

INSTITUTE FOR
TRANSNATIONAL ARBITRATION



THE CENTER FOR AMERICAN
AND INTERNATIONAL LAW

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3rd Annual
ITA Americas
W O R K S H O P

Mock Arbitration:
INVESTMENT TREATY ARBITRATION IN THE 21ST CENTURY

& Forum:
CURRENT ISSUES IN INTERNATIONAL COMMERCIAL ARBITRATION



Featuring
Luncheon Speaker

**Oswaldo César
Guglielmino**
Solicitor General
of Argentina

March 14-16, 2007

**SHERATON BUENOS AIRES HOTEL
& CONVENTION CENTER
BUENOS AIRES, ARGENTINA**

- ▶ The Workshop will be presented in English and Spanish with simultaneous translation
- ▶ Sessions will address current issues in international investment and international commercial arbitration

Presented by the

**Institute for
Transnational Arbitration**

with

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Arbitraje de Disputas en
Inversiones (CIADI)**

**La Conferencia de las Naciones
Unidas sobre Comercio y
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The Program

Though presented in Argentina's capital, the 3rd Annual Americas Workshop is designed to be a truly regional conference that unites government officials and practitioners from all of North, Central and South America together with all who have a special interest in this region.

Featuring scenes from a mock arbitration with expert commentaries thereon, the Thursday program provides an introduction to ICSID arbitration for the non-expert and will examine important and challenging aspects of investor-state arbitration from the vantage points of the parties, the tribunal, the institution, and the public at large. The role players and commentators include many of the top tier arbitrators and practitioners in this field.

The mock proceeding arises from a U.S.-based company's efforts to construct a modern toll road in Ruritania, pursuant to a concession agreement. Progress toward completion, however, is brought to a stand still when indigenous peoples refuse to surrender the region they have inhabited for generations, with its many sacred sites. Left with a road to nowhere and believing that Ruritania's internal politics and other factors will prevent the host government from resolving the impasse, the investor elects to pursue its treaty rights and remedies.

The Forum on Friday morning addresses current issues in international commercial arbitration. Three panels of distinguished arbitration experts discuss recent developments in the enforcement of arbitration awards, judicial control over arbitration and multi-party arbitrations.

WEDNESDAY - MARCH 14, 2007

7:30

WELCOME RECEPTION

Sheraton Buenos Aires Hotel, Aguila Room - 24th Floor

The Institute for Transnational Arbitration gratefully acknowledges

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THURSDAY - MARCH 15, 2007

Mock Arbitration: INVESTMENT TREATY ARBITRATION IN THE 21ST CENTURY

Workshop CO-CHAIRS

Jack J. Coe, Jr., *Pepperdine University School of Law, Malibu*
Barton Legum, *Debevoise & Plimpton LLP, Paris*
Raúl Vinuesa, *Vinuesa y Asociados, Buenos Aires*

8:00 WORKSHOP REGISTRATION AND CONTINENTAL BREAKFAST

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

ACT I – BIRTH OF AN ICSID CASE (*including commentary and discussion*)

9:10 INTRODUCTION TO ACT I **Barton Legum, Workshop Co-Chair**

9:15 ACT I – SCENE I – TOLL-STOY HEARS OF BIT ARBITRATION (ENGLISH)

Having called a friend in an international law firm for recommendations of litigators in Ruritania, Toll-Stoy's general counsel skeptically receives a visit from his friend's partner. The partner, a specialist in BIT arbitration, argues that international treaties and public international law may provide the best solution to Toll-Stoy's problems. In the process, the general counsel learns of the important differences between treaty and commercial arbitration and the many choices to be made between treaties and arbitration rules to be invoked in the case.

General Counsel
Outside Lawyer

Oscar Garibaldi
Robert W. Hawkins



9:50 ACT I – SCENE II – THE REGISTRATION OF THE REQUEST FOR ARBITRATION (SPANISH)

Toll-Stoy prepares and submits a request for arbitration to ICSID. Under the ICSID Convention, the Secretariat must register the request unless the dispute is “manifestly outside the jurisdiction of” ICSID. Members of the Secretariat carefully review the request and discuss, in an internal meeting, whether to recommend registration. The discussion highlights the character and nature of this screening exercise.

ICSID Counsel

Cristián Conejero Roos
Diana C. Droulers
Claudia Frutos-Peterson

10:25 BREAK

ACT II - ORGANIZATION OF THE DEFENSE AND THE PROCEEDINGS *(including commentary and discussion)*

10:40 INTRODUCTION TO ACT II

Jack J. Coe, Jr., Workshop Co-Chair

10:45 ACT II – SCENE I – THE INTERAGENCY PROCESS (SPANISH)

After ICSID transmits its notice of registration, the Ministry of Transportation convenes a meeting of all potentially concerned agencies to discuss what to do in response to the request, who should do it and how to pay for it. It quickly becomes apparent that a wide variety of interests are represented and some coordination, and some time, will be required for the government to speak as one voice.

Ruritania Officials:

Ministry of Foreign Affairs Official
Ministry of Finance and Tourism Official
Ministry of Transportation Official
Ministry of Justice Official
Ministry of Indigenous Affairs Official

Rodrigo Oreamuno Blanco
Cecilia Flores Rueda
Sylvie Tabet
Gabriel Bottini
Maria Vicien-Milburn

11:10 ACT II – SCENE II – THE ORGANIZATIONAL HEARING (ENGLISH)

The members of the tribunal and the secretary meet for the first time just before the organizational hearing - the first meeting with the parties. The hearing is complicated in this case, however, because Ruritania has challenged the first arbitrator’s fitness to serve. Under the ICSID Convention, the other two arbitrators must decide the challenge. Argument is presented at the hearing on this point, as well as on the organizational issues the tribunal must decide.

Counsel for Toll-Stoy
Counsel for Ruritania
The Tribunal

Judith Gill
Ignacio Pérez Cortés
David D. Caron, President
Carole Malinvaud, Party Appointed
Albert Jan van den Berg, Party Appointed
Claudia Frutos-Peterson, Secretary

12:00 QUESTIONS AND ANSWERS

12:15

HOSTED LUNCHEON

The Experience of the Republic of Argentina Before ICSID, Present and Future

OSVALDO CÉSAR GUGLIELMINO
Solicitor General of Argentina
Buenos Aires

The Institute for Transnational Arbitration gratefully acknowledges

Hunton & Williams LLP
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for their generous sponsorship support.



ACT III – THE HEARING ON JURISDICTION *(including commentary and discussion)*

1:45 INTRODUCTION TO ACT III

Raúl Vinuesa, Workshop Co-Chair

1:50 ACT III – SCENE I – OF AMICI AND INJUNCTIONS (SPANISH)

Before the tribunal gets to the substance of Ruritania's objections to jurisdiction, it must address a thicket of thorny procedural issues presented in the case. A non-governmental organization has requested permission to make *amicus curiae* submissions on the indigenous rights issues presented. Toll-Stoy, having been joined as a party to the litigation in Ruritanian courts against the Ministry of Transportation brought by an indigenous groups association, seeks provisional measures barring the case from proceeding under Article 26 of the ICSID Convention. Ruritania opposes and requests its own order under Article 27 seeking to bar the U.S. government from pressuring Ruritania to settle the case on terms favorable to Toll-Stoy.

Counsel for Toll-Stoy
Counsel for Ruritania
Counsel for NGO Non-Party
The Tribunal

Uriel Federico O'Farrell
Sylvia Noury
Marcos Orellana
Horacio A. Grigera Naón, President
Sandra Morelli Rico, Party Appointed
Pedro Nikken, Party Appointed
Claudia Frutos-Peterson, Secretary

2:20 ACT III – SCENE II – THE SUBSTANTIVE OBJECTIONS (SPANISH)

With the procedural thicket behind it, the tribunal turns to the substance of the jurisdictional objections. The issues are complex, including application of a so-called "fork in the road" provision and its interaction with a most-favored-nation clause. An objection is also presented under the new "manifestly without legal merit" ground of the ICSID Arbitration Rules, the application of which raises novel issues.

Counsel for Toll-Stoy
Counsel for Ruritania
The Tribunal

Horacio Ruiz Moreno
Jonathan C. Hamilton
Donald Francis Donovan, President
Guido Santiago Tawil, Party Appointed
Enrique Gómez-Pinzón, Party Appointed
Claudia Frutos-Peterson, Secretary

3:00 BREAK

ACT IV – THE MERITS, THE AWARD AND ANNULMENT *(including commentary and discussion)*

3:15 INTRODUCTION TO ACT IV

Barton Legum, Workshop Co-Chair

3:20 ACT IV – SCENE I – THE HEARING ON LIABILITY (ENGLISH)

The hearing on the merits (excluding damages) arrives along with its own issues. Ruritania objects to Toll-Stoy's use of PowerPoint presentations, a resource stated to be unavailable to it. Toll-Stoy argues that the tribunal should draw a negative inference from Ruritania's failure to produce documents classified as secret under local law and objects to the admissibility of evidence obtained through intelligence services. Further issues of balance and imbalance are raised in the cross-examination of witnesses and argument is presented on the force and significance of factual issues addressed in the jurisdictional decision.

Witness
Counsel for Toll-Stoy
Counsel for Ruritania
The Tribunal

Lorraine Brennan
José María Abascal
Jorge Barraguirre
J. William Rowley, President
Claus von Wobeser, Party Appointed
Guillermo Aguilar Álvarez, Party Appointed
Claudia Frutos-Peterson, Secretary

3:55 ACT IV – SCENE II – THE AWARD AND ITS AFTERMATH (ENGLISH)

The award is finally released in both official languages, and it is a disappointment for Toll-Stoy in either version. Toll-Stoy's general counsel summons its outside lawyer to discuss the company's options. A heated discussion then follows of post-award remedies, including interpretation, revision, annulment and enforcement.

*Toll-Stoy General Counsel
Outside Lawyer*

**Jennifer Haworth McCandless
R. Doak Bishop**

4:25 QUESTIONS AND ANSWERS

5:15 CLOSING REMARKS

David D. Caron, ITA Chair

7:30

RECEPTION AND DINNER

Piazzola Tango

Celebrate the conclusion of the Workshop's first day by joining our faculty and registrants at a special reception, dinner and tango show at the renowned Piazzola Tango! [Separate registration required]

The Institute for Transnational Arbitration gratefully acknowledges

**Clifford Chance
Freshfields Bruckhaus Deringer
Rattagan Macchiavello Arocena & Peña Robirosa Abogados**

for their generous sponsorship support.

FRIDAY - MARCH 16, 2007

**Forum:
CURRENT ISSUES IN INTERNATIONAL COMMERCIAL ARBITRATION**

Forum CO-CHAIRS

Fernando Aguilar, *Marval O'Farrell & Mairal, Buenos Aires*
Dietmar Prager, *Debevoise & Plimpton LLP, New York*

8:00 CONTINENTAL BREAKFAST

Sponsored by

Marval, O'Farrell & Mairal

9:00 INTRODUCTION TO THE FORUM

Fernando Aguilar, Forum Co-Chair

9:10 OPENING STATEMENT

Julio César Rivera

9:30 PANEL - ENFORCEMENT OF ARBITRAL AWARDS UNDER THE NEW YORK CONVENTION (SPANISH)

*Panel Moderator
Panelists*

**Federico Godoy
Ignacio Suárez Anzorena
Robert Volterra
Eduardo Zuleta**

10:20 QUESTIONS AND ANSWERS

10:30 BREAK



10:45 PANEL - JUDICIAL CONTROL OVER ARBITRATION (SPANISH)

Panel Moderator
Panelists

Fernando Aguilar
Eduardo Damião Gonçalves
Eduardo Silva Romero
Sergio Urrejola Monckeberg



11:35 QUESTIONS AND ANSWERS

11:45 BREAK - Sponsored by Tozzini Freire Advogados

12:00 PANEL - ADMINISTERING MULTI-PARTY ARBITRATIONS (ENGLISH)

Panel Moderator
Panelists

Dietmar Prager
David D. Caron
Cristián Conejero Roos
Gilberto Giusti

12:50 QUESTIONS AND ANSWERS

1:00 CLOSING REMARKS

David D. Caron, ITA Chair

-Faculty-

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JACK J. COE, JR.
*Pepperdine University School of Law
Malibu*

BARTON LEGUM
*Devevoise & Plimpton LLP
Paris*

RAÚL VINUESA
*Vinuesa y Asociados
Buenos Aires*

LUNCHEON SPEAKER
OSVALDO CÉSAR GUGLIELMINO
*Solicitor General of Argentina
Buenos Aires*

FORUM CO-CHAIRS
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*Marval O'Farrell & Mairal
Buenos Aires*

DIETMAR PRAGER
*Devevoise & Plimpton LLP
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AND

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*Abascal & Associates
Mexico City*

GUILLERMO AGUILAR ÁLVAREZ
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*International Centre for Settlement of
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*Center for International Environmental Law
(CIEL)
Washington, D.C.*

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*Office of the Solicitor General of Argentina
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*Julio César Rivera Abogados
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8:30am-5:00pm CST

PAYMENT MUST ACCOMPANY REGISTRATION

REGISTRATION

3rd Annual

ITA AMERICAS WORKSHOP

March 14-16, 2007

SHERATON BUENOS AIRES HOTEL & CONVENTION CENTER
BUENOS AIRES, ARGENTINA

Registration includes the Welcome Reception on Wednesday, the two-day Workshop, the Thursday Luncheon and course materials on CD. Please separately register below to attend the special Thursday night Reception and Dinner at Piazzola Tango. Buses will be available at the hotel to transport all registrants to and from the Thursday night event.

Check applicable box:

	Received by 2/23/07	Received after 2/23/07
Regular registration fee	<input type="checkbox"/> \$225 USD	<input type="checkbox"/> \$250 USD
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I plan to attend the Wednesday night Reception (included in registration).

I plan to attend the Thursday night Reception and Dinner (ticket price - \$45 USD).

Name _____

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City, State, Postal Code _____

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E-mail _____

I wish to bring a guest to the Thursday night Reception and Dinner (ticket price - \$45 USD).

Guest Name _____

Guest Title _____

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AIRPORT TRANSPORTATION AND/OR TOURS OF BUENOS AIRES AND ARGENTINA: For transportation to and from the airport and the hotel, we recommend the official counters in the airport or, if you wish a pre-arranged transfer, please contact Transfer & Tours - reservas@tyt-argentina.com.ar. If you wish to book a Tour around Buenos Aires through ICS Congresos Internacionales, please click here https://www.ics-online.com/ei/getdemo.ei?id=283&s=_0Q818SXBT.

HOUSING: The cost of housing is not included in the tuition. However, rooms (in limited number) have been reserved at the Sheraton Buenos Aires Hotel & Convention Center, San Martín 1225, Buenos Aires 1104, Argentina. Registrants can contact the Sheraton Buenos Aires Hotel & Convention Center directly at 54-11-4318-9000 and advise them that you are registering for the ITA program or you can reserve a room online by visiting our website, www.cailaw.org, select the CLE web calendar and then 3rd Annual ITA Americas Workshop. A reduced room rate (rates do not include VAT 21%) of \$180 USD is available if you advise the hotel that you are attending this program. The last day to obtain this special rate is February 21, 2007.

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MCLE CREDIT: This course has been approved by the State Bar of Texas for 9.25 hours, including no ethics. Course ID Number: 900016401. Sign-in sheets and/or certificates of attendance will be available for ALL states.



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