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Institute for
**TRANSNATIONAL
ARBITRATION**



American Society
of International Law

13th Annual ITA-ASIL Conference

A Spotlight on Ethics in International Arbitration: Advocates, Arbitrators and Awards



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A Spotlight on Ethics in International
Arbitration: Advocates, Arbitrators
and Awards

March 30, 2016

Hyatt Regency Capitol Hill
Washington D.C. • USA

Highlights

- Keynote Presentation: *Should Arbitral Awards Always Be Right, or Just Enforceable?*
The Hon. Ian Binnie C.C. Q.C., former Justice of the Supreme Court of Canada
- Roving Commentator: Prof. Catherine Rogers
- Arbitrator Ethics: Adjudicators or Service Providers?
- The Future of Ethics Regulation in International Arbitration
- Networking Luncheon

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AND INTERNATIONAL LAW**

Conference Co-Chairs

Erin O’Hara O’Connor
 Vanderbilt University School
 of Law
 Nashville, TN

Ank Santens
 White & Case LLP
 New York, NY

“The quality of speakers was, as usual, high.”

“Loved the topic, the speakers, the organization, the co-chairs and the “crowd”.”

— 2015 Participants



2015 ITA-ASIL Conference

This conference will focus on several currently vigorously debated issues regarding the ethical obligations of arbitrators and advocates in international arbitration.

The conference will first explore the role of the arbitrator and the ethical obligations that follow from that role, and will conclude with a roundtable discussion on how best to regulate ethical matters involving advocates in international arbitration.

8:00 REGISTRATION AND CONTINENTAL BREAKFAST

9:00 WELCOME AND INTRODUCTION

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

9:05 KEYNOTE ADDRESS: SHOULD ARBITRAL AWARDS BE RIGHT, OR JUST ENFORCEABLE?

Under the legal framework for international arbitration, errors of fact or law are generally not a basis for invalidating an arbitral award and a substantively erroneous award is enforceable around the world. Does this mean that the task of an arbitrator is only to render an enforceable award, or is there some duty to “get it right”? If there is such a duty, what are its source and nature? Is it an ethical obligation?

— **The Hon. Ian Binnie C.C. Q.C.**, former Justice of the Supreme Court of Canada, Toronto

CONFERENCE COMMENTATOR:

— **Prof. Catherine A. Rogers**, Pennsylvania State University, Dickinson School of Law, University Park, Pennsylvania

9:35 ARBITRATOR ETHICS THROUGH THE LENS OF ARBITRATOR ROLE: ARE ARBITRATORS ADJUDICATORS OR SERVICE PROVIDERS?

How does the role of the arbitrator shape his or her professional and ethical responsibilities? If the role of the arbitrator is that of service provider, does the arbitrator need do no more than provide a fair process and render a decision that can be executed and enforced? If the arbitrator’s role is that of adjudicator, does the arbitrator have a broader set of responsibilities, such as obligations to provide reasons, apply the law and arbitral precedents, impose mandatory rules different from the governing law, and investigate possible corruption or fraud? Further, are immunity rules more justifiable when the arbitrator is an adjudicator and less justifiable if the arbitrator is a service provider?

INTRODUCTION AND MODERATOR:

— **Ank Santens**, White & Case LLP, New York

PANELISTS:

- **Prof. Margaret L. Moses**, Loyola University Chicago School of Law, Chicago
- **Laurence Shore**, Herbert Smith Freehills New York LLP, New York

Roundtable and Q&A

10:45 BREAK

11:05 **WHO SHOULD REGULATE THE ADVOCATES AND WHAT SHOULD BE REGULATED? THE FUTURE OF ETHICS REGULATION IN INTERNATIONAL ARBITRATION**

There is increasing consensus that there should be some regulation of advocates in international arbitration, but no consensus on what should be regulated and how. Should arbitrators, arbitral institutions, or bar associations take the lead in providing ethical constraints on party conduct, or should this instead be the subject of an international instrument? Or is a differentiated approach in order, depending on the issues in question?

INTRODUCTION AND MODERATOR:

— **Prof. Erin O’Hara O’Connor**, Vanderbilt Law School, Nashville

PANELISTS:

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

— **Prof. Marie-Claude Rigaud**, University of Montreal and Canadian Bar Association, Ethics and Professional Responsibility Committee, Montreal

— **Mairée Uran Bidegain**, Legal Counsel, International Centre for Settlement of Investment Disputes (ICSID), Washington, D.C.

Rountable and Q&A

12:15 **CONCLUDING REMARKS**

— **Prof. Susan D. Franck**, Chair, ITA Academic Council, Washington & Lee University School of Law, Lexington, Virginia

12:20 **NETWORKING LUNCHEON**

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Conference papers will also be published in the 2016:3 issue of ITA’s law journal, *World Arbitration and Mediation Review (WAMR)*.

For information and to register for the 110th ASIL Annual Meeting, March 30-April 2, 2016, also presented at the Hyatt Regency Capitol Hill Hotel, please visit: www.asil.org/annualmeeting.

ABOUT ITA AND ASIL



Institute for
**TRANSNATIONAL
ARBITRATION**

Established in 1986 as part of The Center for American and International Law (CAIL), ITA provides advanced education for arbitrators, advocates, judges, 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.



ASIL is a nonprofit, nonpartisan, educational membership organization founded in 1906 and chartered by Congress in 1950. ASIL holds Category II Consultative Status to the Economic and Social Council of the United Nations and is a constituent society of the American Council of Learned Societies. Its mission is to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. Learn more at asil.org.

REGISTRATION

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March 30, 2016
Hyatt Regency Capitol Hill • Washington, D.C.

Registration includes the networking luncheon, the conference and conference materials.

Check applicable box:	Received by 3/14/16	Received after 3/14/16
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PAYMENT MUST ACCOMPANY REGISTRATION

GENERAL INFORMATION

CANCELLATION POLICY: Tuition, less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by March 14, 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 ITA-ASIL Conference will be taking place at the Hyatt Regency Capitol Hill (400 New Jersey Avenue, NW, Washington, DC 20001). A discounted room rate is available for Annual Meeting attendees, starting at \$199/night. For reservations contact the hotel by telephone at +1.888.421.1442. Be sure to mention that you are an attendee of the "American Society of International Law Annual Meeting" in order to obtain the discounted room rate.

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 2.75 hours, including 2.75 hour of ethics. Course ID Number: 901343627. Credit hours for other states will vary and are subject to each state's approval and credit rounding rules.

For this conference, ITA will directly apply (if requested) for course accreditation in the following states: CA, MN, NM, OH, Oklahoma, PA, TX and VA. 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 conferences are typically accredited by all mandatory CLE states.