



***Title: New Developments in International Arbitration***

***Date: Friday, September 4, 2015***

***Time: 1:45 pm – 3:00 pm***

**Moderator:**

**Raul R. Herrera**, Partner, Arnold and Porter

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**Panelists:**

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## **Biographies**

**Raul R. Herrera**, Partner, Arnold and Porter

Raul R. Herrera is a Partner in the Corporate and Securities group where he concentrates his practice on international corporate and financing transactions. Mr. Herrera has been involved in transactions in every country of Latin America and the Caribbean. He represents multilateral and bilateral agencies as well as sponsors in their project financing and private equity transactions. Previously he served as

general counsel for Inter-American Investment Corporation, a multilateral financial institution affiliated with the Inter-American Development Bank. Mr. Herrera's practice also includes international arbitration matters on behalf of claimants as well as respondents, including sovereign states, before the ICC and ICSID.

Mr. Herrera serves as Chair of the Advisory Council of the Latin American Studies Program of The George Washington University's Elliott School of International Affairs; on the Board of Directors of Counterpart International (and as Chair of its Governance & Nominations Committee), on the Board of Advisors of the Inter-American Dialogue's Energy Adviser; and as a member of the John Carroll Society.

He served as Founding Chairman of the Board of Directors of CODESPA AMERICA (affiliated with FUNDACION CODEPSA of Spain) and on the Boards of Directors of the Inter-American Bar Association and Inter-American Bar Foundation; on the Executive Committee of the International Council of The George Washington University's Elliott School of International Affairs; on the Advisory Council to the Superintendent of Schools for the Catholic Diocese of Arlington, as Chair of the Investment and Finance Committee of the DC Bar, on the advisory board of the Hispanic College Fund, as a member of the Southern Florida Regional Corporate Counsel Group, and the Steering Committee of the Choral Arts Society's Martin Luther King Jr. Annual Tribute in Washington, DC.

Mr. Herrera is a frequent speaker on such topics as project finance, corporate governance, international arbitration, and the economic development of and investment opportunities in Latin America and the Caribbean. He speaks fluent English and Spanish, and is conversant in Portuguese.

## **Rankings**

*Euromoney Banking Finance and Transactional Expert Guide* 2013-2014 for Project Finance

*Latin Lawyer's International Trade Survey* 2014 - Mentioned as a "Respected Name" in International Trade Law

The Legal 500 Latin America 2013 for Banking and Finance, Capital Markets, and International Arbitration (2012-2013)

*Washingtonian's* "Best Lawyers" 2011 for International Law

## **Awards**

The Inter-American Bar Association awarded Mr. Herrera the Charles B. Norberg International Lawyer of the Year Award for 2004

## **Rankings**

*Global Arbitration Review* "100 Names to Know" 2010

## Professional and Community Activities

### Professional Activity

- Serves as American Bar Association liaison to the Inter-American Bar Association
- Co-Chair, Investment and Development Committee, American Bar Association's Section of International Law
- Member, Advisory Committee, American Bar Association's Latin American Legal Initiatives Council
- Member, Council of the America's Trade Advisory Group
- Member, Latin American Regional Counsel Committee, International Bar Association
- Founding Member of the Latin American Venture Capital Association (LAVCA) and its Professional Standards Committee

## **Articles**

[Raul R. Herrera](#) "How Are Courts Handling Disputes Over Energy Projects" *Inter-American Dialogue Latin American Energy Advisor*, August 12, 2013

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## Presentations

[Raul R. Herrera](#) "Managing an International Commercial Arbitration Case and Recent Developments in Investor - State Arbitration" Hispanic National Bar Association Annual Convention, Washington, DC, September 11, 2014

[Raul R. Herrera](#) "The Issues Prevalent in an International Law Practice" Universidad Pontificada Comillas of Madrid, Spain, Washington, DC, July 17, 2014

[Raul R. Herrera](#) "Global Trends in Investment Treaties and Investor- State Arbitration" Seminar for Visiting Brazilian Lawyers, George Washington University Law School, Washington, DC, July 15, 2014

[Raul R. Herrera](#) "Implications of Anti-corruption Laws and How to Mitigate such Risks" VI International M&A Seminar of the Instituto Peruano de Arbitraje, (Peruvian Institute of Arbitration), Lima, Peru, July 11, 2014

[Raul R. Herrera](#) "Current Issues in Investor-State Arbitration: Counterclaims" Georgetown University Law School International Arbitration Society, Washington, DC, February 11, 2014

[Raul R. Herrera](#) "Making it in Latin America: Essential Tips for Doing Business in the Region" University of Pennsylvania Law School, Philadelphia, PA, January 31, 2014

[Raul R. Herrera](#) "Differentiating One's Value" Hispanic National Bar Association of DC's Task Force on Advancing Latino Attorneys, Washington, DC, October 9, 2013

[Raul R. Herrera](#) "Meeting of the University Team in the Washington, DC area" Universidad Pontificada Comillas of Madrid, Spain, Washington, DC, October 4, 2013

[Raul R. Herrera](#) "Sixth Investment Arbitration Forum: Privately-financed Infrastructure Projects and Dispute Resolution - State Contracts and Investment Arbitration" Georgetown University Law Center, Washington, DC, October 4, 2013

[Raul R. Herrera](#) "What to Know When Doing Business in Latin America: Challenges and Pitfalls" Hispanic National Bar Association Annual Convention, Denver, CO, September 6, 2013

[Raul R. Herrera](#) "Inside Washington: Law, Development & Diplomacy" Universidad Pontificia Comillas (Madrid, Spain), Washington, DC, July 10, 2013

[Raul R. Herrera](#) "Standing Commission on the Status of Latinas in the Legal Profession" Hispanic National Bar Association/Big Brothers Big Sisters, Washington, DC, May 16, 2013

[Raul R. Herrera](#) "Law and International Affairs regarding Panama and Central America" Armando Alvares Penteado Foundation - FAAP, Sao Paulo, Brazil, May 9, 2013

[Raul R. Herrera](#) "Access the Western Hemisphere International Trade Conference" Plenary Speaker, U.S. Department of Commerce, Minneapolis, MN, April 23, 2013

[Raul R. Herrera](#) "Rights and Duties of Counsel" Ethical Issues in Commercial and Investment Arbitration, American University Washington College of Law, Washington, DC, March 7, 2013

[Raul R. Herrera](#) "ULI NY: Latin America Real Estate Investments" ULI New York's Latin America Real Estate Investments Program, New York, NY, February 7, 2013

[Raul R. Herrera](#) "Second Central America Energy and Infrastructure Finance Forum" Multilateral Finance Panel, EuroMoney/Project Finance, Panama City, Panama, January 31, 2013

[Raul R. Herrera](#) "Infrastructure as the Backbone for Development and Prosperity in Brazil" 2nd International Conference, Brazil: A Pathway into the Future, Cornell University, New York, NY, September 20, 2012

[Raul R. Herrera](#) "[PRO-EXPORT Colombia: Profile of the Biotech Industry in Colombia and Opportunities for Investment](#)" Washington, D.C., May 14, 2012

[Raul R. Herrera](#) "[U.S. Free Trade Agreements with Colombia and Panama: Views of the Governments](#)»" February 7, 2012

[Raul R. Herrera](#) "Central America Energy and Infrastructure Finance Forum" Multilateral Finance Panel, Panama City, Panama, January 12, 2012

[Raul R. Herrera](#) "International Health Care Compliance Webinar- Focus on Mexico & Peru" Panelist, AdvaMed, October 4, 2011

[Raul R. Herrera](#) "Latin America Practices" Latin Lawyer Roundtable, Washington, DC, September 26, 2011

[Raul R. Herrera](#) "Investment Protections Under Free Trade Agreements" New York State Bar Association Seasonal Meeting of the International Law and Practice Section, Panama City, Panama, September 23, 2011

[Raul R. Herrera](#) "Current Commercial Arbitration Trends in Latin America" New York State Bar Association Seasonal Meeting of the International Law and Practice Section, Panama City, Panama, September 22, 2011

[Raul R. Herrera](#) "Investor-State International Arbitrations" Central Bank of the Dominican Republic, June 16, 2011

[Raul R. Herrera](#) "Shaping Opportunities for Business and Investment: Investing in Brazil and Securing Investments, Brazil: A Pathway into the Future" Emerging Markets Institute, Samuel Curtis Johnson Graduate School of Management, Cornell University, Ithaca, NY, March 4, 2011

[Raul R. Herrera](#) "Backing Development, Boosting Stability" Latin Trade's Roundtable during the Inter-American Development Bank's Annual Governors Meeting, Calgary, Canada, March 2011

[Raul R. Herrera](#) "The Implications of Sovereignty and Legal Nationalism on International Arbitration" Peruvian Arbitration Institute and the Peruvian Chapter of the Spanish Arbitration Club, Lima, Peru, January 27, 2011

[Raul R. Herrera](#) "Protection of Investments Made through Mergers and Acquisitions: The Implications of Using an Arbitration Clause in an M&A

Transaction" 2nd International Seminar on Mergers and Acquisitions, Lima, Peru, January 27, 2011

[Raul R. Herrera](#) "New Trade Relations: The Central America and European Union Trade Agreement" Inter-American Bar Association and Costa Rican Bar Association with the Minister of Commerce and Trade of Costa Rica, Anabel Gonzalez in San Jose, Costa Rica, October 14, 2010

[Raul R. Herrera](#) "Future Prospects for Trade and Investment for Latin America: A look at Latin America's Changing Role in a World Recovering from an Economic Recession" Latin Trade's Roundtable during the Inter-American Development Bank's Annual Governors Meeting, Cancun, Mexico, March 2010

[Raul R. Herrera](#) "Report on Current Practices, Legislation and Case Law" Speaker, ICC 7<sup>th</sup> Annual Conference of the Americas, Miami, FL, November 2, 2009

[Raul R. Herrera](#) "Hot Trends in International Practice" Speaker, American University Law School, Washington, DC, September 23, 2009

[Raul R. Herrera](#) "Latin America Practices" Latin Lawyer Roundtable, Washington, DC, April 14, 2009

[Raul R. Herrera](#) "International Commercial Arbitration in the Americas: Procedural, Evidentiary, and Current Issues" Inter-American Bar Association (IABA) in cooperation with the International Centre for Dispute Resolution (ICDR) of the American Arbitration Association (AAA) and the Inter-American Commercial Arbitration Commission Conference at American University Washington College of Law, Washington, DC, March 4, 2009

[Raul R. Herrera](#) "The Surge of Investment Disputes in Latin America" Inter-American Legal Affairs Committee and the International Dispute Resolution Committee of the International Law Section Roundtable, Washington, DC, February 17, 2009

[Raul R. Herrera](#) "Dealing with Latin American Sovereigns in International Arbitration matters" Speaker, Inter-American Bar Association, Washington, DC, November 21, 2008



[Raul R. Herrera](#) "International & Bilateral Arbitration Issues in Bogota, Colombia" Speaker, Bogota Chamber of Commerce Conference, Bogota, Colombia, October 2, 2008

[Raul R. Herrera](#) "Revisiting Bilateral Investment Treaties" Speaker, Federation of Industries of Sao Paulo and the ABCI Institute Conference, Sao Paulo, Brazil, September 25, 2008

[Raul R. Herrera](#) "Policy Forum on Latin America" Speaker, hosted by the Inter-American Economic Council featuring senior members of the Latin American Policy Team of the Obama Administration, Members of Congress and ten Ambassadors from Latin America, Democratic National Convention, Denver, CO, August 26, 2008

[Raul R. Herrera](#) "Mercosur Summit" Speaker, Inter-American Economic Council Program, Montevideo, Uruguay, May 29, 2008

[Raul R. Herrera](#) "Project Finance Seminar under International Law" Speaker, BanColombia Banca de Inversión, Bogota, Colombia, May 20, 2008

[Raul R. Herrera](#) "Trade and Investment - Panama" Inter-American Economic Council ("IAEC") Annual Business Roundtable at the OAS General Assembly meeting, Panama, Republic of Panama, June 1, 2007

[Raul R. Herrera](#) "Banco del Sur Initiative" IAEC Annual Business Roundtable at the Caribbean Development Bank's Annual Meeting of Governors, Caracas, Venezuela, May 30, 2007

[Raul R. Herrera](#) "Legal Framework for Financing Bio-Fuel's Projects" Inaugural Inter-American Bio-Fuel Congress, Buenos Aires, Argentina, May 11, 2007

[Raul R. Herrera](#) "Implications of The Banco del Sur Initiative" Speaker, IAEC 2007 Forum of the Americas, Cartagena, Colombia, April 12, 2007

[Raul R. Herrera](#) "Doing Business in Mexico Conference: Energy" Co-Chair and Speaker, Atlas, Cabos San Lucas, Mexico, 2006

[Raul R. Herrera](#) "The Sarbanes Oxley Tango: Does the Cost of Compliance Pay Dividends for Latin Issuers" Speaker and Business Roundtable Moderator, IAEC

Annual Business Roundtable at the Organization of American States (“OAS”) General Assembly Meeting, Santo Domingo, Dominican Republic, 2006

[Raul R. Herrera](#) "Interest of Foreign Investors in Latin American Companies" Speaker, Colombian Stock Exchange Annual Corporate Governance Congress, Cartagena, Colombia, 2006

[Raul R. Herrera](#) "Investment & Trade in Latin America: How Risks Could Turn Into Opportunity" Speaker and Business Roundtable Moderator, IAEC Annual Business Roundtable at the OAS General Assembly Meeting, Ft. Lauderdale, FL, 2005

[Raul R. Herrera](#) "Doing Business in Latin America" Speaker and Panel Moderator, Inter-American Bar Association (“IABA”) Annual Council Meeting, Washington, DC, 2005

[Raul R. Herrera](#) "Transactional Outlook for 2004 in Latin America" IABA, Washington, D.C., 2004

[Raul R. Herrera](#) "Investment Opportunities in the Countries of the Organization of East Caribbean States" Speaker and Panel Moderator, IAEC Congressional Caribbean Caucus Business Roundtable, St. Lucia and Antigua, 2004

[Raul R. Herrera](#) "Financing Low-cost Energy Resources" Speaker and Panel Moderator, IAEC Annual Business Roundtable at the OAS General Assembly Meeting, Quito, Ecuador, 2004

[Raul R. Herrera](#) "Investing in Emerging Markets" Speaker, Horwath Int'l Annual Meeting, Casa de Campo, Dominican Republic, 2004

[Raul R. Herrera](#) "Infrastructure Financing on a Level Playing Field" Speaker and Panel Moderator, Business Roundtable, Ibero-American Summit of the Heads of States and King of Spain ("Ibero-American Summit"), San Jose, Costa Rica, 2004

[Raul R. Herrera](#) "Investment Climate in Latin America" CNN News en Español Business and Finance, Global Broadcast Interview by Alberto Padilla, September 9, 2003

[Raul R. Herrera](#) "Corporate Governance in Public Utilities in Latin America" IBA Annual Meeting, San Francisco, CA, 2003

[Raul R. Herrera](#) "Recommended Strategies in Anticipation of the FTAA Ministerial Summit in Miami, Florida" Meeting of Ministers of Commercial Trade and Commerce of the Countries of the Andean Region, Atlanta, GA, 2003

[Raul R. Herrera](#) "Summit of the Free Trade Agreement of the Americas ("FTAA") America's Business Forum ("ABF")" Chair of the Investments Workshop of the ABF Technical Committee, Miami, FL, 2003

[Raul R. Herrera](#) "Public-Private Partnerships in Latin America" and "Investment Prospects in the Andean Region" Speaker and Panel Moderator, Business Roundtable, Ibero-American Summit, Santa Cruz de la Sierra, Bolivia, 2003

[Raul R. Herrera](#) "Investment Opportunities in the Countries of the Andean Region" Speaker and Panel Moderator, IAEC Annual Business Roundtable at the OAS General Assembly Meeting, Santiago, Chile, 2003

[Raul R. Herrera](#) "International Private Equity Investment Funds: The Role of Multilateral Financial Institutions in Financing and Structuring International Investment Funds" ABA Section of International Law and Practice Spring Meeting, New York City, 2002

[Raul R. Herrera](#) "Furthering Tourism and Economic Development through Project Finance" Speaker and Panel Moderator, IAEC Business Roundtable at the OAS General Assembly Meeting, Bridgetown, Barbados, 2002

[Raul R. Herrera](#) "Improving the Legal and Regulatory Framework: What Changes Mean for Investors" Speaker and Panel Moderator, Latin America Investors Summit at the Annual Meetings of World Bank/IMF, Washington, D.C., 2002

[Raul R. Herrera](#) "Doing Business in Latin America Under a Changing Economic Environment" American Corporate Counsel Association ("ACCA") Annual Meeting, Washington, D.C., 2002

[Raul R. Herrera](#) "Practicing International Law at a Multilateral Financial Institution" GWU ESIA Alumni Association, Distinguished Alumni Seminar, 2000

[Raul R. Herrera](#) "A Practitioner's Views of Comparative Legal Systems: Practicing within Civil vs. Common Laws" Association of the Bar of the City of New York, 2000

[Raul R. Herrera](#) "The Role of the IIC in Project Finance Transactions" IABA, Washington, D.C., 2000

[Raul R. Herrera](#) "Latin America at the Turn of the Century: The Multilateral Approaches to Corruption" South Florida Regional Corporate Counsel Group Annual Meeting, Miami, FL, 1999

[Raul R. Herrera](#) "Managing Local Counsel throughout the Region" IBA Second South American Regional Meeting, Caracas, Venezuela, 1999

[Raul R. Herrera](#) "The Next Step in Development - Promoting Entrepreneurship through Equity Investments: Legal Issues in Structuring Equity Deals" Inter-American Development Bank ("IDB") Conference, Washington, DC, 1998

[Raul R. Herrera](#) "The Role of U.S. Banks in Latin America's Development: IIC's Co-financing Program" Luncheon Speaker, ABA Business Law Section's Banking Law Committee, Charlotte, NC, 1998

[Raul R. Herrera](#) "International Project Finance Negotiations Seminar" American University Washington College of Law, Washington, D.C., 1998

[Raul R. Herrera](#) "Selecting the Infrastructure Project Company" IBA Section of Project Finance, Rio de Janeiro, Brazil, 1998

[Raul R. Herrera](#) "Capital Markets Financing for Infrastructure Projects" and "Structuring Debt and Equity Financing in the Mining, Oil and Gas Sectors" IABA Annual Meeting, Lima, Peru, 1998

[Raul R. Herrera](#) "The Brazil Summit: Navigating in the Current Regulatory and Business Environment in Brazil" World Economic Development Congress at the Annual Meetings of World Bank/IMF, Washington, D.C., 1998

[Raul R. Herrera](#) "Financing Infrastructure Projects in Local Currency" Panel Chair, IDB Conference, Washington, DC, 1997

[Raul R. Herrera](#) "Privatization and Project Finance in Latin America: Capital Markets Financing for Infrastructure" ABA Section of International Law and Practice Winter Meeting, Miami, FL, 1997

[Raul R. Herrera](#) "Private Sector Financings in Latin America" IABA Meeting, Washington, DC, 1996

[Raul R. Herrera](#) "Annual Conference on Doing Business in Latin America: Non-recourse Project Financing Transactions" Florida Bar Association, Miami, FL, 1996

[Raul R. Herrera](#) "U.S.-Argentina Legal Seminar on Securities and Finance" U.S. Department of Commerce and Argentine Ministry of Finance, Buenos Aires, Argentina, 1996

[Raul R. Herrera](#) "Understanding Cross-border Commercial Transactions" Maricopa County Bar Association, Phoenix, AZ, 1996

[Raul R. Herrera](#) "The Central American Central Depository and Clearing and Settlements Project Initiative" Keynote Speaker, Comision Nacional de Valores (Panama SEC) 25th Anniversary Celebration, Panama City, Panama, 1995

[Raul R. Herrera](#) "Private Sector Investments in Haiti" Hispanic National Bar Association Annual Meeting, Puerto Rico, 1995

[Raul R. Herrera](#) "The Private Sector in Latin America and the Caribbean" IABA Annual Meeting, Quito, Ecuador, 1995

[Raul R. Herrera](#) "Private Placements: Understanding Market Opportunities" Euromoney Institute Conference, Miami, FL, 1995

[Raul R. Herrera](#) "International Comparisons in Infrastructure Finance: The Philippines Local Credit Finance" Public Securities Association, Washington, DC, 1993

[Raul R. Herrera](#) "Doing Business in the Americas" Canadian Exporters Development Association Conference, University of Ottawa, Ottawa, Canada, 1992

[Raul R. Herrera](#) "Negotiating the Sale of Failed Banks" Federal Deposit Insurance Corporation Legal Division Conference, Washington, DC, 1990

[Raul R. Herrera](#) "Using Loan Participations to Finance Large Commercial Real Estate Projects" GWU Law School Course on Property Law, Washington, D.C., 1989-1990

[Raul R. Herrera](#) "Understanding Loan Participations and Other Inter-Lender Agreements" Banking Law Institute and Bank Lending Institute, New York, NY, 1988 - 1989

[Raul R. Herrera](#) "Loan Participations and Syndications" Federal Home Loan Bank Board Office of General Counsel Conference, Washington, D.C., 1987 - 1988

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Advisories

["U.S. Takes Significant Steps to Relax Cuba Sanctions, but Many Restrictions Remain»"](#) Dec 2014

["SEC Staff Answers Frequently Asked Questions On Activities of Foreign Broker-Dealers»"](#) Apr 2013

["Deadline Approaching for Foreign Banks on Living Wills»"](#) Jan 2013

### **Luis Martinez, Vice President, ICDR**

Mr. Martinez is Vice President of The International Centre for Dispute Resolution (ICDR), the international division of the American Arbitration Association (AAA), where he is responsible for international arbitration and mediation business development for the North-East and Central and South America. He joined the AAA in 1996 as the first attorney hired to staff the newly-created ICDR and later served as the ICDR's first director. For the last several years, he has served as the vice president responsible for the ICDR's international administrative services. He is also President of the Inter-American Commercial Arbitration Commission

(IACAC), responsible for the oversight of its network of arbitral centres throughout the Americas and conducts numerous arbitration and mediation initiatives throughout the hemisphere. He received his B.A. from Georgian Court College in Lakewood, New Jersey.

**Judd Kessler, Porter Wright/Arbitrator**

Judd practices in the areas of international business transactions, international project financing and government contracting. He has been a partner at Porter, Wright, Morris & Arthur since 1982.

Judd's practice involves counseling of major international companies both as to their immediate legal needs and more broadly as an advisor on major foreign policy issues affecting business. Based on his experience and long established relationships in both the executive and legislative branches of the United States government, he has an established track record of enabling clients to identify and deal with sensitive political and business issues based on information going well beyond what is made public in ordinary media sources. He is knowledgeable in all aspects of U.S. export controls, including ITAR, EAR and OFAC, and has successfully managed complex voluntary disclosures and investigations related to the above.

Judd has also become a leading international arbitrator in cases involving foreign investment, having served as president of several major arbitration tribunals, as well as an important resource for the Porter Wright litigation/arbitration team in representing major clients in international arbitration cases.

Prior to joining Porter Wright Morris & Arthur, Judd was Assistant General Counsel of the Agency for International Development (AID). He was appointed by President Reagan to the career rank of Counselor in the Senior Foreign Service. He was also Chief Counsel for AID's Near East and North African programs and before that, Chief Counsel for its Latin American and Caribbean programs. Earlier, he was Chief Legislative Counsel for the Agency, Special Assistant to the Under Secretary of State for Military and Security Assistance and Resident Regional Legal Adviser for AID in South America for five years. During this period, Judd had principal responsibility for legal aspects of cases involving more than \$800 million in assets of U.S.-owned private investments nationalized by the Allende

government, including a major role in representing the interests of Overseas Private Investment Corp. which had issued political risk insurance for many of those investments.

### **Representative Matters:**

Marion Unglaube v. Government of Costa Rica

Appointed Chairman of three arbitrator ICSID panel to decide a claim brought by a German investor against the government of Costa Rica. The case relates to alleged taking of real property designated for resort development and involves disputes regarding, among other things, the scope of governmental rights in relation to regulatory and other powers vs. the rights and expectations of the owner. Proceeding began on August 1, 2008.

Tza Yap Shum v. Government of Peru

Appointed by the ICSID Secretariat as Chairman of three-arbitrator panel to decide the first ICSID claim by an investor of Chinese nationality against the Government of Peru. The first hearing in this matter was conducted in November 2007.

Japanese Joint Venture

Represent a Japanese Joint Venture in an arbitration in Tokyo involving questions of the American partner violating its contractual duties to the venture, each side also alleging patent and copyright violations with respect to the venture's technology for manufacturing computer chips.

National Grid PLC v. Government of Argentina

(Appointed as arbitrator by Freshfields, counsel for Claimant, National Grid PLC). This proceeding was conducted largely in Spanish under the UNCITRAL rules but was administered by ICSID. An award is expected early in 2008.

Repsol S.A. v. Petroecuador

Chairman of three-arbitrator ICSID Ad Hoc Committee reviewing arbitral award against the Ecuadorian National Petroleum Company (Petroecuador). This proceeding was conducted entirely in Spanish.



NEWCO, Inc. v. Government of Belize

(Party-appointed arbitrator in UNCITRAL ad hoc case arising from alleged breach of concession contract for expansion of Belize International Airport); Hearing in this matter was completed in January 2008.

The following cases are described in general terms due to confidentiality requirements:

International airport concession contract dispute (Party-appointed arbitrator in UNCITRAL ad hoc case arising from alleged breach of concession contract for expansion of international airport in Belize).

Software company vs. foreign distributor (Sole arbitrator appointed by the AAA/ICDR and International Commercial Arbitration Commission (IACAC) to decide an international distribution contract dispute involving Colombia).

Construction dispute related to fuel loading facilities for electric power generation facility (Chairman of three arbitrator AAA/ICDR panel in contract dispute related to a power plant project in the Dominican Republic).

Dispute between prime and subcontractor on major defense contract (Chairman of three arbitrator AAA panel to decide dispute under a large defense contract); case settled with assistance of panel chairman.

Claim by noted prize fight promoter for breach of agent contract by world super lightweight champion from Mexico (Chairman of three-arbitrator panel; case proceeded to full hearing and award).

Claim by U.S. investor under political risk insurance policy arising from destruction of warehouses in Zaire (Chairman of three arbitrator panel; bifurcated hearing completed as to liability only; award filed).

Dispute between Florida-based electric utility and a coal transport company (Sole arbitrator in determination of damages for termination of a 24-year coal transloading contract).

Dispute between major health equipment manufacturer and Canadian lessee (Sole arbitrator in determination of contractual rights under an international equipment lease and related guarantees).

Dispute between Middle Eastern bank (Guarantor) and U.S. based training company (Sole arbitrator in a dispute regarding contractual rights and bank guaranties arising from termination of contract for training by a U.S. company of the security forces of a Middle Eastern government.

### **Professional Associations**

American Arbitration Association, International Panel of Arbitrators

London Court of International Arbitration

World Bank, International Center for the Settlement of Investment Disputes (ICSID), Panel of Arbitrators and Conciliators

International Chamber of Commerce (ICC), United States Arbitration Committee

Inter-American Bar Foundation, President

American Society of International Law

American Bar Association

Federal Bar Association, International Section, past Chairman

Export Legal Assistance Network, Founder; National Coordinator

Cosmos Club of Washington, D.C.

### **Education**

J.D., Harvard Law School,

Oberlin College,

### **Bar Admissions**

District of Columbia

State of Maryland

State of New Jersey

Supreme Court of the United States

## **Honors & Awards**

Named one of Washington, D.C.'s *Super Lawyers*® in the area of Alternative Dispute Resolution

Recognized as one of 80 lawyers worldwide who are most experienced in international investment arbitration by *Investment Arbitration Reporter*

Recognized by *Super Lawyers*® in the area of International Practice

Listed in *The Best Lawyers in America*® in the area of International Arbitration - Governmental

Recognized as one of America's Leading Lawyers by *Chambers USA* 2010 - 2014 in Band One (highest ranking) as an international arbitrator

Recipient of the William Roy Vallance Award, 2009

Inter-American Jurisprudence Prize, Inter-American Bar Association, 2004

International Lawyer of the Year (Norberg Award), Inter-American Bar Association, 2002

U.S. President, "E" Award (Excellence in Export Service), Export Legal Assistance Network, 1997

## **Presentations/Publications/CLE**

Panelist, "The Legal Significance of a Decision by a Country to Withdraw from 'Membership' in the International Centre for the Settlement of Investment Disputes," International Arbitration at the 50th Conference of the Inter-American Bar Association, San Juan, Puerto Rico, June 2014

Speaker, "Prevention and Administration of International Investment Arbitration Disputes," Municipal Government Center of Bogota, November 2013

Panelist, "Legitimate Expectations – What Does It Mean in the Context of Foreign Direct Investment Arbitration," October 2013

Panelist, "Legitimate Expectations," Investment Treaty Forum, British Institute of International and Comparative Law, May 2013

Panelist, "The Role of the Arbitrator: hard-and-fast rules or flexible approach?", American University Washington College of Law, March 2013

Presenter, "How to Set Up Agents or Distributors in Mexico, Rules on Having a Direct Employee Present and Tax Implications," U.S. Department of Commerce [webinar](#), Dec. 12, 2012

Author, "Proof of Damages in International Arbitration: A Crucial But Not Very Glamorous Aspect of the Process," *Arbitration: Journal of Commercial and Investment Arbitration* published by the Center for International Arbitration, Mediation and Negotiation of law school of the Universidad Complutense of Madrid, 2011. [Click here to read article.](#)

Author, "Leading Lawyers on Contracts, Dispute Resolution, and Ensuring Successful Deals," *Inside the Minds: The Legal Side of International Transactions*, 2005 [Click here to read article.](#)

Author, Chapter 34, "A United States Exporters' Guide to Foreign Laws Applicable to Use of Representatives and Distributors," from *International Contract Manual* [Click here to read chapter.](#)

Author, "Foreign Laws Applicable to the Use of Representatives and Distributors," Chapter 31, International Contract Manual, Kluwer Law International, 1998

Author, "Political Risk in Latin America: How to Protect Investments in Power and Other Infrastructure Projects," Latin American Law and Business Report, June 1994

Author, "Foreign Sales Agents and Distributors, Export Trading Companies, Foreign Corrupt Practices and Other Considerations in Connection with International Trade," 4 International Quarterly Number 2, April 1992

Editor and contributing author, Legal Aspects of Exporting: An Introduction, Federal Bar Association, 1984

Frequent writer of articles in business and legal journals on business law and international transactions

Frequent lecturer and commentator on international business law issues for such institutions as the American Management Association, the National Association of Manufacturers and the International Development Law Institute

**Ian Laird, Partner, Crowell & Morning**

**Ian A. Laird** is co-chair of the firm's International Dispute Resolution Group and an adjunct professor at Columbia University School of Law and Georgetown University Law Center. He represents a range of clients in international arbitration proceedings involving disputes between corporations and foreign sovereign governments. Ian is recognized as a leading practitioner in the arbitration field by the *International Who's Who of Commercial Arbitration Lawyers 2015*. Ian is best known for being lead counsel for Khan Resources Inc., which recently secured a US\$100 million international arbitration award against the Government of Mongolia (in March 2015).

As a former chief of staff to a Canadian cabinet minister and a senior political aide to the Ontario Minister of Energy, Ian has run political campaigns and understands the intimate workings of government and politics, as well as their impact on industry. For over 15 years, Ian has counseled parties in investment arbitrations under the provisions of NAFTA, CAFTA-DR, the Energy Charter Treaty (ECT), and other international investment agreements, typically applying the arbitration rules of ICSID or UNCITRAL.

A long-time Washingtonian with extensive experience representing Fortune 500 clients, Ian advises corporations on geopolitical concerns when their investments face challenges overseas. He works primarily with clients involving issues in the energy and natural resources sector – such as power generation, oil and gas, and mining.

Ian's experience includes working on the earliest NAFTA investor-state arbitrations involving each of the three NAFTA state parties, and most recently has handled high profile gold and uranium mining arbitrations under the ICSID and

UNCITRAL Rules. He is currently counsel on numerous investment treaty arbitrations and disputes, most recently involving the Dominican Republic, El Salvador, Lithuania, Kazakhstan, Mongolia, and Turkey.

Ian serves as co-director of the International Investment Law Center (International Law Institute), which conducts its annual, two-week fall program on investment agreements and arbitration in Washington, D.C., and he is co-editor of the book series, *Investment Treaty Arbitration and International Law* (forthcoming is volume VIII published by Juris Publishing). He has co-edited nine books, and is co-chair of the only annual conference (organized by Juris Conferences) on investment arbitration held in Washington, D.C. Ian is also the co-founder and editor-in-chief of a leading resource in the field of investment arbitration, *InvestmentClaims.com*, which is published by Oxford University Press.

Ian is a D.C.-licensed Special Legal Consultant based in the firm's Washington office. He is the co-chair of Crowell & Moring's Visiting International Scholar Program (VISP).

### **Representative Experience**

- Represented a Canadian uranium mining company in its dispute with the Government of Mongolia and secured an award of damages for US\$100 million in respect of the illegal expropriation of its licenses in Mongolia. (*Khan Resources Inc. v. Mongolia*)
- Representing a Dutch real estate developer in an Annulment application proceeding before an ICSID ad hoc Committee comprising Judge Peter Tomka (President), Ms. Cherie Booth QC and Dr. Christoph Schreuer. (*Tulip Real Estate & Development Netherlands BV v. Republic of Turkey*)
- Representing U.S. investors in a CAFTA-DR arbitration against the Government of the Dominican Republic relating to the expropriation of a residential and resort project (called "Jamaca de Dios") in the mountain region of central DR. (*Ballantine v. Dominican Republic*)
- Acting as a Sole Arbitrator in an ICC supply agreement dispute between American and British parties.
- Representing an American gold mining company against El Salvador in an ICSID arbitration arising out of the government's improper refusal to issue various environmental licenses and an exploitation concession. (*Pac Rim v. El Salvador*)
- Represented an Italian investor in a dispute against Lithuania in an UNCITRAL arbitration under the Italy-Lithuania BIT. The dispute arose in

relation to that State's unfair and inequitable treatment of the investor's investment in the country's alcohol industry. (*Bosca v. Lithuania*).

- Represented an American-owned Kazakh investor against Kazakhstan in an ICSID arbitration under the U.S.-Kazakhstan BIT relating to the government's expropriation of the investor's oil production concession. (*Caratube International Oil Company v. Kazakhstan*)
- Represented a Cypriot company against the Government of Turkey in an ICSID arbitration under the Energy Charter Treaty (ECT) relating to the expropriation by Turkey of energy sector investments. (*Libananco Holdings Co. Limited v. Turkey*)
- Represented numerous U.S.-based, Fortune 500 clients to provide advice on international law and arbitration, in particular with respect to the application of NAFTA.
- Acted as Sole Arbitrator in ICC contract dispute between American and Italian parties.
- Represented American shareholders against the Government of Canada in a NAFTA claim. The main claimant, Mr. Marvin Gottlieb, was amongst the many U.S.-based investors who lost in excess of \$5 Billion as a result of the Canadian Government's decision to eliminate the income trust tax mechanism with regard to Canadian energy trusts. (*Gottlieb et al v. Canada*)
- Represented forty-two Texas claimants before the Superior Court of Ontario in the judicial review of a NAFTA tribunal's jurisdiction award concerning water rights in Mexico of U.S. based investors. (*Bayview et al v. Mexico*)
- Represented a U.S. energy services company in a dispute before ICSID arising out of investments in Peru. Successful multimillion dollar final award rendered in 2008. (*Duke Energy Peru Investments No. 1, Ltd. v. Peru*)
- Represented United Parcel Service (UPS) in a lengthy and complex NAFTA arbitration against the Government of Canada under the UNCITRAL rules. The dispute concerned alleged breaches by the government's crown corporation, Canada Post Corporation, with regarding to anti-competitive and discriminatory measures taken by Canada and Canada Post in the courier service market in Canada. (*United Parcel Service v. Canada*)
- Represented two Canadian lumber firms against the U.S. Government in an UNCITRAL arbitration under the NAFTA. After the demise of the previous Softwood Lumber Agreement, Canadian lumber firms made strong allegations against the U.S. Government with regard to the fairness and impartiality of the U.S. Government's decisions concerning anti-dumping duties and countervailing duties on softwood lumber imports from Canada. Although the tribunal granted jurisdiction and leave for the arbitration to proceed to the merits phase, the intervening signing of the latest Softwood

Lumber Agreement by Canada and the United States resulted in the settlement of the arbitration process. (*Canfor Corporation v. United States, Terminal Forest Products Ltd. v. United States*)

- Represented a U.S. lumber company against the Government of Canada in an UNCITRAL arbitration pursuant to the NAFTA. Claimant sought compensation from the Government of Canada with regard to alleged breaches of the NAFTA obligations concerning expropriation, national treatment, and fair and equitable treatment. The claimant was ultimately successful on one part of its claim, receiving damages for the breach of the fair and equitable treatment standard under Article 1105, and was able to preserve its business in the face of arbitrary and discriminatory conduct of Canadian government officials. (*Pope & Talbot, Inc. v. Canada*)
- Represented a U.S. investor in a NAFTA dispute with the Government of Canada under the UNCITRAL Arbitration Rules. The tribunal awarded damages to the claimant for the discriminatory and protectionist conduct of Canada with regard to lost investments in the PCB waste remediation market in Canada. (*S.D. Myers, Inc. v. Canada*)
- In one of the first NAFTA arbitration claims, Ian Laird represented the Government of British Columbia, Canada. This claim did not ultimately proceed to arbitration, but involved important early issues concerning water rights and the role of sub-national governments being subject to investor-state arbitration claims. (*Sun Belt Water, Inc. v. Canada*)

### **Professional Activities and Memberships**

- Law Society of Upper Canada - Called to the Ontario Bar, and enrolled as a Solicitor of the Court of Appeal of Ontario
- District of Columbia - Licensed to practice as a Special Legal Consultant
- Ontario Bar Association (OBA) - International Law Section, Past-Chair, Section Executive Committee
- Canadian Bar Association (CBA) - International Law Section, Past-Co-Chair, Trade and Investment Committee
- Canadian Chamber of Commerce (CCC) - Arbitration Committee, International Affairs Committee
- International Chamber of Commerce (ICC) - Roster of Canadian Arbitrators
- International Bar Association (IBA)
- American Society of International Law (ASIL)
- Young Canadian Arbitration Practitioners (YCAP), Founder and former Executive Committee Member



- Foreign Direct Investment (FDI) International Moot Competition, Advisory Board Member
- University of Windsor Faculty of Law, University of Detroit Mercy School of Law - International Advisory Board Member to Dual Canada/U.S. J.D. Program
- International Investment Law Center (International Law Institute) (IILC) - Co-Director of Center
- Canada-U.S. Law Institute (CUSLI) - Advisory Board Member; Chair, Niagara International Moot Court Competition