

THE INTERNATIONAL CONSTRUCTION CLAIMS & ADR CONFERENCE 2022 IN DUBAI: A COMPREHENSIVE OVERVIEW

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On 7 and 8 November, Legal Plus and L2 i-CON International jointly organised the International Construction Claims & ADR Conference 2022 at Jumeirah Beach Hotel, Dubai. This 2-day Conference is divided into eight sessions featuring eight moderators, 28 physical speakers, and four virtual speakers from 10 jurisdictions, namely the UAE, Oman, Saudi Arabia, Doha, Jordan, Africa, Russia, Hong Kong, Singapore, and Malaysia.

The Conference was associated with LexisNexis as its supporting partner and ICC, Asian Institute of Alternative Dispute Resolution (AIADR), Chartered Institute of Building (CIOB), Chartered Association of Building Engineers (CABE) and Lighthouse Club International as its supporting organisations.

The Conference was conducted in a hybrid setting. Despite not drawing the largest crowd, the Conference nonetheless drew more than 300 virtual attendees in addition to the approximately 100 physical participants who attended in person at the Meyana Auditorium of Jumeirah Beach Hotel. Over the two days of the Conference, panellists and participants (both physical and virtual) actively engaged in sharing opinions, thoughts and suggestions.

Managing Director of L2 i-CON International, Ms Cindy Wong, gave a succinct yet heartfelt welcome address to everyone who attended the Conference. She also expressed gratitude to everyone who helped with the pre-events that preceded the Conference.

In his special address, Chief Justice of Dubai International Financial Centre (DIFC) Courts Zaki Azmi noted that Dubai was the ideal place for the Conference due to the city's diversity, vibrancy and strategic location. Chief Justice Zaki Azmi then acknowledged the difficulties the COVID-19 pandemic had brought to the world's construction communities, one of which was the escalation of complicated construction conflicts. It followed with a brief introduction of each of the eight sessions, where Chief Justice Zaki Azmi had aptly planted the participants into the flow of the Conference before declaring the Conference officially opened.

Following the special address was an introduction speech of the International Statutory Adjudication Forum (ISAF) made by Mr Chow Kok Fong, the chairman and Dr Naseem Ameer Ali, an expert committee member. The ISAF was established by a group of statutory adjudication experts and currently consists of member from eight jurisdictions. The ISAF focuses on the harmonisation of the laws of statutory adjudication.





“Managing Construction Projects During The COVID-19 Pandemic” was the focus of the Conference's first session when the panel of experts shared their experiences and discussed the lessons they had learnt from the pandemic. Session 1 was moderated by Justice Lee Swee Seng, a sitting Judge of the Court of Appeal from Malaysia. The esteemed panellists were Eric Teo, Sean D. Yates, Riyas Saleem and Nicholas Sunderland.

The second session covered “Condition Precedents For Extension of Time and Loss and Expense Claims”. Session 2 was held as a debate, with Stephen Board serving as the debate moderator. Panellists Hani Al-Naddaf and Marion Smith KC, who spoke on the proposition side, offered their opinions from a civil law perspective. In contrast, Matei Purice and Andrew Heng, representing the other side, spoke from a common law standpoint. This session presented an overview of common law and civil law approaches to the operation of condition precedent provisions.



After the conclusion of Session 4, a cocktail reception followed before the Conference's networking dinner. Co-hosted with Lighthouse Club International, the networking dinner took place at the Sunset Garden of Jumeirah Beach Hotel and provided a mesmerising view overseeing Burj Al Arab. The dinner saw more than 200 diners attend, which offered excellent networking opportunities for all attendees.



The third session focused on the topic of “Expert Evidence in Construction Disputes”. Ayman Saey moderated Session 3, which featured distinguished panellists Guy Elkington, Adv. Ali Ismael Al Zarooni, Lynnda Lim Mee Wan and Derek Nelson. This panel discussion covered some common issues an expert can encounter. The panellists then provided practical recommendations for dealing with them based on their experiences.

The fourth session discussing “The Employer's Right to Liquidated Damages for Delay”, concluded Day 1 of the Conference. Julian Bailey, Mark Raymont, Colin Wilson, and Dr Christopher To make up the distinguished panel for Session 4, which Robert Sliwinski moderated. The panel explored the historical trends, parallels, and discrepancies in how liquidated damages are handled in various jurisdictions.





Day 2 commenced with the fifth session on “Should Statutory Adjudication be Prioritised in Resolving Construction Disputes”. Professor Sundra Rajoo presided over Session 5. Lam Wai Loon, Franco Mastrandrea, David Merritt and Karen Gough were among the outstanding speakers on the panel who explored the application of statutory adjudication in various jurisdictions. They underpinned the importance of statutory adjudication as a means of dispute resolution mechanism which offers an interim binding decision.

The sixth session’s topic was on “Arbitrating Disputes in Energy Projects”. The moderator for the discussion was Ian Greenhough. Kirsten O’Connell, John Coghlan, Akshay Kishore, and Slava Kiryushin made up Ian’s prestigious panel. As energy projects are frequently associated with complex disputes involving new technologies, the panellists advocated employing innovative approaches to present evidence to the arbitral tribunal relating to energy project disputes.

Fatima Balfaqeeh then led a discussion on the concept of “Conducting Arbitration”, which Session 7

covered. During the panel discussion, which featured prominent panellists Michael Davies, Husni Madi, Michael Grose, and Chan Leng Sun, SC, ideas and experiences were shared and exchanged on how the COVID-19 pandemic had altered the way arbitration proceedings were conducted and the preferences of the users in managing the proceedings.

The eighth and final session of the Conference focused on the “Criteria For Choosing an Appropriate Arbitral Institution”. The Moderator was Justice Mary Lim Thiam Suan, a sitting Federal Court Judge of Malaysia, joined by notable panellists Dr Habib Al Mulla, Tatiana Plevshchikova, Dr Dania Fahs, and Ngoga Gakuba Thierry. This all-star panel was brought to life by Justice Mary’s charismatic style of questioning and insightful probes. The panellists actively shared their views and thoughts about the factors that the stakeholders considered when deciding on their preferred arbitration institution.



SESSION 1



SESSION 2



SESSION 3

SESSION 4



SESSION 5

SESSION 6



SESSION 7

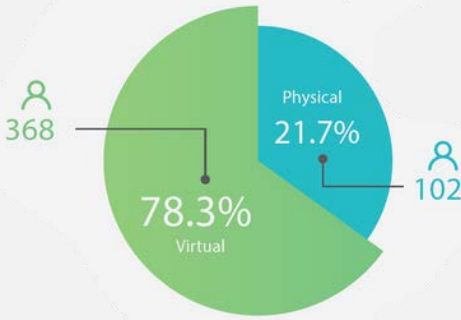
SESSION 8



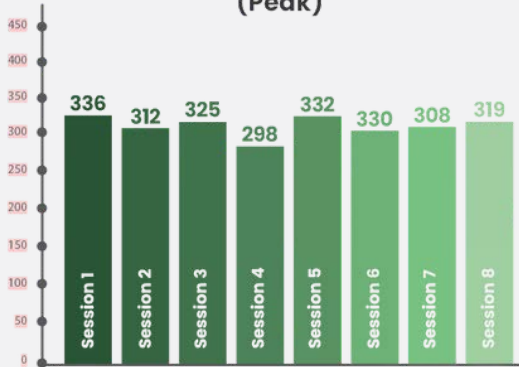


Number of Participants

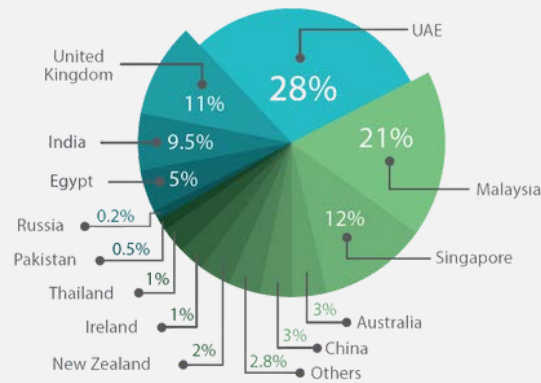
(Based on attendance only)



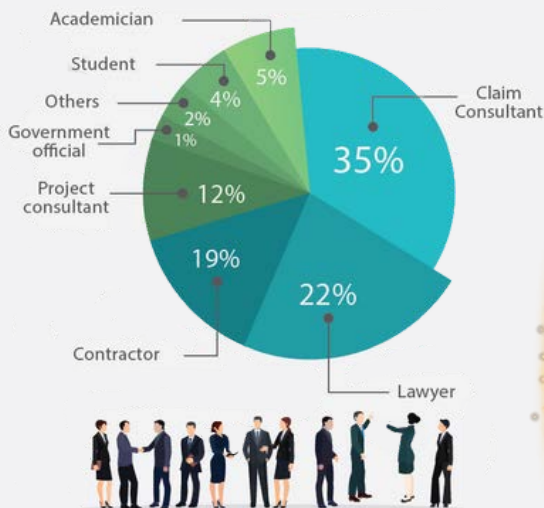
Number of Virtual Participants (Peak)



Participants by Country



Participants by Profession

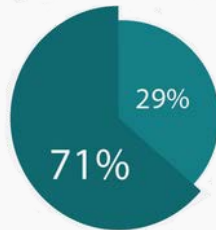


After the Conference, a post-event survey was conducted, and it yielded some very positive responses from the attendees of the Conference. The registration and login procedures were simple, with 71% strongly agreeing and 29% agreeing. As for whether the Conference matched their expectations, 55% of respondents strongly agreed, followed by 48% who agreed, and 1% were undecided. The majority of participants (86%) still choose virtual events, as opposed to the 14% who prefer physical events, even if the world has begun to return to the norm of physical activities. In addition, participants were pleased with the panel's speakers and moderators, with 75% strongly agreeing and 25% agreeing that they were knowledgeable.

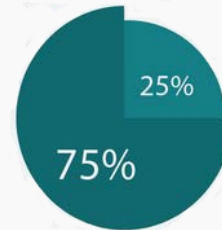
When asked to name their favourite session, it can be deduced that Session 1, "Managing Construction Projects During The Covid-19 Pandemic - What are the Lessons Learned?" and Session 7, "Conducting Arbitration - Now and Beyond: How the Covid-19 Pandemic has changed the way arbitration proceedings are to be conducted, and the user's preference in managing the proceedings?" came out on top.

Last but not least, Husni Madi and John Coghlan were chosen as the favourite speakers, with Justice Mary Lim and Stephen Board selected as the favoured moderators.

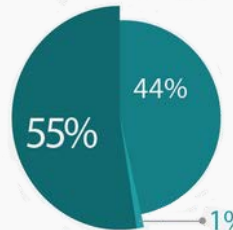
The registration and login process was smooth



The speakers and moderators were knowledgeable



The conference met my expectation



Favourite Sessions

Session 1
Managing Construction Projects During The Covid-19 Pandemic - What are the Lessons Learned?

Session 7
Conducting Arbitration - Now and Beyond: How the Covid-19 Pandemic has changed the way arbitrations proceedings are to be conducted, and the users' preference in managing the proceedings?

Favourite Moderators

Justice Mary Lim

Stephen Board

Favourite Panelists

Husni Madi

John Coghlan

International construction projects were hit hard by the COVID-19 pandemic. As they are now set on the road of post-pandemic recovery, the rise of more complex construction disputes of higher value and volume is inevitable. The practitioners of construction claims and alternative dispute resolution practitioners have a vital role in resolving disputes in the least disruptive manner to the construction industry as a whole. We look forward with great anticipation that the international construction industry will emerge stronger post-pandemic, and we enthusiastically await 2023.

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