

Presented by



Institute for  
**ENERGY LAW**



Institute for  
**TRANSNATIONAL  
ARBITRATION**

Co-sponsored by the Houston International Arbitration Club

# International Energy Arbitration

## An ITA-IEL Joint Winter Forum



## International Energy Arbitration

### An ITA-IEL Joint Winter Forum

February 20-21, 2014

Westin Galleria Hotel • Houston, Texas

The first joint conference of the two largest divisions of The Center for American and International Law: the Institute for Transnational Arbitration (ITA) and the Institute for Energy Law (IEL).

### Highlights

- 2013 Year in Review
- Remedies in International Energy Arbitration
- Energy Arbitration with State Enterprises
- In-House Perspectives
- Luncheon Interview honoring Hon. Charles N. Brower
- Young Lawyers Roundtable Debates
- ITA-IEL Dinner at the Petroleum Club of Houston

### MCLE Credit

Earn up to 6.75 hours of MCLE credit.



ITA and IEL are Institutes of  
**THE CENTER FOR AMERICAN  
AND INTERNATIONAL LAW**

Register Now! [cailaw.org/ita](http://cailaw.org/ita)

# International Energy Arbitration: An ITA-IEL Joint Winter Forum

## SCHEDULE

February 20

### Conference Co-Chairs

**John P. Bowman**  
King & Spalding LLP  
Houston, Texas

**Michael S. Goldberg**  
Baker Botts L.L.P.  
Houston, Texas

**Susan L. Karamanian**  
Associate Dean  
George Washington University  
Law School  
Washington, D.C.

The ITA Winter Forum is held each winter in connection with the midyear meetings of the ITA Executive Committee and Academic Council. The program this year is also held in conjunction with the IEL's 65th Annual Oil and Gas Law Conference (February 19-20).



2013 Forum discussion session in Miami

3:30 REGISTRATION

4:00 WELCOME

— **R. Doak Bishop**, ITA Chair, King & Spalding LLP, Houston

— **David F. Asmus**, IEL Chair, Morgan, Lewis & Bockius LLP, Houston

#### CONFERENCE CO-CHAIRS:

— **John P. Bowman**, King & Spalding LLP, Houston

— **Michael S. Goldberg**, Baker Botts L.L.P., Houston

— **Susan L. Karamanian**, Associate Dean, George Washington University Law School, Washington, D.C.

### WINTER ROUNDTABLE: THE DEBATES

*Presented by the*

IEL Young Energy Professionals  
ITA Young Arbitrators Initiative

*Sponsored by*

**ANDREWS  
KURTH**

STRAIGHT TALK IS GOOD BUSINESS.®

4:20 DEBATE: WHO ARE BEST POSITIONED TO DECIDE DISPUTES ARISING OUT OF THE SHALE GAS BOOM: ARBITRATORS OR JUDGES?

The boom in shale gas in the U.S. has resulted in a corresponding boom in legal issues. Producers, midstream, and downstream companies face a myriad of legal challenges arising from environmental concerns, regulatory compliance, landowner demands, and contractual obligations amongst all facets of the industry. The boom is also reshaping the energy industry in other parts of the world and creating disputes over expropriation and gas price redeterminations. Our debate will discuss whether these disputes are better decided by arbitrators or courts.

**MODERATOR** — **Suzana M. Blades**, Senior Counsel, ConocoPhillips, Houston

**FOR ARBITRATORS** — **Jeremy Wilson**, Covington & Burling, London

**FOR JUDGES** — **Graig Alvarez**, Fernelius Alvarez PLLC, Houston

5:00 DEBATE: ARBITRAL TRIBUNALS HAVE INHERENT AUTHORITY TO APPLY PRINCIPLES OF HUMAN RIGHTS IN ENERGY DISPUTES

It is not unknown for arbitral tribunals to apply general principles of law that are not expressed specifically in the underlying contract, treaty or foreign investment law conferring power on the tribunal. When faced with an energy dispute that impacts human rights, do arbitral tribunals have an inherent authority to apply principles of human rights law? If so, what is the source of that authority?

# SCHEDULE

February 20

**MODERATOR** — Ruth Teitelbaum, Freshfields Bruckhaus Deringer LLP, New York

**FOR** — Jeff Sullivan, Allen & Overy LLP, London

**AGAINST** — Monique Sasson, Ph.D., Co-Managing Editor, *ITA Arbitration Report*; Associate Editor, *KluwerArbitrationBlog*, New York

---

5:40 ADJOURN

---

5:45 WELCOME RECEPTION

Sponsored by



BAKER & MCKENZIE

# SCHEDULE

February 21

---

8:00 CONTINENTAL BREAKFAST

---

8:00 REGISTRATION

The morning sessions will showcase two important papers on key topics in international energy arbitration which have been selected through a rigorous review process. Each session will begin with a presentation of the paper by the author, followed by commentary by an internationally recognized expert and then interactive discussion among all participants.

**ITA and IEL gratefully acknowledge the members of the 2014 Winter Forum Selection Committee:**

— Professor Peter Cameron, University of Dundee, Dundee

— Professor Dr. Guido Carducci, Université Paris, Paris

— Professor Chiara Giorgetti, University of Richmond School of Law, Richmond, Virginia

— David Haigh, Burnet Duckworth & Palmer LLP, Calgary

— Professor John Lowe, SMU Dedman School of Law, Dallas

— Professor Alan S. Rau, University of Texas Law School, Austin

— Professor Dan Sarooshi, University of Oxford, Oxford

— Professor S.I. Strong, University of Missouri School of Law, Columbia, Missouri

---

9:00 CAN STATE COUNTERCLAIMS SALVAGE INVESTMENT ARBITRATION?

Mark W. Friedman and Ina C. Popova

**MODERATOR** — Susan L. Karamanian, Associate Dean, George Washington University Law School, Washington, D.C.

**PRESENTER** — Mark W. Friedman, Debevoise & Plimpton, New York

**COMMENTATOR** — Andrea K. Bjorklund, L. Yves Fortier Chair in International Arbitration and International Commercial Law, McGill University Faculty of Law, Montreal, Quebec

---

9:40 OVERLAPPING INVESTOR-STATE ARBITRATION CLAUSES FOR ENERGY AND ENVIRONMENTAL DISPUTES IN THE ENERGY CHARTER TREATY AREA

Odyseas Repousis

**MODERATOR** — Susan L. Karamanian, Associate Dean, George Washington University Law School, Washington, D.C.

**PRESENTER** — Odyseas Repousis, PhD cand. (HKU), LLM in Arb&DR (Dist. - HKU), LLB (Hon. - UOA), Hong Kong

**COMMENTATOR** — Tomasz J. Sikora, Counsel, International Disputes, Exxon Mobil Corporation, Houston

---

10:15 BREAK

**10:35 2013 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 a eye over the wide range of matters that have come before arbitral tribunals in 2013, and will attempt to identify the ten special rulings and industry trends that will have the most important influence on energy arbitration in 2014 and beyond.

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

**11:15 PANEL: REMEDIES IN INTERNATIONAL ENERGY DISPUTES**

In many international energy disputes, the remedies sought are not limited to simple damage awards. Among the topics for discussion by this distinguished panel will be interim measures, criminal charges against company executives, environmental claims, price determinations and specific performance.

**MODERATOR** — **Michael S. Goldberg**, Baker Botts L.L.P., Houston

**PANELISTS** — **Stephen Jagusch**, Quinn Emanuel Urquhart & Sullivan UK LLP, London

— **James L. Loftis**, Co-Chair, International Dispute Resolution, Vinson & Elkins LLP, Houston and London

— **Eduardo Silva Romero**, Dechert (Paris) LLP, Paris

**12:15 LUNCHEON**

A Conversation with  
**Hon. Charles N. Brower**  
 Judge, Iran-United States Claims Tribunal, The Hague  
 20 Essex Street Chambers, London

With  
**Prof. Charles H. Brower, II**, Wayne State University Law School, Of Counsel, Miller Canfield, Detroit

*Sponsored by*



THE RESOLUTION EXPERTS®

**2:00 ENERGY ARBITRATIONS WITH STATE ENTERPRISES**

Because oil and gas is national property in almost all countries other than the United States, most international energy disputes involve State Enterprises. Two highly experienced advocates in arbitrations involving State Enterprises exchange views on what distinguishes these disputes from strictly commercial arbitrations, including issues of sovereign immunity, attribution, document disclosure, contract stabilization, NOC “areas of responsibility,” award enforcement, and settlement prospects and challenges.

**MODERATOR** — **John P. Bowman**, King & Spalding LLP, Houston

**PANELISTS** — **Miriam K. Harwood**, Curtis, Mallet-Prevost, Colt & Mosle LLP, New York

— **Abby Cohen Smutny**, White & Case LLP, Washington, D.C.

**2:45 IN-HOUSE COUNSEL PANEL: THE INSIDE VIEW OF ARBITRATING INTERNATIONAL ENERGY DISPUTES**

A distinguished panel of In-House Counsel will discuss their views of relevant issues facing companies handling energy disputes within international arbitration. Topics as varied as specific legal issues, company specific considerations and selection of counsel and arbitrators will be on the table. The panel will also take questions from the audience.

# SCHEDULE

February 21

**MODERATOR** — **Michael S. Goldberg**, Baker Botts L.L.P., Houston

**PANELISTS** — **William R. Buck**, General Counsel, Upstream, Exxon Mobil Corporation, Houston

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

— **Bill Noble**, Assistant General Counsel, BP America Inc., Houston

---

3:35 **BREAK**

---

3:55 **ITA-IEL FORUM**

The Forum is an open informal discussion providing the opportunity for arbitrators, arbitration counsel and in-house counsel to share experiences and raise concerns in transnational arbitration in an off-the-record unstructured dialogue format. The agenda for the Forum is determined by the participants, by pre-submitted questions and topics and by spontaneous remarks at the event. Registrants will receive instructions on how to submit questions or topics for discussion at the Forum.

**CO-MODERATORS** — **John P. Bowman**, King & Spalding LLP, Houston

— **Michael S. Goldberg**, Baker Botts L.L.P., Houston

— **Susan L. Karamanian**, Associate Dean, George Washington University Law School,  
Washington, D.C.

---

4:55 **CLOSING REMARKS**

---

5:00 **ADJOURN**

---

**6:30 JOINT ITA-IEL WINTER FORUM RECEPTION AND DINNER AT THE PETROLEUM CLUB OF HOUSTON**

(For all winter forum registrants, faculty and members of the ITA and IEL advisory boards)

*Sponsored by*



**Freshfields**



(Please indicate on the registration form if you wish to attend – ticket price: \$125 per person)

(Buses will depart from the hotel lobby at 6:00 to go to the Dinner and will return to the hotel at the conclusion of the Dinner)

# NETWORKING ADVENTURE

February 22

## **HOUSTON NETWORKING ADVENTURE**

Saturday, February 22, 2014 • Optional – Ticket Price \$95

San Jacinto Battleground and Monument

Monument Inn Seafood Restaurant

Wild West Houston

Please indicate on the registration form if you wish to attend – ticket price: \$95 per person.

A bus will depart from the Westin Galleria Hotel lobby at 3:00 pm and will return to the hotel at about 8:30.

Then, for those who wish to continue, country and western dancing at Wild West Houston.



Institute for  
**ENERGY LAW**

The ITA-IEL Joint Winter Forum is presented immediately following the conclusion of the IEL's primary annual conference, the 65th Annual Oil & Gas Law Conference. Register for both conferences and receive up to \$200 tuition discounts.

## 65th Annual Oil & Gas Law Conference



### 65th Annual Oil & Gas Law Conference

February 19-20, 2014

Westin Galleria Hotel • Houston, Texas

### John Rogers Award Reception and Dinner

*Honoring*

**Charles C. Davidson**

Chairman and Chief Executive Officer  
Noble Energy, Inc. - Houston, Texas

*IEL is an Institute of*

**THE CENTER FOR AMERICAN  
AND INTERNATIONAL LAW**



### Highlights

- Deans of Oil and Gas Practice Lecture Luncheon  
Elizabeth N. Miller, Scott, Douglass & McConnico, L.L.P.
- Recent Developments in Oil and Gas Law
- Concurrent Sessions on Hot Topics in: Compliance & Enforcement • Environmental • International • Oilfield Services  
• U.S. Litigation • U.S. Regulatory • U.S. Transactional • Oil & Gas Financing • IEL Forum
- Related conference on February 20-21: ITA-IEL Joint Forum on International Energy Arbitration

### MCLE Credit

Earn up to 11.25 hours of MCLE credit, including 2 hours of ethics. AAPL Credit will be available.

To view the full program, visit [cailaw.org/iel](http://cailaw.org/iel).

# REGISTRATION

## International Energy Arbitration An ITA-IEL Joint Winter Forum

February 20-21, 2014 • Westin Galleria Hotel • Houston, Texas

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

If you plan to attend both the ITA-IEL Winter Forum on International Energy Arbitration (2/20-2/21) and the preceding Annual Oil & Gas Conference (2/19-2/20), you can register for both conferences together using this form and save up to \$200 in registration fees. IEL Advisory Board members should register using the special link sent to them by email.

| Check applicable box:                            | ROUNDTABLE ONLY               |                                | ITA-IEL FORUM ONLY             |                                | O&G & ITA-IEL FORUM             |                                 |
|--|-------------------------------|--------------------------------|--------------------------------|--------------------------------|---------------------------------|---------------------------------|
|  | By 2/3/14                     | After 2/3/14                   | By 2/3/14                      | After 2/3/14                   | By 2/3/14                       | After 2/3/14                    |
| Regular registration fee                         | <input type="checkbox"/> \$75 | <input type="checkbox"/> \$100 | <input type="checkbox"/> \$495 | <input type="checkbox"/> \$545 | <input type="checkbox"/> \$1040 | <input type="checkbox"/> \$1100 |
| ITA Advisory Board Member                        | ----                          | ----                           | <input type="checkbox"/> \$395 | <input type="checkbox"/> \$445 | <input type="checkbox"/> \$850  | <input type="checkbox"/> \$900  |
| ITA/IEL Supporting or Sustaining Member Employee | ----                          | ----                           | <input type="checkbox"/> \$395 | <input type="checkbox"/> \$445 | <input type="checkbox"/> \$850  | <input type="checkbox"/> \$900  |
| ITA YAI/IEL YEP Committee Member                 | <input type="checkbox"/> \$50 | <input type="checkbox"/> \$75  | <input type="checkbox"/> \$495 | <input type="checkbox"/> \$545 | <input type="checkbox"/> \$1040 | <input type="checkbox"/> \$1100 |
| HIAC Member                                      | ----                          | ----                           | <input type="checkbox"/> \$395 | <input type="checkbox"/> \$445 | <input type="checkbox"/> \$850  | <input type="checkbox"/> \$900  |
| CAIL Member or Member Employee                   | ----                          | ----                           | <input type="checkbox"/> \$395 | <input type="checkbox"/> \$445 | <input type="checkbox"/> \$850  | <input type="checkbox"/> \$900  |
| Government Employee                              | ----                          | ----                           | <input type="checkbox"/> \$395 | <input type="checkbox"/> \$445 | <input type="checkbox"/> \$850  | <input type="checkbox"/> \$900  |
| Other Student                                    | <input type="checkbox"/> \$25 | <input type="checkbox"/> \$50  | <input type="checkbox"/> \$495 | <input type="checkbox"/> \$545 | <input type="checkbox"/> \$1040 | <input type="checkbox"/> \$1100 |

I have registered for the Oil & Gas Law Conference and plan to attend the John Rogers Award Reception and Dinner on February 19 (included in the Oil & Gas Law Conference registration).

\$150 - I wish to bring a guest to the John Rogers Award Reception and Dinner.\*\*

I will attend the Winter Roundtable on February 20.

I will attend the Welcome Reception on February 20 (included in the Roundtable and Forum registration).

\$125 - I plan to attend the ITA-IEL International Energy Arbitration Forum Reception and Dinner on 2/21.

\$125 - I wish to bring a guest to the ITA-IEL International Energy Arbitration Forum Reception and Dinner.\*\*

\$95 - I plan to attend the Houston Networking Adventure on 2/22.

\$95 - I wish to bring a guest to the Houston Networking Adventure on 2/22.\*\*

Name \_\_\_\_\_

Firm/Company/Organization \_\_\_\_\_

Address \_\_\_\_\_

City, State, Postal Code, Country \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

\*\*Please complete the following guest information (if applicable)

(1) Guest Name \_\_\_\_\_ Guest Title \_\_\_\_\_

Firm/Company/Organization \_\_\_\_\_

City, State, Country \_\_\_\_\_

(2) Guest Name \_\_\_\_\_ Guest Title \_\_\_\_\_

Firm/Company/Organization \_\_\_\_\_

City, State, Country \_\_\_\_\_

### PAYMENT INFORMATION

Check enclosed payable to: **The Center for American and International Law**

Credit Card:  Mastercard  Visa  AMEX  Discover

Card number \_\_\_\_\_ Exp date \_\_\_\_\_

Name on card \_\_\_\_\_

Billing address (if different than above address) \_\_\_\_\_

Signature \_\_\_\_\_

## 4 WAYS TO REGISTER

ONLINE  
credit card only  
www.cailaw.org

FAX  
credit card only  
972.244.3401

MAIL  
check or credit card  
The Center for American and International  
Law 5201 Democracy Drive Plano, TX  
USA 75024

PHONE  
credit card only  
972.244.3400 or 800.409.1090 8:30am-  
5:00pm CST

PAYMENT MUST ACCOMPANY REGISTRATION

## GENERAL INFORMATION

**CANCELLATION POLICY:** Tuition, less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by February 3, 2014. E-mail cancellation notice to cburkel@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 Westin Galleria Hotel, 5060 W Alabama St., Houston, TX 77056. Registrants should call 1.713.960.8100 and advise them they are attending the "CAIL 2014 Annual Oil & Gas Law" to receive a reduced room rate of \$195 + tax. The last day to obtain this special rate is January 27, 2014.

**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.

**PRESS POLICY:** All ITA and IEL conferences are held under the Chatham House Rule. Participants, including journalists, are free to use any information received, but comments may not be attributed to any speaker identified by name or affiliation.

**MCLE CREDIT:** This program is approved by the State Bar of Texas for 6.75 hours, no ethics. Course ID Number: 901283965. Sign-in sheets and/or certificates of attendance will be available for ALL states.



Institute for  
**TRANSNATIONAL  
ARBITRATION**



Institute for  
**ENERGY LAW**

**INTERNATIONAL ENERGY ARBITRATION  
AN ITA-IEL JOINT WINTER FORUM**

Institute for Transnational Arbitration  
Institute for Energy Law  
The Center for American and International Law  
5201 Democracy Drive  
Plano, TX USA 75024

PLEASE NOTE: The Center for American and International Law utilizes outside mailing lists. If you receive a duplicate of this announcement, please pass it along to an interested colleague

Nonprofit  
Organization  
U. S. Postage PAID  
Permit No. 3778  
Dallas, Texas



*ITA and IEL are Institutes of*  
**THE CENTER FOR AMERICAN  
AND INTERNATIONAL LAW**



# International Energy Arbitration

## An ITA-IEL Joint Winter Forum

February 20-21, 2014

Westin Galleria Hotel  
Houston, Texas

Register Now! [cailaw.org/ita](http://cailaw.org/ita)

Earn up to 6.75 hours of MCLE credit.