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**TRANSNATIONAL
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Accomplishments: ITA Academic Council Members

- **Prof. Petra Butler, Victoria University of Wellington**, member ITA Academic Council, has published: Petra Butler, “Human Rights in International Commercial and Investment Arbitration”, in Bjorklund, Ferrari & Kroell (eds), *Cambridge Compendium of International Commercial and Investment Arbitration* (Cambridge University Press, 2022) Ch 6; Petra Butler & Georgia Whelan, “Does the Dispute Resolution Regime in Europe Really Serve MSMEs?”, in Beaumont et al (eds), *International Arbitration- Quo Vadis?* (Wolter Kluwer, 2023) Ch 6
- **Kabir Duggal, Columbia University**, member ITA Academic Council, has published: E. Faria, G. Rivas, G. Favero Vaughn, K. Duggal & M. Verdias (eds.), “Pro-Arbitration Revisited: A Tribute to Professor George Bermann from his Students Over the Years” (Juris Publishing, 2023)
- **Prof. Susan L. Karamanian, Hamad Bin Khalifa University**, member ITA Academic Council, has published, Susan L. Karamanian, “International Investment Agreements, Investor Obligations, and the Rule of Law” in A. Reinisch & S. Schill (eds), *Investment Protection Standards and the Rule of Law* (Oxford University Press, 2023)
- **Prof. Munir AFM Maniruzzaman, University of Portsmouth**, member ITA Academic Council, has edited the following issues of international journals: [Manchester Journal of International Economic Law](#), Volume 20 Issue 1 2023; [TDM 6 \(2022\)](#), Islamic Finance and Dispute Resolution; [TDM 1 \(2023\)](#), International Investment Arbitration - Environmental Protection and Climate Change Issues; [The Journal of World Investment & Trade](#), Volume 23 (2022): Issue 1 (Feb 2022): Special Issue: Ocean Governance and Sustainable Development of the Blue Economy
- **Assoc. Prof. Crina Baltag, Stockholm University**, vice-chair the ITA Academic Council, has published “Recoverability of In-House Counsel Costs Before ICC Arbitral Tribunals” in the [ICC Dispute Resolution Bulletin](#), 2023, issue 1. *Important takeaways:*



Accomplishments: ITA Academic Council Members

276 non-confidential ICC arbitral awards rendered between 2002 and 2021 have been reviewed, and out of these, 29 awards addressed the issue of recoverability of in-house counsel costs. In the majority of awards (20 awards out of 29), the ICC arbitral tribunals had granted the in-house counsel costs, in full or in part.

• **Prof. Laurence Boisson de Chazournes, Faculty of Law, University of Geneva, Switzerland,** member ITA Academic Council, together with has Dr. Lorenzo Palestini and researchers: Guillaume Guez Maillard and Aditya Laddha, are currently working on the project *The International Judicial Function Under Pressure: Do Courts and Tribunals Go Off the Rails?*, funded by the Swiss National Foundation. *The international judicial function, once at its zenith in the early twenty-first century, is now facing significant challenges. The project aims to understand whether correlations can be established between the ongoing judicial backlash and the way judicial function has been exercised. It is true that exogenous factors, such as the crisis of multilateralism and the so-called re-nationalisation of authority, provide explanations for the ongoing attempts to delegitimise international courts and tribunals. However, endogenous factors relating to the inner workings of dispute settlement mech-*

anisms have also been targeted. What has often been criticised are alleged patterns of activism, overreach and judicial law-making. The research project has two primary objectives. Firstly, it seeks to compile an inventory of criticisms related to judicial overreach and excessive activism. Secondly, it aims to catalogue proposed corrective mechanisms intended to rein in international courts and tribunals. These mechanisms will be critically evaluated to determine their compatibility with the proper exercise of judicial function. Currently, no comprehensive study provides an empirical overview of these criticisms and corrective devices, highlighting the need for this project to fill a crucial gap in the existing research. The initial phase of the project focused on data collection from various international courts and tribunals, with specific emphasis on the International Court of Justice (ICJ), the World Trade Organization (WTO), the International Tribunal for the Law of the Sea (ITLOS), and ad hoc inter-State arbitrations. The data collected includes the reactions of states to the overall performance of these tribunals as well as specific decisions rendered by them. This extensive data collection phase has laid the foundation for the subsequent analysis and assessment. The second phase, currently ongoing, aims to qualitatively assess the data, thus identifying trends, common conceptions and outliers concerning the proper exercise of the judicial function and, in particular, the balance between the autonomy vested in adjudicators and the countervailing constraints exerted on them by the parties.



Accomplishments: ITA Academic Council Members

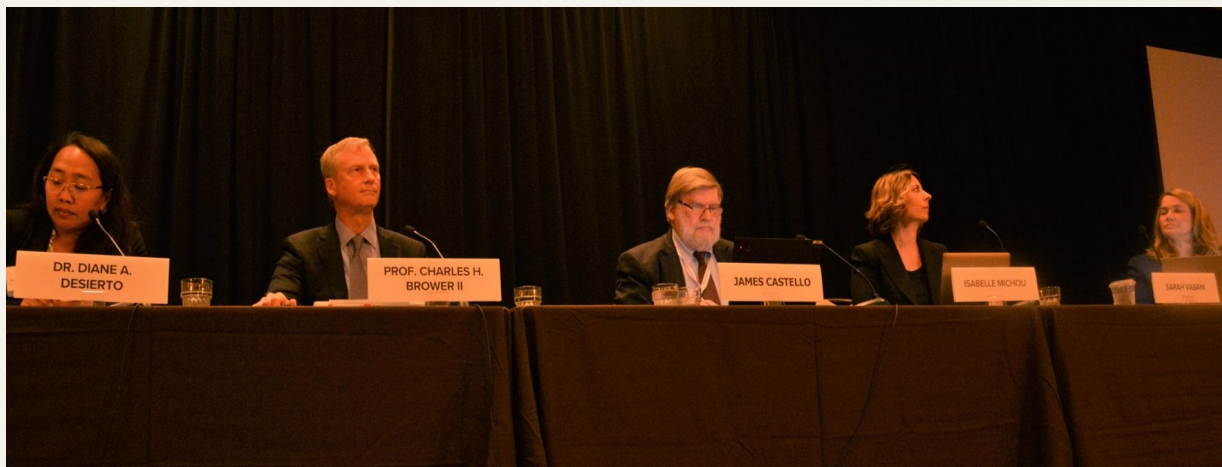
• **Prof. Giuditta Cordero-Moss, University of Oslo**, member ITA Academic Council, has set up a multidisciplinary team with lawyers, linguists, and psycholinguists to verify empirically how contract language is understood, interpreted, and construed, in international arbitration. Based on the results and on feedback received by the participants to the pilot project, the main survey will be organized during 2024 involving about 100 international arbitrators with different backgrounds. The team, led by Giuditta Cordero-Moss (Oslo University), consists of: (i) lawyers from various legal systems: Diego Fernandez Arroyo (Sciences Po, Paris), Gary Bell (National University Singapore), Franco Ferrari (New York University) and Cristiano Zanetti (Sao Paulo University); (ii) two linguists: Lucia Busso (Aston University) and Chiara Zanchi (Pavia University); and (iii) two psycholinguists: Bruno Laeng (Oslo University) and Michele Miozzo (Columbia University). While international contracts are mainly written in English, and contract language is rather standardized, comparative law research shows that the same contract language can have different legal effects depending on the governing law. Therefore, a standardized contract language does not necessarily lead uniform results. Does this apply also in arbitration? Arbitration enjoys a large (though not unlimited) autonomy from national legal systems, and the prevailing de-localization doctrine suggests that arbitra-

tors do not have to apply domestic laws as if they were judges. Does this mean that contracts in arbitration are given legal effects in an autonomous, uniform way? Linguists and psycholinguists have developed empirical methods to assess the impact that a frame of reference may have on the way in which people express themselves. Inverting this method, the project aims at assessing to what extent the arbitrators' legal framework has an impact on the way in which standardized contract language is understood in arbitration. Giuditta had already hinted at the idea of an empirical project in Giuditta Cordero-Moss, «Non-national Sources in International Commercial Arbitration and the Hidden Influence by National Traditions», *Scandinavian Studies of Law*, 2017, vol 63, section 4.1. She is now implementing it as part of the work in preparation of the General Course that she will hold in 2027 at the Hague Academy of International Law. Questions regarding the project may be addressed to giuditta.cordero-moss@jus.uio.no

35th Annual ITA Workshop and Annual Meeting

35th Annual ITA Workshop and Annual Meeting Remedies in International Arbitration: Wielding Arbitral Power for Effective Redress, Austin, June 14, 2023 - June 16, 2023

Workshop Co-Chair: **Dr. Diane A. Desierto, University of Notre Dame Law School, Notre Dame, US**, member ITA Academic Council



Young ITA Writing Competition

YOUNG ITA COMPETITION AND AWARD 2022-2023 “New Voices in International Arbitration”

Winners announced!



The Final Round was judged by ITA Academic Council members:

Prof. Emilia Onyema (SOAS University of London, UK);

Prof. Petra Butler (Victoria University of Wellington, New Zealand); and

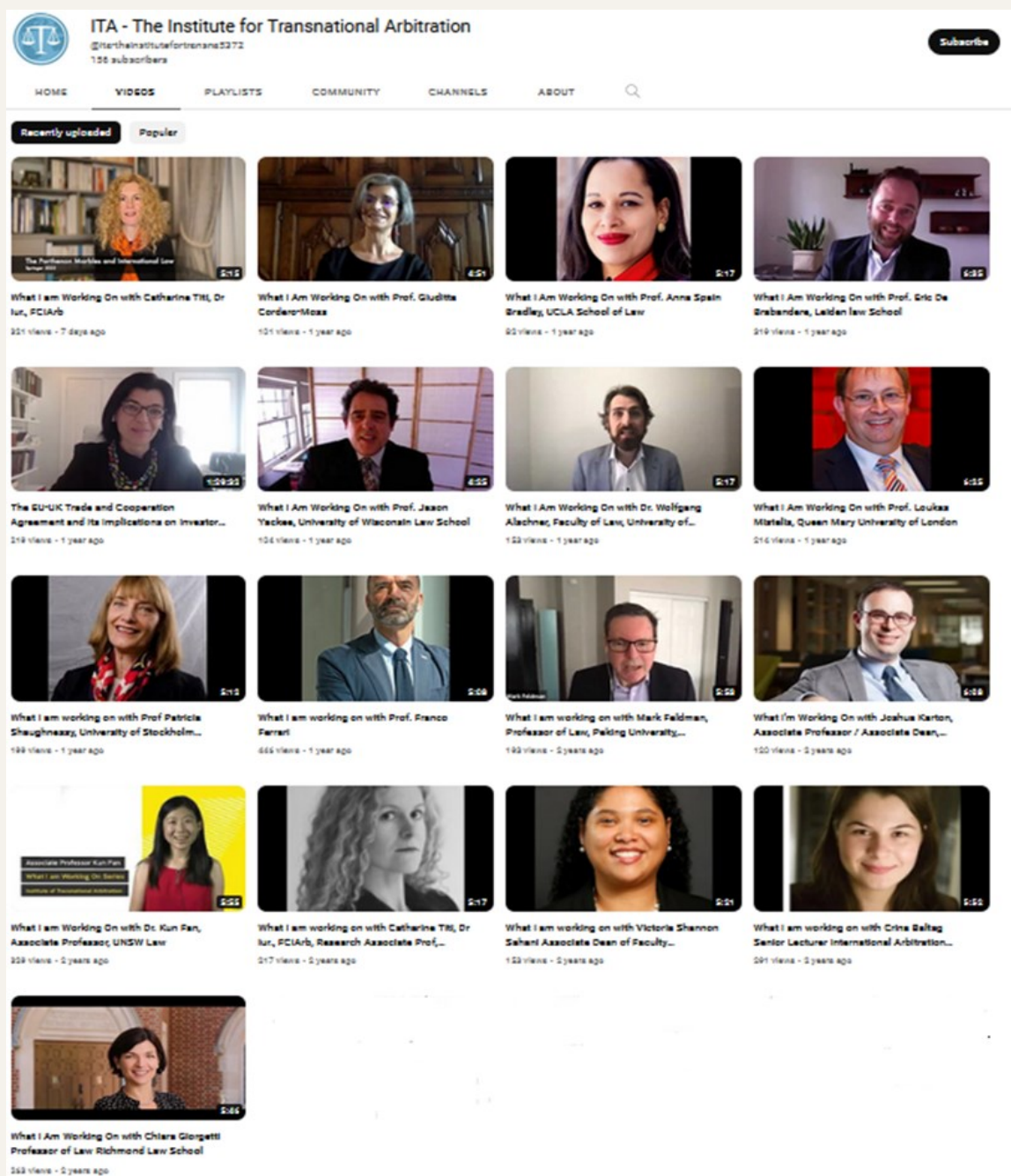
Prof. Andrea Bjorklund (McGill University, Canada).

The winning paper on the “Gathering Cross-Border Evidence in Support of Arbitration After ZF Automotive” will be published in the ITA in Review

ITA Academic Council Initiatives

ACADEMIC COUNCIL: What I am Working On

Contribute with your latest research updates!



The screenshot shows the YouTube channel page for ITA - The Institute for Transnational Arbitration. The channel has 156 subscribers. The video grid includes the following entries:

- What I am Working On with Catharine TRL, Dr Jur., FCIArb** (2:15, 321 views - 7 days ago)
- What I Am Working On with Prof. Giuditte Cordaro-Moax** (4:51, 101 views - 1 year ago)
- What I Am Working On with Prof. Anna Spain Bradley, UCLA School of Law** (5:17, 92 views - 1 year ago)
- What I Am Working On with Prof. Eric De Srebenders, Leiden law School** (6:35, 219 views - 1 year ago)
- The EU-UK Trade and Cooperation Agreement and its implications on investor...** (10:54:32, 219 views - 1 year ago)
- What I Am Working On with Prof. Jason Yackee, University of Wisconsin Law School** (4:55, 104 views - 1 year ago)
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- What I am working on with Prof. Franco Ferrari** (5:08, 465 views - 1 year ago)
- What I am working on with Mark Feldman, Professor of Law, Peking University...** (5:28, 192 views - 2 years ago)
- What I'm Working On with Joshua Karton, Associate Professor / Associate Dean...** (4:58, 100 views - 2 years ago)
- What I am Working On with Dr. Kun Fan, Associate Professor, UNSW Law** (5:22, 329 views - 2 years ago)
- What I am working on with Catharine TRL, Dr Jur., FCIArb, Research Associate Prof...** (2:17, 217 views - 2 years ago)
- What I am working on with Victoria Shannon Sahant, Associate Dean of Faculty...** (5:21, 153 views - 2 years ago)
- What I am working on with Crina Baltag, Senior Lecturer International Arbitration...** (5:22, 201 views - 2 years ago)
- What I Am Working On with Chiara Giorgetti, Professor of Law Richmond Law School** (5:46, 252 views - 2 years ago)

ITA Academic Council Initiatives

ACADEMIC COUNCIL: Kluwer Arbitration Blog

Contribute with your recent research and publications, or conference engagements!

Kathleen Claussen, Malcolm Langford, and **Julian Arato**, [The ISDS Reform Process: New Perspectives on the Issues under Debate](#)

As scholars and practitioners have reported in recent years, the investor-state reform process continues to make progress at the UN Commission on International Trade Law (UNCITRAL). The most recent session held in New York at the end of March yielded productive results. The reform efforts have now moved into a new stage. By now, states are working in the weeds on concrete reform proposals across a wide range of issues, from ethical rules for adjudicators, to the regulation of third-party funding, to the creation of a permanent appellate mechanism. This is a marked shift from previous phases of the negotiation, where states identified the core issues of concern with investor-state dispute settlement (ISDS) (2017-2018) and explored the nature of the problems and possible solutions (2019-2021). The focus is now on narrowing reform options, developing legal text, and working to achieve political consensus.

ITA Academic Council Initiatives

ACADEMIC COUNCIL— The ITA Academic Council Oral History Project: Perspectives on International Arbitration



A Conversation with Alan Crain

Independent Arbitrator, Former Senior Vice President,
Chief Legal and Governance Officer
of Baker Hughes, Houston

With

Professor Catherine A. Rogers, Vice Chair, Academic
Council, Università Bocconi (Milan)

(51 minutes)



ALAN R. CRAIN, JR. is an independent arbitrator, having served in more than 100 arbitrations under a variety of rules. He is a member of the Executive Committee of the Institute for Transnational Arbitration and has served on its Advisory Board for over 20 years. Mr. Crain was an adjunct professor of international law at the University of Houston for 10 years and lectured for nine years at Stanford University Law School. He has also taught on multiple occasions at Duke University, the University of Texas, and the Fletcher School at Tufts University. He is currently an adjunct professor at the Graduate School of Business at Rice University. He has served on the boards of directors of numerous companies, including multi-billion dollar publicly listed entities, private companies, and start-ups. Mr. Crain began his career with a law firm in Washington, D.C. He has been General Counsel of three Fortune 500 multinationals in the fields of energy, technology, and manufacturing. He has had global responsibility for legal affairs, government relations, crisis

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