ArbitralWomen *Newsletter*

Uniting and promoting women in dispute resolution

www.arbitralwomen.org

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Left to right. First row, **Executive Committee**: Louise Barrington, Katherine Bell, Cherine Foty, Nata Ghibradze, Alina Leoveanu, Rebeca Mosquera, Mirèze Philippe. Second and third rows, **Board of Directors**: Clea Bigelow-Nuttall, Catherine Bratic, Kate Corby, Dilber Devitre, Sally El Sawah, Elena Guillet, Shanelle Irani, Anna Kelly, Niamh Leinwather, Nesreen Osman, Nicola Peart, Rekha Rangachari, Mary Thomson

Inside Issue Nº 57

New leadership at ArbitralWomen

ArbitralWomen elects new President and Board for the 2024-2026 term, already building on ongoing efforts and launching new initiatives.

President's Column

As we begin a new year, I am honoured to address you not only as President of ArbitralWomen but as a fellow advocate for equality, opportunity, and excellence in dispute resolution. Together, we stand at the crossroads of progress and potential, building on a foundation laid by the extraordinary women and allies who came before us.

ArbitralWomen sincerely thanks our outgoing Board Members for their unwavering commitment, which has advanced our mission and paved the way for the new leaders taking on these roles. Their dedication has carved a path for those who now step into leadership roles. To our new 2024-2026 Board Members and Advisory Council: you have joined not just an organisation but a movement. Your fresh ideas and fervent passion are the lifeblood of our collective journey, and I am honoured to stand alongside you as we forge ahead.

This edition captures the essence of what makes ArbitralWomen truly exceptional. From the remarkable story of Gabrielle Nater-Bass, whose career embodies resilience and determination, to thought-provoking insights into intra-EU disputes under the Energy Charter Treaty, these pages reflect the diverse voices and critical issues that define our community. These narratives serve as a microcosm of what we strive for—a world where merit transcends barriers and opportunities are shared equitably.

As leaders in arbitration, we must not only continue to foster change but also be its architects. We champion diversity not because it is an externally imposed obligation but because it is an asset that enriches our profession and society. The call for nominations to our Educational Programmes Committee underscores this commitment. Let us invest in programmes that not only educate but also inspire; programmes that allow and encourage practitioners from underrepresented jurisdictions to contribute to the global dialogue and really be heard.

Our members' contributions to UNCITRAL's ISDS reform discussions, the success of CLEW's initiatives in Cambodia, and our efforts to mentor and support women in developing their advocacy skills—these are not mere milestones; they are testaments to the power of collective action. They remind us that real change happens when we elevate others, when we empower those who come after us, and when we understand that our efforts, however small, are ripples in a much larger tide of transformation.

The journey to truly achieve equality in ADR is fraught with challenges. The road is long, demanding unwavering commitment. Progress is rarely linear, and setbacks will test our resolve. Yet, it is in these moments that we find opportunities to rise, to speak, and to lead. We invite and encourage you to join us in supporting diversity—not for ourselves, but for the broader community we advocate for every day at ArbitralWomen.

ArbitralWomen is only as strong as the collective strength of its members. This organisation thrives because of you—your ideas, your stories, your contributions. Share them, participate in our events, and engage with our initiatives. Whether you're submitting an article, mentoring a young professional, or championing a cause in your community, your voice matters.

Together, let us continue to redefine what is possible by leading with integrity, collaborating with purpose, and inspiring through action. Let us, as a community, be the catalyst for a brighter, more equitable future.

With gratitude,

Rebeca Mosquera
President, ArbitralWomen
Reed Smith, New York

Women Leaders in Arbitration

Gabrielle Nater-Bass

In a short yet meaningful interview, Gabrielle Nater-Bass shared her journey, her experiences and her hopes for the future with ArbitralWomen Board Member Shanelle Irani.

As the first female appointed partner at Homburger — one of Switzerland's leading law firms — it is no surprise that Gabrielle is highly regarded as both counsel and arbitrator in the international arbitration community. Throughout her career, Gabrielle has been actively involved in the development of arbitral institutions, taking a role as a Board Member of the Swiss Arbitration Association (ASA) in 2014 and as President of the Arbitration Court of the Swiss Chambers' Arbitration Institution (SCAI) in 2016. More recently, she was appointed as a Board Member of the Swiss Arbitration Centre (the successor of SCAI) in 2021 and became a Vice-President of the LCIA Court in 2022.

Gabrielle has also played a pivotal role in various organisations promoting diversity. She has served on the board as Vice President of ArbitralWomen and was a member of the Advisory Council for many years. Gabrielle is a founding member of Young ArbitralWomen Practitioners (YAWP) – the first networking group formed solely for young female practitioners.

To begin, could you tell us about your professional journey? What did you do after law school and what brought you to Homburger – which has been your professional home for almost 25 years?

GNB: I studied law in Zurich in 1988 — which is a long time ago. Hailing from Valais, a mountainous region in Switzerland where women's education was not widely prioritised, I was the first woman in my family to study at all. And of course, the first woman in my family to obtain a higher education degree. After my studies, I first practised as an intern at a Swiss court, after which I did an apprenticeship with a reputable law firm based in Zurich. I then took the bar exam, which is where I met a Homburger partner who convinced me that I should apply to Homburger, which of course, had an excellent reputation. And so, in January 1997, I began my career at Homburger as a young associate.

Later, in the late summer of 1998, I wanted to do an LLM — a postgraduate degree which is fairly normal for Swiss lawyers — which I did, without quitting my employment with Homburger. During that time, I had already had the chance to work with Markus Wirth, a partner at Homburger, who back then was one of the most well-known arbitrators in the community. At that time, the Zurich Chamber of Commerce still followed the list system, and very few arbitrators were on this list. He constantly got appointments, and he took me on as tribunal secretary for one of those matters. I was captivated by arbitration from my first assignment as tribunal secretary. I particularly enjoyed the fact that it was so international. I also loved the fact that I got the opportunity to deal with different topics and new areas of law.

And so, when I studied for my LLM at the University of Virginia in late summer 1998, I was already resolved to specialise in alternative dispute resolution (ADR). My courses focussed on ADR.

After my LLM, I was determined to work in the US and started to look for my ideal law firm. I applied to what is now Wilmer Cutler Pickering Hale and Dorr LLP because of Gary Born. I had heard about him while I was doing my LLM. He seemed to be one of the most prominent figures in international arbitration, so I applied to Wilmer's office in Washington, DC.

I realised, however, that Gary was splitting his time between the DC, Berlin and London offices. I decided to

contact him by e-mail to tell him that I wanted to work with him and that I was very interested in arbitration. He replied with something very short. But then I had a surprise, one day after lunchtime, I came back to my office and found Gary Born himself sitting there; he started to interview me. After that interview, he decided to give me my first task, which was to contribute to the first edition of his treatise – International Commercial Arbitration.

Having completed that task, the first arbitration case came along. This was at the time of the big telecommunication auctions for new licences. I had started in Washington, DC but, very soon, Gary told me to move to London since that was where the majority of the arbitration team was based, which is what I did. Back then, it was a small team. I had a fantastic time, both professionally and socially. I learned a lot about arbitration. However, a year in, I had to decide whether to continue to work with Gary, who I really liked and admired, and the team I really loved, or return to Switzerland. I was already married by this time. My husband had accompanied me to the United States where we did the LLM programme together. He then worked in DC and Boston as a lawyer, but then return to Switzerland to work on his thesis. In 2000, I decided to go back to Zurich.

Naturally, I went back to Homburger. They were very generous. They had kept my position open during the entire period I was working with Wilmer. When I re-joined, I wanted to become a partner. That was not the easiest thing to do, because there was only one female partner at Homburger and she was a legacy Baker McKenzie (Homburger was a Baker McKenzie breakaway).

In 2006, I then became the first female partner at Homburger (after the split from Baker). A year later, **Mariella Orelli**, also an arbitration lawyer, joined me and we were then the only two female elected partners at Homburger for ten years. Due to the various activities that we undertook to support women, we are very proud today to have six female partners at Homburger, which, for a Swiss law firm, is not a bad outcome. After we were made partners, Mariella and I recruited many young female associates who we convinced to persevere during the difficult periods all young female associates go through.

Among the many hats you wear, you were the former Vice President of ArbitralWomen and were until very recently on the Advisory Council. You are also on Global Steering Committee of the Equal Representation in Arbitration Pledge. Can you tell us what your motivation was for becoming an advocate for diversity?

GNB: In addition to the organisations you have mentioned, I have also always been active in institutions: I served as the President of the Swiss Chambers' Arbitration Institution for six years; currently, I am the Vice President of the London Court of International Arbitration. I think I was not so much an advocate for women diversity — and I always emphasise that — I was much more an advocate for giving the floor to women, to provide women with the opportunity to showcase their skills to the world.

But then to my surprise, one day after lunchtime, I came back to my office, and found Gary Born himself sitting there; he started to interview me. After that interview, he decided to give me my first task, which was to contribute to the first edition of his treatise – International Commercial Arbitration. Having accomplished that task, the first arbitration case came along.

I realised women are different than men. Men are much more self-confident; they take the floor more easily. Women — to the contrary — are far more modest and critical where their own skills and abilities are concerned. They have no reason to be, as they are at least as good as their male colleagues. This along with the fact that there are still today far less women in the arbitration world than men, results in women having fewer opportunities to be invited as speakers, to be appointed as arbitrators etc.

My mission in all the positions I took was to make sure women are better represented wherever they are. Speaking engagements at arbitration events is one such example. Another is arbitrator appointments and also opportunities to be lead counsel. I was always motivated by that; I wanted to make sure women are seen and given opportunities and provided a stage to showcase their talents.

But, of course, I realised that women face many obstacles, because they wear many hats. It is often the younger women practitioners, in the early stages of their career, newly married, and new mothers, who face the most challenges, and have to constantly juggle and make compromises. I wanted to make sure that these women know they are not alone, that we are all facing the same problems, but that we can overcome the problems together and become stronger together.

That was also my motivation for starting Young ArbitralWomen Practitioners (YAWP). I realised that young women in arbitration need a support system. I came up with the idea when I was the Vice President of ArbitralWomen. I am grateful for the support that I received from the other board members of ArbitralWomen, without which it would have been extremely difficult for YAWP to come about.

ArbitralWomen was founded in 1993, while members of the arbitration community drew up the Equal Representation in Arbitration Pledge in 2015. Since the launch of these initiatives, what changes or progress have you seen in relation to gender diversity in the arbitration community?

GNB: I think we have made good progress when it comes to female arbitrators being appointed by institutions. But I

must make the distinction, the progress I am talking about only relates to appointments via arbitral institutions. When it comes to party appointments, I think women are still far less considered and appointed. Clients need much more convincing to appoint women arbitrators. I see it myself, because I always have women on my list when I make arbitrator proposals. The clients believe that they need somebody strong and somehow they perceive (or have the wrong image) that women arbitrators cannot be as strong as men. It is, however, less difficult for women to be appointed as a chair by the party-appointed arbitrators because women are known to do that job really well. They do not shy away from putting in the work to draft the award. While this is some progress to note, I think the community still needs to make a lot more effort, so that we see many more women being nominated as party-appointed arbitrators.

And have you seen any progress for women in the counsel role?

GNB: I think there we see more female practitioners. Maybe not so much as a lead counsel, where we may still see more male-driven cases, but I see a lot of female lawyers acting as counsel and representing clients nowadays. Law firms realised that women are an extremely important workforce for them and that they have to support them.

Do you think that the various women's organisations have helped and played a role in the progress that has been made since 1993?

GNB: Yes, absolutely. I think the institutions have done great. All the institutions have really put their focus on gender diversity, looking at the number of female arbitrator appointments compared to the men. And I have seen this at every institution I was at, such as the Swiss Arbitration Centre (formerly the Swiss Chambers' Arbitration Institution), and the LCIA (I was also on the international board of the Arbitration Institute of the Finland Chamber of Commerce (FAI)). I have spoken to people from the ICC and other major arbitration institutions, who confirm that this is also the practice in those institutions. Institutions nowadays are making considerable efforts to ensure that they have good female arbitrators on their lists, from which they can propose candidates. And the Pledge to which all major arbitration institutions have signed up to, of course, helps, because that keeps them accountable for their numbers, there is no escape.

What has been the biggest obstacle or challenge that you have faced in promoting diversity and inclusion within the arbitral community in the past years and how did you address them?

GNB: Maybe I am lucky I didn't suffer from an obstacle *per se*. I saw it, as I said, as a mission, that I wanted to give women a platform and support them. I didn't see it as a disadvantage — to the contrary, I also thought I had many advantages

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being a woman, because I was often the only one and was treated with respect. Of course, I had some awkward incidents. For example, I was once appointed as a chairperson in an arbitration with Arabic parties, and they tried to challenge me because they said that under the Shariah law, an award issued by a Tribunal that was led by a female arbitrator cannot be enforced. However, the ICC clearly said that this is not a criterion, and dismissed the challenge.

Also, and again in an Arabic country, I still remember I was organising a conference in Dubai, on behalf of ArbitralWomen, because I wanted to give underrepresented women a voice to highlight the obstacles that they are facing. So, I had initially planned a session on Women and Sharia, and career opportunities. And then I got an anonymous call, dissuading me from addressing Sharia related issues at this conference. So, I had to change the topic overnight, contact the speakers and make sure we could still somehow discuss a topic that was relevant. There you could see that women all over the world may not yet have the same opportunities we have here, in a Western environment, and that also makes me feel very grateful, but at the same time conscious that we women should actively try to also promote and help the women in countries where they have fewer opportunities. That is also something ArbitralWomen stands for and has done very well with the mentoring program, where women in countries where they have nobody to speak to, can get support and have someone senior and experienced to talk to about their career paths. Throughout my career I have had some very interesting mentees. Being a mentor is very rewarding. ArbitralWomen has also done a great job supporting moot court teams in less developed countries. It has always been at the forefront of helping women, from, and in underrepresented countries, to find their way into this world of international arbitration.

One of the Pledge Resolutions for 2024 from the Equal Representation in Arbitration Pledge is aimed at senior arbitration counsels ensuring equal advocacy opportunities to the junior members of the team.

Do you feel that there has been any change in that regard between now and the earlier stages of your career?

GNB: It very much depends, in my view, on the partners you work with and on the law firms you are at. I was really fortunate in that regard, that once I proved myself and showed I wanted to have advocacy opportunities, I was given those opportunities. I think it is our responsibility as senior practitioners to award younger practitioners with opportunities for advocacy, because they can only learn that on the job. You cannot read it in a book; you must do it.

When somebody is fit for such a task, I usually give the person a limited task at a hearing to begin with. One can

even sit next to that person and give her comfort, so she knows that she can get the job done. I still think that there are too many traditional law firms who think that it is only the senior practitioners who are capable of doing the advocacy during hearings, and younger practitioners should only assist. However, we have to be very conscious in providing younger practitioners opportunities so they can grow into more senior roles naturally, like they grow into other tasks.

Is there any particular action you take to support the younger lawyers in your firm?

GNB: You have to speak to my younger partners, colleagues and female associates as to whether they consider me to be supportive. All I can say is that I am very conscious about my younger colleagues and try to support them. I give them as much responsibility as they wish, always — albeit — with the safeguard that they can come to me and ask questions whenever they need, and I will be there for them. I usually give younger practitioners a small advocacy role to begin with before giving them more responsibility and I must say that I have hardly ever been disappointed. They always do great, because they feel so grateful for the opportunity. They prepare so well, and work so hard — it is always rewarding for me. I also actively look out for speaking opportunities for my younger female colleagues and when they are ready, I alert arbitration institutions that these are new potential arbitrator candidates ready for first assignments.

Have you had a mentor that guided and/or inspired you? In what way?

GNB: I did not really have a mentor. As I said, I had opportunities, and I grabbed those opportunities. I think I really had to fight, because we were very few and you had to prove yourself to be eligible to become partner. That was already a big task at the time at Homburger. I clearly said I wanted a family. My partner colleagues were more traditional with the mindset that women should not work and must take care of the children. But once my partners understood that I wanted both, and I was given the opportunity, I was given a lot of support.

I was innovative and ready to take my professional destiny in my hands. I was inspired by my experiences in London, especially the opportunity to contribute to the creation of the Young International Arbitration Group (YIAG), the first youth arbitration association. We all went together to The Hague, a group of young people, to launch YIAG. I was so inspired that when I went back to Switzerland, I decided to form ASA below 40, which we then did. That then kicked-off a lot of young arbitration associations all over the world. These young arbitration associations were a wonderful source for many friendships I built over the years in the arbitration community. A lot of my female colleagues from that time made great careers and we still support each other today. I have known a lot of these women for over twenty-five years, and I am happy to call them colleagues and friends.

What I can say to that is that I am very conscious about my younger colleagues and try to support them. I give them as much responsibility as they wish, always — albeit — with the safeguard that they can come to me and ask questions whenever they need, and I will be there for them.

...the job is definitely not done. And it's also important that we keep on working on this. This is something we should put our focus on and that we are very conscious of. I always tell — and in particular this appeal does not go just to men, it goes to my female colleagues who have made it in their career — we all have a special related responsibility.

What would you say is the highlight of your career?

GNB: There were many highlights of my career. One such example is one of the first really big arbitration cases that I chaired, and which was well monitored in the African world and prominently featured in GAR — the dispute between China and Ethiopia about the biggest remaining gas fields. A Chinese energy investor had sued the Ethiopian Ministry of Mines for unlawfully terminating an exploration and development agreement, under which the Chinese company had been awarded two gas fields and eight oil blocks in the Ogadan basin in south-east Ethiopia.

My latest highlight is representing Jordan Chiles in her appeal/revision application before the Swiss Federal Supreme Court. It is a case with a huge amount of media attention and, of course very exciting. I feel very much in the spotlight and challenged as expectations are high but the odds are against me since the success rate at the Swiss Federal Supreme Court for challenging arbitration awards is around 7% only.

There were many other highlights in my career. I can't speak about many of them, because we abide to strict confidentiality when it comes to cases where we are counsel and arbitrators, unless they become public, like the ones I have mentioned.

International arbitration practitioners have the opportunity to do a variety of work. I like that I get to dive into new areas of law and be technically and legally challenged. And I like to do a good job. For me the biggest highlight at the end of the day is to have a happy client because he or she really sees that I have given the best I can, or to have pleased parties who thank me after the hearing and tell me how well I mastered

the facts, and how well prepared I was at the hearing. These are the really rewarding moments in my life.

Is there something that you have not done yet professionally that you would still like to accomplish in the upcoming years?

GNB: That's very hard to say. I think I'm very happy and I must say I have achieved a lot. I do, however, wish to see more party-appointed nominations. Of course, I get already quite a lot of party appointments, but clients still need to be persuaded that female arbitrators can do as much and as well as their male counterparts. Therefore, that is just something I wish to see for me, but also for all my other female arbitrator colleagues.

But there is nothing else really, I must say. I have had so many opportunities to do great jobs in institutions, chairing institutions; now being the Vice President of the LCIA, which is an interesting experience. I have seen a lot of variety, which does not mean I would not take on new challenges, but there is not one thing that I can specifically point to that I am missing.

I am still a passionate workaholic and curious to see what the future brings to me, and I hope it brings and awards me with a lot of interesting and challenging opportunities. And you can be assured I will not shy away from grabbing them and taking them on, as I did in the past.

I think there is still work to be done in terms of gender diversity, but also other kinds of diversity like ethnic diversity. The problem is compounded for women from ethnic minorities. Do you think that there is a lot more to be done to empower women from ethnic minorities and have we made some progress in that field?

GNB: Yes, the job is definitely not done. And it's also important that we keep on working on this. This is something we should put our focus on and that we are very conscious of. I always say — and in particular this appeal does not go just to men, it goes to my female colleagues who have made it in their career — we all have a special related responsibility.

If we women stick together, and appoint each other, and make sure for example that young women from ethnic minorities get their first appointments, then we open their career path. They are always in need of the first appointment. That's the most difficult obstacle to overcome. But once they have it, it is the start of their career.

We will end on a lighter note — what does an ideal Sunday look like for you?

GNB: Oh, my ideal Sunday involves a lot of animals. It starts very early, going to the stable, supporting my daughter with the horses, taking my two dogs along. I also do a lot of sports. My ideal Sunday always ends with a cozy dinner with my family where we chat in a more relaxed atmosphere than on a regular workday. That makes me happy.

ArbitralWomen Sponsored Events to Look out for in January and February 2025

Wake Up with ArbitralWomen

When: 31 January 2025, 08:00 CET
Where: Rothorn Legal
Tödistrasse 48, 8002 Zürich
Click to Register/Find out more

ArbitralWomen presents Wake Up with ArbitralWomen, a networking breakfast event taking place on 31 January 2025 during the Swiss Arbitration Summit. The event will feature an introduction by ArbitralWomen Vice-President **Katherine Bell** and Board Member **Dilber Devitre**, as well as a presentation on the ADR Wellbeing Toolbox by ArbitralWomen Advisory Council member **Amanda Lee**, followed by a networking breakfast. The event will take place at the offices of Rothorn Legal — just around the corner from the main conference venue — and is open to both men and women. Start your day energised and connected!

ArbitralWomen Parental Mentorship Session — New Year, New Challenges/ Resolutions?

When: 4 February 2025, 14:00 GMT
Where: Online
Register: parentalmentorship@arbitralwomen.org

ArbitralWomen Board members **Kate Corby** and **Dilber Devitre,** and YAWP Steering Committee member **Magda Kofluk** will speak at "ArbitralWomen Parental Mentorship Session — New Year, New Challenges/ Resolutions?" Balancing a career in international dispute resolution with the demands of parenthood can be challenging, especially if there is no one to turn to for advice or support. This programme aims to create a forum for members to share their concerns, experiences and tips on managing professional and parental commitments.

UNCITRAL WORKING GROUP III (ISDS Reform)
49th session (23-27 September 2024), Vienna

The UNCITRAL Working Group III on ISDS Reform (WGIII) held its 49th session in Vienna (Austria) from 23 to 27 September 2024. The five-day session was divided into three parts based on the topic being discussed. The first two days' discussions focused on the draft statute of a standing mechanism for the resolution of international investment disputes (the draft statute), followed by two days of deliberations on the draft provisions on procedural and cross-cutting issues. Lastly, the final day was reserved for consultations on the draft multilateral instrument on ISDS reform.

A. The draft statute of a standing mechanism for the resolution of international investment disputes

The draft statute of a standing mechanism and the annotations thereto have been prepared by the secretariat of WGIII in the form of a possible protocol to the Multilateral Instrument on ISDS Reform (MIIR). In the draft statute, the secretariat presented several potential models of a standing mechanism, such as the inclusion of only:

Yulia Levashova

i. an appellate mechanism, or
ii. the establishment of a two-tier mechanism comprising a first-instance body and an appellate body.

During the session, WGIII, without prejudice to the States' views on the possible model of a standing mechanism, discussed the selection and appointment of the members of both tribunals, including: qualifications and requirements for arbitrators (Article 7); composition of the tribunals (Article 8); and nomination of candidates (Article 9).

i. Qualifications and requirements for an arbitrator

During the discussion on qualification and requirements (Article 7), the delegates deliberated the types of expertise needed for arbitrators, the differences between requirements for the first-tier tribunal and the appeals tribunal, and the nationality requirements for arbitrators. Regarding the required expertise for arbitrators, the predominant view was to keep 'public international law' and 'international investment law' as important areas of competence. However, the expertise of arbitrators in 'private international law' proposed by the secretariat in Article 7 was considered to be less relevant and hence unnecessary. State representatives agreed that arbitrators should possess substantial experience in handling disputes. There were divergent views regarding whether arbitrators should have experience in international "investment" disputes, as proposed in Article 7. The common position was that it was better to include 'international disputes,' as it allowed for a broad list of candidates without unnecessary limitations.

The States' representatives concurred that imposing additional criteria for arbitrators, such as judicial or foreign service experience, should not be mandatory for all arbitrators. However, it would be beneficial for the members of the appeals tribunal, who will handle more complex issues than the first-tier tribunal, such as reviewing legal correctness.

The States' delegates had different opinions concerning whether members of the tribunals would need to be nationals of a Contracting Party. The majority of representatives agreed that including the 'nationality' requirement would significantly limit the pool of diverse candidates. At the same time, it was emphasised that nationality should be one of the considerations in order to achieve balanced geographical representation and to avoid the member from being assigned a dispute involving the State of which it has nationality or nationals of that State (Articles 16(3) and 20(3)).

To safeguard the independence and impartiality of tribunal members, it was proposed that all candidates adhere to the Code of Conduct for Judges in International Investment Dispute Resolution.

ii. Composition of the Tribunals

The States' representatives concurred that both tribunals should reflect equitable geographical distribution as laid down in Article 8. To clarify the definition of geograph-

ical distribution, it was proposed to use the principles of equitable geographical distribution based on the United Nations regional groupings, the representation of the principal legal systems, and equal gender representation. The majority agreed that the Conference of the Contracting Parties (Article 4) should oversee the appointment process of arbitrators and that States should not have a veto right, for example, regarding the appointment of a member who does not have the nationality of a non-Contracting Party.

iii. Nomination of candidates

The Contracting Parties will nominate the candidates for both tribunals (Article 9).

To promote gender balance and diversity, State representatives agreed that each Contracting Party could nominate up to four candidates, who do not necessarily need to be nationals of that Contracting Party. Furthermore, during the nomination process, States need to take gender representation into account, as well as make efforts to consult civil society and other relevant stakeholders. In addition to the Contracting Parties' nomination procedure, the Conference may, under certain circumstances, issue an open call for suitable candidates to ensure an equitable geographical distribution.

B. Draft provisions on procedural and cross-cutting issues

The second part of the session was dedicated to discussing the document 'Draft Provisions on Provisional and Cross – Cutting Issues' and annotations thereto, which contains 25 draft provisions that the Secretariat has identified as additional issues requiring further work. At the 47th session, the WG requested the secretariat to categorise the provisions into three groups:

i. those aiming to harmonise with existing procedural rules and potentially supplement the UNCITRAL Arbitration Rules;
ii. those enhancing existing procedural rules and provisions from recent investment agreements; and
iii. those tackling cross-cutting issues (paras. 113–116).

It was stressed that categorization of draft provisions did not imply any prioritisation among them, rather, the goal was to clarify the specific characteristics of the draft provisions. During the current session, the WG continued to discuss draft provisions, including: provision 10: Counterclaim; provision 12: Third-party funding; and provision 20: Assessment of damages and compensation.

i. Draft Provision 10: Counterclaim

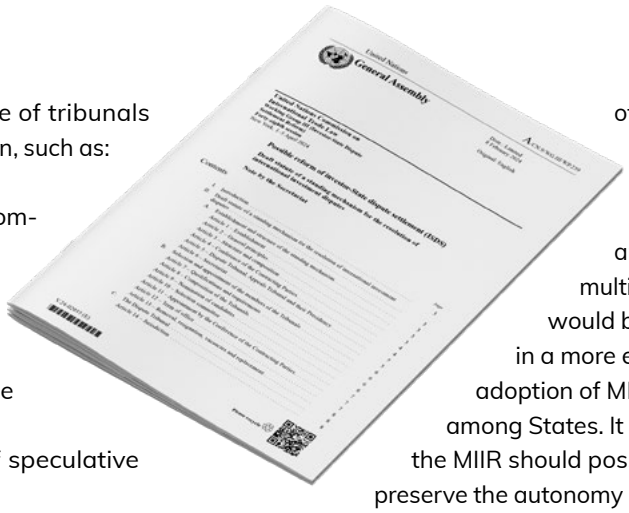
The States' representatives, primarily, supported the inclusion of the draft provision 10 on counterclaims with the objective to address the asymmetry between States and investors. The main discussion concerned some of the requirements for filing a counterclaim. The delegates had divergent views regarding whether failure to comply with 'domestic law' could serve as the basis of a counterclaim. On the one hand, representatives from several States emphasised that including compliance with domestic law as one of the grounds would require investors to respect the domestic legal framework and provide States with the necessary tools to respond to violations committed by investors. On the other hand, some delegates expressed concern that 'non-compliance with domestic law' would expand the scope of counterclaims, which might increase costs and delay proceedings. According to them, the proper forum for addressing domestic law issues is the court of the host State. Following discussions, it was resolved to maintain the reference to non-compliance with domestic law, with the stipulation that States must waive their right to initiate domestic proceedings for the same breach to prevent multiple proceedings.

ii. Draft Provision 12: Third-party funding

The opposing views were presented regarding the need to regulate third-party funding. The draft provision 12 provided a framework for ongoing discussions on this matter. Delegates primarily debated whether regulation of third-party funding should extend beyond mere disclosure. The States' representatives presented numerous arguments both in favour of the extended disclosure obligation (e.g., the risk of regulatory chill) and against it (e.g., access to justice for SMEs). Paragraph 6 of the draft provision 12 stipulates that the tribunal has the authority to restrict third-party funding under certain exceptional circumstances. Several delegates expressed the view that tribunals lack the authority to intervene in the contractual relationship between a party to the dispute and its third-party funder. Tribunals may utilise various procedural tools, such as ordering security for costs, to regulate the undesirable conduct of the parties involved. Other States' representatives underlined that the tribunal should possess broad discretion to limit third-party funding, which was established to be abusive. In conclusion, delegates reached a consensus indicating that a tribunal lacked the jurisdiction to terminate the funding agreement. However, under exceptional circumstances, it could mandate the third-party funder to consent to cover any damages and costs awarded against the funded party.

iii. Draft Provision 20 – Assessment of damages and compensation

The WG III proceeded with the discussion of the draft provision 20, which pertains to damages. Several delegations expressed concern that the draft provision 20, which had been extensively discussed in previous sessions, did not adequately address the issue of tribunals awarding excessive compensation. In this regard, several suggestions



were made to address the issue of tribunals awarding excessive compensation, such as:

i. a proper reflection of customary international law on the forms of reparation for injury;
ii. the award of only simple interest, specifically for the pre-award period;
iii. an express prohibition of speculative damages; and
iv. consideration of the economic situation in a host State and other relevant circumstances.

Several delegates voiced their concerns about an overly detailed and prescriptive approach to damages, arguing that, as stipulated in provision 20, tribunals should have the discretion to assess and award damages based on the unique circumstances of each case. Finally, they proposed developing separate guidelines on damages alongside the draft provision 20.

C. Draft multilateral instrument on ISDS reform

Deliberations on the draft multilateral instrument on ISDS reform (MIIR) took place on the last day of the 49th session. The MIIR is designed to amend existing treaties and adopt various reform components developed by WG III, offering States the opportunity to choose their preferred reforms. The advantage of the adoption of the MIIR is the avoidance of individual renegotiation of multiple treaties by States. Instead, it would be possible to apply the reforms in a more efficient and broad manner. The adoption of MIIR is subject to divergent views among States. It was repeatedly underlined that the MIIR should possess the necessary flexibility to preserve the autonomy of States in selecting the reform elements they wish to focus on. It was provisionally agreed that the MIIR would contain core provisions binding on all Contracting Parties. In this respect, it was recommended that the core provisions may be placed in the body of the MIIR, or the Contracting Parties would be obliged to become a party to at least one protocol formed therefrom. The States' representatives expressed divergent views on this issue. A number of delegates stated that in order to promote consistency and to ensure that the financial burden is shared proportionally among parties, a State has to first become a Party to the Convention in order to become a Party to the Protocol. There were delegates that had the opinion that a State should be able to become a Party to a Protocol without becoming a Party to the Convention.

Submitted by ArbitralWomen member Yulia Levashova, (Associate Professor, Nyenrode Business University/Utrecht University (the Netherlands, Independent Arbitrator)).

ArbitralWomen Sponsored Events to look out for in January and February 2025

Diversity Retreat

When: 21 February 2025, 14:30 CET
Where: Hotel Jagdschloss Kranichstein, Darmstadt
Register/Find out more:
https://www.disarb.org/en/events/diversity-retreat

ArbitralWomen Board members **Rebeca Mosquera**, **Katherine Bell** and **Nata Ghibradze**, and ArbitralWomen members **Stuti Gadodia** and **Evgenia Peiffer**, **Mrinalini Singh**, **Nneka Emilia Onyema** will speak at a Diversity Retreat, a transformative two-day conference/retreat dedicated to advancing diversity and inclusion across various dimensions in professional environments. This event delves into crucial topics like gender diversity, religious and race diversity, and regional representation, providing a holistic approach to understanding and addressing diversity in the workplace.

VIAC CAN Congress 2025: Third Edition | WKO Webshop

When: 28 February 2025, 10:00 CET
Where: Vienna International Arbitral Centre, Wiedner Hauptstraße 63, 1045 Vienna
Register/Find out more:
VIAC CAN Congress 2025: Third Edition | WKO Webshop

Join ArbitralWomen Board member **Niamh Leinwather** at the kick off celebrations for 50 Years of VIAC with a unique event dedicated to advancing the objectives of the VIAC Community Ambassador Network (VIAC CAN). The VIAC CAN Congress brings together professionals, including our esteemed VIAC Ambassadors, to explore recent market developments, anticipate future trends, and provide a vibrant platform for sharing ideas and networking.

Canadian law firm charity forges a new future for young Cambodian women

ArbitralWomen is proud to sponsor Cambodian Legal Education for Women (CLEW). CLEW is a unique charity that provides young girls with new opportunities in a country still grappling with the aftermath of Pol Pot's atrocities, even after a quarter-century. As the country struggles to rebuild and reunite, most girls in isolated provincial villages face a bleak future. For many it's an early arranged marriage or eking out a meagre living digging potatoes to feed the family. Others escape, only to find their future in Asian sweat shops or the sex trade. Education for women is not considered necessary, and few have the opportunity to complete high school.

The three founders of CLEW were Toronto law partners **Elizabeth Bennett**, **Chuck Gastle**, and Chuck's wife, **Ruth Gastle**. In 2008 they made their first foray to the isolated provinces of Cambodia. They were able to identify a few promising young women who had managed to finish high school. They negotiated with the girls' parents to allow their daughters to travel to the capital city, Phnom Penh. They agreed that the law firm would support the project financially, with its own financial and logistical help and with contributions from Toronto donors. The firm hosts an annual golf tournament and a charity ball each year as fundraisers and has reached out to others in the Toronto business community for support.

The girls were housed in a makeshift dormitory and provided with books, medical care, a bicycle, and a $50 monthly stipend, and enrolled them in the law programme at the Royal University of Legal Education (RULE). They also received English lessons. In their second year, those who were capable were enrolled in the American Business Law programme at RULE. Each year, a few more girls joined. In 2014 a large house became their new dorm, equipped with computers to be shared and kitchen facilities to provide meals for the residents… and two bathrooms! The one large room in the house does triple duty as dining room, study hall and sleeping area, with each girl having her own pallet to roll out on the floor each evening. For many among them, this is luxury.

The girls bonded, with the earlier arrivals helping their new sisters with studies, homesickness, and city skills. These young women live in the dorm for about 4 years, sometimes longer; some remain even after graduating. Today the dorm houses 30 to 35 residents. CLEW graduates go out to the world with a law degree and good English skills to find jobs in government or with some of the many NGOs working for human rights or disputes over property. Several have gone on to pass the Cambodian Bar exams, supported throughout by CLEW. Some of the CLEW students participated in the Vis East Capacity Building Programme (CBP) along with students from three other Phnom Penh universities. They went on to compete at the Vis East Moot in Hong Kong.

In March 2023, Ruth Gastle sent us this heartwarming report below:

Educational Funding Committee of ArbitralWomen

Original Committee Members:
- Mary Thomson
- Louise Barrington
- Sally el Sawah

Current Members:
- Niamh Leinwather
- Elena Guillet
- Louise Barrington

Submitted by Louise Barrington, Independent Arbitrator, Co-Founder and Board Member of ArbitralWomen

"Chuck and I just came back from two weeks in Cambodia; we had such an amazing experience. We used to go every year or two but we hadn't been in five years due to the pandemic. We went to the CLEW Dorm where our students live and asked what they needed to make things more functional. Our Dorm Manager, Orng Pathlom, provided a list of items including 6 new desktop computers, a big screen and projector to use for classes, 30 study chairs, new appliances, tables and whiteboards. In 2014, we outfitted the dorm with appliances and various household items. After 10 years, many things need to be replaced.

There have been 114 students through CLEW since 2008 and we probably saw about 80 of them while we were in Phnom Penh. It was so wonderful to see our graduates and all our new students come together and celebrate CLEW.

CLEW has continued to flourish due to our incredible Cambodian volunteers, students and graduates. Orng Pathlom, has done a great job managing the dorm and overseeing everything. She provides us with monthly reports documenting the expenses and ongoing requirements. She also leads the process to recruit new students every year and we had six new students start in January 2024. As a graduate of CLEW, she volunteers her time and lives in the dorm to oversee the students. She does this while working full time as a Legal Officer at the Arbitration Council and also completing her Master of Laws part time.

CLEW and CLEW students are now very well respected at the Royal University of Law Economics (RULE)

CLEW Students

where they study. They used to be looked down upon as the poor village girls but now it is an honour to be a CLEW scholar. Due to them living and studying together, they generally do very well and are often at the top of the class. RULE has hired about 10 of our graduates and go to CLEW first if they have a job opening. One of our graduates who was working at RULE for the past few years recently got a job at a law firm. RULE went to our CLEW manager and asked if we had any graduates looking for a job to fill the spot. Unfortunately for them, all of our graduates were gainfully employed.

When we went to the CLEW dorm, it was exciting to meet all the new students who have joined in the past 4 years. Many couldn't speak English or it was still limited, but one second year student was very happy to tell us that she didn't know any English last year when she arrived and now she speaks very well.

One of our first-year students, Nary, was referred to us by a graduate, Ty. Ty is one of the stories that we did a movie about – "CLEW Stories: Ty Nhanh" https://youtu.be/SOMzrIROnnw (duration: 9 mins). Chuck and I and our daughter Emily and her fiancé Adam happened to be in Cambodia in 2017 for the making of this movie. The four of us followed the film maker to Ty's village which was like stepping back in time. We asked what we could bring to this remote village and Ty suggested white shirts for the kids so that they could go to school. They must have a uniform in order to attend. We also brought notebooks and pencils. Well, one of the girls who received those items is Nary and she remembers our visit. She told us that it motivated her to stay in school so that she could attend university like Ty. She started her first year in January. Ty now has a really good job at RULE and is a hero in her village.

While in Phnom Penh, we met with the President of the Bar Association. Our goal is to get visibility for our students for internships, jobs and hopefully to get more called to the Bar. Our first five lawyers who paved the way in 2019 made a deal with the previous President of the Bar: if he allowed them to compete on merit and not pay the fees to write the Bar Admission course, they would work as lawyers in the provinces for four years. Not only did they pass the exam but they excelled in the course and were in the top of the class. We saw those lawyers on our recent trip. They are all thriving and were excited to say that they've completed their four years and are now able to work wherever they want. Two more CLEW graduates have since also passed the bar exam and are going through the training and articling. Our seventh lawyer recently completed the bar admission course and she was thrilled to tell me that she placed 11th out of a class of 85. She is now articling.

We thank ArbitralWomen for its donation, which was put towards program costs such as tuition and living allowances for students and post-graduates who were attending the lawyer in training program."

ArbitralWomen Calls for New Initiatives for the Educational Programmes Committee

The ArbitralWomen Educational Programmes Committee consisting of ArbitralWomen Board members **Niamh Leinwather**, **Louise Barrington** and **Elena Guillet** call for nominations for new initiatives to support.

The ArbitralWomen Board considers education to be a top priority when allocating the organisation's resources. In 2021/2022, ArbitralWomen awarded grants to two organisations dedicated to the legal education of young women who would normally not have access to it. Those organisation were the Cambodian Legal Education for Women ('**CLEW**') and the Vis East Capacity Building Project ('**CBP**') and were both multi-year undertakings. CLEW supports female students year-round while CBP takes place each autumn in three-year cycles coinciding with the Vis and Vis East arbitration competitions.

- CLEW brings young high school graduates from the provinces of Cambodia, registers them at law school and provides English language instruction. Selected graduates then enrol in a US Business Law JD programme at the same university. Throughout their studies, the young women live together in a dorm, are provided with food, a computer, a bicycle, and a small monthly stipend. After 5 years, many graduates go on to further education, government service or join the Cambodian Bar.
- CBP sends a team of experts to jurisdictions which lack basic knowledge and infrastructure for arbitration. The team visits once a year for 10 days of intensive training and practice using the current Vis Moot problem. The students come from two or more law schools. At the end of the third year, the CBP team moves on to another jurisdiction, leaving behind three cohorts of enthusiastic grads from several law schools, who can continue the training with those who follow.

In 2024, ArbitralWomen signed a memorandum of understanding with Arbitration Funding for African Students ('**AFAS**') and contributed to their work in six African States. AFAS' objective is to provide arbitration-related training to high school and university students. In 2024, AFAS delivered its training to 400 students and set up ADR Connect clubs in Ghana, Uganda, Tanzania and Rwanda.

ArbitralWomen calls on its members to nominate further programmes deserving of support by **28 February 2025**. Any new initiatives would receive a lump sum support (i.e., for a one-time event or project, or as seed-money for a new programme) for initiatives designed to further the goals and principles espoused by ArbitralWomen. To apply for the grant, an event or programme must be nominated by two ArbitralWomen members, both in good standing for two years as of the date of the application. A nominator may, but need not, be one of the organisers of the event or programme being nominated. Each nominator should provide ArbitralWomen with a detailed letter of support. Additional requirements for eligibility include the following:

1. The programme or event must further the goals of ArbitralWomen, namely the education and promotion of women in arbitration and other forms of ADR. It is not limited to events or programmes aimed exclusively at women provided the women in the programme would benefit substantially from the programme.
2. Programmes must have an established track record, OR the programme organisers must have proven experience in organising and administering events like the one being proposed.
3. Depending on the nature and amount of the expenses to be funded, the New Initiative Award may be delivered in one or more instalments.
4. Other conditions may apply, depending on the nature of the event or programme.

Each recipient of a New Initiative Award will be required to provide a report following the guidelines provided by the Educational Funding Committee, by 31 December of the year in which the funding is provided, or within three months after the end of the programme or event, whichever is earlier. In the case of long-term programmes, a quarterly report may be required.

Learn more about the New Initiative Award and the application process here.

Applicants or Programme organisers are invited to submit their detailed application by email with 'ArbitralWomen's New Initiative Award 2025' in the subject line and the two nomination letters attached, to: awards@arbitralwomen.org.

This year's deadline is 28 February 2025.

Sian v Halimeda: Privy Council Revisits Intersection Between Insolvency and Arbitration

On 19 June 2024, the Privy Council issued its decision in Sian Participation Corp (In Liquidation) v Halimeda International Ltd [2024] UKPC 16, holding that winding up proceedings should not be automatically stayed or dismissed by the court where the disputed debt is subject to an arbitration agreement. Instead, the correct test to be applied by the court in the exercise of its discretion is whether the relevant debt is disputed on genuine and substantial grounds.

In so doing, the Privy Council overruled the leading English authority Salford Estates (No 2) Ltd v Altomart Ltd (No 2) [2014] EWCA Civ 1575 ("*Salford Estates*") on this issue. Although Privy Council decisions are not binding precedents upon the English courts and are of persuasive authority only, in this case, the Privy Council exceptionally gave a direction under Willers v Joyce (No 2) [2016] UKSC 44, whereby it directed the English courts to adopt the new approach in *Sian* instead.

This blog post sets out the factual and procedural background to the decision, an analysis of the *Salford Estates* and *Sian* approaches, and the practical implications of the decision (for a discussion on the impact of the decision on Hong Kong and Singapore laws, see our previous coverage here).

Factual and Procedural Background

The present dispute arose out of an unpaid debt incurred by Sian Participation Corp ("Appellant") to Halimeda International Ltd ("Respondent"). Pursuant to a facility agreement dated 7 December 2012 ("Facility Agreement"), the Respondent advanced a term loan of USD 140 million to the Appellant.

The Facility Agreement contained a widely drawn arbitration agreement, which provided that "any claim, dispute or difference of whatever nature arising

Erica Li, Associate at WilmerHale in London

under, out of or in connection with this Agreement" shall be referred to arbitration (the "Arbitration Agreement").

The Appellant failed to repay the loan. The Respondent demanded repayment of USD 226 million ("Debt"), which the Appellant disputed was payable. The Respondent made an application for liquidators to be appointed over the Appellant, which was granted by Wallbank J on the basis that the Appellant had failed to show that the Debt was disputed on genuine and substantial grounds.

Having failed in an appeal to the Eastern Caribbean Court of Appeal, the Appellant sought leave to appeal to the Privy Council. The key issue to be determined by the Privy Council was the correct test that should be applied by the court in exercising its discretion in making an order for the liquidation of a company, where the disputed debt is subject to an arbitration agreement.

The *Salford Estates* Approach

Under the *Salford Estates* approach, winding-up proceedings were automatically stayed or dismissed in favour of an arbitration agreement where the relevant debt is disputed.

Salford Estates concerned unpaid expenses under a lease which contained a wide and comprehensive arbitration agreement. Although the lessor had obtained an arbitration award in respect of unpaid expenses under the lease, it claimed further sums from the lessee, alleging that they were due based on the reasoning of the award. Upon the lessee's failure to repay these sums, the lessor presented a winding-up petition, which the lessee applied to strike out or stay based on section 9 of the English Arbitration Act 1996 ("1996 Act"). Section 9 of the 1996 Act contains a mandatory stay provision which requires the court to stay legal proceedings brought, whether by way of a claim or cross-claim, in respect of a "matter" that is subject to an arbitration agreement.

The English Court of Appeal held in favour of the lessee. As a starting point, it held that section 9 of the 1996 Act did not apply because a winding-up petition is not a "claim" for repayment of the disputed debt within the meaning of the 1996 Act. The disputed debt was simply evidence that the debtor may be insolvent.

This was, however, not the end of the matter. Consistent with the legislative policy embodied in the 1996 Act to exclude the court's jurisdiction to give summary judgment, the court held that it is "entirely appropriate" that it should, save in wholly exceptional circumstances, order an automatic stay or dismissal of winding up proceedings pursuant to its discretion to wind up a company under section 122(1) of the English Insolvency Act 1986. The court was concerned that to hold otherwise would encourage parties to bypass the arbitration agreement between them and the 1996 Act by presenting a winding-up petition.

The *Salford Estates* approach has been broadly followed in other common law jurisdictions such as Singapore and Hong Kong. Notably, the Hong Kong

Court of Appeal in the recent decisions of Simplicity & Vogue Retailing (HK) Co Ltd [2024] HKCA 299 and In re Shandong Chenming Paper Holdings Ltd [2024] HKCA 352 clarified that the court should order an automatic dismissal or stay of winding up proceedings where the disputed debt is subject to an arbitration clause, subject only to exceptions where

i. there was a risk of prejudice to other creditors, or
ii. the supposed dispute about the debt bordered on the frivolous or abusive.

The *Sian* Approach

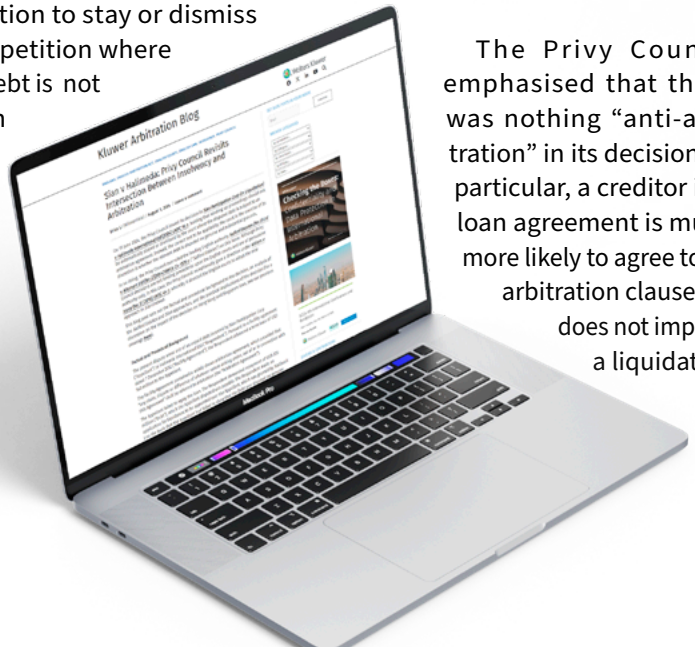
In *Sian*, the Privy Council unanimously dismissed the appeal and held that *Salford Estates* was wrongly decided. Regardless of the existence of an arbitration agreement, or an exclusive jurisdiction clause for that matter, the correct test to be applied by the court in exercising its discretion in respect of a winding-up petition is whether the relevant debt is disputed by the debtor on genuine and substantial grounds.

The Privy Council agreed with *Salford Estates* that, as a starting point, a winding up petition is not a "claim" caught by statutory provisions implementing Article 18 of the Model Law, such as section 9 of the 1996 Act, which provides for a mandatory stay of legal proceedings commenced in respect of a "matter" which is subject to an arbitration agreement.

However, the Privy Council disagreed that the legislative intent behind the 1996 Act required the court to exercise its discretion to stay or dismiss a winding-up petition where the relevant debt is not disputed on genuine and substantial grounds:

- First, there is no conflict between a winding-up petition and the obligations contained in an arbitration agreement, which consist of a positive obligation to refer disputes to arbitration for resolution and a negative obligation not to have them resolved by any court process. The negative obligation is not offended by the presentation of a winding-up petition as the court does not resolve a petitioner's claim in a winding-up petition.
- Second, the policies underlying the arbitration legislation which implement the Model Law (such as the 1996 Act) are not offended by a party to an arbitration agreement seeking the liquidation of a debtor party that fails to pay the debt. Under insolvency legislation, there is a policy that the liquidation route should not be pursued or even threatened against a debtor company which genuinely disputes the debt on genuine and substantial grounds.
- Third, none of the general objectives of arbitration legislation, i.e., efficiency, party autonomy, *pacta sunt servanda* and non-interference by the courts, are offended by allowing a winding up to be ordered where the relevant debt is not genuinely disputed on substantial grounds. Quite the opposite, to require a creditor to go through an arbitration process as the prelude to seeking a liquidation only "adds delay, trouble and expense for no good purpose". Moreover, the creditor has not promised to refrain from seeking a liquidation, thus respecting party autonomy.

The Privy Council emphasised that there was nothing "anti-arbitration" in its decision. In particular, a creditor in a loan agreement is much more likely to agree to an arbitration clause if it does not impede a liquidation where there is no genuine or substantial dispute about the debt.



Further, the Privy Council held that the English Court of Appeal's concerns in *Salford Estates* were misplaced, and that there was "an impermissible and unexplained leap" in its reasoning as to the extent of the legislative policy behind the arbitration legislation. In particular:

- Although an arbitration agreement excludes summary judgment as a means to resolving a matter subject to such an agreement, the summary judgment procedure undertaken by the court in assessing whether a debt is disputed on genuine and substantial grounds does not fall within such an exclusion, as it does not resolve a claim by final resolution in a judgment.
- The concern that parties would be tempted to bypass an arbitration agreement or improperly threaten to present a winding-up petition as a means of pressuring a company to pay its debts is treated as an abuse of process, which the courts are familiar with and routinely deal with by ordering indemnity costs against the abusive party.

Conclusion

The Privy Council decision in *Sian* provides welcome clarification on the difficult issues arising out of the intersection between insolvency and arbitration under English law. Significantly, this decision aligns the English law approach towards both arbitration agreements and exclusive jurisdiction clauses, such that winding up proceedings could only proceed where the relevant debt subject to such agreements or clauses is disputed on genuine and substantial grounds.

This decision is also likely to have wider ramifications on the law in other jurisdictions, such as Singapore and Hong Kong, which have taken a similar approach to *Salford Estates*. The real impact of *Sian* remains to be seen.

Submitted by ArbitralWomen member Erica Li (WilmerHale). This article was first published with the Kluwer Arbitration Blog on Thursday, August 1st, 2024

A(nother) Turning Point for Intra-EU ECT Disputes?

Louise Woods, Partner, and Sophie Freelove, Senior Associate at Vinson & Elkins in London

Two ICSID tribunals have recently upheld Spain's intra-European Union (EU) jurisdictional objections in two arbitrations pursuant to the Energy Charter Treaty ("**ECT**").[1]

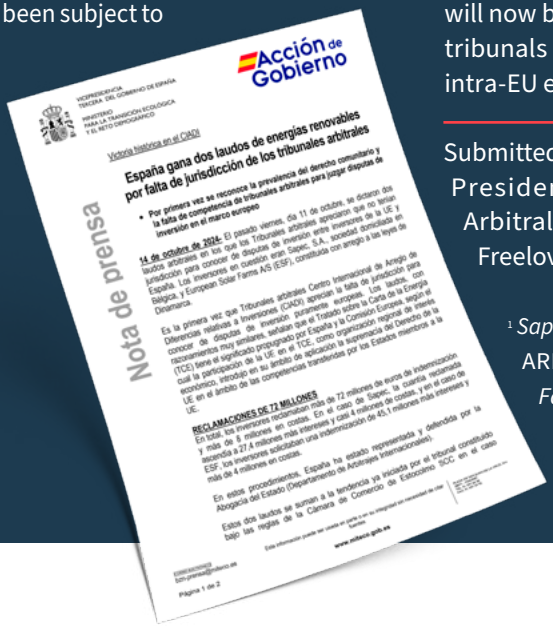
Both cases arise out of Spain's decision to modify its incentives scheme for renewable energy investments in 2013/2014, under which the prior scheme was abolished in favour of a system of incentives based on a reasonable rate of return calculated by reference to market remuneration. The claims were commenced against Spain in 2018 and 2019 respectively under the ECT.

While the awards currently remain unpublished, it has been reported that both Tribunals found by majority that they did not have jurisdiction over the disputes, as they determined that the competence of the matters in dispute to have been transferred to the EU. In a 14 October 2024 press release, Spain confirmed that: "*the Energy Charter Treaty has the meaning advocated by Spain and the European Commission, according to which the participation of the EU in the ECT, as a regional economic interest organisation, introduced into its scope the supremacy of EU law in the area of competences transferred by the member states to the EU.*"2

Spain's jurisdictional objection, commonly referred to as the 'intra-EU' objection, follows the well-known *Achmea* (2018) and *Komstroy* (2021) decisions by the Court of Justice of the European Union (CJEU), in which it was ruled that intra-EU treaty claims (including ECT disputes) between EU investors and states were not compliant with EU law, as they interfered with the autonomy and application of EU law and were incompatible with Articles 267 and 344 of the Treaty on the Functioning of the European Union.

However, this is the first time that an ICSID tribunal has reached this decision. Up until now, while a significant number of ICSID tribunals have faced this question, all have continued to maintain their jurisdiction over these type of disputes, primarily on the basis that they derive their legitimacy from an international treaty and are therefore subject to public international law, and not EU law.

The only other tribunal that had previously upheld an intra-EU objection was *Green Power v. Spain*. However, given this was a Stockholm Chamber of Commerce (SCC) arbitration, seated in Sweden, the interpretation of the arbitration agreement had been subject to Swedish, and therefore EU, law.


Nota de prensa

Acción de Gobierno

España gana dos laudos de energías renovables por falta de jurisdicción de los tribunales arbitrales

- Por primera vez se reconoce la prevalencia del derecho comunitario y la falta de competencia de tribunales arbitrales para juzgar disputas de inversión en el marco europeo

14 de octubre de 2024.- El pasado viernes, día 11 de octubre, se dictaron dos laudos arbitrales en los que los Tribunales arbitrales apreciaron que no tenían jurisdicción para conocer de disputas de inversión entre inversores de la UE y España. Los inversores en cuestión eran Sapec, S.A., sociedad domiciliada en Bélgica, y European Solar Farms A/S (ESF), constituida con arreglo a las leyes de Dinamarca.

Es la primera vez que Tribunales arbitrales Centro Internacional de Arreglo de Diferencias relativas a Inversiones (CIADI) apreciar la falta de jurisdicción para conocer de disputas de inversión surgidas entre inversores europeos. Los laudos, con razonamientos muy similares, señalan que el Tratado sobre la Carta de la Energía (TCE) tiene el significado propugnado por España y la Comisión Europea según el cual la participación en su ámbito de aplicación la organización regional de integración económica, introdujo en su ámbito de aplicación la supremacía del Derecho de la UE en el ámbito de las competencias transferidas por los Estados miembros a la UE.

RECLAMACIONES DE 72 MILLONES

En total, los inversores reclamaban más de 72 millones de euros de indemnización y más de 8 millones en costas. En el caso de Sapec, la cuantía reclamada ascendía a 27,4 millones más intereses y el caso de ESF, los inversores solicitaban una indemnización de 45,1 millones más intereses y más de 4 millones en costas.

En estos procedimientos, España ha estado representada y defendida por la Abogacía del Estado (Departamento de Arbitrajes Internacionales).

Estos dos laudos se suman a la tendencia ya iniciada por el tribunal constituido bajo las reglas de la Cámara de Comercio de Estocolmo SCC en el caso

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Submitted by Former ArbitralWomen President, Louise Woods and ArbitralWomen Member, Sophie Freelove

[1] *Sapec, S.A. v. Spain* (ICSID Case No. ARB/19/23) and *European Solar Farms v. Spain* (ICSID Case No. ARB/18/45).

[2] Spain's Press Release.

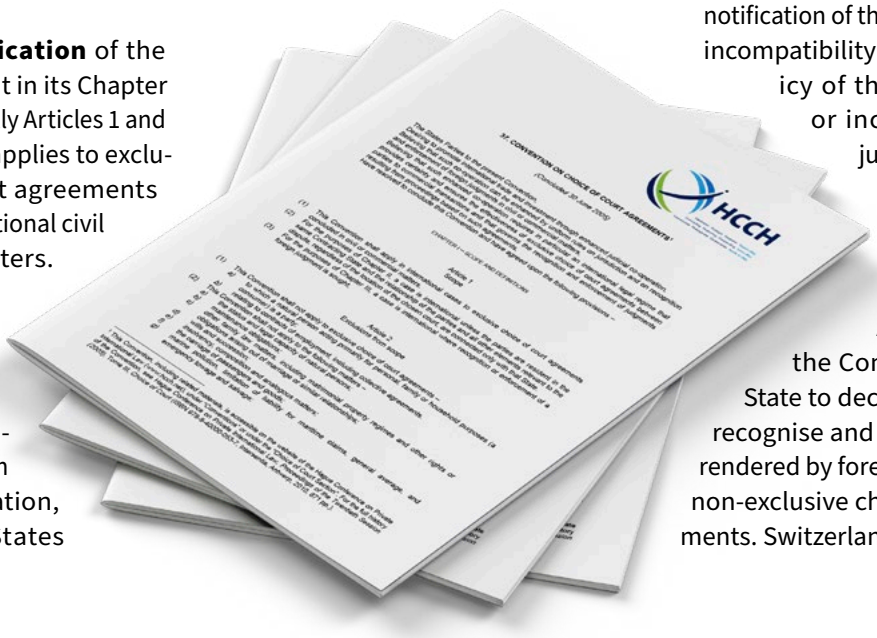
The Hague Convention on the Choice of Court Agreements Will Enter Into Force for Switzerland

Stefanie Pfisterer, Partner, and Dilber Devitre, Counsel at Homburger in Zurich

On September 18, 2024, the Swiss Confederation deposited its instrument of accession to the Convention of 30 June 2005 on Choice of Court Agreements (the Convention). The Convention will enter into force for Switzerland on January 1, 2025.

The aim of the Convention is to increase legal certainty and efficiency in relation to exclusive choice of court agreements. To do so, the Convention establishes an international regime that ensures the effectiveness of exclusive choice of court agreements between parties to commercial transactions and governs the recognition and enforcement of judgments resulting from proceedings based on such agreements within all contracting States:

- The **scope of application** of the Convention is set out in its Chapter 1 (and more specifically Articles 1 and 2). The Convention applies to exclusive choice of court agreements concluded in international civil or commercial matters. Certain matters such as employment, family law, insolvency, antitrust matters etc. are specifically excluded from its scope of application, with contracting States having the possibility to specifically exclude other matters (Article 21). Switzerland has made no such declaration restricting the scope of application of the Convention.
- **Transitional provisions** are found at Article 16 of the Convention which states that the Convention only applies to choice of court agreements concluded after its entry into force for the State of the chosen court and not to proceedings instituted before its entry into force for the State of the court seized. Thus, choice of court agreements designating Swiss courts only fall under the scope of the Convention if they are concluded after January 1, 2025. Likewise, a Swiss court will only apply the Convention to the recognition and enforcement of decisions based on a choice of court agreement designating a contracting State if it is seized after January 1, 2025.
- Provisions governing the **international jurisdiction of courts** are set out at Chapter II of the Convention. Article 5 of the Convention provides that the courts of a State designated in an exclusive choice of court agreement have jurisdiction to adjudicate the dispute. Likewise, as per Article 6, any other court seized of the matter must suspend or dismiss the proceedings.
- Provisions on the **recognition and enforcement of judgments** are found at Chapter III of the Convention, which provides that all contracting States must recognise and declare enforceable a decision rendered by the courts designated in an exclusive choice of court agreement (Article 8), subject only to a limited number of grounds for refusal provided in the Convention itself (Article 9). These include, *inter alia*, the nullity of the choice of court agreement under the law of the State of the chosen court, the incapacity of the parties to enter into such an agreement under the law of the requested State, improper notification of the proceedings, fraud, incompatibility with the public policy of the requested State or inconsistency of the judgment with a prior judgment in the requested State or another State.



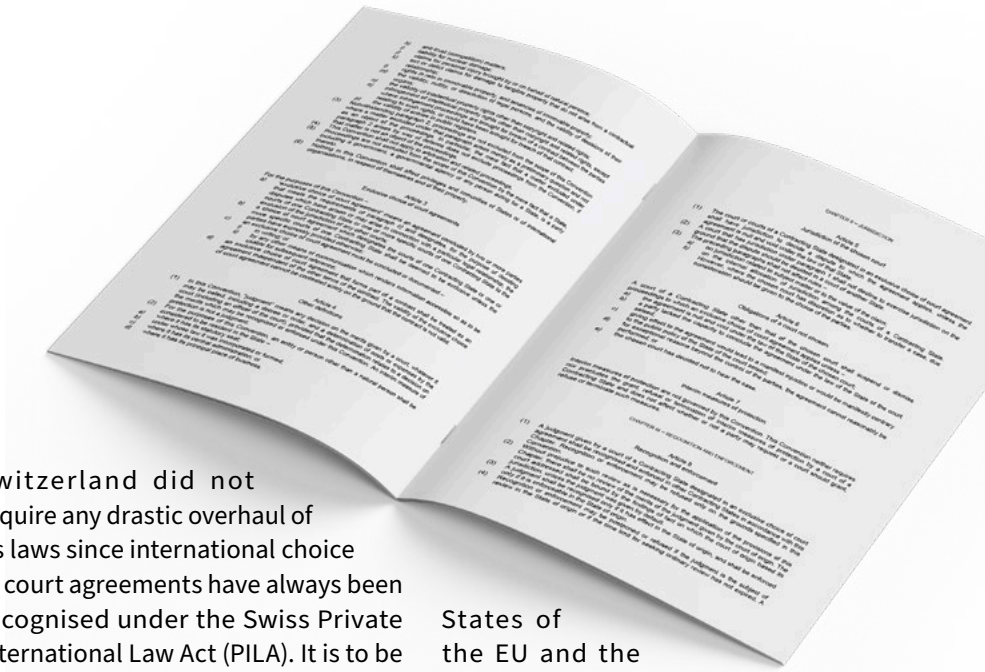
Article 22(1) of the Convention permits a State to declare that it will also recognise and enforce judgments rendered by foreign courts based on non-exclusive choice of court agreements. Switzerland has made a corre-

sponding declaration, thus accepting to also recognise and enforce judgments rendered by courts designated in non-exclusive choice of court agreements. However, as per Article 22(2) of the Convention, such judgments may only be recognised under the Convention if both the State of the court of origin as well as the requested State have made a corresponding declaration. Since Switzerland is till date the only State to have made such a declaration, the application of the Convention to the recognition and enforcement of judgments rendered on the basis of non-exclusive choice of court agreements is not effective (yet). Switzerland's declaration nonetheless testifies to its commitment to ensure the broadest possible application of the Convention, thus easing the enforcement of foreign judgments in Switzerland.

Till date, 35 other States have adhered to the Hague Convention, including the European Union and the United Kingdom of Great Britain and Northern Ireland (UK).

Switzerland's adherence to this Convention is a welcome remedy to the gap left by Brexit in the enforcement and recognition of UK court judgments in Switzerland. Indeed, since the EU's refusal to endorse the UK's adherence to the Lugano Convention in May 2021, there was no international treaty in place between Switzerland and the UK on the recognition and enforcement of court judgments rendered in the two States.

The adoption of the Convention by Switzerland did not require any drastic overhaul of its laws since international choice of court agreements have always been recognised under the Swiss Private International Law Act (PILA). It is to be noted that the requirements for a valid choice of court agreement as per the PILA and the Convention do not differ. However, the Convention will affect the scope of application of Article 5(3) of the PILA that enables the chosen court to decline its jurisdiction in certain cases; the scope of application of such provision will now be even more limited as the Convention overrides Article 5(3) of the PILA.



Moreover, since the Convention (Article 26) provides that international conventions concluded by the contracting States take precedence over the Convention, irrespective of whether such other conventions were concluded before or after the entry into force of the (Hague) Convention, the Lugano Convention, that currently applies between Switzerland and member States of the EU and the European Free Trade Association, will continue to apply. However, questions concerning the scope of applicability of the two conventions may arise in certain situations.

Overall, Switzerland's adhesion to the Convention is a positive step that improves the legal certainty and predictability of jurisdictional and enforcement issues in international disputes based on choice of court agreements. With this adhesion, Switzerland has further reinforced its commitment to effective and speedy dispute resolution, thus reiterating its position as an international business hub.

Submitted by ArbitralWomen member Stefanie Pfisterer, and ArbitralWomen Board member, Dilber Devitre, Homburger AG

ArbitralWomen Annual General Meeting

12 February 2025

The AGM will be held **virtually** on **Wednesday, 12 February 2025 at**:

09:00 EST • 14:00 GMT
15:00 CET • 22:00 HKT

If you plan to participate, please confirm your participation by emailing registration@arbitralwomen.org **no later than 5 February 2025** and indicate the region where you are based.

The AGM provides an opportunity to hear updates from the Board of Directors on the activities and achievements of ArbitralWomen and its Members since the new Board took office in July 2024, as well as to discuss plans and ideas for future initiatives.

Dial-in details for the AGM will be provided in a follow-up notice from ArbitralWomen Secretary Nata Ghibradze, ahead of the meeting. **Please stay tuned for further information**.

Important:

Participation in the Annual General Meeting is reserved for members with up-to-date memberships. To confirm your place, please ensure your membership is current. If you are unsure of your status, do not hesitate to contact our team at administrator@arbitralwomen.org for assistance.

We look forward to welcoming you!

Unlocking Section 1782: A Powerful Gateway to U.S. Evidence for Global Disputes

Rebeca Mosquera

In my practice, I have witnessed firsthand how Section 1782 transforms access to evidence in cross-border disputes. This tool is invaluable for practitioners navigating the complexities of international cases.

Section 1782 is a U.S. federal statute that enables a person or entity involved in legal proceedings outside the United States to request assistance from U.S. District Courts to obtain evidence located within the U.S. Unlike traditional discovery mechanisms, Section 1782 allows parties to retrieve not only documents but also deposition testimony—even if the legal proceeding has yet to be filed. This creates a "legal bridge" between foreign courts and U.S.-based evidence, with the aim to foster international judicial cooperation and encourage similar measures to be adopted in non-U.S. jurisdictions. Yet, despite the motivations behind it, some complexities and questions about the applicability of the Section 1782 remain. The Section has not yet led to the widespread adoption of similar statutes in foreign jurisdictions as was initially envisioned. This has resulted in an imbalance of access to discovery mechanisms outside of the U.S. Additionally, the Section's application to some types of Arbitral Institution Rules for investor-state disputes, such as those under ICSID, also remain unanswered.

Core Requirements for a Section 1782 Application

For an application to be made, the party must meet the three core statutory requirements set out under the Section.

The applicant must be an "interested person".

This could be either a living person or a corporate entity and will typically be a litigant in a foreign proceeding, but the meaning has been interpreted more broadly by the courts to also encompass shareholders of a company that is suing in the foreign proceeding, officers and other related entities. As such, the requirement is relatively easy to satisfy.

The evidence needs to be for use in a foreign proceeding.

This requirement has been subject to significant litigation for a number of reasons. It applies even if the proceeding has not yet been formally filed as long as it has been reasonably contemplated by the parties. This requirement has been interpreted differently by the courts, reflecting a balance between accessibility and safeguarding against abuse. For instance, while some courts adopt a liberal interpretation of "reasonable contemplation", others demand concrete evidence of a pending legal dispute.

Case law has set out that there must be a direct and legitimate connection between the requested evidence and the foreign proceeding. If it has been found that a party in reliance of the Section is looking for evidence to find assets to collect on a judgement, rather than looking for evidence for the foreign proceeding, that this requirement will not be satisfied. Similarly, a party who is looking to use the evidence in a domestic proceeding and bring action in the U.S. will also not be likely to meet this requirement as it is not proper use of the statute.

The Target must be 'located' in the District

The evidence or party from whom discovery is sought must reside or have sufficient contacts in the district where the application is filed. For living persons, the standard is simply where the person lives. For corporate entities like companies, this typically means their principal place of business or incorporation.

Procedure for Filing Applications and Defence Strategies to an Application

Step 1: Filing the Application

Applications are often filed *ex parte*. This means that the application can be made without notifying the target, although notice can be given if a party so chooses. The primary purpose of this is for applicants to avoid delays or interference from the opposing party, and in particular is a strategy that allows for the court to pre-determine that the elements are met before the other side is even present.

Step 2: Judicial Review

The court evaluates the application, considering both the statutory requirements set out above but also a number of discretionary factors outlined in the 2004 case of *Intel Corp. v. Advanced Micro Devices, Inc* in considering whether to grant the application. These factors include:

1. **Participation in the Foreign Proceeding**: Applications may be denied if the discovery target is a party to the foreign proceeding, as the foreign courts are expected to handle discovery directly.
2. **Receptiveness of the Foreign Tribunal**: A strong defence arises when a foreign tribunal opposes the discovery request, demonstrated through court orders or statements.

3. **Circumvention of Foreign Restrictions**: Courts tend to be wary of applicants using Section 1782 to bypass foreign discovery restrictions or engage in "fishing expeditions."
4. **Intrusiveness or Burden of the Request**: Discovery targets can challenge overly broad or irrelevant subpoenas, often resulting in narrowed discovery orders.

Step 3: Issuance of Subpoenas

If the application is approved, subpoenas are issued and served. Targets may comply, negotiate, or file motions to quash or modify the request.

Applicability to Arbitration: Insights from ZF Automotive

In the courts' attempts to strike a balance between aiding international judicial cooperation without overstepping or causing undue burden on the parties, this has raised discussion about whether or not an arbitration tribunal is considered an 'International Tribunal' for the purposes of Section 1782.

In particular, there has been a split of considerations on whether private commercial arbitrations apply. Following the U.S. Supreme Court's decision in *ZF Automotive US, Inc. v. Luxshare, Ltd.*, it was held that Section 1782 applies only to governmental or intergovernmental judicial bodies, not private international arbitral bodies. Questions still remain about the applicability of Section 1782 to investor-state arbitration under rules like those of ICSID.

Conclusion

Section 1782 is a strategic asset in international discovery, offering litigants access to critical evidence while posing challenges for discovery targets. As practitioners, we must navigate its complexities with precision, leveraging its potential while respecting its limitations. Despite its narrowed application in arbitration, Section 1782 remains a cornerstone of international litigation strategy.

Submitted by Rebeca Mosquera, ArbitralWomen President, Senior Associate at Reed Smith, New York

Mark your agendas

2025 Global Arbitration Events

Date	Venue	Event
29-31 January	Zurich, Switzerland	**Swiss Arbitration Summit** ArbitralWomen Key contacts: Katherine Bell, Dilber Devitre
21 February	Istanbul, Turkey	**Istanbul Leaders League Awards**
28 February	Vienna, Austria	**VIAC CAN Congress** ArbitralWomen Key contact: Niamh Leinwather
10-13 March	Los Angeles, CA	**California International Arbitration Week**
17-21 March	Nairobi, Kenya	**Nairobi Arbitration Week**
7-11 April	Paris France	**Paris Arbitration Week**
9-10 May	Vienna, Austria	**Vienna Arbitration Days** ArbitralWomen Key contact: Niamh Leinwather
2-6 June	London, UK	**London International Disputes Week**
4-5 September	Edinburgh, Scotland	**Scottish Arbitration Centre Arb Fest** ArbitralWomen Key contact: Mary Thomson
16-19 September	Istanbul, Turkey	**Istanbul Arbitration Days**
September	New Delhi, India	**Delhi Arbitration Weekend**
13-16 October	Cairo, Egypt	**Egypt Arbitration Days** ArbitralWomen Key contact: Sally El Sawah
10-14 November	Dubai, UAE	**Dubai Arbitration Week**
17-21 November	New York, NY	**New York Arbitration Week**
1-5 December	Washington D.C.	**Washington Arbitration Week**

Meet the 2024-2026 ArbitralWomen Advisory Council

ArbitralWomen is pleased to announce the appointment of four new members of its Advisory Council. The Advisory Council, composed of several former ArbitralWomen Board members and officers, provides advice and guidance to the Board of ArbitralWomen.

The new members have joined ArbitralWomen's Advisory Board on 1 July 2024, upon stepping down from the Board of ArbitralWomen. The Advisory Council includes **Louise Woods**, Outgoing President of ArbitralWomen, and Partner at Vinson & Elkins, together with:

- **Gaëlle Filhol**, Outgoing Vice President, and Partner at Pinsent Masons in Paris.
- **Maria Beatriz Burghetto**, Outgoing Communications Director, and Senior Consultant at Belgravia Law and Independent Arbitrator based in Paris.
- **Gisèle Stephens-Chu**, Outgoing Secretary, and Partner and Founder of Stephens Chu in Paris.

Amanda Lee, Dana MacGrath, Dominique Brown-Berset, Donna Ross, Gaëlle Filhol, Gillian Carmichael Lemaire, Gisele Stephens-Chu, Juliette Fortin, Karen Mills, Lorraine M. Brennan, Louise Woods, Maria Beatriz Burghetto, Patricia Nacimiento, Rose Rameau, Yasmine Lahlou

"I am delighted to have been invited to join ArbitralWomen's Advisory Council (AWAC). It's a fantastic resource for the organisation, one I benefitted from during my tenure as President. I am now in the very privileged position of being able to remain involved in and apprised of AW's activities, offering support and guidance to the current Board based on my experience when needed, whilst at the same time learning from the next generation of leaders!" said **Louise Woods**.

The Advisory Board is composed of a number of former members and officers of the Board of ArbitralWomen, including **Dana MacGrath**, President from 2018 to 2022, **Juliette Fortin**, who held several roles on the Board from 2014 to 2022, **Lorraine Brennan**, President from 2010 to 2012, **Dominique Brown-Berset,** President from 2012 to 2014, **Gillian Carmichael Lemaire**, Newsletter Director from 2014 to 2018, **Karen Mills**, who held several roles on the Board from 2005 to 2020, **Yasmine Lahlou** who was a Board member from 2020 to 2022, **Amanda Lee** who was the Communications Director from 2020 to 2022, and a Board member from 2016 to 2022, **Patricia Nacimiento**, Board member from 2020 to 2022, **Rose Rameau,** Board member from 2020 to 2022 and **Donna Ross,** also a Board member from 2020 to 2022**.**

"I am thrilled to welcome the new members to the ArbitralWomen Advisory Council (AWAC). The AWAC is an invaluable resource, comprising former Board members whose dedication and vision have shaped ArbitralWomen into the dynamic organisation it is today. Their collective contributions have paved the way for greater diversity and inclusion in international dispute resolution. As we embrace the next chapter, the Advisory Council continues to serve as a vital bridge between past and present leadership, ensuring that our legacy of progress and innovation endures and continues to thrive" said **Rebeca Mosquera**, 2024-2026 ArbitralWomen President and Senior Associate at Reed Smith, New York.

ArbitralWomen Board of Directors for the 2024-2026 Term

16 July 2024 – ArbitralWomen is pleased to announce the results of the election of its incoming Board of Directors for the 2024-2026 Term, which includes eight new members out of the 18 elected in July 2024. The incoming Board of Directors selected **Rebeca Mosquera**, an attorney at Reed Smith LLP in New York, to assume the role of President of the Board, and **Katherine Bell**, a Partner at Schellenberg Wittmer in Zurich, to assume the role of Vice President. As Vice President, Ms. Bell will also assume the role of Chair of Young ArbitralWomen Practitioners (YAWP), ArbitralWomen's young practitioner group launched by former ArbitralWomen Vice President **Gabrielle Nater-Bass**.

"*As I step into the role of President of ArbitralWomen, I am thrilled to champion our mission of enhancing diversity and empowering female practitioners. I look forward to leading initiatives that foster inclusivity within our community. Together with the dedicated team at ArbitralWomen, we will strive to create more opportunities and advocate for greater gender equality in the arbitration field globally*," said Ms. Mosquera. "*I greatly appreciate the work* ***Louise Woods*** *and* ***Dana MacGrath*** *have done over the past six years at ArbitralWomen, to foster a strong and supportive environment. I am committed to continuing that essential work.*"

"*It has been an absolute pleasure working with the outgoing Board under the superb leadership of Louise Woods,*" said Ms. Bell. "*I am truly honoured to be appointed Vice President of ArbitralWomen and to assist our new President Rebeca Mosquera, who has always stood out as a strong advocate for women in arbitration. I look forward to collaborating with Rebeca and the new Board, supporting and promoting female practitioners in international dispute resolution across the globe, and hopefully making a meaningful contribution to the success story that is ArbitralWomen.*"

The 2024 Executive Board also includes **Nata Ghibradze**, Counsel at Hogan Lovells in Munich, who will serve as Secretary; **Alina Leoveanu**, Group Senior Counsel at Eviden in Paris, who will serve as Treasurer; **Cherine Foty**, Senior Associate at Covington & Burling in Washington, D.C., who will serve as Communications Director; and co-founders **Louise Barrington** and **Mirèze Philippe**.

Please join us in congratulating the 2024 ArbitralWomen Board Members set out in the table below
(new members are shown with an asterisk)

Name	Nationality(ies)	City(ies) of Residence
Louise Barrington	Canadian	Hong Kong, PRC and Toronto, Canada
Katherine Bell	British / Swiss	Zurich, Switzerland
Clea Bigelow-Nuttall *	British / Canadian / Irish	London, UK
Catherine Bratic	American / Italian	Houston, TX, USA
Kate Corby *	British	London, UK
Dilber Devitre *	Indian	Zurich, Switzerland
Sally El Sawah	Egyptian / French	Paris, France and Cairo, Egypt
Cherine Foty	American / French	Washington, D.C., USA
Nata Ghibradze	Georgian / German	Munich, Germany
Elena Guillet *	French / Italian	London, UK
Shanelle Irani *	Indian	London, UK
Anna Kelly *	British / Australian	Sydney, Australia
Niamh Leinwather *	Irish	Vienna, Austria
Alina Leoveanu	French / Romanian	Paris, France
Rebeca Mosquera	American / Panamanian	New York, NY, USA
Nesreen Osman	British / Sudanese	Dubai, UAE
Nicola Peart *	Irish	Washington, D.C., USA
Mirèze Philippe	French / Lebanese	Paris, France
Rekha Rangachari	American	New York, NY, USA
Mary Thomson	British / Chinese / Malaysian	London, UK and Edinburgh, UK and Hong Kong, PRC

The incoming Board members are from many countries and include arbitrators, experts, and practitioners.

"*It has been an honour and a privilege to serve on the Board of ArbitralWomen for the past eight years. I leave confident in the knowledge that ArbitralWomen will continue to flourish under Rebeca and Katherine's leadership. I wish them and all the incoming Board members every success!*" said Louise Woods, outgoing President of ArbitralWomen. Gaëlle Filhol, outgoing Vice President, said "*Rebeca's dedication and leadership have been instrumental in advancing ArbitralWomen's mission over the past years. As she takes on the role of president, there is no doubt that Rebeca will continue to inspire and drive positive change within the international arbitration community.*"

ArbitralWomen wishes to thank outgoing ArbitralWomen President Louise Woods, and the following 2022 Board members who are rotating off the Board for their hard work and dedication to ArbitralWomen's mission to promote women and diversity in dispute resolution: **Maria-Beatriz Burghetto**, **Elizabeth Chan**, **Gaëlle Filhol**, **Sara Koleilat-Aranjo**, **Floriane Lavaud**, **Marion Lespiau** and **Gisèle Stephens-Chu**. We look forward to their continued involvement in our activities and initiatives as ArbitralWomen members.

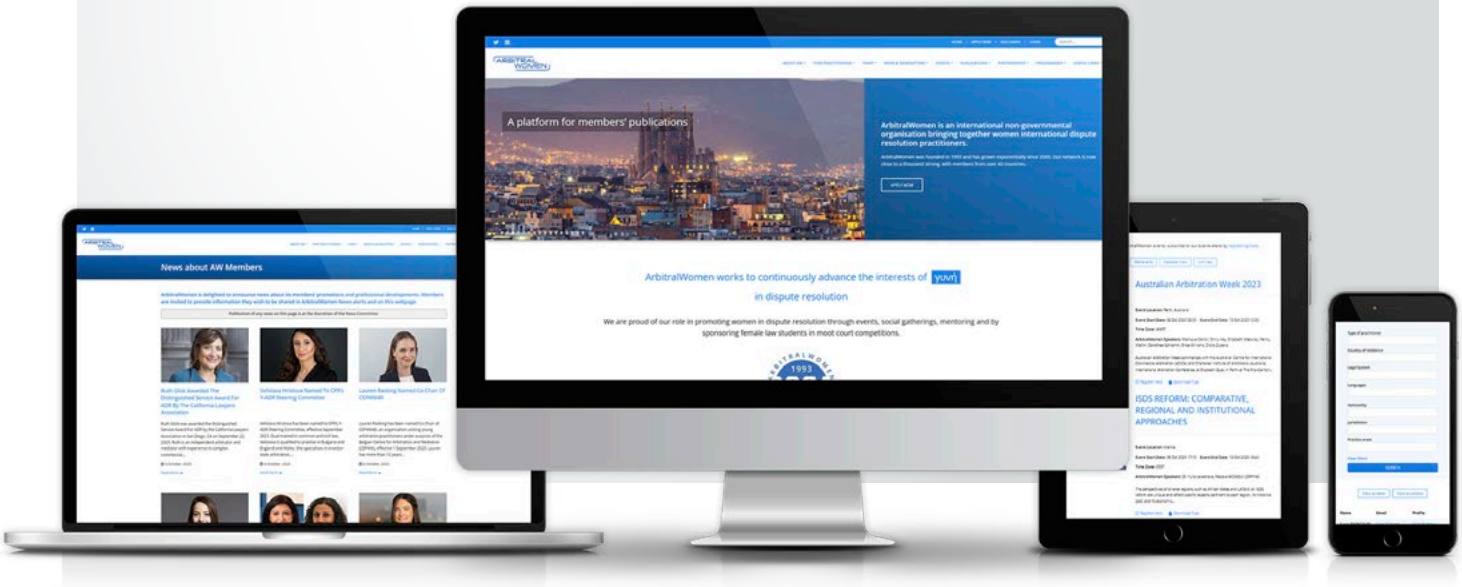
"*I'm delighted to see that eight new faces are joining the board for this term. I am confident that under the capable direction of our new President, Rebeca Mosquera, ArbitralWomen will flourish and grow, extending our recognition and influence in Latin America, Asia and Africa*," said ArbitralWomen Co-Founder **Louise Barrington**.

Co-Founder Mirèze Philippe further noted, "*We wish to express our gratitude to all Board Directors who served on former Boards, who have immensely contributed and not spared their energy towards the success of the organisation. The newly elected Board is once again composed of Directors who are bringing their skills and experiences to continue moving ArbitralWomen forward. We look forward to working with this New Board*."

From top to bottom, left to right: Louise Barrington, Katherine Bell, Clea Bigelow-Nuttall, Catherine Bratic, Kate Corby, Dilber Devitre, Sally El Sawah, Cherine Foty, Nata Ghibradze, Elena Guillet, Shanelle Irani, Anna Kelly, Niamh Leinwather, Alina Leoveanu, Rebeca Mosquera, Nesreen Osman, Nicola Peart, Mirèze Philippe, Rekha Rangachari, Mary Thomson

Keep up with ArbitralWomen

Visit our website on your computer or mobile and stay up to date with what is going on. Read the latest News about ArbitralWomen and our Members, check Upcoming Events and download the current and past issues of our Newsletter.



ArbitralWomen & Kluwer Arbitration Blog

ArbitralWomen has a long-standing collaboration with Kluwer Arbitration Blog, the leading publication of its kind presenting a high-quality examination of hot topics and latest developments in international arbitration, with an impressive global readership of 120,000 views per post.

As part of this collaboration, ArbitralWomen liaises with Kluwer Arbitration Blog to ensure priority publication of articles submitted by its members. Published contributions will also feature on the AW website.

We strongly encourage our members to make use of this great opportunity! Please send your article or idea for a topic to the AW-Kluwer Arbitration Blog Committee, consisting of ArbitralWomen Board Members Nicola Peart, Mary Thomson, Shanelle Irani and Elena Guillet, at kluwer@arbitralwomen.org.

We kindly ask you to take note of the Kluwer Arbitration Blog editorial guidelines.

We look forward to receiving your ideas and submissions!

ArbitralWomen thanks all contributors for sharing their stories.

Social Media
Follow us on Twitter @ArbitralWomen and our LinkedIn page: linkedin.com/company/arbitralwomen/

Newsletter Editorial Board
Rebeca Mosquera
newsletter@arbitralwomen.org

Newsletter Committee
Nicola Peart, Mary Thomson, Shanelle Irani and Elena Guillet

Graphic Design: Diego Souza Mello
diego@smartfrog.com.br

AW Activities at a Glance: click here

Membership Runs Now Annually from Date of Payment

ArbitralWomen Individual & Corporate Membership

ArbitralWomen's website is the only hub offering a database of female practitioners in any dispute resolution role including arbitrators, mediators, experts, adjudicators, surveyors, facilitators, lawyers, neutrals, ombudswomen and forensic consultants. It is regularly visited by professionals searching for dispute resolution practitioners.

The many benefits of ArbitralWomen membership are namely:

- Searchability under Member Directory and Find Practitioners
- Visibility under your profile and under Publications once you add articles under My Account / My Articles
- Opportunity to contribute to ArbitralWomen's section under Kluwer Arbitration Blog
- Promotion of your dispute resolution speaking engagements on our Events page
- Opportunity to showcase your professional news in ArbitralWomen's periodic news alerts and Newsletter
- Visibility on the News page if you contribute to any dispute resolution related news and ArbitralWomen news
- Visibility on the News about AW Members to announce news about members' promotions and professional developments
- Ability to obtain referrals of dispute resolution practitioners
- Networking with other women practitioners
- Opportunity to participate in ArbitralWomen's various programmes such as our Mentoring Programme

We encourage female practitioners to join us either individually or through their firm. Joining is easy and takes a few minutes: go to 'Apply Now' and complete the application form.

Individual Membership: 150 Euros.

Corporate Membership: ArbitralWomen Corporate Membership entitles firms to a **discount on the cost** of individual memberships. For 650 Euros annually (instead of 750), firms can designate up to five individuals based at any of the firms' offices worldwide, and for each additional member a membership at the rate of 135 Euros (instead of 150).
Over **forty firms** have subscribed a Corporate Membership: click here for the list.

ArbitralWomen is globally recognised as the leading professional organisation forum for advancement of women in dispute resolution. Your continued support will ensure that we can provide you with opportunities to grow your network and your visibility, with all the terrific work we have accomplished to date as reported in our Newsletters.

ArbitralWomen membership has grown to approximately one thousand, from over 40 countries. 40 firms have so far subscribed for corporate membership, sometimes for as many as 40 practitioners from their firms.

Do not hesitate to contact membership@arbitralwomen.org, we would be happy to answer any questions.