

2021
Volume 3, Issue 3



Institute for Transnational Arbitration
ITA IN REVIEW

ITA IN REVIEW

The Journal of the Institute for Transnational Arbitration





ITA IN REVIEW

VOL. 3**2021****No. 3**

TABLE OF CONTENTS

TRIBUTES

TRIBUTE TO EMMANUEL GAILLARD (1952-2021)	<i>Philippe Pinsolle Yas Banifatemi</i>	1
IN MEMORY OF MARTIN J. HUNTER (1937-2021)	<i>Alexandre Vagenheim</i>	5

ARTICLES

¿PUEDE EJECUTARSE UN LAUDO CON UNA REPARACIÓN NO PECUNIARIA BAJO EL CONVENIO CIADI Y/O BAJO LA CONVENCION DE NUEVA YORK?	<i>Alonso Bedoya Denegri</i>	11
A CRITICAL ANALYSIS OF LEGITIMATE EXPECTATION VIS-À-VIS EU BLOCKING REGULATIONS	<i>Niyati Ahuja Naimeh Masumy</i>	25
LOOKING TO THE PAST FOR THE FUTURE: INTERNATIONAL INVESTMENT LAW AS A FRAMEWORK TO PROTECT PRIVATE ACTORS IN OUTER SPACE	<i>Vivasvat "Viva" Dadwal Charles "Chip" B. Rosenberg</i>	52
REPROGRAMING GEOPOLITICAL FIREWALLS: TECHNOLOGICAL NON-PROLIFERATION AND THE FUTURE OF INVESTOR-STATE DISPUTE SETTLEMENT	<i>Jason Czerwiec</i>	57

BOOK REVIEWS

INTERNATIONAL COMMERCIAL ARBITRATION IN THE EUROPEAN UNION BRUSSELS I, BREXIT AND BEYOND BY CHUKWUDI OJIEGBE	<i>Sarah Vasani Daria Kuznetsova</i>	141
---	--	-----

THE TROUBLE WITH FOREIGN INVESTOR PROTECTION BY GUS VAN HARTEN	<i>Fernando Tupa</i>	148
--	----------------------	-----

ITA CONFERENCE PRESENTATIONS

KEYNOTE REMARKS: REGULATING ARBITRATOR ETHICS: GOLDILOCKS' GOLDEN RULE	<i>Constantine Partasides, QC</i>	155
--	-----------------------------------	-----

A REPORT ON THE PANEL "ENERGY ARBITRATIONS: DIALOGUE BETWEEN EUROPE AND THE AMERICAS"	<i>Konstantin Mishin</i>	169
---	--------------------------	-----

A REPORT ON THE PANEL "COMMERCIAL ARBITRATIONS RELATING TO REGULATORY CHANGES"	<i>Lena Raxter</i>	176
--	--------------------	-----

YOUNG ITA

A REPORT ON THE PANEL "ARBITRATION & INSOLVENCY: WHEN THEORY MEETS PRACTICE"	<i>Alicia Yeo</i>	193
--	-------------------	-----

REPORT ON #YOUNGITATALKS EVENT: THE PSYCHOLOGY OF WITNESS EVIDENCE AND ITS ROLE IN TRIBUNAL DECISION-MAKING	<i>Alexander Westin-Hardy</i>	203
---	-------------------------------	-----

REPORT ON #YOUNGITATALKS EVENT: MÉXICO Y EL ARBITRAJE DE INVERSIÓN	<i>Juan Pablo Gómez-Moreno</i>	207
---	--------------------------------	-----



ITA IN REVIEW

BOARD OF EDITORS

EDITORS-IN-CHIEF

Rafael T. Boza Pillsbury Winthrop Shaw Pittman LLP, Houston	Charles (Chip) B. Rosenberg King & Spalding L.L.P., Washington, D.C.
--	--

MEDIA EDITOR

Whitley Tiller
EVOKE Legal, Washington D.C.

EXECUTIVE EDITORS

Enrique A. Jaramillo Locke Lord, LLP, Houston	Albina Gasanbekova Mitchell Silberberg & Knupp L.L.P., Washington, D.C.
---	--

CONTENT EDITORS

Thomas W. Davis Case Manager & Arbitral Secretary, Arbitration Place, Cleveland	Menalco J. Solis White & Case L.L.P., Paris
--	---

ASSISTANT EDITORS

TJ Auner Holland & Knight LLP, Dallas	Julie Bloch B. Cremades & Asociados, Madrid
J. Brian Johns US Federal Judiciary, Georgia	Raúl Pereira Fleury Ferrere Abogados, Paraguay
Raquel Martinez Sloan White & Case L.L.P., Washington, D.C.	Naimah Masumy Arbitration Center of Iran Chamber (ACIC), Tehran

ITA in Review

is

a Publication of the
Institute for Transnational Arbitration

a Division of the
Center for American and International Law
5201 Democracy Drive
Plano, TX 75024-3561

© 2021 - All Rights Reserved.

BOOK REVIEW:

THE TROUBLE WITH FOREIGN INVESTOR PROTECTION

BY GUS VAN HARTEN

Reviewed by Fernando Tupa

I. INTRODUCTION

The new book *The Trouble with Foreign Investor Protection* by Gus Van Harten¹ is a thought-provoking—sometimes even brazen—and insightful monograph, which poses a very sharp criticism to the investor–state dispute settlement (“ISDS”) system. The author studies the historical roots of current ISDS and how the sudden discovery by arbitrators of asymmetrical sovereign consent, coupled with expansive interpretations of vague concepts in investment treaties, prompted the fast development of this powerful system that institutes what he considers to be wealth-based inequality under international law. He also explores the links between multinational corporations and certain pro-ISDS advocates—to whom he refers as “leading hawks”—that were instrumental to the reshaping of international law in favor of foreign investors, creating what could be viewed as a “world supreme court” with the power to review decisions made by national institutions that is under the sway of investors. His work also features the reactions of states to the expansive and abusive use of ISDS, as well as surveys the efforts to reform this defective system that is clearly prejudicial to sovereign states.

The book is divided into seven chapters and one annex, covering all these subjects in great detail. Summaries and thoughts on each part of the book are offered below, in sequence.

II. THE BOOK

A. Chapter 1: National Threshold Issues

Chapter 1 provides the context in which the ISDS system was built, largely based on global inequality, since countries granted extraordinary foreign investment protections to huge corporations and ultra-wealthy individuals without giving them

¹ GUS VAN HARTEN, *THE TROUBLE WITH FOREIGN INVESTOR PROTECTION* (Oxford University Press 2020).



corresponding responsibilities. The author anticipates his highly critical perception of ISDS by stating that in ISDS “one finds examples of unfairness, conflicts of interest, and public money flowing to private actors on dubious grounds.” This chapter introduces certain themes that are developed throughout the book; for instance, how ISDS “is an extraordinary tool for safeguarding wealth,” and how it “back[s] inequality and augments the power of corporations in relation to government.” It also provides an overview of foreign investor protections and dispels the common arguments made in favor of ISDS, such as that it improves the investment climate or that foreign investors cannot rely on national institutions and require ISDS to protect their investments. This introductory chapter also explains how ISDS would not have exploded without a powerful legal industry behind it, in particular by the power of a group of repeat players who often played multiple roles in ISDS as counsel, expert witnesses, treaty negotiators, and arbitrators.

B. *Chapter 2: Origins of ISDS Treaties*

Chapter 2 tracks down the origins of the current ISDS system. It begins by providing an explanation about the links between the first wave of ISDS treaties and post-colonial violence, since most of those first treaties emanated from a former colonial power (which wanted to protect their corporations in newly independent countries) or from the World Bank. The author then observes how ISDS treaties grew more rapidly in the 1980s, driven by capital-exporting countries. The chapter also examines the background of the creation of the International Centre for Settlement of Investment Disputes (ICSID) through which western states tried to guard against the grave risks presented by decolonization.

Van Harten critically considers that the ISDS system created by those treaties—ICSID being the leading arbitration house—substitutes arbitrators for judges to boost the position of foreign investors in their relations with sovereign states. He further analyzes the great expansion of investment treaties in the 1990s and the critical role played by the United States government in this expansion. The author highlights how, with the help of specialist lawyers, the treaties of the 1990s laid the basis for an ISDS litigation explosion. The chapter concludes by posing the proposition that if ISDS



continues to expand, it will eventually make all countries semi-independent, as it extends privileges to investors and allows corporate lawyers to act as supreme judges by using vague laws to issue rulings that create public debt and discredit the sovereign.

C. Chapter 3: *Activation of the Treaties*

In Chapter 3, the author explores how ISDS treaties give far-reaching powers to arbitrators, in particular by not requiring a more specific statement of consent by the state for investor claims to be valid and actionable. Van Harten explains that foreign investor claims became possible only after arbitrators decided that investment treaties contained sovereign consents that granted authority to arbitrators to hear such claims. The notion of asymmetrical sovereign consent was first recognized in *Asian Agricultural Products, Ltd. (AAPL) v. Sri Lanka*,² in which—according to Van Harten—the majority overcame the impediment of consent “by legal wizardry.” ICSID approved the tribunal’s innovative approach. The AAPL arbitration was followed by other cases in which the same reasoning was applied (such as *Saar Papier Vertriebs GmbH v. Poland*,³ *American Manufacturing and Trading, Inc. v. Zaire*,⁴ *Fedax N.V. v. Venezuela*,⁵ and *Ethyl, Corp. v. Canada*⁶), which are analyzed at great length in this chapter. The conclusion of the author is that the arbitrators’ liberal interpretation in these early cases—validating the theory of asymmetrical sovereign consent—paved the way “for an expansionist ISDS movement in which the fortunes of investors and arbitrators are closely aligned.”

D. Chapter 4: *The Most Powerful Protections*

Chapter 4 offers a critical analysis of the main standards of protections offered by investment treaties. It shows how ISDS treaties give foreign investors the most powerful protections of any private actor in international law. Van Harten explains

² *Asian Agric. Prods., Ltd. v. Sri Lanka*, ICSID Case No. ARB/87/3, Award (Jun. 27, 1990).

³ *Saar Papier Vertriebs GmbH v. Poland*, UNCITRAL, Final Award (Oct. 16, 1995).

⁴ *Am. Mfg. & Trading, Inc. v. Zaire*, ICSID Case No. ARB/93/1, Award (Feb. 21, 1997).

⁵ *Fedax N.V. v. Venezuela*, ICSID Case. No. ARB/96/3, Award (Mar. 9, 1998).

⁶ *Ethyl Corp. v. Canada*, NAFTA/UNCITRAL, Award on Jurisdiction (Jun. 24, 1998).



how ambiguous concepts in investment treaties have been interpreted by arbitrators in investor-friendly ways, intensifying the pressure on governments and allowing investors to challenge a wide array of sovereign decisions. He also highlights that treaties do not create investor responsibilities that are actionable in the same manner as their protections.

The expansive interpretation of treaty protections began with *Metalclad v. Mexico*, in which concepts such as indirect expropriation and fair and equitable treatment were interpreted heavily in favor of investors.⁷ Such trend continued with other cases, such as *Von Pezold v. Zimbabwe*⁸ (which underscored the procedural unfairness in ISDS), *Tokios Tokelés v. Ukraine*⁹ (where nationality shopping was allowed), and *Sedelmayer v. Russia*¹⁰ (which endorsed indirect ownership of investments). The author also explains how under ISDS treaties, foreign investors can avoid the institutions that govern others in a country by bringing claims against the country, since foreign investors are excused from the duty to exhaust local remedies. The ISDS system—starting with *Lanco v. Argentina*¹¹—also allows investors to avoid contractually agreed forums to resolve their disputes. Finally, ISDS treaties also fix the problem of enforcement for foreign investors—as they can pursue enforcement with relative ease against the losing country’s assets in other countries—that is also coupled with the intense pressure a country may face to pay awards from the investor’s home country, the World Bank or other financial institutions.

E. Chapter 5: Special Access to Public Funds

Chapter 5 deals with the imbalance created by ISDS treaties, which provide generous protections to foreign investors that would be impossibly expensive to provide to all as a result of their special access to public compensation, allowing them to make extraordinary threats against governments. The chapter further analyzes

⁷ *Metalclad Corp. v. Mexico*, ICSID Case No. ARB(AF)/97/1, Award (Aug. 30, 2000).

⁸ *Von Pezold v. Zimbabwe*, ICSID Case No. ARB/10/15, Award (Jul. 28, 2015).

⁹ *Tokios Tokelés v. Ukraine*, ICSID Case No. ARB/02/18, Award (Jul. 26, 2007).

¹⁰ *Sedelmayer v. Russia*, *Ad Hoc*, Award (Jul. 7, 1998).

¹¹ *Lanco Int’l Inc. v. Argentina*, ICSID Case No. ARB/97/6, Decision on Jurisdiction (Dec. 8, 1998).



issues such as how ISDS allows investors to challenge a country's laws and win compensation free from public or judicial scrutiny, the prospect of foreign investors receiving compensation from the state if the country does not accept the investors' will, and how the risk of arbitrators ordering uncapped compensation could be a concern for governmental officials when contemplating a law or regulation that investors might oppose.

The author also explores some key features of ISDS, such as the right of an investor to pick one arbitrator directly and to jointly choose the presiding arbitrator, who would otherwise be imposed by an appointing authority, most likely by one of the arbitration houses. Another important tool of ISDS is the power of the most-favored-nation clause to expand treaty protection—starting with the *Maffezini v. Spain*¹² ruling—that the author qualifies as “a wand for arbitrators to wave when converting ISDS treaties into a functionally multilateral deal that maximizes special protections for foreign investors in general.” Van Harten also covers the competition between arbitrators, lawyers, and arbitration houses within the ISDS industry, which affects “the legitimacy of the whole system,” and allows for limited judicial oversight to the arbitrators' decisions and different options for secrecy contemplated in the arbitration rules.

F. Chapter 6: *Intimidating Sovereigns*

Chapter 6 examines the ways in which ISDS jeopardizes sovereign states by undermining regulation, democracy, and security. The main focus of this chapter is the regulatory chill generated by ISDS since certain elements of ISDS treaties “create an exceptionally powerful tool for changing sovereign minds.” Some of those most salient elements are: exclusive access by foreign investors to ISDS, which allows them to challenge sovereign decisions; the ability of investors to win uncapped amounts of compensation; the breadth and ambiguity of the protections; the vagueness of treaty safeguards for the state's regulatory role; the international enforceability of ISDS rulings; the use of for-profit arbitration to decide claims, with little or no access to judicial review; and the inability of states to bring claims against investors.

¹² *Maffezini v. Spain*, ICSID Case No. ARB/97/7, Award (Nov. 13, 2000).



The author provides several examples of regulatory chill in which ISDS contributed to state decisions and had even led governments to reconfigure their institutional processes. Some of the examples analyzed in depth are: the *Ethyl v. Canada* case, in which a foreign investor used ISDS to stymie the Canadian government's efforts to check pollution by banning trade in a gasoline additive; the use of ISDS by foreign investors in Indonesia to unwind deals that dated from a corrupt era; Colombia privileging a private health insurer due to a threat of an ISDS claim, which led to a change in the government's processes; the dispute between Vattenfall and Germany, in which ISDS was used as pressure for approval of a coal-fired power plant in Hamburg at the expense of increased pollution; the *Philip Morris* saga, where ISDS was used to delay anti-tobacco regulations; and Romania pulling back from heritage protection threatened by ISDS.

G. G. *Chapter 7: Fault Lines and the Future of ISDS*

Chapter 7 addresses some of the current concerns with ISDS, its effect on globalization, and the reactions by many states, which are trying to limit expansive interpretations of treaty obligations and are pursuing reform of ISDS. In particular, this chapter explores the efforts by the European Union to replace ISDS with an investment court system in its new economic agreements and to push for a multilateral investment court to replace ISDS in existing treaties, the reform discussions at UNCITRAL, the renegotiated NAFTA, and the withdrawal of some countries from investment treaties.

H. H. *Appendix: Leading Hawks of ISDS*

In this appendix, the author elaborates on the professional background and the decisions rendered by six arbitrators, to whom he refers as the "leading hawks" of ISDS (Yves Fortier, Francisco Orrego Vicuña, Charles Brower, Marc Lalonde, Stephen Schwebel, and Gabrielle Kaufmann-Kohler), including examples of their investor-friendly records. He studies how these individuals interpreted investment treaties in a way that expanded treaty protections and reviews their rulings on contested legal issues—such as claims by minority shareholders or involving questionable investments; the interpretation and scope of controversial concepts such as most-



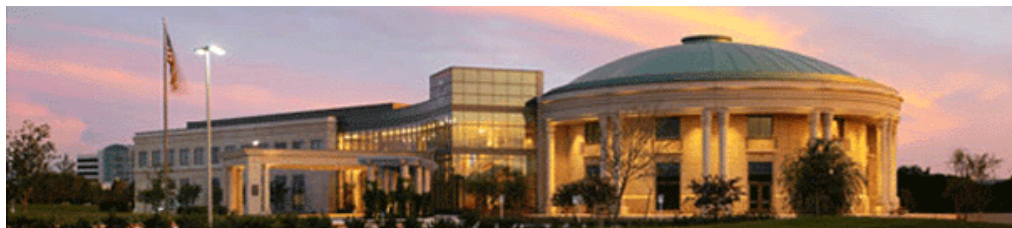
favoured nation treatment, fair and equitable treatment, and umbrella clauses; and the availability of the national security exception, among others.

III. CONCLUSION

Van Harten takes us through an entertaining journey that critically examines all the deeply disturbing problems that the current state of the ISDS system creates. The book analyzes how ISDS was ill-conceived, digging into its historical roots, and reveals how through expansive interpretations of vague concepts in investment treaties, it is reshaping international law to unimaginable levels, benefiting multinationals and tycoons, and creating inequality in favor of foreign investors. It also teaches how ISDS can be used as a weapon of extortion against states—intimidating sovereigns and restricting their ability to regulate in the public interest—and intends to raise awareness about the chilling effect of ISDS claims on state decisions. In short, this well-written study poses a sharp criticism to ISDS, echoing the concerns expressed by many states, which one rarely finds nowadays amid the prolific pro-ISDS literature.



FERNANDO TUPA is a Partner in the International Arbitration Group of Curtis, Mallet-Prevost, Colt & Mosle (New York and Buenos Aires). He specializes in investment and complex commercial disputes. He has extensive experience representing sovereign states, state-owned entities and private companies in arbitrations conducted under various rules, including those of the International Centre for Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law (UNCITRAL), and the International Chamber of Commerce (ICC).



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.

MISSION

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.

WHY BECOME A MEMBER?

Membership dues are more than compensated both financially and professionally by the benefits of membership. Depending on the level of membership, **ITA Members** may designate one or multiple representatives on the Institute's **Advisory Board**, each of whom is entitled to attend, without charge, the ITA Annual Meeting and Workshop in Dallas or the annual Americas Workshop in Latin America. Advisory Board members also receive a substantial tuition discount at all other ITA programs.

Advisory Board members also have the opportunity to participate in the Institute's leadership, professional initiatives, practice committees and a variety of other free professional and social membership activities throughout the year. Advisory Board members also receive a free subscription to ITA's e-journal *ITA in Review*, newsletter *News and Notes*, and all ITA video and audio online educational products. Your membership and participation support the activities of one of the world's leading forums on international arbitration today.

THE ADVISORY BOARD

The work of the Institute is done primarily through its Advisory Board, and its committees. The current practice committees of the ITA are the **Americas Initiative Committee** (comprised of Advisory Board members practicing or interested in Latin America), the **Young ITA Committee** (comprised of Young ITA Members and Advisory Board members under 40 years old) and the **In-House Counsel Committee**. The **Annual Meeting** of the Advisory Board and its committees occurs each June in connection with the annual ITA Workshop, including a variety of social activities and the **ITA Forum**, a candid off-the-record discussion among peers on current issues and concerns in the field. Other committee activities occur in connection with the Americas Workshop and throughout the year.

PROGRAMS

The primary public program of the Institute is its annual **ITA Workshop**, presented each year on the third Thursday in June in connection with the ITA Annual Meeting. Other annual programs include the **ITA-ASIL Conference** in Washington, D.C., the **ITA-IEL-ICC Joint Conference on International Energy Arbitration** in Houston, and the **ITA Americas Workshop** customarily in Latin America. ITA conferences customarily include a **Young Lawyers Roundtable** organized by Young ITA, which also presents a variety of **#YoungITATalks** events in cities around the world throughout the year. For a complete calendar of ITA programs, please visit our website at www.cailaw.org/ita.

PUBLICATIONS

ITA is a founding sponsor of **KluwerArbitration.com**, the most comprehensive, up-to-date portal for international arbitration resources online. The **ITA Arbitration Report**, a free email subscription service available at *KluwerArbitration.com* and prepared by the **ITA Board of Reporters**, delivers timely reports on awards, cases, legislation and other current developments from over 60 countries, organized by country, together with reports on new treaty ratifications, new publications and upcoming events around the globe. All ITA members receive a free subscription to **ITA in Review**, an e-journal edited by its **Board of Editors**. The Institute's acclaimed **Scoreboard of Adherence to Transnational Arbitration Treaties**, a comprehensive report on the status of every country's adherence to the primary international arbitration treaties, is published on ITA's website and in its quarterly newsletter, **News and Notes**. The **Online Education Library** on the Institute's website presents a variety of educational videos, mock arbitrations, recorded webinars, oral history interviews and books, many of them produced by the **Academic Council** for the benefit of professors, students and practitioners of international arbitration. **ITAFOR** (the ITA Latin American Arbitration Forum), a listserv launched in 2014 is the leading online forum on international arbitration in Latin America. International dispute resolution instructors are welcome to explore the course curricula and other pedagogical materials shared by leading professors on the website's **Legal Educators Resources Collection** and to participate in the accompanying **ITA-LEL listserv**. Young ITA members receive the **Young ITA Newsletter**.

Please join us. For more information, visit ITA online at www.cailaw.org/ita.

INSTITUTE FOR TRANSNATIONAL ARBITRATION

2022 Annual Membership Dues and Benefits

Sustaining Membership – \$6,000

(open to corporations, firms, and other organizations)

- Eight Advisory Board representatives (two under 40) with all **Advisory Board Member benefits** described below
- The right to designate an unlimited number of additional Advisory Board representatives for \$500 each
- The right to designate up to four additional Advisory Board members under 40 for \$300 each
- All employees entitled to member discount at ITA Programs
- Recognition as a *Sustaining Member* in publications

Supporting Membership – \$3,000

(open to corporations, firms, and other organizations)

- Four Advisory Board representatives (one under 40) with all **Advisory Board Member benefits** described below
- The right to designate an unlimited number of additional Advisory Board representatives for \$600 each
- The right to designate up to two additional Advisory Board members under 40 for \$300 each
- All employees entitled to member discount at ITA Programs
- Recognition as a *Supporting Member* in publications

Sponsoring Membership – \$1,250

(open to individuals, corporations, firms, and other organizations)

- One Advisory Board representative with all **Advisory Board Member benefits** described below
- Recognition as a *Sponsoring Member* in publications

Associate Membership – \$725

(open to individuals)

- Membership on the Institute Advisory Board, with all **Advisory Board Member benefits** described below
- The opportunity to use the Center's facilities in Plano for education-related activities
- Recognition as an *Associate Member* in publications

Academic / Government / Non-Profit Membership - \$395

(open to universities, government agencies, judicial and arbitral institutions, non-profit corporations and full-time employees or students of such organizations)

- One Advisory Board representative with all **Advisory Board Member benefits** described below
- Recognition as an *Academic/Government/Non-Profit Member* in publications

Arbitral Institution Membership – Invitation Only

(open by invitation only to select Arbitral Institutions with significant international caseloads)

- One Advisory Board representative with all **Advisory Board Member benefits** described below
- An opportunity to co-sponsor the annual Americas Workshop in Latin America
- Recognition as an *Arbitral Institution Member* in publications

Young ITA Membership - \$0

(open to individuals under 40)

- Free membership in ITA as a *Young ITA Member* (does not include membership on the Advisory Board)
- Free attendance at Young ITA programs and meetings and the annual ITA Forum in Dallas
- Young ITA member discount at the annual ITA Workshop and all other ITA programs, publications and online educational products
- Opportunity to serve in the Young ITA leadership
- Opportunity to participate in Young ITA online fora
- Free subscription to the ITA e-journal *ITA in Review* and e-newsletter *News & Notes*
- Recognition as a *Young ITA Member* in publications

Advisory Board Member Benefits

- Free attendance at the ITA Annual Meeting and Workshop OR the Annual Americas Workshop
- Free attendance at the members-only ITA Forum
- Member discount at all other ITA programs
- Free subscription to all ITA video and audio online educational products
- Free subscription to ITA's e-journal *ITA in Review* and quarterly newsletter *News and Notes*, with its *Scoreboard of Adherence to Transnational Arbitration Treaties*
- Opportunity to participate in the committees, leadership and other activities of the Advisory Board
- Recognition as an Advisory Board member in publications
- If qualified, the right to appear on the IEL Energy Arbitrators List



Institute for Transnational Arbitration
ITA IN REVIEW

Table of Contents

TRIBUTES

TRIBUTE TO EMMANUEL GAILLARD (1952-2021)

*Phillipe Pinsolle
Yas Banifatemi*

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

Alexandre Vagenheim

ARTICLES

PUEDE EJECUTARSE UN LAUDO CON UNA REPARACIÓN
NO PECUNIARIA BAJO EL CONVENIO DEL CIADI Y/O LA
CONVENCIÓN DE NUEVA YORK

Alonso Bedoya Denegi

A CRITICAL ANALYSIS OF LEGITIMATE EXPECTATION
VIS-À-VIS EU BLOCKING REGULATIONS

*Niyat Ahuja
Naimeh Masumy*

LOOKING TO THE PAST FOR THE FUTURE:
INTERNATIONAL INVESTMENT LAW AS A FRAMEWORK TO PROTECT
PRIVATE ACTORS IN OUTER SPACE

*Vivasvat "Viva" Dadwal
Charles "Chip" B. Rosenberg*

REPROGRAMING GEOPOLITICAL FIREWALLS:
TECHNOLOGICAL NON-PROLIFERATIONS AND THE FUTURE OF
INVESTOR-STATE DISPUTE SETTLEMENT

Jason Czerwiec

BOOK REVIEWS

INTERNATIONAL COMMERCIAL ARBITRATION IN THE EUROPEAN UNION
BRUSSELS I, BREXIT, AND BEYOND BY CHUKWUDI OJIEGBE

*Sarah Vasani
Daria Kuznetsova*

THE TROUBLE WITH FOREIGN INVESTOR PROTECTION BY GUS VAN HARTEN

Fernando Tupa

ITA CONFERENCE PRESENTATIONS

KEYNOTE REMARKS:
REGULATING ARBITRATOR ETHICS: GOLDILOCK'S GOLDEN RULE

Constantine Partasides, QC

AND MORE.

www.itainreview.com

The Institute for Transnational Arbitration
A Division of The Center for American and International Law

5201 Democracy Drive
Plano, Texas, 75024-3561
USA