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YOUNG ITA CHAIR'S REPORT 2018-2019

by Silvia Marchili

Young ITA promotes the involvement of young professionals (under 40) in the international arbitration community through programs, publications, competitions, and other activities. In addition, Young ITA encourages young professionals to become more involved with the ITA as a whole.

In 2018, Young ITA has built upon its exponential growth, and now has over 1200 members on six continents. But perhaps most importantly, Young ITA has emerged as a premier young arbitration group with a truly global footprint.

I. YOUNG LAWYERS ROUNDTABLES

Young Lawyers Roundtables are presented annually during the ITA Workshop in Dallas, the ITA-IEL-ICC Joint Conference on International Energy Arbitration in Houston, and the ITA Americas Workshop in Latin America. A review of the 2018 Young Lawyers Roundtables is below.

A. 5th ITA-IEL-ICC Joint Conference on International Energy Arbitration

The Young Lawyers Roundtable for the 5th ITA-IEL-ICC Joint Conference on International Energy Arbitration was held on January 18-19, 2018, in Houston. Co-Chairs Silvia Marchili (Young ITA Chair and Regional Chair, ICC YAF North America Chapter, King & Spalding LLP, Houston) and Soledad G. O'Donnell (IEL YEP Representative, Mayer Brown, Chicago) put together a fantastic program.

The Faculty on the first panel, entitled "*Mexican Energy Disputes-A New Era*" included Prof. Julián de Cárdenas Garcia (University of Houston Law Center, Houston), Cecilia Ibarra-van Oostenrijk (TechnipFMC, Houston), Raymundo Piñones de la Cabada (Mexico Association of Hydrocarbons (AMEXHI), México City), and Gabriel Salinas (Avant Energy, Houston). This panel, composed of in-house counsel, academics, and representatives from trade organizations, had many highlights, including a deep dive into NAFTA negotiations, and some initial impressions of Mexico's investment climate after the recent hydrocarbons law reforms.

The Faculty on the second panel, entitled "*Arbitrator Selection*" included José



Ricardo Feris (Squire Patton Boggs, Paris), Robert Landicho (Vinson & Elkins LLP, Houston), Elizabeth McKee Devaney (Occidental Petroleum Corporation, Houston) and Victoria Shannon Sahani (Arizona State University, Phoenix). The panel discussed many different issues that arise when proposing potential arbitrators to their clients, including the ethical considerations of communicating with arbitrator candidates prior to appointment, diversity and inclusion, and case-specific factors that may drive the selection process.

B. 30th Annual ITA Workshop and Annual Meeting

The Roundtable comprised two panels: “*Human Rights and Environmental Disputes in International Arbitration*” and “*A Tour Around the Arbitration World*”.

The speakers on the first panel were: Robert Landicho (Young ITA Communications Chair, Vinson & Elkins LLP, Houston), Laura Sinisterra (Young ITA Mentorship Chair, Debevoise & Plimpton LLP, New York), and Lorraine de Germiny (LALIVE, Geneva). Dr. Crina Baltag (Young ITA Thought Leadership Chair, University of Bedfordshire, UK) moderated the panel, prompting a deep dive into how human rights and environmental issues find their way into commercial and investor-State disputes, and proactive steps that investors can take to curb potential human rights and environmental issues when implementing their projects.

The Second panel included Damien Nyer (White & Case, New York), Pedro Guilhardi (Brazil Chair, Nanni Advogados, São Paulo), Karima Sauma (Mexico & Central America Chair, International Center for Conciliation and Arbitration, AmCham Costa Rica), and Tomas Vail (United Kingdom Chair, White & Case LLP, London). The panel was moderated by James Egerton-Vernon (North America Chair, Jones Day, Washington, DC), and James led a fulsome discussion of recent international arbitration developments in each region.

II. #YOUNGITATALKS

#YoungITATalks is a series of local events presented around the world. The format of each of the talks vary, ranging from workshops, interviews, panel discussions, debates, or other presentation formats that cover a wide range of



subjects relating to arbitration. The #YoungITATalks series is designed to educate, to promote conversation, and to share knowledge and experiences among young practitioners throughout the world. During 2018, Young ITA hosted 15 #YoungITATalks in 12 cities.

A. #YoungITATalks, São Paulo

TozziniFreire Advogados hosted the event *Arbitragem e Eficiência: Café da Manhã com Arbitragem*, which took place on April 11, 2018.

The Faculty included: Pedro Guilhardi (Young ITA Brazil Chair, Nanni Advogados, São Paulo), Rafael Medeiros Mimica (TozziniFreire Advogados, São Paulo), Francisco José Cahali (Cahali Advogados e Mestre, Pontifícia Universidade Católica de São Paulo, PUC), Carolina da Rocha Morandi (AMCHAM Brasil, São Paulo), and Pedro Bento de Faria (TozziniFreire Advogados, São Paulo).

B. #YoungITATalks, London

On May 1st, 2018, the program “*Oil/Gas Arbitration Involving States and State Entities: Selected Procedural and Substantive Issues*,” has hosted by White & Case in London. The lively discussion focused on the unique legal issues that arise when states and state entities are involved, with counsel sharing their experiences (both on procedure and merits) and perspectives. The panel included representatives of both energy companies and state entities represented.

The all London Faculty included: Margaret Ryan (Shearman & Sterling), Olivia Valner (Freshfields Bruckhaus Deringer), Scott Vesel (Three Crowns), Sylvia Tonova (Jones Day), Saadia Bhatti (Gide Loyrette Nouel) and Tomas Vail (White & Case).

C. #YoungITATalks, Quito

AmCham Quito and Andrade Veloz co-sponsored the YoungITATalk *Arbitration Skills Workshop*, on June 1, 2018, moderated by José María de la Jara (Bullard Falla Ezcurra +, Lima).

The first session started with a simulation of the kick off meeting between a client and its attorney, and then shifted to the theory of designing a persuasive arbitral case.



The panelists were Hugo García (Carmigniani & Perez, Quito) and Mario Reggiardo (Bullard Falla Ezcurra +, Lima).

The second session included a simulation of a cross examination, as well as the theory of how to execute an effective cross-examination. The panelists were Carolina Arroyo (Andrade & Veloz, Quito) and Patricia Vera (Center of Arbitration of the American Chamber of Commerce, Quito).

D. #YoungITATalks, Frankfurt

On June 13, 2018, White & Case hosted the YoungITATalk, “*Tech Projects in Asia: Implementation and Disputes—Lessons Learned From In-House and Counsel Perspective.*” In two panel discussions, the moderator, panelists, and the audience engaged in a lively and inspiring debate. Introductions were made by Rocío Digón, (Young ITA Continental Europe Chair) and Alexandra Diehl (White & Case LLP, Frankfurt).

The first panel, moderated by Heiko Heppner (Dentons, Frankfurt), covered the issue of “*Cultural and other Pitfalls in Tech Projects in Asia and How to Avoid Them.*” The panelists were Alexander Genz (Fujitsu Electronics Europe) and Christian M. Theissen (White & Case LLP, Frankfurt).

The second panel discussed the issue of “*Solving Tech Disputes in Asia Most Effectively,*” moderated by Mariel Dimsey (CMS Hasche Sigle in Hong Kong). The panelists were Clemens-August Heusch (Nokia) and Matthew Secomb (White & Case LLP, Singapore).

E. #YoungITATalks, Lima

Hosted by Bullard Falla Ezcurra +, YoungITATalk “*Technology and the Future of International Arbitration,*” was held together with ICC YAF, on August 8, 2018. The panelists discussed the various opportunities and challenges that new technologies bring to international arbitration, especially when appointing arbitrators and with respect to evidence.

Eduardo Zuleta (Vice Chair, ITA and Vice President, ICC International Court of Arbitration, Zuleta Abogados, Bogotá) gave the welcome remarks. Following, Gary



Born (Wilmer Hale, London) addressed the keynote speech “*The Future of Arbitration*.”

The panel “*The Use of Technology in International Arbitration*” was moderated by Julio Olórtégui (Bullard Falla Ezcurra +, Lima). Briana Canorio (ICC YAF Representative for Latin America, Petroperú, Lima) addressed the topic “*Blockchain, Smart Contracts and Arbitration*”; Francisco Paredes (Laudenlaw, Washington D.C. / Quito) addressed the topic “*Machine Learning, Automation of Litigation Tasks*”; Diana Garate (Rebaza Alcázar & De Las Casas, Lima) the topic “*Augmented Reality and New Evidence Methods*”; and José María de la Jara (Young ITA South America Chair, Bullard Falla Ezcurra +, Lima) referred to the topic “*Are We Ready for Arbitral Robots?*” Christopher Drahozal (Arbitrator Intelligence, Lawrence, Kansas) presented on “*Arbitration Intelligence and the Search for Diversity*.” Diana Correa (ICC YAF Representative for Latin America, Correa International, Bogotá) and José María de la Jara provided closing remarks.

F. *Informal Summer Drinks and Canapes (London)*

On August 16, 2018, Vinson & Elkins London hosted an informal evening of drinks and socializing.

G. *#YoungITATalks, New York*

Freshfields Bruckhaus Deringer sponsored YoungITATalks, New York: “*US Law and International Commercial Arbitration: A Changing Landscape*,” on September 25, 2018.

Speakers and participants held a lively discussion on the impact of recent decisions in United States (U.S.) courts on international arbitration, especially with regard to personal jurisdiction and non-signatories. The speakers and moderators included: Ananda Burra (Jones Day, New York), Tom Childs (King & Spalding, New York), Rocío Digón (Young ITA Continental Europe Chair), Ben Love (Freshfields Bruckhaus Deringer, New York), Sam Prevatt (Freshfields Bruckhaus Deringer, New York), Victoria Sahani (Arizona State University School of Law, Phoenix), Lindsey Schmidt (Gibson Dunn, New York), and Kristen Weil (Dentons, New York).



H. #YoungITATalks, Washington, D.C.

YoungITATalks, Washington D.C., featured a program on “*International Arbitration in the United States*.” The event was sponsored by Jones Day and was held on October 3, 2018.

The event included two panel discussions, addressing the future of investment treaties in the U.S., and the treatment of arbitration agreements and awards by U.S. courts. In the first panelists Christina Beharry (Foley Hoag, Washington D.C.), Kathleen Claussen (University of Miami School of Law, Miami), and Mirea Lynton Grotz, (Washington D.C.), moderated by Young ITA North America Chair, James Egerton-Vernon (Jones Day) discussed the topic “*The United States and Investment Treaties: The Next Ten Years*.”

In the second panel, panelists Csaba Rusznak (Arnold & Porter, Washington D.C.), Kristen Young (White & Case, Washington D.C.), and Caroline Edsall Littleton (Jones Day, Washington D.C.) moderated by Simon Consedine (Three Crowns, Washington D.C.) discussed on “*International Arbitration in the U.S. Courts*.”

I. #YoungITATalks, London

On October 23, 2018, YoungITATalks, London “*The ICSID Secretariat’s Proposals for Rule Amendments: The Times They Are A-Changin’*,” took place at White & Case. The ICSID Secretariat recently proposed amendments intended to modernize the ICSID rules, to offer States and investors a range of effective dispute settlement mechanisms. This event addressed these suggested changes, with counsel sharing perspectives on the proposed amendments and related anecdotes from their experience.

Faculty on the first panel “*The ICSID Secretariat’s Proposals for Rule Amendments: Improvements to Efficiency*,” included Govert Coppens (Volterra Fietta, London), Helen Llehto (Hannes Snellman, Helsinki), and Jean Paul Dechamps (Dechamps Law, London), moderated by Tomas Vail (White & Case, London). The second panel “*The ICSID Secretariat’s Proposals for Rule Amendments: Transparency and Special Procedures*,” included Evgeniya



Rubinina (Freshfields Bruckhaus Deringer, London), Lorraine De Germiny (Lalive, Geneva), and Bernhard Maier (Squire Patton Boggs, London) on the faculty, moderated by Zsafia Young (Fietta, London).

J. #YoungITATalks, São Paulo

On October 24, 2018, Pinheiro Neto Advogados, São Paulo, and Arbitration Intelligence co-sponsored a YoungITATalks program, entitled: *“Challenges in the Choice of Arbitrators: How to Consider Experience, Transparency and Diversity in the Nomination Process and in the Formation of the Arbitral Tribunal?”*

The topic was debated by Pedro Guilhardi (Young ITA Brazil Chair, Nanni Advogados, São Paulo) together with Gabriella Bianchini (Sanders Phillips Grossman, London, UK), Maurício Pestilla Fabbri (Cescon, Barrieu, Flesch & Barreto Advogados, São Paulo), Rafael Villar Gagliardi (Demarest Advogados, São Paulo), Renato S. Grion (Pinheiro Neto Advogados, São Paulo), Marcela Kohlbach (Leste, Rio de Janeiro), and Thiago Del Pozzo Zanelato, (Arbitrator Intelligence (Latam Campaign), Pinheiro Neto Advogados, São Paulo).

K. #YoungITATalks, New Delhi

Young ITA and the Centre for Trade and Investment Law, IIFT, put together an excellent program *“Investment Arbitration in India: Challenges and Opportunities”* on October 29, 2018. In recent years, India has emerged as one of the most frequent respondents in investor-state arbitration. In response, the Government has taken a series of dramatic steps to alter the investment treaty regime in India. For instance, it has extensively revised its Model BIT, which serves as a template for investment treaty negotiations. The Government has also served BIT termination notices to nearly 60 countries, stating that it intends to replace the existing agreement with new BITs containing less expansive protections. The panel, with participants from foreign and domestic law firms, academia, government and the bar, discussed the impact of those developments.

Dr. James Nedumpara (Professor and Head, Centre for Trade & Investment Law)



and Aditya Singh (Young ITA Asia Chair; White & Case, Singapore) provided the introductions and welcome remarks. Next, panelists Justice Indu Malhotra (Supreme Court of India), Arvind Datar (Supreme Court of India), K Rajaraman (Department of Economic Affairs, Government of India), Niti Dixit (S&R Partners) and Dipen Sabharwal (White & Case) discussed the numerous challenges and opportunities that have accompanied the increase in international investment arbitration with India. The program was moderated by Dr. Prabhash Ranjan (South Asian University).

L. *#YoungITATalks, Guatemala City*

Universidad Francisco Marroquín was the venue for #YoungITATalks, Guatemala City titled “*Hot Topics in International Arbitration in Mexico and Central America*,” held on November 9, 2018. Faculty included: Karima Sauma (Young ITA Chair for Mexico and Central America, CICA-AmCham, San José), Alfredo Skinner-Klée Arenales (LatamLex, Guatemala City), Alfredo Skinner-Klée Sol (CENAC, Guatemala City), Lupe López (Freshfields Bruckhaus Deringer, New York), Milton Argueta (Universidad Francisco Marroquín, Guatemala City), Edson López (Integrum, Guatemala City), Ignacio Suárez Anzorena (Clifford Chance, Washington, DC), Michael Fernández (Winston & Strawn, New York) and René Irra (Cuatrecasas, México City).

M. *#YoungITATalks, Miami*

On November 14, 2018, YoungITATalks, Miami, entitled “*The Changing Landscape of Trade Agreements and Regional Development Strategies and International Arbitration: USMCA, CAFTA-DR, CPEC and the BRI*,” was co-sponsored by the Florida International University College of Law and the Miami International Arbitration Society. The program featured a roundtable discussion on the most important trade agreements and regional developing strategies of 2018 and their impact on the field of international arbitration.

Faculty included: Aristeo López (International Trade and Investment, Government of Mexico, Washington, D.C.), Andrea Hulbert (Hulbert Volio Abogados, San José, Costa Rica), Diego B. Gosis (GST, LLP, Miami), Manuel A. Gómez (Professor of Law and



Associate Dean of International and Graduate Studies, FIU College of Law, Miami) and Maria I. Pradilla Picas (Jones Day (Washington, D.C.).

N. *#YoungITATalks, Dubai*

Vinson & Elkins, LLP sponsored #YoungITATalks, Dubai on December 5, 2018, at the Capital Club–DIFC, Dubai. The event included two panel discussions, the first addressing the recent developments in investment arbitration and inter-state arbitration in the Middle East, and the second addressing the future of international arbitration (using the recent Queen Mary International Arbitration Survey as a basis for discussion).

Aditya Singh (Young ITA Asia Chair; White & Case, Singapore) put together the Faculty, which included: Aseel Barghuthi (formerly of Eversheds Sutherland, Amman; now at Herbert Smith Freehills), Emily Beirne, Associate (Vinson & Elkins, Dubai), Sana Belaid (Cisco, Dubai), Charlotte Bijlani (Watson Farley & Williams, Dubai), Dilpreet Dhanoa (Squire Patton Boggs, Dubai), Lara Hammoud (Abu Dhabi National Oil Company, Abu Dhabi), Robert Landicho (Vinson & Elkins, Houston), and Sami Tannous (Freshfields, Dubai).

O. *#YoungITATalks, Paris*

Young ITA and CIARB YMG put together the “*Young ITA Talks and CIARB YMG European Branch Happy Hour*,” on December 19, 2018, hosted by Latham & Watkins, Paris.

The program was a 2018 Year-in-Review, marking the hot topics that emerged in the course of the year. Topics discussed included new uses of technology and artificial intelligence, *Achmea* and its possible effects and transparency in arbitrator selection and appointment, as well as publication of awards.

Faculty included: Jil Ahdab (CIARB and Bird & Bird, Paris), Saadia Bhatti (Gide, London), Rocío Digón (Young ITA Continental Europe Chair), Paula Henin (Freshfields, New York), Alexander Leventhal (Quinn Emmanuel, Paris), Ana Gerda de Borja Mercereau (Derains & Gharavi, Paris), and Diego Romero (Latham & Watkins, Paris).



III. YOUNG ITA WRITING COMPETITION AND AWARD: “NEW VOICES IN INTERNATIONAL ARBITRATION”

The Young ITA Writing Competition and Award “New Voices in International Arbitration” is a unique opportunity for young professionals to contribute actively to the research of international arbitration and to be recognized as qualified voices in this area, as well as to get involved in the activities of the Institute for Transnational Arbitration. The Competition is open to members of Young ITA, practitioners, and students.

The general topic for 2018-2019 Competition and Award was “*Independence and Impartiality in International Arbitration: Arbitrators’ Duty to Disclose (and Investigate) Conflicts.*” Nevertheless, the papers could address issues related to the topic announced or to any other topic in the field of international commercial or investment arbitration, without restrictions.

The papers were submitted before January 2, 2019 and were judged by two Panels. The First Panel comprised five judges, who selected the best three papers to be submitted to the Second Panel for a final decision. In the 2018-2019 Young ITA Writing Competition and Award, the two Panels were the following; for the First Panel: Silvia Marchili (White & Case, Immediate Past Young ITA Chair); Elizabeth Devaney (Occidental Petroleum Corporation, Young ITA Vice-Chair); Dr. Crina Baltag (University of Bedfordshire, Young ITA Thought Leadership Chair); Robert Landicho (Vinson & Elkins LLP, Young ITA Communications Chair); and Laura Sinisterra (Debevoise and Plimpton LLP, Young ITA Mentorship Program Chair); for the Second Panel: Charles H. Brower II (Wayne State University Law School); Dominique Brown-Berset (Brown & Page); and James Loftis (Vinson & Elkins LLP).

The winner of the 2018-2019 Young ITA Writing Competition and Award “New Voices in International Arbitration” was Damien Charlotin, Ph.D candidate, Cambridge University, with a paper on “A Data Analysis of the Iran-US Claims Tribunal’s Jurisprudence – Lessons for International Arbitration Today”.

Mr. Charlotin will receive the prize of USD \$3,000, selected books published by Wolters Kluwer and up to USD \$1,500 reimbursement for expenses to travel to Dallas



to receive the award at the 31st Annual ITA Workshop and Annual Meeting in June. In addition to this, the winning paper will be published in the ITA journal *ITA in Review*.

The Second Panel also awarded three Honorable Mentions to the three runners-up:

1. Kathleen Claussen, Associate Professor, University of Miami School of Law, US, with “*Ethical Forum Shopping in Transnational Arbitration*,”
2. Shervie Maramot, Research Assistant, Monash University, Australia, with “*Keeping Up with Legal Technology—The Impact of the Use of Predictive Justice Tools on an Arbitrator’s Impartiality and Independence in International Commercial Arbitration*,” and,
3. Ong Shaw Shiuan, student, National University of Singapore, with “*Dismantling the Safe Harbour: Solving the Evidentiary Problems in Corruption Allegations in Investor-State Arbitration*.”

IV. YOUNG ITA MENTORSHIP PROGRAM

As part of its efforts to cultivate young talent in the field of international arbitration, this year Young ITA launched the Young ITA Mentorship Program.

The inaugural cycle of the Mentorship Program will run until October 2019. For this cycle, Young ITA paired successful applicants with a senior Mentor and a “Mentorship Facilitator”—an accomplished arbitration practitioner who can assist Mentees in their activities and serve as a liaison between Mentors and Mentees. Mentors, Facilitators, and Mentees held quarterly meetings, attended workshops and conferences together, discussed career development, explored opportunities for collaboration, and even spoke together at conferences!

Young ITA has received excellent feedback regarding the mentorship program and we look forward to the upcoming 2019- 2020 mentorship cycle, which will be announced in July 2019.

The Program is hands-on, offering students and early career professionals an exceptional opportunity to glean valuable knowledge from seasoned members of the ITA and to forge lifelong connections. The mentee application deadline this year was July 31, 2018.



If you are already a member of Young ITA, please participate and let us know of your interests, suggestions, and concerns. If you are not already a member, please join us now. #YoungITATalks.

Sincerely,



SILVIA MARCHILI is a partner at White & Case Houston office. Silvia M. Marchili focuses on complex international arbitration cases involving investment and commercial claims. She handles international arbitration and litigation matters involving Latin America and Africa, and a variety of sectors, including oil and gas, power, construction, mining, air transportation, and infrastructure. Silvia is bilingual and trained in both civil and common law. With more than 15 years of experience, Silvia represents parties in investment arbitrations before international tribunals under the World Bank's International Centre for the Settlement of Investment Disputes Convention, as well as under other arbitration rules. She is active in several international law and international arbitration organizations, serving as a Member of the FDI Moot Advisory Board, Chair of the Young ITA, and North America regional representative at the ICC Young Arbitrators Forum.



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