



# IAPH World Ports Conference 2015

Ports and global trade –  
legal trends and challenges

Litigation and arbitration on site –  
a location factor in global competition

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## Substantive Law

“What are my rights and obligations?”

## Procedural Law

„How can I pursue my rights and obligations?“

## 1. Local law / local courts – *lex fori* – with **no choice**

### Mandatory in matters such as

- administrative law
- real estate law
- environmental law
- labour law
- procurement law

**→ Local laws necessarily apply and local courts have exclusive jurisdiction at local courts.**

## 2. In contractual matters there is a **choice**:

### a. on the substantive law

Example: no punitive damages in Europe, less for pain & suffer

### b. on the procedural law

#### i. Arbitration vs. State Courts

- (1) Confidential
- (2) 1 instance only (Continental Europe): Faster and cheaper
- (3) Worldwide enforceable
- (4) Flexible: Free choice of „judges“, language, applicable law

#### ii. Civil law vs. common law

- (1) No disclosure / no discovery
- (2) Active judge / arbitrator

For further information:



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29th WORLD PORTS CONFERENCE

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04.06.2015