CENTER FOR INTERNATIONAL LEGAL STUDIES

12th Biennial

Arbitration Symposium

6-9 June 2024

Schedule

Thursday, 6 June

11:00-11:15 Symposium Opening Co-Chairs

James Castello, King & Spalding LLP, Paris, France - has advised and represented clients and arbitrated disputes in a wide range of commercial and investor-state proceedings under multiple arbitral rules, especially in energy disputes, e.g., contested control of a refinery, privatization of a power plant, gas price readjustments, conflicts on upstream development, and large infrastructure cases (road, tunnel, rail, industrial facilities). As a U.S. delegate to UNCITRAL's Arbitration Working Groups since 2001, James has assisted in drafting or revising each arbitration and mediation instrument adopted by the UN. James helped draft the LCIA's Arbitration Rules of 2014 as a member of the London Court, and he now serves as deputy chair of the LCIA's Board of Directors, as vice chair of the Institute for Transnational Arbitration, and on the International Advisory Board of the VIAC. For six years during the Clinton Administration, James held such senior legal positions as Deputy Counsel to the President at the White House and Associate Deputy Attorney General in the Justice Department, where his portfolio included immigration, hate crimes, and human rights. He began his legal career with clerkships at the U.S. Supreme Court in Washington D.C. and at the Iran-U.S. Claims Tribunal at The Hague.

Lorraine de Germiny, LALIVE (Partner), London, England, United Kingdom - practices both commercial and investment treaty arbitration, with a focus on high value, complex disputes in the mining and energy sectors. French American and a member of the Paris and New York bars, she has acted as counsel in several international arbitral proceedings, either *ad hoc* (including UNCITRAL) or administered (under the rules of the ICC and ICSID). Lorraine is a member of numerous professional associations and one of the founding members of and Secretary and Legal Office for Women in Mining Switzerland. She has also served as an arbitrator and is on the list of arbitrators with the Court of Arbitration for Art (CAfA).

11.15-12:30 Session 1

Can Dispositive Motions Work in Arbitration? Why Don't Arbitrators Take More Decisions Rather than Asking Parties to Liaise/Figure it Out? How to Make Arbitrators More Hands-On?

This panel will feature a roundtable discussion of dispositive motions and other mechanisms by which arbitrators may take a more proactive approach to case management. The panellists will share their own perspectives and experiences, as well as invite the views of other delegates.

Panel Chair:

Lawrence (Larry) Schaner, Schaner Dispute Resolution, Chicago, Illinois, United States – is an independent arbitrator. With over 35 years of experience as both arbitrator and counsel handling high stakes business disputes, he has sat as an arbitrator in approximately 90 cases, under the rules of the AAA, CPR, ICC, ICDR, JAMS, KCAB, LCIA, SCC, SIAC, and UNCITRAL. Until 2017, he was a partner at Jenner & Block, where he co-founded and co-chaired the firm's international arbitration practice. He is ranked in Band 1 for international arbitrators by Chambers USA and among the world's "Most in Demand Arbitrators" by Chambers Global. He earned his J.D. from Stanford Law School in 1986 and B.A. from Duke University in 1982. He is admitted to the bars of California, Illinois, and New York.

Speakers:

Vincent Carriou, Gide Loyrette Nouel LLP (Associate), London, England, United Kingdom - is dual-qualified in France (*Avocat à la Cour*) and in England and Wales (Solicitor). His practice includes contentious and non-contentious work in commercial arbitration and ISDS, under the auspices of the major institutions (ICC, LCIA, SCC, SIAC, ICSID, PCA) in relation to the construction, energy, mining, and space sectors. His recent experience also includes acting as secretary to arbitral tribunals.

Irina Nazarova, Engarde Attorneys (Managing Partner), Kyiv, Ukraine - currently based in Vienna, is an experienced international lawyer acting as an international counsel and arbitrator. Irina helped provide arbitration reform in Ukraine as a member of the Judicial Council under the *aegis* of the Administration of the President (2014-2019). She also served as a member of the ICC Court of Arbitration for two consecutive terms and is a deputy chair of the Alternative Dispute Resolution Committee within the Ukrainian Bar Association and a member of the International Advisory Board of Vienna International Arbitral Centre. Irina is a founder and coordinator of the Ukrainian International Arbitration Conference "Kyiv Arbitration Days: Think Big!". Irina also holds a master's degree in Practical Psychology (*magna cum laude*).

Annet van Hooft, Independent Arbitrator, Paris, France - After having practiced for more 20 years at major U.S. and U.K. law firms in Brussels, New York, and Paris, and having been a counsel at the ICC Court of Arbitration, she decided to set up her own law firm, focusing on international arbitration. She has acted in more than 100 arbitrations either as counsel or arbitrator and has sat as arbitrator in proceedings subject to various arbitration rules (AFA, CEPANI, CMAP, DIA, DIS, HCC, ICC, NAI, SCC, SIAC, Swiss Chambers, UNCITRAL, VIAC, WIPO). Annet is

admitted to practice in both common and civil law jurisdictions and has a broad range of experience, both as counsel and as arbitrator, handling international arbitrations under various applicable laws and in a wide variety of sectors and fields, including construction & energy, IP related disputes (e.g., pharmaceuticals, life sciences, technology, and communication) and corporate law related disputes (e.g., joint-ventures, mergers & acquisitions).

Robert W. Wachter, Shin & Kim, Seoul, Korea - has lived and worked in Seoul for 20 years. Originally trained in the United States, he is the only senior arbitration practitioner in Korea with significant experience in Asia, Europe, and North America. He has been recognised as a leading practitioner by Chambers and Partners (Band 1), Legal 500, Who's Who (Arbitration Thought Leaders), Asialaw, and Benchmark Litigation. He has acted as counsel or arbitrator under all the major arbitration rules in Asia, including the ICC, SIAC, HKIAC, KCAB, JCAA, VIAC and CIETAC Rules. He is currently working on an independent commentary for the upcoming revisions to the KCAB International Rules.

Panel Synopsis:

This panel will consider the role of arbitrators in potentially resolving cases before a final hearing on the merits and/or in taking steps to make the final hearing more focused and productive.

The panel will discuss dispositive motions and other forms of summary disposition, presenting different perspectives on their benefits and disadvantages, including when their use may (or may not) be appropriate; how views concerning these procedures may differ depending on participants' legal traditions; and the approaches taken by institutions and other organizations.

The panel will also discuss arbitrator proactivity more broadly, including by means of settlement facilitation or other more "hands on" approaches, such as midstream conferences, Kaplan openings, and giving preliminary views.

The panellists will offer their views on the utility of these and other case management tools and discuss their experiences with them.

12:30-13:30	**Networking Lunch**

13.40-14:55 Session 2

What is the Role of Arbitration in Addressing Climate Change?

Our speakers will make brief introductions covering different aspects of the topic. We plan to leave 30 minutes for discussions with everyone in the room.

Panel Chair:

Annette Magnusson, Climate Change Counsel (Co-Founder), Stockholm, Sweden - was Secretary General of the Stockholm Chamber of Commerce Arbitration Institute in Stockholm. She has more than 25 years' experience of international law, including from global law firms. She co-chairs the ICCA Panel of Experts to Develop a Paris Agreement Conciliation Annex. Annette is the author or editor of publications on international arbitration, including *Investment Arbitration and Climate Change* (2024), *International Arbitration in Sweden – A Practitioner's Guide* (2 ed. 2021) and *Arbitrating for Peace* (2017). Climate Change Counsel, established in 2021, is a think-and-do-tank with a mission to mobilise the law and lawyers for climate action.

Speakers:

Silvia Dahlberg, Advokatfirman Vinge KB (Partner), Gothenburg, Sweden - her practice covers both arbitration, commercial and investor-state, and complex civil litigations in Swedish courts of all levels. She has extensive experience as counsel in arbitrations seated in various jurisdictions and under most major arbitration rules and is also regularly appointed as arbitrator. Her practice covers several different industries, such as construction, the manufacturing industry, insurance, energy, and financial services. Silvia has also handled several high-profile arbitration related court proceedings in Sweden.

Crenguta Leaua, Arbitrator, Lugano, Switzerland - teaches comparative international arbitration and new technologies law at the Bucharest University of Economics, for the students in law, economics, and informatics, being frequently invited as guest lecturer or in various events of universities in the US and Europe. She is a founder of Leaua Damcali Deaconu Paunescu, a GAR 100 law firm in Romania, active in both commercial and investment arbitration. Ranked Thought Leader (WWL Legal) in arbitration, she is a past vice president of ICC Paris, currently a board member of The Silicon Valley Arbitration and Mediation Center (SVAMC), listed on the SVAMC World's Leading Technology Neutrals – the Tech List® and as arbitrator by institutions worldwide, including EU free trade agreements arbitrators' lists. She is an expert with UNICTRAL for technology-related disputes and is a corresponding member of UNIDROIT. Currently she is based in Switzerland, where she is also the director of The Swiss Institute for Alternative Thinking.

Marnix Leijten, De Brauw, Amsterdam, Netherlands - is a trusted-advisor to corporates and states with nearly 30 years of experience in international arbitration and cross-border litigation. Marnix was Vice-President of the International Court of Arbitration in Paris between 2015-2021. He led teams on a large variety of high stakes international disputes, commercial and investor state arbitrations, as well as complex enforcement and setting aside disputes. Marnix was managing partner of De Brauw until mid-2022 and has since resumed practicing as counsel and arbitrator.

Isabel San Martin, LALIVE (Senior Associate), London, England, United Kingdom - Her practice focuses on commercial and investment arbitration, and has experience in human rights law, environmental law, and other areas of public international law. She has represented and advised clients in a variety of sectors, including renewable energy, oil and gas, mining, construction, and banking and finance. She was a member of the ICC Task Force that published the Report on Resolving Climate Change Related Disputes through Arbitration and ADR.

Panel Synopsis:

Our session will seek to address the following:

- Climate change as a driver of change in legislation and legal practice; consequences for international commercial arbitration.
- The interaction of international investment law and climate change mitigation and adaptation measures: visible clashes and potential synergies.
- Ideas and discussion addressing future developments: how international arbitration could adapt to support the climate transformation.

15:05-16:20 Session 3

Can AI Assist in International Arbitration? Can it be Controlled?

The panellists will make short individual presentations followed by a discussion.

Panel Chair:

Christophe Guibert de Bruet, Oracle (Senior Director for Global Tax Litigation), Annecy, France - was previously counsel at LALIVE, where he specialised in international arbitration, including commercial and investment treaty arbitration. Christophe has a longstanding interest in emerging technologies and how they will influence international dispute resolution.

Speakers:

Karthik Balisagar, FTI Consulting (Senior Managing Director in Economic and Financial Consulting practice), London, England, United Kingdom - leads FTI's Economic and Financial practice in India. Karthik has 18 years' experience in valuation and transaction consulting. At FTI Consulting, Karthik specialises in valuation issues in the context of international arbitration and litigation and is currently acting as expert on several commercial and investor-state disputes. He has authored a chapter on "Assessing Damages for Breach of Contract" in *The Guide to Damages in International Arbitration* (4th ed.). Karthik is a member of the International Valuation Standards Council (IVSC) Europe and Asia Committees, the independent global standard setter for the valuation profession.

Amy C. Kläsener, Jones Day, Frankfurt am Main, Germany - is a seasoned international arbitration partner with deep experience in engineering and construction disputes in the nuclear, energy, chemical, and manufacturing sectors. Amy also focuses on software development/crypto and M&A disputes. Amy is a US national admitted to practice in New York and Ireland. She has been based in Europe for nearly 20 years and frequently acts on cross-border matters as counsel or arbitrator. Amy is editor of the *GAR Guide to M&A Arbitration* (5th ed. forthcoming 2024) and co-editor of the *GAR Guide to Evidence* (2nd ed. 2023).

Claire Morel de Westgaver, Bryan Cave Leighton Paisner, London, England, United Kingdom - is qualified in England & Wales and in New York, with a mixed common and civil law background, having completed her legal education in Belgium and in the USA. She practises international arbitration as counsel, as advocate and as arbitrator, and conducts proceedings in both English and French language. She has a particular experience of disputes relating to technology, corporate transactions, licenses, cross-border supply, and service agreements, as well as disputes involving secrecy, intellectual property, and cybersecurity issues. Claire chairs CIArb's Technology Group which is currently working on a Guidance Note on the use of AI in arbitration and ADR. She sits on the Advisory Board of CyberArb and the editorial board of b-Arbitra. She has contributed to the work of several notable task forces, including the ICC Taskforce on the use of Information Technology in arbitral proceedings.

Kathleen Paisley, Arbitrator, Ambos Law, Brussels/Miami/New York - is a recognised international arbitrator based between Europe and the US. Kathleen's broad experience includes commercial cases under most major international arbitration rules and investor-State cases both under both the ICSID and UNCITRAL rules. She has more than 30 years of experience in arbitrations under the common and civil law, EU law, and public and private international law, and has acted as chief legal and compliance officer in both technology and pharmaceutical companies. She is triple qualified in law, finance, and accounting, with a JD from the Yale Law School, an MBA in finance and has completed the CPA exam. She is widely recognised for her expertise in life sciences, technology, intellectual property, data protection, cyber security, energy, and complex damages/accounting.

Panel Synopsis:

Summary of issues:

- Claire: will set the scene by presenting the key findings of her firm's 2023 AI in IA survey.
- Amy: will discuss how AI may impact the taking of evidence in arbitration.
- Karthik: will discuss how AI will affect expert witness work, from assisting Tribunals with Causation and Quantum to improving the efficiency and robustness of data analysis. Quantum experts often apply their knowledge in economics, accounting, and finance, to answer questions relating to causation and quantum. He will also examine:
  - (i) Specific applications that deal with causation and quantum in arbitrations; and
  - (ii) Limitations on the reliance of AI.
- Kathleen: will discuss the types of disputes that may arise out of the use of AI, and how that could impact the process.

16:20-16:40	**Coffee Break**

16:40-17:55 Session 4

Construction Arbitrations:
Lessons for Counsel and Arbitrators in Other Complex Arbitrations

This panel will start with a short conversation on client perspectives and then discuss in more detail the different stages across the life cycle of a construction project, welcoming questions at the end of the presentations.

Panel Chair:

Roberta Downey, Vinson & Elkins (Head of International Construction Group), London, England, United Kingdom - has close to 30 years of experience in commercial dispute resolution, including large trials and highly technical disputes where teamwork together with strategic thinking, effective legal argument and detailed analysis of the evidence is required. Roberta's practice focuses first and foremost on the construction, engineering, and energy industries. That industry focus has allowed her to build a portfolio of both domestic and international work that spans the full spectrum of energy, power, and major infrastructure projects, including thermal power plants, renewable energy projects, LNG facilities, petrochemical facilities, iconic urban regeneration projects, engineering support services, rail infrastructure, telecommunications, wastewater treatment, recycling facilities, data centres, and automated equipment and control systems.

Speakers:

Patrick Baeten, BESIX Group (Secretary General), Sint Lambrechts Woluwe, Belgium - graduated in law from the University of Ghent and holds an LL.M. in international law from the University of Louvain-la-Neuve. Patrick joined ENGIE in 1996 after three years at the Brussels' bar and held several senior positions at regional level: general counsel Europe 2006-2015, general counsel Brazil 2019-2021, and at corporate level: chief legal officer competition & regulation 2003-2006, chief legal officer global disputes 2016-2018, chief legal officer for mergers, acquisitions, and investments 2021-2023. He now serves as secretary general for BESIX Group, a major Belgo-Egyptian construction group active worldwide, is a board member of CEPANI, chairs the ICC Belgium Commission on Arbitration and ADR, and has participated in several ICC task forces including, recently, on climate change related disputes and on issues of corruption in international arbitration. He is a regular speaker at international arbitration conferences and occasionally sits as an arbitrator.

Robert Reyes Landicho, Vinson & Elkins LLP (Counsel), Houston and Dubai - focuses on international energy, infrastructure, and construction disputes, including commercial arbitration, inter-state arbitration, and investor-state arbitration in numerous jurisdictions across the globe under all major institutional rules. Rob also represents clients in national court litigation, often attendant to arbitration. Rob is admitted in Texas and has full rights of audience before the Dubai International Financial Centre Courts (Part I & II). Rob has been named as a 2023 Law360 Rising Star in International Arbitration, a Future Leader in Who's Who Legal: Arbitration (2022, 2023, 2024) and Who's Who Legal: Construction, UAE (2023, 2024) (Law Business Research) and as a Rising Star in Super Lawyers, Texas – International (2020–2024) (Thomson Reuters). Rob is the Strategic Planning Co-Chair of the Institute for Transnational Arbitration-ITA, and previously served as Programs Co-Chair and Young ITA Chair.

Peter Rosher, Reed Smith LLP (Global Chair; International Arbitration), Paris, France - is a dual-qualified (English solicitor/French *avocat*) lawyer and advocate with over 30 years' experience in international arbitration, advising clients on contentious issues as well as providing extensive advisory services in relation to "live" major projects. A leading figure in the Paris international arbitration community, Peter is a founding member of Paris Arbitration Week and is former vice chair of PAW's Organizing Committee. He is a member of the Dispute Resolution Board Foundation, sits on the board of the *Association Française d'Arbitrage* and acts as vice president of the association Paris, Home of International Arbitration (formerly secretary general). Peter was also appointed to the board of the French arm of the Society of Construction Lawyers (recently appointed co-president), appointed by the ICC National Committee for France as a delegate to the ICC Commission on Arbitration and ADR (the 'Commission'), and was appointed treasurer of the Association for Innovative Practices in Arbitration (AIPA).

Panel Synopsis:

Our session will focus on the lessons that have wider applicability (e.g., procedural issues such as how to resolve multi-party disputes, how to deal with expert evidence, what inhouse counsel looks for and how views arbitration etc.) – as opposed to getting too deep into detailed issues that are relevant only to construction arbitrations (e.g. critical path analysis in delay claims, global claims, productivity analysis for disruption claims, etc.)

Construction arbitrations are plainly complex arbitrations, and they have some distinct features but there are lessons to learn from them that can be applied to arbitrations in other industry sectors, just as construction industry practitioners could learn from experience in more general commercial arbitrations and other industry focused arbitrations.

1. 1-2 mins - Brief introduction of panellists.
2. 10 mins – The Client Perspective.
3. 40 mins – panellists discuss issues / considerations to bear in mind at different stages across the life cycle of a construction project, being:
   (1) Project Conception
   (2) Project Execution
   (3) Termination / Project Completion
   (4) Post Completion / Arbitration Procedure
4. 20-25 mins - Audience observations / questions

18:30-19:30	**Welcome Drinks**
19:00-19:30	**Palace Tour**
19:30	**Opening Dinner**

Friday, 7 June

9:00-10:15 Session 5

New Investment Treaty Models

Roundtable, with each of the four panellists introducing a topic and the other panellists reacting in turn, allowing for a more interactive discussion.

Panel Chair:

Aloysius (Louie) Llamzon, King & Spalding LLP (Partner DC and NY), Washington, DC, United States - represents corporate and sovereign clients in commercial, investment, and inter-state arbitrations seated throughout the world. He acts as arbitrator in commercial and investment treaty cases. Louie was previously Senior Legal Counsel at the PCA in The Hague, a corporate associate at Skadden in Hong Kong, and an associate at Romulo in Manila. His book *Corruption in International Investment Arbitration* (Oxford, 2014) is the leading treatise in the subject. He holds J.S.D. and LL.M. degrees from Yale Law School; and A.B. and J.D. degrees from the Ateneo de Manila University. (Bio from 2022).

Speakers:

John Laird, Crowell & Moring UK LLP, London, England, United Kingdom - is a solicitor-advocate and counsel. John represents clients in both commercial and investment arbitration. In addition, his practice involves a wide variety of commercial litigation in the English High Court, including the pursuit and defence of competition claims. John has worked from both Crowell & Moring's Washington DC and London offices, initially as a paralegal and later training for admission as a solicitor. He was the winner of the 2011 ICSID Review Student Writing Competition and an Alumni Fund scholar during his recent master's degree studies at the American University Washington College of Law.

Christina Cathey Schuetz, Clifford Chance LLP (senior associate), London, England, United Kingdom - focuses on investment treaty and commercial arbitration as well as complex transnational disputes, often in matters relating to Central and Eastern Europe. A graduate of Columbia University School of Law, she began her career with another major international law firm in New York City and Frankfurt, Germany. She is a co-founder of the Russian and CIS Arbitration Network. Together with Michael Kotrly, whom she first met at the CILS Arbitration Symposium some years ago, she is a Co-Convenor for the EMEA Edition of the Delos Remote Oral Advocacy Programme. (Bio from 2022).

Mirjam van de Hel-Koedoot, NautaDutilh N.V., Amsterdam, Netherlands - heads the firm's international arbitration practice and specialises in international commercial and investment arbitration. She also regularly acts as counsel in complex setting aside and enforcement matters before the Dutch courts, mainly in proceedings relating to investment treaty arbitration (e.g. the investment treaty arbitration cases relating to the annexation of Crimea in 2014). She also chairs the executive board of the European Federation of Investment Law and Arbitration and is on the executive board of the Dutch Arbitration Association.

Panel Synopsis:

Some 75 years after the first bilateral investment treaty was signed in 1959, bilateral and multilateral investment treaties continue to be negotiated and signed. But much has changed.

Prompted especially by the last two decades of experience with investor-State arbitration, modern investment treaties have evolved considerably, and the orthodox lines separating mostly capital-exporting and capital-importing States continue to blur.

This panel will consider four aspects of "new investment treaty models", widening the aperture with the first two topics before focusing on issues of procedure and substance within the arbitration context in the final two topics:

- First, we will consider the model treaties that have emerged from the 2010s onwards and how they match or differ with treaties that have been signed in that same period. Attempts to achieve system balance through
  (i) bilateral vs. multilateral treaty solutions;
  (ii) standing courts vs. retaining the ad hoc arbitral system; and
  (iii) returning to national courts vs continued faith in international tribunals will be considered.
- Second, we consider investment treaty developments in the face of the rapid geopolitical upheaval the international system is currently undergoing, with the European and American turn away from bilateral and multilateral investment treaties in their unique ways, to shifts in allegiances (e.g. China and Russia leading a new block) and their implications on investment treaty formulation and replacement.
- Third, we will turn to the procedural and remedial reforms found in the new models' dispute resolution provisions. This will include
  (i) welcome clarifications to, and controls on, the scope of protection (corruption and corporate social responsibility in particular);
  (ii) the problematic narrowing of the scope of protection (specifically the new self-judging security exceptions); and
  (iii) necessary but unfinished changes (e.g., regulating multiple proceedings).
- Finally, we will consider substantive reform. The new BITs seek to rationalize treaty protections through
  (i) precision in definition, including the scope of Fair & Equitable Treatment protections;
  (ii) the right of States to regulate (e.g. the environment and public health); and

reforms to damages that can be obtained from tribunals. Do these calibrations lead to welcome precision, or do they create new concerns?

10:15-10:35 **Coffee Break**

10:35-11:50 Session 6

Do You Hear Me Now?
An Engaged and Candid Dialogue of Clients, Counsel, and Arbitrators

Consistent with our topic, the format of our panel will be a facilitated dialogue among the panel members, as well as engagement with symposium participants who are in attendance. We do not anticipate lengthy separate presentations.

Panel Chair:

Mark Morril, Morril ADR LLC, New York, New York, United States - is an independent arbitrator with experience in complex commercial disputes, including transactions and post-closing adjustments, insurance, distribution agreements, joint ventures and partnerships, intellectual property, pharma, entertainment/media, technology, telecom, and energy. Previously, Mark was General Counsel of Simon & Schuster, then the world's largest English-language publisher, and Deputy General Counsel of the global media company Paramount Global (formerly ViacomCBS), where he had responsibility for disputes, transactions, regulatory, compliance, and risk management issues, and managed the 275-lawyer law department. Earlier, he was a law firm litigation partner, worked in public policy, and a judicial law clerk.

Speakers:

Anne K. Hoffmann, Independent Arbitrator, Dubai, United Arab Emirates - has over two decades of experience in commercial and investment arbitration during which she practiced in London, Geneva, and Dubai. Dual-qualified in Germany and England & Wales, Anne has acted in arbitrations globally, governed by numerous laws and across a great variety of sectors. Anne has sat as sole, emergency, co-arbitrator, and chair under all major rules as well as *ad hoc*. She has also acted as an arbitrator under the ICSID Rules. Anne's reputation is underscored by her recognition as a Global Elite Thought Leader and Global Leader Arbitration by Who's Who Legal, and her inclusion in Chambers Global as Most in Demand Arbitrator as well as in the Legal 500 Arbitration Powerlist Middle East.

D. Brian King, New York University School of Law, New York, New York, United States - is an independent arbitrator based in New York and London, where he is an arbitrator member of chambers at 3 Verulam Buildings. Prior to his retirement in 2018, Brian was a senior partner in the international arbitration group at Freshfields Bruckhaus Deringer. Alongside his arbitrator practice, Brian teaches investment arbitration at the New York University School of Law.

Paolo Marzolini, Patocchi & Marzolini (Founding Partner), Geneva, Switzerland - acts as counsel and sits as arbitrator in Switzerland and several other jurisdictions under various sets of arbitration rules, including, but not limited to, the ICC, Swiss, LCIA, UNCITRAL, DIAC, ISTAC, VIAC, DIS, CAM, CAS, JAMS, QICCA, and WIPO. Paolo has experience acting as mediator and counsel in mediations in commercial cases. He has also experience as member of dispute boards in complex construction projects. Paolo has served as a member of the Court of the Swiss Arbitration Centre since 1 June 2020 and as Secretary to the Court since 1 January 2024.

Alison Pearsall, Eviden International (Head of Litigation, Dispute Resolution and Risk Management), Paris, France - has over 20 years of experience in dispute resolution, advising multinational corporations on high value/risk arbitration and litigation cases in the energy, IT, waste, and water sectors. Prior to her in house career she exercised in private practice in New York and Paris specialising in international arbitration and complex commercial litigation. She previously served as a court member of the London Court of International Arbitration, as chair of the New York City Bar Committee on International Trade, as the Common Law Counsel at the ICC International Court of Arbitration and is currently a member of the ICC Commission on Arbitration and ADR.

Panel Synopsis:

This panel will explore the sometimes-differing expectations of clients, counsel, and arbitrators regarding arbitrator best practices and optimal arbitrator behaviour in the international arbitration process.

Understanding that expectations of arbitral participants inevitably are tied somewhat to their differing interests and viewpoints, we will explore ways in which expectations may become more aligned through better dialogue.

Among the specific topics addressed will be the optimal role of in-house counsel, strategies to streamline arbitration, a realistic assessment of document disclosure in international arbitration, whether arbitrators have a role in dispute settlement, and strategies to tailor and right size arbitral procedure to the dispute at hand.

12:00-13:15 Session 7

Tribunals' Options when Parties Present Two Extreme Damages Models?

We will start with a role-play scenario that will highlight two extreme damage models being put forward by the parties and their respective experts in a hypothetical dispute, and from there will move to a round-robin discussion of the principal issues which the role play has highlighted.

Panel Chair:

Lucinda A. Low, Steptoe & Johnson LLP (Senior Counsel), Washington DC, United States - has served on the firm's Executive Committee, as its International Practice Leader, and as co-chair of its International Arbitration Practice Group, among other management positions. Her practice currently focuses on international arbitration, of both investor-state and commercial disputes and she has significant experience as an arbitrator and has served on the ICSID Panel of Conciliators (appointed by the United States) and the ICSID Panel of Arbitrators (appointed by the World Bank President). Lucinda also has deep experience as counsel and as an expert witness, in the latter case in disputes with international regulatory compliance issues, drawing on her white-collar defence experience. She served as president of the American Society of International Law from 2016-18 and was the first woman to chair the ABA Section of International Law and is also a member of the U.S. Secretary of State's Advisory Committee on International Law and has lived in Brazil and works in English, Portuguese, Spanish, and French.

Speakers:

Rami Chahine, Meltem Avocats (Partner), Marseille, France - Rami's practice focuses primarily on arbitration, litigation, and white-collar crime, with a particular emphasis on disputes involving the Middle East and North Africa. He has experience in the enforcement and setting-aside of arbitral awards in France, especially in presence of sovereigns. Prior to joining Meltem Avocats, Rami worked for nearly a decade in international and regional law firms specialized in international arbitration, as well as within the business and white-collar litigation team of a prominent criminal defence attorney in Marseille. Rami is recognised since 2021 as a "Future Leader" in international arbitration by Who's Who Legal.

Laura Hardin, Alvarez & Marsal Disputes and Investigations LLC (Managing Director), Houston, Texas, United States - is co-chair of the Alvarez & Marsal International Arbitration Group and heads the firm's international arbitration practice in the United States. Laura has extensive experience providing business valuation, damages quantification and forensic accounting services on a variety of engagements. She is regularly recognised as one of the most highly regarded experts and thought leaders in the Global Arbitration Review's "Who's Who" of International Arbitration Expert Witnesses (including in the current year 2022-2023) and she also regularly appears on Who's Who Legal's List of Energy Experts.

Elie Kleiman, Jones Day (Partner), Paris, France - practices as a French avocat à la Cour. He has more than 30 years' experience in dispute resolution, with a significant focus on international arbitration in a vast array of business sectors and jurisdictions. As lead counsel he regularly argues cases involving strategic risk allocation issues and complex damages models. He regularly sits as an arbitrator and as a mediator.

Rostislav Pekař, Partner, Squire Patton Boggs (Partner), Prague, Czech Republic - co-heads the firm's global investment arbitration practice. He is a member of the ICSID Panel of Arbitrators and a chairman of Arbitration Commission at the ICC Czech Republic. Rostislav has represented his clients in more than 25 major international commercial arbitrations and more than 40 investment arbitrations. Rostislav appears before all leading international arbitration institutions (ICC, ICSID, VIAC, SCC and LCIA), and is also experienced with *ad hoc* arbitration under the UNCITRAL Rules. Since 2012, major legal guides list Rostislav as a leading individual for dispute resolution in the Czech Republic. (Bio from 2022).

Panel Synopsis:

This panel will explore various approaches that may be taken to deal with the not uncommon scenario in both investment and commercial disputes in which the parties' damage claims derive from significantly different models and may be considered extreme.

The panel, comprised of persons who have acted as experts, arbitrators, and counsel in both commercial and investor-state disputes, will address and evaluate the tools available to arbitrators in such a scenario, including appointment of an independent expert by the tribunal, use of hot-tubbing and pre- or post-hearing techniques.

Differences between civil and common-law approaches will also be explored, along with the strategic reasons that may influence a more extreme approach, and the influence (and potential limitations) of the applicable law.

13:15-14:15 **Networking Lunch**

14:25-15:40 Session 8

How Can Sanctions Affect Arbitration Proceedings and the Enforcement of an Arbitral Award?

Brief introductions are followed by short presentations of the panellists, closing with questions and discussion.

Panel Chair:

David Goldberg, Pinna Goldberg Ltd (Partner), London, England, United Kingdom - specialises in international arbitration and litigation with extensive experience in investment arbitration. He has acted in numerous high-profile cases. David is member of the LCIA Board and often acts as arbitrator and has specific expertise in the CIS region.

Speakers:

Egishe Dzhazoyan, King & Spalding LLP (Partner), London, England, United Kingdom - specialises in international arbitration and litigation. As a dual qualified (England & Wales and Russia) lawyer with both civil and common law background, Egishe is uniquely placed to provide strategic legal advice concerning large and complex disputes, often involving a cross-border element and enforcement issues. During 23 years of practice, he has advised and represented clients in more than 200 arbitration and litigation proceedings across a host of various jurisdictions and in a broad range of industries. Egishe also sits as an arbitrator, in which capacity he has experience with disputes involving sanctions issues. He frequently advises clients in court proceedings and has particular understanding in matters involving enforcement of arbitral awards against sovereign states, as well as complex offshore commercial fraud and asset recovery disputes.

Alain Farhad, Independent Arbitrator, Dubai, United Arab Emirates - is a full time independent international arbitrator. As one of the MENA region's most in demand international arbitrators, he has acted as sole arbitrator, co-arbitrator or presiding arbitrator in over 100 arbitration proceedings with several billion dollars in dispute. After nearly two decades in private practice with several international law firms in Paris and Dubai, Alain started Farhad Arbitration in March 2024 to devote his full professional time to his work as an independent international arbitrator. Prior to that, Alain was a partner and the head of international arbitration at Mayer Brown LLP in Dubai. Alain was educated in both the civil law and the common-law traditions and is a French qualified lawyer (*Avocat à la Cour*) and a member of the New York Bar.

Karyl Nairn KC, Arbitration Chambers, London, England, United Kingdom - is an independent arbitrator with experience in both commercial and investment treaty arbitration across a range of industry sectors including energy, telecommunications, pharmaceuticals, and sports. She was formerly the global co-head of international arbitration at Skadden, Arps, Slate, Meagher & Flom (UK) LLP. She was a Vice President of the ICC Court from 2009-2015 and currently serves as a Vice President of the LCIA.

Timothy G. Nelson, Skadden, Arps, Slate, Meagher & Flom LLP (Partner), New York, New York, United States - represents clients in U.S. courts and international arbitration (including before ICSID, AAA, ICC, HKIAC, LCIA, SIAC, the PCA and under UNCITRAL rules). His cases involve sectors such as oil and gas (upstream, midstream), nuclear, solar, mining, cement, finance, insurance, pharmaceuticals, telecommunications, retail, sports, motor racing and hotel/property investment. He is widely published and quoted on matters of international law, cross-border disputes, space law, and international arbitration, is the co-editor of *Take the Witness: Cross-Examination in International Arbitration.*

Panel Synopsis:

Panel introduction (David)

A brief comparative review of sanctions regimes in the EU, UK, and USA (Alain, Egishe, Timothy)

Interplay between various sanctions/counter-sanctions regimes and the latest English and Russian law developments in the area of anti-suit injunctions and jurisdiction such as the English Court of Appeal and Russian arbitrazh court rulings in *Deutsche Bank AG* v *RusChemAlliance LLC* as well as the very recent London High Court ruling in *Zephyrus Capital Aviation Partners* v *Fidelis Underwriting Ltd* in the insurance/aviation claims context (Egishe)

Access to justice and right to representation (Alain, David)

Arbitrators point of view and key difficulties and challenges for arbitrators: how to check if a party is sanctioned; how to get paid, whether you can order a sanctioned person to pay damages - an overview of the position in the UK and the LCIA approach (Karyl)

Enforcement related issues with reference to particular cases where western award debtors have relied upon their own government's sanctions against award creditors to delay or seek to avoid the payment of an arbitral award (Alain)

Non-Russia related sanctions and lessons learnt – Cuba, Iran etc. (Timothy, Alain)

Investment arbitration and sanctions (David)

Questions and discussion

15:40-16:00	**Coffee Break**

16:00-17:15 Session 9

Compliance with Awards: Is It Waning? Can the Problem be Redressed?

The panel will be a round-table format to encourage discussion between the panellists before opening the floor to participation from attendees.

Panel Chair:

Michael Ostrove, DLA Piper France LLP (Global Co-Chair, International Arbitration), Paris, France - is also a vice president of the ICC International Court of Arbitration, a member of the World Bank Sanctions Board, and an adjunct professor of International Arbitration at the University of Paris II (Panthéon-Assas). He has been representing states, multinational corporations, international organizations and individuals in commercial arbitrations, investment arbitrations and other public international law disputes, as well as in domestic litigation, for over 30 years. He occasionally sits as an arbitrator. His practice is evenly divided between commercial and investment arbitration. For the past 20 years, approximately 50% of his practice has been focused on Francophone Africa.

Speakers:

Hector Flores, Abascal, Flores y Segovia, S.C. (Partner), Mexico City, Mexico - with almost 15 years of experience in the field of ADR, he has acted as arbitrator, tribunal's secretary and counsel in national and international commercial arbitrations seated in Mexico and abroad. His practice is also focused on court procedures to assist and control arbitrations, including enforcement and setting aside of arbitral awards. Advisor to the Mexican Delegation before UNCITRAL since 2014; External Advisor to the Mexican Ministry of Foreign Relations on Private International Law; Professor of Law at *Instituto Tecnologico Autonomo de Mexico* (ITAM) on Arbitration and ADR; ICC Mexico Delegate before the Commission for Arbitration & ADR of the ICC; vice president of the Mediation Committee of the ICC's Arbitration & ADR Commission in Mexico; member of ICDR's advisory committee in Mexico.

Charlene Sun, DLA Piper LLP (US), New York, New York, United States - focuses her practice on multi-jurisdictional cross-border disputes and asset recovery. She enforces arbitral awards and foreign judgments in US courts and coordinates global asset recovery campaigns against sovereign and non-sovereign debtors. She is fluent in matters involving foreign sovereign immunity and other complex jurisdictional issues that arise when litigating foreign disputes in US courts. Charlene has spoken and published articles on issues related to sovereign immunity, the enforcement of arbitral awards, and other issues relevant to international arbitration and cross-border litigation.

Iryna Telychko, Etihad Rail (General Counsel), United Arab Emirates - is a recognised corporate counsel included in GC Powerlist: Middle East 2023. She is an international lawyer with more than 15 years of in-house and private practice experience in the fields of international commercial transactions, transport, infrastructure projects, general corporate law, energy projects, finance, and banking transactions as well as dispute resolution. She is regularly

appointed by various arbitration institutions to act as an arbitrator to resolve commercial disputes and invited to speak at the professional events. As such, she is one of a handful of international arbitration specialists globally with hands on experience of the corporate world and firsthand knowledge of the commercial expectations of parties with respect to arbitration proceedings. She also sits as a board member on the board of directors in the operating companies of the Etihad Rail Group.

Remme Verkerk, Houthoff, Amsterdam, Netherlands - is frequently involved in litigation that concerns the annulment, recognition, and enforcement of arbitral awards before the Courts of Appeal and the Dutch Supreme Court. He acts on behalf of sovereign states as well as investors in investment arbitration matters. Remme combines his practice with a part-time full tenure position as professor of civil procedure and arbitration law at Utrecht University.

Panel Synopsis:

This panel will review the statistical and anecdotal evidence regarding whether there is a decline in voluntary compliance with arbitral awards.

The panel will distinguish between experience with commercial and investment awards and will discuss the drivers behind non-compliance in each sphere – after which the panellists will consider different tools, techniques or systemic changes that might increase voluntary compliance with awards.

FREE EVENING

Saturday, 8 June

9:00-10:15 Session 10

What is the Future of (Renewable) Energy Investment Given the Announced Withdrawal of EU Countries from the ECT and the Disappearance of the Intra-EU Treaty System?

The moderator will introduce the topic and then ask questions to the panel members and invite questions from the audience.

Panel Chair:

Peter Cameron, Landmark Chambers, London, England, United Kingdom - is one of the world's leading authorities in the specialist field of energy law. He sits as arbitrator in complex, high-value, cross border disputes at ICSID, and the ICC. He also takes instructions as an expert witness and has provided oral and/or written testimony in more than 30 cases including disputes before the LCIA, the ICC, SIAC, the Stockholm Court of International Arbitration (SCC), the Commercial Court and the Milan Central Criminal Court. He is Professor of International Energy Law and editor-in chief of Global Energy Law and Sustainability.

Speakers:

Laurie Achtouk-Spivak, Cleary, Gottlieb, Steen & Hamilton (Partner), Paris, France - represents clients in commercial and investment arbitrations under numerous arbitral rules. Laurie has considerable experience in the energy sector including in the renewable sector and on sustainability-related matters. She is co-director of the *Cahiers de l'Arbitrage* yearly investment case-law review. She is a member of the ICC Commission on Arbitration and ADR, on the board of the French branch of the International Law Association and was recently selected in GAR 45 under 45.

Dániel Dózsa, Queritius, Budapest, Hungary - is an international disputes lawyer building the first-ever international disputes boutique in Central Eastern Europe. He has experience in both investor-state and international commercial arbitrations and has been counsel in such disputes under all major arbitral rules.

Alejandro Escobar, Baker Botts (UK) LLP (Partner), London, England, United Kingdom - practises in public international law and arbitration. Since 2002 he has advised businesses and states in disputes arising out of investment protection treaties and in arbitrations arising out of project agreements. Prior to coming to London Alejandro was Senior Counsel at ICSID. He is a multi-term member for Chile of the ICC International Court of Arbitration and serves as arbitrator.

Julien Fouret, Holman Fenwick Willan (Partner in International Arbitration and Public International Law), Paris, France - is the Secretary General of the International Academy for Arbitration Law ("Arbitration Academy") as well as the Editor-in-Chief of the ICC Dispute Resolution Bulletin. He is also a former counsel at the Secretariat of the International Court of Arbitration of the ICC. His publications include the critically acclaimed *Provisional and Emergency Measures in International Arbitration* (Edward Elgar, 2023) described as "an invaluable contribution" as well as *The ICSID Convention, Regulations and Rules – A Practical Commentary* (Edward Elgar Publishing, 2019) described as "an impressive piece of scholarship". He teaches international arbitration law in Master programs at the Université Paris-Ouest Nanterre and the Université de Paris-Est Créteil. He is also a guest lecturer at the Université de Sherbrooke in Quebec, Canada.

Panel Synopsis:

Investment in the energy sector is often long-term, capital intensive, cross-border and, for the cleaner forms, very dependent on incentives from government.

The panel will look at the legal guarantees typically provided for renewable energy investments and investments in clean technologies in a context where:

(1) many states have committed to significantly expand their support for renewable and other kinds of clean energy to meet national targets,

(2) existing treaty-based guarantees such as those in the Energy Charter Treaty are looking less robust, and

(3) challenges by respondent states to the enforcement of awards are leading to diverse, multi-jurisdictional actions.

10:15-10:35 **Coffee Break**

10:35-11:50 Session 11

New Frontiers of Arbitration:
Deep Seabed Minig and Air and Space Law Arbitration

The format of our panel will be a roundtable discussion, with questions posed to lead discussants, followed by input from other members of the panel for an open exchange of ideas.

Panel Chair:

Christina Hioureas, Foley Hoag LLP (Partner; Global Co-Chair International Litigation & Arbitration Dept), New York, New York, United States - chair of the firm's United Nations Practice Group, and member of the firm's Management Committee. Her practice focuses on public international law, international commercial and treaty arbitration, and complex international litigation. With nearly twenty years of experience, Christina has represented parties before tribunals constituted under ICSID, UNCITRAL, ICC, SIAC, ICDR, LCIA, AAA, and Swiss Rules, as well as before the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and U.S. courts, including on matters relating to climate change, sea level rise, the right to regulate, anti-corruption, decolonization, and human rights. She frequently serves as presiding, sole, and co-arbitrator in international arbitrations. She also represents States before the United Nations and its bodies.

Speakers:

Nicholas Ioannides, University of Cyprus, Nicosia, Cyprus - holds a PhD in Public International Law from the University of Bristol. He teaches Public International Law and International Humanitarian Law at the University of Cyprus and International and European Law at the Hellenic Open University. He was a Nippon Fellow at the International Tribunal for the Law of the Sea (2017-2018), a member of the EU delegation in the negotiations for the conclusion of the Marine Biodiversity of Areas Beyond National Jurisdiction agreement, and a member of the legal team that represented the Republic of Cyprus in the advisory proceedings before the ICJ regarding the Chagos Archipelago. In 2020, he was awarded the 'Daniel Vignes' Prize by the International Association of the Law of the Sea for his article on hydrocarbon activities in undelimited maritime areas, published in the *International and Comparative Law Quarterly* (2019). His monograph entitled *'Maritime Claims and Boundary Delimitation: Tensions and Trends in the Eastern Mediterranean Sea'* has been published by Routledge.

Stefan Marc Kuuskne (B.A. M.A. J.D. Q. Arb), Trade Law Bureau-Government of Canada, Toronto, Canada - is an international arbitration Counsel for the Trade Law Bureau at the Government of Canada. He represents the State in international arbitration, commercial arbitration, public international law proceedings, international treaty negotiations and as a past co-chair of the Private Commercial Disputes Committee of the USMCA. He has also served as Legal Officer at the Office of Legal Affairs of the United Nations in New York and as an associate in the New York and Paris offices of A&O Shearman (Shearman & Sterling LLP).

Ben Love, Boies Schiller Flexner (Partner), New York, New York, United States - practices public international law and international arbitration. Ben has acted as counsel in over 50 international arbitrations, including some of the most high-profile matters of the past decade, and sits as arbitrator. He has assisted clients in obtaining favourable settlements, securing awards more than US$1 billion on multiple occasions, and defeating several attempts to annul high-value ICSID awards. His disputes work across the globe spans the gamut of major industry sectors, with particular emphasis on the energy and natural resources and aerospace sectors.

Myfanwy Wood, Ashurst (Partner), London, England, United Kingdom - practices international arbitration and cross border disputes. She has expertise in energy & resources disputes (including oil & gas, renewables, nuclear and mining) and experience in technology and financial disputes. Myfanwy successfully runs large, high value and technically complex disputes. Myfanwy is ranked as a Future Leader in WhosWhoLegal (2023, 2022), Next Generation Partner (and prior to that a Rising Star) in the Legal 500 (2019-2023) and is named in the 2019 and 2023 Legal 500 Arbitration Powerlist. She is also named in Chambers & Partners. She is experienced in African related disputes and has also worked in Asia, the Middle East, Europe, and Australia. Myfanwy holds a master's degree in international law from the University of Cambridge where she was a Davis McCaughey scholar. She is co-chair of YIAG (LCIA) and a founding member of the Working Group on LegalTech Adoption in International Arbitration which recently released the Protocol for Online Case Management in International Arbitration. Myfanwy also sits on the Case Analysis Expert Panel for Arbitration with Lexis Nexis.

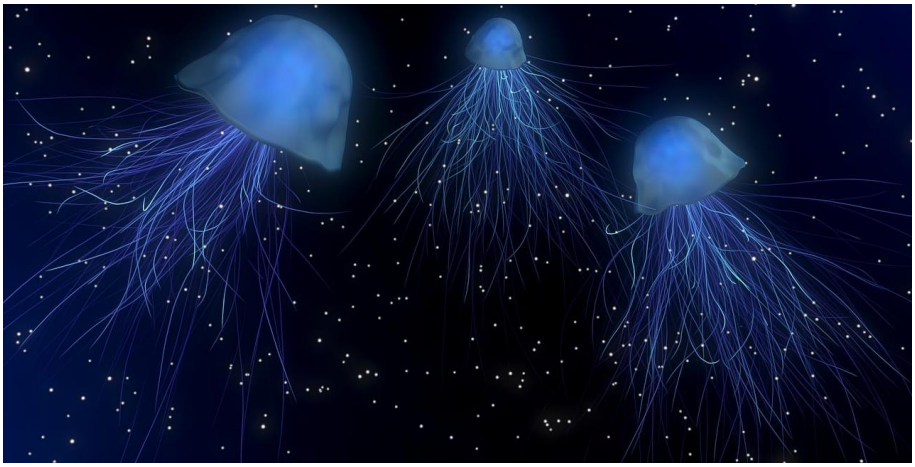
Panel Synopsis:

"New Frontiers of Arbitration: Deep Seabed Mining and Air and Space Law Arbitration" will focus on emerging law governing seabed mining and space exploration, and dispute resolution trends in these "new frontiers."

Panellists will discuss the current landscape of deep-sea ocean governance, including as contained in the recently finalised agreement on the conservation and sustainable use of marine biodiversity beyond national jurisdiction (BBNJ Agreement).

The group will share insights on dispute resolution between States and investors, as well as commercial claims as they relate to the environment and deep seabed mining.

The discussion will also explore international law governing space exploration, including new legal issues raised by developments in commercial space exploration by private aerospace companies and government agencies, ranging from investment protection to antitrust issues to satellite disputes and space sustainability.



12:00-13:15 Session 12

Is the New ICSID/UNCITRAL Code of Conduct for Arbitrators Useful or Harmful?
Does it Foreclose Increased Diversity of Arbitrators in Treaty Arbitrations?

The format of the panel will be an interactive discussion among speakers.

Panel Chair:

Joshua Karton, Queen's University Faculty of Law (Associate Professor), Kingston, Ontario, Canada - is a Canadian independent arbitrator. He is the author or editor of four books and dozens of articles on international arbitration, international and comparative contract law, private international law, and international legal theory. In general, his writing explores what happens when public and private actors from different backgrounds - legal, cultural, and linguistic - meet in the international legal arena. Josh is a co-founder and the Managing Editor of the Canadian Journal of Commercial Arbitration, a Book Review Editor of the American Journal of Comparative Law, a General Editor of Kluwer Arbitration Practical Insights, and a Vice Chair of the Institute for Transnational Arbitration's Academic Council. Aside from his scholarly activities, he is active as an arbitrator and expert witness in domestic and international commercial disputes, both *ad hoc* and institutional.

Speakers:

Meg Kinnear, International Centre for Settlement of Investment Disputes (ICSID) (Secretary General), Washington DC, United States is also a Vice President of the World Bank. Prior to joining ICSID, she worked as Senior General Counsel (2006-2009) and Director General of the Trade Law Bureau of Canada (1999-2006). Prior to this, Meg was the executive assistant to the Deputy Minister of Justice of Canada (1996 -1999) and counsel at the Civil Litigation Section of the Canadian Department of Justice (1984-1996). She has frequently spoken on and published with respect to international investment law and procedure, including as a co-author of *Investment Disputes under NAFTA* (Kluwer Law Publications, June 2006; upd. eds. January 2008 and June 2009). She holds degrees from the University of Virginia (LL.M.) and McGill University (LL.B.) and is admitted to the Bar of the Law Society of Upper Canada (Ontario) and the District of Columbia Bar.

Tanya Landon, Sidley Austin LLP (Partner), Geneva, Switzerland – has nearly two decades of experience in international commercial and investment treaty arbitration. She acts as counsel and arbitrator in a wide range of disputes before the major arbitral institutions across various industry sectors, including construction, energy and infrastructure projects, life sciences and technology licensing and distribution agreements, sports, and entertainment broadcasting arrangements, share purchase and asset purchase transactions, and international joint ventures. Tanya has been recognised by Who's Who Future Leaders – Arbitration since 2017, and Who's Who National Leaders – Switzerland Arbitration since 2019. A Fellow with the Chartered Institute of Arbitrators, Tanya is a Member of the Arbitration Court of the Swiss Arbitration Centre, a member of the Executive Committee of the Geneva-based Foundation for International Arbitration Advocacy (FIAA) and teaches a legal writing seminar at the MIDS LL.M. program in Geneva.

Patrick W. Pearsall, A&O Shearman, Washington DC, United States - has decades of experience representing Fortune 500 companies and sovereign states in complex commercial contract and investment disputes. In addition to his commercial work, Patrick is often called upon to assist companies and executives struggling with exposure from a geopolitical crisis. He is recognised as one of the foremost experts in the world on investment protection and dispute avoidance. He has successfully resolved claims involving billions of dollars for clients in dozens of industries. For nearly a decade, Patrick served in the U.S. State Department working on economic diplomacy. He departed in 2017 as the Chief of Investment Arbitration. In addition to his representations, Patrick was on a drafting committee for revision of the ICC Rules, was advisor on the revision of the AAA Rules, and led the negotiations of several bilateral and multilateral treaties on behalf of the United States.

Maria Vicien-Milburn, Independent Arbitrator, Paris, France - an Argentinian and Spanish national, is the current Chair of the World Bank Sanctions Board, where she has served since July 2019. She has been appointed as judge of the Administrative Tribunals of the European Bank for Reconstruction and Development, the Inter-American Development Bank, and the International Monetary Fund. She currently acts as arbitrator in cases conducted under the auspices of the ICC, ICSID, and PCA. She is an observer to UNCITRAL Working Groups II and III on international arbitration, a member of the ICC Arbitration Commission, and an advisor to the Board of the Arbitration Court of Madrid. Maria has served for more than 35 years as an international lawyer in the United Nations System, holding such senior roles as General Counsel of UNESCO (2009-2014), and Director of the General Legal Division of the UN Office of Legal Affairs (2004-2009). A graduate of the University of Buenos Aires Law School (1974) and Columbia University (LL.M., 1976), she is admitted to practice law in New York and Buenos Aires. The American Bar Association awarded her the 2013 Mayre Rasmussen Award for the Promotion of Women in International Law.

Panel Synopsis:

Through an interactive discussion among speakers, this panel will consider the UNCITRAL Code of Conduct for Arbitrators in International Investment Dispute Resolution ("the Code") and its implications for the future of ISDS.

The discussion will cover:

- the double-hatting provisions of the Code and their impact on appointment decisions by investors and states,
- consequences of the Code for efforts to promote greater diversity in the pool of qualified arbitrators,
- areas where the Code may go too far or not far enough in regulating conflicts of interest,
- how much impact the Code is likely to have in practice, and
- how the Code fits into UNCITRAL Working Group III's broader scope of work and the prospects for further reform of the ISDS system.

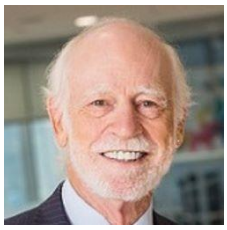
13:15-14:15	**Networking Lunch**

14:25-15:55 Session 13

Is Fact Witness Evidence in Trouble? Is Witness Testimony Reliable? Are Witness Statements their Own? How to Deal with Tribunal-Called Fact Witnesses?

The session starts with two short presentations that will subsequently lead to an interactive discussion between panellists and audience members.

Panel Chair:



John B. Pinney, Bricker Graydon, Cincinnati, Ohio, United States - focusses his practice on international dispute resolution, both in U.S courts and before international arbitral tribunals. John has served as counsel in numerous international commercial arbitrations and as an arbitrator with the CPR Institute and other institutions. He teaches international commercial arbitration at the University of Cincinnati and coaches its Vis Moot team. Over the past 30 years, he has represented both domestic and foreign clients in a wide variety of business disputes.

Speakers:

Michelangelo Cicogna, De Berti Jacchia Franchini Forlani (Partner), Milan, Italy - has been involved in over 150 arbitrations (ICC, ICSID, UNCITRAL, PCA, LCIA, CAM, AIA, DIS, Swiss Rules, Lebanese Arbitration Center, Madrid Arbitration Court, Chamber of Arbitration of Bucharest, VIAC and MKAS). He mostly works on construction or infrastructure projects, insurance coverage issues, IT and telecoms, joint ventures and consortia, and general commercial matters. Michelangelo teaches at Bocconi University in Milan (Advocacy in International Arbitration) and is member of the ICC Commission on International Arbitration and ADR, officer of the IBA Arbitration Committee and one of the founders of ArbIt.

C. Ryan Reetz, Bryan Cave Leighton Paisner LLP (Office Managing Partner), Miami, United States - is a board-certified specialist in international litigation and arbitration. He draws upon his experience as both an international arbitration practitioner and U.S. trial lawyer to provide creative and effective advocacy and case management across a wide range of disputes. A former chair of the Miami International Arbitration Society, the Florida Bar's International Law Section, and the Florida Bar's Board Certification Committee for International Litigation and Arbitration, Ryan has taught international dispute resolution courses for the last 20 years in law schools in Miami, Florida; Atlanta, Georgia; and Pamplona, Spain. Recent publications include *Public Purpose in International Law: Rethinking Regulatory Sovereignty in the Global Era* (CUP with Pedro J. Martinez-Fraga) and two chapters in *International Investment Arbitration in a Nutshell* (West).

Monique Sasson, Arbitra, Milan, Italy - has 30 years of experience in analysing international disputes and her practice includes advocacy as counsel as well as arbitrator and mediator appointments. Before earning a Ph.D. in international law from Cambridge University, under the late Professor James Crawford, she worked at two major law firms in London and in Rome. She is qualified as a New York attorney, an English solicitor (with advocacy rights, Senior Courts of England and Wales), and an Italian avvocato. Monique worked as counsel on major international arbitration and High Court cases. She has expertise in international investment law and has served as an international law expert in an ICSID arbitration and the second edition of her book, *Substantive Law in Investment Treaty Arbitration* (Kluwer) was published in 2017.

Christof Siefarth, BODENHEIMER (Partner), Cologne, Germany - Dr. iur. (Cologne), LL.M. (University of Georgia, United States), Attorney-at-Law (New York); mainly representing foreign clients as counsel in international commercial arbitration and litigation proceedings in a variety of areas, such as distribution, international commercial contracts, intellectual property, international investments etc. Since moving from GÖRG to BODENHEIMER, an international disputes firm, in 2020, he also has had an active practice as arbitrator. He is currently the president of the Atlanta International Arbitration Society (https://arbitrateatlanta.org/); and is recognised in The Best Lawyers in Germany for Arbitration and Mediation.

Duncan Speller, Willkie Farr & Gallagher (UK) LLP (Global Co-Chair; International Arbitration Group), London, England, United Kingdom - is an English barrister who has more than 20 years' experience of international arbitration. Duncan also has substantial experience of international commercial litigation in both the English Court of Appeal and in the Commercial and Chancery Divisions of the High Court. He has successfully represented clients as an advocate in institutional and *ad hoc* arbitrations, sited in both common and civil law jurisdictions, including England, New York, Hong Kong, Singapore, France, Switzerland, Sweden, Austria, and Germany. He has experience of arbitration and litigation concerning aviation, oil and gas, insurance and reinsurance, private equity, telecommunications, banking, and competition law issues. Duncan sits as an arbitrator and has been appointed as arbitrator or emergency arbitrator by multiple arbitral institutions. (Bio from 2022).

Panel Synopsis:

This session will address each of the following questions:

- Is Fact Witness Evidence in Trouble?
- Is Witness Testimony Reliable?
- Are Witness Statements Their Own?
- How to Deal with Tribunal-Called Fact Witnesses?

The session will begin with two short presentations on recent studies on the witness evidence.

The first will address the December 2019 report for the English courts by its Witness Evidence Working Group.

The second will report on the June 2020 paper issued by an ICC Task Force addressing the Accuracy of Witness Memory in International Arbitration.

Each speaker will then take the lead for a discussion among both panel members and selected attendees addressing each of the above questions and related issues as presented by the moderator.

The discussion of each will focus on how international arbitral tribunals are currently receiving fact witness evidence, the weight being given to witness evidence, innovative ways for improving the probative value of witness evidence and the differences between common law and civil law approaches.

15:55-16:15 **Coffee Break**

16:15-17:30 Session 14

The Growing Role of the ECHR in Arbitration

Short case presentation and roundtable discussion.

Panel Chair:

Laurent Hirsch, HIRSCH, Geneva, Switzerland - is a Geneva-based sole practitioner handling international arbitration worldwide. He advises and represents companies before arbitral tribunals in international commercial disputes and serves as an arbitrator. Laurent publishes regularly on arbitration topics. He is an organiser of, and speaker at, arbitration conferences, and has chaired and co-chaired the CILS Arbitration Symposium from 2008 until 2022.

Speakers:

Johannes Fahner, Lévy Kaufmann-Kohler, Geneva, Switzerland - specialises in commercial arbitration, investment arbitration, and sports arbitration. He has broad experience with major arbitration rules, including CAS, ICC, NAI, UNCITRAL and ICSID. He also acted before domestic courts and the Court of Justice of the EU. Johannes holds a PhD degree in Public International Law from the University of Amsterdam, where he teaches a course on investment arbitration. He authored the monograph *Judicial Deference in International Adjudication: A Comparative Analysis* (Hart 2020).

Johannes Koepp, Baker Botts (UK) LLP (Partner in International Disputes Group), London, England, United Kingdom - has been recognized by Chambers UK, The Legal 500, Euromoney, The International Who's Who of Commercial Arbitration and Global Arbitration Review as one of the leading specialists in the field. His practice focuses on international arbitration, both commercial and investor-state. Johannes has represented clients before most major arbitral institutions, as well as in *ad hoc* proceedings and has participated in international arbitrations sited in London, Paris, Geneva, Stockholm, Hong Kong, Vienna, and Munich, governed by the substantive laws of England, Poland, Greece, the Netherlands, Germany, and Switzerland. He is particularly experienced in multijurisdictional disputes arising out of energy, joint ventures, telecommunications, and financial services. He advises on public international law issues and the litigation of international disputes in state courts and has experience in the fields of jurisdiction, conflict of laws and international judicial cooperation and is also experienced in ECHR matters, acting both on the complainant and the respondent side.

Gordon Nardell, Twenty Essex, London, England, United Kingdom - practises in London and Singapore and at Alphalex-Avocats in Brussels. He is a member of the Bars of England & Wales and Ireland and a foreign (B-List) member of the Dutch Brussels Bar. He specialises in international arbitration and cross-border litigation, often involving issues at the intersection of commercial, EU and human rights law. Gordon began his career as a commercial litigation solicitor and moved to the Bar via the former European Commission of Human Rights and the UK Parliamentary Counsel Office, where he worked on major pieces of legislation including the Human Rights Act 1998 and Competition Act 1998. He is a regular contributor to professional publications and events.

Colm Ó hOisín, Senior Counsel, Dublin, Ireland - has been in practice in Dublin at the Irish Bar since 1988 and became a Senior Counsel in 2005. He is also a member of the Bar of England and Wales, the Bar of Northern Ireland, and an Associate Tenant with Kings Chambers (Manchester, England). He has a wide-ranging practice concentrated on commercial and public law litigation and on international arbitration. Colm was formerly President of Arbitration Ireland and was a Member of the ICC International Court of Arbitration (2015-2021). He is designated by Ireland to the ICSID Panel of Arbitrators and is also a former Leader of the European Circuit of the Bar (2019-2022).

Panel Synopsis:

While many arbitration practitioners are not familiar with human rights courts, a few recent cases decided by the European Court for Human Rights relate to international arbitration:

- Iliria S.R.L. in March 2024 re duration of enforcement proceedings.
- Semenya in July 2023 pending before the Grand Chamber re substantive human rights claims in sports arbitration.
- BTS Holding in June 2022 re lack of enforcement as a breach of property rights.
- BEG S.p.A. in May 2021 re independence of arbitrators.

After a short presentation of recent cases, we plan to discuss some procedural issues and substantive human rights issues – including the contrast between the approaches of EU and ECHR law to arbitration – which arbitration practitioners may wish to keep in mind when dealing with our arbitration cases.

17:30-17:45 Symposium Closing

18:30-19:30	**Piano Concert**
19:30-21:30	**Closing Dinner**

Foreign Direct Investment International Arbitration Moot (FDI Moot)

The Foreign Direct Investment International Arbitration Moot (FDI Moot) is a high-level internationalist educational competition initiated in 2006 and established in 2007 by the CENTER FOR INTERNATIONAL LEGAL STUDIES (CILS) together with the Centre for Energy, Petroleum and Mineral Law and Policy (CEPMLP), the Deutsche Institution für Schiedsgerichtsbarkeit (DIS), Pepperdine University School of Law (PUSL), and Suffolk University Law School (SULS). After the demise of CEPMLP's Director, Prof. Thomas Wälde, CEPMLP was succeeded by King's College London.

The FDI Moot is about public international law protections for foreign investments and investor-State arbitration as a peaceful means to settle disputes. FDI Moot cases balance encouraging and protecting investments with respect for the regulatory margins of appreciation for host State governments while upholding the international rule of law, due process, and fundamental rights.

The FDI Moot has been guided by renowned international jurists, such as Karl-Heinz Böckstiegel, David Caron, Edward C. Chiasson, Christoph Schreuer, and many others serving on its board of advisors alongside a diverse mix of respected practitioners and academics from around the world

The FDI Moot has administered Africa (2016-present), South Asia (2013-present), and Asia Pacific (2013-23) regional rounds to facilitate the participation of teams from lower income countries with prize money and travel support.

From its humble beginnings with just 21 participating teams, the FDI Moot has become one of the leading international arbitration moots with more than 150 teams taking part worldwide in each of the past five years and more than 7000 students having passed through the competition.

After 17 years, the FDI Moot sees its first alumni/ae/* establishing themselves in the upper echelons of the profession, working for major law firms representing foreign investors and host States alike, as well as working "in house" for businesses, governments, arbitral institutions, NGOs, and international organisations.

Over 2000 professional arbitrators, academics, and counsel have supported the FDI Moot as moot arbitrators, giving their time and sharing their expertise and experience with a new generation of international lawyers.

Skadden, Arps, Slate, Meagher & Flom LLP has been the FDI Moot's constant Global Sponsor since its first edition in Boston in 2008. Since 2017 Wilmer Hale LLP has sponsored a generous annual prize for the winner of the Africa Regional, and Three Crowns LLP has committed significant funds to the Thomas Wälde Fund earmarked to support the top teams advancing from Africa Regional.

The venue of the FDI Moot Globals rotates each year, primarily among the co-founders but also among regional organizers and partners. The **2024 FDI Moot will be hosted by DIS at Humboldt-Universität zu Berlin 1-4 November 2024**. The 2025 Globals will be hosted in Boston and the 2026 Globals in Shenzhen.