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Institute for Transnational Arbitration  
**ITA IN REVIEW**

# ITA IN REVIEW

The Journal of the Institute for Transnational Arbitration





## ITA IN REVIEW

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## **IN MEMORY OF MARTIN J. HUNTER (1937-2021)**

by Alexandre Vagenheim

Professor J. Martin Hunter was a singularly important figure in international arbitration. Through his scholarship, practice, adjudication, and mentorship he helped shape many aspects of international arbitration. Martin's passing on October 9, 2021 has left behind generations of students, lawyers, arbitrators, and many friends around the world that are, like me, indebted to him. I had the privilege of knowing the many faces of Martin and it all started in Vienna.

The Willem C. Vis International Commercial Arbitration Moot was the most important date on Martin's calendar. He would never accept any conflicting commitment, including hearings, during the Vienna Vis Moot week in April each year. I met Martin as a young student of the Paris 1 Panthéon-Sorbonne University team attending the Vis. He was chairing the first round of our performance in 2006. After a lively session, I approached him for career advice in international arbitration. Even though he had never met me before, he took the time to engage with me and told me that as someone with a civil law background I should get a degree from a common law jurisdiction to foster my understanding of different legal systems in order to become a truly international arbitration practitioner. Martin's vision of international arbitration was pragmatic and visionary: finding common grounds to connect people and cultures through dispute resolution to promote world peace.

Martin repeatedly emphasized that international arbitration was a different "animal" than domestic arbitration. He was one of the first in the world to take the view that international arbitration should be practiced and taught as a specialist practice area. A pioneer in the field, together with Alan Redfern he built the first international arbitration practice at Freshfields in London in the 1980s and expanded it to Paris with Jan Paulsson.

At the time, I knew Martin mainly as one of the two authors of *Redfern and Hunter*<sup>1</sup>

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<sup>1</sup> Nigel Blackaby & Constantine Partasides with Alan Redfern and Martin Hunter, *Redfern & Hunter on International Arbitration* (6th ed. 2015).



(which we quoted heavily in our moot submissions). Even after the authorship was passed to Nigel Blackaby and Constantine Partasides, Martin retained responsibility for the chapter on the conduct of the proceedings for which I later carried research for the fifth edition. The book, as *per* Martin's practice-oriented vision, follows the chronology of arbitration proceedings and remains today a seminal work for students and practitioners alike.<sup>2</sup> Martin's writing style was simple and sharp. His most important message to aspiring authors was that the object of a text is to inform the reader, not to demonstrate the cleverness of its author.

A year after that first encounter, I joined the LL.M. program at King's College London. There, I met Martin, the Professor. He became chair of International Dispute Resolution at Nottingham Trent University where he was appointed Emeritus Professor in 2010 and a Visiting Professor at King's College, where he taught international arbitration to post-graduate students from around the world. Martin's teaching style was also practice-oriented with a great emphasis on advocacy skills through a "learning by doing" approach. Like thousands of students around the world, I learned the fundamentals of international arbitration proceedings through his famous case studies: the *Abukarabia* and the *Kaspenistan* cases.

After completing my LL.M., Martin offered me a position of research-assistant and I became a part of the "M's." Martin's research assistants were all designated with an "M" and assigned numbers in the chronological order of their joining. I am "M-XIII."<sup>3</sup> As his research assistant, I witnessed Martin, as he is known by the arbitration community, in his capacity as a leading arbitrator. I saw the firm hand he had on procedure; always mindful of giving sufficient opportunities for the parties to present their case while never allowing excessive disruption. Well-known investment

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<sup>2</sup> See the OUP presentation of the fifth edition of Redfern & Hunter, Redfern and Hunter on International Arbitration, Part I, Feb. 6, 2013, [https://www.youtube.com/watch?v=\\_-TDtbaVIMs](https://www.youtube.com/watch?v=_-TDtbaVIMs).

<sup>3</sup> For the anecdote of why we were called the "M's" our joint tribute to commemorate Martin "the friend," see Simon Weber, To Our Friend Martin (MI), KLUWER ARBITRATION BLOG, Oct. 18, 2021, <http://arbitrationblog.kluwerarbitration.com/2021/10/18/to-our-friend-martin-mi/>.



arbitration cases he was part of include *Mexico v. USA*,<sup>4</sup> *S.D. Myers, Inc. v. Canada*,<sup>5</sup> and *William Nagel v. Czech Republic*.<sup>6</sup> As secretary, I assisted the Court of Arbitration for Sport (CAS) tribunal Martin chaired regarding South African double amputee athlete Oscar Pistorius against the International Association of Athletics Federation as to whether his prosthetic legs gave him an unfair advantage over able-bodied athletes.<sup>7</sup> The proceedings were particularly tense because of the media attention and tight schedules as the decision would impact whether Pistorius was able to compete. Martin and his co-arbitrators upheld the appeal on the basis of lack of scientific evidence of the alleged advantages. As we know, Pistorius became the first amputee to win a medal for competing in non-disabled athletic competitions. Before becoming a leading arbitrator, Martin was a respected counsel in the *Aminoil* case,<sup>8</sup> which propelled him as counsel, and Freshfields into the position of a top-tier law firm at the time.

Recent testimonies have emphasized Martin's long-time dedication to the promotion and defense of international arbitration. He devoted a substantial part of his time to lead and support arbitral organizations and many institutions are indebted to his long-time support.<sup>9</sup> Martin was a member of many scientific councils, organization and institutions across the globe, including the Council of ICCA, and has participated in the work of a number of organizations including the AAA, the IBA, the ICC Court, the LCIA Court and UNCITRAL. He was chairman of the Board of Trustees of the Dubai International Arbitration Centre, and deputy-chairman of the UK Government's committee on arbitration law reform, which advised the UK on the

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<sup>4</sup> See *Mexico v. USA* (In the matter of cross-border trucking services), NAFTA, Final Report of the Panel (Feb. 6, 2001).

<sup>5</sup> See *S.D. Myers, Inc. v. Canada*, NAFTA/UNCITRAL, Partial Award (Nov. 13, 2000).

<sup>6</sup> See *William Nagel v. The Czech Republic*, SCC Case No. 049/2002, Final Award (Sept. 9, 2003).

<sup>7</sup> See *Oscar Pistorius v. IAAF*, CAS 2008/A/1480, Award (May 16, 2008).

<sup>8</sup> See *The American Independent Oil Co. (Aminoil) v. Kuwait*, Final Award (Mar. 24, 1982).

<sup>9</sup> See Professor J. Martin Hunter (1937-2021), ICCA, Oct. 20, 2021, <https://www.arbitration-icca.org/professor-martin-hunter-1937-2021>; ICC pays tribute to Prof. J. Martin Hunter (1937-2021), ICC, Oct. 13, 2021, <https://iccwbo.org/media-wall/news-speeches/icc-pays-tribute-to-prof-j-martin-hunter-1937-2021/>.





English Arbitration Act 1996,<sup>10</sup> which celebrates its 25th anniversary this year.

I witnessed Martin's determination in the defense of international arbitration at the 48th session of the UNCITRAL Working Group II in New York in 2008 on the revision of the UNCITRAL Arbitration Rules where Martin represented the Milan Club of Arbitrators. These were the early discussions on transparency in investment arbitration, which came with heated debates between proponents of confidentiality and advocates for transparency. Martin managed to have these issues debated among the members of the Milan Club resulting in a Statement of the Milan Club of Arbitrators (that those issue should be best dealt with in separate instruments) that was included in this working group session's report.<sup>11</sup> The rest is now history. UNCITRAL took the directions proposed by Martin, the Milan Club of Arbitrators and others and addressed the issues raised in the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the Mauritius Convention.

Martin was not only militating for international arbitration; he was a great advocate for peace through disputes resolution. Martin strongly believed that the practice of international arbitration could bring peace not only through the process itself but also thanks to the individual connections it creates. In the last ten years, he advocated relentlessly for better education for students from countries such as Brazil, Russia, India, China, and South Africa (BRICS countries). At the inauguration of the law school of the Kalinga Institute of Industrial Technology (KIT) that is affiliated with the Kalinga Institute for Social Studies (KISS), a tribal school with now more than 27,000 children, Martin gathered a group of well-known practitioners and us from the younger generation to help setting up the law school and teach for a couple of weeks. Martin greatly contributed to this project in order to give a maximum exposure to the lifetime achievement of philanthropist Dr. Achutya Samanta, whose mission to provide those children with free education deeply impacted and inspired Martin. This project was followed by Martin's involvement in

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<sup>10</sup> Martin Hunter and Toby Landau, *The English Arbitration Act 1996: Text and Notes* (1998).

<sup>11</sup> UN Commission on International Trade Law, Report of the Working Group on Arbitration and Conciliation on the work of its forty-eighth session (New York, 4-8 February 2008), U.N. Doc. A/CN.9/646, <https://undocs.org/en/A/CN.9/646>.



the Global Institute for Peace and Conflict Resolution where he was appointed as Vice President for Europe.<sup>12</sup> Martin was an educator and visionary who believed in the collaboration between individuals of different nations.

More than anything, Martin was a mentor. He did so through the Young ICCA mentorship program, the Vis Moot, his various teaching appointments around the world and through his “M’s”. He did this naturally and effortlessly. With his generosity he gave us the self-belief that we, too, could succeed. He always encouraged his students, after completing studies in the UK, to go back to their countries and help develop international arbitration. It is for us to continue this legacy with the younger generation through mentorship, guidance and kindness.

Martin was a true “*bon vivant*”. His joviality coupled with a mischievous and subversive side and a keen and dry sense of humor made it a delight to be around him and his wife, Linda, to whom I express my most sincere condolences. Martin offered more than mere career advice and together with Linda, they offered me and many others guidance as well as hospitality of their home in Walton-on-Thames, trips around the south coast of England on his Boat or a round of golf in their house of Boca-Raton. Linda’s invaluable support to Martin and to his extended family of young friends around the world made it personally a privilege to be for some years his friend and his mentee.

Professor J. Martin Hunter leaves behind an exceptional legacy in international arbitration and will remain an emblematic and inspirational figure for generations of arbitration lawyers around the globe.<sup>13</sup>

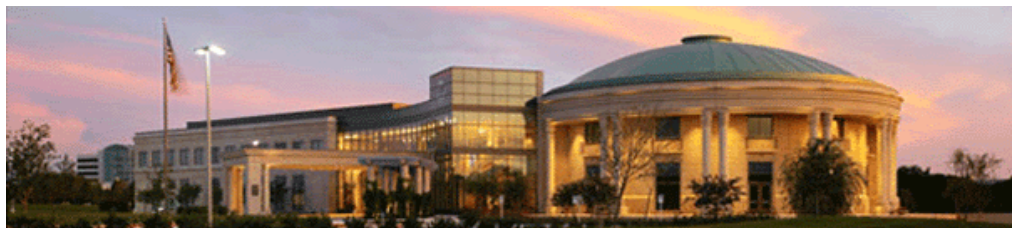
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<sup>12</sup> See the online tribute by the GLIP (Universidade de São Paulo, Centro de Estudo da Paz e Resolução de Conflitos), A Ceremony to Honor Prof. J Martin Hunter, dated Oct. 16, 2021, <https://www.youtube.com/watch?v=eY9EIwQYrhc>.

<sup>13</sup> For more on Professor J. Martin Hunter’s life, see the well-documented eulogy of Alisson Ross, Martin Hunter 1937-2021, GLOBAL ARBITRATION REVIEW, Oct. 22, 2021, <https://globalarbitrationreview.com/martin-hunter-1937-2021>.



**ALEXANDRE VAGENHEIM** is a Senior Legal Officer at Jus Mundi. Alexandre is a French qualified international arbitration and environmental lawyer. Prior to joining Jus Mundi, Alexandre has been research assistant to Prof. Martin Hunter at Essex Court Chambers, London and was then appointed Tutor in International Commercial Arbitration and Investment Arbitration within the LLM Program of King's College. He practiced several years as an associate at the former arbitration practice of Castaldi Mourre & Partners in Paris, a Parisian boutique law firm headed by Alexis Mourre.



# INSTITUTE FOR TRANSNATIONAL ARBITRATION

of

## THE CENTER FOR AMERICAN AND INTERNATIONAL LAW

The Institute for Transnational Arbitration (ITA) provides advanced, continuing education for lawyers, judges and other professionals concerned with transnational arbitration of commercial and investment disputes. Through its programs, scholarly publications and membership activities, ITA has become an important global forum on contemporary issues in the field of transnational arbitration. The Institute's record of educational achievements has been aided by the support of many of the world's leading companies, lawyers and arbitration professionals. Membership in the Institute for Transnational Arbitration is available to corporations, law firms, professional and educational organizations, government agencies and individuals.

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