



# AMPLA / IBA Resources and Energy Law Conference South East Asia

3–5 July 2013

Conrad Centennial Singapore, Singapore

A conference co-presented by AMPLA – The Resources and Energy Law Association and the IBA Energy, Environment, Natural Resources and Infrastructure Law Section (SEERIL), supported by the IBA Asia Pacific Regional Forum

## Topics include:

- **The resources and energy industry in South East Asia: what it is and where it is going?** An economic market analysis of the resources and energy industries in South East Asia and an assessment by legal experts of the areas of legal work generated by these industries
- **The legal processes of energy and resources work:** A look at principal forms of business organisation available in three selected jurisdictions, the common legal processes involved in resources and energy work, and the differences.
- **Model Form Documents:** a review of the valuable resources available to energy and resources lawyers in the model form documents produced by the IBA, AMPLA and the AIPN.
- **The human face of project finance:** strategies to manage the social and cultural impact of financing resources projects in developing nations.
- **Unconventional gas and Asian gas markets** – the rapid development of unconventional gas projects globally has found its way to Asia. What does this mean both as a producer and consumer?
- **Indonesia – changing the resources rules?** What impact will changing rules in Indonesia have on mining and resources investment by current and potential investors in that country?
- **Indian Infrastructure/resources projects and their financing:** A review of issues for lawyers advising international developers, contractors and bankers seeking to undertake/finance infrastructure/resources projects in India.
- **The use of arbitration and expert determination in South East Asia:** A look at their application and use in the region.

## Who should attend?

Private practitioners, in-house counsel and regulators of all levels of experience involved in resources and energy law.



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**AMPLA**  
THE RESOURCES AND ENERGY LAW ASSOCIATION

**UP TO 12.5 CPD POINTS/HOURS AVAILABLE\***

\*As per the Solicitors Regulation Authority of England and Wales. The number of CPD points/hours available may vary for other bar associations and law societies depending on their criteria.

# Programme

## Conference Co-Chairs

Georgia Quick *Ashurst Australia, Sydney, Australia; Director, AMPLA Ltd*

Dennis Quintero *Quisumbing Torres (Baker & McKenzie), Taguig City, Philippines*

## Wednesday 3 July

### 1900 – 2100 **Welcome reception**

*Pool Pavilion, Conrad Centennial Singapore*

The welcome reception will be held in the beautiful outdoor Pool Pavilion at the Conrad Centennial Singapore. Upon arriving in Singapore, delegates will be able to enjoy drinks and the relaxed pool atmosphere while meeting fellow conference attendees.

## Thursday 4 July

### 0850 – 0900 **Welcome remarks by the Conference Co-Chairs**

### 0900 – 1045 **SESSION 1**

#### **The resources and energy industry in South East Asia: what it is and where it is going**

This session will feature an economic market analysis of the resources and energy industries in South East Asia and an assessment by legal experts of the areas of legal work generated by these industries. It will highlight the increased exploration activity in the region, in particular, the emerging energy and resources markets of Vietnam, Cambodia, Myanmar, Laos and Thailand and will consider the legal framework governing the development and operation of mining and energy projects, areas for improvement and upcoming changes. It will also identify common themes in each jurisdiction.

*Session Chair*

**Joao Evangelista Neto** *Legal Counsel, Vale International SA, Singapore*

*Speakers*

**Carol Chapman** *PanAust Mining, Laos*

**Sean Prior** *Ashurst, Jakarta, Indonesia*

**E T Hunt Talmage III** *Chandler & Thong-ek Law Offices Ltd, Bangkok; Past Chair, IBA Energy, Environment, Natural Resources and Infrastructure Law Section (SEERIL)*

**Fernando Valda** *PricewaterhouseCoopers, Singapore*

### 1045 – 1115 **Coffee/tea break**

### 1115 – 1245 **SESSION 2**

#### **The legal processes of energy and resources work**

Despite sharing some common factors and, in some cases, history, each country in the region has distinct mining, resources and investment laws and policies. This session will explore the principal forms of business organisation available in three selected jurisdictions, the common legal processes involved in resources and energy work, and also the differences in various countries and different areas of energy and resources work. It will use minerals and petroleum developments as examples.

*Session Chair*

**Martin Klapper** *HopgoodGanim Lawyers, Brisbane, Australia*

*Speakers*

**Faizah Jamaludin** *Skrine, Kuala Lumpur, Malaysia*

**Luu Hoang Ha** *VILAF, Ho Chi Minh City, Vietnam*

**David Wenger** *Allens, Ulaanbataar, Mongolia*

### 1245 – 1400 **Lunch**

### 1400 – 1530 **SESSION 3**

#### **Model form documents**

The session will review the valuable resources available to energy and resources lawyers in the form of the model form documents produced by the IBA, AMPLA and the AIPN.

Particular focus will be given to the Model Mining Development Agreement (MMDA) assembled by the IBA Mining Law Committee as a tool for use with and in developing countries. The MMDA seeks to provide an agenda for negotiations based on a sustainable development objective that is common to all parties. Its public nature will also allow local communities and civil society groups to contribute in a sound manner to negotiation processes.

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## Thursday continued

### Speakers

**John Grace** *Grace Legal, Melbourne, Australia*

**Barry Irwin** *Allen & Overy, Singapore/Sydney*

1530 – 1600 **Coffee/tea break**

1600 – 1730 **SESSION 4**

### The human face of project finance: strategies to manage the social and cultural impact of financing resources projects in developing nations

The past decade has witnessed a significant increase not only in resource operations and investments in developing and indigenous communities, but increased scrutiny of corporate behaviour by governments, international organisations and, more recently, investors and financiers of resource projects. This paper will consider how social and environmental sustainability is becoming a key issue for regulators and operators alike and will examine how resource companies and players in the project finance sector can navigate the web of international frameworks of corporate behaviour, using the protection of cultural heritage as a focus. Using case studies from the Asia Pacific region, the session will:

- demonstrate the increasing importance of managing social risk for financing of resource projects
- examine the international framework regulating project finance and social and cultural issues
- examine how policies developed by the project finance sector, informed by international frameworks, can address community and international expectations about social and cultural effects of resource companies.

### Session Chair

**Dennis Quintero** *Quisumbing Torres (Baker & McKenzie), Taguig City, Philippines*

### Speakers

**Nicholas Creed** *King & Wood Mallesons, Perth, Australia*

**Gavin Scott** *Ashurst Australia, Brisbane, Australia*

1900 – 2300 **Conference dinner**

*The Private Dining Room, The Jewel Box, Mount Faber*

The conference dinner will be held in the stunning Private Dining Room at The Jewel Box, Mount Faber. With floor-to-ceiling glass windows, it offers spectacular views of the harbour. Delegates and their guests will also be able to experience the iconic Singapore cable car, which provides fabulous bird's eye views of the Singapore city skyline, the harbour and Sentosa.

Price: AUD\$135 per person

## Friday 5 July

0900 – 1020 **SESSION 5**

### Unconventional gas and Asian gas markets

The rapid development of unconventional gas projects globally has been largely running ahead of the regulatory and legal response. The economies of the USA and Australia have been transformed by the development of large scale coal bed methane and shale gas deposits. This session will deal with the prospects for the same transformational change to occur in Asian gas markets through the development of unconventional gas resources, with particular reference to three Asian countries with the greatest unconventional gas resource and market potential – China, Indonesia and India. The speakers will give an update on what is happening globally and in the region and provide an overview and comparison of the regulatory regimes that have been developing in response. They will also discuss the potential impact on existing and future gas supply agreements and gas markets generally.

### Session Chair

**Peter Rose** *Johnson Winter & Slattery, Melbourne, Australia*

### Speakers

**Toby Hewitt** *General Counsel, Dart Energy, Singapore*

**Nicholas Song** *Vinson & Elkins, Beijing, China*

1020 – 1045 **Coffee/tea break**

1045 – 1215 **SESSION 6**

### Indonesia – changing the resources rules?

In recent times, Indonesia has:

- issued a presidential decree requiring foreign investors to reduce their shares in mining projects to a maximum of 49 per cent within ten years from the date of commencement of production
- sought to bring forward the effective deadline for domestic processing and refining from the long established 2014 date to May 2012
- sought to impose similar processing and refining obligations, and vary other major terms, of existing Contracts of Work
- sought to introduce a special export tax on certain unprocessed mineral products; and
- from time to time sought to impose royalties by regulation.

What is the current status of these initiatives and others too numerous to list? Are all these proposals likely to have any significant effect on resources investment strategy by current and potential investors in Indonesia?

### Session Chair

**Peter Walker** *Peter Walker Project Lawyer, Darwin, Australia*

### Speakers

**Haydn Dare** *Herbert Smith Freehills, Jakarta, Indonesia*

**Rahmat Soemadipradja** *S&T Advocates, Jakarta, Indonesia*

1215 – 1315 **Lunch**



### Continuing Professional Development/Continuing Legal Education

For delegates from countries where CPD/CLE is mandatory, the International Bar Association or AMPLA (as appropriate) will be pleased to provide a Conference Certificate of Attendance which, subject to the exact CPD/CLE requirements, may be used to obtain the equivalent accreditation in your jurisdiction.

This conference has been accredited for CPD/CLE by the Solicitors Regulation Authority of England and Wales, the Malaysian Bar Council and equivalent in Australia (including Western Australia, for which AMPLA is an accredited QA provider) and SE Asia. The maximum number of points for practitioners registered in Western Australia is 7 points and with the Malaysian Bar Council is 10 points. New York and Californian attorneys may submit their certificates of attendance issued, and apply this credit earned to their New York and Californian CLE requirement. Delegates should ask staff at the registration desk for information as to how to obtain the hours.

# Friday continued

1315 – 1445 **SESSION 7**

## Indian infrastructure/resources projects and their financing

This session is aimed at lawyers advising international developers, contractors and bankers seeking to undertake/finance infrastructure/resource projects in India. The session will cover energy and mining projects from the legal perspective, dealing with:

- tender guidelines for these projects under current Indian federal and state legislation
- the bidding processes
- status of procurement of coal/electricity/gas
- state concessions
- environmental requirements and regulation
- the impact of recent judgements affecting Indian energy/mining projects
- financing opportunities

From the commercial/financial perspective, the commercial and financial issues which have significant bearing on the attractiveness of the projects and investment decisions and the strategies adopted by investors in the past which have been successful, changing trends in business environment and possible investment strategies for future investors.

### Session Chair

**Tony Wassaf** *Jones Day, Sydney, Australia; Council Member, IBA Energy, Environment, Natural Resources and Infrastructure Law Section (SEERIL)*

### Speakers

**Abhay Athalye** *Avanti Infra Advisory, Mumbai, India*

**Prashanth Sabeshan** *Majmudar & Partners International Lawyers, Bangalore, India*

### Commentator

**Robert Nelson** *Akin Gump Strauss Hauer & Feld LLP, Abu Dhabi/San Francisco*

1445 – 1515 **Coffee/tea break**

1515 – 1715 **SESSION 8**

## The use of arbitration and expert determination in South East Asia

### Expert determination

Expert determination has long been used in the UK and Australia as a fast and cost-effective alternative dispute resolution mechanism. More recently, parties in Hong Kong, Malaysia and Singapore have turned to expert determination for the resolution of disputes.

This session will explore the differences between common law (where expert determination is unsupported by legislation and the expert determination agreement is key) and civil law jurisdictions (which have

differing approaches) and consider the key issues in relation to expert determination agreements, including:

- appropriate subject matter for expert determination
- appointment of an appropriate expert
- common pitfalls in drafting expert determination clauses
- overview of a typical expert determination process
- enforcement of expert determinations
- challenging expert determinations

### Arbitration of energy and resources disputes

In a region of both historical and emerging industries, where processes are different and old and new technologies clash, how should risks in energy and resources work be managed and disputes arbitrated so that the parties feel that the process is ultimately beneficial? This session will examine the very real problem of managing and diffusing risk in the course of energy and resources projects. It will also examine the thinking that there is an Asian cultural attitude to the resolution of disputes, seen in an aversion to open and direct conflict and a preference for a mediated or party-negotiated result. Speakers will also comment on how some risks nevertheless develop into disputes and how expert evidence and other aspects of arbitration can be used efficiently. Finally, there will be a survey of the enforcement of international arbitration awards in South East Asian courts.

### Session Chair

**Georgia Quick** *Ashurst Australia, Sydney, Australia; Director, AMPLA Ltd*

### Speakers

**Alastair Henderson** *Herbert Smith Freehills, Singapore*

**Naresh Mahtani** *Eldan Law LLP, Singapore*

**Vinayak Pradhan** *Skrine, Singapore; President of the Chartered Institute of Arbitrators*

**Philip Jeyaretnam SC** *Rodyk & Davidson LLP/Maxwell Chambers, Singapore*

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# Information

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## Date

3–5 July 2013

## Venue

Conrad Centennial Singapore  
Two Temasek Boulevard  
Singapore 038982  
Tel: +65 6334 8888  
Fax: +65 6333 9166  
Email: [singaporeinfo@conradhotels.com](mailto:singaporeinfo@conradhotels.com)  
[www.conradhotels.com](http://www.conradhotels.com)

## Language

All working sessions and conference materials will be in English.

## How to register

Please go to [www.ampla.org](http://www.ampla.org).

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## Fees

*Online registrations received:*

	on or before 28 May	after 28 May
AMPLA/IBA member	AUD\$1250	AUD\$1480
Non-member*	AUD\$1590	AUD\$1820
Conference dinner	AUD\$135	AUD\$135

\*If you would like to become a member of AMPLA or the IBA – we encourage you to do so now in order to register for this conference at the member rate. Full details of how to join can be found at [www.ampla.org](http://www.ampla.org) and [www.ibanet.org](http://www.ibanet.org) respectively.

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

## Fees include:

- Attendance at all working sessions
- Conference materials, including any available speakers' papers submitted to the IBA before **7 June**
- 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
- Lunch on Thursday 4 July and Friday 5 July
- Tea and coffee during breaks
- Welcome reception on Wednesday 3 July

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

**Guests are not permitted to attend the working sessions or conference lunches.**

## List of participants

In order for your name to appear in the list of participants, which will be distributed at the conference, your registration must be completed by **21 June** at the latest.

## Payment of registration fees

Payment methods available are American Express, Visa, Mastercard, cheque and direct transfer.

Full information is available on the AMPLA website ([www.ampla.org](http://www.ampla.org)).

## 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.

## Conference sell-outs

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



*International Law Section*



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## Cancellation of registration

If cancellation is received in writing to Georgie Smibert ([g.smibert@ampla.org](mailto:g.smibert@ampla.org)), by **7 June 2013** fees will be refunded less a 25 per cent administration charge. We regret that no refunds can be made after this date.

## 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.**

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## Hotel accommodation

A limited number of rooms have been reserved at the Conrad Centennial Singapore for the nights of 3–4 July inclusive.

### Conrad Centennial Singapore

Two Temasek Boulevard  
Singapore 038982  
Tel: +65 6334 8888  
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[www.conradhotels.com](http://www.conradhotels.com)

The following rates are per room, per night and exclude breakfast, service charges and local taxes.

Classic rooms:

Single/double occupancy S\$340 per night

Business floor rooms (includes business floor privileges\*):

Single occupancy S\$380 per night

Double occupancy S\$410 per night

Executive floor rooms (includes executive floor privileges\*):

Single occupancy S\$440 per night

Double occupancy S\$490 per night

\*see hotel website for further information.

To make your booking please follow the hotel link on the AMPLA website.

## Cancellation and no-show policy

Please note that in the event of any cancellations or no-shows, in accordance with the hotel's terms and conditions, rooms will be charged to the individual guest's credit card given at the time of booking.

Please note that any reservation made after **3 June** will be subject to availability and cannot be guaranteed at the special AMPLA/IBA rate.

**As a limited number of rooms have been blocked at the hotel, availability cannot be guaranteed once the room block is full.**

Delegates are responsible for making accommodation reservations directly with the hotel and entering into an agreement with the hotel regarding credit card guarantees, cancellation terms and conditions, and room rates (should these differ from the special AMPLA/IBA rate). AMPLA/IBA cannot accept responsibility for hotel accommodation disputes between a delegate and the hotel.

## Disabled access

The Conrad Centennial Singapore is wheelchair accessible. Please notify us if you require special assistance.

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## 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 and AMPLA. Organisations and companies wishing to discuss promotional opportunities should contact the Sponsorship Department at AMPLA ([s.timbs@ampla.org](mailto:s.timbs@ampla.org)) or the IBA ([sponsorship@int-bar.org](mailto:sponsorship@int-bar.org)).

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).



## THE RESOURCES AND ENERGY LAW ASSOCIATION

**AMPLA – The Resources and Energy Law Association** was established in 1976 by a group of young lawyers keen to know more about the law and practice relating to resources and energy. Over the years, the interests of AMPLA have extended to include climate change, emissions trading, the environment, native title and all legal aspects of energy production and marketing. AMPLA has grown to form a network of branches across Australian States and Territories, with members in overseas countries including New Zealand, Japan, Singapore, Indonesia, Hong Kong, China, Africa, the United States and the United Kingdom.

Each year, AMPLA holds its **National Conference** which, over 2½ days, brings together Australian and international experts willing to share their knowledge and experience on a comprehensive range of topical issues.

On a biennial basis, AMPLA co-presents, with the IBA Energy, Environment, Natural Resources and Infrastructure Law Section (SEERIL) with the support of the IBA Asia Pacific Regional Forum, the **AMPLA / IBA Resources and Energy Law Conference South East Asia**.

AMPLA publications provide the largest and most comprehensive source of information and comment on resources and energy law in Australia. Our members receive the **Australian Resources and Energy Law Journal (ARELJ)** which we produce three to four times each year in association with The Centre for Resources, Energy and Environmental Law of the University of Melbourne, The Centre for Mining Energy and Natural Resources Law of the University of Western Australia and The School of Law of the University of Waikato, New Zealand. AMPLA also publishes the **AMPLA Yearbook** which is now a series of 29 volumes that record proceedings of the National Conferences. These contain hundreds of scholarly and practical articles on subjects including oil and gas, mining, energy, water, environmental, climate change, emissions trading, international, native title, trade practices, finance, tax, corporate and contract law.

AMPLA has released a series of **Model Documents** for the minerals industry including:

- English and Spanish versions of a *Model Mining Services Contract*, which comprises a main contract together with additional optional, alternative and special coal and iron ore clauses which may be used with the main contract document.
- A suite of *Joint Venture Model Documents* which includes exploration joint venture and farm-in agreements and deeds of assignment. These cover all normal basic provisions required for a minerals exploration joint venture in any State or Territory of Australia.

All Model Documents are available for viewing in PDF format on the AMPLA website at [www.ampla.org](http://www.ampla.org) and may be obtained in Word format at no charge to AMPLA members.

**State and Territory Branches** of AMPLA hold regular seminars dealing with national and international areas of interest to our members. Our branch meetings, seminars, workshops and courses, together with the National Conferences, provide a great opportunity to meet and share ideas with corporate and private practitioners, academics, regulators and policy makers involved in resources and energy law from Australia, New Zealand and overseas. AMPLA also funds **university course prizes** for resources and energy law throughout Australia.

If you would like to know more about AMPLA or you are interested in becoming a **member**, please visit our website [www.ampla.org](http://www.ampla.org) or contact the AMPLA Member Services manager, Katherine Mittas on telephone +61 3 9670 2544 or by email at [k.mittas@ampla.org](mailto:k.mittas@ampla.org).



# International Bar Association

## the global voice of the legal profession

The **International Bar Association** (IBA), established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world.

It has a membership of more than 50,000 individual lawyers and over 200 bar associations and law societies spanning all continents. It has considerable expertise in providing assistance to the global legal community.

Grouped into two divisions – the **Legal Practice Division** and the **Public and Professional Interest Division** – the IBA covers all practice areas and professional interests, providing members with access to leading experts and up-to-date information. Through the various committees of the divisions, the IBA enables an interchange of information and views among its members as to laws, practices and professional responsibilities relating to the practice of business law around the globe.

Additionally, the IBA's high-quality publications and world-class conferences provide unrivalled professional development and network-building opportunities for international legal practitioners and professional associates.

### **Bar Issues Commission**

The IBA's Bar Issues Commission provides an invaluable forum for IBA member organisations to discuss all matters relating to law at an international level. Representatives from Bar Associations sit on the IBA Council which is the governing body of the IBA.

### **IBA Human Rights Institute**

The IBA Human Rights Institute (IBAHRI) works across the Association to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide.

### **IBA Section on Energy, Environment, Natural Resources and Infrastructure Law (SEERIL) overview**

The Section on Energy, Environment, Natural Resources and Infrastructure Law (SEERIL) has a membership of 2,400 lawyers in private practice, oil and mining companies, international organisations, government and academia. The section coordinates the activities of six committees: Environment, Health and Safety Law; International Construction Projects; Mining Law; Oil and Gas Law; Power Law and Water Law; each of which aim to advance the development and understanding of national and international laws affecting these areas. The United Kingdom Energy Lawyers Group is also part of the section.

Published quarterly, and sent to all SEERIL Members, is the section's 'Journal of Energy and Natural Resources Law'. The editor, Don C Smith, is assisted by an Editorial Advisory Board comprised of members of the Academic Advisory Board (AAG) of SEERIL. Together, the editor and the Editorial Advisory Board bring to the journal an unsurpassed expertise in all areas of energy and natural resources law.

In addition to individual Committee Conferences, the entire SEERIL Section holds a biannual conference in different locations around the world. Since 2010, SEERIL's Biennial Conferences have produced a Protocol which have outlined the findings of the conference, and which set the agenda for SEERIL for the years to come. These documents are produced by rapporteurs from all the conference sessions and are discussed in depth on the final day.

The Toronto Protocol was drawn up at SEERIL's Biennial Conference in 2010. The Santiago Protocol was drawn up at SEERIL's Biennial Conference in 2012.

### **Contact information**

#### **International Bar Association**

4th Floor, 10 St Bride Street, London EC4A 4AD, United Kingdom

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[www.ibanet.org](http://www.ibanet.org)





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