

BANKING COMMISSION MEETING -

25th Legal Committee meeting – 11 February 2019 at 2:00 pm

All hours Paris (CET) time

Dial-in instructions to be sent by Laura Straub ICC

[Attendance restricted to Legal Committee members and registered observers]

[Draft] Agenda:

1. Welcome and opening remarks by the Chair.
2. Appointment of recorder for the meeting (in the alphabetical order of the member list, last reporter being Angelia Chia).
3. Review and adoption of the agenda for this 25th meeting.
4. Governance matters, state of membership, induction of new observer.
5. **Eleonore Treu's** report on the Legal Committee website [**Eleonore** to send in advance a link to the website and a list of any member or work product information missing].
6. **Angelika Gouskou's** report on litigation in relation to Swiss Franc loans (Report attached). Georges Affaki to follow up with a brief review of international investment arbitration cases in relation to the same topic.
7. **Georges Affaki** on the need to use a new arbitration clause in proceedings seated in Russia (or PRC) following the Russian Supreme Court decision in Case No. A40-176466/17.¹
 - The disputed clause read: *“any disputes which have not been amicably settled shall be finally settled in international arbitration proceedings. Unless the parties agree otherwise, disputes shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce”*.
 - The new ICC clause now reads: *“All disputes arising out of or in connection with the present contract shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.”*

¹ <http://kad.arbitr.ru/Card/e14833d5-67ca-48a9-adff-78c46640dabe>.

8. **Frieder Bauer and Annette Köhler** to report on the recent Amendments to the German Foreign Trade Ordinance (text attached) in the context of the EU Blocking Regulation (see [Link](#)).
9. Progress report on on-going projects of the Legal Committee:
 - a. **BRRD article 55** – report by **Ron van Staten** on ICC and BAFT action, EU Commission reply, state of the market. General discussion about requiring art. 55 undertakings from post-Brexit UK banks.
 - b. **Asymmetrical jurisdiction clauses:** Georges Affaki to report on recent French Cour de Cassation decision 17-21309 in *re Dexia* (attached).
 - c. **Payment undertakings:** Final report by **Geoff Wynne** (to be submitted in advance).
 - d. **Anti-assignment clauses:** Final report by **Dr Hans Kuhn** (to be submitted in advance).
 - e. **Lorna Strong** on the phasing-out of LIBOR by the end of 2021 and replacing rates now used in syndicated lending.
10. **Law developments in the world.** Committee members are encouraged to report noticeable legal developments in their jurisdiction (or internationally). Reports to be submitted in advance.
11. **26th Legal Committee meeting in Beijing** on 9 April, 2pm local time. General discussion about meeting features and logistics.
12. Any other business.