

BI-ANNUAL SYMPOSIUM ON SALIENT ISSUES OF INTERNATIONAL ARBITRATION

INTERNATIONAL ARBITRATION: EVOLUTION OR DEVOLUTION? WASHINGTON, D.C., NOVEMBER 15-16, 2023



CENTER ON INTERNATIONAL
COMMERCIAL ARBITRATION



Institut suisse de droit comparé
Schweizerisches Institut für Rechtsvergleichung
Istituto svizzero di diritto comparato
Swiss Institute of Comparative Law



INSTITUTIONAL PARTNER



TAKHEEM

SUPPORTING INSTITUTIONS



INSTITUTO UNIVERSITARIO
DE INVESTIGACIÓN EN
ESTUDIOS LATINOAMERICANOS
"IELAT"



MEDIA PARTNER



MORE INFORMATION

www.wcl.american.edu/arbitration
arbitration@wcl.american.edu



SYMPOSIUM

INTERNATIONAL ARBITRATION: EVOLUTION OR DEVOLUTION? WASHINGTON, D.C., NOVEMBER 15-16, 2023

Technology, social transformations, political upheaval, environmental degradation, and shifting economic priorities require that arbitration and, more broadly, dispute resolution re-invent themselves.

Challenges are everywhere in this field of arbitration: Investment arbitration faces challenges by states proposing alternatives to avoid subjecting their measures to international arbitral review. In commercial arbitration, the increasing complexity and quantity of the matters to be resolved, the impact these cases have beyond the individual

parties in dispute, and raising geopolitical tensions require innovative scholarship to offer potential solutions.

During the Symposium on November 15 and 16, we will critically assess where arbitration is headed: is arbitration evolving toward more sophisticated forms or are there setbacks?

Are all current developments increasing efficiency in arbitration proceedings? Does arbitration still offer a suitable solution to business disputes everywhere?

DAY 1 - WEDNESDAY, NOVEMBER 15

Opening Remarks

Professors Krista Nadakavukaren, Vice-Director of the *Institut Suisse de Droit Comparé* in Lausanne, and **Horacio A. Grigera Naón**, Director of the Center on International Commercial Arbitration, American University Washington College of Law (AUWCL)

Panel I, 9:30 – 11:00 a.m.: ISDS and Transformations of International Investment Law

Panel Chair: Krista Nadakavukaren, Vice-Director of the Institut Suisse de Droit Comparé in Lausanne

- Evolution of adverse inferences when dealing with allegations of corruption: the legitimacy crisis - *Lilit Nagapetyan*, Ph.D. candidate, Queen Mary University, London
- Corruption in ISDS: A Multicausal and Multidimensional Phenomenon with Public Policy Implications - *Fabián Espejo Fandiño*, Lawyer at Universidad del Rosario (Colombia)
- Legitimate Expectations as a General Principle in International Investment Arbitration - *Francesco Marsili*, Ph.D. Candidate at Naples University, Italy
- The Court and International Arbitration at the Astana International Financial Center (AIFC) for foreign investors in the oil and gas industry - *Shalala Valiyeva*, Doctor of Juridical Science (SJD) Candidate, AUWCL

Panel II, 11:15 a.m. – 12:45 p.m.: Contemporary Legal Problems Arising in ISDS

Panel Chair: Diana Correa, Professor of Law, Universidad de Externado, Bogotá

- Investment Arbitration and Duplication with other Mechanisms - *Bashar Malkawi*, Global Professor of Practice in Law, University of Arizona, James E. Rogers College of Law
- Legal Certainty and Transparency in Arbitration: Rules/Mechanisms to Avoid Duplication - *Francesca Cifuentes Chidini*, Lawyer and Political Scientist, University of Los Andes (Colombia)
- Third-Party Funding in Treaty-Based Arbitration: Towards a more transparent and responsible system? - *Margie Lys-Jaime*, Professor of Law at the University of Panama, Private Law Department
- Putting the Bite in the Bark: The Increasing Role of Counterclaims in Investment Arbitration - *Gregory Chan*, LL.M. candidate at New York University

Luncheon Keynote Address, 1:00 – 2:00 p.m.: The Sanctions Regime of the UN Security Council and the Challenges to International Arbitration

Amb. Hernan Perez Loose, Permanent Representative of Ecuador to the UN Security Council, and Founding Partner at Coronel & Pérez Law Firm, Guayaquil (Ecuador)

DAY 1 - WEDNESDAY, NOVEMBER 15 (CONT.)

Panel III, 2:15 – 3:45 p.m.: The Systemic Crisis of ISDS

Panel Chair: *Michael Nolan*, Independent International Arbitrator

- Will European Withdrawal from the Energy Charter Treaty be a setback for investments in the region? The future of investment arbitration in Europe and remedies for a potential crisis of justice - *Weronika Rydzinska*, LitFin – Litigation Financiers, Case Manager (Czech Republic/Poland)
- Enforcement of ICSID Awards: Evolution or Devolution? - *Juan M. Alvarez Contreras*, Professor of Law, Universidad de Externado, Bogotá
- The Creation of a WTO-model Multilateral Investment Court: A Panacea for Investor-State Dispute Settlement? - *Abraham Faith Abel*, Legal Consultant on Trade in Services and Investment Issues at the World Bank (IBRD), Washington, D.C.
- National Courts of Justice and the Crisis of Investment Arbitration: Savor or Tormentor? - *Björn Arp*, Assistant Director, Center on International Commercial Arbitration, AUWCL

Panel IV, 4:00 – 5:30 p.m.: International Arbitration and Climate Change

Panel Chair: *Hernando Parra Nieto*, President of the Externado University of Colombia

- The Role of International Commercial Arbitration in Mastering Climate Change Disputes: Challenges and Chances - *Lisa-Marie Ross*, Faculty of Law at the National University of Singapore
- The Role of the “Arbitrator-made law” in the Creation of a Lex Climatica - *Anne-Sarah Maleville*, Dual Master degree student in law and international affairs between Sciences Po Paris and Georgetown Law Center
- Effects of States’ Climate Change Commitments on Foreign Investment Arbitration - *Nilay Arat*, Associate Professor, Kadir Has University School of Law (Turkey)
- Climate Change and the Role of International Arbitration - *Yurica Ramos Montes*, Associate, Morgan Stanley, Washington, D.C.

DAY 2 - THURSDAY, NOVEMBER 16

Panel V, 9:30 – 11:00 a.m.: New Developments in International Commercial Arbitration

Panel Chair: *Tarek Rchaid*, Senior Partner, Global Legal Advisory Services, Washington, D.C.

- Conflicts between the principles of companies’ reorganization and bankruptcy proceedings and non-started or ongoing international commercial arbitration - *Héctor Scaianschi Márquez*, Universidad de la República, Montevideo
- Adrift From Ancient Moorings – The Competence of Arbitral Tribunals to Reconcile Jurisdictional Conflicts Arising from State Sovereign Immunity: Has Arbitration Strayed Too Far? - *Glenys P. Spence*, Assistant Professor of Law, Barry University School of Law
- When public interests meet private mechanisms for dispute resolution: revisiting antitrust law as an element of ordre public in international commercial arbitration in the European Union - *Diego Agulló*, Assistant Professor of Private International Law, Universidad Pontificia Comillas (Madrid)
- The Application of 28 U.S.C. § 1782 (“Section 1782”) to International Commercial Arbitrations Seated Abroad - *Madina Lokova*, Lawyer graduated from AUWCL

Panel VI, 11:15 a.m. – 12:45 p.m.: Regional Trends in International Commercial Arbitration

Panel Chair: *Claudia Frutos-Peterson*, Managing Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP, Washington, D.C.

- Court Assistance in International Arbitration: Latin American Perspective and Practice - *Juan Esteban Pacheco Sánchez*, Associate, OlarteMoure & Associates, Bogotá
- (D)Evolution of International Arbitration in Mexico - *Edwin Nemesio Álvarez Román*, Founding Partner and Head of International Arbitration Practice, ENARLAW Arbitration
- The Role of Institutional Arbitration in Resolving Disputes in Asia: An Empirical Overview - *V. Suryanarayana Raju*, Attorney and Assistant Professor, Hidayatullah National Law University (India)
- Developments in International Arbitration in Nigeria: Focus on Framework and Enforcement of International Awards - *Omoyemen Lucia Odigie-Emmanuel*, Lecturer at The Nigerian Law School

Closing Remarks, 12:45 – 1 p.m.

Professors *Krista Nadakavukaren*, Vice-Director of the Institut Suisse de Droit Comparé in Lausanne, and *Horacio A. Grigera Naón*, Director of the Center on International Commercial Arbitration, AUWCL

CENTER ON INTERNATIONAL
COMMERCIAL ARBITRATION



Institut suisse de droit comparé
Schweizerisches Institut für Rechtsvergleichung
Istituto svizzero di diritto comparato
Swiss Institute of Comparative Law



About the Biannual Symposium

The Symposium on Salient Issues in International Arbitration is organized biannually by the Center on International Commercial Arbitration. The purpose is to present a global perspective of current developments in international arbitration throughout the world. The symposium hosts prominent speakers and generates a dialogue about salient issues in international commercial arbitration, as well as current developments in BIT and ICSID arbitration, in the Americas, Europe, Africa, the Middle East, and East Asia. This year's 2023 Symposium is organized by the Center on International Commercial Arbitration, with Professors Horacio A. Grigera Naón and Björn Arp, and the Institut Suisse de Droit Comparé, with Professors Krista Nadakavukaren Schefer and Rodrigo Polanco Lazo.

The Academic Program Committee of the 2023 Symposium consists of representatives of the organizing and partner institutions:

- Dr. Horacio Grigera Naón, Director, Center on International Commercial Arbitration, AUWCL
- Dr. Björn Arp, Fellow, Center on International Commercial Arbitration, and Assistant Director, International Curriculum Development, AUWCL
- Dr. Krista Nadakavukaren Schefer, Vice-Director of the Institut Suisse de Droit Comparé, Lausanne (Switzerland)
- Dr. Rodrigo Polanco Lazo, Conseiller juridique, droits hispanophones, Institut Suisse de Droit Comparé, Lausanne (Switzerland)
- Hamed El-Kady, Programme Coordinator, International Investment Agreements Section, UNCTAD
- Jane Willems, International Arbitrator, member of the Asian Academy of International Law (Hong Kong)
- Dr. Carlos Jiménez Piernas, Professor of Law at University of Alcalá (Madrid) and former Legal Advisor of the Government of Spain
- Diana Correa, Professor of Law, Universidad de Externado, Bogotá
- Juan Miguel Álvarez, Professor of Law, Universidad de Externado, Bogotá
- Tarek Rshaid, Senior Partner, Global Legal Advisory Services, Washington, D.C.

About the Center on International Commercial Arbitration

The Center on International Commercial Arbitration provides a high-level academic forum for exchanging ideas on salient issues and current developments in the field of arbitration. The Center builds on the accomplishments of AUWCL's International Arbitration Program, which started in 2004. The Center is directed by Professor Horacio A. Grigera Naón, independent international arbitrator and former secretary general of the International Court of Arbitration of the International Chamber of Commerce.

EVENT LOCATION

All activities of this Symposium will take place in Room 402 of the Yuma Building at American University Washington College of Law. The address is:
4300 Nebraska Avenue, NW
Washington, D.C. 20016 (USA)

INSTITUTIONAL PARTNER



TAHKEEM

SUPPORTING INSTITUTIONS



MEDIA PARTNER



More Info:

www.wcl.american.edu/arbitration
arbitration@wcl.american.edu

