms

Based on the recent developments in Japan this session will analyse practical experiences, clients' needs and best practice for law firms in Asia to expand internationally. The panellists will discuss the different forms of international expansion, which is opening foreign offices, joining a regional or international network or seek a merger with a foreign firm. With the panel composed of private practitioners from Australia, China, England, Germany, India and Japan and with the participation of the general manager of the legal department of a large business enterprise based in Japan the attendants will have a solid basis for developing the strategy for their own firms regarding the internationalisation of their practices.

The panellists will also address the impact of the internationalisation of Asian firms in the host countries both from the perspective of the expanding firm and from the point of view of the local legal community. Should the foreign offices practice local law or should they rather be organised as representative offices? In this context financial planning and expectations of the partners of the expanding firm regarding the results of such projects will also be discussed.

#### Session Chairs

**Hermann Knott** *Andersen Tax & Legal, Cologne; Council Member, IBA Section on Public and Professional Interest*

**Ramesh Vaidyanathan** *Advaya Legal, Mumbai; Newsletter Officer, IBA Asia Pacific Regional Forum*

#### Panellists

**Peter Bartlett** *Minter Ellison, Melbourne; Legal Practice Division Secretary-Treasurer / IBA Treasurer*

**Alex Hao** *JunHe, New York*

**John Maxwell** *Linklaters, Tokyo*

**Yoshiyuki Nojima** *General Manager, Mitsubishi, Tokyo*

**Asa Shinkawa** *Nishimura & Asahi, Tokyo; Vice Chair, Public Company Practice and Regulation Subcommittee, IBA Securities Law Committee*

**Tomohiro Tohyama** *TMI Associates, Tokyo*

1610 – 1630 **Coffee/tea break**

## 1630 – 1800 Breakout session 3A

### Insolvency/restructuring

With the rate of economic globalisation, we now face more and more large cross-border insolvency cases. In an insolvency situation that involves creditors from several jurisdictions, it is important for a country to have clear rules for handling the assets and liabilities of debtors and settling rights and obligations between creditors and debtors, as well as systems to allow speedy recovery and restructuring, which would strengthen the credibility and, ultimately, economic competitiveness of a country. Recently, countries in the Asia Pacific area have developed and amended their insolvency legal systems by adjusting the balance between the protection of creditors and that of debtors, and/or attempting to improve the speed and flexibility of restructuring.

In this session, each panellist will report on and discuss the update of recent legal reforms and practices in each jurisdiction, analysing from the view point of, among others: (1) protection and involvement of trade creditors and financial creditors; (2) the player who leads the proceedings and its power and role thereunder (ie, creditors leading the proceedings versus court/debtor leading the proceedings); and (3) how much/often such proceedings have been used. Further, each panellist is to provide an update on the latest major insolvency cases in each jurisdiction.

#### Session Chair

**Michihiro Mori** *Nishimura & Asahi, Tokyo*

#### Panellists

**Geread Dooley** *Minter Ellison, Sydney*

**Nafisa Nihmat** *Zhong Lun Law Firm, Beijing*

**Tomohiro Okawa** *Nagashima Ohno & Tsunematsu, Tokyo*

**Chiyong Rim** *Kim & Chang, Seoul*

**Manoj Pilay Sandrasegara** *WongPartnership, Singapore*

## 1630 – 1800 Breakout session 3B

### Business and human rights – local and global trends and future of legal practice 同時通訳

Since the adoption of the United Nation Guiding Principle on Business and Human Rights in 2011, the legal practice of business and human rights has developed dramatically. Global businesses expect their external legal counsel not only to be aware of emerging laws and guidelines but also how to implement international best practice. As law and practice develops, legal counsel must also be able to guide businesses through an emerging legal, financial and reputation risk landscape, for example, related to litigation, shareholders, investor relations, contracting partners and transnational civil society advocacy. Increasingly, Business and Human Rights is no longer a nice-to-have but a key component of effective legal risk management. In developing a National Action Plan Japan initiated a national baseline assessment in March 2018. The Japanese government is trying to involve multiple stakeholders in the process, including the Japan Federation of Bar Associations, and is facing various challenges and opportunities. In a climate of increasing awareness of business's accountability to the community and stakeholders, Australia is also actively moving towards implementing modern slavery laws, embracing a reporting model similar to the UK and following trends in other Asia Pacific jurisdictions like Hong Kong.

The panellists will discuss developments in this field in various jurisdictions, current trends, and how legal practice will further evolve in response to client's needs and a fast-changing global landscape.

#### Session Chairs

**Hideaki Roy Umetsu** *Mori Hamada & Matsumoto, Tokyo; Treasurer, IBA Asia Pacific Regional Forum*

**John Wilson** *John Wilson Partners, Colombo; Senior Vice Chair, IBA Intellectual Property and Entertainment Law Committee*

#### Panellists

**Edmund Bon** *AmerBon, Kuala Lumpur*

**Daniel D'Ambrosio** *DLA Piper, London*

**Geraldine Johns-Putra** *Minter Ellison, Melbourne*

**Emi Omura** *Athena Law Office, Tokyo*

## 1920 – 2120 Conference dinner cruise

*Tokyo Bay Cruise Vingt Et Un*

*1-12-2 Kaigan, Minato-ku 105-0022, Tokyo*

Ticket price: US\$95

This event is open to delegates and registered guests who indicated their attendance at the time of Conference registration.

Return transport will be provided from the Hotel New Otani to the dinner venue.



0800 – 1800 **Registration**

0930 – 1100 **Plenary session 2**

## Asia in the crosshairs of a new world trading system 同時通訳

Since the Trump administration took power in January 2017, the world has witnessed the most tumultuous period in international trade in decades. Settled expectations have been upended, and countries around the world are now being forced to reconsider their overall trade policies.

The region most affected by these developments is Asia. The United States' decision to withdraw from the Trans Pacific Partnership (TPP), followed by the demand for renegotiation of The United States–Korea Free Trade Agreement (KORUS) to accommodate US concerns about automotive trade, culminating with the imposition of tariffs on billion in imports from China all demonstrate a clear intention by the Trump administration to reduce liberalisation of US-Asia trade. Asia has responded to these attacks by advancing its own trade agreements, in particular the Comprehensive and Progressive Agreement for Trans-Pacific Partnership – in essence, the TPP minus the US – as well as the Regional Comprehensive Economic Partnership. Asian countries have also responded with vigorous challenges before the World Trade Organisation to some of the measures. But even though Asian countries and companies have been diversifying and exploring other alternatives, including stronger relationships with Western economies other than the US, the fact remains that these recent developments have fundamentally ended 'business as usual' around the world.

Our panel will be addressing these issues, and will also discuss the following questions:

- What do these changes mean for businesses dependent on trade in goods both outside of Asia, and also within the Asia region?
- How can companies protect their supply chains from further disruptions?
- What legal mechanisms are available to counsel to help protect their clients' interests, and what strategies are likely to be most effective in helping them achieve these ends?
- How do these changes affect companies' compliance activities, and do they raise new risks?

*Session Chair*

**Kaz Kometani** *General Counsel, Ministry of Economy, Trade and Industry, Tokyo*

*Panellists*

**Kala Anandarajah** *Rajah & Tann, Singapore*

**Takahiro Ikawa** *Fujitsu, Tokyo*

**Youngjin Jung** *Kim & Chang, Seoul; Working Group Officer, IBA Antitrust Section*

**David Tang** *JunHe, Beijing*

1100 – 1130 **Coffee/tea break**

1130 – 1300 **Breakout session 4A**

## Collaboration of lawyers/law firms and bar associations in their jurisdiction

Business lawyers and law firms often do not have intimate relationships with bar associations because their business law do not require assistance from them. On the other hand, they are obligated to comply with rules of the bar that, in their view, sometimes constitute obstacles to their business law practice. However, independence of lawyers and lawyers' rights are protected by efforts of the bars and the bars also have worked to enhance their members' international activities such as foreign lawyers activities in different jurisdictions. Such collaboration between lawyers/law firms and the bar associations would be necessary for both enhancement of rule of law and business activities. This session will discuss which activities both parties can collaborate.

*Session Chairs*

**Steven Richman** *Clark Hill, Princeton; Officer, IBA Bar Issues Commission*

**Kimitoshi Yabuki** *Yabuki Law Offices, Tokyo; Officer, IBA Bar Issues Commission*

*Panellists*

**Fiona McLeod** *Former President, Law Council of Australia, Canberra*

**Yoshiaki Muto** *Baker & McKenzie, Tokyo*

**Gregory Vijayendran** *Rajah & Tann, Singapore; President/Chairperson, The Law Society of Singapore (invited)*

1130 – 1300 **Breakout session 4B**

## Can litigation keep pace with the rise of machines? 同時通訳

Steeped in tradition, lawyers have long been stereotyped as resistant to technology adoption, but this is no longer holding true. Advances in artificial intelligence (AI) are challenging lawyers to re-examine not only how the law should address ethical and legal questions posed by AI adoption, but also the practice of law.

Litigation can be a long and expensive legal process for businesses, investors and law firms. Some litigators feel an investment in AI will allow lawyers to focus on complex, higher-value work. Others question the value of the benefits and returns offered by nascent AI technologies. This panel will discuss the different ways in which AI is currently applied in litigation and how technology can streamline litigation processes. At a more philosophical level, the panel will discuss significant legal questions relating to 'decisions' made by AI-powered software, including those of tort liability and of criminal guilt. For example, if AI is controlling a driverless car and someone is killed in an accident, who will be legally liable? Some of the key issues the panel will discuss include:

- Are AI and other technologies making their presence felt in the courtroom? How far can the adoption of AI and technology in the courtroom conceivably extend?
- Are there steps parties may take at the outset of a dispute – or even before one surfaces – to incorporate technology into their preparations? How can a powerful AI tool share / provide relevant information relating to the litigation more quickly and in a cost efficient manner to the other side and court?
- What are the pros and cons of introducing a greater degree of automation into litigation proceedings?

- How can technology assist with the collection of evidence, coping with large volumes of data from multiple sources, and controlling related costs? Can AI improve the efficiency of the discovery process in litigation? Conversely, what are the risks of adopting AI in discovery?
- Will AI be a differentiator for litigation practitioners / law firms? Or will AI replace lawyers? How real is the possibility of AI 'judges'? Will greater use of AI and technology shape the future of litigation? Are they set to alter the litigation process in any fundamental ways?

The panel will conclude its deliberations with some thoughts on AI's promise and limitations across the legal industry.

#### Session Chairs

**Chung Nian Lam** *WongPartnership, Singapore; Co-Chair, IBA Communications Law Committee*

**Sajai Singh** *J Sagar Associates, Bengaluru; Vice Chair, IBA Technology Law Committee*

#### Panellists

**Laura Keily** *Chief Executive Officer, Immediation, Melbourne*

**Charmaine Koo** *Deacons, Hong Kong SAR; Secretary, Trademark Law Subcommittee, IBA Intellectual Property and Entertainment Law Committee*

**Wataru Shimizu** *Anderson Mori & Tomotsune, Nagoya*

**Doil Son** *Yulchon, Seoul; Publications Officer, IBA Technology Law Committee*

**Yoshikazu Tagami** *General Manager, Bengo4.com, Tokyo*

1300 – 1420 **Lunch**

1420 – 1430

## Bullying and sexual harassment in the legal profession

Recent research by the International Bar Association has found that nearly one in two lawyers have been bullied at work, while one in three female lawyers has experienced sexual harassment. The survey-based research also identified a chronic underreporting of incidents, and found that legal workplaces are failing to adequately address concerns when they are raised – leading victims to leave their firms or the profession as a whole. The author of the IBA Legal Policy & Research Unit's forthcoming report will present these findings and outline empirically-informed recommendations to achieve positive change.

#### Speaker

**Kieran Pender** *Legal Advisor, Legal Policy & Research Unit, International Bar Association, London*

### 1430 – 1600 Breakout session 5A

## Internal and external counsel – helping each other drive business forward 同時通訳

Often times, external counsel and in-house counsel are at odds with each other in their respective expectations. In a fast paced, social media and artificial intelligence (AI) driven marketplace, the issues faced by clients are often a case of first instance and require adept, out-of-the-box thinking. This session will discuss how in-house and external counsel can help achieve commonality of interests to help the business team move forward. The discussion will touch upon the following points.

- Courting Corporate Counsel
- Top 10 dos and don'ts
- A fast changing global regulatory environment and the consequent challenges for in-house counsel
- The blurring divide between legal and commercial – why outside counsel need to get into the shoes of internal counsel
- AI and how it can change legal practice
- Cybersecurity – the severity of the threat and how external counsel can help
- Anticorruption and risk management

#### Session Chairs

**Cameron Ford** *Rio Tinto, Singapore; Corporate Counsel Forum Liaison Officer, IBA Asia Pacific Regional Forum*

**Akil Hirani** *Majmudar & Partners, Mumbai; Co-Chair, IBA Asia Pacific Regional Forum*

#### Panellists

**Rika Beppu** *Squire Patton Boggs, Tokyo*

**Hiro Kato** *General Counsel, INPEX, Tokyo*

**Masako Takahata** *General Counsel, Eurus Energy Holdings, Tokyo*

**Hiroshi Yamaji** *Marubeni, Tokyo*

### 1430 – 1600 Breakout session 5B

## Investing and financing in property and infrastructure projects in the Asia Pacific region, from both an investor's and target's perspective

As previously unchartered markets open themselves to investment, and as countries that have a long history of investment reconsider their priorities in allowing further investment into their countries, the foreign investors, financiers and local targets each need to consider real estate and infrastructure transactions from a broader perspective, to determine how to best implement their transaction to address both macro and micro concerns with cross border transactions.

The session is aimed at practitioners who advise on cross-border investment transactions in both the real estate and infrastructure sectors, whether from an mergers and acquisitions perspective, privatisation of state assets or the entering into of consortium arrangements to undertake major transactions. This session aims to give the perspective of investors on perceived barriers to entry, as well as the perspective of the target and how the challenges of cross-border transactions can best be managed within their country context, and how this can interplay with the availability of funds for the project.

#### Session Chairs

**Clare Corke** *Corrs Chambers Westgarth, Brisbane; Secretary, IBA Asia Pacific Regional Forum*

**David Dali Liu** *JunHe, Shanghai; Chair, Project Finance Subcommittee, IBA Banking Law Committee*

#### Panellists

**Michael Carl** *SSEK Legal Consultants, Jakarta*

**Junko Ogushi** *Atsumi & Sakai, Tokyo*

**Tom Platts** *Stephenson Harwood, Singapore*

**Wei Zhang** *General Counsel, China Vanke, Shenzhen*

1600 – 1630 **Coffee/tea break**



## 1630 – 1800 Breakout session 6A

### Deferred Prosecution Agreements: a game changer for corporates in Asia Pacific and beyond

#### 同時通訳

This session will explore the evolution of Deferred Prosecution Agreements (DPAs) and their increasingly important role in resolving cases of alleged corporate criminal misconduct.

The United States authorities have long deployed DPAs to resolve corporate criminal enforcement actions under the Foreign Corrupt Practices Act, whose broad extra-territorial reach captures the activities of multinationals operating in Asia. The United Kingdom authorities have followed suit, with four DPAs already entered into under their Bribery Act; another long-arm statute which also enables the UK authorities to potentially pursue multinationals' operating in Asia. The UK Serious Fraud Office's mammoth DPA with Rolls-Royce in January 2017 is regarded as a watershed moment in UK anti-corruption enforcement. France has also introduced DPAs, announcing its first in December 2017.

Legislation is presently before the Australian parliament that contemplates DPAs being added to the toolbox of Australian prosecutors. In Asia, following the high-profile case in December 2017 involving Keppel Corp, Singapore introduced DPAs in early 2018 for corporate corruption and money laundering cases.

The panel will discuss key aspects of the various DPA regimes with case studies, assess their merits and shortfalls, and consider what the future holds for resolving corporate criminal misconduct in the region.

#### Session Chair

**Elizabeth Macknay** *Herbert Smith Freehills, Perth; Regional Representative Asia Pacific, IBA Anti-Corruption Committee*

#### Panellists

**Atsushi Nishitani** *Anderson Mori & Tomotsune, Tokyo*

**Simran Toor** *WongPartnership, Singapore*

**Robert Wyld** *Johnson Winter & Slattery, Sydney*

**Bruce E Yannett** *Debevoise & Plimpton, New York*

## 1630 – 1800 Breakout session 6B

### Tax havens: is there a case for their continued existence?

The global crackdown on tax avoidance and money laundering at both individual and corporate levels have brought about a substantial increase in disclosure in the financial world. Our panellists will debate on the growing tension between the global move towards transparency and the shroud of secrecy over tax havens. Offshore accounts and shell companies – they may sound questionable, but these are all legal methods for companies and individuals to lower their tax liabilities. However, at what cost? This session will critically examine, among others, the continued justification of maintaining tax havens at the cost of billions in tax losses to nations who would have otherwise been entitled to the tax and implications of the Organisation for Economic Co-operation and Development's Base Erosion and Profit Shifting measures on such tax havens.

#### Session Chair

**Preetha Pillai** *Skrine, Kuala Lumpur; Litigation Liaison Officer, IBA Asia Pacific Regional Forum*

#### Panellists

**Yasutaka Nishikori** *Nishimura & Asahi, Tokyo*

**Daniel Slater** *Minter Ellison, Melbourne*

**Heather L Thompson** *Higgs & Johnson, Nassau*

The IBA, its officers and staff accept no responsibility for any views expressed, presentations or materials produced by delegates or speakers at the conference.

The organisers may at any time, with or without giving notice, in their absolute discretion and without giving any reason, cancel or postpone the conference, change its venue or any of the other published particulars, or withdraw any invitation to attend. In any case, neither the organisers nor any of their officers, employees, agents, members or representatives shall be liable for any loss, liability, damage or expense suffered or incurred by any person, nor will they return any money paid to them in connection with the conference unless they are satisfied not only that the money in question remains under their control but also that the person who paid it has been unfairly prejudiced (as to which, decision shall be in their sole and unfettered discretion and, when announced, final and conclusive).



# Information

## Date

27 February – 1 March 2019

## Venue

Hotel New Otani  
4-1 Kioi-cho, Chiyoda-ku  
Tokyo 102-8578, Japan  
Tel: +81 (03)3265-1111  
Fax: +81 (03)3221-2619

## Fees

Online registrations received:

	on or before 18 January	until 22 February
IBA member	US\$980	US\$1,100
JFBA member	US\$980	US\$1,100
Non-member*	US\$1,160	US\$1,285
Young lawyer (under 30 years)	US\$735	US\$1,285
Academic/judge (full-time)	US\$735	US\$1,285
Public lawyer	US\$735	US\$1,285
Corporate counsel**	US\$880	US\$1,285
Dinner cruise on Thursday	US\$95	US\$95
Guest fee	US\$125	US\$125

After **22 February** registrations must be received in hard copy at the IBA office.

Hard copy registration forms and fees received:

	on or before 18 January	after 18 January
IBA member	US\$1,090	US\$1,225
JFBA member	US\$1,090	US\$1,225
Non-member*	US\$1,290	US\$1,425
Young lawyer (under 30 years)	US\$815	US\$1,425
Academic/judge (full-time)	US\$815	US\$1,425
Public lawyer	US\$815	US\$1,425
Corporate counsel**	US\$980	US\$1,425
Dinner cruise on Thursday	US\$95	US\$95
Guest fee	US\$125	US\$125

\* By paying the non-member fee, we welcome you as a delegate member of the IBA for the year in which this conference is held, which entitles you to the following benefits:

- 1) Password access to certain parts of the IBA website.
- 2) Receipt of *IBA E-news* and access to online versions of *IBA Global Insight*.
- 3) Pay the member rate for any subsequent conference registrations for this calendar year.

\*\* A reduced rate is offered to IBA Corporate Group Members. Please register online to obtain a 25 per cent discount on the IBA member fee.

If you would like to become a full or general member of the IBA, which includes membership of one committee or more – and inclusion in and

## Language

The working language of the conference is English, however we will be providing simultaneous translation (English/Japanese) for selected sessions. These sessions are marked 同時通訳.

## How to register

Register online by **22 February 2019** at [www.ibanet.org/conferences/conf935.aspx](http://www.ibanet.org/conferences/conf935.aspx) and make payment by credit card to avail of the ten per cent online registration discount or complete the attached registration form and return it to Tae In Joung at the IBA together with your bank transfer/cheque payment. You should receive an email confirmation of your registration within five days; if you do not, please contact Tae In Joung at [taein.joung@int-bar.org](mailto:taein.joung@int-bar.org).

access to our membership directory – we encourage you to do so now in order to register for this conference at the member rate. You can find full details of how to join at [www.ibanet.org](http://www.ibanet.org).

A reduced rate is offered to lawyers who are over the age of 65, have been an IBA member for more than 20 years and are no longer practising law.

**Full payment must be received in order to process your registration.**

## Fees include:

- Attendance at all working sessions
- Conference materials, including any available speakers' papers submitted to the IBA before 22 February
- Access to the above conference working materials from the IBA website ([www.ibanet.org](http://www.ibanet.org)) approximately seven days prior to the conference
- Access to mobile delegate search application
- Welcome reception on Wednesday
- Lunch on Thursday and Friday
- Tea and coffee during breaks

**Please note that registrations are not transferable.**

## Guest fees include:

- Welcome reception on Wednesday

A guest must **not** be a member of the legal profession or seek to use the conference as a business networking opportunity. Guests are not permitted access to working sessions, conference refreshment breaks or conference lunches. Checks are performed to ensure members of the legal profession, or business associates are not registered as guests. If this is the case, registration will be refused unless the guest registers as a full delegate for the conference.

Should a guest be seen attending working sessions, conference refreshment breaks or lunches, an invoice for the full registration fee will be issued to the delegate for the guest's participation at the conference.

Only registered guests (ie, those paying the guest fee) are eligible to participate in the social programme.

## List of participants

In order for your name to appear in the list of participants, which will be distributed at the conference, your registration form must be received by **22 February** at the latest.

## Mobile delegate search application

All registered delegates will receive a printed list of participants at the conference, however delegates are now also able to use the mobile delegate search. This application has been developed to aid networking by giving delegates instant access to an up-to-date list of their fellow attendees, and comes with the added benefit of a built-in messaging service. All registered delegates with an internet or Wi-Fi-enabled device will have access, using their IBA username and password. Simply visit: [m.ibanet.org/conf935](http://m.ibanet.org/conf935)



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## Registration confirmation

All documentation regarding your attendance at the conference can now be obtained from the IBA website. Upon receipt of your payment for the conference a confirmation email will be sent containing instructions on how to download the documents. Registration confirmation will not be distributed by post.

## Photography and filming

Certain sessions and/or social functions may be photographed and/or filmed and some of this content may be used for future IBA marketing materials, member communications, products or services. Should you have any concerns with regard to this, or do not wish to be featured in any of these materials please contact the IBA Marketing Department at [ibamarketing@int-bar.org](mailto:ibamarketing@int-bar.org).

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## Payment of registration fees

**US dollars:** by cheque drawn on a US bank and in favour of the International Bar Association. Please send to: 4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom.

**OR** by bank transfer to the IBA account number: 01286498 (Sort Code 56-00-03) at the National Westminster Bank, St James's & Piccadilly Branch, 208 Piccadilly, London W1A 2DG, United Kingdom. SWIFT address NWBKGB2L, IBAN GB55NWBK60730101286498. **Please ensure that a copy of the bank transfer details is attached to your registration form.**

**Pounds sterling:** by cheque drawn on a UK bank and in favour of the International Bar Association. Please send to: 4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom.

**OR** by bank transfer to the IBA account number: 13270222 (Sort Code 56-00-03) at the National Westminster Bank, St James's & Piccadilly Branch, 208 Piccadilly, London W1A 2DG, United Kingdom. SWIFT address NWBKGB2L, IBAN GB05NWBK56000313270222. **Please ensure that a copy of the bank transfer details is attached to your registration form.**

**Use the exchange rate prevailing at the time of registration.**

**Euro:** by cheque or bank draft, drawn on a euro zone bank and converted at the current rate of exchange and in favour of the International Bar Association. Please send to: 4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom.

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## Conference sell-outs

The IBA places its conferences in venues of a suitable size for each event; however, there are times when our conferences may sell out. Should this happen, prospective delegates will be informed and a waiting list will operate. The waiting list will function on a 'first come, first served' basis, subject to receiving registered delegate cancellations. The IBA will not be liable for any travel or accommodation expenses incurred by an individual who travels to a conference without a confirmed place at the event.

## Cancellation of registration

If cancellation is received in writing at the IBA office by **1 February**, fees will be refunded less a 25 per cent administration charge. Refunds will be made minus any monies owed to the IBA.

We regret that no refunds can be made after this date. Registrations or social function bookings received after **1 February** will not be eligible for any refund of fees. Please note that **NO** exception will be made to this policy. Should you have difficulties in obtaining your visa and are not able to attend the conference this cancellation policy will still apply.

## Promotional literature

Please note that no individual or organisation may display or distribute publicity material or other printed matter during the conference, unless by prior arrangement with the IBA. Organisations and companies wishing to discuss promotional opportunities should contact the IBA Sponsorship Department at [andrew.webster-dunn@int-bar.org](mailto:andrew.webster-dunn@int-bar.org).

## Travel arrangements and visas

Participants are responsible for making their own travel arrangements. It is recommended that you check your visa requirements with your local embassy or consulate. **We are unable to dispatch visa invitation letters to support your visa application prior to receipt of your registration form and full payment of registration fees.**

**Please apply for your visa in good time.**

**OR** by bank transfer to the IBA account at the National Westminster Bank, St James's & Piccadilly Branch, 208 Piccadilly, London W1A 2DG, United Kingdom. SWIFT address NWBKGB2L, IBAN GB58NWBK60721106570631. **Please ensure that a copy of the bank transfer details is attached to your registration form.**

**Use the exchange rate prevailing at the time of registration.**

**Online credit card payments:** by Visa, MasterCard or American Express. **No other cards are accepted.**

**PLEASE ENSURE THAT YOUR NAME AND 'CONF935APFTOKYO' APPEAR ON ANY TRANSFER OR DRAFT.**

## No deductions or withholdings

All fees payable to us by you in accordance with the terms contained in this 'Information' section shall be paid free and clear of all deductions or withholdings whatsoever.

If any deductions or withholdings are required by law to be made from any fees payable to us by you under the terms contained in this 'Information' section you shall pay such sum as will, after the deduction or withholding has been made, leave us with the same amount as we would have been entitled to receive in the absence of any such requirement to make a deduction or withholding.

If we obtain the benefit of any tax credit or other relief by reference to any such deductions or withholdings, then we shall repay to you such amount as, after such repayment has been made, will leave us in no worse position than we would have been had no such deductions or withholdings been required.

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Upon submission of your completed conference registration form to the IBA you are considered 'registered' pending payment. Please note that the cancellation terms and conditions as indicated will apply as soon as your registration is received.

Provided you have cancelled your registration to attend an IBA conference in accordance with the terms of the 'cancellation of registration' clause included in the 'Information' section of the relevant conference programme, you must then confirm to us in writing at the IBA office as soon as possible, but in no event later than one year (12 calendar months) from the date of any such conference all necessary details to enable any reimbursement owed to you to be paid. We regret that no refunds will be made after the date that is one year (12 calendar months) after the date of the relevant conference.