Trade Finance for the 21st Century

On 8 & 9 March 2018, the National University of Singapore (NUS) Centre for Banking & Finance Law (CBFL) in collaboration with Oxford University, hosted a Symposium entitled ‘Trade Finance for the 21st Century’ at the NUS Faculty of Law (Bukit Timah Campus). Organized by CBFL’s founding Director, Associate Professor Dora Neo and Associate Professor Christopher Hare (University of Oxford), the symposium examined significant controversies, recent developments and future directions with respect to the financing of international trade.

Participants of the ‘Trade Finance for the 21st Century’ Symposium (Day 1)

Top row (from left to right): Mr Toh Kian Sing (Rajah and Tann Singapore LLP), Prof Benjamin Geva (Osgoode Hall Law School, York University), Prof Nelson Enonchong (University of Birmingham), Prof Michael Bridge (NUS), Prof Agasha Mugasha (University of Essex), Prof Gao Xiang (China University of Political Science & Law)

Bottom row (from left to right): Mr Chang Chi Hoong (HSBC), Dr Soh Chee Seng (Consultant), Assoc Prof Ebenezer Adodo (University of Leicester), Assoc Prof Sandra BooySEN (NUS), Assoc Prof Dora Neo (NUS, Convener), Assoc Prof Christopher Hare (University of Oxford, Co-Convener), Dr Alan Davidson (University of Queensland)

Not in picture: Prof James Byrne (Institute of International Banking Law and Practice), Mr Chan Leng Sun SC (Baker & McKenzie.Wong & Leow), Prof Charles Debattista (St Philips Stone Chambers)
Participants of the ‘Trade Finance for the 21st Century’ Symposium (Day 2).

Top row (from left to right): Mr Chang Chi Hoong (HSBC), Mr Adrian Tan (Standard Chartered Bank), Prof Charles Debattista (St Philips Stone Chambers), Prof Michael Bridge (NUS), Prof Nelson Enonchong (University of Birmingham), Dr Alan Davidson (University of Queensland), Mr Baldev Bhinder (Joseph Tan Jude Benny LLP)

Bottom row (from left to right): Prof Gao Xiang (China University of Political Science & Law), Assoc Prof Sandra Booysen (NUS), Prof Agasha Mugasha (University of Essex), Assoc Prof Dora Neo (NUS, Convener), Assoc Prof Christopher Hare (University of Oxford, Co-Convener), Assoc Prof Ebenezer Adodo (University of Leicester), Prof Benjamin Geva (Osgoode Hall Law School, York University), Dr Soh Chee Seng (Consultant), Prof Martin Davies (Tulane University Law School)

Not in picture: Ms Radish Singh (Deloitte & Touche Financial Advisory Services), Prof Jane Winn (University of Washington), Ms Elaine Lee (Standard Chartered Bank)
Overview of the Symposium
The volume of international trade continues on a rising trajectory with global economic development and new trading relationships. Established tools of trade financing such as the documentary letter of credit and its related instruments must be re-examined. Advancements in technology have led to fresh opportunities, including the use of blockchain and the switch to electronic forms of documentation. Banks have devised new methods of financing, for instance, the bank payment obligation. This Symposium brings together international legal experts to address these and other developments that are vital to trade finance for the 21st century.

Convened by
Assoc Prof Dora Neo, National University of Singapore
Assoc Prof Christopher Hare, University of Oxford

Participation is by invitation only
For more information, please contact Ms Germaine Tan at cbfl@nus.edu.sg
8 March 2018, Thursday

08.45 Registration

09.00 – 09.15 Welcome
Professor Simon Chesterman, Dean, NUS Law
Associate Professor Dora Neo, Convenor, National University of Singapore
Associate Professor Christopher Hare, Co-Convenor, University of Oxford

Morning session

09.15 – 10.15 Opening Presentation (Via Skype)
Towards the UCP 700
Professor James Byrne, Institute of International Banking Law and Practice, USA

Discussant: Dr Soh Chee Seng, Technical Adviser, Association of Banks in Singapore

10.15 – 10.35 Coffee Break

10.35 – 11.20 Implementation and implications of the UNCITRAL Model Law on Electronic Transferable Records in trade finance
Dr Alan Davidson, University of Queensland, Australia

Commentator: Professor Benjamin Geva, Osgoode Hall Law School, York University, Canada
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| 11.20 – 12.05 | *Whose bill of lading is it anyway? Drilling back from the UCP600 into the contracts of sale and carriage*  
Professor Charles Debattista, St Philips Stone Chambers, UK  
*Commentator: Mr Chan Leng Sun SC, Baker & McKenzie. Wong & Leow* |
| 12.05 – 13.15 | **Lunch**  
BTC Staff Lounge, Block B |
| **Afternoon session** |  
**13.15 – 14.00** | *The electronic bill of exchange and its use in international trade*  
Professor Benjamin Geva, Osgoode Hall Law School, York University, Canada  
*Commentator: Associate Professor Sandra Booysen, National University of Singapore* |
| **14.00 – 14.45** | *Linked Trade Finance*  
Associate Professor Christopher Hare, University of Oxford, UK  
*Commentator: Professor Nelson Enonchong, University of Birmingham, UK* |
| **14.45 – 15.05** | **Coffee Break** |
| **15.05 – 15.50** | *Grains and Industrial Products Trading Pte Ltd v Bank of India [2016] 3 SLR 1308: Agency and Beyond*  
Mr Toh Kian Sing, SC, Rajah and Tann Singapore LLP  
*Commentator: Dr Soh Chee Seng, Technical Adviser, Association of Banks in Singapore* |
| **15.50 – 16.35** | *Independent guarantees in international trade*  
Associate Professor Dora Neo, National University of Singapore  
*Commentator: Professor Agasha Mugasha, University of Essex, UK* |

**END OF DAY 1**
9 March 2018, Friday

Morning session
09.00 – 09.45  Special presentation
Practical aspects of trade finance
Mr Adrian Tan, Standard Chartered Bank
Ms Radish Singh, Deloitte & Touche Financial Advisory Services

09.45 – 09.50  Coffee Break

09.50 – 10.35  The letter of credit as a contract
Associate Professor Sandra Booysen, National University of Singapore
Commentator: Professor Martin Davies, Tulane University Law School, USA

10.35 – 11.20  Soft clauses in letters of credit
Professor Martin Davies, Tulane University Law School, USA
Commentator: Associate Professor Ebenezer Adodo, University of Leicester, UK

11.20 – 11.40  Coffee Break

11.40 – 12.25  Determining a complying presentation: Emerging approaches in Anglo-American case law to a perennial problem
Associate Professor Ebenezer Adodo, University of Leicester, UK
Commentator: Professor Gao Xiang, China University of Political Science & Law, PRC

12.25 – 13.10  Fraud or material fraud? The standard of fraud under the fraud rule in the law of letters of credit revisited
Professor Gao Xiang, China University of Political Science & Law, PRC
Commentator: Professor Charles Debattista, St Philips Stone Chambers, UK

13.10 – 14.10  Lunch
BTC Staff Lounge, Block B

Afternoon session
14.10 – 14.55  Will trade finance be transformed by blockchain? (Via Skype)
Professor Jane Winn, University of Washington, USA
Commentator: Ms Elaine Lee, Standard Chartered Bank

14.55 – 15.40  The bank payment obligation as a challenger to the letter of credit
Professor Agasha Mugasha, University of Essex, UK
Commentator: Dr Alan Davidson, University of Queensland, Australia

15.40 – 16.00  Coffee Break

16.00 – 16.45  Choice-of-law rules for contracts in a letter of credit transaction and the reach of stop payment orders made in the issuer’s country
Professor Nelson Enonchong, University of Birmingham, UK
Commentator: Professor Michael Bridge, National University of Singapore

END OF DAY 2
**BIOGRAPHIES**  
*(in order of family name)*

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**Ebenezer Adodo** holds LLM by research and PhD in law degrees from the National University of Singapore, and was called to the bar as barrister and solicitor nearly twenty years ago. After a three-year stint with the University of Surrey and a visiting lectureship at King’s College London, he joined the University of Leicester in January 2016. He is Associate Professor of commercial law, Director of Leicester LLM Programmes, and a Fellow of the UK Higher Education Academy. He serves as an external examiner to the University of Nottingham Trent and University of Essex in England. His primary specialism embraces international trade finance law, contracts of affreightment, marine cargo insurance, commercial conflict of laws, and cross-border sale of goods transactions. He has a substantial number of pieces in these areas. He is the author of *Letters of Credit: The Law and Practice of Compliance* (Oxford University Press), with a forward contributed by Lord Clarke of the UK Supreme Court.

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**Sandra Booysen** is an Associate Professor at the National University of Singapore with research interests in contract and banking law. She has published in a variety of international journals and is co-editor of *Can Banks Still Keep a Secret? Bank Secrecy in Financial Centres around the World* (Cambridge University Press, 2017). Sandra is an Executive Committee Member of NUS Law’s Centre for Banking and Finance Law, and the Case and Legislation Notes Editor of the Singapore Journal of Legal Studies. A graduate from Rhodes University and the University of the Witwatersrand, South Africa, Sandra started her legal career in commercial litigation in London and Johannesburg. She has been admitted as a solicitor in England and Wales and as an attorney and notary in South Africa. After moving to Singapore and completing her PhD, she joined NUS Law in 2009.

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**Michael Bridge** is an honorary Queen’s Counsel and a Fellow of the British Academy. He obtained his bachelors and masters degrees from the London School of Economics. Michael started his academic career at the Universities of Leicester and Leeds before moving to Canada, where he held the position of Professor of Law at McGill University, Montreal. On his return to England, he was the Hind Professor of Commercial Law at the University of Nottingham, and Head of the Law Department for several years, later the Professor of Commercial Law at University College London, where he was also Executive Dean of the Faculty of Laws. He is currently a Professor Law at the National University of Singapore’s Faculty of Law, a Senior Research Fellow at Harris Manchester College, University of Oxford, a Visiting Professor at Queen Mary University of London, and a Professor Emeritus at the London School of Economics.

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**James E. Byrne** is the Director of the Institute of International Banking Law & Practice, Inc. and retired from the George Mason University School of Law. He is the Editor of *Documentary Credit World*, a monthly journal of letter of credit law and practice. He chaired and served as Reporter for the International Standby Practices (ISP98), is co-drafter of the ISP98 Model Forms, regularly attends the meetings of the ICC Banking Commission, and has served on consulting group on the revision of UCP500, the ICC’s Working Group on Electronic Credits charged with drafting the first version of the eUCP, and its Task Force that drafted International Standard Banking Practice (2003). He served as head of the U.S. Delegation to UNCITRAL in drafting the 1995 United Nations Convention on Bank Guarantees and Standby Letters of Credit and has written and lectured extensively on letters of credit and international commerce and banking in more than 35 countries.
Leng Sun Chan is Baker & McKenzie’s Global Head of Arbitration. He is a Senior Counsel of the Supreme Court of Singapore and is also qualified in Malaysia and England. Leng Sun has a broad commercial practice that covers maritime law, international trade and company law. Leng Sun is a Chartered Arbitrator, the Deputy Chairman of the Singapore International Arbitration Centre (SIAC) and a member of the ICC Commission on Arbitration and ADR. He is the Deputy Chairman of the SGX (Singapore Exchange) Appeals Committee and the Immediate Past President of the Singapore Institute of Arbitrators. Leng Sun is recognized among the top lawyers worldwide by 'Who's Who Legal - Litigation 2017' and "Who's Who Legal - Arbitration 2017". He is described by Chambers Asia-Pacific 2017 as "one of the best arbitrators and practitioners in arbitration."

Alan Davidson an academic at the TC Beirne School of Law, University of Queensland. He is a solicitor and barrister of the Supreme Court of New South Wales and of the High Court of Australia. His book Social Media and Electronic Commerce Law has been published in two editions by Cambridge University Press. He has also published The Internet for Lawyers and The Internet for Accountants and numerous articles, interactive computer based workbooks and teaching manuals. Since 2011 Dr Davidson has participated in UNCITRAL Working Group IV (E-Commerce) in Vienna and New York biannually, and in 2014 was invited to join its Panel of Experts. He is a Director and Fellow of UNCCA and he presents courses in International Trade Law, International Trade Finance Law, Banking Law and Electronic Commerce Law. He has been a visiting academic in the USA, Thailand, Indonesia, Singapore and China.

Martin Davies is Admiralty Law Institute Professor of Maritime Law at Tulane University Law School in New Orleans, Director of the Tulane Maritime Law Center, and Professorial Fellow at Melbourne Law School, Australia. He holds the degrees of M.A. and B.C.L. from Oxford University, England, and an LL.M. from Harvard Law School. Before joining Tulane, he was Harrison Moore Professor of Law at The University of Melbourne in Australia and before that he taught at Monash University, The University of Western Australia and Nottingham University. He has also been a visiting professor at universities in China, Italy, Azerbaijan and Singapore. He has received several teaching awards, and in 2017, the editors of the law report series American Maritime Cases dedicated that year’s bound volumes to him.

Charles Debattista practises dry shipping and international trade law from St Philip Stone Chambers in London, both as counsel and as an arbitrator. The central focus of his practice is in bills of lading, charterparties, international sale of goods and letters of credit. Apart from practising in these areas, Charles has for many years worked with the ICC on successive versions Incoterms and the UCP; back in the 1990s he was one of the main consultees on what was to become the UK Carriage of Goods by Sea Act 1992. In an earlier life, Charles was a University Professor teaching and writing in the same areas, and his writing, which has been cited in both English and Singaporean courts, focuses on problems which the bill of lading document faces when there is a mismatch between the contracts of sale, carriage and credit.
Nelson Enonchong is the Barber Professor of Law at the University of Birmingham. He read law at the University of Yaounde and at Jesus College, Cambridge. He was a Lecturer and Reader at the University of Leicester before joining the University of Birmingham as Barber Professor of Law in 2001. He was called to the Bar at the Inner Temple, London, and practices as an associate member of No5 Chambers, Birmingham. He is a Fellow of the Chartered Institute of Arbitration. His publications include The Independence Principle of Letters of Credit and Demand Guarantees (2011, Oxford University Press), Duress, Undue Influence and Unconscionable Dealing (2nd edn, 2012, Sweet & Maxwell) and Illegal Transactions (1998, Lloyd’s of London Press).

Xiang Gao is Dean of the College of Comparative Law of China University of Political Science & Law (CUPL), Director for the Centre of International Banking Law & Practice at CUPL in the PRC, and also Professor of Law at the Faculty of Law of the University of Technology Sydney, Australia. He is a member of the Legal Committee of the ICC Banking Commission and the Group of Experts in International Settlement of the ICC China Banking Commission, and fellow of the Institute of International Banking Law & Practice in the US. He was judge of the Supreme People’s Court of the PRC, who drafted the Rules of the Supreme People’s Court concerning Several Issues in Adjudicating Letter of Credit Cases in the PRC. He was also involved in the drafting of the Several Provisions of the Supreme People’s Court concerning Adjudicating Cases of Independent Guarantees published in 2016.

Benjamin Geva graduated in Jerusalem and Harvard and is a leading international legal expert on payment instruments and methods, bank deposits and collections, credit transactions and facilities, electronic banking, digital currencies and payment system regulation. He is Professor of Law at Osgoode Hall Law School of York University, Toronto, Canada (on the faculty since 1977); Counsel, payments and cards group in Torys LLP, Toronto (since 2012). He has written and published extensively in his areas of expertise and held visiting positions and fellowships in the US, Australia, Singapore, Israel, UK, Germany and France. In 2011 he published his book on the Medieval Payment Order. On behalf of the IMF Benjamin has advised on and drafted key financial sector legislation, mostly in relation to payment and settlement systems, for the authorities of several developing and post–conflict countries. He has also been involved in various law reform projects.

Christopher Hare is the Travers Smith Associate Professor of Corporate and Commercial Law, Oxford University and a Fellow of Somerville College, Oxford. He has degrees from Cambridge, Oxford and Harvard Law School and, after a short period practising as a barrister from 3 Verulam Buildings, he held teaching posts at Jesus College, Cambridge University and the University of Auckland, New Zealand. His research interests lie generally in the private, commercial and corporate law fields with a specialist focus on banking law. He is one of the editors of Ellinger’s Modern Banking Law (OUP, 5th ed, 2011) and Principles of Banking Law (OUP, 3rd ed, 2017) and has contributed new chapters to Paget’s Law of Banking (LexisNexis, 14th ed, 2015).
Elaine Lee is Head of Legal Cash and Digitisation & Client Access, Legal TB SG with Standard Chartered Bank. She is a corporate counsel with over 20 years’ regional Asia Pacific experience with specialisation in information technology law and digital payments commercialisation and regulation. She is responsible for legal support of Standard Chartered Bank’s innovation and digitisation initiatives in Transaction Banking. Prior to joining Standard Chartered Bank, Elaine spent over 14 years with a global payments technology company as regional legal counsel supporting new product development and launch, regulatory compliance, privacy and intellectual property. Elaine is admitted to practise in Singapore, New South Wales, Australia and New York, USA.

Agasha Mugasha is a Professor of Law at the University of Essex, United Kingdom, where he lectures in international financial law, international trade finance law, banking law, and general commercial law. His academic career began in New Zealand and Australia, where he authored The Law of Letters of credit and Bank Guarantees (Federation Press, 2003) before moving to the UK and authoring The Law of Multi-Bank Financing (Syndicated Loans and the Secondary Loan Market) (Oxford University Press). He has also lectured in a number of countries including Canada and USA. In 2011-15 he served as the Chairperson of the Uganda Law Reform Commission and has a continuing interest in the application of the law in real-life situations. Agasha is a member of the International Academy of Commercial and Consumer Law, and the International Monetary Committee of the International Law Association.

Dora Neo is an Associate Professor and the founding Director of the Centre for Banking & Finance Law (CBFL) at the Faculty of Law, National University of Singapore (NUS), where she teaches contract, credit & security and international banking and previously served as Vice-Dean. She is co-author of Ellinger & Neo, The Law and Practice of Documentary Letters of Credit (Hart Publishing, 2010) and co-editor of Booysen & Neo, Can Banks Still Keep a Secret? Bank Secrecy in Financial Centres Around the World (Cambridge University Press, 2017). She is a graduate of Oxford and Harvard Universities, and was called to the Bar in England and in Singapore. She is a member of the Accreditation Committee of the Singapore Institute of Legal Education, and has taught at universities including the University of Aix Marseille III, France and the East China University of Political Science and Law in Shanghai, China.

Radish Singh has over 20 years of experience in financial services regulations, compliance, anti-bribery and corruption, conduct of business and FCC [anti money laundering (AML)/Sanctions / counter financing of terrorists (CFT)]. She currently leads Deloitte’s South East Asia FCC practice. Her clientele includes major global and local Banks in Singapore. Her experience includes regulatory compliance, FCC and Know Your Customer (KYC) requirements, enterprise wide AML / CFT risk assessments, globally benchmarked business conduct policy formulation, legislative drafting, and conducting country level Financial Action Task Force assessments as a regulator. She has in her previous role led an engagement with the Association of Banks in Singapore to modernise their AML guidelines. She has also advised the Institute of Banking and Finance Singapore on revising their compliance and AML industry standards modules. Radish has led numerous projects on financial crime compliance including trade based money laundering (TBML) compliance.
Soh Chee Seng is Technical Adviser on Trade Finance for the Association of Banks in Singapore (ABS) and Non-Exclusive External Trade Finance Adviser of a number of international banks in Asia Pacific. He has more than 25 years of experience in trade finance operations with local and foreign banks in Singapore and Malaysia. He was member of the UCP600 Drafting Group commissioned by the ICC Banking Commission and member of the task force on International Standard Banking Practice for Documentary Credits. Chee Seng is also a member of the Panel of Experts, International Chambers of Commerce (ICC) Rules for Documentary Credit Dispute Resolution Expertise (DOCDEX). Dr. Soh also served as co-chair of the ABS Guidelines on Anti-Money Laundering and Countering the Financing of Terrorism. Chee Seng is also council member of ISP (“International Standby Practice”) Council and associate director of the Institute of International Banking Law and Practice, Inc., USA. He is also editorial member of Documentary Credits World.

Adrian Tan currently heads up the Trade Legal team at Standard Chartered Bank covering Trade Finance globally from origination (traditional documentary trade and open account trade finance) to distribution (risk participation and trade credit insurance). Adrian has more than a decade and a half experience in commodities trading, derivatives, trade finance and shipping. Prior to Standard Chartered Bank, Adrian was with JPMorgan supporting commodities trading and prior to that at BHP Billiton and Shell Trading supporting trade finance, commodities trading and shipping.

Toh Kian Sing is a Senior Partner and Head of the Shipping & International Trade Practice Group of Rajah & Tann Singapore LLP. He obtained his law degrees from the National University of Singapore and the University of Oxford and was appointed Senior Counsel by the Supreme Court of Singapore in 2007. Apart from a busy shipping litigation practice, he regularly acts as counsel in letters of credit, warehouse financing and commodity disputes. He has also been instructed to prepare the commodity finance documentation of Singapore and foreign banks. Kian Sing has authored a book, Admiralty Law and Practice (3rd Edition, 2017) and is a contributory author of the book, “The Law and Practice of Documentary Letters of Credit”.

Jane Winn of University of Washington, Seattle, Washington specializes in comparative and commercial law, focusing on the impact of globalization and innovation on national legal systems. A graduate of Queen Mary College, University of London and Harvard Law School, she is a member of the American Law Institute and has twice received Fulbright grants for research in China and Taiwan. She has visited at University of California-Berkeley; Peking University; Tsinghua University, Zhejiang University; National Tsinghua University; Sciences Po; UJM-Lyon III; Chulalongkorn University; National Law University-Odisha, India, Monash University and Melbourne Law School. Winn is co-author of Law of Electronic Commerce, a leading treatise.