News and Notes from

Institute for TRANSNATIONAL ARBITRATION

The Institute for Transnational Arbitration

A Division of

The Center for American and International Law

Volume 37 | Second Half 2021 | Number 2

INTRODUCING NEW ITA CHAIR TOM SIKORA

ITA is pleased to introduce Tomasz J. Sikora as our new Advisory Board Chair for 2021-2024. Tom is the 11th in a line of distinguished past Chairs of ITA since the Institute's founding in 1986.

Tom is Senior Counsel, International Disputes Group, at Exxon Mobil Corporation, where he manages international commercial and investment arbitration for the corporation. Prior to joining ExxonMobil, he spent ten years at El Paso Corporation managing the company's international arbitration and complex litigation. Tom initially practiced international arbitration of energy, construction and insurance disputes at Vinson & Elkins LLP in Houston, Texas. Tom is a member of the Council (formerly Board of Directors) of the American Arbitration Association and the International Centre for Dispute Resolution. He has been a member of the Executive Committee of the Institute for Transnational Arbitration for years, having served in a variety of leadership positions including Senior Vice Chair and Strategic Planning Committee Chair. Tom also serves as a Co-Chair of the Energy Arbitrators List. He is a former officer of the IBA Arbitration Committee and the ICC Commission on Arbitration. Tom graduated from Harvard with an A.B. in History and Literature and from the University of Virginia School of Law with a J.D.

INTRODUCING THE 2021 NEW MEMBERS OF THE ITA ACADEMIC COUNCIL

The Institute for Transnational Arbitration (ITA) announces the appointment of four new members to its Academic Council.

MOHAMED S. ABDEL WAHAB, Founding Partner and Head of International Arbitration, Energy and Construction Groups; Chair of Private International Law and Professor of International Arbitration (Cairo University); Vice-President, ICC International Court of Arbitration; Member of the ICCA Governing Board; Member of the MIAC Advisory Board; LACIAC Court Member; CIMAC Court Member; Member of the CRCICA Advisory Committee; Member of the CIArb's Board of Trustees; Dean of Africa Arbitration Academy; Member of the ICODR's Governing Board; and Vice-chair, IBA Arab Regional Forum. He served as "Arbitrator," "Counsel" and "Legal Expert" in more than 220 cases involving African, Asian, Canadian, European, Middle Eastern and U.S. parties. He was selected as the African Personality by Africa Arbitration in June 2018 (Nigeria), and by the LACIAC in May 2019 (Nigeria). He received the LAW Magazine 2017 Best Legal Practitioner Award (Egypt), the 2018 ASA International Arbitration Advocacy Prize (Switzerland), the 2019 AYA Hall-of-Fame African Arbitrator Award (UK) and the 2020 Client Choice International Award (UK).

*(See **2021 ITA ACADEMIC COUNCIL** page 4)*

INTRODUCING THE 2021 NEW MEMBERS OF THE ITA EXECUTIVE COMMITTEE

The Institute for Transnational Arbitration (ITA) announces the appointment of eight new members to its prestigious Executive Committee. ITA congratulates existing member Tom Sikora on his new role as Chair of the Executive Committee.

Chair, YITA

CATHERINE BRATIC is a Senior Associate in the arbitration practice of Hogan Lovells LLP. Based in Houston, Texas, Catherine is dual-qualified in Texas and Paris, France, and specializes in the resolution of cross-border disputes. She regularly advises clients in complex, high-value disputes before international arbitral tribunals, as well as before national courts. She has been engaged in commercial disputes in the energy, media, and life-sciences sectors, as well as in investment arbitrations. Catherine earned law degrees from Columbia University and the Institut d'Etudes Politiques de Paris. Prior to joining Hogan Lovells, Catherine clerked for the Hon. Lee H. Rosenthal, Chief Judge for the Southern District of Texas, and served as a legal fellow at UNESCO in Paris.

Co-Chair, Communications Committee

ALEXANDER LEVENTHAL is Of Counsel in Quinn Emanuel's Paris office. Alexander is a recognized dispute resolution expert who knows how to achieve clients' objectives. Alexander has extensive expertise in international commercial arbitration spanning multiple sectors, including the hospitality, telecommunications, entertainment, financial, and other sectors. However, his practice focuses in large part on the energy sector where he has represented clients upstream and downstream in all manner of dispute. He currently serves on the steering committee of the Chartered Institute of Arbitrators' Young Members Group as well as the Continental Europe Chair for Young ITA, an arbitration think tank with a focus on the energy sector. He also acts as Energy Committee Secretary of the Institute for Conflict Prevention and Resolution (CPR) and sat on a committee that amended CPR's Fast Track Rules.

*(See **2021 ITA EXECUTIVE COMMITTEE**, page 2)*

INSIDE THIS ISSUE...

INSTITUTE FOR TRANSNATIONAL ARBITRATION

Officers and Executive Committee
of the Advisory Board
2021-2022

OFFICERS

Tomasz J. Sikora ..... Chair
Prof. Victoria Shannon Sahani ..... Chair – Academic Council
Prof. Chiara Giorgetti ..... Immediate Past Chair, Academic Council
Prof. Charles H. Brower, II ..... Vice Chair
Dominique Brown-Berset ..... Vice Chair
James Castello ..... Vice Chair
Laurence Shore ..... Vice Chair
Jennifer M. Smith ..... Vice Chair
Luke Sobota ..... Vice Chair
Ank Santens ..... Member at Large
Alan R. Crain ..... Member at Large
Klaus Reichert, S.C. ..... Member at Large

EX OFFICIO MEMBERS OF THE EXECUTIVE COMMITTEE

Montserrat Manzano ..... Chair, Americas Initiative Committee
Catherine Bratic ..... Chair, Young ITA Committee
Ben Love ..... Co-Chair, Communications Committee
Alexander G. Leventhal ..... Co-Chair Communications Committee
Suzana M. Blades ..... Chair, In-House Counsel Committee
Marcela Berdion-Straub ..... Co-Chair, Membership Committee
Rachael D. Kent ..... Co-Chair, Membership Committee
Silvia Marchili ..... Co-Chair, Membership Committee
Robert Reyes Landicho ..... Co-Chair, Programs Committee (Virtual Programs)
Dietmar W. Pager ..... Co-Chair, Programs Committee
Ruth Teitelbaum ..... Co-Chair, Programs Committee
Elliot Friedman ..... Co-Chair, Strategic Planning Committee
Ann Ryan Robertson ..... Co-Chair, Strategic Planning Committee
Nick Lingard ..... Chair, Asia Task Force
Prof. Charles H. Brower, II ..... Co-Chair, CAIL 75th Anniversary Task Force
Prof. Victoria Shannon Sahani ..... Co-Chair, CAIL 75th Anniversary Task Force
Mimi M. Lee ..... Co-Chair, Diversity & Inclusion Task Force
Noiana Marigo ..... Co-Chair, Diversity & Inclusion Task Force
Kevin O'Gorman ..... Chair, MENA Task Force
Bart Legum ..... Chair, Nominations Task Force
Dr. Crina Baltag ..... Co-Chair, UNCITRAL Task Force (WGIII)
Prof. Chiara Giorgetti ..... Co-Chair, UNCITRAL Task Force (WGIII)
Tom Walsh ..... Co-Chair, UNCITRAL Task Force (WGII)
Dr. Crina Baltag. ..... Vice Chair, Academic Council
Prof. Josh Karton. ..... Vice Chair, Academic Council
Prof. Catherine A. Rogers. ..... Vice Chair, Academic Council
Kate Davies ..... Co-Chair, 2022 Workshop
Prof. Patricia Shaughnessy ..... Co-Chair, 2022 Workshop
Laurence Shore ..... Co-Chair, 2022 Workshop
Prof. Roger P. Alford ..... General Editor, ITA Board of Reporters/ *ITA Arbitration Report/KluwerArbitration.com*
Dr. Crina Baltag ..... Co-Managing Editor, ITA Board of Reporters/ *ITA Arbitration Report/KluwerArbitration.com*
Monique Sasson ..... Co-Managing Editor, ITA Board of Reporters/ *ITA Arbitration Report/KluwerArbitration.com*
Hansel Pham ..... Editor, News & Notes
Rafael T. Boza ..... Co-Editor-in-Chief, ITA in Review
Charles B. Rosenberg ..... Co-Editor-in-Chief, ITA in Review
R. Doak Bishop ..... Past Chair
The Hon. Charles N. Brower ..... Past Chair
Donald Francis Donovan ..... Past Chair
Joseph E. Neuhaus ..... Past Chair
Lucy F. Reed ..... Past Chair
Jeswald W. Salacuse ..... Past Chair
Abby Cohen Smutny ..... Past Chair
T.L. Cubbage ..... CAIL President
David B. Winn ..... ITA Director
Cecilia Flores Rueda ..... ITA Counsel

News & Notes is a quarterly publication of ITA. Subscriptions are free to members and $30 for non-members.

NEWS & NOTES EDITORIAL BOARD

Editor ..... **Hansel Pham**
White & Case LLP, Washington, D.C.

Americas Initiative Representative ..... **Francisco Rivero**
Reed Smith, Houston, TX

Young ITA Liaison ..... **Jorge Arturo Gonzalez**
Aguilar Castillo Love, S.r.l., San José, Costa Rica

Correspondence regarding *News & Notes* should be addressed to Editor Hansel Pham, White & Case LLP, 701 Thirteenth Street, NW, Washington, DC 20005; hpham@whitecase.com.

Correspondence regarding ITA should be addressed to ITA Director David Winn at The Center for American and International Law, 5201 Democracy Drive, Plano, Texas 75024; dwinn@cailaw.org.

*(Continued from **2021 ITA EXECUTIVE COMMITTEE**, page 1)*

Alexander also is known for his expertise in investment arbitration. Alexander helped lead a team that obtained an order from an ICSID tribunal, which, for the first time, ordered the suspension of extradition proceedings in a third-party State.

He is recognized as a young thought-leader in the world of investment arbitration and guided a team that prepared a submission to UNCITRAL Working Group III on behalf of the European Federation for International Law and Arbitration (EFILA). Alexander has received a number of awards and distinctions for his experience in international arbitration (including his ranking as a *Future Leader* in international arbitration by Who's Who Legal), but his experience also extends beyond the world of international arbitration. He has handled numerous multi-jurisdictional disputes and serves on the IBA's Mediation Committee. Alexander is a founding member of the Rising Arbitrators Initiative, an organization that provides support for arbitration practitioners receiving their first nominations as arbitrator.

Co-Chair, Membership Committee

MARCELA BERDION-STRAUB is Lead Counsel – Litigation at TotalEnergies in Houston, Texas. Marcela manages a complex litigation and disputes docket including commercial, royalty, title, and other claims and pre-litigation issues for TotalEnergies' onshore and offshore exploration and production activities in the United States. She also handles all labor and employment related legal advice, investigations, and disputes for all TotalEnergies affiliates in the United States. Marcela is the current Chair of TotalEnergies' U.S. Diversity & Inclusion Committee. Prior to joining TotalEnergies, Marcela was a litigation, arbitration, and trial attorney at Andrews Kurth LLP. Marcela represented clients in federal and state court, and in international arbitration disputes under the ICC, ICDR, SIAC, ICSID rules and ad hoc matters under UNCITRAL rules. Marcela also represented companies and audit committees in investigations and disclosures to the SEC and DOJ regarding potential violations of the Foreign Corrupt Practices Act. Marcela is a Fellow of the Chartered Institute of Arbitrators.

Co-Chair, 2022 ITA Annual Workshop

KATE DAVIES is a Partner in Allen & Overy's International Arbitration Group, and has extensive expertise in both international commercial and investment treaty arbitration. In relation to her commercial arbitration expertise, Kate has experience of both institutional (e.g. LCIA, ICC, PCA, VIAC, SIAC, ICSID) and ad hoc arbitrations sited in common and civil law jurisdictions. She has expertise in commercial disputes across a range of different industries (including the energy, telecommunications, automotive, technology, construction and pharmaceutical sectors) and arising out of a number of bespoke and industry specific agreements, including joint venture, shareholder, licensing, distribution, technology transfer, patent and construction agreements. In the investment treaty and public international law sphere, Kate's instructions include acting in the Abyei Arbitration (which lead to the independence of South Sudan) and representing the Islamic Republic of Pakistan in several investment treaty disputes.

*(See **2021 ITA EXECUTIVE COMMITTEE**, page 3)*

With this issue there is a changing of the guard. Wade Coriell has served as Editor of News & Notes since 2014. He is succeeded by Hansel Pham who has served as Associate Editor since 2019. We welcome Hansel Pham and thank Wade Coriell for his service to ITA.

*(Continued from **2021 ITA EXECUTIVE COMMITTEE**, page 2)*

HANSEL PHAM is Office Executive Partner for the Washington, D.C. office of White & Case. Hansel has served as counsel in high-stakes international disputes, including before U.S. courts and in investment and commercial arbitrations under a variety of arbitral rules and institutions. Hansel has deep experience with proceedings to enforce international arbitral awards in the United States. His practice consists not only of representation in disputes, but in advisory work to avoid and prevent disputes from arising. He has provided clients with advise relating to treaty drafting and interpretation, drafting of arbitration and dispute resolution clauses, sovereign immunity defenses and waivers, and general litigation risk.

In addition to serving as Office Executive Partner, Hansel has been entrusted with a number of other leadership positions. Hansel is one of the leaders of the Firm's Vietnam Country Practice and heads up the Firm's Belt and Roads Initiative (BRI) Group. He has served as Chair of the DC Bar Attorney/Client Arbitration Board, Chair of the International Bar Association's North American Regional Forum, President of the IBA Foundation, and Chairman of the Board for a local non-profit organization.

Chair, Asia Task Force

NICHOLAS LINGARD is the head of Freshfields' international arbitration practice in Asia, Nick is an experienced international arbitration counsel and advocate. He leads one of the most active treaty arbitration practices in Asia, representing both investors and states, in high-profile, politically complex cases around Asia and the world. Nick also represents clients in commercial and construction disputes across a variety of industries, under all major arbitral rules, including ICC, SIAC, UNCITRAL, HKIAC, KLRCA, JCAA, AAA and NAI, and under all major systems of law. He provides public international law advice to government and private clients, and accepts occasional appointments as arbitrator. Nick is recognised as a leading international arbitration practitioner by all the major directories, including as a Band 1 "Leading Individual" for arbitration in Singapore by Legal 500. He was recently named "International Arbitration Lawyer of the Year" at the Asia Legal Awards. A former law clerk to the Chief Justice of Australia, Nick was educated at the University of Queensland, where he graduated at the top of his class in law and Japanese, and Harvard Law School where he was a Frank Knox Memorial Fellow.

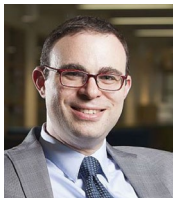
Co-Chair, Diversity & Inclusion Task Force

NOIANA MARIGO is the head of Freshfields' International Arbitration group in the Americas and co-head of the firm's Latin America practice. Noiana's practice focuses on investor-state and commercial arbitrations across a variety of sectors such as oil and gas, mining, telecommunications, infrastructure, aviation and airport services, sovereign debt, agriculture, and food production and distribution. Noiana has extensive experience throughout Latin America and has been ranked as one of the top 100 female lawyers specializing in the region. Noiana is civil and common law trained and has acted as counsel and arbitrator in more than 45 high-stakes, cutting-edge commercial and investment treaty arbitrations conducted under the auspices of the ICSID, ICC, PCA and/or ICDR, and under the UNCITRAL rules in both English and Spanish. Noiana currently represents several investors in disputes against Argentina, Bolivia, Colombia, Venezuela, Ecuador and the Republic of Guatemala. As Freshfields' Country Relationship Partner for Argentina, Bolivia, Chile, Colombia, Ecuador, Guatemala and Peru, she possesses unique knowledge of each country's legal market.

Chair, MENA Task Force

KEVIN O'GORMAN is the Administrative Partner for Norton Rose Fulbright's Houston office. He is recognized for his experience in international arbitration, domestic arbitration and international litigation. Kevin has particular expertise with commercial, corporate, energy, sovereign, treaty, maritime and construction disputes. He has handled cases under all major arbitral rules including AAA, CPR, ICC, ICDR, ICSID, JAMS, LCIA, and SIAC, as well as *ad hoc* disputes under the UNCITRAL arbitration rules. In addition to his client work, Kevin has acted as arbitrator in domestic and international cases for over a decade. Kevin serves on the Board of Trustees of the Center for American and International Law, the parent organization of ITA and IEL, and on the boards of the World Affairs Council of Greater Houston and the Houston International Arbitration Club. He was a member of the recent ICC Taskforce on Resolving Climate Change Related Disputes in Arbitration. Earlier in his career, Kevin resided in Zurich and served as Team Leader and Senior Legal Secretary to the Claims Resolution Tribunal for Dormant Accounts in Switzerland. After law school, Kevin clerked for the Honorable Howell Cobb, U.S. District Judge for the Eastern District of Texas. Kevin is a Life Fellow of the American, Texas and Houston Bar Foundations, and is admitted to practice law in Texas, New York and England and Wales (Solicitor).

Vice Chair, Academic Council



PROF. JOSHUA KARTON teaches and writes about international dispute resolution (especially international arbitration), international and comparative contract law, transnational legal theory, globalization and law, and linguistic issues in law. His writing explores what happens when private actors from different backgrounds—legal, cultural, and linguistic—meet in the international legal arena. Professor Karton has taught at Queen's University since 2009. He holds a BA in International Relations and Humanities from Yale, a JD from Columbia Law School, and a PhD in International Law from Cambridge. Before commencing his doctoral studies, he worked in litigation and arbitration in the New York and Hong Kong offices of Cleary Gottlieb Steen & Hamilton LLP. A proficient speaker of Chinese with a longstanding interest in Asian law, culture, and politics, Professor Karton has lived in several Asian countries and has held visiting professorships at the National Taiwan University, the Chinese University of Hong Kong, and Wuhan University. Professor Karton is an internationally-recognized expert on international dispute resolution especially international arbitration. He has received wide recognition for his research, including the International and Comparative Law Quarterly Young Scholar Award and the James Crawford Prize of the Journal of International Dispute Settlement, and has presented his research at academic and practitioner conferences around the world. Professor Karton is actively engaged in international arbitration practice as a consultant and arbitrator. He is a member of various arbitration panels, the ICC Commission on Arbitration and ADR, and the Academic Council of the Institute for Transnational Arbitration, and is an instructor for the Africa Arbitration Academy.

*(See **2021 ITA EXECUTIVE COMMITTEE**, page 4)*

*(Continued from **2021 ITA EXECUTIVE COMMITTEE**, page 3)*

Co-Chair, 2022 ITA Annual Workshop

PROF. PATRICIA SHAUGHNESSY created and directs the Master of International Commercial Arbitration Law Program (LLM) at Stockholm University, and teaches and researches in related fields. Patricia is the Vice-Chair of the Board of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC), having served on its Board since 2006. She has been an active member of the SCC committees that have drafted the SCC Rules, including the new 2017 Rules. Recently she served as a government-appointed expert in the committee that proposed revisions to the Swedish Arbitration Act. She acts an arbitrator and expert in international cases, and as a consultant, she has led numerous projects related to commercial law and dispute resolution in a number of countries. She is a member of the Academic Council of the Institute of Transnational Arbitration Academic Council. Prior to her academic career, Patricia practiced law for ten years in a US firm, specializing in civil litigation. Following her doctoral studies, she served as a US Supreme Court Judicial Fellow, based at the Federal Judicial Center.

Co-Chair, 2022 ITA Annual Workshop

LAURENCE SHORE is an international arbitration specialist with extensive experience representing clients in major arbitral seats, such as Geneva, Paris, London, Singapore, Cairo and New York City. He also sits as an arbitrator (ICC, LCIA, CRCI-CA, ICSID, UNCITRAL, ICDR, AAA) and tries cases in the US courts. He is a member of the LCIA's North American User's Council and ITA's Executive Committee. He previously served as the chair of the New York City Bar's international law committee. Laurence is a member of the New York, District of Columbia and Virginia Bars, and is a solicitor of the Senior Courts of England and Wales. Laurence's law degree is from the Emory University School of Law, where he was editor-in-chief of the Emory Law Journal (1988–89). He earned a PhD in history from Johns Hopkins University (Baltimore, Maryland). He is a co-author of the second edition of International Investment Arbitration: Substantive Principles (OUP, 2017).

---

*(Continued from **2021 ITA ACADEMIC COUNCIL** page 1)*

He is the co-editor (with Maxi Scherer and Niuscha Bassiri) of "International Arbitration and the COVID-19 Revolution" (2020) and the author of the Abdel Wahab Pandemic Pathway to Virtual/Remote Hearings. Who's Who Legal: Arbitration (2021) says: "Outstanding engagement and pleasant to work with," "He is a top-tier thought leader and in a league of his own" and "a very well-prepared and exceptional arbitrator." WWL: Arbitration (2020) says he is "a leader in the space." The Legal500 (2019) states he is "one of the best in the world."

ANGELA M. BANKS (Harvard, J.D., Oxford, M.Litt, Spelman, B.A.) is a legal scholar who specializes in membership and belonging in democratic societies. Her research explores this topic in the areas of immigration, citizenship, law school curriculum, and professional development for faculty. She is the Charles J. Merriam Distinguished Professor of law at the Sandra Day O'Connor College of Law at Arizona State University, and a member of the Council on Foreign Relations. Her scholarship has appeared in leading American law review journals and her book *Civic Education in the Age of Mass Migration: Implications for Theory and Practice* is forthcoming with Teachers College Press. Prior to joining the Sandra Day O'Connor College of Law faculty, Professor Banks was a Professor of Law at William & Mary School of Law. She has also served as the Reginald F. Lewis Fellow for Law Teaching at Harvard Law School, a legal advisor to Judge Gabrielle Kirk McDonald at the Iran-United States Claims Tribunal; an associate at Wilmer, Cutler & Pickering in Washington, DC (now WilmerHale); and a law clerk for Judge Carlos F. Lucero of the U.S. Court of Appeals for the Tenth Circuit. Professor Banks is a graduate of Harvard Law School, where she served as an editor of the *Harvard Law Review* and the *Harvard International Law Journal*. Prior to attending law school Professor Banks received a Master of Letters degree in sociology from the University of Oxford, where she studied as a Marshall Scholar, and a B.A. in sociology from Spelman College *summa cum laude*.

DR. KRISTEN E. BOON, Miriam T. Rooney Professor of Law, specializes in public international law and international organizations. Professor Boon joined the Seton Hall Law School faculty as an Associate Professor of Law in 2006. She was promoted to full professor in 2011. In 2018, she was honored as the inaugural Patrick Toscano Jr. Research Scholar for significant contributions to scholarship and teaching and is a former Associate Dean for Faculty Research and Development. Dr. Boon teaches courses in international law and contracts at Seton Hall. Dr. Boon holds a Doctorate in law from Columbia Law School and a J.D. from New York University School of Law in 2000. She was also awarded an M.A. in Political Science from McGill University and Sciences Po (Paris) in 1996, and a B.A. with honors, in Political Science and History from McGill University in 1994. Her areas of expertise include public international law, international organizations, business and human rights, international arbitration, transnational law, and international humanitarian law. She is a member of the Executive Council of The American Society of International Law. Prior to joining Seton Hall she served as a clerk to Supreme Court of Canada Justice Ian Binnie and as a litigation associate with Debevoise & Plimpton in New York. Kristen Boon is a member of the bar of New York (2002), the Law Society of Upper Canada (2003), and the US Supreme Court Bar (2008).

PROF. J. BENTON HEATH is an Assistant Professor of Law at Temple University, Beasley School of Law. Professor Heath's primary research interests include international trade, investment law, dispute resolution, global health, administrative law, public international law, and the national security dimensions of trade and investment. He teaches Civil Procedure and International Arbitration. Professor Heath previously practiced international law and arbitration at the U.S. State Department, and at Curtis, Mallet-Prevost, Colt & Mosle. He has represented governments and state-owned enterprises before the International Court of Justice, the Iran-United States Claims Tribunal, other international arbitral tribunals, and the federal courts. His work at the State Department also included bilateral claims negotiations with the Republic of Cuba, matters relating to embargoes and economic sanctions, and U.S. court cases brought against foreign governments by victims of terrorism. He also served as a clerk to Judge Robert D. Sack of the U.S. Court of Appeals for the Second Circuit. Professor Heath's research has appeared in the Yale Law Journal, the Northwestern University Law Review, the Harvard International Law Journal, and the American Journal of International Law, among others. He holds a J.D. and LL.M. from New York University School of Law, and a B.A. (Philosophy) from the University of Texas at Austin. From 2018 to 2020, Professor Heath was an Acting Assistant Professor of Lawyering at NYU School of Law.

2021 ITA-ASIL CONFERENCE

Conference Report by Jacob Omorodion, Three Crowns, Washington, DC

The 18th ITA-ASIL conference titled "Arbitration Reform in Practice – What Changes?" took place on March 23, 2021 and was chaired by **Laurence Boisson de Chazournes** (Geneva Centre for International Dispute Settlement (CIDS), Geneva) and **Patrick Pearsall** (Allen & Overy, Washington, DC). The conference featured a keynote address by **Professor Jose Alvarez** (NYU School of Law, New York), along with two panel discussions on investor-State dispute settlement (ISDS) reform.

A. Keynote Address: Professor Jose Alvarez – "ISDS Reform: The Long View"

Professor Jose Alvarez opened the ITA-ASIL Conference with a keynote address, "ISDS Reform: The Long View," in which he discussed "the two hydra-headed monsters of investment arbitration." He began by sounding a note of urgency: international investment agreements (IIAs) are being denounced in many spaces, including as "neo-colonialist exercises that continue to violate sovereign equality," and "top-down undemocratic constraints," with multiple voices questioning the need for such treaties altogether. Professor Alvarez identified a widening gulf between the international investment regime and global economic goals, such as the lack of capital flows to emerging economies (the shortfall for which on just climate he places at US$ 680 billion annually), or the need to vastly widen internet access and improve health infrastructure, key gaps that he asserted rules reformation alone will not go far enough to address.

The premise of Professor Alvarez's discussion was that there are two main problem areas in international arbitration: one focusing on the rules of investment agreements and the more procedural rule of law fixes within them; and the other addressing the larger substance and fundamentals of the international investment regime. Professor Alvarez noted that while reform efforts have focused ("like a laser beam") on how to make investment treaties better align with the rule of law, the looming problem of fundamental substance is nonetheless rearing its head.

1. The Large Monster: The Substantive Fundamentals of the International Investment Regime

Professor Alvarez expressed his fear that in the long run, current efforts to reform ISDS rules will not result in a stable investment regime, and instead will merely be putting "makeup on a zombie," as the "looming beast" of the substance remains ignored. While not necessarily all his personal positions, Professor Alvarez contended that basic assumptions of the international investment regime have come under increasing question, such as whether the idea of the obsolescing bargain actually holds in practice, whether foreign investors really face a problem of discrimination justifying protection, or even whether IIAs really affect CEOs' risk analyses or decisions to invest. These questions all arise amid critique of IIAs as promoting under-regulation, not de-politicizing disputes, and running counter to private law concepts. In short, the basic contention is that the expected benefits of investment regimes for states "have not materialized as clearly as have the thousands of investor claims and often substantial awards." The result, whether one agrees with all of the criticism or not, is that there is a fundamental legitimacy crisis that ISDS reform is not currently addressing.

2. The Small Monster: Addressing Rule of Law Deficit in Agreements and Procedural Fixes

The smaller monster for Professor Alvarez are the rule changes to address the "rule of law deficit" within the existing regime. This, Professor Alvarez says, is the focus of major institutions like ICSID, UNCTAD, and UNCITRAL, where it is "all hands on deck" addressing issues such as transparency, forum shopping, fragmentation of resulting law, arbitrator diversity and appointment issues more broadly, as well the cost and duration of proceedings.

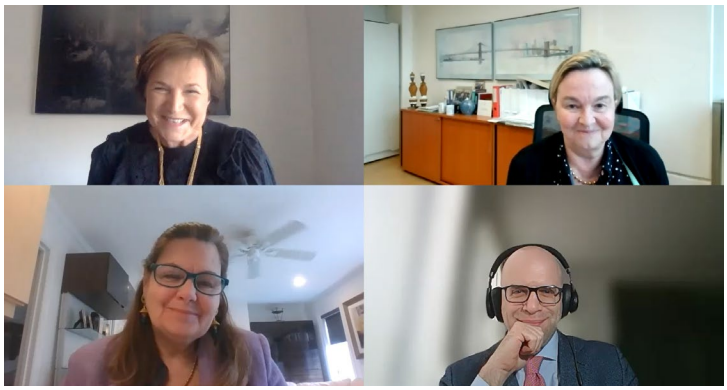
Professor Alvarez used the example of UNCITRAL Working Group III as a forum which has an agenda focused on procedural reform, but also has voices calling for more radical reforms, such as the possibility of a multilateral investment court (MIC), abandonment of internationally binding dispute settlement altogether, or an assisted facility (modeled on the WTO assisted facility) to support developing nations' more equitable participation in the system.

Current ISDS reform efforts are broadly looking at 5 possible outcomes. These are: (1) ending supranational review, applying national law or nonbinding international ADR (e.g., conciliation or mediation) to settle disputes; (2) constraining ISDS to a last resort, by restricting the circumstances and/or deepening the conditions under which claims can be brought under international agreements; (3) reforming ISDS, through the provision of a number of procedural changes, prominent among which would be provision of appellate mechanisms; (4) turning towards judicialization, which envisions multiple permanent courts and/or the formation of a multilateral investment court, with standing panels and appellate panels with full time judges on fixed terms, as a definitive solution to the rule of law issues; or (5) a flexible plurilateral investment agreement. The last outcome, supported by many parties at UNCITRAL Working Group III, would be a solution that leverages a combination of all of the above approaches and allows states "maximum flexibility" in determining dispute resolution solutions under their investment agreements.

Ultimately, however, Professor Alvarez was not optimistic that any of the reform options will be roundly adopted. He contended that the international investment regime in 10 years would look much as it does today—in his opinion, a "spaghetti bowl" of diverse, confusing, and uncoordinated IIAs—but with even more variety. Thus, his clarion call remained: Should ISDS continue to only focus on the "small monster" of rules-centred reform to the exclusion of the "large monster" of substantive gaps and a legitimacy crisis within the international investment regime, the resulting monster "will be far more formidable" than the two the international community contends with today.

B. Panel 1: "Talking to Institutions' Leaders: What Does Reform Look Like?"

The first panel of the ITA-ASIL Conference, "Talking to Institutions' Leaders: What Does Reform Look Like?," brought together the leaders of three of the world's premier arbitral institutions to discuss ongoing reforms at their organizations. The speakers were **Anna Joubin-Bret** (UNCITRAL, Vienna), **Meg Kinnear** (ICSID, Washington, DC) and **Alexander Fessas** (ICC, Paris). The panel was moderated by conference Co-Chair Laurence Boisson de Chazournes.



*(See **ITA-ASIL CONFERENCE** page 6)*

*(Continued from **ITA-ASIL CONFERENCE** page 5)*

1. UNCITRAL

The conversation opened with Anna Joubin-Bret, who discussed the progress of UNCITRAL Working Group III. Referring to Professor Alvarez's earlier presentation, Ms. Joubin-Bret noted that she does not believe that current efforts are deepening the "spaghetti-bowl" problem. UNCITRAL Working Group III has been building out a "multi-door system" which, while offering variety to states in their approaches to ISDS, still maintains systemic coherence. Initially, parties will be able to enter disputes through a number of procedural entry points ("doors"), such as state-state procedures, domestic courts, institutional arbitration, or investment courts of first instance. Subsequently, the common innovation across all these entry points would be a manner of appellate mechanism—including a possible standalone or second instance court—available for all disputes. This core dynamic would also be supported by further developing ADR options as well as strengthening party support and dispute prevention resources. The delivery mechanism for these changes would be a multilateral convention, which will have an "entire suite" of procedural reforms. Ms. Joubin-Bret expressed optimism that, while the process might be long and tedious, states want reform and the process towards such is proceeding coherently and rigorously.

2. ICSID

Meg Kinnear followed with the perspective from ICSID. Amidst a global pandemic Ms. Kinnear remarked on the will to "build back better" and how states will be sorely seeking investment as the global economy begins its recovery. Ms. Kinnear noted that ICSID is "rounding the corner" on the process of amending the ICSID Rules. Ms. Kinnear acknowledged that much of the ongoing reforms at ICSID are focused on procedural changes, but stressed that this was not a problem as ICSID's role is precisely to offer a procedural mechanism for resolving disputes within the international investment regime. While progress on the revised ICSID Rules (Revised Rules) has been slowed by the global pandemic, Ms. Kinnear envisioned implementation within the next year.

In discussing the practice impacts of the Revised Rules, Ms. Kinnear considered a number of important factors. Generally, the rules will provide for clearer—and often shorter—timelines. Additionally, disclosure of the existence of third-party funding as well as the identity of the third-party funders is also envisioned. The Revised Rules also seek to improve transparency, particular with regard to awards, decisions, and orders. Next, regarding security for costs, there will be a standalone rule and a standalone test to identify the ability and willingness of parties to pay and the impact of an order on the other party. With costs, Ms. Kinnear identified new benchmarks for the discretionary test, considering conduct, results, reasonableness of arguments, and complexity. Finally, a key impact from the Revised Rules would be the expedited arbitration mechanism which, if properly followed, will reduce the duration of ICSID arbitrations by 50%.

Ms. Kinnear also emphasized ICSID's work on deepening ADR mechanisms, including standalone mediation rules, available by consent of the parties, to offer more creative dispute resolution options. As a closing thought, Ms. Kinnear reminded us that the international system's decision process is one of gradual distillation of ideas into decisions, and that from achieving milestones in the area of procedure the conversation may then go towards addressing architecture and substance.

3. ICC

Last but not least, Alexander Fessas shared the view from the ICC. Noting that one of every four parties in ICC arbitrations in 2020 were states or state-owned entities, Mr. Fessas identified improvements of general efficiency as a central goal of ICC reform efforts. This includes introducing wider opportunities for digitizing aspects of the dispute process and case management without sacrificing the rigour of the process. The new ICC Rules also provide for different modes of conducting arbitrations, so as to be responsive to the varying circumstances globally in which international arbitration is being utilized. Mr. Fessas spoke approvingly of the record of expedited arbitrations within the ICC, including the ability to allow smaller commercial actors to leverage international arbitration. Joining Ms. Kinnear, Mr. Fessas supported the idea that disclosure of third-party funding improves legitimacy. Mr. Fessas also strongly asserted the importance of dispute resolution frameworks allowing for and building confidence in ADR as part of the process, and that users are asking for this in large number. On transparency, Mr. Fessas added that the ICC has to improve the visibility of the institutions' workings. Mr. Fessas briefly sounded the alarm about the "emerging divide between high value, high complexity disputes … and low complexity, low value disputes," which will require more automation and more reforms to embrace technology, including online dispute resolution (ODR). As a fitting close to the remarks of the institutional leaders, Mr. Fessas concluded by emphasizing the importance of inter-institutional collaboration within the reform process.

C. Panel 2: "Reform in Practice: A Roundtable Discussion"

The second panel, "Reform in Practice: A Roundtable Discussion," brought together four thought leaders on ISDS reform, each currently serving as an advisor to states involved in the UNCITRAL reform efforts. This included **Collin Brown** (Head, EU delegation to UNCITRAL Working Group III), **Ana María Ordoñez Puentes** (Head, Colombia delegation to UNCITRAL Working Group III), **Professor Makane Mbengue** (Professor of International Law, University of Geneva), and **Jeremy Sharpe** (US delegation to UNCITRAL Working Group III). The panel was moderated by conference Co-Chair **Patrick Pearsall** (Partner, Allen & Overy).

Mr. Pearsall set the stage for the conversation in identifying the current ISDS reform efforts as the most significant ever undertaken. Mr. Pearsall's first question sought the speakers' view of the goals of the reform process. Responding first, Mr. Brown identified the reform of three-thousand existing treaties as the greatest current challenge, identifying an MIC as the best suited mechanism to meet such a challenge. Asserting that procedure is and should be the main focus, and tying back to Professor Alvarez's framework, Mr. Brown suggested that the substantive rules of the international investment regime paralleled that of other domains, such as the WTO, and was not generally thought of as being problematic. The problem, Mr. Brown believes, is the lack of clarity around the rules that a permanent body could provide.

Ms. Ordoñez Puentes' explicitly pragmatic view was to get as much progress concluded and implemented as soon as possible. Specific items she supported included increased transparency and accountability of arbitrators, as well as avoiding an outcome where the "medicine [would be] worse than the sickness." Such a negative outcome would occur, in her view, in situations where the net effect of reform is to have investors filing even more claims against states—and against Colombia in particular—than before.

*(See **ITA-ASIL CONFERENCE** page 7)*

*(Continued from **ITA-ASIL CONFERENCE** page 6)*

Professor Mbengue's intervention focused on the African perspective. He began by citing the 2012 efforts to establish a Pan-African Investment Court (PAIC) as indicative of the broader goal of promoting the "Africanization" of international investment law, whereby African states posture themselves less as "rule-takers" and more as "rule-makers," playing a major role in global reform processes. Other objectives of African states, also drawing from the PAIC efforts, were to increase predictability and reduce fragmentation in the African ISDS landscape. Finally, Professor Mbengue identified African states as broadly falling into four camps: (i) those wanting to get rid of international investment agreements, (ii) those wanting to reform BITs, (iii) those in favour of an African Investment Court, and (iv) those supporting a permanent MIC.

Mr. Sharpe, speaking in his personal capacity and not on behalf of the US, discussed two main goals in particular: institutionalization and domestic capacity issues. Regarding institutionalization, Mr. Sharpe drew attention to there still not being a comprehensive multilateral treaty, or multilateral organization, focused on investment protection and promotion, the consequence for which has been that every state has had to devise their own approaches to the international investment regime, which has been costly in many ways. Mr. Sharpe sees UNICTRAL Working Group III as potentially embodying the early stages of the kind of international organization that is currently lacking. Regarding domestic capacity issues, Mr. Sharpe hoped that those delegates who directly experience the international reform process at the Working Group could then use those takeaways to deepen domestic understandings at home.

Mr. Pearsall's second question was "what is the philosophical need... for investment arbitration at all?" and whether the investment protection as promotion thesis is still credible. Mr. Sharpe felt that the thesis still holds, but that states are now seeking to make sure that they "get the benefit of the bargain," with more innovative and clarifying treaty drafting beginning to occur now that states have more experience with the system. Professor Mbengue described a shift in the viewpoint of African states from one of favoring investment protection to favoring "investment facilitation," which is to say a more cooperative relationship between states and investors, a focus on ADR, and seeing dispute prevention as a core goal. As for Latin America, and Colombia in particular, Ms. Ordoñez Puentes emphasized that ISDS is considered an "exceptional prerogative" that is granted to attract investment. Accordingly, states like Colombia want to keep the regime, but they would look favorably upon reforms which ensure that claims being raised are actual violations of the relevant agreements, as defending more questionable claims significantly drains the resources of state parties. Mr. Brown echoed Professor Mbengue in saying that it is a time of much greater thinking about the design of the investment regime, with more intentionality about trade facilitation, ADR, and advisory centres. The remarks above notwithstanding, Mr. Brown believes that there is a role within this dynamic for investment protection, even if there is still work that needs to be done on addressing legitimacy issues of investment protection and obligations of investors.

Mr. Pearsall's final question was what, ten years from now, a successful reform process would look like. Professor Mbengue emphasized the "D Formula": Diversity, Delocalization, and Decentralization. Ms. Ordoñez Puentes emphasized that a favourable result would have signalled legitimacy to all stakeholders, and that among states—and between states and non-state actors—there is a diversity of views as to what legitimacy entails. For Mr. Sharpe, success would look like less disputes, more successful leveraging of ADR, and states and other actors generally thinking more holistically about how to manage investment disputes. Finally, Mr. Brown said that if the UNCITRAL multilateral process could prove itself capable of deftly managing reform and addressing key challenges it would bode well for the broader international investment regime.

2021 ITA-IEL-ICC JOINT CONFERENCE ON INTERNATIONAL ENERGY ARBITRATION

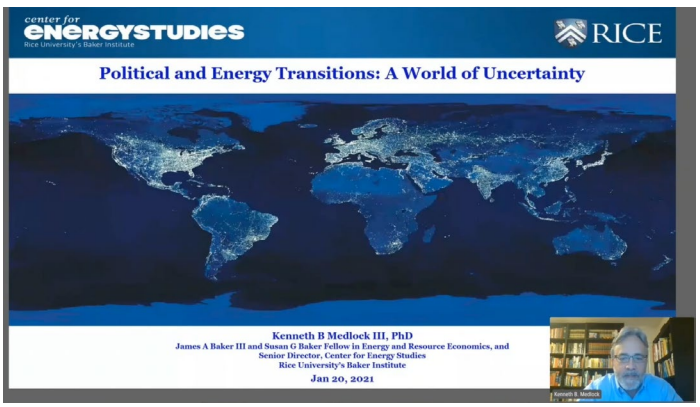
Conference Report by Brant Thomas Roessler,
Baker Bots LLP, New York

On January 20-21, 2021, the Institute for Transnational Arbitration, the Institute for Energy Law of the Center for American and International Law, and the ICC International Court of Arbitration convened their annual Joint Conference on International Energy Arbitration. Due to the COVID-19 pandemic and the travel restrictions resulting therefrom, the conference was held virtually this year. The conference was co-chaired by **Andrew Behrman** (Baker Botts LLP, New York), **Marcela Berdion-Straub** (Lead Counsel, Litigation, TOTAL American Services, Inc., Houston) and **Maria Chedid** (Arnold & Porter Kaye Scholer LLP, San Francisco).

The conference began with a welcome from **Alexis Mourre** (President, ICC International Court of Arbitration, Paris), EIL Chair **Laura M. Robertson** (Deputy General Counsel, Litigation and Arbitration & IP, ConocoPhillips Company, Houston), and ITA Senior Vice Chair **Tom Sikora** (International Disputes Group, ExxonMobil, Houston), who was filling-in for ITA Chair **Joseph E. Neuhaus** (Sullivan & Cromwell LLP, New York), and introductory remarks by Conference Co-Chair **Andrew Behrman** (Baker Botts LLP, New York).

A. Keynote Address: How a Biden Administration will Impact the Energy Markets

Following the introductory remarks, **Kenneth B. Medlock III** (James A. Baker III and Susan G. Baker Fellow in Energy and Resource Economics and Senior Director, Center for Energy Studies, Baker Institute for Public Policy, Rice University, Houston) delivered the keynote address. His presentation focused on the impact of the Biden administration on energy markets and began with an overview of how U.S. energy policy can be used to influence foreign development and global markets. Dr. Medlock displayed a composite of satellite imagery of the Earth at night and discussed the energy access of various regions. He noted that the regions with the most energy access, the United States and other Organisation for Economic Co-operation and Development (OECD) countries, were home to only a fraction of the global population. Meanwhile, China and India, with their large, relatively concentrated populations, have driven the energy markets over the past 30 years and will likely continue to do so. The remaining global population centers appear dark on the nighttime satellite imagery because they lack access to modern energy services—a condition referred to as "energy poverty." This condition requires the development of energy infrastructure, which will typically be generated domestically, as countries are prone to exploit their own comparative advantages before turning to global markets. Overall, Dr. Medlock stated that the foregoing depicts energy "haves and have nots," and there are many more people living in the countries that are still developing their energy access.



*(See **2021 ITA-IEL-ICC JOINT CONFERENCE** page 8)*

*(Continued from **2021 ITA-IEL-ICC JOINT CONFERENCE** page 7)*

Dr. Medlock then turned to a more detailed analysis of the energy markets within the various countries. He observed that coal energy was on the decline in OECD countries, perhaps due to aging facilities, but that coal was the predominant source of energy in non-OECD countries and expanding in prevalence. He also observed that Asian energy demand had surpassed that of the European Union and North America, combined. Dr. Medlock also briefly discussed how the pandemic affected energy consumption: although about two-thirds of the global economy had shutdown, oil demand fell by only ten percent. From this observation, Dr. Medlock offered two insights: (1) that "legacy infrastructure still plays a major role in facilitating what we see in terms of carbon emissions and fuel use and will continue to do so, and (2) decarbonization is going to require "significant action," but not a "one size fits all" approach.

He then continued by discussion how "coordination theory" impacts energy market transitions: development of a new technology isn't sufficient to effectuate a market transition without also addressing all of the underlying value chains, such as infrastructure and competition from legacy facilities that generate alternative energy. Each of these value chains are different throughout the world, which will necessitate differing energy transitions.

Turning to how the recent U.S. election may affect the energy market, Dr. Medlock began by observing that Republicans gained control in several state legislative chambers. This observation is important because these chambers will control redistricting exercises, and because Republicans control the majority of these state legislatures, Dr. Medlock predicted that this redistricting will be tilted to favor Republicans. As for the presidential election, Dr. Medlock predicted that President Biden will likely issue numerous Executive Orders that may impact the energy market, but he does not expect climate or energy policy to rank high on the list of priorities for legislative initiatives, especially when the most pressing agenda item is curbing the pandemic. Dr. Medlock also mentioned that he expected President Biden to advance his climate change policy through diplomacy, such as by reentering the Paris Climate Accord. Last, Dr. Medlock addressed the topic of hydraulic fracturing. He discussed how U.S. natural gas supplies have an effect on the energy policies of other countries, such as South Korea, and expected that "natural gas is likely to remain a very important fuel for any energy transition discussion, largely because of what it means for other parts of the world."

B. Energy Disputes: An Update from the Arbitrators

The first day of the conference concluded with a panel discussion moderated by **Maria Chedid** (Arnold & Porter, San Francisco) on a wide array of topics from an arbitrator's perspective. The panel consisted of **Mohamed S. Abdel Wahab** (Zulficar & Partners, Cairo), **Horacio Grigera Naón** (Director, Center on International Commercial Arbitration, Washington College of Law, American University, Washington, D.C.), **Matthew Secomb** (White & Case, Singapore), and **Maxi Scherer** (Wilmer Hale, London).

The discussion began on the prescient topic of force majeure clauses and their increased relevance for arbitral disputes during the COVID-19 pandemic. Ms. Scherer offered a reminder to the audience that, even if a contract does not expressly contain a force majeure clause, some civil law jurisdictions may nevertheless provide for force majeure claims or defenses. The conversation then turned to the topic of corruption, which was addressed primarily by Mr. Abdel Wahab.

He observed that claims of corruption were becoming increasing frequent in energy arbitrations, especially in the Middle East and North Africa, and identified several factors that may be contributing to this trend. Most notably, Mr. Abdel Wahab and Mr. Secomb, both agreed that the increased frequency of corruptions claims in energy arbitration might be due to an increased visibility into corruption generally. Mr. Secomb, however, warned against "boogeyman allegations of corruption" that are used solely to make an adversary look bad. The panel concluded with a discussion by Mr. Grigera Naón on the topic of managing arbitrations with state or government parties and a discussion by Mr. Secomb on the topic of using expert witnesses in evidentiary hearings.

C. Year in Review - The Magnificent Seven

The conference resumed Thursday morning with a presentation by **Laurence Shore** (BonelliErede, Milan), who identified and discussed the top seven rulings and industry trends that he suspects will have a significant influence on energy arbitration in 2021 and beyond. While noting that his presentation was in no particular order, the first matter identified by Mr. Shore was *Eskosol S.p.A. in liquidazione v. Italian Republic*. He selected this matter for the tribunal's analysis of whether Italy's regulatory changes were "based on a reasoned scheme that was itself reasonably connected to the aim pursued." The original aim was to incentivize the production of electric energy from solar sources. The issue was that the original target for renewable capacity was "too successful" and that it had met its target years ahead of schedule. The tribunal found that this was reasonable justification for modifying the regulatory scheme. Mr. Shore predicted that this holding will impact future disputes regarding changes to state regulations and incentives.

The second noteworthy ruling of 2020 identified by Mr. Shore was the U.S. Supreme Court's decision in *McGirt v. Oklahoma*. He observed that his inclusion of this case may seem strange because its substance did not bear on energy issues, but Mr. Shore highlighted the implications *McGirt* may have on resource rights. Because the U.S. Supreme Court upheld the validity of the Native American reservations authorized by Congress in the 19th century, Mr. Shore noted that under *McGirt*, the "Creek Nation may indirectly come to exercise administrative authority over oil and gas development in a huge portion of eastern Oklahoma." This holding could entail "not only stricter federal environmental regulations, but also challenges to operators of oil and gas wells, causing them to enter into new agreements, and some Native American tribes are very familiar with arbitration agreements."

*(See **ITA-IEL-ICC JOINT CONFERENCE**, page 9)*

*(Continued from **ITA-IEL-ICC JOINT CONFERENCE**, page 8)*

The third matter identified by Mr. Shore was *Taqa Bratani Ltd and Others v. RockRose UKCS8 LLC*. Mr. Shore selected this decision because it reinforced the fundamental principle that unambiguous terms in a contract will be interpreted and enforced as written. Mr. Shore summarized the court's holding that "the natural and unambiguous meaning of a contractual provision should not be discarded because one of the parties was unwise to have agreed to the term" and that, "in a detailed commercial agreement where sophisticated parties set out an unambiguous, unqualified right to discharge an operator, an implied term should not be accepted if that implied term would qualify an unqualified right and if the contract works as the parties intended." In the words of Mr. Shore, "words matter" and "the words rule." He predicted that this holding would "likely influence the English law contract interpretation approaches in many energy arbitrations."

The fourth matter selected by Mr. Shore was *Sinohydro Costa Rica, et al., v. Comisión Federal de Electricidad (Mexico)*. According to Mr. Shore, the "intriguing aspect" of the tribunal's ruling in this case was its determination that the "commission's failure to keep its commitments to the community residents led to the blockades and shutdowns" that impeded the claimants' ability to perform under the contract, and this was foreseeable by the commission. He opined that this ruling may be a "sovereign cautionary influencer" because of the "state-local community conflict implications for massive energy, in many cases hydroelectric, projects where the contractor must rely on community relations and communications that only the state can initially undertake to manage."

The fifth noteworthy ruling of 2020 identified by Mr. Shore was *Process and Industrial Developments Ltd. v. Federal Republic of Nigeria, et al*. He selected this case not only for the staggering amount of the award ($6.6 billion, now worth roughly $10 billion including interest), but also because of the U.S. District Court for the District of Columbia's holding that Nigeria waived sovereign immunity be entering into the New York Convention and agreeing to seat an arbitration in another signatory to the New York Convention. This holding, if affirmed, may have broad implications for the recognition of arbitral awards in the United States.

The sixth matter selected by Mr. Shore was the February 2020 Hague Court of Appeal ruling that reinstated the *Yukos Universal Limited v. The Russian Federation* UNCITRAL awards, now worth approximately $57 billion. While this case also involves the enforcement of a substantial arbitral award, Mr. Shore noted that it is influential because "the Hague Court of Appeal has put the construction Article 45 of the Energy Charter Treaty, and the circumstances in which provisional application would bind a contracting state, back into debate."

Lastly, Mr. Shore concluded his "magnificent seven" list of impactful developments in 2020 by addressing a technological development that he believes will lead to many arbitrations in the medium-term: the soon-to-happen commercial production of oceanic methane hydrates. Mr. Shore dubbed this technology the "next hydrocarbon frontier." He acknowledged that it might not be as groundbreaking as hydraulic fracturing, it will nonetheless "be big." He also acknowledged the concern that the exploitation of oceanic methane hydrates may carry "potentially disastrous environmental greenhouse gas emission consequences." With particular importance for the current audience, Mr. Shore noted that "territorial disputes are bound to arise" with the development of this technology, which may result in a "new wave of arbitral clauses to deal with the significant and expensive engineering challenges on the ocean floor."

D. In-House Perspectives: The Energy Industry in Transition

Following the year-in-review presentation, **Marcela Berdion-Straub** (Lead Counsel, Litigation, TOTAL American Services, Inc., Houston) moderated a panel discussion on the topic of transitions in energy disputes, as seen from the perspective of in-house practitioners. The panel consisted of **Chris Bellotti** (Assistant General Counsel, Halliburton, Houston), **James Cowan** (Associate General Counsel, Litigation—Americas, Shell Oil Company, Houston), and **Maxime Rabilloud**, (General Counsel, EP, Total SE, Paris).

The panel began by discussing the topic of how in-house lawyers have reacted and adapted to the COVID-19 pandemic. The panelists generally commented that large, global law firms seemed to have been more capable and more agile at adapting to the pandemic and resulting restrictions on movement. The panel noted that, in the immediate aftermath of global pandemic restrictions, rules and regulations changed so quickly that it was helpful for large, global law firms to quickly promulgate updates and advice in the form of blog posts or other social media. Mr. Bellotti advised external counsel that having a clear, thoughtful, and fulsome plan or pitch is highly persuasive to in-house counsel, though external counsel should remain flexible to input from in-house counsel. The panel generally commented that in-house counsel had now become accustomed to remote working environments that cross-border or inter-office collaboration had greatly increased, but Mr. Cowan raised concerns about how much longer this environment can last without eventually needing to "refresh relationships" with colleagues.

The panelists then turned their attention to how the COVID-19 pandemic may impact arbitral hearings in the long-term. The panel generally observed that, due to the remote working environment required by the pandemic, there will likely be an increased openness to virtual arbitral hearings in the future.

Mr. Cowan noted that the virtual format may lead arbitrators and practitioners to discover that shorter evidentiary hearings and witness examinations may be more effective. Relatedly, Mr. Bellotti forecasted that virtual participation will be encouraged over telephonic participation, that in-person and virtual "blended proceedings are here to stay," and that there will likely be fewer "staggering bills for binders" and other hearing materials.

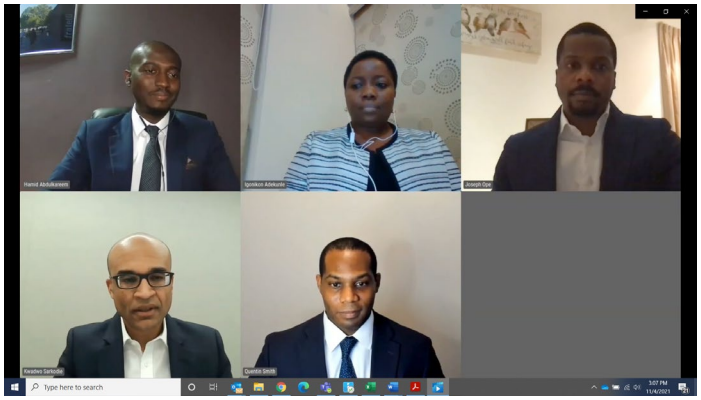
The panel also addressed how in-house counsel track and encourage diversity amongst their external counsel. Mr. Bellotti mentioned that law firms are sometimes "afraid to let their younger lawyers step up in court-facing or arbitrator-facing positions" and highlighted the power that in-house counsel has to pressure external counsel (at the partnership level) to give these opportunities to younger, diverse lawyers. Mr. Rabilloud stated his view that in-house counsel should view diversity through the lens of the value that unique, broad perspectives bring to a legal team.

*(See **ITA-IEL-ICC JOINT CONFERENCE**, page 10)*

*(Continued from **ITA-IEL-ICC JOINT CONFERENCE**, page 9)*

E. Diversity Focus: Experience of Black Practitioners in International Energy Arbitration

After a year that saw an increased focus on racial equity in the United States and around the globe, the conference's diversity discussion sought to hear the experiences of Black practitioners in international energy arbitration. The panel discussion was moderated by **Quentin L. Smith** (Vinson & Elkins LLP, Houston) and included panelists **Hamid Abdulkareem** (Aluko & Oyebode, Lagos), **Igonikon Adekunle** (Templers, Lagos), **Joseph Ope** (ExxonMobil Asia Pacific Pte. Ltd., Singapore), and **Kwadwo Sarkodie** (Mayer Brown, London).



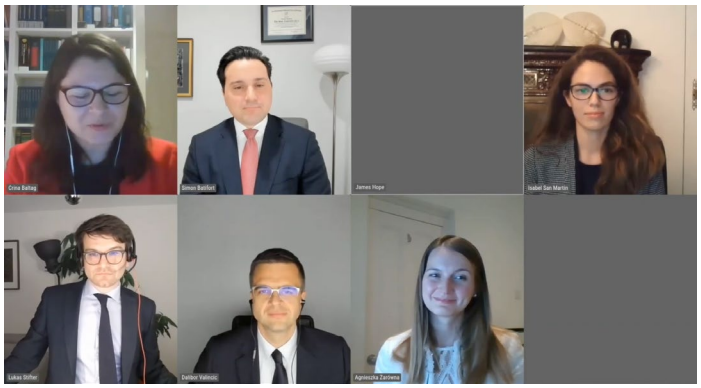
The discussion began with a brief overview of each participant's background and career experience and then turned to the topic of empowering young Black lawyers to pursue a career in international energy arbitration. Mr. Sarkodie opined that many young Black practitioners may be held back by imposter syndrome, which is characterized by an anxiety that one is not sufficiently qualified or skilled for a given role and an internalized fear that one will be exposed as "fraud" or "imposter." In addition, Ms. Adekunle asserted that some sort of affirmative action was necessary to draw Black practitioners into the international energy arbitration field.

F. ITA-IEL-ICC Energy Arbitration Forum

At the conclusion of the second day of the joint conference, **Sophie J. Lamb QC** (Latham & Watkins LLP, London) and **Kevin O'Gorman** (Norton Rose Fulbright, Houstom) co-moderated an interactive forum for conference attendees. The forum was a special informal opportunity for colleagues in international arbitration to discuss current issues and share concerns with their peers.

G. Young Lawyers Roundtable

On the third day of the joint conference, **Crina Baltag** (Young ITA Vice Chair, Senior Lecturer, Stockholm University, Stockholm), **Katharine Menéndez de la Cuesta** (ICC YAF Representative, Holland & Knight, Miami), and **Quentin L. Smith** (IEL YEP Representative, Vinson & Elkins LLP, Houston) co-chaired a roundtable discussion consisting of two panels exploring different topics. The first panel, entitled



"Recent Regional Developments in Energy Arbitration, What's the Latest?" was moderated by **Sarah Vasani** (Addleshaw Goddard LLP, London) and included panelists **Javier Jaramillo-Troya** (Pérez Bustamante & Ponce, Quito), **E. Jin Lee** (Three Crowns, Washington D.C.), and **Charis Tan** (Peter & Kim, Singapore). The second panel, entitled "Debate on the Energy Charter Treaty Modernisation," was moderated by **James Hope** (Vinge, Sweden) and included panelists **Simon Batifort** (Curtis, Mallet-Prevost, Colt & Mosle LLP, New York), **Isabel San Martin** (King & Spalding, Paris), **Dalibor Valincic** (Wolf Theiss, Zagreb), and **Agnieszka Zarowna** (White & Case LLP, London). This latter panel also included introductory remarks by **Crina Baltag** (Young ITA Vice Chair, Senior Lecturer, Stockholm University, Stockholm) and **Lukas Stifter** (Chair, ECT Modernisation Group, Energy Charter Treaty, Federal Ministry for Digitization and Business Location, Vienna).

ITA ORAL HISTORY INTERVIEW: JUDGE GABRIELLE K. MCDONALD

Report by Jacob Omorodion, Three Crowns, Washington, DC

As part of the ITA's Preserving Perspectives—or "Oral History"—project, which seeks to collect accounts and histories of eminent jurists, Vice-Chair of the ITA Academic Council **Victoria Sahani** (Associate Dean, Arizona State University, Phoenix) welcomed speaker **Judge Gabrielle K. McDonald,** accomplished civil rights lawyer and trailblazing international jurist, for an incisive and wide-ranging discussion of Judge McDonald's life, acclaimed legal career, and reflections on improving diversity in the international legal field.

Dean Sahani opened the conversation by touching upon the global praise that has been accorded to Judge McDonald. This included Kitty Field's referencing Judge McDonald as the then-"most powerful African-American woman in the world"; Kofi Annan's reflection that she brought "international humanitarian law and its enforcement to the attention of the peoples of the world … indeed, perhaps more than any other single person, Judge McDonald helped bring us closer to a world which once seemed beyond attainment"; and Madeleine Albright's reflection that Judge McDonald's example "reminds us that we can understand that there will be limits on what we can accomplish without ourselves limiting unduly in what we attempt, and that in doing so we may achieve more than was ever believed possible."

Dean Sahani then addressed Judge McDonald's formative years. When asked what made her want to become a lawyer, Judge McDonald specified that she "did not want to become a *lawyer*, [she] wanted to become a *civil rights lawyer.*" Judge McDonald placed us in the context of the time: This was, as she mentioned, "the turbulent 1960s," in the wake of the March on Washington, Martin Luther King Jr.'s "I Have a Dream" speech, and the assassination of NAACP President Medgar Evers. It was during *this* time that Judge McDonald found herself at the Howard University School of Law in Washington DC, a focal point of transformative efforts at that time and, as Judge McDonald reminded us, a "centre for the development of the Civil Rights Campaign," including for the desegregation of schools.

Emphasizing Howard's mission-oriented drive, Judge McDonald's shared that Dean (unofficially, on account of his race) Charles Hamilton Houston extolled the idea that "any lawyer who is not a social engineer is a parasite on society." Judge McDonald described her time at Howard as "transformative" and "liberating," and where she "learned about the law, and learned about how the law was not an end unto itself." One of only 142 African-American women who were law students in the entire United States at that time, Judge McDonald graduated as Valedictorian and at the top of her class.

An individual of many firsts, after working for years in the NAACP Legal Defense Fund (and, among other accomplishments, leading the legal team which won one of the first major Title VII cases,

*(See **ITA ORAL HISTORY**, page 11)*

*(Continued from **ITA ORAL HISTORY**, page 10)*

in the area of employment discrimination) and in private practice, in 1979 Judge McDonald became the first African-American woman nominated to the US District Court for the Southern District of Texas (and, indeed, any federal court in Texas). As a district judge, McDonald presided over a broad gamut of high-profile cases, including the Vietnamese Fishermen Case (*Vietnamese Fishermen's Ass'n v. Knights, et al.,* 543 F. Supp. 198 (S.D. Tex. 1982)), where the Ku Klux Klan (KKK) became directly involved and tried to force Judge McDonald's recusal on account of her race (which, Dean Sahini, rightfully added, "was clearly a bogus argument"). Her response? "You are not entitled to a judge of your choosing but one who will be fair, and I will do that." Judge McDonald did indeed end up being selected to preside over the case. After Dean Sahini commented that she was "moved by [McDonald's] courage."

Judge McDonald detailed her having to issue an injunction to have the KKK close a local paramilitary camp, a KKK rally being held denouncing her personally with the worst racial epithets, and even the KKK having organized a flotilla, complete with robed Klansmen and canons, in an unsuccessful effort to intimidate her and frustrate the proceedings. Dean Sahini, herself an African-American woman and trailblazer in the field, remarked that Judge McDonald was a "vision and a model of justice," and "the fact that you were able to dispense justice under such difficult circumstances, is a testament to your integrity and high calibre as a jurist."

It is perhaps little surprise, then, that when in 1993 the United States was selecting a jurist to become a judge on the International Criminal Tribunal for the former Yugoslavia (ICTY), the US called upon Judge McDonald. This new stage of Judge McDonald's career echoed the formative words on the role of the lawyer as social engineer which she had received years before at Howard. Beyond serving on the panel of judges, Judge McDonald had a critical role in designing "from scratch" the ICTY's procedure and evidentiary system. When asked by Dean Sahini about how it felt to take part in such an experience, Judge McDonald remarked, "it was wonderful! Who wouldn't want to design a court in their image?" She described the leadership of Judge Cassese (fondly remembered by Judge McDonald as "Nino") in this process as that of a "difficult taskmaster" and warmly discussed the hands-on, hardworking, and deliberative approach of the 11 judges—from both common law and civil law backgrounds—in developing the procedure. One thorny issue in drafting the ICTY's rules concerned trials *in absentia*, which while supported by certain civil law states was seen by Judge McDonald as contrary to the US's legal tradition. After three days of debate, a compromise was adopted where there would be no trials *in absentia*, but the courts would have a system of publications whereby the world community would be aware.

Judge McDonald later served as the President of the ICTY. She described a number of challenges that arose during her tenure and how she navigated them. These included challenges in transferring charged persons to the Tribunal, which, although formally the responsibility of UN Member States to comply with under Chapter 7 of the UN Charter, was difficult to achieve in practice. She also highlighted how the Tadić trial revealed the lack of physical logistical capacity at the ICTY and how she successfully lobbied states to supply the resources to, among other measures, increase the number of courtrooms. She also successfully advocated for the Security Council to permit an expansion of the number of judges for an appeals chamber. Eventually, with her health situation changing, Judge McDonald decided to leave the ICTY for a less physically demanding role at the Iran-US Claims Tribunal. While a shock to her peers, Judge McDonald recounted how at their final dinner, her fellow judges went around the table, with each saying why she should not go, a moment which brought her to tears. In her words, "judges aren't supposed to cry, I presume. But I did."

By joining the Iran-US Claims Tribunal as a judge in 2001, Judge McDonald again made history as the first woman to assume that role. Judge McDonald detailed how the expectations around gender of the parties varied markedly and there were situations where her Iranian counterparts refused to shake her hand on account of her gender. While seeking to respect the cultures reflected on the tribunal, Judge McDonald also emphasized (in response to a growing appellation of her as "Lady Judge") that "when we are doing our job here, I am not a *lady* judge," and that, after a time she was "so convincing that they began to respect [her]." Nonetheless, Judge McDonald did encounter tough moments from all sides (including from fellow Americans) on account of her race and gender, which is to say, on account of her being a Black woman. From moments she described as "egregious" disrespect, to an occasion where a third-country arbitrator antagonistically passed a chapter entitled "The Black Dog" to her, Judge McDonald described her experience of the Iran-US Claims Tribunal as "a mixed bag." Nevertheless, she concluded with a smile, "I'm a tough lady, and an old lady."

In the final part of the interview, Dean Sahini turned to her role in promoting the increase of diversity and representation of African-Americans in international law. After being nominated as the first Black president of ASIL, Judge McDonald founded BASIL, the "Blacks of the American Society of International Law." The purpose of BASIL, she said, is to shift the face of the field and increase the number of African-Americans in international law. Judge McDonald emphasised the importance of leadership in making these changes possible, however she also stressed the important of grassroots outreach. She used the example of BASIL reaching out to various law school BLSA (Black Law Students Association) chapters across the country. While acknowledging that law students tend to see international arbitration as a narrow and white-dominated field, and noting that even the scholarship has observed a "colour line" in international arbitration, Judge McDonald was nonetheless emphatic in asserting that African-Americans can and should enter the field. She cited 2020 statistics of the top 500 US law firms to drive the urgency of her point: of the 3,430 international arbitration practitioners at these firms, only 57 were African-American.

In observing that there are highly qualified Black jurists who could serve as arbitrators, with even published lists to this effect, Judge McDonald stated that the question arising is "Are Black Americans *valued* in international arbitration?" She emphasised the important point that having a diversity of people from around the world, who are themselves majorities in their home countries is not enough to be satisfied with the progress of improving diversity in international arbitration. She also noted that while the Equal Representation in Arbitration Pledge is a step forward for the presence of women in the field, there needs to be more diversity even here, citing "heart-breaking" studies on the Black female experience in international arbitration. Commenting that there is a need to increase diversity among arbitrators, Judge McDonald stated that "by definition … international arbitration, where the arbitrators show their face to the world … needs to reflect our country." Judge McDonald drew a thread between last year's Black Lives Matter protests, and this year's Insurrection at the U.S. Capitol, and the international community's reaction to both, and asked: "U.S. international arbitrators present an image to the world. The question is, what image are you going to present?" She spoke of this as a topic for which, after fighting over 55 years, she is "emotional, and passionate" and called on all of us to "just do it … I want to see some change." Dean Sahini described this is as a "rousing call to action… that we will certainly take to heart."

From being the only or near-only Black person in her schools growing up, to making her mark as a civil rights lawyer and federal judge, to emerging as a trailblazing international jurist, Judge McDonald has secured her place in both US and world legal history.

#YOUNGITATALKS AND CIARB YMG JOINT EVENT: THE ARBITRAL PROCESS FROM START TO FINISH – TIPS FOR A SUCCESSFUL ARBITRATION

Report by Elisabeth Zoe Everson, Lalive, Geneva

On December 9, 2020, Young ITA and CIArb YMG hosted a live webinar debate on tips for a successful arbitration, moderated by **Sarah Reynolds** (Mayer Brown, Chicago/Palo Alto).

The unique format of the event enabled the panelists to share their views on different issues arising at various stages of arbitral proceedings, from the perspectives of different actors. This was done in the context of the following hypothetical scenario: a software company based in Chicago (US) is negotiating a cross-border professional services agreement with a company based in Dublin (Ireland), for the provision of after-hours tech support services.

I. The perspective of an in-house lawyer

In his role as in-house lawyer of the US company, **Javier Rubinstein** (King & Spalding, Chicago) shared his thoughts for negotiating the contract. *Firstly*, in the case at hand, he would advise adopting an arbitration clause, as arbitration allows for a facilitated enforcement abroad, is usually more acceptable than domestic litigation to parties from different countries, and tends to be faster and less expensive. He would also recommend arbitration with a view to ensuring confidentiality. *Secondly*, looking at the specifics, Javier Rubinstein would opt for institutional arbitration, which provides infrastructure and regularly updated state-of-the-art rules, and would select a seat whose courts have a healthy respect for arbitration. Additionally, he would push for an all-encompassing arbitration clause as an unclear scope may result in litigation over the question of jurisdiction, leading to both delays and increased costs. *Lastly*, the negotiated contract should encompass a confidentiality clause.

For the purposes of the hypothetical, following the negotiations, we now have an arbitration clause with proceedings seated in New York (US) and governed by the ICC rules. A dispute arises.

II. The perspective of the outside counsel

Ricardo Ugarte (Winston & Strawn, Chicago), as the outside counsel representing the US entity, shared six key steps to consider at this stage: (i) assess the enforceability of the arbitration clause; (ii) analyze and follow any preconditions to arbitration, such as a written notice of the dispute or a meeting between the parties' executives; (iii) go over all of the elements negotiated at the time of the contract, such as the seat or the applicable law, and consider their practical implications; (iv) examine any potential jurisdictional issues; (v) start the selection of arbitrators early; and finally (vi) make use of the time control advantage as the claimant.

For the purposes of the hypothetical, we now have a demand filed with the ICC.

III. The perspective of the institution

Prof. Victoria Sahani (Arizona State University, Phoenix) explained the process within the institution. On top of sending the request, the claimant must pay a nonrefundable administrative fee, following which the secretariat indicates which team and specific counsel the case is assigned to. The secretariat then notifies the respondent, who must file its answer and also pay an administrative fee within a specified time period. At that time, the parties are usually required to pay the advance on costs, following which the secretariat confirms the arbitral tribunal. The parties generally have the right of choice in this respect and the secretariat merely verifies that the selected person does not have any conflict of interest and is sufficiently available. Once confirmed, the file is transferred to the arbitral tribunal. Fast forward to the very end of the proceedings, the ICC has a unique scrutiny procedure through which it reviews the award.

For the purposes of the hypothetical, a sole arbitrator is now confirmed and has received the file.

IV. The perspective of the arbitral tribunal

Lawrence (Larry) Schaner (Schaner Dispute Resolution, Chicago) explained that he starts by organizing the proceedings and in this respect establishes (i) the terms of reference as required by the ICC, (ii) a procedural timetable, and (iii) specific procedural rules for the case, which will be incorporated into a procedural order.

The main phases in a typical international arbitration are then (i) a submission of pre-hearing memoranda, submitted simultaneously or consecutively, (ii) a document exchange and (iii) a hearing. In the present case, Larry Schaner is likely to order two rounds of pre-hearing submissions, with a document exchange phase in between. Then, prior to the hearing, he will hold a pre-hearing conference to address any logistical questions. The hearing itself usually has the following components: (i) short opening statements and (ii) cross-examination of witnesses as well as questions to the witnesses by the arbitrator. These can be followed by either oral closing statements or written post-hearing briefs submitted after the hearing ends. Thereafter, the case is submitted to the sole arbitrator for a decision.

For the purposes of the hypothetical, the sole arbitrator finds in favor of the claimant, awarding compensatory damages, pre-award interests and lost revenue. He also finds the claimant is entitled to its costs. Before issuing the award, the sole arbitrator submits a draft thereof to the ICC secretariat for review and integrates any comments.

V. The perspective of the judiciary

Margaret Moses (Loyola University, Chicago) concluded the webinar by explaining the enforcement of the award. Where the losing party does not voluntarily comply with the award, there are two instances in which the judiciary may get involved. *Firstly*, the losing party may bring a motion to vacate in the jurisdiction of the seat. The seat being the US in the present case, the federal district court judge would analyze the situation under the Federal Arbitration Act, and could only vacate the award on limited grounds, such as violations of due process or fairness. *Secondly*, the winning party may bring a motion to enforce in the jurisdiction where the losing party's assets are located, usually under the New York Convention. The grounds for non-enforcement are also limited and somewhat similar to those under the Federal Arbitration Act.

The event concluded with a short discussion on the aspects of arbitration which may be surprising to new users, such as fee shifting or misconceptions about the speed of the proceedings.

#YOUNGITATALKS CHALLENGES IN ARBITRATION IN THE DEVELOPING WORLD AFRICA, MEXICO AND CENTRAL AMERICA

Report by Galo Márquez Ruiz (Tec De Monterrey)

On March 14, 2020, Young ITA hosted a #YoungITATalks panel on the "Challenges of Arbitration in the Developing World," in particular in Africa, Mexico and Central America.

The panel, which was co-sponsored by the Arbitration Center of Mexico and the Nigerian Institute of Chartered Arbitrators, was co-moderated by **Sylvia Sámano Beristain** (Young ITA Regional Chair, Mexico and Central America) and **Demilade Elemo** (Young ITA Regional Chair, Africa).

A. Arbitration Framework in Developing Economies

Madeline Kimei (Iresolve, Dar es Salaam) began by providing an overview of the regulatory framework for international commercial arbitration in Tanzania. Ms. Kimei introduced Tanzania's "new and robust and exciting arbitration Act," named the Arbitration Act 2020. The Tanzanian Arbitration Act 2020, which is not yet in operation, takes the approach of the English Arbitration Act of 1996 and does not consider the amendments from the 2006 UNCITRAL Model Law. The main provisions of the Act are based on party autonomy and limiting court intervention in arbitration. However, local courts will still have a say in determining the fees of the arbitration. This differs from UNCITRAL's Model Law. Regarding confidentiality, Tanzania's Arbitration Act 2020 departs from the English Act by regulating confidentiality and providing a wide and broad definition for confidentiality. The new Act will also create the Tanzania Arbitration Centre, which will be responsible for the conduct and management of arbitrations as well as accreditation of arbitrators in Tanzania. Lastly, Ms. Kimei considers that this new act will stabilize the economy by providing a new mechanism for investors to have a channel to file their claims.

Ms. Elemo further questioned **Folashade Alli** (FAA Law, Lagos) on similarities or departures between Tanzania and Nigeria. Nigeria's arbitration framework is based upon the Arbitration and Conciliation Act of 1985, which is a verbatim adoption of the UNCITRAL Model Law. The Arbitration and Conciliation Act of 1985 has 16 provisions with slight differences and 10 articles which deviate entirely from the UNCITRAL Model Law. The first departure, which has been considered as a matter of concern, is an expansion of the grounds for setting aside an award: the Arbitration and Conciliation Act of 1985 considers "misconduct" in the proceedings to be a reason for setting aside an award. This has given wide powers to Nigerian courts and has allowed for frivolous claims to set aside awards. While this provision is not favorable to Nigeria as an arbitration friendly jurisdiction, a bill proposing a new Arbitration Act, based on the UNCITRAL Model Law and abrogating the provision to set aside an award for "misconduct," is pending in the House of Representatives. The new bill also contemplates provisions for a single arbitrator to reduce the costs of arbitration. It is remarkable that the new bill (i) provides for multi-party arbitration, which was not considered previously, (ii) recognizes third party funding, and (iii) contemplates emergency arbitrations.

Ms. Elemo gave the floor to **Julieta Ovalle Piedra** (Bufete Ovalle Favela Abogados, Mexico City) to discuss the situation in Mexico. Ms. Ovalle mentioned that until the 20th Century, Mexico's local legislation was inadequate to regulate international commercial arbitrations. Eventually Mexico signed the Panama Convention on International Commercial Arbitration (The Panama Convention) and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention). Further, in 1993 the UNCITRAL Model Law was adopted by Mexico without any significant change, as a consequence of the now replaced North American Free Trade Agreement. Mexico did not adopt all of the 2006 amendments to the UNCITRAL Model Law, omitting the conditions to grant interim measures and preliminary orders, and the wide definition of arbitration agreement. Lastly, Mexico does not have any plans to amend the arbitration law.

Mauricio Paris (ECIJA, San José) from Costa Rica maintained the panel's conversation in Latin-America by mentioning that Costa Rica's regulatory framework has a dualistic system. Costa Rica has two arbitration laws, one domestic and one regulating international arbitration. Costa Rica ratified and became a state-party to the New York Convention on November 15, 1977. Domestically, arbitration is addressed pursuant to the Law for Alternative Dispute Resolution of 1995, which bases its arbitration chapter on the 1985 UNCITRAL Model Law with considerable modifications. On the other side, international arbitration applies the Law for International Commercial Arbitration of 2011, which contemplates the 2006 amendments of the UNCITRAL Model Law, and "it is a pure version of the model law." Costa Rica is developing a change of mentality, reflected in the arbitration centers in Costa Rica which have adopted rules to foster and encourage best practices in arbitration. It results inevitably that the system in Costa Rica is changing from a domestic system to an international oriented system.

The next intervention was given by **Alexander Aizenstatd** (Alexander Aizenstatd, Guatemala City) from Guatemala, who showcased the flexibility of Zoom sessions by providing commentary on the Guatemalan arbitration framework through a video recording. Guatemala's arbitration law is named the Arbitration Law, Decree 67-95, which is based on the 1985 UNCITRAL Model Law and overviews both domestic and international arbitrations. Guatemala is also a state-party to the Panama Convention and the New York Convention. Its Law of Government Procurement allows the state to enter arbitration clauses, promoting arbitration on the region. Recent developments in Arbitration include the declaration of unconstitutionality of Art. 2 of the Guatemalan Arbitration Law, which required international contracts to be filed pursuant to the Rules of the International Chamber of Commerce. Guatemala's Arbitration Law allows revision of the awards through an appeal mechanism.

Tokunbo Davies (Pinheiro LP, Lagos), closed the topic of general arbitration framework by commenting on regulation in other African countries. For example, South Africa protects investments by application of its Arbitration Act, which provides for the resolution of investment disputes by arbitration. Ghana has the Alternative Dispute Resolution Act 2010, which contemplates conciliation, mediation and arbitration, and Egypt's arbitration law is named the Arbitration Law No. 27. Most notable in the region is the consolidation of the Organization for the Harmonization of Business Law in Africa (OHADA). OHADA is a supranational organization that has harmonized commercial law within seventeen African countries. Out of those seventeen countries, fourteen do not have local arbitration laws and are regulated by the applicable rules of the Common Court of Justice and Arbitration and the Uniform Act on Arbitration.

B. Challenges in Arbitration due to the Pandemic

Ms. Sámano then introduced **Fidéle Masengo** (Kigali International Arbitration Centre "KIAC", Kigali) in order to understand some of the current challenges to arbitration in Africa. Mr. Masengo mentioned that "Africa is following the example from other countries." For example, most international arbitrations involving an African element have been administered by the ICC and the LCIA. The ICC in particular has seen a rise of 87 new cases in the past decade involving an African element. Africa has 18 arbitration institutions, with some states as Nigeria having as much as 6 centers of arbitration. Local arbitration centers are favorable due to (i) its facilitation to provide organization locally, (ii) lower administrative costs, and (iii) increasing the prospects of generating substantial revenues for lawyers. Some of the industries most involved in arbitration in Africa include pharmaceutical, shareholder, transport, and mining cases, giving a varied industry of disputes. Mr. Masengo mentioned that arbitration centers dealt with COVID-19 issues such as logistic problems, lack of infrastructure to hold virtual hearing, and conflicts with procedural rules (for example, since the rules do not contemplate virtual hearings).

*(See **CHALLENGES IN ARBITRATION**, page 14)*

*(Continued from **CHALLENGES IN ARBITRATION**, page 13)*

Lastly, virtual hearings have brought concerns regarding privacy and cyber-security. Ms. Sámano noted that the number of disputes resolved by arbitration in Africa is a positive sign.

Ms. Ovalle then addressed the challenges of post COVID-19 Latin-America by mentioning that most Latin-American countries have adopted the New York Convention or the UNICTRAL Model Law. This has made Latin America a friendly jurisdiction for arbitration. For example, the 2018 Queen Mary University of London and White & Case Survey found Sao Paulo to be the 4th most common arbitration seat in Latin America and the 8th overall. The 2019 ICC Dispute Resolution Statics confirmed that 15.5% of the filings came from Latin America & the Caribbean. Some of the most common arbitrations institutions are the CMA (Spain), CANACO and CAM (Mexico), CAM Santiago (Chile), CCL (Peru), CCA (Costa Rica), all of which face challenges in appointing diverse arbitrators. However, the pandemic has highlighted the benefits of arbitration. For example, in Mexico, arbitrations continued while court proceedings halted.

On this last point, Ms. Elemo asked **Vicente Bañuelos** (Garza Tello-Clyde and Co.) about Mexican local courts' attitude towards arbitration. Mr. Bañuelos explained that Mexican courts are pro-arbitration and support referrals to arbitration and enforcement of interim measures, and that most awards are eventually enforced. Mexico's main issue, according to Mr. Bañuelos, is corruption that pervades the courts and promotes unethical practices.

Ms. Elemo asked Mr. Masengo to compare the roles of local courts in Mexico and in Rwanda. Mr. Masego explained that the main issue facing Rwandan courts is also corruption. He noted that for arbitration to be effective, it must be free from courts and supported by a good judiciary. In this sense, Rwanda's judiciary has a supervisory role. Echoing this, Mr. Aizenstad stated that the considered Guatemala's main issue to be judges' lack of familiarity with arbitration. In the end, a weak judiciary hinders the growth of arbitration.

As a consequence, Ms. Alli stated that the pandemic affected the courts more than arbitration, which actually thrived. Currently, developing economies have relied upon guidelines for virtual hearings to continue their work in arbitrations. Mr. París stated that key aspects that may be improved in arbitration in Central America involve (i) removing the civil procedure mindset from arbitration, (ii) avoiding State intervention, (iii) improving confidence in arbitration, (iv) capacitate arbitrators, and (v) lack of diversity in arbitrators.

Ms. Kimei presented her key aspects to improve in Africa, resumed in (i) legislating ADR with a pro-arbitration perspective, (ii) training lawyers in arbitration, (iii) creating a specialized court to assist arbitrations, and (iv) appointment of arbitrators by private third parties. Quoting another practitioner, Ms. Kimei mentioned that "the courts should not be appointing arbitrators, that is not their domain."

Ms. Sámano wrapped up the event, noting that emerging economies such as Mexico and Africa could become hotspots of arbitration if they "plant the seed in order to seize the harvest."

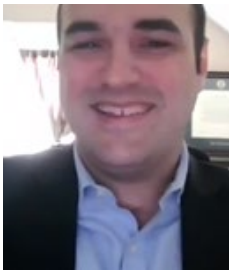
#YOUNGITA MENTORSHIP PROGRAM – DEVELOPMENTS IN ISDS: THE ROARING 20S?

Report by Malgorzata Judkiewicz-Garvan (Osterling Abogados, Lima) and Jorge A. Velázquez (Floresrueda Abogados, Mexico City)

Karima Sauma

On August 10, 2021, Young ITA Vice-Chair, **Karima Sauma** (CICA-AmCham) introduced the 5th webinar of the #YoungITA Mentorship Program – Speaker Series: Developments in ISDS: The roaring 20s?

Young ITA North America Vice-Chair **Michael A. Fernandez** (Rivero Mestre LLP) acted as the moderator and **Dr. Kabir Duggal** (Arnold & Porter LLP) was the main speaker. The webinar covered the following topics: the current developments in the ISDS system, including recent efforts to "judicialize" it; the impact of technology on the ISDS system; and recent initiatives to foster diversity in international arbitration.



Michael A. Fernandez

Dr. Duggal opened the webinar by explaining that even though the increase in the number of investment treaties took place in the 1990s, it was not until the 2000s that there was a substantial increase in the number of cases. As noted by Dr. Duggal, the increase in cases was so notable that it drew public interest, including from activists, and produced political commentary.

Turning to the recent efforts to judicialize the ISDS system, Dr. Duggal explained that Europe's view is that ISDS rules operate satisfactorily, however they have shown concerns over dispute resolution modality, in particular the fact that unelected individuals can tell a State what to do. In addition, the hourly rates for lawyers in ISDS can pose a problem for State Parties. Dr. Duggal went on to discuss how these problems have led to the idea of and support for investment courts.

Dr. Kabir Duggal

Dr. Duggal noted that investment courts would remove the right to appoint an arbitrator, as both the court and the appellate body members would be appointed by States. This would be seen as an issue by some parties. However, others claim there is no human right to select the decision-maker. Turning to whether investment courts will actually be implemented, Dr. Duggal highlighted that Europe is pushing for it and there is no other major counter-voice. Nonetheless, he pointed out that with every new treaty that adopts the proposal, a new court is being created (such as the Comprehensive Economic and Trade Agreement (CETA) or the EU-Vietnam Trade Agreement); thus, it is likely that we will see not only one investment court, but several courts.

When asked about which implications Ecuador's decision to rejoin ICSID could have in the current debate to judicialize the ISDS system, Dr. Duggal reflected that rather than them taking a position in relation to the ISDS reform, such a decision could be seen as a political statement from Ecuador's government to distance itself from the previous administration. It could also be seen as an invitation towards investors to invest in Ecuador.

*(See **THE ROARING 20S**, page 15)*

*(Continued from **THE ROARING 20S**, page 14)*

Dr. Duggal said that nowadays, LATAM States, unlike European States, are not taking positions at international forums about the ISDS. It is therefore Europe which is largely dictating the discussion. Nonetheless, he pointed out that in the 2000s the call for reform to ISDS did come from Latin America.

Dr. Duggal then moved to discuss the impact of technology on the ISDS system, noting that lawyers (including arbitration lawyers) are normally reluctant to change. However, he noted that in commercial arbitration, technologies such as Zoom have been more readily embraced than lawyers dealing with ISDS. Nonetheless, he considered that COVID-19 has showed us one thing: we can use technology in our arbitration proceedings and conduct the proceedings online if we need to.

Dr. Duggal also talked about hacking, stating that it is widespread and that all major companies in the world have been hacked. Two major hackings have affected arbitration: WikiLeaks and Kazakh Leaks. He stated that documents obtained by hacking are illegal in the US since they fulfill the definition of the fruit of the poisonous tree theory (if a document comes from an illegal source, any consequence of that is also illegal and cannot be admitted as evidence). However, he considered that some arbitral tribunals have accepted such documents as evidence.

Turning to the topic of law firms accepting Artificial Intelligence (AI), Dr. Duggal mentioned that there might be some reluctance because lawyers tend to avoid risks; however, there will be a point in time when we may need to embrace technology. In addition, States may find attractive costs savings by using AI. Michael A. Fernandez agreed and mentioned that such technology might be an incentive for some firms to lower their budgets and attract business from other large law firms.

A question from the audience concerned the work of the UNCITRAL Working Group III and whether it contributed to the much-needed reform for climate change-related ISDS. Dr. Duggal pointed out that the Working Group had spent about 10 years working on reforming ISDS, but their work only focused on procedure and not substance. Thus, he considered that the group's contribution has not satisfied the need for climate change-related ISDS reform. In addition, he discussed that the responsibility is being left for States to decide in treaties.

Dr. Duggal then focused on recent initiatives to foster diversity. He considers that diversity is important in order to foster legitimacy: the international practice should reflect society, and currently it does not. We are still not close to having gender parity nor equal representation when it comes to race. In regard to gender parity there is at least awareness of the problem, and the thinking on this is changing for the better. R.E.A.L. has also started to talk about equal race representation. This initiative is aimed at giving opportunities to individuals who would otherwise be excluded, or not traditionally represented, in international arbitration, by providing scholarships and inviting them to participate in events. Dr. Duggal also pointed to ArbitralWomen, and the first female President of the ICC, Claudia Salomon's new initiatives to focus on individuals with disabilities, and the LGBTQIA+ community.

The webinar concluded with Dr. Duggal providing advice to young practitioners to: (i) find an organization you like, join it and be active; (ii) strategically plan your way into arbitration; (iii) engage in arbitration; (iv) show up and take every opportunity possible; and (v) connect with other practitioners. Never forget lateral networking and participate in mentorship programs, such as the one offered by the Young ITA.

YOUNG ITA MENTORSHIP PROGRAM

After the conclusion of the inaugural cycle of the Young ITA Mentorship Program in October 2019, the Program completed two more successful editions under the chairmanship of **Karima Sauma** of CICA-AmCham Costa Rica. During these two cycles, the Program brought together participants from all over the world, accomplishing its goal of fostering connections among different generations of arbitration practitioners.

During the Program, Mentees enter into lifelong professional and personal relationships in which they gain knowledge, practical guidance, and trusted advice. For their part, Mentors and Facilitators enjoy a unique opportunity to help boost a young person's career by sharing experiences and offering support.

This report offers a brief overview of the Program's main accomplishments during the past two cycles and identifies areas for improvement for future programs.

I. Highly Accomplished and Diverse Group of Mentors, Facilitators and Mentees

- The program was composed of Mentorship Groups that included a Mentor, which included renowned firm practitioners, academics, and consultants, a Facilitator that acted as a liaison between Mentors and Mentees, and three to five Mentees.

- **2019-2020 Cycle:**

- For its second edition, Young ITA worked actively to recruit a diverse range of participants, hailing from a wide variety of countries and with different educational and professional backgrounds.

- Ultimately, Young ITA chose 78 successful applicants who participated as Mentees among 19 Mentorship Groups.

- Based on their location during the Program cycle, the Mentors, Facilitators and Mentees represented 38 countries, bringing together a varied mix of experiences and cultures.

- **2020-2021 Cycle:**

- For the third edition of the Program, Young ITA continued with its mission of attracting a diverse group of participants. However, this edition was slightly smaller than the second edition in order to be able to more closely monitor each Group.

- For this cycle, Young ITA recruited 58 highly qualified applicants who participated as Mentees among 13 Mentorship Groups, alongside 13 Facilitators and 13 Mentors.

- The participants represented a total of 43 jurisdictions, which fostered the exchange of ideas from a wide array of experiences and backgrounds.

- **Speaker Series**

- The third edition of the Program introduced the "Speaker Series." These are webinars with renowned academics and arbitration practitioners to promote academic discussions within the Groups.

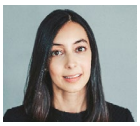
- The Series showcases eminent international arbitration thinkers and practitioners discussing the latest developments in international arbitration. The topics are tailored to the particular interests of Young ITA mentees, but the webinars are open to the wider Young ITA community.

INTRODUCING THE 2021 NEW LEADERS OF THE YOUNG ITA

Young ITA is delighted to announce twenty-six new appointments to its leadership team. Despite the global, COVID-19 pandemic, Young ITA has had a busy two years of events and has seen an increase in membership to over 2,000 individuals across over 100 countries. Young ITA has created a number of new roles to ensure we can continue to provide our members with the most useful and interesting events, articles and workshops, across the widest range of regions. We are excited to announce that our previous leadership positions have been expanded to include our first-ever regional chairs for India, Oceania, Eastern Europe and Western Europe, alongside vice chairs to assist our Communications and Thought Leadership chairs, as well as a number of our regional chairs. We would like to say a big thank you to our outgoing leadership team for their fantastic services for the past two years and congratulations to our new chairs and vice chairs. We look forward to another successful two years working with the ITA and continuing to expand on educational and leadership opportunities for young arbitrators.

Catherine Bratic
Young ITA Chair
Hogan Lovells US LLP
Houston, TX

Young ITA Chair **Catherine Bratic** is a Senior Associate at Hogan Lovells LLP in Houston, Texas, where she represents clients in the energy, construction, and media sectors, as well as states and state-owned entities. She regularly advises clients in complex, high-value disputes before international arbitral tribunals, as well as before national courts. Catherine is dual-qualified in Texas and France, and earned law degrees from Columbia University and the Institut d'Etudes Politiques de Paris. Prior to joining Hogan Lovells's Houston office, Catherine clerked for the Hon. Lee H. Rosenthal, Chief Judge for the Southern District of Texas, served as a legal fellow at UNESCO in Paris, and practiced in Hogan Lovells's Paris office for three years.

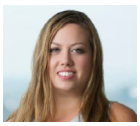


Karima Sauma
Young ITA Vice-Chair
International Center for Conciliation and Arbitration (AmCham Costa Rica)
San Jose, Costa Rica

Young ITA Vice-Chair **Karima Sauma** is the Executive Director of the International Center for Conciliation and Arbitration of the Costa Rican-American Chamber of Commerce, an adjunct professor at ULACIT University and LEAD University in San José, and of Counsel at DJ Arbitraje.

Previously, she worked as an Advisor with the Dispute Settlement Team of the Costa Rican Ministry of Foreign Trade, where she was part of Costa Rica's defense team in claims filed under various treaties and free trade agreements. She was also a member of the negotiating team for treaties involving investment and dispute settlement provisions. Prior to joining the Ministry of Foreign Trade, she worked with the International Arbitration Group at Freshfields Bruckhaus Deringer in Washington, DC.

Karima received her J.D. with honors from the University of Costa Rica. She also holds an LL.M from Columbia Law School, where she was a Harlan Fiske Stone Scholar. She is admitted to practice law in Costa Rica and the State of New York.



Ciara Ros
Young ITA Communications Chair
Vinson & Elkins LLP
London, UK

Young ITA Communications Chair **Ciara Ros** read Jurisprudence as an undergraduate at Oriel College, University of Oxford and is a senior associate in the International Dispute Resolution practice group of Vinson & Elkins RLLP. She spent six months in the Vinson & Elkins LLP Houston office as part of her training contract, and worked in the Dubai office of Vinson & Elkins LLP for three years after qualification. Ciara returned to the London office of Vinson & Elkins RLLP in 2018. Her focus is on construction, energy and infrastructure disputes and international commercial arbitration, for both private company and state clients. Ciara also advised clients on project finance and mergers and acquisitions, within the energy, infrastructure and telecoms sectors, during her tenure as a cross-practice associate in the Dubai office of Vinson & Elkins LLP. She is admitted to practice as a solicitor in England and Wales.

Jorge Arturo Gonzalez
Young ITA Communications Vice-Chair
Aguilar Castillo Love, S.r.l.
San José, Costa Rica

Young ITA Communications Vice-Chair **Jorge Arturo** is an Associate in Aguilar Castillo Love's Costa Rica office. He focuses on international arbitration and commercial litigation, and has experience in sectors including pharmaceuticals, tourism and hospitality, forestry, real estate, and finance. He earned his law degree from University of Costa Rica, and further completed studies in the Netherlands and the United States.

Tom Innes
Young ITA Mentorship Co-Chair
Steptoe & Johnson LLP
London, UK

Young ITA Mentorship Chair **Thomas Innes** is an Associate at Steptoe & Johnson in London. He advises and conducts advocacy on a wide range of international and commercial disputes. In particular, he acts as counsel in investment treaty disputes and international commercial arbitrations. Thomas is ranked as an Associate to Watch for International Arbitration in *Chambers UK* and as a Rising Star for Public International Law by *The Legal 500 UK*.

Sylvia Samano
Young ITA Mentorship Co-Chair
Mexican Arbitration Centre (CAM)
Mexico City, Mexico

Young ITA Mentorship Co-Chair **Sylvia Samano** is the Secretary General at the Arbitration Center of Mexico. She holds an LL.M in Arbitration and Dispute Resolution from Hong Kong University and a law degree specialized in commercial law from National Autonomous University of Mexico (UNAM). She has experience in civil, commercial, mining, natural resources and energy law. In the academic field, she teaches arbitration at the postgraduate program at UNAM as well as in the bachelor program at Tecnológico de Monterrey. She has acted as counsel, arbitrator and Secretary of the Tribunal in commercial arbitrations, and has interned at the ICC Hong Kong office.

Enrique Jaramillo
Young ITA Thought Leadership Chair
IHS Markit
Houston, TX

Young ITA Thought Leadership Chair **Enrique Jaramillo** is an Associate Director with IHS Markit in Houston, Texas, where he advises governments and international oil companies on issues of international and domestic energy and environmental law. Enrique's international practice has allowed him to work in different parts of the world including North America (United States and Canada), Europe and Latin America. He is familiar with the petroleum and environmental laws from a plethora of jurisdictions including almost every oil producing country in the Americas, as well as numerous European and African nations. Enrique is a dual-qualified attorney, licensed to practice law in the State of New York, and in the Republic of Ecuador.

*(See **YOUNG ITA LEADERSHIP**, page 17)*

*(Continued from **YOUNG ITA LEADERSHIP**, page 16)*

He holds a Juris Doctor (JD) degree from the University of Houston Law Center, two master's degrees in Law and Economics (LL.M.) from the Universität Hamburg (Germany) and the Università di Bologna (Italy), a postgraduate degree in Tax Law from the Universidad de Castilla-La Mancha (Spain), as well as a JD equivalent from the Universidad Católica Santiago de Guayaquil (Ecuador).

Derya Durlu Gürzumar
Young ITA Thought Leadership Vice-Chair
Bilkent, Universiteler Mahallesi
Ankara, Turkey

Young ITA Thought Leadership Vice-Chair **Derya Durlu Gürzumar** is an attorney-at-law registered to the Istanbul Bar Association.

She holds LLB and LLM degrees from Bilkent University Faculty of Law, in Ankara, Turkey, and a diploma in advanced studies in international arbitration, awarded by the University of Lucerne and University of Neuchâtel. She also holds a number of international arbitration certificates, awarded by various academic and professional institutions, including the Chartered Institute of Arbitrators (CIArb), University of Düsseldorf, University of Cologne, and Humboldt University of Berlin.

Mrs. Durlu Gürzumar is currently a PhD candidate at the University of Neuchâtel, in Switzerland.

Being an ardent "Vis-mootie" since 2007, Mrs. Durlu Gürzumar has been one of the few law students to receive two successive Honorable Mentions in the Martin Domke Best Oralist Award, namely in the 16th and 17th Willem C. Vis Moot competitions. She has coached her alma mater's moot teams since 2018, and has been arbitrating the written and oral phases of various international and domestic arbitration competitions, such as Vis Moot and Vis East Moot, Jessup, ICC Moot, FDI Moot, and ISTAC Moot, as well as a number of pre-moot competitions, since 2010.

She is the current chair of the International Bar Association's (IBA) Alternative and New Law Business Structures Committee, which works primarily on alternative legal practice models and the future of the legal profession. Mrs. Durlu Gürzumar's practice and research interests have focused on competition law, internet/IT law, AI/LegalTech, dispute resolution/arbitration, and white-collar irregularities.

She has co-authored a book on "Fundamental Concepts of Anglo-American Law," and has been publishing extensively in the foregoing fields.

Anne-Marie Doernenburg
Young ITA Asia Chair
Nishimura & Asahi
Tokyo, Japan

Young ITA Asia Chair **Anne-Marie Doernenburg** is an associate at Nishimura & Asahi in Tokyo specializing in international arbitration, public international law and cross-border dispute resolution. She represents clients in commercial and investment arbitrations under major arbitration rules, advising both corporations and governments. Anne-Marie is admitted in Germany (Rechtsanwalt) and England & Wales (Solicitor). Brought up in a trilingual environment and fluent in six languages, Anne-Marie is passionate about working with clients and colleagues from all over the world. Before moving to Japan, Anne-Marie was based in Washington, DC, Paris and London while working for Freshfields Bruckhaus Deringer LLP as well as in Munich. As Young ITA's ambassador in Asia, Anne-Marie looks forward to organising interesting projects and events that will encourage dialogue between young arbitration practitioners in both Asia and the West.

Philip Tan
Young ITA Asia Vice-Chair
White & Case
Singapore

Young ITA Asia Vice-Chair **Philip Tan** is an associate in White & Case's International Arbitration practice. Based in Singapore, Philip acts as counsel in commercial and investment treaty arbitrations, focusing on energy and construction disputes. He has represented clients in complex, cross-border arbitrations under various rules, including ICC, SIAC, UNCITRAL and ICSID. He also speaks and writes regularly on developments in international arbitration, with an emphasis on the Asia-Pacific region. Philip received his J.D. from Columbia Law School, and is qualified in New York, District of Columbia, Singapore, and England & Wales.

Daniel Allman
Young ITA Oceania Chair
Norton Rose Fulbright
Sydney, Australia

Young ITA Oceania Chair **Daniel Allman** is a Senior Associate at Norton Rose Fulbright in Sydney. Daniel specializes in cross-border dispute resolution and represents clients in international commercial and investment arbitration, as well as complex commercial litigation. He is dual-qualified in Australia and New York. Daniel was previously an associate at Covington & Burling in New York, and has worked as a consultant to a UN agency on business and human rights in Southeast Asia and as a solicitor at another leading firm in Australia and on secondment in China. Daniel received his LL.M. from Columbia University and his LL.B. and B.A. from the University of Melbourne. He served as managing editor of Columbia FDI Perspectives and writes frequently on arbitration, investment, and trade.

Rodrigo Barradas Muñiz
Young ITA Mexico and Central America Chair
Von Wobeser y Sierra, S.C.
Ciudad de México, México

Young ITA Mexico and Central America Chair **Rodrigo Barradas Muñiz** is a Senior Associate in Von Wobeser y Sierra's dispute resolution team in Mexico City. Rodrigo acts as counsel in commercial arbitration cases under all major arbitral rules, and has particular experience in the energy and public works sectors. He also represents clients in complex, high-value disputes before domestic courts. Rodrigo is dual-qualified in Mexico and New York, and holds a law degree (J.D. equivalent) from Escuela Libre de Derecho and a master's degree (LL.M.) from Harvard Law School. Prior to joining Von Wobeser y Sierra, Rodrigo worked for Paul, Weiss, Rifkind, Wharton & Garrison, LLP in New York. He is currently Adjunct Professor of International Litigation and History of Law at Escuela Libre de Derecho, and writes regularly on international commercial arbitration and dispute resolution.

*(See **YOUNG ITA LEADERSHIP**, page 18)*

*(Continued from **YOUNG ITA LEADERSHIP**, page 17)*

Daniel Brantes
Young ITA Brazil Chair
Centro Brasileiro De Mediacao E Arbitragem
Rio de Janeiro, Brazil

Young ITA Brazil Chair **Daniel Brantes** earned his Ph.D. in Constitutional Law at the Pontifical University of Rio de Janeiro in 2011 and was a visiting scholar at UB Law School (2009) researching Legal Realism under the guidance of UB Distinguished Professor John Henry Schlegel. Daniel was a Law Professor in the following Law Schools in Rio de Janeiro: Federal University of Rio de Janeiro (2008-2009), FGV-Rio (2010), and University Cândido Mendes (2012-Present). Daniel was the Dean of IBMEC Law School from 2014 until 2017. Currently, Daniel is a professor at University Cândido Mendes and Ambra University, teaching the course of arbitration for graduate and undergraduate students. He is also Vice President for Academic Affairs at the Brazilian Center of Arbitration and Mediation (CBMA), where he is also an arbitrator. Daniel is also Chief-Editor of the Brazilian Journal of Alternative Dispute Resolution (RBADR). He is the Dean of Candido Mendes University Masters in Law and Fellow of the Chartered Institute of Arbitrators.

Guilherme Piccardi
Young ITA Brazil Vice-Chair
Pinheiro Neto
Sao Paulo, Brazil

Young ITA Brazil Vice-Chair **Guilherme Piccardi** is a Brazilian attorney specialized in international dispute resolution, with focus on arbitration, mediation, commercial litigation, and corporate investigations. He is a senior associate at Pinheiro Neto Advogados' litigation practice in the city of São Paulo, Brazil, and has worked as a foreign temporary associate at Davis Polk & Wardwell's New York office during the period of August 2019 to December 2020. Guilherme has received his Bachelor of Laws degree from the Law School of the Pontifical Catholic University of São Paulo, and is currently pursuing an LL.M. degree at Northwestern Pritzker School of Law. He is a member of the Brazilian Bar Association, São Paulo Section, to which he was admitted in 2012.

Dr. Viktor Cserep
Young ITA Continental Eastern Europe
PROVARIS Varga & Partners
Budapest, Hungary

Young ITA Continental Eastern Europe **Dr. Viktor Cserep** is an associate at PROVARIS in Budapest specializing in dispute resolution and a doctoral candidate at the University of Vienna (international arbitration). Viktor has regularly served as assistant to the presiding arbitrator in high-profile international arbitrations and counsel in arbitration, setting aside and complex cross-border commercial litigation proceedings in multiple industry sectors, including several construction disputes (FIDIC Books). He holds a juris doctor degree (*summa cum laude*) from Eötvös Loránd University (Budapest, Hungary) and teaches private international law and contract law to international postgraduate students in the European and International Business Law LL.M. program of the same Faculty. He frequently attends international conferences and moot courts as arbitrator (Vis, FDI) worldwide. Viktor works in English, German and Hungarian.

Karolina Czarnecka
Young ITA Continental Eastern Europe Vice-Chair
Queritius
Warsaw, Poland

Young ITA Continental Eastern Europe Vice-Chair **Karolina Czarnecka** is an International Arbitration Associate at Queritius. She has represented clients in commercial and investment arbitration cases, under various institutional rules. She also has experience in M&A and banking law. Karolina acts as a Mentor in the Mentorship Programme at the Istanbul Arbitration Centre, a Mentee in the Young ICCA Mentoring Programme, and an Ambassador for Arbitrator Intelligence in the CEE region. She is also a member of the Arbitration Youth Forum (AFM below 40) at the Arbitration Court at the Polish Chamber of Commerce in Warsaw. She graduated from Sciences Po, Paris, where she completed a LL.M degree in Transnational Arbitration and Dispute Settlement, and Kozminski University, Warsaw, with a master in law degree. She is currently pursuing her PhD degree at University of Warsaw focusing her thesis on business and human rights arbitration.

Asha Rajan
Young ITA Continental Western Europe Chair
Teynier – Pic I Paris
Paris, France

Young ITA Continental Western Europe Chair **Asha Rajan** is an associate at Teynier Pic in Paris, France. She represents clients in areas of international commercial and investment arbitration and international litigation. Asha has experience in the construction, telecommunications, industrial and spatial sectors. In addition to acting as counsel, she has also assisted arbitral tribunals in commercial arbitration proceedings. A dual-qualified lawyer, Asha is admitted to practice in India and France and has law degrees from the University of Pune, India and Institut d'Etudes Politiques de Paris. Asha writes regularly on international commercia arbitration, and arbitration developments in India.

Georgios Fasfalis
Young ITA Continental Western Europe Vice-Chair
Linklaters
Amsterdam, Netherlands

Young ITA Continental Western Europe Vice-Chair **Georgios Fasfalis** is an associate in Linklaters' arbitration practice. He has previously worked for a renowned arbitration boutique and the legal department of a Dutch multinational. Georgios' arbitration experience includes involvement in commercial and investment treaty arbitrations conducted under, among others, the ICC, ICSID, LCIA, NAI, SIAC and UNCITRAL Rules. He has also been involved in arbitration-related litigation matters, such as setting aside and enforcement proceedings. Georgios' publications include, inter alia, a chapter in S. Balthasar (ed) International Commercial Arbitration (Hart Publishing) (2021). He is admitted to the Thessaloniki Bar in Greece and holds degrees from the University of Amsterdam and the Aristotle University of Thessaloniki.

Juhi Gupta
Young ITA India Chair
Shardul Amarchand Mangaldas & Co
New Delhi, India

Young ITA India Chair **Juhi Gupta** is a senior associate at Shardul Amarchand Mangaldas & Co. She is based in New Delhi and is qualified in India. Juhi has diverse international commercial arbitration experience under various arbitral rules. Her arbitration experience also includes domestic arbitration and related court proceedings as well as acting as a tribunal secretary. A graduate of National Law School of India University, Bangalore and a LL.M. graduate from Harvard Law School, she previously completed her training contract from Allen & Overy, London. She is also a certified mediator. Juhi regularly writes on different topics related to arbitration in India and dispute resolution. She will serve as Young ITA's first ambassador in India.

*(See **YOUNG ITA LEADERSHIP**, page 19)*

*(Continued from **YOUNG ITA LEADERSHIP**, page 18)*

Lidia Rezende
Young ITA North America Chair
Chaffetz Lindsey LLP
New York, USA

Young ITA North America Chair **Lidia Rezende** is an Associate at Chaffetz Lindsey, LLP in New York, where she represents clients in international and domestic commercial arbitrations under the ICC, SCC, UNCITRAL, LCIA, and AAA rules, and in litigation before U.S. courts. Lidia received an LL.M degree from NYU Law in 2015 and an LL.B degree from *Universidade Federal de Minas Gerais* in 2010. She is admitted to practice in both New York and Brazil, and is a native Portuguese speaker. Her cases focus on matters of construction, infrastructure, oil and gas, insurance and reinsurance, Foreign Sovereign Immunities Act (FSIA), complex contract disputes, and matters at the intersection of common and civil law. Prior to joining Chaffetz Lindsey, Lidia practiced for five years at a mixed law and engineering boutique firm in Brazil, working side by side with civil engineers in complex construction matters.

Michael Fernandez
Young ITA North America Vice-Chair
Winston & Strawn
New York, USA

Young ITA North America Vice-Chair **Michael Fernandez's** practice is focused on complex commercial litigation, international arbitration and regulatory compliance issues. He frequently represents Spanish and Portuguese speaking clients. He has experience representing U.S., Latin America, and other foreign-based companies and individuals involved in arbitrations, litigations, and with regulatory compliance issues in the U.S., as well as parties to international commercial and investment treaty arbitrations conducted under the major international rules (UNCITRAL, ICSID, ICDR, etc.).

He is a Fellow of the Chartered Institute of Arbitrators and is admitted to the arbitrator rosters for the Costa Rica Center of Conciliation and Arbitration (CICA), the Mexico Arbitration Center (CAM) and the Conflict Resolution Commission of the Chamber of Industry of Guatemala (CRECIG). He was named to Best Lawyers: Ones to Watch for Alternative Dispute Resolution and Commercial Litigation, 2021 and recognized by Super Lawyers as a "Rising Star" in the area of Civil Litigation: Defense, 2018-2021

Maria Camila Rincon
Young ITA South America Chair
(Spanish-Speaking Jurisdictions)
Zuleta Abogados
Bogotá D.C., Colombia

Young ITA South America Chair (Spanish-Speaking Jurisdictions) **Maria Camila Rincon,** is an associate at Zuleta Abogados Asociados, where she concentrates her practice in international investment law, public international law and international arbitration. Before joining the Zuleta Abogados team, María Camila was part of Colombia's National Legal Defense Agency and the Ministry of Trade, Industry and Tourism where she participated in Colombia's first international investment arbitrations, in the negotiation of investment treaties, and the design of public policies to attract and protect foreign investment in Colombia. María Camila has been a professor of Public International Law and teacher assistant of Theory of Public International Law at the Universidad del Rosario. She graduated from Universidad del Rosario and has studied in the Columbia Center for Sustainable Investment at Columbia University and in Private International Law at the Hague Academy of International Law.

Santiago Lucas Pena
Young ITA South America Vice-Chair
(Spanish-Speaking Jurisdictions)
Bomchil
Buenos Aires, Argentina

Young ITA South America Vice-Chair (Spanish-Speaking Jurisdictions) **Santiago Lucas Pena** is a senior associate in the international arbitration department at Bomchil, Buenos Aires. His practice focuses on complex litigations and arbitrations. He has acted in several arbitrations under the main international rules (ICC, ICDR and UNCITRAL, among others) and participated as attorney and secretary of arbitral tribunals. He graduated with honors from Universidad de Buenos Aires, and obtained a postgraduate diploma in arbitration as well as a master's degree in corporate law from Universidad Austral. He is an assistant professor on civil and commercial contracts at Universidad de Buenos Aires and at Universidad Torcuato Di Tella

Katrina Limond
Young ITA UK Chair
Allen & Overy
London, UK

Young ITA UK Chair **Katrina Limond**, Limond is a London-based senior associate in Allen & Overy's International Arbitration and Public International Law team. She acts for a range of State and corporate clients in cross-border investment-treaty and commercial arbitrations under the ICSID, UNCITRAL, LCIA, ICC, CIArb and SIAC rules, as well as enforcement and challenge English court proceedings, and advising on public international law issues. Before joining Allen & Overy, she studied English Law at the University of Cambridge and French Law at the Université Paris II (Panthéon-Assas). She also worked as a legal advisor for the Legal Affairs, Disarmament and Terrorism Committees at the Delegation of the European Union to the United Nations in New York.

Robert Bradshaw
Young ITA UK Vice-Chair
LALIVE
London, UK

Young ITA UK Vice-Chair **Robert Bradshaw** is an associate in LALIVE's London office, where his practice focuses on international commercial and investor-State arbitration. He has represented clients in diverse sectors including energy, mining, media, information technology, food processing, hospitality and pharmaceuticals. In addition to the Young ITA, Robert is active in Young ICCA, ICC Young Arbitrators Forum, LCIA Young International Arbitration Group and CIArb Young Members Group, and publishes regularly. Prior to joining LALIVE, he was an associate in the Paris office of Hogan Lovells. Robert is a graduate of the University of Birmingham, where he studied LL.B Law with German, and BPP Law School, where he completed his LPC and LL.M.

ITA EXPERTS...IN THE NEWS


Joshua Karton

Prof. Joshua Karton (Queen's University Faculty of Law, Canada) has joined ITA as an Academic Member. Prof. Karton is a Vice Chair of the ITA Academic Council.


Dr. Kristen E. Boon

Dr. Kristen E. Boon (Seton Hall University School of Law, New York) has joined ITA as an Academic Member.


Ucheora Onwuamaegbu

Ucheora Onwuamaegbu (Arent Fox LLP, Washington, DC) has joined ITA as an Associate Member.


Tina Cicchetti

Christopher J. Bellotti (Halliburton, Texas) has joined ITA as an Associate Member.


Tina Cicchetti

Tina Cicchetti (Vancouver Arbitration Chambers, Texas) has joined ITA as an Associate Member.


Dinesh Kumar Bishnoi

Dinesh Kumar Bishnoi FCIArb, ASIArb (Bishnoi Advocate, India) has joined ITA as an Associate Member.


Elina Mereminskaya

Elina Mereminskaya (Wagemann & Associados, Chile) has joined ITA as an Associate Member. Ms. Mereminskaya is a Vice Chair of the ITA Americas Initiative Committee.


Daniel Reich

New Sponsoring Member Gaillard Banifatemi Shelbaya (US) LLP, New York, has designated **Daniel Reich** as its representative on the Advisory Board.


Juhi Gupta

New Sponsoring Member Shardul Amarchand Mangaldas & Co, India, has designated **Juhi Gupta** as its representative on the Advisory Board. Ms. Gupta is the Young ITA Regional Chair for India.


Jennifer Smith

New Sponsoring Member JMS Arbitration, Texas, has designated **Jennifer Smith** as its representative on the Advisory Board. Ms. Smith is a Vice Chair of the ITA Advisory Board.


Michael Fernández

New Sponsoring Member Rivero Mestre LLP, Florida, has designated **Michael Fernández** as its representative on the Advisory Board. Mr. Fernández is the Young ITA Regional Vice Chair for North America.


Aanchal Baasur

Aanchal Baasur (AB Law, India) has been appointed as an ICCYAF Regional Representative for the South Asia chapter for the term 2021-2023 in August 2021. As ambassadors, communicators, and coordinators for ICC Arbitration in their respective regions, each Representative works to help mold the next generation of arbitration and ADR experts.

During the second edition of Legal community Forty under 40 Awards Italy 2021, **Nataliya Barysheva** (Castaldi Partners, Paris) has been chosen as lawyer of the year in the category Arbitration. Nataliya Barysheva is a lawyer at the Paris Bar and is also registered to practice in the Russian Federation. Nataliya works in the field of international arbitration, both investment and commercial, and related litigation, in particular in the construction, oil & gas and renewable energy sectors.

Nataliya Barysheva

Advisory Board Member **Gary Benton** (Gary Benton Arbitration, Palo Alto) has been named Co-Chair of the California Lawyers' Association (CLA) International ADR Subcommittee. CLA is working on plans for a California International Arbitration Week series in April 2022.


Grace Tsz Yan Cheng

Grace Tsz Yan Cheng (London), an English barrister at Field Court Chambers, has been appointed to Sport Resolutions' International Panel of Arbitrators and Mediators for the period 2021 to 2024. Grace is a barrister in London, a qualified Hong Kong solicitor, and has been granted rights of audience before the Astana International Finance Centre (AIFC) Court in Kazakhstan.

Ebere Frankline Chisom (Nigeria) was appointed by the President of the Federation of African Law Students as the Director of Policies of the International Directorate of Policies, Programs and Projects of the Federation of African Law Students. This role includes inter alia the overseeing of the evolution of policies of the Federation of African Law Students as affecting Law students across Africa on the 7th of June, 2021.


Ebere Frankline Chisom


John Gaffney

UAE Country Reporter **John Gaffney** (Al Tamimi & Company, UAE) has been appointed as an Adjunct Professor at University College Cork (UCC) School of Law and as a Member of the Editorial Board of the ICSID Review - Foreign Investment Law Journal.

ITA Member **Carl Ginsberg** (Ginsberg ADR Group, Dallas) has recently been appointed to serve on the Chartered Insititute of Arbitrators' (CIArb) Professional Conduct Committee, which investigates allegations of misconduct and unprofessionalism against CIArb members.


Carl Ginsberg

Young ITA Member **Felipe González Arrieta** (Bogotá, Colombia) has joined Gómez-Pinzón Abogados, one of Colombia's leading law firms and a member of Affinitas, as a senior associate focusing on domestic and international arbitration. Mr. González Arrieta will strengthen the firm's already leading practice, especially on construction and corporate disputes under major institutional rules such as ICC, ICDR and the Bogotá's Chamber of Commerce. Mr. González Arrieta's new email address is fgonzalez@gomezpinzon.com.

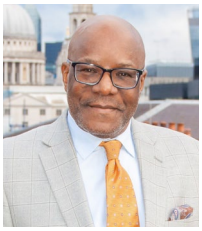

Felipe González Arrieta


Brody Greenwald

ITA Advisory Board member **Brody Greenwald** (White & Case) relocated from Washington DC to Los Angeles, United States in October 2020, expanding the Firm's international arbitration capabilities in California. His updated contact information is: Brody Greenwald, White & Case LLP, 555 South Flower Street, Suite 2700, Los Angeles, CA 90071-2433, + 1 213 620 7877, bgreenwald@whitecase.com

Young ITA Regional Chair for India **Juni Gupta** (India) was appointed as Assistant Editor, Kluwer Mediation Blog, and is the co-author of "Confusion settled: Two Indian parties can choose a foreign seat," Mondaq (May 2021), available at https://www.mondaq.com/india/arbitration-dispute-resolution/1071786/confusion-settled-two-indian-parties-can-choose-a-foreign-seat#.


Juni Gupta


Calvin Hamilton

Calvin Hamilton (Barbados) joined Arbitra, a new support service for Arbitrators which opened last month with offices in London and Washington D.C. His new professional office addresses are: Arbitra Barbados:, 15 Greenidge Drive; Payne Bay; St James; Barbados Arbitra London:, 100 St Paul's Churchyard; London; EC4M 88U Arbitra Washington DC Midtown Center, 1100 15th Street NW; Suite 420; Washington DC, 20005

Harold Joerges will graduate in December 2021 from Fordham School of Law, where he is pursuing an LLM on International Business Law and arbitration, in addition to my previous legal education. He recently started working for Professor and Independent arbitrator Josefa Sicard-Mirabal as research assistant.


Harold Joerges


Tatevik Karapetyan

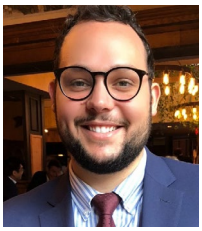
Tatevik Karapetyan (Armenia) became an Associate member of the Chartered Institute of Arbitrators in July 2021.


Rajat Malhotra

Rajat Malhotra (Laware Associates, India) was named a Thompson Reuter's ALB India Rising Star and one of ALB Inida Super 50 Lawyers.


Milagros Maribel Rojas Blas

Young ITA Member **Milagros Maribel Rojas Blas** will receive a Diversity Scholarship Fund from the AAA-ICDR Foundation (American Arbitration Association / International Centre for Dispute Resolution) to continue her legal studies in international investment arbitration.


Izak Rosenfeld

Izak Rosenfeld (United States, Canada) has recently been appointed as a 2021-2022 Associate Judge - Awards and Sub-Grants for the American Bar Association (ABA), as well as a Mediator in the International Mediation Institute (IMI) Young Mediators Initiative (YMI). He has also recently had his designation with the Resolution Institute upgraded from Associate Member (A.RI) to Professional Member (P.RI).


Lawrence Schaner

Advisory Board Member **Lawrence Schaner** (Schaner Dispute Resolution LLC, Chicago) has been admitted as a Fellow of the College of Commercial Arbitrators. His new contact details are Lawrence S. Schaner, Schaner Dispute Resolution LLC, 77 West Wacker Drive, Suite 4500, Chicago, IL 60601


Ignacio Tasende

Young ITA Member **Ignacio Tasende** has joined Ferrere (Uruguay) in its arbitration department.


Mofesomo Tayo-Oyetibo

Mofesomo Tayo-Oyetibo (Tayo Oyetibo LP, Nigeria) was appointed to the Advisory Board of the Lagos Court of Arbitration Young Arbitrators' Network effective July 1, 2021. He also recently, on a pro bono basis, obtained judgment for the sum of N3 Million in an action for the enforcement of the fundamental rights of an indigent client and his wife in relation to the violation of their rights to privacy and freedom of movement by a wealthy ex-employer of the client who abused his dominant position. The story of the judgment was widely reported by the major news outlets in Nigeria.


Stephan Wilske

ITA's Reporter for Turkey, **Stephan Wilske**, (Gleiss Lutz, Germany) was a Speaker at the SHUPL International Arbitration Conference 2021 (April 8, 2021) where he and his colleague Simon Wagner presented the following topic: "Trust Is Good, Control Is (Hopefully) Better: Why the New German Supply Chain Due Diligence Act Makes Business with German Parties Considerably More Difficult – and: Can Supply Chain Arbitration Make Things Easier?" In 2021, he became a member of the International Arbitration Committee (IAC) of the Korean Commercial Arbitration Board (KCAB) International.

The Institute for Transnational Arbitration

A Division of THE CENTER FOR AMERICAN AND INTERNATIONAL LAW

SCOREBOARD
OF ADHERENCE TO TRANSNATIONAL ARBITRATION TREATIES

(as of 30 September 2021)

ABBREVIATIONS

NY United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (commonly, 1958 New York Convention)
ICSID Convention on the Settlement of Investment Disputes (1965)
IA Inter-American Convention on International Commercial Arbitration (commonly, Panama Convention) (1975)
USBIT United States Bilateral Investment Treaty
TIP US Treaties with Investment Protection Provisions
ECT Energy Charter Treaty (1998)
MC United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (commonly, Mauritius Convention) (2017)

SYMBOLS

S Signed, but not ratified
R Ratified, acceded or succeeded
A Subscribed, but not signed, ratified or paid
(*) Capital-exporting country under MIGA
N/A Not applicable

CHANGES FROM PREVIOUS ISSUE

NY Belize (R); Malawi (R)
ICSID Ecuador (R)
IA None.
USBIT Updated.

ECT None.
MC Benin (R); Iraq (R)

TIP None.

NATION	NY[1]	ICSID[2]	ECT[3]	IA	USBIT	TIP[4]	MC
Afghanistan	R	R	R			R	
Albania	R	R	R		R		
Algeria	R	R				S	
Andorra	R						
Angola	R					S	
Antigua and Barbuda	R					R[23]	
Argentina	R	R		R	R	R	
Armenia	R	R	R		R	S	
Australia	R	R	S			R / S[19]	R
Austria	R	R	R				
Azerbaijan	R	R	R		R		
Bahamas	R	R				R[23]	
Bahrain	R	R			R	R / S[24]	
Bangladesh	R	R			R		
Barbados	R	R				R[23]	
Belarus	R	R	S[20]		S		
Belgium	R	R	R				S
Belize	R	S				R[23]	R
Benin	R	R				S[22] / R[29]	R
Bhutan	R						
Bolivia[6]	R			R		S[31]	R
Bosnia and Herzegovina[7]	R	R	R				
Botswana	R	R				R[26]	
Brazil	R			R		R	
Brunei Darussalam	R	R				R / R[27]/S[19]	
Bulgaria	R	R	R		R		
Burkina Faso	R	R				S[22] / R[29]	
Burundi	R	R				R[25] / R[30]	
Cambodia	R	R				R / R[27]	
Cameroon	R	R			R		R
Canada	R	R				R[8] / S[19]/S[21]	R

Cape Verde	R	R				S[22]	
Central African Republic	R	R					
Chad		R					
Chile	R	R		R		R / S[19]	
China (People's Republic)[9]	R	R					
Colombia	R	R		R		R / S[31]	
Comoros	R	R				R[30]	
Congo		R			R		S
Congo (Democratic Republic of)		R			R	R[30]	
Cook Islands	R						
Costa Rica	R	R		R		R[10]	
Côte d'Ivoire	R	R				S[22] / R[29]	
Croatia[7]	R	R	R		R		
Cuba	R						
Cyprus	R	R	R				
Czech Republic	R	R	R		R		
Denmark[11]	R	R	R				
Djibouti	R	R				R[30]	
Dominica	R					R[23]	
Dominican Republic	R	S		R		R[10]	
Ecuador	R	R		R		S[31]	
Egypt	R	R			R	R / R[30]	
El Salvador	R	R		R	S	R[10]	
Equatorial Guinea							
Eritrea						R[30]	
Estonia	R	R	R		R		
Eswatini		R				R[26] / R[30]	
Ethiopia	R	S				R[30]	
Fiji	R	R					
Finland	R	R	R				S
France[12]	R	R	R				S
Gabon	R	R					S
Gambia		R				S[22]	R
Georgia	R	R	R		R	R	
Germany	R	R	R				S
Ghana	R	R				R / S[22]	
Greece	R	R	R				
Grenada		R			R	R[23]	
Guatemala	R	R		R		R[10]	
Guinea	R	R				S[22]	
Guinea-Bissau		S				S[22] / R[29]	
Guyana	R	R				R[23]	
Haiti	R	R			S	R[23]	
Holy See (Vatican City)	R						
Honduras	R	R		R	R	R[10]	
Hungary	R	R	R				
Iceland	R	R	R			S	
India	R						
Indonesia	R	R				R[27]	
Iran	R						
Iraq		R				S	R
Ireland	R	R	R				
Israel	R	R				R	
Italy	R	R					S
Jamaica	R	R			R	R[23]	
Japan	R	R	R			S[19]	
Jordan	R	R	R		R	R	
Kazakhstan	R	R	R		R	R[28]	
Kenya	R	R				R[25] / R[30]	

Kiribati							
Korea (Republic) (South)	R	R				R	
Kosovo		R					
Kuwait	R	R				S / S[24]	
Kyrgyzstan	R	S	R		R	R[28]	
Lao People's Democratic Republic	R					R / R[27]	
Latvia	R	R	R		R		
Lebanon	R	R				S	
Lesotho	R	R				R[26]	
Liberia	R	R				R/S[22]	
Libyan Arab Jamahiriya						S / R[30]	
Liechtenstein	R		R				
Lithuania	R	R	R		R		
Luxembourg	R	R	R				S
Madagascar	R	R				R[30]	S
Malawi		R				R[30]	
Malaysia	R	R				R / R[27] / S[19]	
Maldives	R					R	
Mali	R	R				S[22] / R[29]	
Malta	R	R	R				
Marshall Islands	R						
Mauritania	R	R					
Mauritius	R	R				R / R[30]	R
Mexico	R	R		R		R[8]/S[19]/S[21]	
Micronesia		R					
Moldova	R	R	R		R		
Monaco	R						
Mongolia	R	R	R		R	R	
Montenegro	R	R	R				
Morocco	R	R			R	R	
Mozambique	R	R			R	R	
Myanmar (Burma)	R					S / R[27]	
Namibia		S				R[26]	
Nauru		R					
Nepal	R	R					
Netherlands[13]	R	R	R				S
New Zealand[14]	R	R				R / S[19]	
Nicaragua	R	R		R	S	R[10]	
Niger	R	R				S[22] / R[29]	
Nigeria	R	R				R	
North Macedonia[7]	R	R	R				
Norway	R	R	S				
Oman	R	R				R / S[24]	
Pakistan	R	R					
Palau	R						
Panama	R	R		R	R	R	
Papua New Guinea	R	R					
Paraguay	R	R		R		S	
Peru	R	R		R		R / R[18]/S[19] / S[31]	
Philippines	R	R					
Poland	R		R		R	R[27]	
Portugal	R	R	R				
Qatar	R	R				S / S[24]	
Romania	R	R	R		R		
Russian Federation	R	S	S		S		
Rwanda	R	R			R	R / R[25]	
Saint Kitts and Nevis		R				R[23]	
Saint Lucia		R				R[23]	
St. Vincent and the Grenadines	R	R				R[23]	

Samoa		R					
San Marino	R	R					
Sao Tome and Principe	R	R					
Saudi Arabia	R	R				R / S[24]	
Senegal	R	R			R	S[22] / R[29]	
Serbia[7]	R	R					
Seychelles	R	R				R[30]	
Sierra Leone	R	R				S[22]	
Singapore	R	R				R / R[27]	
Slovakia	R	R	R		R		
Slovenia[7]	R	R	R				
Solomon Islands		R					
Somalia		R				R[30]	
South Africa	R					R / R[26]	
South Sudan		R				R[25]	
Spain	R	R	R				
Sri Lanka	R	R			R	R	
Sudan	R	R				R[30]	
Suriname						R[23]	
Sweden	R	R	R				S
Switzerland	R	R	R			R	R
Syrian Arab Republic	R	R					S
Taiwan							
Tajikistan	R		R			R[28]	
Tanzania	R	R				R[25]	
Thailand	R	S				R / R[27]	
Timor Leste		R					
Togo		R				S[22] / R[29]	
Tonga	R	R					
Trinidad and Tobago	R	R			R	R[23]	
Tunisia	R	R			R	R[30]	
Turkey	R	R	R		R	S	
Turkmenistan		R	R			R[28]	
Tuvalu							
Uganda	R	R				R[25] / R[30]	
Ukraine	R	R	R		R	S	
United Arab Emirates	R	R				S / S[24]	
United Kingdom[15]	R	R	R				S
United States of America[16]	R	R		R	N/A	N/A	S
Uruguay	R	R		R	R	R	
Uzbekistan	R	R	R		S	R[28]	
Vanuatu							
Venezuela	R			R			
Vietnam	R					R /S[19] / R[27]	
West Bank and Gaza[17]	R						
Yemen		R	R			R	
Zambia	R	R				R[30]	
Zimbabwe	R	R				R[30]	

Notes: (1) Extends to metropolitan and overseas constituent territorial subdivisions but not to overseas dependent territories. Consult UNCITRAL for definitive status, as well as for the reservations to the Convention. (2) Extends to metropolitan and overseas constituent territorial subdivisions and to overseas dependent territories unless specifically excluded. (3) 1991 European Energy Charter was signed by the US. European Union and EURATOM have ratified the ECT. (4) Treaties signed or ratified by the US with provisions on investments. (5) See also 2014 UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration. (6) ICSID Convention entered into force for Bolivia on July 23, 1995. On May 2, 2007, Bolivia denounced the ICSID Convention, with effect on November 3, 2007. The Government of Bolivia delivered notice to the United States on June 10, 2011, that it was terminating the "Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia Concerning the Encouragement and Reciprocal Protection of Investment." As of June 10, 2012 (the date of termination), the treaty ceases to have effect, except that it continues to apply for another 10 years to covered investments existing at the time of termination. (7) As of 4 February 2003, The Federal Republic of Yugoslavia has changed its name to "Serbia and Montenegro." Montenegro declared itself independent from Serbia on June 3, 2006. Bosnia & Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia are separated successor states to parts of the former Yugoslavia and have succeeded to the NY. The Former Yugoslav Republic of Macedonia changed its name to the Republic of North Macedonia on 12 February 2019. (8) Included in the North American Free Trade Agreement among the United States, Canada and Mexico. (9) NY: includes Hong Kong Special Administrative Region. (10) Included in the Dominican Republic - Central America - United States Free Trade Agreement. (11) NY: includes Faeroe Islands and Greenland. (12) NY: includes, inter alia, French Guiana, French Polynesia, Guadeloupe, Martinique, Mayotte, New Caledonia, Réunion, and St. Pierre and Miquelon. (13) NY: includes Aruba and Netherlands Antilles. (14) ICSID Convention: excludes Cook Islands, Niue and Tokelau. (15) NY: includes Bermuda, Cayman Islands, Gibraltar, Guernsey, Isle of Man, and British Virgin Islands. ICSID Convention: excludes British Indian Ocean Territory, Pitcairn Islands, British Antarctic Territory and Sovereign Base Areas of Cyprus. ICSID Convention: continues to include Hong Kong Special Administrative Region. (16) NY: includes, inter alia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico and US Virgin Islands. (17) West Bank and Gaza are not recognized as states by the United States. (18) United States - Peru Trade Promotion Agreement. (19) Trans-Pacific Partnership signed on February 4, 2016. (20) The State has signed the ECT and it applies it provisionally, under Art. 45 of the ECT. (21) USMCA signed on November 30, 2018. (22) Economic Community of West African States (ECOWAS) – US Trade and Investment Framework Agreement ('TIFA') signed on August 5, 2014. (23) Caribbean Community (CARICOM) – US TIFA, in force on May 28, 2013. (24) Gulf Cooperation Council – US Framework Agreement signed on September 25, 2012. (25) East African Community – US TIFA, entered into force on July 16, 2008. (26) Southern African Customs Union – US TIFA, entered into force on July 16, 2008. (27) Association of South-East Asian Nations (ASEAN) – US TIFA, entered into force on August 25, 2006. (28) Central Asia – US TIFA, entered into force on June 1, 2004. (29) West African Economic and Monetary Union (WAEMU) – US TIFA, entered into force on April 24, 2002. (30) Common Market for Eastern and Southern Africa (COMESA) - US TIFA, entered into force on October 29, 2001. (31) Andean Community (ANCOM) – US Trade and Investment Council signed on October 30, 1998.

SOURCES:

This issue was compiled by Co-Editors Crina Baltag and Monique Sasson of The Institute for Transnational Arbitration based on the following sources: United Nations; ICSID; UNCITRAL; Organization of American States; Energy Charter Secretariat; UNCTAD and the Office of the United States Trade Representative. The Scoreboard is designed to be a convenient reference and it is not intended to be relied on as legal advice. Please consult the sources directly to confirm the status of any particular ratifications, reservations, changes, special conditions or new developments.

SUSTAINING MEMBERS

Baker Botts L.L.P.
Berkeley Research Group (BRG), LLC
Chevron Corporation
ConocoPhillips Company
Debevoise & Plimpton LLP
Exxon Mobil Corporation
Freshfields Bruckhaus Deringer LLP
King & Spalding LLP
Norton Rose Fulbright US LLP
Skadden, Arps, Slate, Meagher & Flom LLP
Sullivan & Cromwell LLP
Three Crowns LLP
Vinson & Elkins LLP
White & Case LLP
WilmerHale

SUPPORTING MEMBERS

Akin Gump Strauss Hauer & Feld LLP
Analysis Group, Inc.
Arnold & Porter Kaye Scholer LLP
Borden Ladner Gervais LLP
Bredin Prat
Chaffetz Lindsey LLP
Clifford Chance LLP
Compass Lexecon
Covington & Burling LLP
Dechert LLP
DLA Piper Gallastegui y Lozano LLP
Haynes and Boone, LLP
Herbert Smith Freehills New York LLP
Hogan Lovells US LLP
Holland & Knight LLP
Hughes Hubbard & Reed LLP
JAMS, Inc.
K&L Gates LLP
LALIVE
Latham & Watkins LLP
Locke Lord LLP
Mattos Filho, Veiga Filho, Marrey Jr. E Quiroga Advogados
Mayer Brown LLP
Mitchell Silberberg & Knupp LLP
Morgan, Lewis & Bockius LLP
Nanni Advogados
Reed Smith LLP
Sidley Austin LLP
Steptoe & Johnson LLP
TozziniFreire Advogados
Von Wobeser y Sierra, SC
Ware, Jackson, Lee, O'Neill, Smith & Barrow, LLP

SPONSORING MEMBERS

Advokat John Kadelburger AB
Allen & Overy LLP
B. Cremades y Asociados
Bonelli Erede Pappalardo Studio Legale
BP America Inc.
Brown&Page
Burford Capital
Burnet Duckworth & Palmer LLP
Cescon, Barrieu, Flesch & Barreto Advogados
Conyers Dill & Pearman
Dentons
Gaillard Banifatemi Shelbaya (US) LLP
Gonzalez De Castilla Abogados, S.C.
Hanotiau & van den Berg
Holman Fenwick Willan USA LLP
JMS Arbitration
Jus Mundi
Law Office of John Burritt McArthur
Loperena, Lerch & Martin Del Campo
Muse, Stancil & Co.
Occidental Petroleum Corporation
Pillsbury Winthrop Shaw Pittman LLP
Quinn Emanuel Urquhart & Sullivan UK LLP
Quinn Emanuel Urquhart & Sullivan, LLP
Rivero Mestre LLP
Ruth Teitelbaum PLLC
Shardul Amarchand Mangaldas & Co.
Shell Oil Company
Shipley Snell Montgomery LLP
Stinson LLP
Studio Legale Bisconti
Tenor Capital Management Company, L.P.
Zeiler Floyd Zadkovich
Zuleta Abogados Asociados S.A.S.

ASSOCIATE MEMBERS

Rania Alnaber
William G. Arnot, III
Jorge Arturo Gonzalez
Christopher J. Bellotti
Marcela Berdion-Straub
Pierre Bienvenu
Dinesh Kumar Bishnoi
Julie N. Bloch
John P. Bowman
Kathryn Lee Boyd
Erica Bramer
Daniel Brantes Ferreira
Philip L. Bruner
John J. Buckley, Jr.
Michael Buhler
Tina Cicchetti
Michael Collins, Q.C.
Paulo Rogério Brandao Couto
Alan R. Crain, Jr
Platt W. Davis, III
Thomas W. Davis
René De Liux Campos Garcia
Charles H. Dick, Jr.
Anne-Marie Doernenburg
Stephen L. Drymer
Tiago Duarte-Silva
Thomas A. Dubbs
Clávio de Melo Valença Filho
Cecilia Flores Rueda
Manuel García Barragán M.
Marc J. Goldstein
Shelby R. Grubbs
Pierre-Yves Gunter
Calvin Agustus Hamilton
Cheri Ann Harden
Douglas Harrison
Clifford J. Hendel
Rachel Howie
Enrique A. Jaramillo
John A.M. Judge
Gordon E. Kaiser
Jean E. Kalicki
Mark A. Kantor
Lee L. Kaplan
William H. Knull, III
Giselle Leonardo
Alexander G. Leventhal
Katrina Limond
Michael Massengale
Anton G. Maurer, LL.M., FCIArb
Andrew de Lotbiniere McDougall
Gary McGowan
Elina Mereminskaya
Mark C. Morril
Basil O. Odigie, FCIArb, PMP
Alejandro Ogarrio
Ucheora Onwuamaegbu
Elsa Ortega
Vinicius Pereira
Raúl Pereira Fleury
Noradele Radjai
Asha Rajan
Klaus Reichert, S.C.
Kenneth B. Reisenfeld
Maria Camila Rincón
Sabina Sacco
Lawrence S. Schaner
Lionel Schooler
Eric A. Schwartz
David E. Sharp, FCIArb
Cameron Sim
Allison J. Snyder
Edna Sussman
Whitley Tiller
Sylvia Tonova
Eric van Ginkel
Sarah Vasani
Marc D. Veit
Dr. Georg von Segesser, FCIArb
Arnoldo Wald
Martin Wiebecke
Carter L. Williams
Wayne R. Wilson, Jr.

ACADEMIC /GOVERNMENT/ NON-PROFIT MEMBERS

Dr. Crina Mihaela Baltag
The Hon. Rosemary Barkett
Gary L. Benton
Andrea K. Bjorklund
Dr. Kristen E. Boon
Dr. Chester Brown
Dr. Viktor Cserep
Demilade Isioma Elemo
Georgios Fasfalis
Prof. Mark E. Feldman
Eric Franco
The Hon. Carl Ginsberg
Derya Durlu Gürzumar
Joseph Brian Johns
Prof. Joshua Karton
Urs Martin Laeuchli
The Hon. Barry Leon
Robert Matthews
Dr. Luis Manuel C. Mejan Carrer
Nigerian Institute of Chartered Arbitrators
Guilherme Piccardi de Andrade Silva
Prof. Victoria Shannon Sahani
Prof. Patricia Shaughnessy
Prof. Frédéric G. Sourgens
Andrés Talavera Cano
University of Houston Law Center - Blakely Advocacy Institute
University of Richmond School of Law
Dr. Todd Weiler
Prof. Jarrod Wong

ARBITRAL INSTITUTION MEMBERS

Arbitration and Conciliation Centre of the Bogota Chamber of Commerce (CCB)
Arbitration and Mediation Center of the American Chamber of Commerce of Brazil (AmCham Brazil)
Arbitration and Mediation Center of the Santiago Chamber of Commerce (CAM Santiago)
Arbitration Center of Mexico (CAM)
Arbitration Center of the American Chamber of Commerce of Peru (AmCham Perú)
Arbitration Centre of the Caracas Chamber of Commerce (CACC)
Arbitraton Center of the Lima Chamber of Commerce (LCC)
Center for Arbitration and Mediation – Chamber of Commerce Brazil-Canada (CAM-CCBC)
Conciliation and Arbitration Center of the Chamber of Commerce of Costa Rica
Court of International Commercial Arbitration Romania (CCIR-CICA)
ICC International Court of Arbitration (ICC)
Inter-American Commercial Arbitration Commission (IACAC)
International Center for Conciliation and Arbitration (AmCham Cost Rica)
International Centre for Dispute Resolution (ICDR)
International Centre for Settlement of Investment Disputes (ICSID)
Mediation and Arbitration Center of the National Chamber of Commerce of Mexico City (CANACO)
Stockholm Chamber of Commerce (SCC)

ADVISORY BOARD

Manuel A. Abdala
Alvaro Aguilar Ojeda
Roberto J. Aguirre Luzi
Ricardo Alarcón
Jay Alexander
Prof. Roger P. Alford
Arif Hyder Ali
Daniel Allman
Rania Alnaber
Julie Amadeo
Steven K. Andersen, Esq.
The Hon. William G. Arnot, III
Jorge Arturo Gonzalez
José I. Astigarraga
David L. Attanasio
Thomas J. Auner
Fernando A. Avila-Bavaresco
C. Mark Baker
Chloe Baldwin
Dr. Crina Mihaela Baltag
Daniela M. Bambaci
Michael J. Baratz
Antonio M. Barbuto Neto
The Hon. Rosemary Barkett
Rodrigo Barradas Muñiz
C. Dennis Barrow, Jr.
Julie Bédard

ADVISORY BOARD (CONT'D)

Andrew M. Behrman
Christopher J. Bellotti
Gary L. Benton
Marcela Berdion-Straub
Tiana Bey
Preeti Bhagnani
Pierre Bienvenu
Dr. Giuseppe Bisconti
Dinesh Kumar Bishnoi
R. Doak Bishop
Prof. Andrea K. Bjorklund
Nigel A. Blackaby
Suzana M. Blades
Julie Nadine Bloch
Dr. Kristen E. Boon
Amal Bouchenaki
Theresa Bowman
John P. Bowman
Kathryn Lee Boyd
James H. Boykin
Rafael T. Boza
Robert Bradshaw
Erica Bramer
Daniel Brantes Ferreira
Catherine Bratic
Mark Bravin
Lorraine M. Brennan
Prof. Charles H. Brower, II
The Hon. Charles N. Brower
Dr. Chester Brown
Kate Brown de Vejar
Dominique Brown-Berset
Philip L. Bruner
John J. Buckley, Jr.
Prof. Thomas Buergenthal
Dr. Michael Buhler
Henry G. Burnett
Charlie Caher
Kristin Campbell-Wilson
Hugh Carlson
Derrick B. Carson
James E. Castello
Antoine Chapsal
Carla Chavich
Maria Chedid
Marney L. Cheek
Tai-Heng Cheng
Nancy Cherashore
Richard Chernick
Craig Chiasson
Tina Cicchetti
Prof. Jack J. Coe, Jr.
Jeff Cohen
Michael Collins, Q.C.
Jeffery Commission
Katherine Connolly
Simon Consedine
Wade M. Coriell
Paulo Rogério Brandão Couto
James S. Cowan
Bob Craig, III
Alan R. Crain, Jr.
Bernardo M. Cremades
Dr. Viktor Cserep
Amanda Bueno Dantas
Peter Danysh
Robert B. Davidson
Steve Davidson
Kate Davies
Thomas W. Davis
Platt W. Davis, III
Gwendolyn Dawson
Andrea De la Brena
René de Liux Campos Garcia
Jean-Rémi de Maistre
Robert J.C. Deane
Deborah Deitsch-Perez
Santiago Dellepiane
Andrew B. Derman
Paolo Di Rosa
Charles H. Dick, Jr.,
Anne-Marie Doernenburg
Donald Francis Donovan
Matthew N. Drossos
Stephen L. Drymer
Tiago Duarte-Silva
Thomas A. Dubbs
Phillip Dye
Neil Earnest
Jennifer Gadd Edwards
Brian Egan
Demilade Isioma Elemo
Jeffrey Elkinson
Alejandro A. Escobar
Dorine Farah
Georgios Fasfalis
Dr. Raëd Fathallah
Prof. Mark E. Feldman
John Fellas
Michael A. Fernández
Laura Fernández Vega
Clávio de Melo Valença Filho
Steven Finizio
Andrew J. Finn
Hal Fiske
Kenneth Fleuriet
Cecilia Flores Rueda
Molly Bruder Fox
Prof. Susan D. Franck
Eric Franco
Érica Vanessa Franzetti
Mark W. Friedman
Elliot Friedman
Stephanie Black Fuller
Kiera Gans
Manuel García Barragán M.
John L. Gardiner
Albina Gasanbekova
Gaela K. Gehring Flores
Elizabeth Abbott Gilman
The Hon. Carl Ginsberg
Prof. Chiara Giorgetti
Teresa Giovannini
Jennifer Glasser
Michael S. Goldberg
Marc J. Goldstein
Christopher Goncalves
Eduardo Damião Gonçalves
Daniel E. González
Katherine González Arrocha
Emilio González de Castilla
Nikhil Gore
Kenneth W. Grant II
Brody Greenwald
Shelby R. Grubbs
Omar Guerrero Rodriguez
Pedro Guilhardi
Pierre-Yves Gunter
Juhi Gupta
Derya Durlu Gürzumar
Martin F. Gusy
David R. Haigh, Q.C.
Calvin Augustus Hamilton
Jonathan C. Hamilton
Prof. Bernard Hanotiau
John L. Hardiman
David E. Harrell, Jr.
Douglas Harrison
Clifford J. Hendel
Paula Hodges, QC
James M. Hosking
Rachel Howie
Mitchell Hurley
Thomas Innes
Don Jackson
Martin B. Jackson
Michael E. Jaffe
Enrique A. Jaramillo
Francisco Jijón
Joseph Brian Johns, LLM
Benjamin Jones
John A.M. Judge
John M. Kadelburger
Gordon E. Kaiser
Jean E. Kalicki
Mark A. Kantor
Lee L. Kaplan
Susan L. Karamanian
Prof. Joshua Karton
William M. Katz, Jr.
Ed G. Kehoe
Rachael D. Kent
Louis Benno Kimmelman
Meg Kinnear
Valeriya Kirsey
Matthew H. Kirtland
William H. Knull, III
Patrícia Kobayashi
Dr. Johannes Koepp
Dr. Sabine Konrad
Lea Haber Kuck
Urs Martin Laeuchli
Hamish Lal
Sophie Lamb QC
Robert Landicho
Floriane Lavaud
Jim Lawrence
Christian Leathley
Mimi M. Lee
Glenn R. Legge
Barton Legum
Shannon M. Leitner
Matti Lemmens
Michael P. Lennon, Jr.
The Hon. Barry Leon
Giselle Leonardo
Macarena Letelier
Alexander G. Leventhal
David J. Levy
Veronica J. Lew
Katrina Limond
Claudia Linares
Nicholas Lingard
Gregory A. Litt
Rafael E. Llano Oddone
Jim L. Loftis
Carlos Loperena
Miguel López Forastier
Ben Love
Lucinda A. Low
Gerardo Lozano Alarcón
David Madsen, Q.C.
Adrián Magallanes
Michelle Maniago
Fernando Mantilla-Serrano
Montserrat Manzano
Silvia M. Marchili
Noiana Marigo
Jose Luis Martin
Luis M. Martinez
Michael Massengale
Jorge Mattamouros
Robert Matthews
Dr. Anton G. Maurer, LLM, FCIArb
John Burritt McArthur
Andrew de Lotbiniere McDougall
Sarah McEachern
Gary McGowan
Hugh Meighen
Dr. Luis Manuel C. Mejan Carrer
Andrew Melsheimer
Ian Meredith
Elina Mereminskaya
Michelle Meriam
Carl Micarelli
Craig S. Miles
Robert W. Mockler
Marsha Montgomery
Allan B. Moore
Matthew W. Moran
Carolina Da Rocha Morandi
Flavia Cristina Moreira de Campos Andrade
Mark C. Morril
Danielle M. Morris
Caline Mouawad
David Moyer
Maria Angelica Munar Gordillo
Juan Carlos Mundo Medina
Miguel Nakhle
Giovanni Ettore Nanni
Fernando Navarro
Simon Navarro Gonzalez
Timothy G. Nelson
Paul J. Neufeld
Joseph E. Neuhaus
Denton Nichols
Gustavo Gaspar Nogueira
Sylvia Noury
Gary Nugent
Damien Nyer
Dagfinn Nygaard
Kevin M. O'Gorman
Eileen O'Neill
Basil O. Odigie, FCIArd, PMP
Alejandro Ogarrio
Ucheora Onwuamaegbu
Elsa Ortega
Shola Oshodi-John
Michael Ostrove
Ryan Padden
Samuel Pape
R. Hewitt Pate
Jan Paulsson
Vinicius Pereira
Raúl Pereira Fleury
Flávio Pereira Lima
Jose Maria Perez
Jennifer L. Permesly
Hansel T. Pham
Guilherme Piccardi de Andrade Silva
John V.H. Pierce
Maximillian Pika

ADVISORY BOARD (CONT'D)

Philippe Pinsolle
Kate Porter
Tim Portwood
Dietmar W. Prager
Sam Prevatt
Andrew P. Price
Noradele Radjai
Asha Rajan
Alberto F. Ravell
Amanda Raymond-Kalantirsky
Guilherme Recena Costa
Lucy F. Reed
Daniel Reich
Klaus Reichert, S.C.
Natalie L. Reid
Kenneth B. Reisenfeld
Tracie J. Renfroe
Lidia Helena S. Rezende
Caroline S. Richard
Maria Camila Rincón
Francisco Rivero
Laura M. Robertson
Ann Ryan Robertson
Gonzalo Rodriguez-Matos
Ciara Ros
Charles B. Rosenberg
Lee Rovinescu
William W. Russell
Aníbal Martin Sabater
Sabina Sacco
Prof. Victoria Shannon Sahani
Prof. Jeswald W. Salacuse
Claudio D. Salas
Sylvia Sámano Beristain
Harout Samra
Ank Santens
Agustin Sanz
Monique Sasson
Karima Sauma
Claire Schachter
Lawrence S. Schaner
Michael E. Schneider
Lionel Schooler
Edward T. Schorr
Eric A. Schwartz
Franz Schwarz
Elizabeth Scott
Gabriel Seijo Leal de Figueiredo
Prof. Christophe Seraglini
Fernando Eduardo Serec
Lena Serhan
David E. Sharp, FCIArb
Dr. Patricia Shaughnessy
Audley Sheppard
George T. Shipley
Laurence Shore
Tomasz J. Sikora
Mallory Silberman
Eugene J. Silva, II
Eduardo Silva Romero
Cameron Sim
Aditya Singh
Laura Sinisterra
Raquel Martinez Sloan
Maria Slobodchikova
Antoine Smiley
Jennifer M. Smith
Reginald R. Smith
Mark P. Smith
Quentin Smith
Abby Cohen Smutny
Elizabeth Snodgrass
Allison J. Snyder
Luke A. Sobota
Menalco J. Solis
Prof. Frédéric G. Sourgens
Pablo T. Spiller
Richard Starfield
Edna Sussman
Jonathan Sutcliffe
Christopher K. Tahbaz
Andres Talavera Cano
Philip Cheng Yew Tan
Ruth Teitelbaum
Frederico Temerlin
Whitley Tiller
Sylvia Tonova
John M. Townsend
John A. Trenor
Alayna Tria
Epaminontas E. Triantafilou
Timothy J. Tyler
Prof. Eric van Ginkel
Sarah Z. Vasani
Dr. Cosmin Vasile
Marc D. Veit
Marco Tulio Venegas Cruz
Marianella Ventura Silva
Vincent Verschoor
Florencia Villaggi
Odean L. Volker
Dr. Georg von Segesser, FCIArb
Dr. Claus von Wobeser
Arnoldo Wald
David Waldron
Thomas W. Walsh
Dr. Todd Weiler
Matthew J. Weldon
Martin Wiebecke
Justin Williams
Carter L. Williams
Wayne R. Wilson, Jr
David B. Winn
Prof. Jarrod Wong
Louise Woods
Kristen M. Young
Eduardo Zuleta

ACADEMIC COUNCIL

Dr. Mohamed S. Abdel Wahab
Dr. Gerd Wolfgang Alschner
Prof. Julian Arato
Dr. Crina Baltag, Vice Chair
Angela Banks
Andrea K. Bjorklund
Prof. Laurence Boisson de Chazournes
Dr. Kristen Boon
Stavros Brekoulakis
The Hon. Thomas Buergenthal Chair Emeritus
Donald Earl Childress, III
Prof. Giuditta Cordero-Moss
Prof. Eric De Brabandere
Prof. Diane Desierto
Prof. Katia Fach Gómez
Dr. Kun Fan
Prof. Franco Ferrari
Susan D. Franck
Prof. J. Benton Heath
Tomoko Ishikawa
Prof. Joshua Karton, Vice Chair
Prof. Won Kidane
Prof. Maria Chiara Malaguti
Prof. Abul Maniruzzaman
Dr. Martins Paparinskis
Patrick Pearsall
Caroline S. Richard
Prof. Catherine A. Rogers, Vice Chair
Peter Bo Rutledge
Prof. Victoria Shannon Sahani, Chair
Prof. Patricia Shaughnessy
Prof. Ana Spain Bradley
Prof. Frédéric G. Sourgens
Prof. Maya Steinitz
Catharine Titi
Prof. Jarrod Wong

BOARD OF REPORTERS
ITA ARBITRATION REPORT

GENERAL EDITOR
Prof. Roger P. Alford
CO-MANAGING EDITOR
Dr. Crina M. Baltag
CO-MANAGING EDITOR
Monique Sasson
ITA DIRECTOR
David B. Winn
ASSOCIATE EDITOR
Deen Kaplan
DEVELOPMENTAL EDITOR
Vincent Verschoor

Country Reporters

ARGENTINA
Federico Godoy
AUSTRALIA
Damian Sturzaker
AUSTRIA
Matthias Hofer
Katherine Khan
BELGIUM
Bernard Hanotiau
Maarten Draye
Charlotte Villeneuve
BRAZIL
Dr. João Bosco Lee
BULGARIA
Assen Alexiev
CANADA
Tina Cicchetti
CHILE
Cristian Conejero-Roos
CHINA
Arthur X. Dong
COLOMBIA
Eduardo Zuleta
COSTA RICA/EL SALVADOR/ PANAMÁ
Ryan Mellske
DOMINICAN REPUBLIC
Stephan Adell
Francisco J. Batlle
EGYPT
Prof. Dr. Mohamed S. Abdel Wahab
Noha Khaled Abdel Rahim
ENGLAND
Nicholas Fletcher QC
FINLAND
Anna-Maria Tamminen
Olli Mäkelä
FRANCE
Nataliya Barysheva
Valentine Chessa
GERMANY
Dr. Richard H. Kreindler
Dr. Harry Nettlau
GREECE
Ioannis Vassardanis
HONG KONG
Briana Young
Justin D'Agostino
INDIA
Dipen Sabharwal
Aditya Singh
IRELAND
Klaus Reichert SC
ISRAEL
Avishai Azriel
ITALY
Stefano Azzali
Benedetta Coppo
JAPAN
Hisaya Kimura
Mai Umezawa
Koki Yanagisawa
KOREA
Byung-Woo Im
Kay-Jannes Wegner
LATVIA
Inga Kačevska
LEBANON
Jalal El Ahdab
LITHUANIA
Rimantas Daujotas
Denis Parchajev
MEXICO
Cecilia Flores Rueda
NETHERLANDS
Richard Hansen
Bo Ra = Hoebeke
NEW ZEALAND
Stephen Hunter QC
PAKISTAN
Nudrat E. Piracha
PARAGUAY
José Antonio Moreno Rodríguez
PERU
Fernando Cantuarias Salaverry
POLAND
Dr. Wojciech Sadowski
PORTUGAL
Ana Coimbra Trigo
José Miguel Júdice
ROMANIA
Cosmin Vasile
RUSSIA
Elena Burova
Baiju Vasani
SINGAPORE
Michael Hwang S.C.
SOUTH AFRICA
Kalinka Eksteen
Vlad Movshovich
Daniel Rafferty
SPAIN
Esperanza Barrón Baratech
Fernando Mantilla Serrano
SWEDEN
John M. Kadelburger
SWITZERLAND
Dr. Georg von Segesser, FCIArb
SYRIA
Dr. Abdulhay Sayed
TURKEY
Dr. Ismail G. Esin
Stephan Wilske
UKRAINE
Yaroslav Petrov
UNITED ARAB EMIRATES
John Gaffney
Malak Nasreddine
UNITED STATES
Eduardo Bruera
Sara McBrearty
Charles B. Rosenberg

Institutional Reporters

ARBITRATION CENTER OF THE AMERICAN CHAMBER OF COMMERCE OF PERU (AMCHAM PERÚ)
Álvaro Aguilar
ARBITRATION CENTRE OF THE LIMA CHAMBER OF COMMERCE (LCC)
Marianella Ventura
ARBITRATION & MEDIATION CENTER OF THE SANTIAGO CHAMBER OF COMMERCE (CAM SANTIAGO)
Macarena Letelier
Laura Aguillera
THE COURT OF INTERNATIONAL COMMERCIAL ARBITRATION (CCIR ROMANIA)
Cosmin Vasile
FINLAND ARBITRATION INSTITUTE (FAI)
Sanna Kaistinen
GEORGIAN INTERNATIONAL ARBITRATION CENTRE
Beka Injia
INTERNATIONAL CENTER FOR CONCILIATION AND ARBITRATION (AMCHAMCOSTA RICA)
Karima Sauma
ICSID
Ina C. Popova
Dietmar W. Prager
Samantha J. Rowe
MEDIATION & ARBITRATION CENTER OF THE MEXICO CITY NATIONAL CHAMBER OF COMMERCE (CANACO)
Juan Carlos Mundo
OHADA
Prof. Dr. Mohamed S. Abdel Wahab
Noha Khaled Abdel Rahim
USMCA-NAFTA
Prof. Charles H. Brower II
VIENNA INTERNATIONAL ARBITRAL CENTRE (VIAC)
Alice Fremuth-Wolf
Elisabeth Vanas-Metzler

ITA Latin American Arbitration Forum (ITAFOR)

Institute for Transnational Arbitration (ITA)
Asociación Latinoamericana de Arbitraje (ALARB)
Comite Brasileiro de Arbitragem (CBAr)

Moderators

Fernando Cantuarias
Universidad Del Pacifico
Lima, Peru
Maria Inés Corrá
M & M Bomchil
Buenos Aires, Argentina
Francisco González de Cossío
González de Cossío Abogados, S.C.
Mexico City, Mexico
Elena Gutiérrez García de Cortázar
Independent Arbitrator, Paris and Madrid
Madrid, Spain
Giovanni Ettore Nanni
Nanni Advogados
Sao Paulo, Brazil
Erik Schäfer
COHAUSZ & FLORACK
Düsseldorf, Germany

Contributors

Gloria Álvarez
University of Aberdeen
London, UK
Dr. Crina Baltag
Stockholm University
Stockholm, Sweden
Iñaki Carrera
PLMJ
Lisbon, Portugal
José María de la Jara
Covington & Burling LLP
Washington, DC, USA
Soledad Díaz
FERRERE
Montevideo, Uruguay
Prof. Katia Fach Gómez
University of Zaragoza
Zaragoza, Spain
Cecilia Flores Rueda
FloresRueda Abogados
Ciudad de Mexico, Mexico
Eric Franco
Engie
Lima, Peru
Álvaro Galindo
Carmigniani Pérez Abogados
Quito, Ecuador
Laura Ghitti
Mattos Filho
Buenos Aires, Argentina
Karina Goldberg
FCDG
Sao Paulo, Brazil
Alegría Jijón Andrade
Pérez Bustamante & Ponce
Quito, Ecuador
Juan Manuel Marchán
Perez, Bustamante & Ponce Abogados
Quito, Ecuador
Felipe Mutis Téllez
Brgard Urrutia
Bogotá, Colombia
Santiago Peña
Bomchil
Buenos Aires, Argentina
María Camila Rincón
Zuleta Abogados Asociados
Bogotá, Colombia
Roger Rubio
Rubio Arbitration Law
Lima, Peru
Verónica Sandler Obregón
Universidad de Buenos Aires
Buenos Aires, Argentina
Ana Toimil
Von Wobeser y Sierra, S.C.
Mexico City, Mexico
Alberto Zuleta Londoño
Holland & Knight LLP
Bogota, Colombia

Council

André de A. Cavalcanti Abbud
BMA Advogados
São Paulo, Brazil
José Astigarraga
Reed Smith LLP
Miami, FL USA
Giovanni Ettore Nanni
Nanni Advogados
Sao Paulo, Brazil
Eduardo Damião Goncalves
Mattos Filho, Veiga Filho, Marrey Jr. E. Quiroga Advogados
Sao Paulo, Brazil
Cecilia Flores Rueda
ITA Counsel
FloresRueda Abogados
Mexico City, Mexico
Montserrat Manzano
ITA Americas Initiative Chair
Von Wobeser y Sierra, S.C.
Mexico City, Mexico
Tomasz J. Sikora
ITA Chair
Exxon Mobil Corporation
Spring, Texas USA
Prof. Guido S. Tawil
Punta del Este, Uruguay
Claus von Wobeser
Von Wobeser y Sierra
Mexico City, Mexico
David B. Winn
ITA Director
Plano, TX USA
Eduardo Zuleta
Zuleta Abogados Asociados
Bogotá, Colombia

Young ITA Leadership

Catherine Bratic
Chair
Hogan Lovells US LLP
Houston, TX
Karima Sauma
Vice Chair
Executive Director
International Center for Conciliation and Arbitration (AmCham Costa Rica)
San Jose, Costa Rica
Ciara Ros
Young ITA Communications Chair
Vinson & Elkins LLP
London, UK
Jorge Arturo Gonzalez
Young ITA Communications Vice Chair
Aguilar Castillo Love, S.r.l.
San José, Costa Rica
Thomas Innes
Young ITA Mentorship Co-Chair
Steptoe & Johnson UK LLP
London, United Kingdom
Sylvia Sámano Beristain
Young ITA Mentorship Co-Chair
Secretary General
Arbitration Center of Mexico (CAM)
Mexico City, Mexico
Enrique Jaramillo
Young ITA Thought Leadership Chair
IHS Markit
Houston, Texas
Derya Durlu Gürzumar
Young ITA Thought Leadership Vice-Chair
Bilkent, Universiteler Mahallesi
Ankara, Turkey
Anne-Marie Doernenburg
Young ITA Asia Chair
Nishimura & Asahi
Tokyo, Japan
Philip Tan
Young ITA Asia Vice-Chair
White & Case
Singapore
Daniel Allman
Young ITA Oceania Chair
Norton Rose Fulbright
Sydney, Australia
Rodrigo Barradas Muñiz
Young ITA Mexico and Central America Chair
Von Wobeser y Sierra, S.C.
Ciudad de México, México
Daniel Brantes
Young ITA Brazil Chair
Centro Brasileiro De Mediacao E Arbitragem
Rio de Janeiro, Brazil
Guilherme Piccardi
Young ITA Brazil Vice Chair
Pinheiro Neto
Sao Paulo, Brazil
Dr. Viktor Cserep
Young ITA Central and Eastern Europe Chair
PROVARIS Varga & Partners
Budapest, Hungary
Karolina Czarnecka
Young ITA Central and Eastern Europe Vice Chair
Queritius
Warsaw, Poland
Juhi Gupta
Young ITA India Chair
Shardul Amarchand Mangaldas & Co
New Delhi, India
Lidia Rezende
Young ITA North America Chair
Chaffetz Lindsey LLP
New York, USA
Michael Fernandez
Young ITA North America Vice Chair
Rivero Mestre
New York, USA
Maria Camila Rincon
Young ITA South America Chair (Spanish-Speaking Jurisdictions)
Zuleta Abogados
Bogotá D.C., Colombia
Santiago Lucas Pena
Young ITA South America Vice Chair (Spanish-Speaking Jurisdictions)
Bomchil
Buenos Aires, Argentina
Katrina Limond
Young ITA UK Chair
Allen & Overy
London, UK
Robert Bradshaw
Young ITA UK Vice Chair
LALIVE
London, UK
Asha Rajan
Young ITA Western Europe Chair
Teynier – Pic I Paris
Paris, France
Georgios Fasfalis
Young ITA Western Europe Vice Chair
Linklaters
Amsterdam, Netherlands

THANKS TO OUR SPONSORS

ITA takes this opportunity to thank again and recognize the financial sponsors that helped make possible the:

ITA-IEL-ICC JOINT CONFERENCE ON INTERNATIONAL ENERGY ARBITRATION JANUARY 20-22, 2021

Premier Conference Sponsors
Arnold & Porter
Kaye Scholer LLP
The Brattle Group, Inc.
Covington & Burling LLP
Mayer Brown LLP
Sullivan & Cromwell LLP

Welcome Reception Sponsors
Burford Capital
Cleary Gottlieb Steen & Hamilton
Freshfields Bruckhaus Deringer LLP
Three Crowns LLP
Vinson & Elkins LLP
White & Case LLP

Young Lawyers Roundtable Sponsors
Baker Botts LLP
Baker & O'Brien, Inc.
Exxon Mobil Corporation
Holland & Knight LLP
King & Spalding LLP

Conference Materials Sponsor
Kadelburger Law

ITA-ASIL CONFERENCE, MARCH 23, 2021

Conference Sponsors
Energy Arbitration

Online Materials Sponsors
Arbitration Chambers
Debevoise & Plimpton LLP
Kadelburger Law
Three Crowns LLP

33RD ITA WORKSHOP AND ANNUAL MEETING, JUNE 16-18, 2021

Workshop Sponsors
Borden Ladner Gervais LLP
Covington & Burling LLP
Freshfields Bruckhaus Deringer LLP
Pravati Capital LLC
Sullivan & Cromwell LLP
Three Crowns LLP
White & Case LLP

ITA Advisory Board Meeting and Reception Sponsors
Debevoise & Plimpton LLP
King & Spalding LLP

Workshop Online Materials Sponsors
Burford Capital
Kadelburger Law

Welcome Reception Sponsors
AlixPartners LLP
Baker & O'Brien, Inc.
BRG
Gibson, Dunn & Crutcher LLP
Interface Consulting International, Inc.
Mintz Group
Tenor Capital Management Company, L.P.
Vinson & Elkins LLP

Institute for TRANSNATIONAL ARBITRATION

ITA Programs

An Institute of The Center for American and International Law, ITA provides advanced education and networking for lawyers, judges, academics, government officials and other professionals concerned with transnational arbitration of commercial and investment disputes. With members and contributors in over 55 countries and 30 U.S. States, the ITA is led and supported by many of the world's leading companies, arbitrators and arbitration counsel.

PROGRAMS *at a glance*

TO REGISTER, VISIT CAILAW.ORG/ITA >

2022

JAN 20-21

10th ITA-IEL-ICC Joint Conference on International Energy Arbitration

POST OAK HILTON • HOUSTON, TEXAS

Presented by the Institute for Transnational Arbitration and the Institute for Energy Law of The Center for American and International Law and the ICC International Court of Arbitration
Conference Co-Chairs: Kevin O'Gorman (Norton Rose Fulbright, Houston), Natalie Reid (Debevoise & Plimpton, New York) and Mark Stefanini (Mayer Brown International, London)

MAR 9-10

ITA International Mining Arbitration Conference

THE RITZ CARLTON • TORONTO, CANADA

Conference Co-Chairs: Nigel Blackaby QC (Freshfields Bruckhaus Deringer LLP, Washington, DC), Kathryn Khamsi (Three Crowns, Paris) and Myriam Seers (Savoie Laporte LLP, Toronto)

APR 6

19th Annual ITA-ASIL Conference: Arbitration in Changed Circumstances

WASHINGTON HILTON • WASHINGTON, D.C.

Conference Co-Chairs: Prof. Julian Arato (Brooklyn Law School, New York) and Prof. Kun Fan (University of New South Wales, Law, Sydney)

JUN 15-17

34th Annual ITA Workshop and Annual Meeting

THE LINE HOTEL • AUSTIN, TEXAS

Conference Co-Chairs: Kate Davies (Allen & Overy LLP, London), Prof. Patricia Shaughnessy (University of Stockholm School of Law, Lidingoe SWEDEN) and Laurence Shore (Bonelli Erede Pappalardo Studio Legale, Milan)

Additional ITA and Young ITA programs are announced at the ITA Programs Calendar online: www.cailaw.org/Institute-for-Transnational-Arbitration/programs-calendar.html.

The schedule of upcoming Young ITA programs designed for practitioners under 40 can always be viewed at the Young ITA webpage.

SPONSORSHIP OPPORTUNITIES

If your firm or company would like more information about becoming a sponsor, please contact Lilly Hogarth at lhogarth@cailaw.org.

ITA is an Institute of
THE CENTER FOR AMERICAN AND INTERNATIONAL LAW