

Editors in chief: Marijn De Ruyscher, Maarten Draye, Sophie Goldman and Olivier van der Haegen



AGENDA

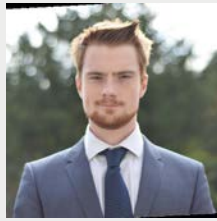
8 MAY 2019	(17:00 - 19:00)	CEPANI40 event on EU law and Arbitration (Brussels)
5 JUN 2019	(18:30 – 22:00)	Evening Conference: appropriate conflict resolution in EPC Project (Antwerp)
6 JUN 2019	(16:00 - 17:00)	General Assembly CEPANI
13-14-15 NOV 2019	(00:00 - 00:00)	50 years CEPANI celebrations

REPORTS

- » [REPORT ON THE CEPANI 40 AND WHITE&CASE SEMINAR ON ORAL ADVOCACY IN INTERNATIONAL ARBITRATION \(OPENING SESSION OF THE BRUSSELS PRE-MOOT\) \(3 APRIL 2019\)](#)
- » [REPORT ON THE BRUSSELS PRE-MOOT \(4-5 APRIL 2019\)](#)
- » [REPORT ON THE CEPANI 40 - WHITE & CASE JOINT EVENT ON THE OCCASION OF THE 26TH WILLEM C. VIS INTERNATIONAL COMMERCIAL ARBITRATION MOOT \(13 APRIL 2019\)](#)

**REPORT ON THE CEPANI 40
AND WHITE&CASE SEMINAR
ON ORAL ADVOCACY IN
INTERNATIONAL
ARBITRATION (OPENING
SESSION OF THE BRUSSELS
PRE-MOOT)**

(BRUSSELS, 3 APRIL 2019)



Jérôme Jacques
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On April 3rd 2019, CEPANI40 and White&Case jointly organised a conference titled **"Oral advocacy in International Arbitration"** as an opening session of the Brussels' Vis Pre-Moot. The Conference was held and presented by White&Case at the Brussels offices. This conference was fully in line with the founding principles of the Moot and Cepani40 which, both, aim at fostering the study of international commercial law and arbitration and providing, to students and young practitioners, access, on top of first-hand experience, knowledge and experience of others.

After a warm welcome and introduction by **Sophie Goldman** (Co-President – Cepani 40), **Nathalie Colin** (Partner – White&Case) and **Alexandre Hublet** (Associate – White&Case) delivered a presentation on the do's and don'ts of an oral pleading in international arbitration based on their experience in the field.

Nathalie Colin started the presentation by drawing the attention of the students and of the audience to the goal they must seek to achieve: to convince. Mrs. Colin did emphasize that, in order for an oral presentation to be effective, it has to respect some key principles: it must necessarily be Clear, Concise, Credible and Convincing (the so-called "four C's").

After stating the obvious need for a thorough preparation, Ms. Colin insisted on the fact that any oral presentation must also be adapted and tailored to the audience. There cannot be a "one-size fits all" approach when it comes to

**REPORT ON THE BRUSSELS
PRE-MOOT**

(BRUSSELS, 4-5 APRIL 2019)



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Earlier this month, on 4 and 5 April 2019, a heated debate took place in Brussels. At stake: fundamental issues relating to international arbitration and international sales law.

The debate was led by students from all over the world, who had come to Brussels for the 6th edition of the Brussels Pre-Moot, a yearly recurring pre-competition for the popular Willem C. Vis International Commercial Arbitration Moot. The students at the Brussels Pre-Moot came from 13 different universities from various parts of the world: Australia, Belgium, Brazil, New Zealand, Paraguay, Russia and The Netherlands.

The students had a chance to test and improve their pleading skills as representatives of the parties involved in the fictitious dispute, which this year concerned an international sales agreement affected by the imposition of a new tariff on agricultural products. The tariff of 30% happened to encompass the product that had been sold by Claimant to Respondent, which led to a dispute regarding the party that should bear the ensuing additional costs.

Before the parties dug deeper into the issue of the unforeseen nature of the changes of circumstances making the performance of the contract more onerous (for the seller in this case) and the right of a party negatively affected

addressing an audience. The background (legal and non-legal) and the culture of an arbitrator are, amongst others, elements that one should bear in mind when preparing. Her last piece of advice was to always introduce and conclude, the presentation must be a "guided tour" of the case with the map given in advance to the arbitrators.

Alexandre Hublet ended the conference by exposing a few tips, tricks and recommendations. After offering a presentation of the ancient wisdom of Aristotle's *Ethos*, *Pathos* and *Logos*, Mr. Hublet shared his experience in the Moot as a participant and the knowledge and experience he gathered in his years of practice. Amongst all the important elements he presented, one particularly caught the attention of the audience: an oral presentation starts when one walks into the room and ends when one leaves.



The conference ended by a networking drink offered by White&Case. In a friendly atmosphere, students and professionals alike had the chance to exchange and discuss the moot, the activities of Cepani40 and International Commercial Arbitration in general. Congratulations to CEPANI 40 and White&Case for the event which was truly enriching and entertaining.

by such changes to request an adaptation of the contract, they first presented their arguments regarding the law applicable to the arbitration proceedings. Indeed, the arbitration agreement contained in the sales contract at issue did not include a reference to any applicable law and deviated from the standard clause contained in the HKIAC Rules (the 2018 Administered Arbitration Rules of the Hong Kong International Arbitration Centre), on the basis of which the parties argued their case. This raised issues as to the power of the arbitral tribunal to grant contract adaptation as a remedy. Fundamentally, the students were asked to think about the distinction between the ordinary scope of powers of an arbitral tribunal, and to what extent the tribunal may go beyond that scope to regulate, in a sense, the future relationship between the parties.

The parties then moved on to the merits of the case, in particular the scope of the badly drafted "hardship clause" contained in the contract, which had also been negotiated by two different teams of negotiators on either side. The parties' representatives therefore pleaded issues of intent in contract drafting and the meaning of economic hardship created by a change of circumstance under the CISG (the United Nations Convention on Contracts for the International Sale of Goods), which does not contain an express hardship rule.

Finally, in order to strengthen its case, Claimant had attempted to introduce into evidence a prior arbitral award, issued in proceedings in which the Respondent was a party, relating to similar issues as the ones at stake in this case. The only problem: the award could only have been obtained through two former employees of the Respondent or by way of a hack of Respondent's computer system. In either case, the award was obtained by illegal means and the Claimant had paid a certain sum to obtain access to it. For this third issue, the students therefore had to argue to what extent evidence obtained by illicit means may be relied upon in arbitration.



Brussels is a popular and dynamic arbitration hub for international disputes. Year after year, students therefore have the chance to compete before and meet renowned Belgian arbitrators, lawyers and professors. For this 6th edition of the Brussels Pre-Moot, the final was arbitrated by **Françoise Lefèvre** (Linklaters), **Vanessa Foncke** (Jones Day) and **Jean-François Tossens** (Tossens Goldman Gonne), who crowned the University of New South Wales as winner of this year's edition. A cocktail reception at the beautiful offices of Linklaters followed to celebrate!

Special thanks go out to Jones Day, Linklaters and Tossens Goldman Gonne for their joint organization of this wonderful event.

**REPORT ON THE CEPANI 40 -
WHITE & CASE JOINT EVENT
ON THE OCCASION OF THE
26TH WILLEM C. VIS
INTERNATIONAL
COMMERCIAL ARBITRATION
MOOT
(VIENNA, 13 APRIL 2019)**



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Brick walls and retro lighting set the scene for this year's CEPANI40 - White & Case joint event on the occasion of the 26th Willem C. Vis International Commercial Arbitration Moot. On 13 April 2019, the Planter's Club, a colonial style bar in the heart of Vienna hosted more than 150 participants who shared the same passion for international commercial arbitration.

The Planter's Club was the perfect venue for this year's CEPANI 40 networking reception. Academics, practitioners, and students from different parts of the world, exchanged views and ideas about the moot problem and shared personal experiences in the field of international arbitration. The event was an ideal opportunity not only to meet friends and colleagues from previous moot court competitions but also to make new acquaintances in the field.



On behalf of White & Case, **Nathalie Colin** (Partner, Brussels) and **Alexandre Hublet** (Associate, Brussels) attended the reception. CEPANI40 was represented by **Sophie Goldman**, co-chair of the CEPANI 40, who gave a warm welcome speech, thanked White & Case for its support and invited everyone to next year's event.

CEPANI40 aims at promoting arbitration in Belgium and abroad by bringing together young students and practitioners interested in the field. To this end, CEPANI40 organizes meetings and events such as the one that took place in Vienna this year. Looking at CEPANI40's tradition in organizing every year successful events, there is great anticipation for what is coming next.

- » **Evening Conference: appropriate conflict resolution in EPC Project: reduction de 30% pour les membres du CEPANI/ 30% korting voor CEPANI-leden**

L'ie-net Consulting Engineers organise en collaboration avec ICC Belgium et le CEPANI une conférence sur le thème suivant: *"Appropriate conflict resolution in major EPC projects: legal and engineer challenges"* le 5 juin 2019, à Anvers, de 18h30 à 22h.

Vous trouverez en ligne le formulaire d'inscription et le programme complet sur www.ie-net.be/epcprojects

Les membres du CEPANI bénéficie d'une réduction de 30% sur les frais d'inscription en insérant dans le formulaire en ligne le code suivant : **CEPANI8102**.

ie-net Consulting Engineers organiseert in samenwerking met ICC Belgium en CEPANI een conferentie m.b.t. het volgende thema *"Appropriate conflict resolution in major EPC projects: legal and engineer challenges"* en dit op 5 juni 2019 in Antwerpen van 18.30 tot 22.00 uur.

U vindt het registratieformulier en het volledige programma online op: www.ie-net.be/epcprojects

CEPANI-leden profiteren van 30% korting op de inschrijvingskosten door de volgende code op het online formulier in te vullen : **CEPANI8102**.

VARIA

- » On Friday 10 May 2019, the **100th Anniversary of the ICC International Court of Arbitration** will take place in Geneva on the topic *"Enforcement, setting aside and related treaty claims: a view from Europe"*. Several parallel events will take place in the morning and the evening will conclude with a cocktail. For the full program and information on how to register, click [here](#)
- » The EUIPO Boards of Appeal, together with the EUIPO Academy and the International Cooperation and Legal Affairs Department of EUIPO, are organising the **second IP Mediation Conference**, which will be held in Alicante on 30-31 May 2019. More information click [here](#)
- » **ICCYAF** will hold its Global Conference in London from 6 to 8 June 2019. For more information, see [here](#).
- » Op vrijdagmiddag 28 juni 2019 wordt het **70-jarig bestaan van het Nederlands Arbitrage Instituut (NAI)** én het afscheid van zijn huidige directeur, Fredy von Hombracht-Brinkman, gevierd in Rotterdam. Vanuit diverse invalshoeken zal worden teruggeblikt op, maar vooral ook gereflecteerd over, de huidige en toekomstige positie van het NAI en de daarbij betrokken "spelers" in het veld van de alternatieve geschillenbeslechting. Een en ander zal vervolgens op feestelijke wijze worden voortgezet. Inschrijven kan via [deze link](#).

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