



# 7th Annual ITA-ASIL Conference

## ***Arbitration: The End of the Golden Age?***

March 24, 2010 • The Ritz-Carlton Hotel • Washington, D.C.

*Conference Co-Chairs*

Prof. Peter B. Rutledge, University of Georgia Law School, Athens

Edna Sussman, SussmanADR LLC, Scarsdale

*Presented by*

Institute for Transnational Arbitration's Academic Council and The American Society of International Law

By almost any account, arbitration has enjoyed its golden age in the last decades. International commercial arbitrations have soared, arbitrations under bilateral investment treaties have grown, and arbitration of purely domestic matters, especially in the United States, has received increased acceptance. Yet several recent signs suggest that the sun has begun to set on that golden age. Courts have erected some previously unseen barriers to international arbitration. Criticism has been leveled at various aspects of traditional Bilateral Investment Treaties (BITs) and nations have withdrawn from ICSID. And in the United States, Congress currently is considering the most sweeping reform of the Federal Arbitration Act since its enactment.

Against this background, this year's conference asks whether a golden age is ending for arbitration or whether the evolution of arbitration and arbitration practice will lead to welcome improvements. In a format specially designed to encourage audience participation, this year's conference will be limited to two panels. One will address the challenges to international arbitration, focusing especially on recent developments relating to BITs. The other will address proposed reforms to domestic arbitration in the United States, focusing especially on how those proposals might affect the international field as well. As with prior years, both panels will feature a mix of arbitrators, in-house counsels, and practitioners. In addition, given the importance of legislation to these questions, policymakers will also join the discussion.

**8:00** Registration and Continental Breakfast

**9:00** WELCOME AND INTRODUCTION

Lucy Reed, Freshfields Bruckhaus Deringer LLP, New York; Chair, Institute for Transnational Arbitration, and President, American Society of International Law

**9:05** Keynote Speaker

Rep. Linda Sánchez, 39th Congressional District, California

**9:35** DOES ONE SIZE FIT ALL? SHOULD IT? THE (FRAYING) RELATIONSHIP BETWEEN DOMESTIC AND INTERNATIONAL ARBITRATION LAW IN THE UNITED STATES.

*Unlike many countries, the United States does not have a distinct international arbitration law (with the exception of the implementing legislation for various arbitration treaties). Consequently, several of the most important doctrines that have influenced the development of international arbitration law have emerged from the domestic sphere. What have been the effects of this legal structure on the development of international arbitration law in the United States? Has this "one size fits all" approach been beneficial, or is it time for the United States to adopt its own international arbitration law? And how might the proposed changes to the Federal Arbitration Act influence these debates?*

**Introduction:** Prof. Peter "Bo" Rutledge, University of Georgia School of Law, Athens

**9:40 Panel:****Moderator:**

**Richard W. Naimark**, Senior Vice President, International Centre for Dispute Resolution (ICDR)/American Arbitration Association (AAA), New York

**Rachael D. Kent**, WilmerHale, Washington, D.C.

**Elpidio “PD” Villarreal**, Senior Vice President - Global Litigation, GlaxoSmithKline, Philadelphia

Roundtable and Q&A

**10:35 Break****10:55 RECALIBRATING THE BIT: ARE CHANGES NEEDED?**

*Critics have urged changes in BITS to allow greater host state latitude to accommodate sustainable development and respond to environmental, human rights and labor concerns. Others have expressed concerns that many of these suggested changes would allow regulatory takings without compensation and would vitiate the efficacy of the investor protection provisions. Proposed changes, and exceptions to the standard BIT provisions, have been drafted by various committees and organizations in response to such concerns. The panel will discuss the revisions suggested by various constituencies, including the recommendations recently offered by the U.S. State Department’s Advisory Committee on International Economic Policy.*

**Introduction:** Edna Sussman, SussmanADR LLC, Scarsdale

**11:00 Panel:****Moderator:**

**Prof. Jack J. Coe, Jr.**, Pepperdine University Law School, Malibu

**Prof. José E. Alvarez**, New York University School of Law, New York

**Thea Lee**, Policy Director and Chief International Economist, AFL-CIO, Washington, D.C.

**Barton Legum**, Salans, Paris

Roundtable and Q&A

**12:15 CONCLUDING REMARKS**

**Prof. Charles H. Brower, II**, Croft Institute for International Studies, University of Mississippi School of Law, Oxford, Mississippi; Chair, ITA Academic Council

**12:20-1:30****NETWORKING LUNCHEON**

**Registration includes a buffet luncheon with the faculty.**

Conference papers will also be published in a 2010 issue of ITA’s law journal, *World Arbitration and Mediation Review*, published by Juris.

**REGISTER ONLINE:** [http://www.cailaw.org/ita/ASIL\\_10.html](http://www.cailaw.org/ita/ASIL_10.html)

*The American Society of International Law’s (ASIL) 104th Annual Meeting, March 24-27, 2010, immediately follows the ITA-ASIL Conference at The Ritz Carlton Hotel, Washington, D.C. The Annual Meeting will address “International Law in a Time of Change.” For more information and important updates, visit [www.asil.org](http://www.asil.org).*