

Interim Measures in International Arbitration**Developed by:****José Manuel García Represa**, Founding Partner, Wordstone, France**Mélida Hodgson**, Partner, Arnold & Porter, United States; Vice-Chair, ICC Institute of World Business Law

08.30 - 09.00	Registration and welcome coffee
09.00 – 09.05	Welcoming address
09.05 – 09.15	Introduction and presentation of the ICC Institute of World Business Law
09.15 – 10.00	<p>Strategic considerations and procedures: When, how and to whom to request interim measures?</p> <ul style="list-style-type: none"> • Concept: must be temporary • Powers of the ICC arbitral tribunals • Role of the lex arbitriator • When can/should request for interim measures be made? • To whom can/should interim measures be requested: emergency arbitrator, arbitral tribunal, national courts (concurrent jurisdiction) • ICC procedure and statistics: Art. 28 ICC Rules • Specific measures: security for costs, escrow accounts, stop payment orders relating to first demand bank guarantees, and counter-guarantees
10.00 – 10.30	Q&A
10.30 – 11.15	Mock Case
11.15 – 11.30	<i>Coffee break</i>
11.30 – 12.15	<p>Practical considerations: The counsel's perspective</p> <ul style="list-style-type: none"> • Burden of proof • Types of measures that can be requested: a very broad range, but with limitations • Ex-parte requests • Discovery requests before national courts in aid of international arbitration (e.g., 28 USC 1782 requests) • Most common defenses against requests for interim measures
12.15 – 12.30	Q&A
12.30 - 14.00	<i>Lunch</i>
14.00 – 14.45	Mock Case
14.45 – 15.30	<p>Practical considerations: The arbitrator's perspective</p> <ul style="list-style-type: none"> • Asymmetric information with the parties (especially at the outset of the case) • Urgency and due process (can an arbitrator award ex parte measures?) • Risks: pre-judgment, awarding or denying measures may have a permanent effect (e.g., where one of the parties risks liquidation, where assets may disappear, etc.) • Can/should arbitrators take a more active role (e.g., escrow accounts managed by tribunals; order counter-security)
15.30 – 15.50	Q&A
15.50 – 16.15	<i>Coffee break</i>
16.15 – 17.00	<p>Compliance, enforcement and other issues arising after interim measures are ordered/awarded</p> <ul style="list-style-type: none"> • "Order" v. "Award" of interim measures • Enforcement considerations: what can the parties do? • What can arbitrators do faced with a party's refusal to comply with interim measures? • Relevance of civil v. common law jurisdictions.
17.00 – 17.20	Q&A
17.20 – 17.30	Concluding remarks