



Institute for
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INTRODUCING THE NEW MEMBERS OF THE 2026 ITA EXECUTIVE COMMITTEE

The Institute for Transnational Arbitration (ITA) announces the appointment of four new members to its prestigious Executive Committee. ITA congratulates existing member Rachael Kent on her new role as Senior Vice Chair of the Advisory Board.



Rachael Kent is a partner at **King & Spalding** in Washington, DC. She has more than 25 years of experience advising companies, investors, and sovereign entities on high stakes commercial and investment disputes worldwide. She has represented clients in complex arbitrations under the rules of all major arbitral institutions, including the ICC, ICSID, AAA/ICDR, LCIA, SIAC, HKIAC, VIAC, and WIPO. Her matters involve disputes

with significant financial exposure and technical complexity, often arising from long-term contracts, collaboration and joint venture agreements, and agreements involving intellectual property rights. Rachael has particular experience representing life sciences and technology companies in high-value arbitrations arising under joint venture, co-development, and IP license agreements. She also works closely with clients in sectors such as energy, aerospace, and construction, where disputes frequently combine legal, technical, and commercial considerations. Rachael has been on the ITA Executive Committee in various roles over many years. She is also a member of the WIPO Mediation and Arbitration Advisory Committee and has taught courses on international arbitration at Duke University, Georgetown University, and the University of Michigan.

Chiann Bao is a Partner at **ArbBoutique**, a Chartered Arbitrator and CEDR-accredited mediator with 25 years of experience working in London, New York, Hong Kong and Singapore. Qualified in New York, Hong Kong and England and Wales. Having extensive experience handling civil law governed complex arbitrations, Chiann has served as arbitrator, mediator or legal expert in ad hoc and institutional arbitrations



in almost 150 arbitrations with a total value of over 50 billion US dollars in dispute. Prior to becoming an independent arbitrator, Chiann worked in private practice (in New York and Hong Kong) where she focused on complex international arbitration and litigation, acting as counsel for corporates and states in a range of disputes in various sectors. In 2025, she was appointed as a judge on the Bahrain International Commercial Court. She holds positions on the Board of Directors of Maxwell Chambers and the Global Advisory Board of the New York International Arbitration

Centre. She is a past Co-Chair of the IBA's International Arbitration Committee (2024-2025) and a past Vice President of the ICC Court of Arbitration (2018-2024). From 2010 to 2018, Chiann served as the Secretary General and then as a Council Member of the Hong Kong International Arbitration Centre. A regular speaker and lecturer, Chiann was awarded the Global Arbitration Review "best lecture" for her Proskauer Rose Lecture in 2022. She is a member of the permanent faculty at the Sciences Po Law School and, until 2025, was an adjunct associate professor at NUS Faculty of Law. She also currently serves as a member of the Board of Trustees and is an Honorary Senior Fellow of the British Institute of International and Comparative Law. Chiann authors and edits articles and books and serves as a member of editorial boards of publications published by Oxford University Press and Kluwer.



Julio César Rivera Jr. is a partner in the Complex Litigation & Arbitration Department at **Marval O'Farrell Mairal** in Buenos Aires. He regularly serves as counsel in international commercial and investment arbitrations under the ICC, UNCITRAL, and ICSID Rules, with particular experience in disputes involving the oil and gas and electricity sectors, M&A transactions, and infrastructure projects. He is a Global Adjunct Professor at New York University and a professor at Universidad de San Andrés. He has authored several books and articles on international arbitration. Julio César graduated *summa cum laude* from Universidad Católica Argentina in 1997. He received an LL.M. from Harvard Law School in 2000 and a Ph.D. in Law from the Universidad de Buenos Aires in 2008.

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INTRODUCING THE NEW MEMBERS OF THE 2026 ITA EXECUTIVE COMMITTEE (CONTINUED)



Michael Ostrove is Global Co-Chair of **DLA Piper's** International Arbitration practice and a Vice-President of the ICC International Court of Arbitration. Based in New York after more than 25 years in Paris, he represents States, corporations, international organizations, and individuals in commercial and investment arbitrations, as well as in related court proceedings and public international law disputes. Michael has advised on more than

100 arbitrations under all major rules, including over 30 investment treaty cases. He also sits as an arbitrator in both commercial and investment cases. His work covers sectors from energy, mining and infrastructure to life sciences and telecommunications. He has a particular focus on Francophone Africa. Michael served from 2021 to 2025 on the World Bank Sanctions Board, and since 2014 he has taught a graduate course on international arbitration at the Université Paris Panthéon-Assas. Michael is admitted to the bar in New York and Paris. He holds a J.D. from Berkeley and a B.A. from Yale.

Rachel Howie is a Partner at **Dentons**.

She is the co-leader of the Litigation and Dispute Resolution group in Canada and the national ADR and Arbitration group. Her practice focuses on international and domestic arbitration and related litigation, primarily in the energy, mining, and natural resources industries. Rachel's experience spans conventional and renewable energy disputes, with particular experience in upstream, midstream, and marketing issues. She has acted as counsel in disputes involving interests across Canada, North and South America, Central Asia, and South-East Asia, under many institutional rules and in ad hoc proceedings. A Fellow of the Chartered Institute of Arbitrators, Rachel is also a member of the NextGen Roster of Arbitrators at Arbitration Place and a listed arbitrator on the International Centre for Dispute Resolution (ICDR) energy panel and has acted as an arbitrator in domestic and international disputes. Rachel currently serves as a Vice-Chair on the Steering Committee for the ICC Commission on Arbitration and ADR and as a director for the Western Canada Commercial Arbitration Society.



Institute for
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23RD ITA-ASIL-ICSID JOINT CONFERENCE

Conference Report by Lillie Stephens
(White & Case LLP, Washington, D.C.)

On April 22, 2026, the Institute for Transnational Arbitration (“ITA”), American Society of International Law (“ASIL”), and International Centre for Settlement of Investment Disputes (“ICSID”) convened the 23rd Joint Conference in Washington, D.C., on the opening day of the ASIL Annual Meeting, marking the first year in which ICSID joined ITA and ASIL as a co-host of the event. The Joint Conference included a keynote address, two panels, a networking luncheon, and an interview with Prof. Gabrielle Kaufmann-Kohler. Topics of discussion ranged from the impact of UNCITRAL Working Group III (WG III) on investment treaty negotiations, treaty termination and the forces driving states to withdraw from the international investment framework, and the tools available to states seeking recalibration without resorting to termination. Attendees were welcomed 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), Mélida Hodgson (ASIL President; Partner, Arnold & Porter Kay Scholer LLP, New York), and Martina Polasek (Secretary General, ICSID, Washington, D.C.).

1. Keynote Discussion – The Negotiation of Investment Treaties

Moderator: Martina Polasek (Secretary General, ICSID, Washington, D.C.)

Panelists: James E. Castello (Arbitration Chambers, Paris) and Lucy Reed (Independent Arbitrator, New York)

The keynote focused on UNCITRAL Working Group III within the broader landscape of investor-state dispute settlement (“ISDS”) reform. Established in 2017 with a three-part mandate – to identify concerns with ISDS, assess the desirability of reform, and develop workable solutions – the Working Group operates through an inclusive, consensus-driven process that has produced concrete outputs such as the 2023 Code of Conduct for Adjudicators. The keynote examined both the inner workings and the practical implications of the Working Group’s efforts.

Mr. Castello, drawing on his experience as a delegate, explained why UNCITRAL – comprising 70 rotating member states plus UN observers – is the appropriate forum for systemic reform. That representative reach, however, produces fault lines. For instance, while some states want to limit reform to disputes arising under bilateral investment treaties (“BITs”) or free trade agreements (“FTAs”), others are cautious about excluding investment agreements from the scope of the reform. Because UNCITRAL operates by consensus rather than by vote, disagreements can slow the process. The Working Group’s practical response has been the adoption of a “smorgasbord” design, allowing each state to select which reforms it adopts and to which treaties those reforms apply. Structural constraints including limited meeting time, small delegations limited by the travel required, and UN budget pressures further affect the pace of progress.

Ms. Reed reported on her empirical study of investment treaties negotiated between 2020 and 2025, the first scholarship to examine systematically the link between WG III’s work and actual treaty practice. Preliminary findings indicated that new treaty volume remains modest by historical standards, and WG III holds no monopoly on ISDS reform. Among notable findings: ten new BITs include early dismissal provisions, five address security for costs, and twelve expressly reference mediation. On codes of conduct,

thirteen new BITs call for application of an existing or future code, a development consistent with the increasing invocation of the 2023 Code of Conduct for Arbitrators, particularly as debate continues over the scope of disclosure obligations and double-hatting.

The session demonstrated that WG III’s most durable contribution may lie as much in educating and aligning government negotiators across the globe as in the formal instruments it ultimately produces.



*Martina Polasek (ICSID, Washington, D.C.),
James Castello (Arbitration Chambers, Paris), and
Lucy Reed (Independent Arbitrator)*

2. Panel: Recalibration of Investment Treaties

Moderator: Dr. Dora Ziyaeva (Dentons, New York)

Panelists: Dr. Jaroslav Kudrna (Ministry of Finance of the Czech Republic, Prague), Bart Legum (Honlet Legum Arbitration, Paris), Natalie Y. Morris-Sharma (Singapore’s Attorney General’s Chambers, Singapore), and Tom J. Sikora (ExxonMobil, Spring, Texas)

The session examined the tools available to states seeking to adjust their treaty commitments and the tensions those tools introduce for the coherence of treaty texts, for the balance between state and investor interests, and for the broader legitimacy of the investment arbitration system. Speakers repeatedly returned to the difficulty of designing reform mechanisms that satisfy states’ regulatory ambitions without eroding the protections that give the framework its value to investors.

On interpretive statements, the panel identified a significant gap between targeted and broad-based approaches, agreeing that statements focused on a specific provision tend to be most effective. Sweeping declarations of interpretive intent raise their own risks, particularly when “right to regulate” language is inserted alongside operative treaty standards without clarity about how the two interact. The panel characterized such clauses less as operative provisions than as heuristic devices recalling pre-existing customary international law.

Treaty modernization efforts across different regions and institutions reflected a shared direction if not a uniform approach. Recent Association of Southeast Asian Nations (“ASEAN”) practice, for example, has trended toward totality-of-circumstances tests for prescription periods and defined categories of measures that do not constitute expropriation absent discrimination. CETA was examined as a further example of the shift from arbitral lawmaking to treaty-based limits on substantive protections, prompting discussion of whether institutionalized models can restore legitimacy in the regulatory space without sacrificing the flexibility and party autonomy that have historically been among investment arbitration’s core attractions.

The move from ad hoc to standing dispute resolution mechanisms attracted particular scrutiny. Standing bodies, the panel noted, develop institutional culture and precedent over time in ways that may render decision-makers more accountable to the institution than to the parties before them, a structural dynamic that carries implications for consistency and impartiality alike. Appellate mechanisms generated a more mixed assessment: potential cost savings and enhanced professional standards for decision-makers were acknowledged, while concerns were raised about the reduction in parties' ability to shape tribunal composition to the needs of a given dispute.

The discussion also exposed significant investor-side concerns about the direction of reform. Unilateral state reinterpretations of existing treaty obligations rather than formal amendments were flagged as a particularly acute risk, with the potential for such reinterpretations to appear arbitrary or in bad faith. More broadly, the panel acknowledged the tension between states' legitimate interest in preserving regulatory flexibility and investors' equally legitimate expectation that the framework within which they invested will not be fundamentally rewritten after the fact. The proliferation of "right to regulate" language was viewed by some on the panel as a symptom of states experiencing "buyer's remorse" after signing thousands of investment treaties in past decades.



Dr. Diona Ziyayeva (Dentons, New York), Bart Legum (Honlet Legum Arbitration, Paris), Dr. Jaroslav Kudrna (Ministry of Finance of the Czech Republic, Prague), Natalie Y. Morris-Sharma (Singapore's Attorney General's Chambers, Singapore), and Tom J. Sikora (ExxonMobil, Spring, Texas)

3. Panel: Termination of Investment Treaties

Moderator: Prof. Jarrod Wong (University of the Pacific, McGeorge School of Law, Sacramento)

Panelists: Prof. Andrea Kay Bjorklund (McGill University Faculty of Law, Montreal), Dr. Manuel Casas (Twenty Essex, London), Karin L. Kizer (Office of the Legal Advisor, U.S. Department of State, Washington, D.C.), and Lukas Stifter (Ministry of Economy, Energy and Tourism, Vienna)

The panel offered a wide-ranging examination of treaty termination including its causes, its patterns, and the degree to which it reflects a fundamental or durable shift in states' attitudes toward the international investment framework. Across the discussion, speakers painted a more nuanced picture than the headline narrative of systemic retreat might suggest.

On the question of drivers, the panel identified a confluence of forces behind recent withdrawal movements: populism, broader frustration with international governance structures, climate policy imperatives, and, particularly in the European context, a lack of empirical evidence that investment agreements meaningfully promote the investment they are designed to attract. In the EU,

the CJEU's *Achmea* and *Komstroy* decisions served as important catalysts for the termination of intra-EU BITs, while dissatisfaction with the Energy Charter Treaty's ("ECT") treatment of fossil fuel investments animated a wave of member state withdrawals, even as the modernized ECT, which drew distinctions between existing and future investments, was regarded as a more constructive outcome.

A recurring theme was that outright termination is only one of several instruments available to dissatisfied states, and often not the one they ultimately choose. Alongside formal termination, states have made use of targeted amendments to treaty language, carve-outs for specific policy areas such as environment and national security, and the quiet omission of investor-state dispute settlement provisions from newly concluded agreements. The Kazakhstan-Singapore environmental carve-out and a Singapore-India non-justiciability clause for national security matters were cited as illustrations of this trend toward selective adjustment rather than wholesale exit.

The panel also challenged the perception that termination has become a dominant or irreversible trend. A number of states that signaled an intention to withdraw ultimately reversed course. Examples include Honduras rejoining ICSID, Syria adopting new investment legislation, and Ecuador concluding a new bilateral investment treaty with the United Arab Emirates. What has emerged across the landscape, the panel suggested, is better characterized as renegotiation and recalibration than systemic rejection of the framework as such.

For those states that do proceed with termination, the mechanics matter considerably. Sunset clauses, which typically preserve investment protections for ten to twenty years following a treaty's termination, were identified as a critical feature shaping the practical consequences of withdrawal. The panel examined two distinct U.S. models: a straightforward termination paired with a sunset clause, as applied in the cases of Bolivia and Ecuador; and the transition from a BIT to an FTA, as occurred with Panama, Honduras, and Morocco. The NAFTA-to-USMCA transition, which established a three-year bridge to maintain procedural protections for qualifying existing investments, illustrated that, for states considering withdrawal, the design of the exit mechanism can be as consequential as the decision to exit itself.



Prof. Jarrod Wong (University of the Pacific, McGeorge School of Law, Sacramento), Professor Andrea Kay Bjorklund (McGill University Faculty of Law, Montreal), Lukas Stifter (Ministry of Economy, Energy and Tourism, Vienna), Dr. Manuel Casas (Twenty Essex, London), and Karin L. Kizer (Office of the Legal Advisor, U.S. Department of State, Washington, D.C.)

4. A Conversation with Prof. Gabrielle Kaufmann-Kohler (LKK Arbitration Ltd, Geneva, Switzerland)

Moderator: Prof. Dr. Crina Baltag (Chair, ITA Academic Council; Queen Mary University of London, London)

Presenter: Prof. Gabrielle Kaufmann-Kohler (LKK Arbitration, Geneva)

This interview, the latest in the ITA Academic Council's Preserving Perspectives series, traced Prof. Kaufmann-Kohler's path from early training in private international law to her emergence as one of the leading figures in international arbitration. She described her formative experiences, including a clerkship at a New York intellectual property firm and a defining period at Baker McKenzie, as having shaped both her technical foundation and her understanding of the field's institutional dimensions. She identified arbitration's particular appeal as rooted in variety, observing that the different subject matters presented to a tribunal function as distinct stories, each demanding fresh engagement.

She reflected on landmark cases that illustrated the breadth and demands of international practice, including *Burlington v. Ecuador*, which involved a site visit to a jungle location in connection with environmental counterclaims, and *Province of Kalimantan v. PT Kaltim Prima Coal and others*, where proceedings opened before local communities gathered in traditional dress. In the latter, she described following the advice of Prof. Albert Jan van den Berg and addressing the audience before the hearing began to explain the nature and process of international arbitration, a gesture that underscored the broader social stakes of the proceedings and the responsibility that comes with them.

Among her professional achievements, Prof. Kaufmann-Kohler highlighted the founding of the MIDS LL.M. program in Geneva and the establishment of LKK as a dedicated arbitration boutique. She spoke candidly about the challenges of practicing in a historically male-dominated environment and the difficulty of balancing professional demands with motherhood. On the question of diversity, she observed that gender representation in the field has advanced structurally, while identifying age diversity as an area still requiring sustained attention.

Turning to the future of arbitration, Professor Kaufmann-Kohler called for tribunals to take a more active role in managing proceedings efficiently, for example by limiting hearing lengths, page counts, and document production, rather than leaving case management primarily in the hands of counsel. Her advice to young practitioners was direct: pursue a strong education, work hard, enter arbitration only if you genuinely enjoy it, and be yourself.



Prof. Dr. Crina Baltag (Chair, ITA Academic Council; Queen Mary University of London, London), Prof. Gabrielle Kaufmann-Kohler (LKK Arbitration, Geneva)



Institute for TRANSNATIONAL ARBITRATION

INSTITUTE FOR TRANSNATIONAL ARBITRATION EXPERTS...IN THE NEWS UPDATES



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Chiann Bao of **Arbitration Chambers** has joined ITA as an Associate Member.

Michael Mcilwrath of **MDisputes SRL** has joined ITA as an Associate Member.



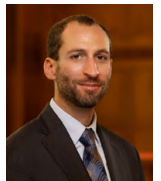
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Olivia Kaye of **Outer Temple Chambers** has joined ITA as an Associate Member.



Sustaining Member **Debevoise & Plimpton LLP** has designated **Juan Fandino** as an Advisory Board representative under 40.

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Supporting Member **Ankura Consulting Group, LLC** has designated **Andrés Chambouleyron** as a member of the Advisory Board.



Sustaining Member **Secretariat International** has designated **Bob Broxson** as a member of the Advisory Board.





Sustaining Member **Secretariat International** has designated **Abigail Harris** as an Advisory Board representative under 40.

Andrea Gross of **Bechtel Corporation** has joined ITA as an In-House Counsel Term Member.



Arbitral Institution Member **Singapore International Arbitration Centre (SIAC)** has designated **Adriana Uson** as a member of the Advisory Board.

Supporting Member **ArentFox Schiff LLP** has designated **Maya Cohen** as an Advisory Board representative under 40.



Myrna Barakat Friedman of **BarakatADR** has joined ITA as an Associate Member.

The Hon. Russell D. Pulver of **International Alternative Dispute Resolution** has joined ITA as an Associate Member.



Sustaining Member **Chevron International E&P Litigation** has designated **Aaron Rofkahr** as a member of the Advisory Board.



Mónica Pérez of **Carey** has joined ITA as an Associate Member.

Supporting Member **Chaffetz Lindsey LLP** has designated **May Khoury** as an Advisory Board representative under 40.



John J. Buckley, Jr. recently participated in two speaking engagements on international arbitration procedure. On May 20, 2026, he presented “CPR Council Highlights 2026 Non-Administered Rules” to the CPR Council and CPR’s Panel of Distinguished Neutrals, offering an overview of the forthcoming revised CPR Non-Administered Rules in his capacity as Co-Chair of the CPR Rules Revision Committee. On May 21, 2026, he served as a speaker at a webinar hosted by the German Arbitration Institute (DIS) on “Settlement Facilitation in International Arbitration,” addressing the Germanic mode of settlement facilitation and sharing his perspective as a common-law lawyer who has experienced that process firsthand in an ICC arbitration.

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JAN
27-28
2027

JOINT CONFERENCE

15TH ITA-IEL-ICC JOINT CONFERENCE ON INTERNATIONAL ENERGY ARBITRATION - HOUSTON

- 📍 Four Seasons Hotel Houston | Houston, Texas
- 👥 **Co-Chairs:** Lindsay Raspino (ConocoPhillips), Mike Lennon (Mayer Brown) and Noiana Marigo (Freshfields)
- 👥 **Young Lawyers Roundtable Co-Chairs:** Courtney Giles (Baker McKenzie), Joy Mgbado (Aluko & Oyeboode) and Julio Rivera Rios (Rivera García)

MAR
10-11
2027

MINING CONFERENCE

5TH ITA CONFERENCE ON INTERNATIONAL ARBITRATION IN THE MINING SECTOR

- 📍 The Omni King Edward Hotel | Toronto, Ontario, Canada
- 👥 **Co-Chairs:** Alexandra McGurk (Rio Tinto), Hugh Meighen (Borden Ladner Gervais LLP) and Isabelle Michou (Quinn Emanuel Urquhart & Sullivan UK LLP)
- 👥 **Young Lawyers Roundtable Co-Chairs:** Emily Sherkey (Torys LLP) and Robert Bradshaw (LALIVE)

APR
19
2027

ITA-ASIL-ICSID CONFERENCE

24TH ITA-ASIL-ICSID JOINT CONFERENCE

- 📍 The World Bank Group, Building C | Washington, D.C.
- 👥 **Co-Chairs:** Eric de Brabandere (Leiden University's Law School) and Meg Kinnear (Low & Kinnear Dispute Resolution LLC)

SAVE THE DATE

2027
Mar 2

ITA-ALARB AMERICAS WORKSHOP 2027

- 👥 **Co-Chairs:** Elisabeth Eljuri (Independent Arbitrator), Monica Jimenez (ICR), and Aníbal Sabater (Chaffetz Lindsey LLP)
- 📍 TBD | Bogotá, Colombia

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