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INTERNATIONAL CONFERENCE

# THE DUTIES, RIGHTS AND POWERS OF INTERNATIONAL ARBITRATORS

September 19th 2017

Claudio Grossman Hall

American University Washington College of Law  
4300 Nebraska Ave, NW, Washington, DC, 20016

Attendance is free but RSVP Required. Please RSVP online at:

[www.wcl.american.edu/secle/cle\\_form.cfm](http://www.wcl.american.edu/secle/cle_form.cfm)

## Director

**Horacio Grigera Naón**- Distinguished Practitioner in Residence and Director of the Center on International Commercial Arbitration at American University Washington College of Law

## Scientific Committee:

**José Manuel Álvarez Zárate**- Professor of Law and Director LLM Program on International Economic Law at the Externado University of Colombia

**Katia Fach Gómez** - Professor at University of Zaragoza (Spain)

## Agenda

### 9:00 AM – Introductory Remarks

**Horacio Grigera Naón**- *“Introductory Remarks: The Duties, Rights and Powers of International Arbitrators”*.

### 9:15 AM – 10:30 AM – Panel I – The International Arbitrator

This panel will discuss the ethical conduct of arbitrators, from judicial activism to the general problem of ethics in international investment arbitration.

## Speakers:

- **Susan D. Franck**- Professor of Law at American University Washington College of Law: *“Inside the Arbitrator’s Mind”*.
- **Andrea Bjorklund**- Full Professor, L. Yves Fortier Chair in International Arbitration and International Commercial Law at McGill University (Canada): *“Are Arbitrators (Judicial) Activists?”*
- **Rodrigo Polanco**- Senior Researcher and Lecturer at the World Trade Institute, Bern (Switzerland) and Assistant Professor at the University of Chile School of Law and **Valentino Desilvestro**- Doctoral Fellow at the World Trade Institute: *“Does an Arbitrator’s Background Influence the Outcome of an Investor-State Arbitration Case?”*
- **Chiara Giorgetti**- Associate Professor of Law at University of Richmond, Virginia: *“The Problem of Ethics in International Investment Arbitration”*.

**Chair: Anne Marie Whitesell**- Professor of Law and Director of the Program on International Arbitration and Dispute Resolution at Georgetown University Law Center.

## 10:30 AM – 10:45 AM – Coffee Break

## 10:45 – 12:00 Panel II – Arbitrator’s Duties

This panel will discuss the ethical obligations of arbitrators to the public, as well as to the parties, specifically, the problem of biased arbitrators and the issue of impartiality and independence.

## Speakers:

- **Perry S. Bechky**- Partner, Berliner, Corcoran & Rowe LLP, Washington D.C.: *“InvestorState Arbitrators’ Duties to Non-Parties”*.
- **Michelle Grando**- International Attorney, White & Case LLP, Washington D.C.: *“The Arbitrator’s Duty to Conduct the Process in an Efficient Manner”*.
- **Diana Tsutieva**- Senior Associate, Foley Hoag LLP, Washington D.C. *“The problem of Biased Arbitrators”*.
- **Bjorn Arp**- Adjunct Professor at American University Washington College of Law: *“Impartiality and Independence in Arbitration and Permanent Tribunals”*.

**Chair: Álvaro Galindo**- International Counsel, Dechert LLP, Washington D.C.

## 12:00 PM – 1:00 PM – Panel III – Arbitrator’s Rights

## Speakers:

- **Kathleen Claussen**- Associate Professor of Law at University of Miami School of Law: *“Tipping Point Challenges in International Economic Disputes”*.
- **Karsten Nowrot**- Director of the Research Institute for Economic Law and Labour Law at Hamburg University, **Emily Sipiorski**- Researcher at Hamburg University

(Germany): *“Approaches to Arbitrator Intimidation in Investor-State Dispute Settlement: Challenges and Inadequacies”*.

- **Catharine Titi**- Research Scientist at the French National Centre for Scientific Research (CNRS) and Member of the CREDIMI, Law Faculty of the University of Burgundy (France): *“Dissenting Opinions in Investment Treaty Arbitration”*.

**Chair: Constantinos Salonidis**- Senior Associate, Foley Hoag LLP, Washington D.C.



**1:00 PM – 2:00 PM – Lunch kindly Sponsored by:** Freshfields Bruckhaus Deringer

**2:00 PM – 3:15 PM - Panel IV - Arbitrator’s Interpretative Powers**

**Speakers:**

- **Nigel Brackaby**- Partner, Freshfields Bruckhaus Deringer, Washington, D.C.: *“The Arbitrator’s Power to Apply the Law – Iura Novit Curia in International Arbitration”*.
- **Joshua Karton**- Associate Professor at Queen’s University Faculty of Law, Kingston (Canada): *“The International Arbitrator’s Duty to Apply the Law”*.
- **David L Earnest**- Associate, Shearman & Sterling, Washington, D.C.: *“Delimitating Jurisdiction and Admissibility in Investor State Arbitration: an Enduring Lacuna or a Developing Consensus”*.
- **José Manuel Álvarez Zárate**- Professor of Law and Director LLM program on International Economic Law at the Externado University of Colombia: *The Interpretative Powers of Arbitrators: Has Been there Any Progress since Nineteenth Century?*

**Chair: Claudia Frutos-Peterson**- Managing Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP, Washington D.C.

**3:15 PM – 3:30 PM – Coffee Break**

**3:30 PM – 4:30 – Panel V– The European Union Proposal of an Investment Court System.**

**Speakers:**

- **Fernando Dias Simões**- Associate Professor, Faculty of Law at University of Macau (Macau): *“Hold on to Your Hat! Issue Conflicts in the TTIP Proposal for an Investment Court”*.
- **Kate Parlett**- 20 Essex St, London (UK): *“The Creation of a Standing Investment Court and a Standing Appellate Tribunal: Potential Impacts on Arbitrators’ Procedural Powers”*.
- **Elsa Sardinha**- Research Associate, Trade & Investment Law Group, Centre for International Law National at the University of Singapore: *“Party-Appointed Arbitrators No More: The New EU-Led ‘Investment Tribunal System’ in CETA and the EU-Vietnam FTA as an (Imperfect?) Response to the Legitimacy Concerns in Investor-State Arbitration”*.

**Chair: Katia Fach Gómez**- Professor at University of Zaragoza (Spain).

**4:30 PM – 4:45 PM – Concluding Words**

A selection of the papers presented in the conference will be published in a special issue in **The Law and Practice of International Courts and Tribunals** in the first quarter of 2018 (LPCT, Vol. 17, No. 1). (Editor-in Chief: Pierre Bodeau-Livinec and Managing Editor: Chiara Giorgetti).