



Institute for
TRANSNATIONAL
ARBITRATION

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14TH ITA/IEL/ICC JOINT CONFERENCE ON INTERNATIONAL ENERGY ARBITRATION

Conference Report by Abhay Ram (Winston & Strawn, Houston)

On January 22 and 23, 2026, the Institute for Transnational Arbitration (“ITA”), the Institute for Energy Law (“IEL”) (both subsidiaries of The Center for American and International Law (“CAIL”)), and the International Court of Arbitration of the International Chamber of Commerce (“ICC”) held the 14th Joint Conference on International Energy Arbitration in Houston, Texas. The Joint Conference consisted of a keynote address, eight substantive panels, a Young Lawyers Roundtable, a luncheon interview as part of the ITA Academic Council’s Preserving Perspectives series, and a variety of social networking activities. Panel topics included: regulatory changes and energy policy in the Americas; conciliation and mediation in the energy sector; counter-insurgency techniques in international arbitration; top 10 developments in international energy arbitration; rethinking the use of experts; novel technologies and novel disputes; performance in a changing environment; and the role of advisory opinions in the regulation of international energy operations. Attendees of the conference were greeted by Prof. Charles “Chip” Brower II (ITA Chair; Of Counsel, Miller Canfield; Distinguished Service Professor & Foster Family Research Scholar, Wayne State University Law School, Detroit), Kristi McCarthy (IEL Chair; Vice President & General Counsel, Downstream, Midstream & Chemicals, Chevron U.S.A. Inc., Houston), and Claudia Salomon (President, ICC International Court of Arbitration, Paris).

Thursday, January 22, 2026 - Young Lawyers Roundtable

1. Navigating the Shifting Landscape: Regulatory Changes and Energy Policy in the Americas (January 22, 2026)

Moderator: Angelica María Perdomo Luna (Harvard Law School, Bogotá)

Panelists: Adrián Magallanes (Von Wobeser y Sierra, S.C., Mexico City), Dee Martin (Bracewell LLP, Washington, DC), Antonio Rubilar (Albagli Zaliasnik, Santiago), and Martín Vainstein (Marval O’Farrell Mairal, Buenos Aires)

The panel examined how evolving regulatory frameworks across the Americas are redefining investment conditions and dispute patterns in the energy sector. In Argentina, the discussion centered on a new large-investment incentive regime designed to attract major energy projects through long-term stability and arbitration safeguards, with the panelists emphasizing that its success will depend on implementation and coordination between federal and provincial authorities.

Mexico presented a trajectory marked by successive energy reforms and shifting political priorities that have contributed to a surge in disputes, though recent developments—including new permits and renewed investment activity—point to a cautiously optimistic outlook amid uncertainties introduced by the most recent judicial reform.

Chile illustrated how social upheaval, tariff freezes, transmission bottlenecks, and permitting challenges can delay projects and trigger generator bankruptcies despite strong investment interest, underscoring the growing weight of social and regulatory considerations in project development.

From the U.S. perspective, the panel highlighted two approaches to energy permitting: expedited permitting, which offers speed but remains tied to presidential priorities, and broader permitting reform, which promises greater stability but requires time and political compromise. A key takeaway was that energy disputes in the Americas are increasingly driven by regulatory volatility and policy shifts rather than purely contractual issues, and that anticipating regulatory trends and strengthening risk-management frameworks will be essential for investors and counsel.



Angelica María Perdomo Luna (Harvard Law School, Bogotá), Adrián Magallanes (Von Wobeser y Sierra, S.C., Mexico City), Dee Martin (Bracewell LLP, Washington, DC), Antonio Rubilar (Albagli Zaliasnik, Santiago), and Martín Vainstein (Marval O’Farrell Mairal, Buenos Aires)

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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 at The Center for American and International Law, 5201 Democracy Drive, Plano, Texas 75024; dwinn@cailaw.org.

2. Enhancing Dispute Resolution in the Energy Sector Through Conciliation and Mediation (January 22, 2026)

Moderator: Prof. Mallory Silberman (MS Arbitration/Georgetown Law, Washington, DC)

Panelists: Alya Ladjimi (ICC International Centre for ADR, Paris) and Frauke Nitschke (ICSID, Washington, DC)

The panel explored the growing role of mediation and conciliation in resolving energy disputes, combining empirical data, institutional perspectives, and an interactive audience exercise. Drawing on ICC experience, the panelists noted that mediation is now widely used in complex, high-value energy disputes involving multiple parties and state entities, with success depending primarily on the parties’ willingness to engage and the selection of an appropriate mediator with sector-specific expertise.

From the investment arbitration perspective, ICSID data revealed that approximately one-third of investment disputes are settled or otherwise discontinued, with energy disputes reflecting similar patterns and settlements often involving innovative, tailored outcomes such as revised tariffs, license grants, and revised production-sharing arrangements.

The panel clarified key distinctions between mediation and conciliation, particularly in the ICSID context following the adoption of the 2022 ICSID mediation rules. Practical considerations were central: ICC mediation proceedings average approximately three months in duration at a fraction of the cost of arbitration, with strong success rates. A key takeaway was that mediation and conciliation are increasingly perceived not as alternatives to arbitration but as complementary processes, offering parties greater flexibility, efficiency, and control over outcomes.



Frauke Nitschke (ICSID, Washington, DC), Prof. Mallory Silberman (MS Arbitration/Georgetown Law, Washington, DC), Alya Ladjimi (ICC International Centre for ADR, Paris)



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Friday, January 23, 2026

3. Keynote: Meditations on Counter-Insurgency Techniques in International Arbitration (January 23, 2026)

Speaker: Constantine Partasides, KC (Three Crowns LLP, London)

Mr. Partasides examined how tactics of delay, derailment, and intimidation—from missing deadlines and withholding evidence to tactical arbitrator challenges and resignations—are testing and even breaking the arbitration process. He recounted a case in which an arbitrator was challenged six times; though each challenge failed, the resulting delay was itself the objective.

Turning to counter-insurgency techniques, he identified two categories: rules of discipline, such as interim cost orders that create a direct connection between delay and consequence, and rules of forfeiture, such as Article 56(3) of the ICSID Convention. He argued, however, that discrete rules may not be enough, and advocated developing or enhancing a concept of “contempt of arbitration”—a bigger stick that should rarely be used but must exist.

Drawing on the *Hrvatska v. Slovenia* case, he noted that the power to sanction contempt is inherent in any judicial process and should apply equally in arbitration. Potential sanctions include exclusion or admonishment of counsel, forfeiture of claims or defenses, and monetary penalties—measures already contemplated by the IBA Guidelines on Party Representation and the London Court of International Arbitration (“LCIA”) Rules, though tribunals remain reluctant to employ them.

Mr. Partasides concluded that arbitration is already starting down this path, but urged greater prescriptiveness in describing available sanctions, and greater willingness by tribunals to use them—describing his approach as “peace through strength.”



Constantine Partasides, KC (Three Crowns LLP, London)

4. 2025 Year in Review: The Top 10 (or Close to 10) Developments in International Energy Arbitration (January 23, 2026)

Moderator: Jennifer Lynn Permesly (Skadden, New York)

Panelists: Bernardo M. Cremades, Jr. (B. Cremades & Asociados, Madrid) and Utku Coşar (Arbitration Chambers, New York)

The panelists surveyed the most significant recent developments in international energy arbitration, covering investor-state and commercial disputes likely to influence the field into 2026 and beyond:

- **Courts consider enforcement of intra-EU awards:** Intra-EU awards have largely been enforced outside the EU—including in the U.S., Australia, and Singapore—despite *Achmea* and related decisions, though the U.S. Supreme Court has not yet weighed in. Courts within the EU have taken a varied approach, with Germany refusing recognition and Sweden partially reinstating an award.
- **Russian sanctions continue to impact energy arbitration:** *Wintershall v. Russian Federation* illustrates how sanctions create a triple deadlock of competing anti-suit and anti-arbitration orders. The Moscow Arbitration Court is now issuing injunctions against counsel and arbitrators, backed by penalties mirroring the full claim amount.
- **Heirs of the Sultan of Sulu v. Malaysia:** Collateral proceedings led to a change in the seat of arbitration from Spain to France, a precedent now being followed closely by Russian entities seeking to relocate their arbitrations outside the EU.
- **International Court of Justice (“ICJ”) weighs in on climate change:** The ICJ’s advisory opinion establishes a baseline of state responsibility for environmental protection likely to be invoked in future litigation and arbitration—a topic explored in depth by a later panel at the conference.
- **Consecutive decisions in liquefied natural gas (“LNG”) supply cases:** Conflicting decisions by esteemed tribunals in broadly comparable LNG disputes have raised questions about predictability in arbitral decision-making and the importance of document discovery.
- **Forum non conveniens:** A growing number of courts—including in Israel and Switzerland—are applying *forum non conveniens* to refuse enforcement of arbitral awards where there is no connection to the enforcement jurisdiction, with a circuit split in the U.S. now before the Supreme Court.
- **Energy transition disputes:** Tribunals are increasingly asked to decide how far states can alter energy policies—from coal phase-outs in the Netherlands and Germany to offshore wind lease suspensions in the U.S.—while respecting investor protections.
- **Disclosure issues continue to impact arbitrations:** The annulment of the final award in *Rockhopper v. Italy* due to an arbitrator’s failure to disclose involvement in prior criminal proceedings underscored the continuing significance of disclosure obligations and raised questions about the finality of awards.
- **Courts grapple with award enforcement against Venezuela:** The CITGO auction in Delaware resulted in a \$5.8 billion acquisition by an Elliott Capital Management affiliate, while creditors have attached approximately \$600 million in PDVSA subsidiary bank accounts in Lisbon.
- **New era for Venezuelan oil:** With approximately \$150 billion in outstanding liabilities and potential changes to the hydrocarbons law, the panelists discussed what these developments could mean for creditors and future energy investment in Venezuela.



Jennifer Lynn Permesly (Skadden, New York), Bernardo M. Cremades, Jr. (B. Cremades & Asociados, Madrid), and Utku Coşar (Arbitration Chambers, New York)

5. Rethinking the Use of Experts (January 23, 2026)

Moderator: Derrick Carson (Pillsbury Winthrop Shaw Pittman LLP, Houston)

Panelists: Tim D. Rooney (Baker & O'Brien, Dallas), Gigi S. Cantalupo (Secretariat, New York), Lisa Snow (Snowbridge Global Advisory, Chicago), and Carlos Lapuerta (The Brattle Group, London)

The panel explored how parties and advocates can make better use of experts in international arbitration, structured around three themes: engaging experts, safeguarding credibility, and presenting expert evidence more effectively.

On engagement, the panelists emphasized the value of involving experts early to shape the evidence plan and verify key assumptions, while urging proportionality in hiring and a clear scope of work aligned between counsel and experts at the outset.

Turning to credibility, the panelists stressed independence, rigorous methods, and candor about limitations in expert reports. Mr. Rooney cautioned that rushed reports and selective treatment of facts undermine reliability, while Mr. Lapuerta emphasized that experts must memorize the case and speak clearly off-script, recommending fewer slides to leave time for tribunal questions.

On cross-examination, the panelists urged disciplined preparation and mock crosses, advising experts to flag missing assumptions in hypotheticals and avoid on-the-fly calculations.

Finally, the panel highlighted tools for making expert evidence more efficient: early structured involvement focused on the tribunal's needs, teaching sessions to bring tribunals up to speed on complex industries, and joint expert models that arbitrators can manipulate to test their own assumptions. Overall, the panel emphasized early engagement, clear scope, robust preparation, and tailoring to the tribunal as critical to making the best use of experts.



Derrick Carson (Pillsbury Winthrop Shaw Pittman LLP, Houston), Tim D. Rooney (Baker & O'Brien, Dallas), Gigi S. Cantalupo (Secretariat, New York), Carlos Lapuerta (The Brattle Group, London), and Lisa Snow (Snowbridge Global Advisory, Chicago)

6. Do Novel Technologies Beget Novel Disputes? (January 23, 2026)

Moderator: Gabrielle Finger (Sage Energy Solutions, The Woodlands, Texas)

Panelists: R. Doak Bishop (Independent Arbitrator, Houston), Ryan Lax (Torys LLP, Toronto), and Mark Stadnyk (thyssenkrupp nucera, Houston)

The panel examined how the rapid deployment of novel energy technologies—including green hydrogen, carbon capture, small modular reactors, and geothermal—is giving rise to new forms of commercial and legal disputes.

The panelists noted that green hydrogen is “first of its kind at scale,” creating unique risks alongside familiar construction issues such as cost overruns, delay, and change orders, compounded by evolving engineering and product quality standards that are themselves still developing alongside the technology. Key friction points included pricing uncertainty inherent in less-tested technologies, new social license considerations that existing contractual frameworks struggle to absorb, emerging intellectual property disputes, and growing strain on electricity infrastructure from data center demand. Regulatory uncertainty surrounding tax incentives and subsidies—essential for price parity but subject to change—was identified as the primary source of tension, with knock-on effects for private-party relationships such as matching hydrogen production with off-take timelines.

On contractual strategies, the panelists noted a mix of conservatism and flexibility: parties are digging in on allocation of regulatory incentive risk and change-in-law provisions, while showing more flexibility on take-or-pay minimums. Mitigation strategies include vertical integration, stacking tax incentives across jurisdictions, and tax equity investment.

For dispute resolution, the panelists emphasized adapting existing tools—multi-tier clauses, expert determination, dispute avoidance boards, emergency arbitrators, and expedited arbitration—rather than inventing new ones, urging practitioners to tailor dispute resolution clauses to the specific types of disputes likely to arise in a given project.



Gabrielle Finger (Sage Energy Solutions, The Woodlands, Texas), Ryan Lax (Torys LLP, Toronto), Mark Stadnyk (thyssenkrupp nucera, Houston), and R. Doak Bishop (Independent Arbitrator, Houston)



Jessica Crow (Arbitra International, London) and John A.M. Judge (Arbitra International, London)

7. Luncheon — A Conversation with John A.M. Judge (January 23, 2026)

Speaker: John A.M. Judge (Arbitra International, London), interviewed by Jessica Crow (Arbitra International, London)

This interview, the latest in the ITA Academic Council’s Preserving Perspectives series, traced Mr. Judge’s unconventional path to international arbitration. Before pursuing law, Mr. Judge was a serious musician, playing in a band from age thirteen and opening for Steppenwolf before 15,000 at eighteen—an experience that taught him a lasting lesson he carried into advocacy: master the skills and let the presentation flow.

After the realities of the music business led him to academics, he chose the University of Toronto law school for a rigorous foundation in core legal subjects. He began practice in a powerhouse litigation department and came under the mentorship of John Sopinka. Mr. Sopinka’s influence shaped Mr. Judge’s view that his expertise *was* advocacy: mastering procedure, the rules of evidence, and the narrow substantive law needed to present a case.

Mr. Judge’s first arbitral appointment came in 1999 on a tribunal chaired by V.V. “Johnny” Veeder QC, which he described as a masterclass in managing advocacy and keeping the case moving. Against the backdrop of the “vanishing trial,” he concluded his future lay in arbitration. He went on to build Canada’s arbitration community—forming the Arbitration Roundtable of Toronto, conducting seminars, and expanding globally with leading institutions—before moving his practice to London in 2012 to work as a full-time arbitrator, eventually joining Arbitra International.

Looking ahead, Mr. Judge remains optimistic about international commercial arbitration despite geopolitical instability, and encourages younger practitioners to focus on commercial work. His advice to the next generation is direct: learn to put a case together as counsel, be open to opportunity—quoting Yogi Berra, “when you reach a fork in the road, take it”—and never underestimate how far a career can take you.

8. Performance in a Changing Environment (January 23, 2026)

Moderator: Frances Bivens (Davis Polk & Wardwell LLP, New York)

Panelists: Heather Hauser Belt (Exxon Mobil Corporation, Spring, Texas), Lindsey Raspino (ConocoPhillips, Houston), and Bryan David Rohm (TotalEnergies, Houston)

The panel explored how in-house legal teams at major energy companies are adapting to regulatory volatility, protecting commercial relationships, and managing disputes. The panelists identified several trends from the past year, including a growing geopolitical overlay to disputes, tariff instability and its incorporation into contracts, coordinated NGO attacks on LNG operations, the weaponization of courts, and technology companies seeking to insource their energy demands.

On contractual protections, the panelists recommended obtaining indemnities when exiting projects, incorporating stabilization clauses, discriminatory action provisions, change-of-law clauses, sovereign immunity waivers, and parent guarantees—noting that such provisions are valuable in both domestic and international transactions.

For multidimensional disputes, the panelists emphasized the importance of good intelligence regarding decision-makers and close coordination among litigation teams to allow flexibility and effective advocacy as circumstances evolve. The panel concluded that while the environment remains “predictably unpredictable,” it has not yet generated a wave of disputes because damages remain difficult to quantify and parties have shown a willingness to work through issues. However, the panelists predicted that disputes are likely to increase given falling oil prices and a worsening economic picture overall.



Frances Bivens (Davis Polk & Wardwell LLP, New York), Heather Hauser Belt (Exxon Mobil Corporation, Spring, Texas), Bryan David Rohm (TotalEnergies, Houston), and Lindsey Raspino (ConocoPhillips, Houston)

9. The Role of Advisory Opinions (ICJ/ITLOS) in the Regulation of International Energy Operations and the Risk for Energy Companies (January 23, 2026)

Moderator: Nigel Blackaby, KC (Freshfields Bruckhaus Deringer LLP, Washington, DC)

Panelists: Jovana Crnčević (Withers, New York), Iulia Padeanu (Foley Hoag, Washington, DC), and José Antonio Rivas (Xtrategy LLP, Washington, DC)

The panel examined how recent advisory opinions from the ICJ, the Inter-American Court of Human Rights, and the International Tribunal for the Law of the Sea (“ITLOS”) are shaping states’ climate obligations and recalibrating risk for energy companies. While not legally binding, the panelists noted that these opinions carry significant persuasive authority, guiding regulators and tribunals at the intersection of law, politics, and public policy.

The panel traced the coordinated push by climate-vulnerable and small island states to obtain authoritative clarity on their obligations, noting a consistent message across the opinions: climate change is not outside existing international law, harm is foreseeable, and states owe stringent due diligence. The ITLOS opinion found that greenhouse gases constitute “marine pollution” under the United Nations Convention on the Law of the Sea (“UNCLOS”), while the ICJ went further in outlining potential consequences for breach, including that a state’s failure to regulate fossil fuel activities may constitute an internationally wrongful act.

Turning to the energy sector, the panelists assessed how these developments alter risk allocation in cross-border projects and investments. As states align domestic regulation with international obligations, long-dated concessions and legacy permits could face modification or more stringent conditions. The opinions may embolden host-state defenses in investor-state disputes, but investors may equally leverage them to challenge arbitrary rollbacks of climate policies. Overall, the panel made clear that while the advisory opinions are not legally binding, they will have a significant impact on state conduct and future disputes.



Nigel Blackaby, KC (Freshfields Bruckhaus Deringer LLP, Washington, DC), Iulia Padeanu (Foley Hoag, Washington, DC), José Antonio Rivas (Xtrategy LLP, Washington, DC), and Jovana Crnčević (Withers, New York)



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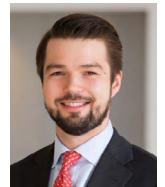
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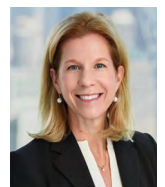
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Kar Lok Li has joined ITA as an Associate Member.



Jay Alexander of **Alexander Arbitration LLC**, an ITA Associate Member, was elected to the College of Commercial Arbitrators.

Chip Brower, ITA Chair and Distinguished Service Professor at **Wayne State University Law School**, will be awarded the 2024 Smit-Lowenfeld Prize, one of the most prestigious honors in the field of international arbitration. Professor Brower is the first scholar ever to receive the prize twice, having previously earned the distinction thirteen years ago.



Angeliki Giannakli joined ITA as coreporter for Greece in March 2025. She is an associate at **I. Vassardanis & Partners Law Firm** based in Athens, where she focuses on international commercial and investment arbitration under institutional rules, including ICSID and LCIA. She has been involved in disputes in the construction and energy sectors and has experience with construction contracts and private tenders. Angeliki holds an LL.M. in commercial arbitration, is a certified mediator accredited by the Greek Ministry of Justice and serves as events coordinator for Greece VYAP.

Stephan Wilske of **Gleiss Lutz**, ITA's Reporter for Turkey, was speaker at the Taipei International Arbitration Conference 2025 where he presented the following topic: "International Arbitration in Times of Disruption." A paper with the same title will be published in Vol. 19/1 (May 2026) of the Contemporary Asia Arbitration Journal. Stephan was reappointed as Vice-President of the CAAI Court of Arbitration until December 2026. He also performed with the VIS-terious Rockin' All Stars Band at the Opening Ceremony of the Willem C. VIS International Arbitration Moot Court on April 11, 2025 in Vienna.



Blessing Banda, a recent Law graduate of **Cavendish University Zambia**, is currently serving as a Legal Intern within the Legal Department of the Lusaka City Council. During her studies, she made history as the first female Law Faculty President at her university in 2024 and contributed to the legal community as the Judges' Coordinator for the 2024 Philip C. Jessup International Law Moot Court Competition (National Rounds). Most recently, she served as the Lead Legal Researcher for the Cavendish University team that emerged victorious in the 2025 Lusaka Arbitration Week Moot Competition. Her professional interests focus on the evolution of international arbitration and local government legal frameworks.

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