



THE CENTER FOR AMERICAN
AND INTERNATIONAL LAW

19th Annual ITA Workshop

DAMAGES IN INTERNATIONAL ARBITRATION: STRATEGIES, TECHNIQUES & PRESENTATION

I liked best the "...quality of speakers, content and interacting with other participants"

I liked best the "...format—detailed analysis of a "real-life" problem: Quality of presenters and organizers; Opportunity to network"

2007 Participants

June 19, 2008

THE WESTIN GALLERIA HOTEL DALLAS, TEXAS



Highlights:

- Mock scenes and commentaries involving strategies and techniques for presenting damages & costs in investment treaty arbitration under the auspices of ICSID.
- Featured Luncheon Speaker
Lucy F. Reed, Freshfields Bruckhaus Deringer LLP
Damages in International Arbitration: Less is More, More or Less
- 3rd Annual Dallas Roundtable
A Meeting for Young International Arbitrators
June 18, 2008
5:00 p.m. – 8:45 p.m.
Free for registrants under 40 – See inside for details

Become an ITA Member today and attend the Annual ITA Advisory Board Dinner on June 19 and the Friday Discussion Forum on June 20 (*separate member registration required*).

6.25 hours of MCLE credit available for the Workshop.
1.75 hours of MCLE credit available for the Roundtable.



Damages in International Arbitration: Strategies, Techniques & Presentation

This year's Workshop will address strategies and techniques for presenting damages and costs in investment-treaty arbitration under the auspices of the International Centre for Settlement of Investment Disputes (ICSID). It will feature scenes from a mock arbitration in which top arbitrators and practitioners will comment on issues such as selecting damages experts, managing client expectations for damages experts, and working with damages experts to present quantum evidence to the tribunal.

The Workshop also will provide an overview of the tasks necessary to effectively present, as well as oppose, damages claims and costs in an ICSID arbitration. It will specifically examine the practical and legal aspects of presenting damages and costs from the vantage points of the parties, as well as the factors that tribunals consider when awarding damages and costs.

The mock proceeding arises from a U.S. company's construction and operation of a power generation plant in Paragonia pursuant to a concession agreement that requires Paragonia's state-owned power distribution company to purchase all of the plant's output for a ten-year period. After the U.S. company constructs the plant, and after its foreign subsidiary begins operating it, local inhabitants begin to complain that the plant's emissions are causing environmental damage.

In response to those complaints, the Paragonian government conducts several environmental impact assessments and concludes that the U.S. company failed to construct the plant in accordance with certain environmental requirements outlined in the concession agreement. Eventually, local politicians take up the issue during an election year and pass a resolution terminating the U.S. company's ownership and management of the plant. In response, the U.S. company commences an ICSID arbitration and subsequently wins a partial award on liability for Paragonia's violation of the BIT. Paragonia also wins a partial award declaring that the plant was not constructed in accordance with the original concession agreement. The award specifies that a further hearing will be conducted on the U.S. company's damages and on any off-set to which Paragonia is entitled for the plant's improper construction.

The mock will begin with the parties learning of the award on liability and will conclude with deliberations by the tribunal on how damages and costs should be awarded. In the process, the mock will consider issues such as the selection of experts, working with experts to prepare the expert report, preparing the experts for the hearing, what evidence must be presented on damages and costs, and what valuation and damages theories may be appropriate.

Our luncheon speaker will be Lucy F. Reed of Freshfields Bruckhaus Deringer LLP, who will address various issues in presenting damages in a talk entitled: Less is More, More or Less.



Andrea K. Bjorklund



Stephen Jagusch



Claudia T. Salomon



Lucy F. Reed

Workshop Co-Chairs

Luncheon Speaker

19th Annual ITA Workshop Program

Damages in International Arbitration: Strategies, Techniques & Presentation

8:00 REGISTRATION

9:00 INTRODUCTION TO THE WORKSHOP Prof. David D. Caron, ITA Chair

ACT I — REACTIONS TO AWARD ON LIABILITY AND ENGAGING EXPERTS

9:10 INTRODUCTION TO ACT I Stephen Jagusch, Workshop Co-Chair

9:15 ACT I, SCENE I — UNITED AND PARAGONIA LEARN OF AWARD

Counsel for United, and then counsel for Paragonia, advise their clients' representatives of the award and deal with their clients' initial reactions. The lawyers are responsible for explaining the significance of the award, managing client expectations, setting forth the next steps and discussing the need for experts.

United's reaction and analysis:
United President
United's Outside Lawyer

James E. Castello
Mark Nadeau

Paragonia's reaction and analysis:
Paragonia Deputy Minister of Foreign Affairs
Paragonia's Outside Lawyer

Meg Kinnear
Federico Godoy

9:35 ACT I, SCENE II — UNITED'S EXPERT BEAUTY PARADE

Two prospective experts give brief presentations to United's legal team. Subsequently, the legal team discuss the positives and negatives of each expert and how each expert's background and style may benefit the presentation of the case on damages.

First expert presentation:
Expert
United's Lawyers

Brent C. Kaczmarek
Jean E. Kalicki
José María Abascal

Second expert presentation:
Expert
United's Lawyers

Manuel A. Abdala
Lucinda A. Low
John Y. Gotanda

10:05 DISCUSSION/Q&A

Moderator
Panelists

Stephen Jagusch
Manuel A. Abdala
Lucinda A. Low
John Y. Gotanda

10:25 BREAK

10:45 FRAMING THE CASE ON QUANTUM William W. (Rusty) Park

ACT II — PREPARING FOR THE QUANTUM HEARING

11:05 INTRODUCTION TO ACT II

Andrea K. Bjorklund, Workshop Co-Chair

11:10 ACT II, SCENE I — PROBLEMS WITH EVIDENCE IN VALUATION

Counsel for United, and then counsel for Paragonia, discuss from their differing perspectives what evidence their experts require, whether fact witnesses are necessary, how to fill the holes when evidence is missing and what would have been wise to address at an earlier stage.

Discussion by United's Lawyers

Fernando Aguilar
Susan Franck

Discussion by Paragonia's Lawyers

Anne K. Hoffmann
Mark A. Kantor

11:35 ACT II, SCENE II — PREPARING FOR THE HEARING WITH THE EXPERTS

In preparing for the quantum hearing with their experts, counsel for United, and then counsel for Paragonia, consider the appropriate valuation methods, what style of presentation is appropriate and the profile of the arbitrators. Counsel for Paragonia further considers whether to present an affirmative case.

Prep of United's expert:

United's Lawyers

United's Expert

Prep of Paragonia's expert:

Paragonia's Lawyers

Paragonia's Expert

Adriana Braghetta
Jackie van Haersolte-van Hof
Richard E. (Rory) Walck

R. Doak Bishop
Munir Maniruzzaman
Gerry Lagerberg

12:05 DISCUSSION/Q & A

Moderator
Panelists

Andrea K. Bjorklund
William W. (Rusty) Park
R. Doak Bishop
Gerry Lagerberg
Munir Maniruzzaman

12:20-2:00 HOSTED LUNCHEON

DAMAGES IN INTERNATIONAL ARBITRATION: LESS IS MORE, MORE OR LESS

LUCY F. REED

Freshfields Bruckhaus Deringer LLP
New York, New York

The Institute for Transnational Arbitration gratefully acknowledges

Dewey & LeBoeuf LLP
DLA Piper US LLP
ExxonMobil Corporation
Gardere Wynne Sewell LLP
Squire, Sanders & Dempsey L.L.P.

for their generous sponsorship support.



ACT III - HEARING ON QUANTUM

2:00 INTRODUCTION TO ACT III

Claudia T. Salomon, Workshop Co-Chair

2:05 ACT III, SCENE I — THE HEARING ON QUANTUM (PART I)

United presents its expert witness on damages. The expert's presentation style and one approach to cross examination of a quantum expert are featured.

United's Lawyer (direct examination)
United's Expert

Philippe Pinsolle
Richard E. (Rory) Walck

Paragonia's Lawyer (cross examination)

Klaus Reichert

Arbitral Tribunal

Sally A. Harpole, Chair
Bernard Hanotiau
Claus von Wobeser

2:30 ACT III, SCENE II — THE HEARING ON QUANTUM (PART 2)

Paragonia presents its expert on damages. The expert's deliberately opposite style from United's expert and a different approach to cross examination of a quantum expert are featured.

Paragonia's Lawyer (direct examination)
Paragonia's Expert

Pierre A. Karrer
Brent C. Kaczmarek

United's Lawyer (cross examination)

Judith Gill

Arbitral Tribunal

Sally A. Harpole, Chair
Bernard Hanotiau
Claus von Wobeser

2:55 DISCUSSION/Q&A

Moderator
Panelists

Claudia T. Salomon
Judith Gill
Brent C. Kaczmarek
Pierre A. Karrer
Richard E. (Rory) Walck

3:20 BREAK

ACT IV - COST SUBMISSIONS AND TRIBUNAL DELIBERATIONS

3:40 INTRODUCTION TO ACT IV

Claudia T. Salomon, Workshop Co-Chair

3:45 ACT IV, SCENE I — COST SUBMISSIONS

United and Paragonia present their cost submissions to the Tribunal, focusing on currency issues and what constitutes reasonable costs.

United's Lawyer

Steven L. Smith

Paragonia's Lawyer

Kenneth B. Reisenfeld

Arbitral Tribunal

J. William Rowley, Chair
Dushyant Dave
Hilary Heilbron

4:10 ACT IV, SCENE II — THE TRIBUNAL'S DELIBERATIONS

The evidence is in. During its deliberations, the Tribunal members discuss what presentations were effective, what legal points were most important and how they might resolve the differences.

Arbitral Tribunal

J. William Rowley, Chair
Dushyant Dave
Hilary Heilbron

4:30 DISCUSSION/Q&A

Moderator

Claudia T. Salomon

Panelists

Bernard Hanotiau
Sally A. Harpole
Hilary Heilbron
Dushyant Dave
J. William Rowley
Claus von Wobeser

5:05 CLOSING REMARKS

Prof. David D. Caron, ITA Chair

FACULTY BIOGRAPHIES



JOSÉ MARÍA ABASCAL has been counsel or arbitrator in numerous commercial arbitral proceedings in Mexico, the United States, Latin America and Europe, under, inter alia, the ICC, ICDR, UNCITRAL, CIAC, CANACO, Panama Chamber of Commerce Rules and ad hoc arbitrations under different national laws. He is the chairman of the Mediation and Arbitration Commission of the National Chamber of Commerce of Mexico City (CANACO). He was commissioner of the United Nations Compensation Commission, Panel E2 (corporate and other entities' claims), (1996 to 2003), which heard claims against Iraq for the invasion and occupation of Kuwait. He was chairman of the UNCITRAL Working Group in Arbitration (2000 to 2006), which drafted the UNCITRAL Model Law in International Commercial Conciliation, chapter IV on interim measures of the UNCITRAL Model Law on International Arbitration, new model provisions on interpretation, the written form of the agreement to arbitrate and a recommendation on the flexible interpretation of the New York Convention. Mr Abascal chaired the hall committees in the UNCITRAL plenary meetings that adopted those instruments. He is emeritus professor of the Latin American University of Mexico City and has written numerous publications. Mr Abascal speaks English, French and Spanish.



DR. MANUEL A. ABDALA is a Ph.D. in economics from Boston University and has been a Director at LECG since 1998, where he is co-chair of its International Arbitration practice group. He has provided written and oral expert testimony in more than 45 international arbitration cases, many of them involving treaty disputes between private investors and governments on topics related to damage valuation, as well as opinions on regulatory conduct vis-à-vis investors' expectations. He also has substantial experience in commercial arbitrations in shareholder disputes, property damages, and political risk insurance claims. He has published extensively on topics covering infrastructure economic regulation, institutional design, utility privatization and valuation, industry structure, and competition policy. Dr. Abdala has completed projects on ex-post privatization analysis in several countries. He has also served as economic advisor to Argentina's Secretariat of Energy on the power sector reform that took place in the 1990s.



FERNANDO AGUILAR joined "Marval, O'Farrell & Mairal" in 1981 and has been a partner since 1989. He is head of the international arbitration team. Mr. Aguilar is one of the partners at the Litigation Department, and advises on administrative and commercial agreements, energy law, and the legal framework applicable to public services. Mr. Aguilar has been and is currently involved in international arbitration proceedings mainly under the Rules of Arbitration of the ICC, and in domestic arbitration proceedings. The scope of litigation and arbitration cases includes practice on collection of difficult or challenged debts, termination of distribution agreements, bankruptcy Law, disputes between shareholders, construction contracts, services contracts, oil and gas, JVs and investment disputes. He is a member of the International Bar Association, the ICC Latin American Group, the Institute for Transnational Arbitration (ITA), and chair of CARAT, Argentine Committee for National and Transnational Arbitration. Mr. Aguilar is included as arbitrator in local arbitration institutions and he is Proceedings Director of CEMARC, the Arbitration Centre of the Argentine Chamber of Commerce. He has been selected by Latin Lawyer Magazine and Global Arbitration Review surveys as one of the top specialists in Latin America.



R. DOAK BISHOP - Partner in King & Spalding's Houston Office. Co-Chair of Firm's International Arbitration Practice Group. Over 30 years of legal practice, with a focus on international arbitration and litigation of oil and gas, energy, construction, and environmental disputes. Board Certified in Civil Trial Law by the Texas Board of Legal Specialization. Served as sole, chair, party-appointed, and institution-appointed arbitrator in ICC, AAA, IACAC, and UNCITRAL arbitrations. Editor and contributor, *The Art of Advocacy in International Arbitration*; co-author with Professor James Crawford and Professor Michael Reisman, *Foreign Investment Disputes: Cases, Materials and Commentaries*; Bishop, *International Arbitration of Petroleum Disputes: The Development of a Lex Petrolea*; 23 Y.B. Com. Arb. 1131 (1998); Bishop & Reed, *Practical Guidelines for Interviewing, Selecting and Challenging Party-Appointed Arbitrators in International Commercial Arbitration*, 14 Arb. Int'l 395 (1998); Bishop & Russell, *Survey of Arbitration Awards Under Chapter 11 of the North American Free Trade Agreement*, 19 J. Int'l Arb. 505 (2002); Bishop, Dimitroff & Miles, *Strategic Options Available When Catastrophe Strikes the Major International Energy Project*, 36(4) Tex. Int'l L.J. 635 (2001).



ANDREA K. BJORKLUND is an Acting Professor at the University of California, Davis, School of Law. She teaches courses in international arbitration and litigation, international trade, international investment, conflict of laws, and contracts. Professor Bjorklund serves on the International Law Association's Committee on the Law of Foreign Investment, and has written extensively on investor-state arbitration issues. She is co-author of INVESTMENT DISPUTES UNDER NAFTA: AN ANNOTATED

GUIDE TO NAFTA CHAPTER 11. Prior to entering the academy, Professor Bjorklund defended the U.S. government in investor-State arbitrations brought under the NAFTA as an attorney-adviser in the U.S. Department of State's Office of the Legal Adviser, and also worked for Commissioner Thelma J. Askey on the U.S. International Trade Commission. She was also in private practice with Miller & Chevalier in Washington, D.C., and she clerked for Judge Sam J. Ervin, III, on the U.S. Court of Appeals for the Fourth Circuit.



ADRIANA BRAGHETTA Adriana Braghetta is a senior attorney at the Arbitration and Litigation practice groups of L.O. Baptista Advogados Associados (Brazil), having large experience in both domestic and international complex arbitrations, working as counsel and as arbitrator. Ms. Braghetta is the Vice-President of the CBAR- Comitê Brasileiro de Arbitragem (Brazilian Committee of Arbitration), member of the Editorial Council of the Brazilian Arbitration Journal, director of the Brazilian Branch of the ILA - International Law Association, deputy Member of the International Arbitration Committee of the ILA, Vice-President of the Management Committee of the AMCHAM/SP Arbitration Center and President of the Young Arbitrators Committee of the CCBC Brazil-Canadian Chamber of Commerce

Center of Arbitration. Ms. Braghetta is a frequent lecturer and teaches arbitration and international contractson prestigious institutions in Brazil.



DAVID D. CARON is the C. William Maxxiener Distinguished Professor of Law at the Boalt School of Law of the University of California at Berkeley. Following his graduation from the Boalt School of Law at the University of California at Berkeley, he served as legal assistant successively to Judges Richard M. Mosk and Charles N. Brower at the Iran-United States Claims Tribunal in The Hague. Professor Caron writes and teaches in the area of international dispute resolution. From 1996 to 2003, he also served as a member of the Precedent (E2) Panel of the United Nations Compensation Commission resolving claims arising out of the Gulf War. Professor Caron currently serves as an arbitrator in several ICSID and NAFTA arbitrations, and is a member of the U.S. Department of State Advisory Committee on Public International Law. In 2006, Oxford University Press published a Commentary on the UNCITRAL Arbitration Rules authored by Professor Caron, Judge Matti Pellonpaa of the European Court of Human Rights and Lee Caplan of the U.S. Department of State. Professor Caron is Chair of the Advisory Board of the Institute for Transnational Arbitration.



JAMES E. CASTELLO practices in the international arbitration group at Dewey & LeBoeuf in Paris. As a lawyer for more than 20 years, James has advised and represented clients in a wide range of legal disputes, particularly institutional and ad hoc arbitrations. He is a member of the Court of the London Court of International Arbitration and, for the past seven years, has also served on the United States' delegation to the Arbitration Working Group at UNCITRAL. At the beginning of his legal career, James served as law clerk to Justice William J. Brennan, Jr. on the U.S. Supreme Court and as legal assistant to Judge Howard Holtzmann on the Iran-U.S. Claims Tribunal at The Hague; from early 1995 to January 2001, James left private practice to serve in senior legal positions in the U.S. government, including as Deputy Counsel to the President, at the White House, and Associate Deputy Attorney General, in the Justice Department.



DUSHYANT DAVE Senior Advocate in the Supreme Court of India was called to the Bar in 1978. His practice, spread over almost three decades has involved exponential litigations relating to very wide subjects of law. He has had substantial experience in the fields of Constitutional Law, Administrative Law, Corporate Law and Civil Laws including Contract Law, Arbitration Law, Intellectual Property Laws as well as fair amount of Criminal Law. He is presently a Member of the National Legal Services Authority (NALSA), a statutory body created under law of the Parliament. He is a Member of the Council of the International Council of Commercial Arbitration (ICCA), Court Member and President of the Asia-Pacific User's Council of the London Court of International Arbitration (LCIA), Vice Chair of the Arbitration Committee of the International Bar Association (IBA), he is a Member of the Board of Trustees founded by the Foundation for International Arbitration Advocacy (FIAA). He has very recently been invited to join the Board of Directors of the American Arbitration Association. He is widely traveled and has delivered lectures in large number of workshops, seminars, symposiums and conferences world wide, conducted by international and state bodies. He has presented diverse papers in these conferences on subjects ranging from Arbitration Law to Intellectual Property Law.



SUSAN D. FRANCK is an Associate Professor at the Washington & Lee University School of Law. After receiving her J.D. at the University of Minnesota and receiving a Fulbright Grant to obtain an LL.M. University of London, she practiced international dispute resolution on both sides of the Atlantic. Professor Franck was an associate at Wilmer, Cutler & Pickering involved with one of the first investment treaty arbitrations against the Czech Republic and was later a senior associate at Allen & Overy in London, England, involved with arbitrations involving of investment treaties and underlying commercial agreements. Professor Franck writes and teaches in the area of international economic dispute resolution. She was selected as a "New Voice" by the American Society of International Law (2007) and chosen for the International Who's Who of Commercial Arbitration (2008). Professor Franck is currently a member of the Advisory Board of the Institute for Transnational Arbitration.



JUDITH GILL has been a partner in the litigation department of Allen & Overy LLP since 1992 and is currently head of the firm's International Arbitration Group. She graduated in Jurisprudence from Worcester College, Oxford University and in 1985 qualified with Allen & Overy as a solicitor. In 1990 she obtained a Diploma in International Commercial Arbitration, with a distinction, from Queen Mary and Westfield College and in 1998 qualified as a Solicitor Advocate (Higher Courts - Civil). Judith specialises in international commercial arbitration, with extensive experience in both institutional and ad hoc arbitration including proceedings under LCIA, ICC, ICSID, AAA Rules and many others. She is also regularly appointed as an arbitrator. Judith is qualified as a Solicitor Advocate and frequently appears as advocate in arbitration proceedings. Judith is Chair of Enforcement of Awards Sub-Committee of the International Bar Association. She is a Director of the LCIA and a member of the LCIA Court. Judith is also a member of the ICC UK Arbitration Group. She is joint author of the leading textbook "Russell on Arbitration" and has published widely on arbitration issues. Judith is also a fellow of the Chartered Institute of Arbitrators and the Institute of Advanced Legal Studies.



FEDERICO GODOY is a founding partner of Beretta Godoy in Buenos Aires, Argentina, where he heads the firm's Investment Law and Arbitration Practice Group. He has represented parties in ad hoc and in institutional arbitrations conducted under the rules of ICSID, ICC and the Buenos Aires Stock Exchange. In foreign investment protection, he has represented oil & gas producers, electricity generators and distributors, toll road constructors and mining investors in disputes involving countries in South America. He is Academic Deputy Director of the Investment Arbitration course at the Universidad de Buenos Aires, and an Invited Foreign Professor at the Universidad del Rosario in Bogotá, Colombia, where he annually delivers a seminar on Investment Arbitration. He contributes to Kluger Arbitration as reporter for Argentina at the ITA Board of Reporters. He is a founding member of the Argentine Civil Rights Association and of CARAT, Comité Argentino de Arbitraje Nacional e Internacional.

FACULTY BIOGRAPHIES



JOHNY GOTANDA is Professor of Law, Associate Dean for Research and Director of the J.D./M.B.A. Program at Villanova University School of Law. He is the author of *Supplemental Damages in Private International Law* (Kluwer Law International, 1988) and has written numerous articles that have been published in the *American Journal of International Law* and the *Oxford University Comparative Law Forum*, as well as in law journals at Columbia, Georgetown, Harvard, Michigan and Vanderbilt. His latest project is a series of lectures for the Hague Academy entitled, "Damages in Private International Law," which was recently published in *Recueil des Cours*. Professor Gotanda is a member of the Advisory Council of the United Nations Conventions on Contracts for the International Sale of Goods (CISG) and the Academic Council of The Institute for Transnational Arbitration, and an Associate Editor of *Transnational Dispute Management*. He has also served as an expert on damages for the U.S. Department of Justice, the U.S. State Department, and the Office of the U.S. Trade Representative.



BERNARD HANOTIAU is a partner with Hanotiau & van den Berg in Brussels. He is also professor of arbitration law at the university of Louvain. Since 1980, he has been involved in more than 220 arbitration cases as counsel, party-appointed arbitrator, chairman, sole arbitrator or expert, in all parts of the world. He is member of the panel of arbitrators of, or regularly appointed by, numerous institutions, including ICC, LCIA, ICSID, NAI, CEPANI, CIETAC, BAC. He is vice chairman of the ITA, of Cepani, and of the LCIA Court.



SALLY A. HARPOLE is a Chartered Arbitrator, accredited mediator, Hong Kong solicitor and California attorney. Based in Beijing and Hong Kong for over 25 years and fluent in Mandarin, she is one of only two non-Chinese members of the China International Economic and Trade Arbitration Commission. Since 1977, she has advised multinational clients on investment, infrastructure, trade and dispute matters in China. She co-chairs the IBA Arbitration Committee, is on the Executive Committee of the AAA Board of Directors and the Council of the Hong Kong International Arbitration Centre. Sally frequently serves as arbitrator in international cases and is on the panels of the Beijing Arbitration Commission, CIETAC, CPR, HKIAC, ICDR, SIAC and other arbitral institutions.



HILARY HEILBRON is a barrister and Queen's Counsel practising from Brick Court Chambers, London. She has extensive experience as counsel in international arbitration and commercial litigation. She also sits regularly as an international arbitrator as sole arbitrator, co-arbitrator and chair. She is a member of the ICC, LCIA and ASA and is on the HKIAC and SIAC panels of arbitrators and is a registered arbitrator and trainer for the ICDR. She is a Deputy High Court Judge and an accredited mediator. She has spoken and written extensively on international arbitration and cross-border litigation. She is a former Chair of the City Disputes Panel, the London Common Law and Commercial Bar Association, and the International Practice Committee of the Bar Council of England and Wales; a former Vice Chair of the IBA International Litigation Committee and the Marshall Aid Commemoration Committee; and a former member of the CEDR Advisory Panel and the Civil Justice Council. She is also a member of the New South Wales Bar and is currently a Vice Chair of the litigation committee of the International Law section of the ABA.



ANNE K. HOFFMANN is a senior associate at the offices of Python & Peter in Geneva which she joined in 2005 after having practiced in London for several years. A lawyer qualified to practice both in Germany as well as in England & Wales, Anne focuses on international commercial and investment arbitration where she regularly acts as counsel in disputes arising under all major institutional rules (in particular ICC, UNCITRAL, LCIA, ICSID) as well as in ad hoc proceedings. She advises clients on all matters concerning arbitration, including Bilateral Investment Treaties and the Energy Charter Treaty. Anne has also served as administrative secretary to arbitral tribunals. She is a member of the Committee on the Law of Foreign Investment of the ILA, has taught investment arbitration at the University of Lausanne and regularly publishes and speaks on arbitration issues.



STEPHEN JAGUSCH is a partner at Allen & Overy LLP specialising in international commercial and investment treaty arbitration. Stephen has acted as advisor and advocate in dozens of ad hoc and institutional international arbitrations conducted in many countries across the world and subject to a wide variety of governing substantive and procedural laws. A great many of Stephen's cases have been for or against sovereign States or substantial multinational organisations, and in recent years Stephen has become recognised as an expert in the field of ICSID arbitration and disputes arising under bilateral or multilateral investment treaties. In addition to acting as adviser and advocate, Stephen regularly accepts appointments as Sole Arbitrator, Chairman or co-arbitrator in international arbitrations, both institutional and ad hoc.



BRENT C. KACZMAREK is a Managing Director at Navigant Consulting, Inc. and leads the firm's International Arbitration group. Mr. Kaczmarek serves as an expert and consultant on issues involving business and investment valuation, finance, accounting, and economics in industries such as financial services, manufacturing, energy, utilities, telecommunications, mining, healthcare, and business services. Mr. Kaczmarek has been retained by more than 20 international law firms in more than 30 international arbitrations, including 15 bilateral investment treaty, 4 NAFTA Chapter 11, and 6 Energy Charter Treaty arbitrations as well as several international commercial arbitrations. He has delivered testimony in 15 international arbitral matters where damages sought have exceeded US\$ 100 million and 5 where damages were measured between US\$ 1 billion and US\$ 5 billion. Mr. Kaczmarek received the internationally-recognized designation of Chartered Financial Analyst from the CFA Institute in 1998.



JEAN E. KALICKI is a Partner at Arnold & Porter LLP, specializing in international arbitration and transnational litigation, and is an Adjunct Professor at Georgetown University Law Center. In investment treaty arbitration she has represented both sovereigns and investors in disputes before ICSID, and in

commercial arbitration she has represented companies on five continents, as well as the United Nations, in disputes before the ICC, AAA/ICDR, and ad hoc tribunals under the UNCITRAL Rules. Recently selected by Global Arbitration Reviews one of the top 30 Women in Arbitration worldwide (Sept. 2007), Ms. Kalicki serves as an arbitrator for numerous institutions and is a frequent author and speaker on arbitration topics. She is a member of the ICC Commission on Arbitration (U.S. National Committee), the Chair of the U.S. Council for International Business' Arbitration Subcommittee for Washington, D.C., and the Chair of the DC Bar's International Dispute Resolution Committee.



MARK KANTOR - Until he retired from Milbank, Tweed, Hadley & McCloy LLP at the end of 1999, Mark Kantor was a partner in the Corporate and Project Finance Groups of the Firm. He currently serves as an arbitrator and mediator, and teaches courses in International Business Transactions and in International Arbitration as an Adjunct Professor at the Georgetown University Law Center. He is also a Fellow at the Columbia Program on International Investment (a joint enterprise of the Columbia Law School and the Earth Institute at Columbia University). He is listed in *Inter alia Who's Who Commercial Arbitration*, *Chambers USA (International Arbitration)*, and *The Best Lawyers in America (International Arbitration)*. Among other publications, he is the author of *Valuation for Arbitration: Compensation Standards, Valuation Methods and Expert Evidence* (Kluwer Law International, forthcoming 2008).



DR. PIERRE A. KARRER has been in private practice for 35 years and practices as full-time arbitrator from his own separate "boutique" premises since 2005. He has been chairman, sole arbitrator, and party-appointed arbitrator in over 250 international commercial arbitrations in Switzerland and all over the world, ad hoc and with all major institutions. Dr. Karrer is Honorary President of the Swiss Arbitration Association, Court Member of ICC, Vice President of the Stockholm Institute, former Vice President of the LCIA, FCIArb of the Chartered Institute, and listed arbitrator of many institutions. After studies in Zurich, Göttingen, Padova, and The Hague, he obtained a Dr. iur., summa cum laude from the University of Zurich, and an LL.M. from Yale. He teaches International Arbitration at the University of Zurich and other universities. His publications include *Switzerland's Private International Law, Commentary to Article 187 PIL Statute*; and numerous articles on international arbitration. Dr. Karrer chairs arbitrations in English, French, German, and Italian. He also speaks Dutch and some Spanish.



MEG KINNEAR is currently Senior General Counsel and Director General of the Trade Law Bureau (JLT), a joint unit of the Departments of Justice and International Trade Canada. She has appeared as counsel before international trade dispute panels, participated in the negotiation of international trade and investment agreements and advised on Canada's international trade and investment obligations. Prior to joining the Trade Law Bureau, Ms. Kinnear was Executive Assistant to the Deputy Minister of Justice from October 1996 - April 1999 and Counsel at the Civil Litigation Section of the Department of Justice from June 1984 - October 1996. Ms. Kinnear has spoken at a variety of conferences on matters related to dispute settlement in international trade, in particular NAFTA Chapter 11. Ms. Kinnear has also written various publications including: *Investment Disputes Under NAFTA: An Annotated Guide to NAFTA Chapter 11*, (Kluwer - June 2006) with Andrea Bjorklund and John Hannaford and *Federal Court Practice*, (1988-1990, 1991-1992, and 1993-2006 annually) with D. Sgavias, B. Saunders, G. Garton & D. Rennie.



GERRY LAGERBERG is a partner in PricewaterhouseCoopers LLP in the UK and is Chairman of the firm's Supervisory Board. Qualified as a chartered accountant and a barrister, he has specialised in forensic accounting since 1987, conducting financial investigations and evaluating loss in financial disputes. He has testified as an expert witness in ad hoc and institutional international arbitration proceedings in London, Paris, New York, Toronto, Stockholm and Brussels. He leads PwC's sponsorship of research by the School of International Arbitration, Queen Mary, University of London into corporate attitudes and practices in international arbitration.



LUCINDA A. LOW is a partner in the Washington, DC office of Steptoe & Johnson LLP, where she is a member of the International Department and serves on the firm's Executive Committee. A widely recognized authority in the US Foreign Corrupt Practices Act, Ms. Low assists US and foreign companies with compliance with international business laws and regulations and represents investors in a broad array of investment disputes with commercial partners and host governments. Her international dispute resolution experience also includes serving as an arbitrator in a NAFTA arbitration. Ms. Low is a member of the Board of Directors of Transparency International - USA, the Secretary of State's Advisory Committee on International Law, a former Chair of the ABA Section of International Law, and Vice President of the American Society of International Law. She was the 2003 recipient of the William Ray Vallance Award presented by the Inter-American Bar Foundation. Ms. Low graduated from the University of California at Los Angeles School of Law, where she was Editor-in-Chief of the UCLA Law Review. She was an Adjunct Professor at American University, Washington College of Law in 1993 and at the University of Colorado School of Law in 1987 and 1989.



(MUNIR) A F M MANIRUZZAMAN is Professor of International and Business Law, University of Portsmouth, U.K. Recently, He has been a Visiting Professor of Law (International Commercial Arbitration) University of Western Ontario, Canada (2007-8) and has also held honorary visiting academic positions at the Universities of Oxford, Cambridge, Dundee, Kent, and London. He received his M. Int'L. Law from the Australian National University and PhD (international law) from the University of Cambridge. He is a Council member of the ICC Institute of World Business Law, Paris, a member of the International Law Association (ILA), British and Bangladesh ILA branches, ILA International Committee on International Commercial Arbitration. He is a Founding Member of THE IDR GROUP® (international dispute resolution specialists), based at the Lamb Chambers, London. He is also a member of the Chartered Institute of Arbitrators, London, the Swiss Arbitration Association, the Association of International

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Petroleum Negotiators (AIPN), Houston, USA, and International Arbitration Institute, Paris. He has acted as an Honorary Special Legal Adviser (on international legal matters) to the Hon'ble President of the People's Republic of Bangladesh (1996-2001). He is a member of the Bangladesh Bar (1981-), the Bangladesh Supreme Court Bar Association, Dhaka (1985-) and has practised as an Advocate of the Supreme Court of Bangladesh (since 1983). He has worked as an international arbitration law expert / consultant in some high-profile ICSID and ICC cases and also as an International Legal Consultant to governments, state-owned enterprises, multinational corporations and multinational law firms. He has been the Editor and on the International Editorial / Advisory Boards of a number of international legal periodicals. He has extensively published in the fields of international business law and international commercial arbitration and dispute resolution. He has recently completed a study on stability in international petroleum legal regime sponsored by AIPN.



MARK NADEAU is Co-managing partner in the Phoenix office of DLA Piper US LLP and is widely recognized as a leading commentator and has chaired numerous symposia on international dispute resolution. He is one of seven legal experts consulting on the United Nations World Summit on Transfers of Technology. He recently addressed the United Nations at the summit in North Africa. His practice spans Europe, Asia, and South America. As a result of his work for a client in

Guangzhou, China, Mr. Nadeau was invited by the Ministry of Trade and Economic Cooperation for the People's Republic of China to speak in that country on product liability and international arbitration. The Center for International Legal Studies in Austria has also designated him a fellow of the center. Mr. Nadeau is a member of the London Court of International Arbitration and is active with the World Congress of the International Chamber of Commerce. Mr. Nadeau is involved in complex commercial litigation throughout the United States and has represented clients in high-profile disputes involving television, aviation, real estate hospitality, trade secret, and unfair business practice matters. He has appeared in courtrooms in each of the 50 states.



WILLIAM W. (RUSTY) PARK is Professor of Law at Boston University, where he lectures on tax, banking and international business transactions. After studies at Yale and Columbia, Park practiced in Paris until returning home to teach and to direct his university's Center for Banking and Financial Law. He has held visiting academic appointments at Cambridge University and The Fletcher School, as well as in Dijon, Hong Kong, Auckland and Geneva. His books include Arbitration of International Business Disputes, International Forum Selection, International Chamber of Commerce Arbitration (with Craig and Paulsson), International Commercial Arbitration (with Reisman, Craig and Paulsson) and Income Tax Treaty Arbitration (with David Tillinghast). Park is General Editor of Arbitration International, a Vice President of the London Court of International Arbitration and a member of the NAFTA Financial Services Roster. He has served on the Appeals Tribunal for the International Commission on Holocaust Era Insurance Claims and as Arbitrator on the Claims Resolution Tribunal for Dormant Accounts in Switzerland. A member of the International Council for Commercial Arbitration (ICCA), Park is also past Chair of the ABA Committee on International Commercial Dispute Resolution.



PHILIPPE PINSOLLE is a partner at Shearman & Sterling LLP in Paris, and specializes in international arbitration. He has been involved, as counsel or arbitrator, in more than a hundred international arbitrations, both institutional (ICC, ICSID, LCIA, SCC, AFA, Swiss Rules, etc.) and *ad hoc*, concerning such activities as investment, oil and gas, energy, telecom or defense industry. He is a member of the Paris Bar and of the Bar of England & Wales (Gray's Inn). He is a lecturer on international arbitration at the Universities of Aix-Marseille III and

Versailles-St Quentin. Philippe Pinsolle is the former President of the International Arbitration Commission of the Union Internationale des Avocats (UIA) and a co-founder of the Young Arbitration Practitioners (YAP). He is the author of numerous articles and case-notes on international arbitration. He holds a J.D. degree from the University of Paris II, a M.Jur. from Oxford University, Hertford College, and an MBA degree from Essec.



LUCY F. REED is a partner in the New York office of Freshfields Bruckhaus Deringer, where she heads the firm's U.S. international arbitration and public international law groups. She represents clients and sits as arbitrator in cases conducted under the ICSID, ICC, AAA and other major institutional and *ad hoc* rules. She is a Member of the Ethiopia-Eritrea Claims Commission, and served as co-director of the Claims Resolution Tribunal for Dormant Accounts in Switzerland. While with the U.S. Department of State, Lucy served as U.S. Agent to the Iran-United States Claims Tribunal and Deputy Assistant Legal Adviser for International Claims and Investment Disputes. She is the co-author (with Jan Paulsson and Nigel Blackaby) of the *Guide to ICSID Arbitration* (Kluwer 2004) and *The Freshfields Guide to Arbitration and ADR* (Paulsson, Rawding, Reed and Schwartz, Kluwer 1999), and has published her 2001 Hague Academy lectures. Lucy is a Vice-Chair of the ITA, the incoming President of the American Society of International Law and a member of the Council on Foreign Relations.



KLAUS REICHERT is a barrister practicing from Dublin and Brick Court Chambers in London. He has served as arbitrator in cases in many jurisdictions under the LCIA, ICC, ICDR and other rules in investment treaty and commercial matters. He is a member of several international bodies including the ITA Board of Reporters, the ILA International Arbitration Committee, the LCIA European Users' Council, the ICDR Dublin Advisory Council, and is co-chair of the IBA Litigation Committee. His counsel work encompasses commercial litigation in

Dublin and arbitration in most major centres. He is the chair of the Host Committee for ICCA 2008 in Dublin marking the exact 50th Anniversary of the New York Convention.



KENNETH B. REISENFELD is a Partner in the Washington, D.C. office of Haynes and Boone, LLP, and heads the Firm's International Arbitration and Litigation Practice Group and its International Compliance and Trade Practice Group. A 1978 graduate of Harvard Law School, Mr. Reisenfeld has 30 years' experience representing U.S. and foreign corporations and government entities in litigation and arbitration of

international commercial, investment, technology, construction and energy disputes in U.S. courts and before international arbitral tribunals throughout the world. Mr. Reisenfeld is named in "The International Who's Who of Commercial Arbitration Lawyers," Euromoney's "Guide to the World's Leading Experts in Commercial Arbitration," and Chambers USA: "America's Leading Lawyers for International Trade: Export Controls and Economic Sanctions." Mr. Reisenfeld is a Councillor of the International Bar Association, where he has been active in its International Arbitration Committee. He also is an appointed member of the U.S. Secretary of State's Advisory Committee on International Law and the Advisory Board of the Institute for Transnational Arbitration. Mr. Reisenfeld is a Past Chair of the American Bar Association's 20,000 member Section of International Law. He previously served as Chair of the ABA's International Commercial Arbitration Committee and was co-author of the 2004 Revisions to the ABA/AAA Code of Ethics for Arbitrators. Prior to joining private practice, Mr. Reisenfeld was a judicial law clerk to the Honorable Frank J. Battisti, Chief Judge, U.S. District Court for the Northern District of Ohio, and an International Law Advisor to the U.S. Attorney General, U.S. Department of Justice, where he helped establish the Iran-U.S. Claims Tribunal.



J. WILLIAM ROWLEY, QC is the Chairman of McMillan Binch Mendelsohn LLP since 1996, where he heads the firm's competition law and international arbitration practices and advises on corporate governance. Since 2002, an arbitrator member of 20 Essex Street, one of England's pre-eminent sets of barrister's chambers, through which he accepts arbitral appointments. Mr. Rowley is described as a "star performer" (Legal Business Arbitration Report 2006), one of London's "super arbitrators" (Global Arbitration Review, May 2006) and "one of the elite international arbitrators" who is "putting Canada front and centre in the field of international arbitration" (The New Peacekeepers, 2005). Co-author of Rowley & Baker: International Mergers - the Antitrust Process (3rd edition, Sweet & Maxwell, 2007), he is also General Editor, Arbitration World, The European Lawyer, Reference Series (2nd Edition 2006) and Chairman, Editorial Board, Global Arbitration Review, Law Business Research. Past Chairman, IBA Section on Business Law, and previously, of its Antitrust and Trade Committee. Co-founder and Chairman, Global Forum on Competition and Trade Policy, London and Washington, DC;



CLAUDIA T. SALOMON is co-chair of DLA Piper's International Arbitration Practice and a Partner in the New York office. She has significant experience handling investor treaty arbitration and international commercial arbitration cases under all of the major rules. Claudia has litigated in connection with arbitration, including enforcing arbitral awards worldwide and obtaining emergency relief, and she regularly advises on the drafting of arbitration agreements. *Global Arbitration Review* named Claudia one of its "45 under 45" in international arbitration and one of the world's top 30 women in international arbitration. Claudia serves on the ICC Commission on Arbitration. She also is the chair of the USCIB's Young Arbitrator's Forum and Councilor on the LCIA North American User's Council.



STEVE SMITH is the Chair of O'Melveny & Myers LLP's International Arbitration practice and a Partner in the firm's San Francisco office. He specializes in arbitrating complex international commercial and intellectual property disputes in the energy, aerospace, high technology and pharmaceutical sectors. In his 25 years of private practice, Steve has handled matters for and against sovereign entities from the Middle East, Europe, Asia, Latin America and Africa. He has acted as counsel in arbitrations administered by a variety of arbitral institutions throughout the world, and has served as an arbitrator in ICC and UNCITRAL arbitrations. Among other positions, Steve is a past chair of the International Law Section of the California State Bar, a U.S. delegate to the ICC Commission on Arbitration, chair of the ICC's Arbitration Committee for the Northwest United States, and vice-chair of the International Commercial Arbitration Committee of the ABA's Section of International Law and Practice. Steve is the founding editor-in-chief of the *Berkeley Journal of International Law*, and is a member of the journal's Board of Overseers.



JACKIE VAN HAERSOLTE-VAN HOF is a counsel in the Dispute Resolution practice group of the Amsterdam office of Freshfield Bruckhaus Deringer. Jackie specializes in international arbitration, mediation and litigation. She represents clients and sits as arbitrator. She obtained her PhD at Leiden University on the basis of her thesis "*The UNCITRAL Arbitration Rules - The Application by the Iran-U.S. Claims Tribunal*". In 1998 she was seconded to the Claims Resolution Tribunal for Dormant Accounts in Zurich. She is a member of the Committee revising the Dutch Arbitration Act. She teaches international arbitration at the Vrije Universiteit in Amsterdam and she is a member of the ILA Committees on International Arbitration and International Investment Law.



CLAUS VON WOBESER carried out his legal studies at the Escuela Libre de Derecho, and obtained his Doctorate in Law at the University of Paris. He was the Co-Chair of the Arbitration Committee of the International Bar Association. He is Vice Chairman of the ICC International Court of Arbitration. He has been Managing Partner of the law firm Von Wobeser y Sierra, S.C. from 1986 to date. He is former President of the Mexican Bar Association. He is specialized in the areas of: Corporate Law, International Law and International Arbitration.



RICHARD E. (RORY) WALCK is a partner and co-founder of Global Financial Analytics LLC. He is a Certified Public Accountant, Certified Management Accountant, Certified in Financial Management and Accredited in Business Valuation by the American Institute of Certified Public Accountants. Mr. Walck holds a Master of Business Administration in finance and accounting from the University of Chicago. He has provided financial analysis and damages valuation services on several hundred client engagements since 1977, with particular emphasis on the energy field. His assistance has been sought by clients in Asia, Africa, Europe, Oceania and the Americas in connection with matters pending before ICSID, ICC, ICDR, AAA and Ad Hoc tribunals, and in matters litigated in state and federal courts. Mr. Walck has appeared as an expert witness in more than fifty contested proceedings.

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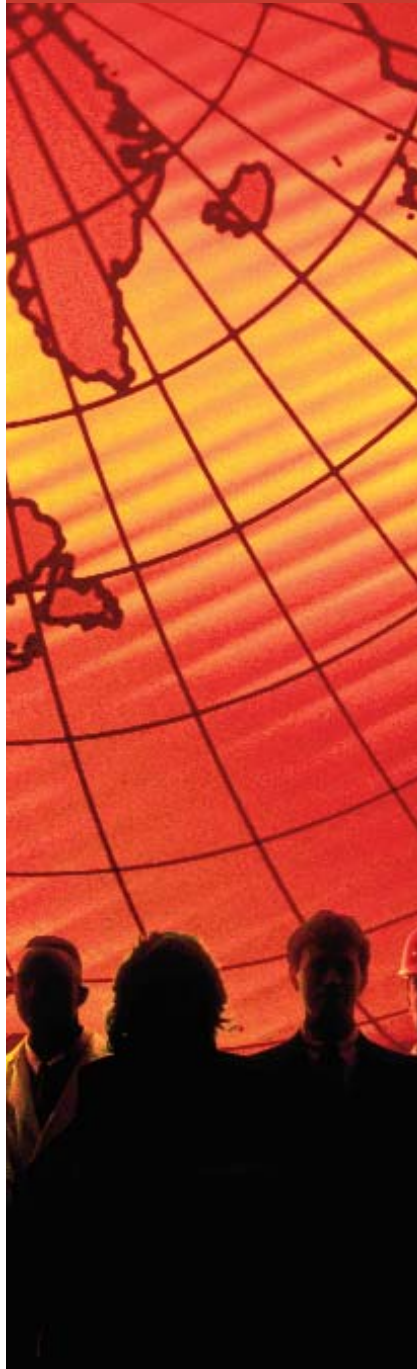
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5:15 PANEL: DAMAGES IN INTERNATIONAL ARBITRATION – PRACTICAL CONSIDERATIONS

Moderator **Janet M. Whittaker**, Simpson Thatcher & Bartlett LLP, New York

Panelists **Philip Dunham**, Dechert LLP, Paris

Hagit M. Elul, Hughes Hubbard & Reed LLP, New York

Peter J.W. Sherwin, Proskauer Rose LLP, Paris & New York

6:10 BREAK

6:25 PANEL: COSTS AND INTEREST IN INTERNATIONAL ARBITRATION

Moderator **Anibal Sabater**, Fulbright & Jaworski L.L.P., Houston

Panelists **Bernard Hanotiau**, Hanotiau & van den Berg, Brussels

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7:15 - 8:45

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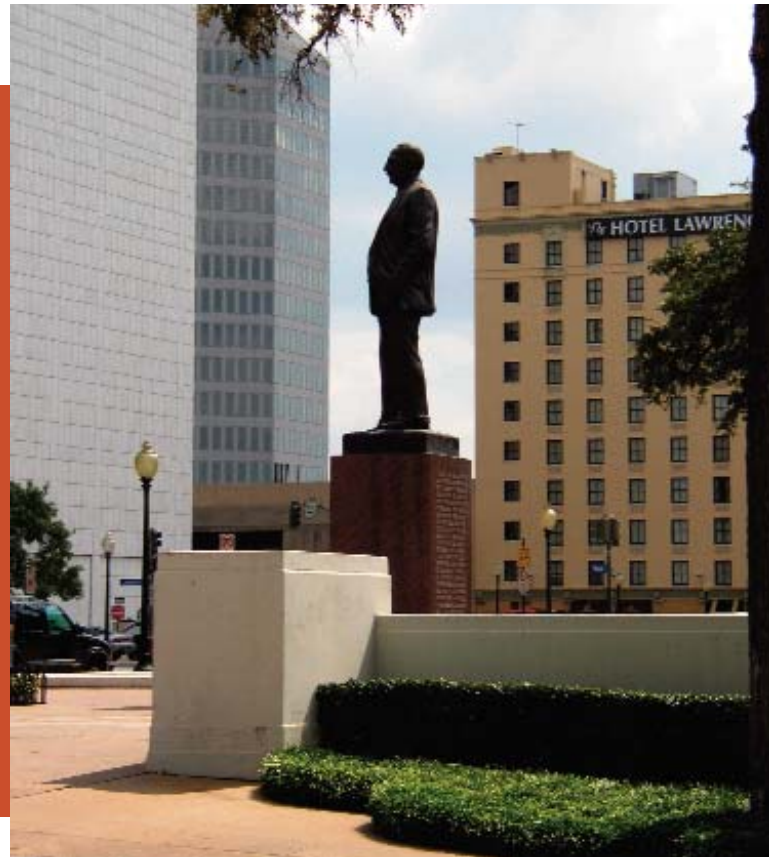
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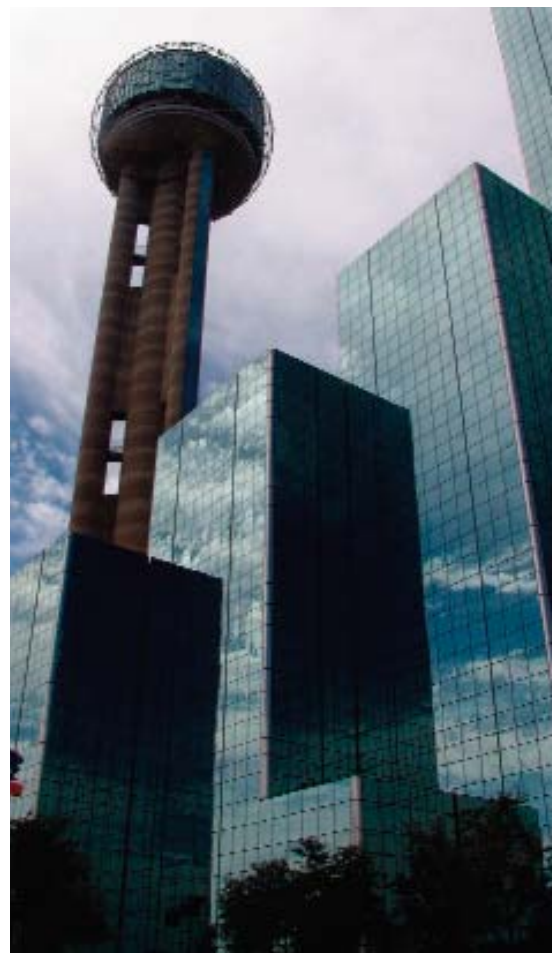
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Founded in 1986 as a division of The Center for American and International Law, the Institute was created to promote global adherence to the world's principal arbitration treaties and to educate business executives, government officials and lawyers about arbitration as a means of resolving transnational business disputes.

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PAYMENT MUST ACCOMPANY REGISTRATION

GENERAL INFORMATION

CANCELLATION POLICY: Tuition less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by June 6, 2008. Email cburkel@cailaw.org. After these dates, no refunds, but substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive the course materials.

HOUSING: The cost of housing is not included in the course registration fee. However, rooms have been reserved at The Westin Galleria Hotel, 13340 Dallas Parkway, Dallas, TX 75240. Registrants should call 972-934-9494 or 1-888-627-8536 and mention the ITA Workshop to get the special rate of \$190 per night + 15% occupancy tax. The last day to obtain this special rate is May 19, 2008.

NONDISCRIMINATION POLICY: The Center for American and International Law does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, veteran status or any other protected status in educational activities, scholarship programs or admissions.

MCLE CREDIT: The Workshop has been approved by the State Bar of Texas for 6.25 hours, including 0 hours of ethics. Course ID Number: 900042365. The Roundtable has been approved for 1.75 hours, including 0 hours of ethics. Course ID Number: 900042367. Sign-in sheets and/or certificates of attendance will be available for ALL states.

REGISTRATION

19th Annual ITA Workshop

DAMAGES IN INTERNATIONAL ARBITRATION: STRATEGIES, TECHNIQUES & PRESENTATION

June 19, 2008

The Westin Galleria Hotel • Dallas, Texas

Registration includes the Workshop, luncheon and course materials. Payment must accompany registration. ITA Advisory Board Representatives, members of the Academic Council and members of the Board of Reporters will be contacted separately to RSVP for the additional activities on Thursday and Friday.

Check applicable box:

	Received by June 6	Received after June 6
Regular Registration Fee	<input type="checkbox"/> \$450	<input type="checkbox"/> \$495
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I am under the age of 40 and will attend the Dallas Roundtable for young international arbitrators on June 18 (Cost is \$0 - see flap at page 11)

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