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Institute for
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Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee
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International Energy Arbitration

4th Annual ITA-IEL-ICC Joint Conference



4th Annual ITA-IEL-ICC Joint Conference on International Energy Arbitration

January 12 - 13, 2017

Hyatt Regency Houston/Galleria
Houston, Texas

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*International Court of
Arbitration of the*



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Highlights

- 2016 Energy Arbitration Year in Review
- 2017 Global Geopolitics and Energy
- General Counsels of Baker Hughes, Chevron, ConocoPhillips and Occidental Petroleum on the increasing disputes in the low price environment
- Arbitrator Perspectives Interview with LCIA past president William "Rusty" Park
- Ethical Dilemmas with Prof. Catherine Rogers
- Tailoring Arbitration for Energy Disputes
- Global Awards Enforcement
- Expropriation Risk Accounting
- Tips for Managing the Tribunal
- Networking Dinner
- Young Lawyers Roundtable
- Co-Chairs Suzana Blades (ConocoPhillips, Houston), Juliet Blanch (Juliet Blanch Arbitration, London) and Jim Tancula (Mayer Brown, Chicago)

Conference Co-Chairs

Suzana M. Blades
Managing Counsel - Arbitrations
ConocoPhillips
Houston

Juliet Blanch
Juliet Blanch Arbitration
London

James E. Tancula
Mayer Brown LLP
Chicago

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"[The conference] brings together an impressive group of experts/ topics that are timely and interesting."

— 2016 Participant



2016 ITA-IEL-ICC Joint Conference

2:30 REGISTRATION

3:00 WELCOME

- **Lawrence P. Simon, Jr.**, IEL Chair, Liskow & Lewis, Lafayette
- **Abby Cohen Smutny**, ITA Chair, White & Case LLP, Washington D.C.
- **Rocío Digón**, Managing Director and Counsel, ICC International Court of Arbitration, SICANA, Inc., New York

YOUNG LAWYERS' ROUNDTABLE

Presented by the

ITA Young Arbitrators Initiative
IEL Young Energy Professionals
ICC Young Arbitrators Forum

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3:05 WELCOME TO THE ROUNDTABLE

ROUNDTABLE CO-CHAIRS:

- **Montserrat Manzano**, ITA YAI Chair, von Wobeser y Sierra, S.C., Mexico City
- **Teresa Garcia-Reyes**, ICC YAF North America Chapter Representative, Senior Counsel, Litigation, GE Oil & Gas, Houston
- **Jamie Miller**, IEL YEP Representative, King & Spalding LLP, Houston

3:10 WHAT WOULD YOU DO? – ETHICAL DILEMMAS IN ARBITRATION

Panelists will be presented with various real-world ethical scenarios faced by arbitrators, counsel, and experts, and will debate the ethical implications arising from such scenarios. At the end of each segment, the audience will be invited to weigh in on the likely outcome of the issue.

MODERATOR:

- **Prof. Catherine A. Rogers**, Penn State Law, State College, Pennsylvania, and Queen Mary University of London, London

PANELISTS:

- **Torsten Lörcher**, Global Head of Dispute Resolution Group, CMS, Cologne
- **Pablo D. López Zadicoff**, Compass Lexecon, Washington, D.C.
- **Elina Mereminskaya**, Bofill Mir & Álvarez Jana, Santiago de Chile
- **Juan Felipe Merizalde**, Dechert, Washington, D.C.

SCHEDULE

January 12

4:00 THE CALL FOR SPECIALIZED ARBITRATORS, FORUMS AND PROCEDURES IN ENERGY ARBITRATION

Energy disputes comprise a significant portion of investment and commercial arbitrations. Panelists will discuss the benefits and risks of tailoring arbitration for such disputes, including the use of specialized fora, arbitrator lists, and procedural rules.

MODERATOR:

— **Tomas Vail**, White & Case, London

PANELISTS:

- **Prof. Peter Cameron**, Co-Director, International Centre for Energy Arbitration (ICEA), and Director, University of Dundee Centre for Energy, Petroleum & Mineral Law & Policy (CEPMLP), Edinburgh
- **Ginny Castelan**, King & Spalding, Houston
- **Lauren Friedman**, Kirkland & Ellis LLP, New York
- **Aaron Rofkahr**, Senior Counsel – Litigation, Chevron Upstream, a division of Chevron U.S.A. Inc., San Ramon

5:00 WELCOME RECEPTION

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7:00

JOINT CONFERENCE DINNER

Optional for all Joint Conference registrants, faculty and sponsors

Tango & Malbec Argentinian Steakhouse

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Please indicate on the registration form if you wish to attend – ticket price: \$115 per person

SCHEDULE

January 13

8:00 REGISTRATION AND CONTINENTAL BREAKFAST

9:00 WELCOME BACK

CONFERENCE CO-CHAIRS:

- **Suzana M. Blades**, Managing Counsel - Arbitrations, ConocoPhillips, Houston
- **Juliet Blanch**, Juliet Blanch Arbitration, London
- **James E. Tancula**, Mayer Brown LLP, Chicago

9:05 KEYNOTE PRESENTATION: GLOBAL GEOPOLITICS AND ENERGY IN 2017

This presentation will address transformations in the energy sector, including the development of unconventional resources and how clean energy will impact the oil & gas industry in the near and long term. The presentation will also discuss oil price forecasts and the impact of the geopolitical environment on the industry.

Sarah Ladislaw

Director and Senior Fellow, Energy and National Security Program
Center for Strategic & International Studies, Washington, D.C.

Interviewed by

Alan R. Crain

Senior Vice President, Chief Legal and Governance Officer
Baker Hughes Incorporated, Houston

9:40 EXPROPRIATION RISK IN DCF DETERMINATIONS OF FAIR MARKET VALUE: SHOULD IT AFFECT COMPENSATION AND IF SO HOW?

This panel will discuss the varied and conflicting approaches to accounting for expropriation risk in determining compensation for expropriated projects in recent investor-state decisions. Should expropriation risk be taken into account in discounted cash flow determinations of fair market value in expropriation cases? Could the answer affect the behavior of host governments and/or investors one way or another? If it is to be considered, at what point should it be measured: at the time of investing? at inflection points in probabilities? at the time of the announcement of potential expropriation? at the time of the expropriation itself? How can expropriation risk be distinguished from other aspects of country risk that should or should not be taken into consideration? How should variations in the timing of assessing expropriation risk interact with other changes in projected cash flows over the life of the project? Does it matter whether the expropriation was deemed lawful or unlawful?

MODERATOR:

— **William Knull**, Independent Arbitrator, Houston

PANELISTS:

— **Miguel López Forastier**, Covington & Burling, Washington, D.C.

— **Diego Gosis**, GST LLP, Miami

— **Dr. Michel Léonard**, CEO & Chief Data Scientist, MaKro LLC, New York

— **M. Alexis Maniatis**, The Brattle Group, Washington, D.C.

10:40 COFFEE BREAK

11:00 HOW GOOD IS AN AWARD IF YOU CAN'T ENFORCE IT? THE CHALLENGES OF ENFORCING ARBITRATION AWARDS AROUND THE WORLD

Join us for practical, solutions-oriented session covering war stories on enforcement challenges and how parties are developing creative strategies to enforce arbitration awards in light of the low price environment. We will also discuss the impact of defaulting on a final award on a country's credit rating and new trends related to recognition and enforcement of arbitral awards.

MODERATOR:

— **Juliet Blanch**, Juliet Blanch Arbitration, London

PANELISTS:

— **Andrea Carlevaris**, Secretary General, ICC International Court of Arbitration, and Director of Dispute Resolution Services of the ICC, Paris

— **Michael Kim**, Kobre & Kim, New York/Seoul/London

— **Mark Lowes**, Vice-President – Litigation, KBR, Houston

— **Wendy Miles**, Boies, Schiller & Flexner, London

12:00 LUNCHEON



A Conversation with

Prof. William (Rusty) W. Park

Past President of the London Court of International Arbitration
 General Editor of *Arbitration International*
 R. Gordon Butler Scholar in International Law
 Boston University School of Law, Boston

Interviewed by

Prof. Catherine A. Rogers

Penn State Law
 Director, Institute for Ethics, Regulation & The Rule of Law
 Queen Mary University of London



This interview is the latest in a series organized by the ITA Academic Council to record the evolution of modern international arbitration in the words of those who have led it.

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2:00 HOW TO DEAL WITH THE INCREASING NUMBER OF DISPUTES IN LIGHT OF THE LOW OIL PRICE ENVIRONMENT?

Corporate counsel will share experiences on how to survive in a low price environment given the increasing number of disputes. Specifically, panelists will address how they are dealing with staff, budget and approval issues. They will also discuss the types of disputes they have seen as a result of the price environment and how they are trying to resolve these disputes in a cost effective manner.

MODERATOR:

— **Suzana M. Blades**, Managing Counsel - Arbitrations, ConocoPhillips, Houston

PANELISTS:

— **Marcia E. Backus**, Vice President and General Counsel, Occidental Petroleum, Houston

— **Janet Langford Carrig**, Senior Vice President, Legal, General Counsel and Corporate Secretary, ConocoPhillips, Houston

— **Alan R. Crain**, Senior Vice President, Chief Legal and Governance Officer, Baker Hughes Incorporated, Houston

— **Hewitt Pate**, Vice President and General Counsel, Chevron Corporation, San Ramon

3:00 COFFEE BREAK

3:20 2016 YEAR IN REVIEW: THE TOP 10 DEVELOPMENTS IN INTERNATIONAL ENERGY ARBITRATION

This presentation will consider both investor-state and contractual disputes in the energy sector. It will cast an eye over the wide range of matters that have come before arbitral tribunals in 2016, and will attempt to identify the ten special rulings and industry trends that will have the most important influence on energy arbitration in 2017 and beyond.

— **Laurence Shore**, Herbert Smith Freehills New York LLP, New York

4:00 TOOLS FOR MANAGING THE ARBITRAL TRIBUNAL: TIPS FROM COUNSEL, ARBITRATORS AND INSTITUTIONS

Arbitration practitioners, arbitrators and institutions will share tips on how to manage the arbitral tribunal, including a discussion on how to manage busy schedules, arbitrator resignations and abuse of process by counsel.

They will also suggest creative solutions to ensure that the arbitration process is being handled in an efficient and cost effective manner.

MODERATOR:

— James E. Tancula, Mayer Brown LLP, Chicago

PANELISTS:

— Rocío Digón, Managing Director and Counsel, ICC International Court of Arbitration, SICANA, Inc., New York

— Mark Kantor, Independent Arbitrator, Washington, D.C.

— Clyde W. Lea, Reed Smith LLP, Houston

— Dietmar W. Prager, Debevoise & Plimpton, New York

5:00 CLOSING REMARKS

5:15

YOUNG LAWYERS NETWORKING RECEPTION

For members of the ITA Young Arbitrators Initiative (YAI), the IEL Young Energy Professionals (YEP), the ICC Young Arbitrators Forum (YAF) and other young lawyers interested in international energy arbitration.

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ABOUT ITA, IEL AND ICC



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Established in 1986 as part of The Center for American and International Law, ITA provides advanced education for lawyers, judges, arbitrators, business executives, government officials and other professionals concerned with transnational arbitration of commercial and investment disputes. Through its programs, scholarly publications and membership activities, led by many of the top global experts and supported by many of the world's most actively engaged corporations, law firms and individual practitioners, ITA has become an important global forum on contemporary issues in the field of transnational arbitration. For more information, visit cailaw.org/ita



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Part of The Center for American and International Law, IEL provides superior educational and professional opportunities for lawyers and other professionals in the energy industry through educational courses, conferences, scholarly publications and membership activities. IEL presents several educational conferences and seminars each year, publishes papers, periodicals and *The Oil and Gas Reporter*, and provides an important forum in which contemporary issues affecting the energy industries can be discussed. For more information, visit cailaw.org/iel



Established in 1923 as the arbitration body of the International Chamber of Commerce (ICC), the International Court of Arbitration pioneered international commercial arbitration as it is known today. Working closely with its Secretariat, the Court's primary role is to administer ICC arbitrations. The Court provides parties with a flexible and neutral setting for dispute resolution. It offers confidentiality and extraordinary freedom for parties to choose the framework for how and where they want to resolve their dispute. While the dispute itself is resolved by independent arbitrators, the Court supervises the process from beginning to end, increasing the quality of the process and enforceability of the awards. Since its inception, the Court has administered more than 21,000 cases involving parties and arbitrators from some 180 countries. For more information, visit www.iccarbitration.org

REGISTRATION

4th Annual ITA-IEL-ICC Joint Conference on International Energy Arbitration

January 12-13, 2017 • Hyatt Regency Houston/Galleria, Texas

Registration includes the Conference, course materials, welcome reception and conference luncheon.

Check applicable box(es):	Received by 12/16/16	Received after 12/16/16
Regular Registration Fee	<input type="checkbox"/> \$595	<input type="checkbox"/> \$645
Member	<input type="checkbox"/> \$495	<input type="checkbox"/> \$545
Full-time Government Employee	<input type="checkbox"/> \$225	<input type="checkbox"/> \$250
Full-time Professor	<input type="checkbox"/> \$150	<input type="checkbox"/> \$175
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Full-time Student - Audit Only	<input type="checkbox"/> \$0	<input type="checkbox"/> \$0

Young Lawyers Winter Roundtable and Welcome Reception on January 12 only:

Regular Registration Fee	<input type="checkbox"/> \$75	<input type="checkbox"/> \$100
ITA YAI Member	<input type="checkbox"/> \$50	<input type="checkbox"/> \$75
IEL YEP Member	<input type="checkbox"/> \$50	<input type="checkbox"/> \$75
ICC YAF Member	<input type="checkbox"/> \$50	<input type="checkbox"/> \$75
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Additional Options:

- \$115 - I will attend the Joint Conference Dinner on January 12.
- \$115 - I will bring a guest to the Joint Conference Dinner on January 12. Please complete guest's information below.

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8:30am-5:00pm CT

PAYMENT MUST ACCOMPANY REGISTRATION

GENERAL INFORMATION

CANCELLATION POLICY: Tuition, less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by December 16, 2016. E-mail cancellation notice to lgaspar@cailaw.org. After this date, no refunds, but substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive the course materials.

HOUSING: The cost of housing is not included in tuition. However, rooms (in limited number) have been reserved at the Hyatt Regency Houston/Galleria, 2626 Sage Road, Houston, TX 77056. Registrants should call 1.888.421.1442 and advise of room block "ITA-IEL-ICC Joint Conference" to receive a reduced room rate of \$129 + applicable taxes/night. The last day to obtain this special rate is December 16, 2016.

NONDISCRIMINATION POLICY: The Center for American and International Law does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, veteran status or any other protected status in educational activities, scholarship programs or admissions.

MCLE CREDIT: This program is approved by the State Bar of Texas for 8.0 hours, including .75 hour of ethics. Course ID Number: 901365040. Credit hours for other states will vary and are subject to each state's approval and credit rounding rules.

For this conference, ITA & IEL will directly apply (if requested) for course accreditation in the following states: California, Minnesota, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas and Virginia. Some of these states may not approve a program for credit hours before the program occurs. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. ITA & IEL conferences are typically accredited by all mandatory CLE states.



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**4TH ANNUAL ITA-IEL-ICC JOINT CONFERENCE ON
INTERNATIONAL ENERGY ARBITRATION**

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