



Institute for
**TRANSNATIONAL
ARBITRATION**



2018

6/20 - 6/22

30th Annual ITA Workshop

Multiple Proceedings, Multiple
Parties, and International
Arbitration: What a Tangled Web
We Weave

WESTIN GALLERIA HOTEL
DALLAS, TEXAS, USA



ITA is an Institute of

**THE CENTER FOR AMERICAN
AND INTERNATIONAL LAW**

Highlights

- Keynote Speaker Prof. Emmanuel Gaillard (Shearman & Sterling, Institut d'études politiques de Paris)
- Oral History Luncheon Interview with Claus von Wobeser (Von Wobeser y Sierra, S.C.) by Andrea K. Bjorklund (McGill University Faculty of Law)
- Mock evidentiary proceeding with Hilary Heilbron QC (Brick Court Chambers) and Lucinda Low (Steptoe & Johnson LLP)
- Young Lawyers Roundtable, Welcome Reception and Conference Dinner at Ill Forks Steakhouse

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MCLE Credit will be available

6/20 - 6/22

30th Annual ITA Workshop

Multiple Proceedings, Multiple Parties, and International Arbitration: What a Tangled Web We Weave

Conference Co-Chairs

Jean-Christophe Honlet
Dentons
Paris

Erica Stein
Dechert LLP
Brussels

Prof. Frédéric G. Sourgens
Washburn University
School of Law
Topeka

Introduction to the Workshop

In this year's annual program, the ITA will explore the most important challenges that arise from disputes where international arbitration operates in a complex web of multiple proceedings and multiple parties. In a series of lectures, debates, panels and mock scenarios, leading international dispute resolution experts from around the world will seek to identify the real life problems caused by such complex procedures and propose viable solutions as to how they can be mitigated or resolved. With active involvement from all participants, the Workshop aims to add an important voice to the most pressing issues facing international arbitration today.

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WEDNESDAY, JUNE 20

3:00 Registration

3:30 Welcome to the Workshop

- **Abby Cohen Smutny**, Chair, ITA Advisory Board, White & Case, Washington, DC

DALLAS ROUNDTABLE

*Presented by the
Young ITA*

3:40 Welcome to the Roundtable and Introductions

- **Silvia Marchili**, Chair, Young ITA, King & Spalding, Houston

Conference Materials Sponsor:



3:45 Human Rights and Environmental Disputes in International Arbitration (.75 hr)

Do international arbitration proceedings provide suitable setting to address human rights and environmental concerns? Should the scope of international treaties and arbitration rules be broadened to include third parties bringing claims for violations of human and environmental rights? What would be the intended and unintended consequences on the international arbitration system as we know it? A diverse panel of experts will grapple with these challenging questions.

Moderator:

- **Crina Baltag**, Young ITA Thought Leader Chair, University of Bedfordshire, Department of Law and Finance, Luton

Speakers:

- **Robert Reyes Landicho**, Young ITA Communications Chair, Vinson & Elkins LLP, Houston
- **Laura Sinisterra**, Young ITA Mentorship Chair, Debevoise & Plimpton LLP, New York
- **Lorraine de Germiny**, LALIVE, Geneva

4:35 A Tour Around the Arbitration World (.75 hr)

The newly minted Young ITA Regional Chairs will present on recent developments in international arbitration in their respective jurisdictions. In an interactive discussion, our panelists will identify global trends and discuss the intricacies of practicing international arbitration across the globe.

Moderator:

- **James Egerton-Vernon** (USA), Jones Day, Washington, DC

Panelists:

- **Rocío Digón** (Continental Europe), Yale University School of Law, Paris
- **Pedro Guilhardi** (Brazil), Nanni Advogados, São Paulo
- **Karima Sauma** (Mexico & Central America), International Center for Conciliation and Arbitration (AmCham Costa Rica), San Jose
- **Aditya Singh** (Asia), White & Case Pte. Ltd., Singapore
- **Chinedum Umeche** (Africa), Banwo & Ighodalo, Lagos
- **Tomas Vail** (United Kingdom), White & Case LLP, London

5:25 Closing Remarks >

5:30-6:30 Workshop Welcome Reception > Sponsored by: **Dechert**
LLP

7:00-9:00 Workshop Dinner at Ill Forks Steakhouse (optional)

Please indicate on the registration form if you wish to attend – ticket price: \$115 per person.

Sponsored by: **WHITE & CASE**

THURSDAY, JUNE 21

8:00 Registration and Continental Breakfast

9:00 Welcome Back

- **Abby Cohen Smutny**, Chair, ITA Advisory Board

9:05 Introduction to the Program and Keynote

- **Jean-Christophe Honlet**, Workshop Co-Chair

9:10 Keynote: Coordination or Chaos (.5 hr)

International arbitration proceedings frequently take place in parallel with other proceedings, before other arbitral tribunals or domestic courts, dealing with a similar or sometimes almost identical subject matter. Professor Gaillard's keynote speech will explore the notions of comity, lis pendens, anti-suit injunctions and res judicata as possible instruments of coordination among national courts and international arbitral tribunals. More generally, it will address the complex web of relationships between national courts and arbitral tribunals, and two or more arbitral tribunals, both in the context of commercial and investment treaty arbitration.

- **Keynote Speaker: Prof. Emmanuel Gaillard**, Shearman & Sterling, Institut d'études politiques de Paris, Paris

9:40 Comments on the Keynote (.5 hr)

A view from the perspective of the arbitral institutions, arbitrators, counsel and the industry on the issues at stake in international commercial arbitration related to natural resources.

- **Ricky Diwan QC**, Essex Court Chambers, London
- **Jean E. Kalicki**, Independent Arbitrator, New York/Washington, D.C.

10:15 Mock: Evidence and Equality of Arms in Multi-Arbitration Proceedings (1.25 hr)

Parties may face significant evidentiary issues in the context of multi-arbitration proceedings. These issues arise particularly when evidence poses different privilege or confidentiality issues in proceedings in which one party appoints the same arbitrator to multiple arbitrations. This session presents a mock procedural hearing to resolve a document disclosure dispute to showcase how such an issue might arise in a case and how a tribunal might approach its resolution.

- **Introduction of the Mock: Freddy Sourgens**, Workshop Co-Chair

Scene 1: Objections and Argument

- Claimant's Counsel: **Teddy Baldwin**, Baker McKenzie, Washington, D.C.
- Respondent's Counsel: **Montserrat Manzano**, von Wobeser y Sierra, Mexico City
- Tribunal Chair: **Hilary Heilbron QC**, Brick Court Chambers, London
- Arbitrator: **Prof. Diane Desierto**, University of Notre Dame and Philippine Judicial Academy of the Supreme Court of the Philippines, Manila
- Arbitrator: **Lucinda Low**, Steptoe & Johnson LLP, Washington D.C.

Scene 2: Deliberations and Decision

Panel Discussion and Audience Q&A

11:30 Coffee Break >

11:50 Coordinating Multiple Dispute Resolution Processes (1.0 hr)

Multiple dispute resolution processes are increasingly being used, either successively or simultaneously, to resolve today's disputes, making for an ever-increasing web of actors and decisions. In the commercial sphere, the advent of multi-tiered dispute resolution clauses has, for instance, brought new coordination challenges to the fore. As for the public sphere, States are increasingly building their capacity and willingness to engage in various types of dispute resolution procedures. This session seeks to grapple with coordination issues both from the perspective of parties and from the perspective of mediators, experts and arbitrators.

Moderator:

- **Erica Stein**, Workshop Co-Chair

Speakers:

- **Patrick Baeten**, Engie, Brussels
- **Anna Joubin-Bret**, Director, International Trade Law Division, United Nations Commission on International Trade Law (UNCITRAL), Vienna
- **Prof. Tom Stipanowich**, Pepperdine University School of Law, Malibu

Coffee Break Sponsors:



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12:50 Luncheon >

1:25-2:15 Luncheon Presentation

A Conversation with

Claus von Wobeser

Von Wobeser y Sierra, S.C., Mexico City

With

Andrea K. Bjorklund

L. Yves Fortier Chair in International Arbitration and International Commercial Law
McGill University Faculty of Law, Montreal

This interview is the latest in a series organized by the ITA Academic Council to record the evolution of modern international arbitration in the words of those who have led it.

Sponsored by:  

2:30 Res judicata Issues in Commercial and Investment Arbitration (1.0 hr)

One of the oldest and key problems for the predictability of international dispute resolution arises when multiple tribunals are seized of disputes arising from the same underlying facts or the same tribunal is seized of successive close but not strictly identical requests by the same parties. This problem is compounded by the consensual nature of international arbitration as opposed to court litigation: if parties consent to have this arbitral tribunal resolve this dispute, under what circumstances can the tribunal decline to exercise this jurisdiction on the basis that another or the same tribunal has already made a related decision involving the same or related parties? The panel will review traditional conceptions of the res judicata doctrine and similar doctrines such as claims preclusion in commercial and investment treaty arbitration, discuss how they are applied by arbitral tribunals in practice and whether refinements, simplifications or radically new approaches are needed.

Introduction and Moderator:

- **Jean-Christophe Honlet**, Workshop Co-Chair

Speakers:

- **Prof. Chiara Giorgetti**, University of Richmond, Richmond
- **Yasmine Lahlou**, Chaffetz Lindsey LLP, New York
- **Prof. Pierre Mayer**, Independent Arbitrator, Paris
- **Ana Serra e Moura**, Deputy Secretary General, ICC International Court of Arbitration, Paris

3:30 Coffee Break >

3:50 Multiple Notions of ‘Party’ in Investor-State Arbitration (1.0 hr)

In investor-State arbitration, the notion of what constitutes a “party” is becoming ever more complex. From the investor’s perspective, different treaty mechanisms and arbitral jurisprudence have been seen to both expand and contract the definition of a qualified investor. From the State’s perspective, while it is often viewed from the outside as a monolith, it may not actually be so unified internally for purposes of defending its interests in international arbitration. This panel will explore how these multiple notions of “party” manifest themselves in investor-State disputes and how they may impact investment law going forward.

Introduction and Moderator:

- **Erica Stein**, Workshop Co-Chair

Speakers:

- **Prof. Ursula Kriebaum**, University of Vienna, Vienna
- **Patrick Pearsall**, Jenner & Block, Washington, DC
- **Dr. Hanno Wehland**, Lenz & Staehelin, Zurich

4:50 Debate: Paying the Same Dollar Twice – Addressing the Risk of Double Recovery in Related Proceedings (.75 hr)

One of the thorniest issues to arise from pending related proceedings is the risk that a party could be doubly compensated for the same harm, or have to pay double compensation that it fairly owes to other project participants due to the uncoordinated nature of arbitral proceedings. This panel will directly address this remedies question both in the context of purely commercial proceedings and in the context of the interlocking commercial and investor-state proceedings. The audience will participate in the discussion by means of live voting after exchanges.

Introduction and Moderator:

- **Mark Kantor**, Independent Arbitrator, Washington, D.C.

Speakers:

- **Ank Santens**, White & Case, New York
- **Diego Gosis**, GST LLP, Miami

5:30 Concluding Remarks >

- **Abby Cohen Smutny**

Canvas Bag Sponsors:



OTHER ACTIVITIES FOR ITA ADVISORY BOARD MEMBERS AND GUESTS

THURSDAY, JUNE 21

7:45 am Young ITA Annual Meeting

6:45-9:30 pm Advisory Board Annual Dinner Meeting at The Dallas Country Club

Sponsored by: **COVINGTON KING & SPALDING**

FRIDAY, JUNE 22

7:45 ITA Americas Initiative Annual Meeting

9:00 ITA Forum

Special informal Q&A session with UNCITRAL Secretary **Anna Joubin-Bret**

10:15 Break >

10:45 ITA Forum, cont.

The ITA Forum is an informal, off-the-record discussion of current developments and concerns in international arbitration among ITA members, Workshop faculty, and special guests. The agenda for this open discussion is determined by the participants. Please [click here](#) to submit your questions or topics in advance for discussion at the Forum.

10:15 Adjourn >



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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.

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REGISTRATION

30TH ANNUAL ITA WORKSHOP

June 20-22, 2018

Westin Galleria Hotel • Dallas, Texas, USA

Workshop registration includes the Dallas Roundtable, Welcome Reception, Workshop, luncheon and course materials.

Members of the Advisory Board, Executive Committee, Academic Council, ITA Arbitration Report Board of Reporters, WAMR Board of Editors, Young ITA and ITAFOR Moderators and Contributors should register using the special link that will be sent to them by email instead of the form below. If you did not receive the e-mail, please contact Krishonne Johnson at kjohnson@cailaw.org or 1.972.244.3414.

Check applicable box:	Received by 6/7/18	Received after 6/7/18
Regular registration fee	<input type="checkbox"/> \$645	<input type="checkbox"/> \$695
ITA Supporting or Sustaining Member Employee	<input type="checkbox"/> \$445	<input type="checkbox"/> \$495
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Full-Time Student	<input type="checkbox"/> \$125	<input type="checkbox"/> \$150
Full-Time Student – Roundtable and Welcome Reception Only (June 20)	<input type="checkbox"/> \$25	<input type="checkbox"/> \$35
Full-Time Student – Audit Only	<input type="checkbox"/> \$0	<input type="checkbox"/> \$0

- \$115 - I will attend the Workshop Dinner on June 20 at Ill Forks Steakhouse.
 \$115 - I wish to bring a guest to the Workshop Dinner on June 20 at Ill Forks Steakhouse.**

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

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

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GENERAL INFORMATION

CANCELLATION POLICY: Tuition less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by June 7, 2018. Email kjohnson@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.

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HOTEL INFORMATION: The cost of housing is not included in tuition. However, rooms (in limited number) have been reserved at Westin Galleria Dallas, 13340 Dallas Parkway, Dallas, Texas 75240. Rooms are available the nights of 6/20/18 and 6/21/18 for the event, with limited availability before and after. Registrants should call 1.888.627.8536 and advise that they are attending the "ITA - ANNUAL WORKSHOP 2018" to receive a reduced rate of \$199 + tax for a Deluxe Guestroom. The last day to obtain this special rate is May 28, 2018.

MCLE CREDIT: This program is approved by the State Bar of Texas for a total of 7.5 hours, no ethics. Course ID Number: 174017828. 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: California, Louisiana, Minnesota, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas and Virginia. 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. Attorneys filing by self-submission in certain states may be required to pay an additional fee. SWIICL conferences are typically accredited by all mandatory CLE states.

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