

ArbitralWomen Newsletter



Uniting and promoting women in dispute resolution

www.arbitralwomen.org

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Some of the participants at the conference and the ArbitralWomen luncheon on 19 June 2019 in Lagos, Nigeria

This edition of the Newsletter is dedicated to reports authored by ArbitralWomen members on events that took place in the second quarter of 2019.

ArbitralWomen members have reported on wide array of international dispute resolution events that took place between April and June 2019 in disparate parts of the globe – including Brazil, Ecuador, England, Germany, the Netherlands, Nigeria, Poland, Portugal, Scotland, Spain, Thailand, Turkey, and the United States. These reports cover some highlights of **Paris Arbitration Week 2019** and **London International Disputes Week 2019**. We also include a report on the **UNCITRAL Working Group III** session in New York. ArbitralWomen members have reported on a number of inaugural events, including the first **Women in Law Empowerment Forum (WILEF)** event in Paris, first **Harvard**

Law School Litigation Finance Symposium in Boston, first **ICC / THAC Arbitration Conference** in Bangkok, first **ICC Iberian Arbitration Day** in Lisbon, and first **Energy Disputes Conference** in Istanbul.

We thank the many ArbitralWomen members who have submitted these reports. These contributions make it possible for us to share widely information about international dispute resolution events taking place around the world and feature the role of ArbitralWomen members.

Dana MacGrath, Bentham IMF
ArbitralWomen President

Reports on Events

UNCITRAL Working Group III Moves Forward on ISDS Reform, 1–5 April 2019 in New York, USA

At the 1–5 April 2019 session

at United Nations headquarters in New York, the United Nations Commission on International Trade Law (UNCITRAL) Working Group III considered its next steps toward proposed reforms of the current investor-state dispute settlement (ISDS) system.

With 54 government members, another 50 governments and the European Union as observers, and representatives of some 70 international organizations—including ArbitralWomen—in attendance at the New York meetings, Working Group III is one of the most high-profile initiatives in recent debates about ISDS reform.

In prior phases, Working Group III focused on identifying concerns about ISDS and reaching consensus on the desirability of pursuing reforms to address them. Three main categories of concerns are in play: (i) lack of consistency, coherence, predictability and correctness of arbitral decisions; (ii) conduct of arbit-



Marinn Carlson

rators and decision makers; and (iii) cost and duration of proceedings.

The current, third, phase is focused on developing ISDS reform proposals. After a session on third-party funding to complete the discussion of ISDS concerns from prior meetings, the New York meeting debated options for framing the work plan going forward. Proposals

to prioritize potential reforms with the highest level of consensus (supported by the United States), or to split into workstreams focused on incremental and systemic reforms (supported by the EU), were discussed at length.

Ultimately, the Working Group agreed to focus simultaneously on multiple potential reform solutions. Structural reform will be one of those solutions, and proposals for the other solutions to be developed are being solicited (due 15 July 2019) for discussion at the next meeting, which is tentatively set for 14–18 October 2019 in Vienna, Austria.



[Click here to read Working Group III's formal report.](#)

Submitted by ArbitralWomen Member Marinn Carlson, co-leader of the Global Arbitration, Trade and Advocacy Practice at Sidley Austin LLP

Gearing Up for Arbitration in the 21st Century, 2 April 2019 in Paris, France

On 2 April 2019, Jones Day's Global Disputes Practice held a breakfast conference on the occasion of the 3rd Annual Paris Arbitration Week (1–5 April 2019) at their Paris Office. The conference, entitled "Gearing Up for Arbitration in the 21st Century", provided attendees the opportunity to perfect their technical knowledge of comprehensive intelligent technologies by hearing directly from the experts on research tools



L to R: Sébastien Choukroun (PWC) & Ileana Smeureanu

powered by artificial intelligence and machine learning, blockchain technology, and data protection and cybersecurity mechanisms. The program demonstrated how these technologies are increasingly finding their way into international arbitration proceedings and explained the implications of clients' gravitation towards such technologies when anticipating disputes and seeking to minimize risk.



L to R: Ileana Smeureanu, Anna Masser, Olivier Haas, Cherine Foty, Anastasiya Ugale and Sébastien Choukroun

The first panel, moderated by Jones Day Associate and ArbitralWomen Board Member **Ileana Smeureanu**, featuring **Anastasiya Ugale**, an arbitration practitioner with **Jus Mundi** and **Sébastien Choukroun**, Manager of the Blockchain Lab at PwC France, addressed the topic of *"Comprehensive Intelligent Technologies – Using Artificial Intelligence and Blockchain Technology to Increase Efficiency and Minimize Risk"*. The speakers discussed how a growing number of new comprehensive intelligent

technologies are becoming available in the business world, particularly in the field of international arbitration. They also addressed the manner in which a new generation of research tools and data authenticators, powered by artificial intelligence, machine learning, and blockchain technology, are helping arbitration users achieve greater time and cost efficiency when conducting research, in addition to increasing authenticity of data and minimizing the risks posed by unreliable sources.

The second panel, moderated by Jones Day Associate and Young

ArbitralWomen Practitioners (YAWP) Steering Committee Member **Cherine Foty**, featuring Jones Day Partners **Anna Masser** (Global Disputes) and **Olivier Haas** (Cybersecurity, Privacy & Data Protection), addressed the topic of *"Cybersecurity, Data Protection, and Blockchain Mechanisms – Techniques for Managing Arbitration Proceedings and Solving Problems"*. They discussed how new technologies such as blockchain, data protection mechanisms, and cybersecurity protocol are increasingly finding their way into arbitral proceedings. They also analyzed recent developments in cybersecurity, IT, and other new technologies, including what clients are gravitating towards, in anticipating disputes, from both the substantive and procedural perspectives.

The panels were followed by a lively question-answer session among the speakers, moderators, and audience members. The event was co-sponsored by ArbitralWomen and Jus Mundi.

Submitted by Cherine Foty, ArbitralWomen Member, Associate – Global Disputes, Jones Day, Paris

Paris Arbitration Week: Maternity/paternity in international arbitration: a Balancing Act, on 2 April 2019 in Paris, France

Paris Arbitration Week was held this year in the first week of April. Over a thousand practitioners from all over the world attended the thirty five scheduled events during the week. On April 2, 2019 Winston and Strawn hosted a panel entitled **Maternity/paternity in international arbitration: questions you never dared to ask**. The event was attended by male and female practitioners and addressed the practical and professional challenges of balancing a young family and a career in international arbitration, especially when both partners work at demanding jobs.

The event began with a welcome from **Maria Kostytska**, a Partner at Winston and Strawn and member of ArbitralWomen, who introduced the members of the panel: **Jennifer Younan** (Shearman & Sterling and member of ArbitralWomen), **Gisela Knuts** (Roschier), **Jose Ricardo Feris** (Squire Patton Boggs) and **Alison Pearsall**, Senior Group Counsel at Veolia and ArbitralWomen Board Member. The panel engaged in a candid discussion as to whether it is possible to "have it all" and how to manage competing and sometimes incompatible demands of parenthood and perform-

ance as an advocate, general counsel or arbitrator.

Maria Kostytska chaired the discussion, moving adeptly from one panelist to another to address first the question of how to announce one's pregnancy at work followed by how to manage one's procedural calendar during one's pregnancy. Continuing to the question of the length of maternity/paternity leave and its potential consequences on one's career advancement (the risk of client disengagement, internal competition and team management) the panel presented different perspectives



L to R: Gisela Knuts, Alison Pearsall, Jennifer Younan, Jose Ricardo Feris, Maria Kostytska

based on their experience as in-house counsel and law firm partner while emphasizing that the cultural context also can play an important role in how much leave parents can take.

On the topic of returning to work following a maternity leave, **Alison Pearsall**, co-director of **ArbitralWomen's Mentorship Program** spoke about the parental mentorship program offered to

members of ArbitralWomen. This part of the Mentorship Program connects ArbitralWomen members returning to work after a maternity leave with mentors in their field who can offer advice and support to ensure a successful re-entry to their law firm or company.

The discussion was especially dynamic due to the diversity of experiences and creative solutions shared by those on the panel with regard to the allocation of child care responsibilities with your life partner. This in turn elicited responses from the audience, who participated actively in the discussion.

Submitted by Alison Pearsall, ArbitralWomen Board Member, Legal Counsel, Paris

Approaches to Witness Evidence in International Arbitration, 2 April 2019 in Paris, France

On the occasion of the 3rd Paris Arbitration Week (PAW), the Young Canadian Arbitration Practitioners (YCAP), the International Center for Dispute Resolution Young & International and the Comité Français de l'Arbitrage-40 (CFA-40) co-organized a panel discussion on "Approaches to Witness Evidence in International Arbitration".

The event was sponsored by Shearman & Sterling and held at the firm's Paris office on 2 April 2019. The discussion began with a welcome from representatives of the various organizing institutions including **Vasuda Sinha** and **Jessica Crow** (YCAP and member of ArbitralWomen) and **Benjamin Siino** (CFA-40).

Margaret Ryan, Shearman & Sterling, introduced the topic and the panel was comprised of **Philippe Boisvert**, White & Case, **Sarah Ganz**, Wilmerhale and member of ArbitralWomen and **Eléonore Caroit**, Lalive.

Philippe Boisvert then made a brief presentation of the Prague Rules, highlighting their most remarkable



L to R: Philippe Boisvert, Margaret Ryan, Eléonore Caroit, Sarah Ganz

and distinctive features. His presentation was followed by a round table discussion, where all three panelists discussed issues such as the role of written witness statements, witness preparation, cross-examination techniques and the role of the tribunal. The audience benefitted from the multi-cultural background and experience of the panelists, who have all trained and/or practiced in several jurisdictions, namely: Germany and England for Sarah Ganz; Canada and France for Philippe Boisvert; and France, Switzerland and New York for Eléonore Caroit (who is also from the Dominican Republic).

The panelists shared their expert-

ise with an audience comprised of lawyers and in-house counsel from a variety of jurisdictions. The round-table quickly turned into a lively discussion, with members of the audience expressing strong views either for or against the Prague and IBA Rules. In conclusion, Margaret Ryan noted that in arbitration there is no "one size fits all". The panelists and the audience continued the discussion over a delicious breakfast and ran to the following PAW event.

Submitted by Eléonore Caroit, Associate, Lalive, Geneva

Harvard Litigation Finance Symposium, 2–3 April 2019 in Cambridge, Massachusetts, USA

On 2–3 April 2019, Harvard Law School held its inaugural Harvard Litigation Finance Symposium in Cambridge, Massachusetts USA. The two-day symposium brought together leading practitioners from global law firms, litigation finance companies, academics, and legal technology companies from the United States, UK and Latin America. The conference covered a wide-range of cutting-edge topics in the burgeoning field of litigation and arbitration third party funding. A panel of the symposium was dedicated to arbitration financing and was attended by various ArbitralWomen members.

The speakers on the panel “Arbitration Financing: A Deep Dive” included **Dana MacGrath** (ArbitralWomen President and Bentham IMF), ArbitralWomen member **Preeti Bhagnani** (White &



L to R: Isabel Yang, Dana MacGrath, Narghis Torres, Preeti Bhagnani

Case), **Narghis Torres** (Founder & CEO of LexFinance) and ArbitralWomen member **Isabel Yang** (Founder & CEO of ArbiLex). **Professor Michael Waibel**, Co-Deputy Director of the Lauterpacht Centre for International Law, moderated the panel. Speakers discussed the benefits of arbitration financing, key differences between arbitration

and litigation financing, issues relating to disclosure, confidentiality and applicable legal privileges as well as the role of predictive analytics in the underwriting process.

The Harvard Litigation Finance Symposium is one of the world’s first and largest litigation third party funding conferences organised entirely by a student organization, the Harvard Law and Technology Society, which intends to hold a litigation finance symposium

annually. For more information, please visit <https://www.harvardlitfin.org/>

Submitted by ArbitralWomen member Isabel Yang, Founder and CEO of ArbiLex, Massachusetts and Dana MacGrath, ArbitralWomen President and Investment Manager at Bentham IMF, New York

Second Biennial France–United Arab Emirates International Arbitration Conference, 3 April 2019 in Paris, France

The Paris Arbitration Week (PAW) held from 1 to 5 April 2019 was intensive and very successful. It would seem that over 60 events were organised and at every event there was a full house of practitioners from Paris and abroad. **Sara Koleilat-Aranjo**, lawyer at Al Tamimi & Co and ArbitralWomen Board member, organised for the second time the France–United Arab Emirates International Arbitration Conference during the PAW, at the prestigious Bristol Hotel. **Alexis Murre**, President of the ICC International Court of Arbitration and **Emmanuel Gaillard**, Partner, Shearman & Sterling LLP, gave opening remarks. Leading experts from



L to R: Mohamed Abdel-Wahab, Hugo Barbier, Mohamed Al Marzouqi, Sara Koleilat-Aranjo, Roland Ziadé, Jacob Grierson

France and the UAE shared their insights and practical experiences on the latest trends, including the overhaul of the arbitration legislative framework in the UAE.

The first panel, moderated by Sara Koleilat-Aranjo, discussed “Re-

cent Legislative Developments in the UAE: Local and French Views”.

Mohamed Abdel Wahab, Founding Partner & Head of the International Arbitration, Construction, Oil & Gas and Project Finance Groups, Zulficar



L to R: Marie-Elodie Ancel, Ahmed Al-Echlah, Yasmin Mohammad, Sami Huerbi, Victor Leginsky, Mirèze Philippe

& Partners; **Mohamed Al Marzouqi**, Partner, Head of Litigation Abu Dhabi, Al Tamimi & Co; **Hugo Barbier**, Professor, Aix-Marseille University; **Jacob Grierson**, Partner, McDermott Will & Emery; and **Roland Ziadé**, Partner, Linklaters, explained the changes and improvements made to the previous arbitration law.

The second panel moderated by **Victor P. Leginsky**, Chartered Arbitrator, addressed issues related to *"Trends and Salient Issues in International Arbitration: French and UAE Perspectives"*. **Marie-Elodie Ancel**, Professor of Law, Université de Paris-Est Créteil, presented the relationship between the Interna-

tional Chamber of the Paris Court of Appeal and international arbitration. **Ahmed Al-Echlah**, Director, Sharjah Centre for International Commercial Arbitration (Tahkeem) shared news from the Sharjah Centre and how diversity is addressed. **Sami Huerbi**, ICC Dispute Resolution Services for Eastern Mediterranean, Middle-East & Africa, spoke about ICC's events and efforts in the region. **Yasmin Mohammad**, Head of International Arbitration, Vannin Capital, Paris, discussed the state of play of third-party funding in France and the UAE. **Mirèze Philippe**, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration, shared her views about how diversity

in the MENA region has evolved and about the various efforts undertaken towards equality and inclusion in general. Speaking about the trends related to technology in the MENA region, she mentioned that at a conference in Dubai on 15 November 2018, **Essam Al Tamimi** said that *"arbitral institutions must invest in technology or they will be forced to play catch up with the courts"* (GAR 17 January 2019). She indicated that *"this statement is interesting because when we started discussing online dispute resolution 20 years ago, we were convinced of the contrary; private initiatives were blooming mainly in North America and Europe, but nothing was really undertaken by the courts. So this is undeniably a progress because the digitalisation of the courts will increase users' confidence in justice provided online. It is high time to offer access to justice online by courts, dispute resolution organisations and online dispute resolution providers."*

Submitted by Mirèze Philippe, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration

ODR, useful (r)evolution?, 4 April 2019 in Paris

During the Paris Arbitration

Week (PAW) and for the second time, **Diana Paragucuto-Mahéo**, Partner, Foley Hoag Paris, and President of GPC Paris organised a Global Pound Conference (GPC) together with the Commission Droit et Entreprise du Conseil National des Barreaux. This year's topic was *"The new horizons of arbitration and ADR"*. One of the four panels was dedicated to ODR (online dispute resolution) and whether it is an evolution or revolution. The panel was moderated by **Mirèze Philippe**, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration. She introduced the subject and explained what ODR is, the historical background, and where we stand with digital courts and private initiatives. She mentioned the work undertaken by UN-



L to R: Thomas Clay, Mirèze Philippe, Thomas Andrieu, Thomas Saint Aubin

CITRAL Working Group III on ODR and how it was difficult to reach consensus on some principles but that the group ultimately agreed on some definitions which were published in the UNCITRAL Technical Notes on Online Dispute Resolution. Mirèze indicated that there was a boom of ODR providers that started mid-1990s and that many have fallen

along the way due to many mistakes, including lack of proper budgeting, lack of perseverance and lack of proper communication on ODR services. She deplored that in 2019 justice is still not accessible online although initiatives have been undertaken in some states and by private initiatives, but they are only a few. Courts are entirely digitalised

in Estonia, Lithuania and Singapore for example. She indicated that the purpose of this round table was to learn about the status in France, whether courts in France will go electronic and what are the current private initiatives offering ODR. Three leading authorities shared news about the situation in France and each presented very recent news about a law reform, a report on online arbitration and the release of an open source.

Thomas Andrieu, Director of the Civil Affairs and Seal Department, Ministry of Justice of the French Republic, Paris, spoke about the law on the reform of justice which had just been promulgated, the objectives of which are to offer litigants a faster, simpler, more efficient and more modern justice. The law also concerns the digital transformation of the courts and enhancing the access-

ibility and the quality of justice for litigants, with one article referring to alternative dispute resolution. **Thomas Clay**, Professor at the Sorbonne School of law, Lawyer and arbitrator, who presides over the Online Arbitration Commission of the Club des Juristes, Paris, presented the Report on Online Arbitration which was made public the day before the conference. He explained that the working group undertook research about the existing ODR providers, and the types of services offered. He indicated that the report provides a few recommendations related to transparency and security in online arbitration, which are not intended to hinder the development of online arbitration activities, but to provide a framework so that it can develop under the best conditions. **Thomas Saint-Aubin**, CEO of Seraphin.

legal, shared his experience as a former Digital Officer of the Ministry of Justice and President of the eJustice consortium. He was involved in technology for access to law and justice and built several ODR platforms, including Fast-Arbitre, an online arbitration platform, and the TAAF (Tribunal arbitral des affaires familiales) platform for family disputes, both being private initiatives to handle massive claims. On the day of the conference, he released open source ODR technologies developed by Seraphin.Legal and informed the media about their open justice project aimed at uniting Legal Tech stakeholders around collaborative projects.

Submitted by Mirèze Philippe, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration

Game of Seats: Arbitral institutions in Africa and the quest for ascendancy, 4 April, 2019 in Paris

On 4 April 2019, as part of this year's edition of Paris Arbitration Week (PAW), White & Case Paris-based partners Christophe von Krause, Elizabeth Oger-Gross and Charles Nairac hosted an event to give African arbitral institutions center stage to highlight what they can offer the arbitration community.

The event began with introductory remarks from Christophe von Krause, who reminded the audience of the diversity of institutions on the African continent. After highlighting that the 54-State continent is home to 72 institutions, he opened the topic for discussion, asking the panelists and the audience which of these institutions is going to emerge and make it into the list of preferred seat choices in the arbitration world.

With this in mind, **Elizabeth Oger-Gross**, who moderated the discussion, first invited the members of the five-person panel to present their respective institutions, giving them the opportunity to tell the audience why they believe their in-



L to R: Ndanga Kamau, Dr. Mohamed Hafez, Yemi Candide-Johnson, Leyou Tameru, Narcisse Aka and Elizabeth Oger-Gross.

stitution deserved to win the "Game of Seats".

Throughout the debate, Elizabeth guided the speakers, allowing each of them to highlight the significant aspects of their respective institutions but also posed questions on the challenges they face and areas for improvement. One significant subject of discussion was that, despite the fact that there is often a discussion around the "proliferation" of arbitral institutions in Africa, in fact there is significant space for a number

of institutions, and many jurisdictions are still underserved.

Narcisse Aka, Secretary-General of Court of Justice and Arbitration of OHADA, presented OHADA, emphasizing the particularity of its arbitration system. He reminded the audience that the ability to seek enforcement of an award before the CCJA and with that one order pursue execution in all Member States ensures that its arbitration system is both cost and time effective.

Yemi Candide-Johnson, President of the Lagos Court of Arbitration focused on the importance of an efficient dispute resolution system for the economic growth of Nigeria, and more specifically for Lagos as the national and regional headquarters for major multinational corporations.

Ndanga Kamau, the Vice President of the ICC International Court of Arbitration and President of the ICC Africa Commission, stressed that there remains a prime place for the ICC in Africa despite the growing number of arbitral institutions on the continent. The main argument put forward by Ms. Kamau was that choice is a crucial part of arbitration.

Dr. Mohamed Hafez, Counsel & Legal Advisor to the Director of the Cairo Regional Centre for Interna-

tional Commercial Arbitration, pointed out that CRCICA is usually chosen for arbitrations seated in Egypt but in fact administers arbitrations not only in Egypt but also in any other seat around the world. Choosing an African institution often does not necessarily mean choosing a particular seat of arbitration.

Leyou Tameru, Legal Consultant and Founder of I-Arb Africa, was able to look at the institutions across Africa. One of the points that she made was in respect of South Africa's unrealized potential. She added that the country's well-developed judicial system and the respect for the rule of law should give it clout as a seat with the regional and international arbitration community.

Charles Nairac then gave the closing remarks. He noted, with an analogy to the game Snakes and Ladders, that, when

it comes to arbitration seats and institutions, it is a long game, where you progress a few boxes at a time – and in this version of the game there are plenty of snakes but no ladders.

Despite each of the speakers' defending a different arbitration tradition, the ambition to promote a sustainable and efficient culture of arbitration across the African continent was a common thread. Together the speakers delivered a clear message: despite being asked to play a "Game of Seats" for the PAW, there was no competition, and, rather, the interaction between the institutions on the continent was one of collaboration and inclusion, where everyone has a place.

Submitted by Zelda Hunter, associate, White & Case, Geneva

Breakfast event: “Dentro de la mente del que nombra árbitros. ¿Cómo lograr la ansiada designación?”, 5 April 2019 in Quito, Ecuador

On the occasion of the XII Conferencia de Arbitraje Internacional (International Arbitration Conference) that took place in Quito, ArbitralWomen organized a breakfast in collaboration with Amcham Ecuador (local arbitration court) and CEA Mujeres (the women's branch of the Spanish Arbitration Club) on 5 April 2019. The theme of the event was: Inside the mind of the appointer of arbitrators. How can one obtain the desired nomination? ArbitralWomen Board Member **Elena Gutierrez** (Independent Arbitrator and ArbitralWomen Events Director for Latin America) moderated a vivid dialogue among the speakers, who included ArbitralWomen members **Filipa Cansado Carvalho** (Counsel of PLJM Lisbon) and **Patricia Vera** (Secretary General of Amcham Ecuador), as well as **Hugo Larrivia** (Partner at Carmigniani Perez), **Damaso Riaño** (Secretary General of the Madrid Court of Arbitration) and **Melanie Riofrío** (Senior Associate Armesto & Asociados). The appointment of arbitrators was dis-

cussed from the counsel, arbitrator and institution's perspective, and some key takeaways were graciously given by the speakers: (i) do not over sell yourself when trying to be appointed as an arbitrator, (ii) consider talented women in any appointment, and (iii) know your elevator pitch!

The event gathered more than 50 people, including lawyers, arbitrators, academics, high level civil servants, and members of the judiciary.

Submitted by Elena Gutiérrez García de Cortázar, ArbitralWomen Board member, independent arbitrator, Paris



L to R: Hugo Larrivia, Patricia Vera, Filipa Cansado Carvalho, Elena García de Cortázar, Dámaso Riaño, Melanie Riofrío and Segumundo Navarro

WILEF Paris inaugural event roars to success, 11 April 2019 in Paris, France



L to R: Mirèze Philippe, Sabine Henry, Marie-Aimée de Dampierre, Sophie Perrin, Somesha Ferdinand, Melinda Wallman

A buzz of excitement filled the

air as women lawyers across Paris assembled for the launch of the Women in Law Empowerment Forum (WILEF) LLC Paris market. WILEF Paris officially launched on the 11th of April, graciously and chicly hosted by White & Case at its lovely Place Vendôme offices. The inaugural event brought together an enthusiastic group of women law firm partners and associates, general counsels and in-house lawyers as well as lawyers from the French financial services regulator (ACPR) and the international intergovernmental organization OECD and last, but not least, a few eager élèves-avocates! A passionate discussion ensued on the role of ambition as a necessary element of career success.

The panelists, well-established Parisian lawyers, covered the range of legal practices: **Mirèze Philippe**, ArbitralWomen co-founder and Executive Committee Member, Special Counsel –

Secretariat of the ICC International Court of Arbitration, **Sabine Henry**, General Counsel Europe and Asia for Bose Corporation, **Marie-Aimée de Dampierre**, Regional Managing Partner for Continental Europe, Hogan Lovells (Paris) LLP; **Sophie Perrin**, Legal and Corporate Director of Pepsico France. I had the pleasure of moderating.

Whilst these lawyers debated how to define ambition (some considered themselves not to be ambitious per se) they all agreed that doing one's best work and being clear and vocal about what one wants, personally and professionally, remains essential to career advancement. The ladies spoke candidly about how having a life partner who shares and respects one's career goals makes a critical difference in career development. Finally, the ladies discussed generational differences: some qualities — integrity, respect for self and respect for others — remain the same regardless of the generation. At the same time, established lawyers

can learn from the younger generations (reverse-mentoring!) how to prioritize a work/life balance and how to be open to learning new things as a way to stay current. The key take-aways: take risks, speak up for oneself, and surround oneself with a supportive personal circle. With this group of women discussing the role of ambition in career success, their achievements speak for themselves!

This thrilling talk was followed by a cocktail *dinatoire*. The ladies retired to the lovely White & Case inner room with gold moulding and a view of the garden courtyard to sip champagne and plan their next empowering actions.



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Submitted by Somesha Ferdinand - Senior Managing Consultant, Allen & Overy Peerpoint and WILEF Paris Co-Founder and Co-Vice Chair

Conference on hardship at the Paris Bar, 18 April 2019 in Paris, France

The Latin American Open Commission of the Paris Bar (Barreau de Paris), co-chaired by ArbitralWomen Board member **Maria Beatriz Burghetto**, organised a conference on 18 April 2019 at the Bar's headquarters on "*Hardship in private contract law in Latin America and France, seen through a practical case*" with **Professor Alejandro Garro** (Columbia Law School) & ArbitralWomen member **Pascale Accaoui Lorfing** (Ph.D).

Based on the facts of the hypothetical case used this year at the 26th annual session of the Willem C. Vis moot on international commercial arbitration, the speakers analysed the various possible outcomes by applying different national provisions on hardship, taken from Latin American legal systems, French law and other legal systems. They also took into consideration the UNIDROIT Prin-

ciples and the Principles of European Contract Law and the perspective from the United Nations Convention on Contracts for the International Sale of Goods ("CISG"). They also compared the ICC Model Clause on hardship (2003) with the contractual provisions of the case (arbitration clause, force majeure & hardship clause).

The speakers' comparative law approach highlighted the importance of carefully considering the content of the chosen applicable law, in order to avoid certain outcomes that may differ from what the parties expect. This is especially true when looking at the conditions causing the substantial impact on the performance of the contract. This is also the case concerning the parties' obligation to renegotiate the contract conditions, or the role of the judge (or the arbitrator) in cases of hardship.

An interesting discussion took place on Article 79 of the CISG. This provision

is related to force majeure, i.e., a situation where the performance of the contract is impossible. The question was whether it is suitable to expand the application of this provision to hardship cases, i.e., where a party's obligation becomes excessively onerous, but its performance is still possible.

The presentations were followed by interesting observations from the audience, pointing out the way in which the change in circumstances may be analysed in some specific contracts.

Submitted
by Pascale
Accaoui-Lorfing,
ArbitralWomen
member, Paris



Report on Symposium on Judicial Control over Arbitral Awards: Scope, Vacation and Public Policy, 26–27 April 2019 in Lyon, France

On 26–27 April 2019, the Symposium on Judicial Control over Arbitral Awards: Scope, Vacation and Public Policy took place in Lyon, co-organised by the Lyon Catholic University with Professor **Nathalie Potin**, the University of Florida with Professor **Larry diMatteo** and the University of Trieste with Professor **Marta Infantino**. The event gathered arbitration practitioners, professors from various European countries, the USA, Asia and Africa.

The first part of the symposium dealt with (i) vacating commercial arbitral awards, (ii) enforcing commercial arbitration and (iii) scope and interpretation of commercial arbitration clauses; while the second part featured country reports for several European countries

(France, Germany, Poland, Switzerland, Italy, Spain, the UK, Bulgaria), American ones (the US and Argentina), an African country (Nigeria) and Asian

ones (Russia and China). Among the speakers in the first panel, Nathalie Potin and **Tunde Ogunseitan** talked about the parameters applied by law



L to R: Marta Infantino, Teresa Rodríguez de las Heras, María Beatriz Burghetto



Organisers of the symposium: Nathalie Potin, Larry diMatteo, Marta Infantino.

and especially by case law when analysing whether there is a conflict of interests in a given situation, together with the scope of arbitrators' duty of disclosure, in a comparative analysis, observing that most situations do not fall within those envisaged by the IBA Guidelines on Conflicts of Interest in International Arbitration, but rather "fall through the cracks," which warrants a case-by-case approach. Among the very interesting country reports, on the second day of the Symposium, **María Beatriz Burghetto** introduced the current status of arbitration law, including case law, in Argentina, one of the latest Latin American countries to adopt an arbitration law modelled after the

UNCITRAL Model Law on International Arbitration, together with Uruguay. She focused on the topics of the symposium and concluded that Argentina is on the right path to becoming a more reliable jurisdiction for international arbitration. Nathalie Potin and Tunde Ogunseitan later presented the country report on Nigeria, a federal country with a federal arbitration law that is not very modern. However, each state of the federation has passed its own arbitration legislation, such as the Lagos Arbitration Act, dating from 2009. Nigerian courts are arbitration-friendly and do not deal with challenges of awards lightly, to which they apply a high evidential threshold. Courts are also respectful of foreign ar-

bitral awards. Judgments in recent years have however created some uncertainty, which, added to the extreme delays in the judicial process, are still drawbacks faced by parties and practitioners in that jurisdiction. The other two organisers of the symposium presented in turn the country reports on the USA (Prof. diMatteo) and Italy (Prof. Marta Infantino).

A collective work containing an article by each of the speakers will be published later this year by Cambridge University Press.

Submitted by María Beatriz Burghetto, ArbitralWomen Board member and Dr. Nathalie Potin, Lecturer, Lyon Catholic University

Brazilian Arbitration Committee discusses the participation of women and young practitioners in arbitration, 2 May 2019 in Porto Alegre, Brazil

On May 2nd 2019, the Brazilian Arbitration Committee (CBAr) organized an event that discussed diversity in arbitration. The event was held in Porto Alegre by Unisinos Law School. It was supported by Arbitration Pledge and by the Brazilian Association of Arbitration Students (ABEARb).

Giovana Benetti, CBAr's representative, welcomed the participants and explained the importance of the discussion and the topics the two panels would address.

The first panel discussed gender diversity. **Jorge Cesa Ferreira da Silva** (Souto Correa Cesa Lummertz & Amaral Advogados) addressed the legal concept of "discrimination" and concluded there was no legal protection for gender discrimination, unlike the protection given to other kinds of diversity, as race discrimination. **Ana Carolina Weber** (Eizirik Advogados and ArbitralWomen member) made remarks on diversity in arbitral tribunals, pointing out the impacts of the unconscious bias in the appointment of arbitrators. **Giovana Comiran** (Knijinik



L to R: Giovana Benetti, Giovana Comiran, Jorge Cesa Ferreira da Silva, Ana Carolina Weber, Gabriela Wallau, Pietro Benedetti Teixeira Webber and Manoel Gustavo Trindade

Advogados) referred to the importance of gender diversity in law firms, accompanied by statistics that companies that had women in higher positions generated more profit. Later, she suggested measures one should promote in order to improve diversity in arbitration.

The second panel focused on age diversity. **Pietro Benedetti Teixeira Webber** (Judith Martins-Costa Advogados) presented data regarding the participation of young Brazilian practitioners as attorneys, administrative secretaries and arbitrators. He concluded that young practitioners were underrepresented when acting as arbitrators. **Gabriela Wallau** (Estevez Advogados) reported her experience as coach for the Willem C. Vis

Moot, once the students in her university had led her to have contact with arbitration. **Manoel Gustavo Trindade** (Neubarth Trindade Advocacia) presented a law and economics perspective on the rise of young practitioners in their careers, referencing that when they have the experience, they will get higher positions.

Submitted by Ana Carolina Weber, Partner of Eizirik Advogados and ArbitralWomen member, Giovana Benetti, Partner of Judith Martins-Costa Advogados and CBAr's representative, and Pietro Benedetti Teixeira Webber, Lawyer at Judith Martins-Costa Advogados and President of ABEARB

ICC Note to the Parties and Arbitral Tribunals: Analysis of provisions related to conflicts of interests and impartiality, 6 May 2019 in Rio de Janeiro, Brazil



L to R: Ana Carolina Weber, Felipe Albuquerque (BFBM Advogados), Guilherme Barros (Fux Advogados), Gisela Mation (Machado, Meyer Advogados) and Ziva Filipic (ICC)

On 6 May, 2019, the Latin America chapter of the ICC YAF organized a panel in Rio de Janeiro, gently hosted by Machado, Meyer Advogados, about the new provisions and the changes implemented by the Court of the International Chamber of Commerce in its Notes to the Parties and Arbitrators ("Notes"). The panel was a very dynamic one, with each speaker making a quick presentation about a specific topic and the others bringing their considerations about it. It was moderated by **Ana Carolina Weber**,

ArbitralWomen member and former ICC YAF representative in Brazil.

Gisela Mation (Machado, Meyer Advogados) started the presentation with an explanation of the concept of impartiality and independence provided in Articles 11 and 22(4) of ICC Arbitration Rules. In addition, she focused her considerations on items 14, 15, 20, 21 and 22 of the Notes, which deal with the reasoning of the decisions of the Court regarding the challenge of an arbitrator. Secondly, **Guilherme Barros**

(Fux Advogados) made a brief explanation about the criteria adopted by the ICC Arbitration Rules and the Notes regarding circumstances that could give rise to reasonable doubts about the impartiality. The speakers were asked to comment about how reasonable and profitable it would be to have fixed criteria about independence and impartiality to be adopted by different arbitration chambers. **Felipe Albuquerque** (BFBM Advogados) continued the presentations and shared his views about the new provision of the Notes regarding the publication of the name of the arbitrator, parties' representatives and economic sector object of the procedure. Finally, **Ziva Filipic** (ICC) shared with the audience the ICC experience regarding challenges to arbitrators and situations that could give rise to doubts about arbitrators' independence and impartiality.

Submitted by Ana Carolina Weber, ArbitralWomen member, partner, Eizirik Advogados

ArbitralWomen discusses balancing transparency and confidentiality at DLA Piper UK LLP, on 7 May 2019 in London

DLA Piper recently hosted Arbitral Women for a panel discussion entitled '*Through the looking glass: Finding the balance between transparency and confidentiality in international arbitration*'. Moderated by **Philippa Charles** of Stewarts Law LLP, the discussion focused on four key topics: the publication of awards, diversity in arbitrator appointments, third party funding and transparency in the case of investor state disputes.

Lucy Greenwood, Greenwood Arbitration and ArbitralWomen mem-



L to R: Philippa Charles, Georgina Barlow, Sarah Vasani, Lucy Greenwood & Elinor Thomas

ber, began the discussion, reminding the room that believing either transparency

or confidentiality exist inarguably within arbitration is an assumption

that should be more carefully tested. In the wake of the ICC's recent announcement that it will begin publishing awards, Lucy articulated a number of key issues. She reasoned that the decision was likely primarily intended as an aid to precedent or to clear the issue conflict minefield. The razor wire, however, appears in the caveat that a decision will not be published where there is a confidentiality agreement in place, and that tribunals and parties will often provide expressly for confidentiality to apply in order to deal specifically with the dangerous assumption that confidentiality exists. The other panel members added that, whilst it may be useful to have transparency of process and procedure, this could be outweighed by the inability to identify which panel member articulated a given position. Further, when protected by agreement, confidentiality is one of the main attractions of commercial arbitration and this should not be undervalued.

Diversity of appointments was considered by **Georgina Barlow**, Vinson & Elkins LLP and ArbitralWomen member, who recognised that geographic, ethnic, cultural and age diversity are lagging behind that of gender. She called on counsel and arbitrators to take a more active role

in encouraging diverse appointments; perhaps by having the confidence to put forward candidates who could counter lesser expertise with a greater ability to commit time and attention. These candidates are typically those for whom a lack of diversity has been limiting. She acknowledged that it is often hard to persuade a client team to take this step. The potential for time, and therefore cost, savings as well as heightened efficiency should be used to persuade the wary to jump. As a member of the Steering Committee on the Equal Representation in Arbitration Pledge, Lucy indicated that one of the greatest challenges was holding signatories to their commitments under the pledge.

Addleshaw Goddard's **Sarah Vasani** applied the lens of transparency to investor state disputes. She identified that, while statistics bear out what practitioners are generally aware of, i.e. that investor state arbitration is most often successful and just, it is suffering from a public relations crisis because of the presumption that similar confidentiality considerations to those from commercial arbitration apply. The ICSID Convention (and most BITs) are silent on transparency and confidentiality, and measures to promote transparency are within the power of parties. However, in reality, state take up of measures such as the Mauritius Convention is very low,

and the online streaming of arbitrations attracts minimal audiences. Fundamentally, the panel agreed that investor states are plagued by a misdirected public perception that what they cannot see must be problematic. This must be overturned by an effective counternarrative.

Finally, the panel turned their attention to Third Party Funding ('TPF'). **Elinor Thomas**, DLA Piper, explained that transparency in this area is increasingly under scrutiny, given concerns about arbitrator conflict and the enforceability of awards. There appears to be a growing consensus that the existence of TPF should be disclosed for these reasons, but tribunals are generally reluctant to apply the same instruction to the precise terms of a TPF agreement. The discussion concluded by touching on whether the due diligence completed on a case as a prerequisite to securing funding can be considered a bellwether of its strength. The issue neatly exemplified the tension between transparency and confidentiality as it applies to legal and public, but also psychological, approaches to arbitration.

Submitted by Elinor Thomas, Legal Director, DLA Piper and Lydia Rogers, trainee solicitor, DLA Piper

London International Disputes Week 2019 Flagship Conference, 8 May 2019 in London, England

On 8th May 2019 the inaugural London International Disputes Week "flagship" conference took place at the National Gallery in London, with many outstanding women in international arbitration taking centre stage.

The event started with a rousing speech from **Jasmine Whitbread** of London First, in which she sought to address and counter the negativity arising from the prevailing Brexit uncertainty. This set the theme for much of the day, with the various panel discussions which

followed all focusing on the reasons why, thus far, London has managed to retain its pre-eminence as the most popular seat for international arbitration. Most of the panels were however keen to emphasise that London could not be complacent and that obvious threats to its dominance were emerging from the Far East (Singapore in particular) as well as the Middle East and potentially also from the new English-speaking International Commercial Courts currently springing up across Europe.

Following an interesting panel discussion on the development of English Contract law, ArbitralWomen member **Sophie Lamb QC** of Latham and Watkins then chaired a lively panel which included the ever engaging and entertaining **Dame Elizabeth Gloster**. The panel focused on making comparisons of various dispute resolution procedures in London, Africa, Europe and India, with some interesting differences in approach emerging.

ArbitralWomen member **Judith Gill**



L to R: Paul Friedland, Professor Dr Nayla Comair-Obeid, Domitille Baizeau, Judith Gill QC, The Honourable Mr Justice Andrew Popplewell, Susanne Gropp-Stadler

QC of 20 Essex St Chambers then chaired an excellent and wide-ranging discussion which focused on the Future of Inter-

national Arbitration in London, with a panel including **Domitille Baizeau** of Lalive and **Susanne Gropp-Stadler**, lead

litigation counsel for Siemens AG.

The final panel session focused on the Rule of Law and Global Legal Standards, and was chaired by **Richard Atkins QC**, current Chair of the Bar Council. Finally, the Lord Chancellor and Secretary of State for **Justice David Gauke MP** made the closing remarks, again seeking to down-play Brexit uncertainties.

All in all, this was an extremely well-attended event with a high proportion of international delegates in attendance. It was also encouraging to see such diversity across all the panels, with speakers from a wide variety of jurisdictions and legal backgrounds. It seems certain this event is now set to become a fixture on the legal conference circuit.

Submitted by Colleen Hanley, Barrister and arbitrator at 20 Essex St Chambers, London

London International Disputes Week (LIDW) 2019 Social Event for the Young and Young at Heart (YAYAH) featuring Law Rocks, 8 May 2019 in London, England

Young ArbitralWomen Practitioners was delighted to support a special social event for the young and young at heart in the arbitration community on the second evening of London International Disputes Week. The event, which was held at Café de Paris, featured a unique line up of live performances from bands affiliated with Law Rocks, an organisation work-

ing to promote music education for underprivileged youth and raise funds for local non-profit organisations. This lively event was also supported by CPR, Y-ADR, AIJA, Young ITA, ICC YAF, ICDR Y&I, Alumni & Friends of the School of International Arbitration, Young ICCA, YIAG, YConstruction and the Chartered Institute of Arbitrators' Young Members' Group. Arbitration

practitioners both young and young at heart enjoyed music, drinks, food and good company for an excellent cause, with the festivities continuing until the early hours of the morning.

Submitted by Amanda Lee, ArbitralWomen Board Member, Independent Arbitrator and Consultant, Seymours, London

GAR's 9th Annual GAR Live London, 9 May 2019 in London, England

GAR's 9th Annual GAR Live London on 9 May 2019, led by Chairs **Paul Friedland** and ArbitralWomen member **Karyl Nairn**, always promised to be a key event in London's International Disputes Week 2019 (LIDW) and did not disappoint.

The Keynote address was delivered by **Dame Elizabeth Gloster** who, as Paul

Friedland noted, has made a big impact on the world of arbitration in a short time. Dame Elizabeth's address considered the notion, incorrect in her view, of arbitration as a form of separate legal order 'floating above national laws'. Rather, Dame Elizabeth encouraged comity between national jurisdictions with a key focus on 'service to the client'. She also reminded

the attendees of the importance of active case management by arbitrators, including raising the issue of security for costs for discussion in the arbitration.

The afternoon then progressed to its 'Oxford Union style debate' pitting the skills of **Lord Peter Goldsmith QC** and **Christopher Harris QC** against ArbitralWomen member **Noradele Radjai**

and **Laurence Shore**. The debate topic *'This House believes that an increasingly populist world is bad for arbitration'* gave all speakers an opportunity to show off their knowledge, oratory skills and effortless ability to heckle their opponents with style and flair.

Lord Goldsmith QC commenced the debate seeing populism and arbitration as antithetical and emphasising that populist regimes have been historically hostile to arbitration – his slogan M.A.G.A (Make Arbitration Great Again) providing the rousing call to action for Noradele Radjai to answer.

Noradele Radjai rose eloquently and ably to the challenge emphasising that there is no indication that populism leads to fewer disputes nor is there any evidence for that position. Indeed, Ms Radjai emphasised that the breaking of relationships and changes in order create legal disputes, which is not bad for arbitration, is indeed what London was celebrating at LIDW. Laurence Shore followed, looking to the United States for his evidence showing the pro-arbitration stance of the US courts and stating that by reinforcing nationalism, populism may in fact push more parties to arbitration.

Christopher Harris QC, focused on arbitration's critical part in protecting the rule of law and warned that arbitration is under threat, both from the establishment and from populism. He saw arbitration as a target for populism as it is international, multicultural, not limited by borders, linked to trade and commerce and puts careful assessment of the evidence ahead of gut feel or bias in decision-making.

The debate then turned to a Tribunal comprised of **Bernard Hanotiau**, **Laurent Levy** and ArbitralWomen member **Judith Gill QC** of 20 Essex Street. Having denounced populism, Mr Hanotiau sided firmly with the motion's proponents that populism is bad for arbitration. Mr Levy however sided with Ms Radjai and Mr Shore seeing that populism is here to stay and arbitration must look to take advantage of it. Judith Gill QC asked whether it is right that what causes strife is good for arbitration, or would arbitration fare better under a system that encourages global trade? Siding with the motion, Ms Gill favoured

the latter, seeing that arbitration thrives when global trade is encouraged. When put to the room, by a narrow margin, the motion was passed.

At the second panel, five speakers discussed whether international arbitration will lose to China's "international courts" in the race to capture Belt & Road disputes. **Fang Zhao** kicked off discussions by giving a thorough introduction to China's International Commercial Court ("CICC"), its make-up and the types of disputes that the CICC has jurisdiction to resolve. ArbitralWomen member **May Tai** followed next, comparing the CICC to other international commercial courts that have been established, such as Astana's AIFCC, Dubai's DIFC and Singapore's SICC, and showing that the CICC still had some way to go if it was to convince international parties to use it. **Robert Pe** spoke next about the experience in Myanmar of large Chinese infrastructure projects and local

reluctance to resort to CICC for disputes arising out of these projects. **Sat Plaha** gave his views from the perspective of an independent expert having testified on a number of such disputes in the international arbitration context. Finally, ArbitralWomen member **Ania Farren** spoke about the key arbitral institutions (such as CIETAC, LCIA, ICC, HKIAC and SIAC) and their significant efforts to capture Belt & Road disputes. Overall, the views of the panelists were that the CICC was not (yet) a viable alternative and that international arbitration would remain the preferred choice of users for Belt & Road disputes.

As always, the GAR debate format provided an excellent mix of entertainment and learning from some of the leading figures in arbitration.

Submitted by Catherine Reeves, Arbitrators' Practice Manager, 20 Essex Street Chambers, London



L to R: David Samuels, Paul Friedland, Karyl Nairn QC, Bernard Hanotiau, Judith Gill QC, Laurent Levy



ArbitralWomen Diversity Drinks, 9 May 2019 in London, England

On Thursday, 9 May 2019, as part of the inaugural London International Disputes Week, ArbitralWomen, together with Equal Representation in Arbitration (ERA), arranged a Diversity Drinks reception in celebration of the third anniversary of the Pledge.

The event was co-hosted by Vinson & Elkins and FTI Consulting, at Vinson & Elkins' London Office and it was well-attended by both male and female practitioners from the London, and international, arbitration scene.

Attendees were welcomed to the event by ArbitralWomen executive committee members, **Louise Woods** (Vinson & Elkins) and **Juliette Fortin** (FTI Consulting). This was followed by an insightful and inspiring address provided by the ERA Co-Chair **Sylvia Noury**. Sylvia provided an



overview of the Pledge and its aims to increase gender diversity in arbitration and shared the progress that has been seen in arbitration over the past three years since the Pledge began, including the impact of institutions now publishing their statistics. She also identified some further areas for improvement, such as asking how many female speakers had been on the panels during LIDW and highlighting some future aims of the Pledge, including promoting an increase

in the awareness of the Pledge by corporate entities, in addition to arbitral practitioners.

The drinks reception then provided an opportunity for networking and discussion within a busy week of events for London arbitration practitioners.

Submitted by Sophie Freelove, ArbitralWomen member and Associate, Vinson & Elkins, London

Arbitration Open 2019, 9 May 2019 in Madrid, Spain

The V edition of the Open de Arbitraje (Arbitration Open) was held in Madrid last 9 May with great success. The conference, that was reminiscent of an Oscar ceremony, gathered more than 400 arbitration practitioners, including lawyers, arbitrators, counsels, academics and high level civil servants. All of them were right on time, early in the morning, in order to get their accreditation and popcorn: the film was about to start.

ArbitralWomen Board Member **Elena Gutiérrez García de Cortázar** took part in the second panel, where she gave a definition of public order based on statute and case law, both from a domestic and an international perspective.

ArbitralWomen member, **Deva Villanúa**, acted as speaker in the third session, which was held in memoriam of our beloved ArbitralWomen member **Virginia Allan**, and which fo-

cused on party-appointed arbitrators and their potential bias.

Lastly, the concept of advocacy and its usage in the current scene of arbitration was then examined by an interdisciplinary and dynamic panel in which ArbitralWomen member **M^a Isabel Rodríguez Vargas** took part.

Submitted by Elena Gutiérrez García de Cortázar, ArbitralWomen Board member, independent arbitrator



L to R: María Isabel Rodríguez Vargas, Dorleta Vicente & Katia Fach



Elena Gutiérrez García de Cortázar

British Institute of Comparative and International Commercial Law, 10 May 2019 in London, England



The speakers from left to right are: Anthony Sinclair, Suzanne Spears, Greg Falkof and David Pawlak.

On 10th May, British Institute of International and Comparative Law (BIICL) held its thirty-second Investment Treaty Forum (ITF) conference, this time on State responsibility in investment law. The event, which

took place in London, was extremely well attended by a mixture of public international law and arbitration practitioners, arbitrators, corporate and government counsel and academics.

The conference featured a keynote

address from Professor **Christoph Schreuer**, as well as panels on: (i) attribution, (ii) circumstances precluding wrongfulness and (iii) contributory fault, responsibility for continuous acts and the cumulative effect of certain acts. ArbitralWomen members, **Suzanne Spears** and **Kate Corby** were amongst the distinguished group of participants to the panels. Suzanne chaired the panel on attribution and Kate spoke on contributory fault. All of the panels were followed by lively discussions with the audience.

Loretta Malintoppi provided closing remarks, highlighting the most notable insights presented by the speakers from across the day.

Submitted by Naomi Briercliffe, ArbitralWomen member, Senior Associate, Allen & Overy LLP, London

Breakfast on Arbitration in Corporate/Post M&A disputes, 14 May, Kyiv

On 14 May 2019, ArbitralWomen organized its first event in Ukraine which took place in Kyiv on the occasion of the VII Arbitration School organized by the Ukrainian Arbitration Association. The event was graciously hosted and sponsored by the law firm Integrates.

After an introduction by **Valentine Chessa**, Board Member of ArbitralWomen and Partner at CastaldiPartners on the main initiatives that ArbitralWomen undertakes to promote women around the world in the dispute resolution arena and increase gender diversity within the profession, **Olena Perepelynska**, Partner at Integrates, **Galina Zukova** Partner at Bélon Malan and **Ana Guillard Sazhko**, an associate at Shearman & Sterling and Valentine Chessa exchanged their views on Arbitration in Corporate/Post M&A disputes. Galina Zukova opened



L to R: Ana Guillard Sazhko, Galina Zukova, Valentine Chessa, Olena Perepelynska.

the discussions on the issues related to complex arbitrations generally and how corporate / M&A disputes are dealt with into this context. Ana Guillard Sazhko provided interesting illustrations of how corporate and post M&A disputes most frequently arise, and then Valentine Chessa addressed the possible remedies that are usually available. Olena

Perepelynska moderated the debates and offered some thought-provoking views on Ukrainian law and practice in this field. A networking breakfast followed the event.

Submitted by Valentine Chessa, ArbitralWomen Board member, Partner, CastaldiPartners

First ICC / THAC Arbitration Conference in Bangkok, 15 May 2019 in Bangkok, Thailand



L to R: Julie Raneda, Warathorn Wongsawangsiri, Alexander Fessas, Céline Aymé-Wauthier, Victor Smith

The ICC held its very first joint conference with the Thailand Arbitration Center (THAC) on 15 May 2019. The event took place as part of the second edition of Thailand ADR week in Bangkok. The conference opened with the signature of a Memorandum of Understanding between the ICC and THAC Secretary Generals. **Alexander Fessas** underlined that the new law enacted in Thailand this year will make it easier for foreign practitioners to access the Thai arbitration market. The new legislation eases procedural requirements for arbitrators and party representatives coming to Thailand for arbitration-related work.

Chiann Bao (Independent Arbitrator, Arbitration Chambers, Hong Kong) moderated the first session, which focused on the role of arbitral institutions and the rise of regional ar-

bitral institutions across Asia. First-tiered international institutions have implemented innovative practices which have been followed by other institutions. The panel, featuring notably ArbitralWomen member **Sitpah Selvaratnam** (Partner, Tommy Thomas, Kuala Lumpur), further discussed emerging trends in international arbitration, which include gender, age and cultural diversity and transparency.

The second session, moderated by Alexander Fessas, dealt with the principles of independence and impartiality, and led the panelists to debate various topics such as the duty to disclose, the existence of conflicts of interest, challenges and confirmations of arbitrators, as well as transparency. ArbitralWomen member **Julie Raneda** (Partner, Schellenberg Wittmer, Singapore) shared her views from the party representative's perspective while ArbitralWomen member **Céline Aymé-Wauthier** (admitted to

the Paris and New York Bars) gave her opinion based on her ICC experience and knowledge.

The conference ended with a session on cross-cultural misunderstandings, whether they be procedural, tactical or linguistic. The panel, which included ArbitralWomen member **Elodie Dulac** (Partner, King & Spalding, Singapore) examined the consequences of cultural differences between opposing counsel, counsel and their client and within the Arbitral Tribunal.

Submitted by Céline Aymé-Wauthier, ArbitralWomen member, Associate, Darrois Villey Maillot Brochier, Paris, Chiann Bao, Independent Arbitrator, Arbitration Chambers, Hong Kong & Julie Raneda, ArbitralWomen member, Partner, Schellenberg Wittmer, Singapore

Employment Network Event 2019, Women and Law, 16 May 2019 in The Hague, the Netherlands



L to R: Melinda Reed, Diana-Elena Sarbu, Mirèze Philippe, Lone Kjelgaard, Helen Duffy, Christine Tremblay

At the occasion of the 8th edition of the Employment Network Event at The Hague University, **Christine Tremblay**, Lecturer Researcher International Law, The Hague University of Applied Sciences, and **Alanna O'Malley**, Professor United Nations Studies in Peace and Justice, The Hague University of Applied Sciences, organised a panel on Women and Law. They invited women pioneers in their field to share their experience, namely **Helen Duffy**, Director of Human Rights in Practice, Gieskes Professor of International Humanitarian Law and Human Rights, Lone Kjelgaard, Senior Assistant Legal Adviser NATO headquarter, **Mirèze Philippe**, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration, **Melinda Reed**, Executive Director Women's Initiatives for Gender Justice, **Diana-Elena Sarbu**, IT Advisor Legal, Governmental Relations, EC and Compliance, Shell. Over a hundred female students and a few men attended the two-hour session. Each of the amazing and successful women spoke about her path and how she built her career, and all of them indicated that

none of their careers was planned but that they built on every opportunity presented to them.

The event was very successful, and everyone thought that this panel was needed and very much appreciated. Students were enthusiastic and shared their impressions after the session. Some comments from International and European Law students are hereafter reported. They speak for themselves and confirm the importance of holding such sessions to encourage students and other women build and pursue a career.

Hend Abo Al Saud wrote: "Thursday evening, I got inspired. Five amazing women shared with us five personal stories of their career paths in the international law and their way of balancing work and family time. Each had a unique story line and different area of expertise but they all shared the same sense of resilience and determination of breaking the glass ceiling which women were expected not to grow bigger than. I loved how my classmates and I, who are usually dead tired and lose our ability to stay focused in any class after 17:00, were stimulated in that panel and did not want it to end

even after the panel was concluded at 19:30. Not only have we heard stories of established female lawyers who have these job titles that we dream of, but mainly we were invited into their very own personal life philosophies that covered making career choices, dealing with work colleagues, starting and nourishing their families, and supporting other women in their circles. We were not only invited to attend an ordinary panel, rather we were also allowed to engage in a power-balanced dialogue that tackled our questions, fears, concerns, and hopes for the future. Last Thursday will always be marked in my memory as the day I witnessed my colleagues' eyes sparkle with inspiration and confidence, and being part of that particular crowd amid our daily university routine will always be a priceless experience to take after graduation."

Luise Schroter communicated that: "As a female student you always wonder about the future and whether you will have a successful career or a family. Even today it is hard to believe that you can have both. It was very inspiring to hear the life stories of Ms Duffy, Ms Kjelgaard, Ms Philippe, Ms Reed and Ms Sarbu who

all proved to me that everything is possible and that the glass ceiling can be broken. Thank you for giving every young woman in that room hope”.

Fairuz Sewbaks said: “One must realise that the generations before us paved the way for the current generations. Doors which have been closed for many years are finally unlocked. Though the foundation is set by these inspiring women by creating a precedent for future generations, there is still a long way to go. The current generation of women must continue the building process. Inspiration and dialogues are needed, to prevent it from becoming a

utopian quest. Panels created by women, composed of women and for women, is an essential need. Panels like “women in law” inspire female law students like myself to realise my values, my assets and that I can achieve the same goals as the opposite sex. As a woman, it is easy to compensate yourself without being aware of it. As stated by Ms. M. Philippe, *“you have to walk the talk; people will remember the mistakes made by women more than those of men”*. The students present witnessed this statement. A change can be made by creating awareness and sharing experiences. Therefore, I respectfully advise to continue

the dialogue by organising interactive panels which can be lifechanging for every woman, a woman like you, a woman like me.”

Fabienne Ufert shared that “‘Women in Law’ was the best panel I have attended so far. The five panelists were all very natural, funny, encouraging, and especially professional. Their message truly inspired me: with believing in ourselves and being assertive but professional, we can break any glass ceiling.”

Submitted by Mirèze Philippe, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration

The effectiveness of Commercial Arbitration in Ukraine: A practical insight on institutional and ad hoc arbitral proceedings, 16 May 2019, Kyiv

CIArb joined CMS Cameron

McKenna Nabarro Olswang (Ukraine) on Thursday 16 May 2019 in putting on an event in Ukraine's capital city, Kyiv, dedicated to topical issues of international arbitration in Ukraine and in the United Kingdom (UK). A panel of distinguished arbitration practitioners delivered presentations related to the recognition and enforcement of arbitral awards in Ukraine, ad hoc arbitration in the English market with particular reference to the CIArb Rules 2015, Tribunal secretaries' mission in commercial arbitration, and the role of counsel in arbitral proceedings. The experts shared practical insights and discussed current trends in ad hoc and institutional arbitration based on their extensive experience in this field.

The audience included arbitration and dispute resolution practitioners, arbitrators, corporate counsel, in-house counsel, academics and professionals with an interest in institutional and ad hoc arbitral proceedings in the Ukrainian and English markets.

Following welcome remarks from Olexander Martinenko, Senior Part-



L to R: Olena Gulyanytska, Sergiy Gryshko, Tom Cadman, Amel Makhoulouf, Olga Shenk, Affef Ben Mansour, Olexander Martinenko.

ner, CMS Cameron McKenna Nabarro Olswang (Ukraine), the first session was moderated by Sergiy Gryshko, Partner, Redcliffe Partners. Olga Shenk, Senior Associate, CMS Cameron McKenna Nabarro Olswang (Ukraine) spoke on recognition and enforcement of arbitral awards in Ukraine. On 6 February 2019, the Supreme Court had resolved that the provisions of the New York Convention took priority over domestic legislation, other than the Constitution of Ukraine. The enforcement court was now the Kyiv Appellate Court, with possible

appeal only to the Supreme Court. The Court had to interpret arbitration agreements in favour of their validity, operability and ability to be performed. The procedures to get an award recognised and enforced were set out. Grounds for refusal were set out as well: the burden rested on the losing party to prove that refusal to recognise or enforce was appropriate. Finally, the cases of Everest Estate et al v Russian Federation and BSF Swiss photo A.G. v State Committee of Land resources of

Ukraine were used to illustrate points previously made in the abstract.

Thereafter, Olena Gulyanytska FCI Arb, Head of Dispute Appointment Service at the CI Arb spoke about ad hoc arbitration in the English market, from a practical and institutional point of view, with particular reference to the CI Arb Rules 2015. She noted that ad hoc arbitration is by far the most popular form of international commercial arbitration in London. For example, in 2016 the London Maritime Arbitrators Association saw more than six times as many new ad hoc arbitrations submitted to its members (an estimated 1,720) as the London Court of International Arbitration saw new Requests for Arbitration (253) under its institutional scheme.

In the second session, again moderated by Sergiy Gryshko, Dr Amel Makhoulouf MCI Arb, French Qualified Lawyer, Université Paris 1 Panthéon-Sorbonne / Chartered Institute of Arbitrators (CI Arb), presen-

ted on "Tribunal secretaries' mission in commercial arbitration: practical ways to promote efficiency in institutional and ad hoc arbitral proceedings". Dr Makhoulouf described the evolving mission of tribunal secretaries before explaining their modalities of appointment, their scope of work and their remuneration (which may be allowed or forbidden by some institutional rules and/or guidelines, or discretionary). As regards the tribunal secretary's remuneration, Dr Makhoulouf specified that there may be more flexibility in ad hoc arbitral proceedings since Parties may agree to pay additional fees if they so wish. In addition, Parties may specifically define the secretary's scope of work whilst such scope is usually described in some institutional rules and/or guidelines.

Thereafter, Dr Affef Ben Mansour, Independent Counsel and Arbitrator, Paris (France), spoke about the role of counsel in international arbitral proceedings. She noted that a counsel could be a lawyer, either externally retained or in-house and could be also an expert in an area

relevant to the case. She emphasised the benefit of expert and experienced external counsel. Normally, jurisdictions do not limit who could act as counsel in international arbitration proceedings. A few demanded that they be locally qualified. Counsel could play an important role at the outset in advising whether or not to proceed to arbitration, taking into account costs, the likelihood of success, whether an important relationship might be jeopardised, difficulties of enforcement, and confidentiality. Counsel equally help to choose an arbitrator. Counsel can then play a role in case management, consistent with the overall strategy for the arbitration. Once an award is made, counsel has a role in implementation, which if the losing party is reluctant, might be long and complicated.

Submitted by Olena Gulyanytska, ArbitralWomen member, Head of the Dispute Appointment Service, Chartered Institute of Arbitrators

1st ICC Iberian Arbitration Day, 20 May 2019 in Lisbon, Portugal



L to R: Miguel Almada, Javier Fernández-Samaniego, Juan Pablo Argentato (moderator) and Elena Gutiérrez

On 20 May 2019, the 1st ICC Iberian Arbitration Day took place in Lisbon with great success. The conference gathered a number of specialists from all over the world to consider and

discuss the latest developments and the hot topics in international arbitration, particularly in the Portuguese and Spanish speaking markets.

ArbitralWomen member **Patricia**

Saiz (alternate member of the ICC Court for Spain) acted as speaker in the first session where the ICC experience to date on the Expedited Procedure Provisions and Emergency Arbitration was discussed.

ArbitralWomen Board Member **Elena Gutierrez García de Cortazar** (member of the ICC Arbitration Commission and the ICC International Arbitration Latin-American Group) took part in the last panel of the conference, where she spoke about technology and Artificial intelligence in international arbitration. Other ArbitralWomen members such as **Filipa Cansado Carvalho** and **Raquel Silva** also attended the event.

Submitted by Elena Gutierrez Garcia de Cortazar, ArbitralWomen Board Member, International Arbitration Lawyer & Independent Arbitrator, Professor at Law, Paris/ Madrid

Arbitration Costs: Myths and Realities in Investment Treaty Arbitration, 21 May 2019 in Washington, DC, USA and 11 July 2019 in London, England, UK



L to R: Damon Vis-Dunbar, Meg Kinnear, Susan D. Franck, Christina Beharry, Mark Kantor and Patrick Pearsall

On May 21, 2019, the International Centre for Settlement of Investment Disputes (ICSID) hosted the book launch of *Arbitration Costs: Myths and Realities in Investment Treaty Arbitration* by ArbitralWomen member **Susan Franck**, Professor of Law at American University. The launch was held at ICSID's new offices at 1225 Connecticut Avenue NW, Washington, DC.

The event began with **Professor Franck** providing an overview of her book. She touched on the importance of hard data and statistics in informing trends, the need for certainty and predictability in investment arbitration, and the need to move away from emotional rhetoric towards evidence-based analysis. At its core, the book serves as a means to test the conventional wisdom on arbitration costs; for example: whether parties' costs are "skyrocketing", and whether the data supports the prevalence of cost-shifting as a way to deal with costs.

A significant point of **Professor Franck's** presentation was how much arbitrations cost from two perspectives:

Parties' Legal Costs (PLC) and the Tribunal's Costs and Expenses (TCE). Making a critical point that case length was the only reliable predictor of costs, she also highlighted how tribunals could offer cost-related guidance at an earlier stage of a case, including the standards that may guide the tribunal's decision-making. She reflected, however, that the data suggested most cost guidance and assessments were made at the end of the case. A discernable pattern, supported by data, was that tribunals often did not actively engage in cost shifting; however, when cost shifting did occur, Claimants were statistically more likely to benefit from the "loser pays" baseline than Respondents.

The comprehensive overview of **Professor Franck's** book was followed by a panel discussion consisting of **Professor Franck**; **Christina Beharry**, Attorney at Foley Hoag; **Mark Kantor**, arbitrator, mediator and Adjunct Professor at the Georgetown University Law Center; and **Patrick Pearsall**, Chair of Jenner & Block's public international law

practice. ICSID Secretary-General **Meg Kinnear** moderated the panel discussion.

The panel discussion was commenced by **Ms. Kinnear** asking **Professor Franck** to identify the most surprising discovery in the course of her research. **Professor Franck's** main response was that, while she was primarily surprised by how little had shifted or otherwise changed over time, there was one surprising change: namely, the reliable unilateral cost-shifting in investors' favor. However, it is open for discussion whether such a phenomenon is a *de jure* neutral rule that operates in a *de facto* discriminatory manner or attributable to other reasons.

A question was posed to **Mr Kantor** whether large-scale commercial disputes are commensurate with costs; or if investment-arbitration is an outlier when compared to civil litigation and commercial arbitration. **Mr Kantor** responded that such a correlation is unclear, citing reasons such as not having sufficient publicly available information on opinions about costs awards in US decisions

due to the 'pay-as-you-go' system. Further, **Mr Kantor** observed that outside the US there is less collection of data for courts.

Ms Kinnear then asked **Mr Pearsall** whether, in his opinion, there was any intuitive explanation for States' legal costs being less than investors' legal costs. To this, **Mr Pearsall**, who had previously served as chief of investment arbitration at the US State Department, cited a myriad of reasons, including: States being reactive and responsive (to the Claimants) as opposed to Claimants who bear the burden of proof; the prestige of representing a State and willingness of law firms to therefore charge less; the presence of repeat players appointed by States; and third party funding driving up Claimants' costs, an externality States are more insulated from.

Ms Beharry was asked about the utility of interim costs decisions and their potential impact on curbing costs in investment arbitration. On the advantages, **Ms Beharry** spoke of how interim costs decisions would encourage more constructive behavior amongst parties, and signal to parties how tribunals will exercise their discretion on costs. On the disadvantages, however, if such decisions are made too early on in the

proceedings, tribunals may have insufficient information to make an accurate determination on costs. Arbitrators may also be exposed to challenges or accusations that they prejudged issues in the case, which could delay proceedings. Moreover, interim decisions could also pose problems for economically-constrained investors which could result in a suspension or discontinuance of proceedings.

The event adjourned with a reception and an opportunity for participants to continue the conversation on the many topics raised during the discussion, as well as take a tour of ICSID's impressive new facilities.

London Launch on 11 July

The London launch of **Professor Franck's** book took place at Wilmer Cutler Pickering Hale and Dorr on 11 July 2019.

ArbitralWomen member **Maxi Scherer**, Special Counsel at Wilmer Cutler Pickering Hale and Dorr and Professor of Law at Queen Mary University of London, provided opening remarks and moderated the lively debate. Following Professor Franck's presentation, leading practitioners **Gary Born**, Chair

of the International Arbitration Practice at Wilmer Cutler Pickering Hale and Dorr, **Julian Lew QC**, Arbitrator at Twenty Essex and Professor of Law at Queen Mary University of London and **Jacomijn van Haersolte-van Hof**, Director General of the London Court of International Arbitration provided commentary on Susan Franck's insights.

Maxi Scherer notes that the event was a great success: *"Susan's presentation, in front of a fully-packed audience, was inspiring and thought-provoking, and, as all commentators noted, her book contains a gold mine of data for any arbitration practitioner."* She adds: *"Susan's book reality-checks our intuitions on and, in some cases, shows where conventional wisdom is simply not supported by the data."*

Gary Born comments that *"Professor Franck's book is an important addition to the growing body of literature exploring the benefits of investment arbitration. It is required reading for all academics and practitioners interested in the subject."*

Report on Washington DC event submitted by Uma Jitendra Sharma, ICSID
Report on London event submitted by Amanda Lee, ArbitralWomen Board Member, Independent Arbitrator and Consultant, Seymours, London



L to R: Maxi Scherer, Gary Born, Julian Lew QC, Jacomijn van Haersolte-van Hof and Susan Franck

5th Dispute Resolution in M&A Transactions Conference, 23–24 May 2019, in Warsaw



Beata Gessel

This year marks ten years

since the first edition of the Dispute Resolution in M&A Transactions conference was organised by **Beata Gessel-Kalinowska vel Kalisz**, Partner, Gessel, held every two years. The 5th edition took place on 23-24 May 2019 at the Polin Conference Center in Warsaw and, as did previous editions, gathered nearly 200 practitioners. Beata Gessel-Kalinowska vel Kalisz, **Cezary Wisniewski**, ICC Poland, Linklaters, Poland, **Laetitia de Montalivet**, Regional Director Europe, ICC International Court of Arbitration, and **Mirèze Philippe**, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration, gave opening remarks. A lecture was given by Beata Gessel on *"How declaratory relief can make your life easier in M&A arbitration, even more ways"*; this issue was also examined in Beata's book on *"The Legal, real and converged interest in declaratory relief"*.

The first panel, moderated by **Malgorzata Surdek**, CMS, Poland, addressed *"Hot topics in M&A arbitration"* and shared views by **Catherine Green**, New Zealand International Arbitration Centre, **Maria Hauser-Morel**, ICC International Court of Arbitration, **Vladimir Khvalei**, Baker

McKenzie, **Theis Klauberg**, Klauberg Baltics, and **Shai Sharvit**, Granot Speiser. Then a case study was presented by **Natalia Jodlowska** and Bartłomiej Wozniak, Gessel. The second panel on *"Mirror, mirror on the wall...can arbitration best reflect the complexity of the M&A transaction?"* was moderated by **Stavros Brekoulakis**, Queen Mary University of London, with panellists **Geoffrey Burgess**, Debevoise & Plimpton, **Michelangelo Cicogna**, De Berti Jacchia, **José Ferris**, Squire Patton Boggs, ArbitralWomen member **Samantha Rowe**, Debevoise & Plimpton, and **Krzysztof Zakrzewski**, Domanski Zakrzewski Palinka. Another case study followed, presented by **Peter Wende**, CMS. A third panel chaired by ArbitralWomen member **Ania Farren**, Vannin, heard the views of **Teresa Giovannini**, Lalive, **Duarte Henriques**, BCH Lawyers, and **Wojciech Sadowski**, K&L Gates, on *"M&A disputes with third party funders, how to plan and how to run?"*. A third case study was presented by **Piotr Bytnerowics** and **Karolina Brzeska**, White&Case. The first day ended with a very interesting keynote speech on *"Climate Change Disputes"* by ArbitralWomen member **Wendy Miles QC**, Debevoise & Plimpton. At the end of the day, speakers and participants enjoyed a gala dinner at the Skyscraper Penthouse Złota 44.

The next day started with a fascinating presentation by **Mohamed Abdel Wahab**, Zulficar, on the *"Belt and Road strategy concept"*, the history of the silk road and the impact of the belt and road project on M&A. Then a panel moderated by **Stephan Wilske**, Gleiss Lutz, and composed of panelists **Melody Chan**, White&Case, **Jun Gao**, Zhong Lun, **Joao Ilhao Moreira**, University of Oxford, **Wenhao Shen**, JunZeJun, and **Pawel Tatarczak**, Greenberg Traurig, discussed issues related to the *"Belt and Road, merging, acquiring and amalgamating"*. A keynote speech was then delivered by **India Johnson**, CEO, AAA-ICDR.

To mark the anniversary, on the evening preceding the conference, the speakers from the five editions were invited to celebrate this momentum with a flute of champagne, to thank them for having made the conference such a unique event, attracting audience from all over the world.

Before this celebration, drinks were also organised by **Krystyna Szczepanowska-Kozłowska**, Partner, Allen & Overy, Warsaw, as part of Arbitration & Women series, hosting Mirèze Philippe as special guest.

Submitted by Mirèze Philippe, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration



ISTAC First Energy Dispute Conference, 23 May 2019 in Istanbul, Turkey

The Istanbul Arbitration Centre

(ISTAC)'s Energy Commission held its first Energy Disputes Conference, jointly hosted by Boden Law and Kolcuoğlu Demirkan Koçaklı Attorneys at Law, in Istanbul on 23 May 2019. The Conference was attended by lawyers, arbitration practitioners, in-house counsels, experts and academics from common and civil law backgrounds.

Following the welcome speeches of **Prof. Dr Ziya Akıncı** (ISTAC President), and **Yasin Ekmen** (ISTAC Secretary General), Stanimir Alexandrov (**Stanimir A. Alexandrov** PLLC, Principal) gave a keynote speech on the Role of the Arbitrator in Energy Disputes.

The first panel commented on Energy Related Investment Arbitration Cases with moderator **Dr Sedat Çal** (Hacettepe University School of Law) and speakers **Stanimir Alexandrov**, **Nazlı Dereli Oba** (Karadeniz Holding, Legal Director) and **Değer Boden** (Boden Law, Managing Partner).

The second panel dealt with Energy Transit Related Issues. It was moderated



L to R: Ziya Akıncı, Stanimir Alexandrov, Değer Boden, Nazlı Dereli Oba and Sedat Çal

by **Okan Demirkan** (Kolcuoğlu Demirkan Koçaklı Attorneys at Law, Partner) and the speakers were **Brandon Malone** (Brandon Malone & Company, Principal), **Ruslan Galkanov** (Energy Charter Secretariat, Head of Transit) and **Yaroslav Petrov** (Asters Law, Partner).

The third panel discussed Legal Issues in Energy Trade and Supply Con-

tracts with moderator **Feridun İzgi** (Firat İzgi Law Firm, Partner) and speakers ArbitralWomen member **Marina Matousekova** (Castaldi Partners, Partner) and **Aysegul Onol** (Boden Law).

Submitted by Marina Matousekova, ArbitralWomen Member, CastaldiPartners, Partner, Paris, France

ICC France – Training session on emergency arbitrator 24 May 2019, Paris

On 24 May 2019, a training session regarding Emergency arbitrator proceedings under the ICC rules of arbitration took place at the premises of ICC France, in Paris. Following the launch during the Paris Arbitration Week of the Report of the ICC task force on Emergency arbitrator proceedings, a panel of three recognized arbitration practitioners conducted the session with a voluntarily limited number of participants in order to allow for interactive discussion.

The session was opened by Laurent Jaeger, a partner at King and Sapling LLP, who gave a historical and comparative presentation of emer-

gency arbitrator proceedings under various rules with a focus on the proceedings under the ICC rules. ArbitralWomen member, **Christine Lécuyer-Thieffry**, also an ICC court member, who acted as an emergency arbitrator and participated in the ICC task force on Emergency arbitrator proceedings, then turned to the powers of the emergency arbitrator including the type of measures which he or she may order and the respective role of national courts and emergency arbitrators. The last part of the session was spent on the order of the emergency arbitrator. Practical recommendations regarding the drafting of the order were presented by **Christine Lécuyer-Thieffry** and consideration on

the efficiency of the proceedings gave rise to lively discussions conducted by Yann Schneller, a senior associate, at Orrick Herrington Sutcliffe LLP.

This session was one of the interactive sessions which ICC France has implemented for several years and regularly proposes to arbitration practitioners on various topics regarding dispute resolution under the ICC Rules. The next session scheduled to take place on 19 September 2019 will be dedicated to the expedited procedure.

Submitted by Christine Lécuyer-Thieffry, ArbitralWomen member, independent arbitrator and counsel

Mediate First – Unlocking Potential: “Can Mediators be Deal Makers?”, 24 May 2019, Hong Kong



L to R: Joan Stearns Johnsen, Danny McFadden, Ronald Sum, Mark Appel, Donna Ross.

In 2009, the Hong Kong Department of Justice launched the Mediate First Pledge to promote the use of mediation to resolve disputes in Hong Kong. The Pledge has been signed and embraced warmly by some 480 Hong Kong organizations that have committed to using mediation before resorting to determinative processes.

The 2019 Pledge event was held on 24 May and included a forum entitled 'Mediate First – Unlocking Potential'. The Honorable **Teresa Cheng**, Secretary of Justice, emphasized the government's continuing commitment to expand the use of mediation and provide significant financial support. Other distinguished keynote speakers included the Honorable **Mr. Justice Lim Chong Fong** (High Court of Kuala Lumpur) and the Honorable **Madam Justice Lisa Wong** (Court of First Instance of the High Court, HK-SAR). It was a privilege to hear two such prominent female justices address the hundreds of participants at the event.

To highlight the power of mediation techniques, the Conference featured a panel on Deal Mediation entitled "Can Mediators be Deal Makers?"

ArbitralWomen members **Donna Ross** (International ADR Practitioner at Donna Ross Dispute Resolution) and **Joan Stearns Johnsen** (Senior Legal

Skills Professor, University of Florida Levin College of Law and AAA Arbitrator and Mediator) were speakers on the international panel chaired by **Ronald Sum** (Chairman ICC Hong Kong Arbitration and ADR Sub-committee). Other panel members were **Mark Appel** (ArbDB Chambers) and **Danny McFadden**, (CEDR Asia Ambassador).

Deal Mediation is the use of mediation skills to assist parties and their legal representatives in the negotiation process at its inception. Our panel high-

lighted this innovative application of existing mediation techniques to different types of negotiations, including complex cross-border transactions and explained how a Deal Mediator or Facilitator can help parties better structure the process to negotiate more effectively. Another advantage discussed was the use of reality testing to achieve superior outcomes.

Other international panels discussed the use of mediation in investment and sports disputes. Sessions with local participants focused on the beauty, entertainment, media and communications industries.

A short drama depicted with humor the mediation of a dispute to show how the process can work and to dispel some misconceptions about mediation.

All in all the event was a great success, which showcased the growing importance and value of mediation as a first step in resolving disputes in traditional as well as more novel areas.

Submitted by Donna Ross, ArbitralWomen member, Donna Ross Dispute Resolution, Melbourne, Australia & Joan Stearns Johnsen, ArbitralWomen member, Senior Legal Skills Professor, University of Florida Levin College of Law, JSJ-ADR, Gainesville, Florida



Group picture including SoJ Teresa Cheng and HK DoJ senior staff, speakers and other invitees to the dinner preceding the event.

ICC Young Arbitrators Forum 24 May 2019, Warsaw



L to R: Mr. Michal Čáp, Dr. Johanna Büstgens, Ms. Adelina Prokop, Dr. Tom Christopher Pröstler, Ms. Alicja Zielinska-Eisen, Dr. Ula Cartwright-Finch, Mr. Ulrich Kopetzki and Ms. Natalia Jodłowska.

On 24 May 2019, ICC YAF organised an ICC Young Arbitrators Forum with the topic “The psychology of decision-making in international arbitration” in Warsaw. The event took place following the Dispute Resolution in M&A Transactions conference and was kindly hosted by Linklaters LLP Warsaw.

After an introduction by Linklater’s managing associate **Ms. Alicja Zielinska-Eisen** and a welcome note by Linklater’s consultant partner **Mr. Cezary Wisniewski**, the former ICC YAF regional representative for Europe and Russia, **Mr. Ulrich Kopetzki** of Dorda Rechtsanwälte in Vienna, introduced ICC YAF and his newly-elected successor, **Ms. Natalia**

Jodłowska from Gessel in Warsaw.

The event continued with a keynote speech by **Dr. Ula Cartwright-Finch**, a managing associate at Linklaters London and specialist in international arbitration with a PhD in Cognitive Psychology. In her interactive presentation, Ula covered three topics which demonstrate the significant impact of psychology on decision-making processes: Cognitive biases in decision-making, limitations in human memory and the relationship between gender diversity and team performance.

The keynote speech was followed by a panel discussion. **Dr. Johanna Büstgens** from Hanefeld Rechtsanwälte in Hamburg gave a presentation on the challenges of arbitral tribunal to duly consider witness evidence and means to overcome

them. Thereafter, **Mr. Michal Čáp**, senior associate at Rowan Legal in Prague, spoke about his experience with the preparation of witnesses by legal counsel and how jurisdictions differ in this regard. The client’s perspective was covered by **Ms. Adelina Prokop**, a senior associate at Clifford Chance Warsaw. Adelina spoke about the psychological barriers that exist for clients with regard to settlement negotiations and how to enhance the parties’ satisfaction with an arbitral award. Finally, **Dr. Tom Christopher Pröstler**, counsel at CMS in Berlin and Hong Kong, discussed the challenges faced by international arbitration and how diversity may present an answer to these challenges.

The panel discussion was followed by a fruitful debate and a reception sponsored by Linklaters. The whole event was live-streamed. It can be re-watched on Youtube.



ICC Young Arbitrators
Forum on Youtube.

Submitted by Dr. Johanna Büstgens, ArbitralWomen member, Associate, Hanefeld Rechtsanwälte, Hamburg

AMCHAM Conference: Critical View on Arbitration: The Pillars of Trust, 27 May 2019, São Paulo

On May 27th 2019, AMCHAM São Paulo hosted its annual conference Critical View on Arbitration. This year’s theme was The Pillars of Trust, alluding to the main aspects that sustain arbitration as an interesting method of dispute resolution for parties, law practitioners, experts, and arbitrators.

The first panel had the participation of in-house lawyers and a public attorney to elements that lead the parties to decide on including an arbitration agreement into their contracts and the companies’ major concerns with the

agreement’s content. This panel was considered a breakthrough for arbitration related events in Brazil, as the four in-house lawyers were women — **Eugenia Cleto Marolla** (public attorney of the State of São Paulo), **Sandra Gebara** (Grupo Lala Brasil), **Ana Luísa Hieaux** (Carrefour) and **Renata Ribeiro Kingston** (Vale S.A.) —, with a male moderator (**Leonardo Viveiros**, of Leste Litigation Finance).

The second panel was targeted at

relevant issues of production of evidence with an expert examination and the role played by trust in all its stages. Participated in



Patricia Shaughnessy



L to R: Sandra Gebara, Ana Luísa Hieaux, Leonardo Viveiros, Renata Ribeiro Kingston, Eugenia Cleto Marolla

panel **Alessandra Ribas Secco, Fabiana Tito, Luiz Fernando Alongi, Marcelo Gomes, Silvio Simonaggio** (all experts) and **Ricardo de Carvalho Aprigliano** seating as the moderator.

The third panel addressed issues the role of transparency in gaining trust, leading to an intense discussion about the publication of awards and to whom their content would really interest. The speakers of this panel were **Sarah Ganz, Patricia Shaughnessy,**

André Chateaubriand Martins, Fabio Peixinho and **Carlos Alberto Carmona**. The moderator was **Carolina Morandi**, the Secretary of Amcham-São Paulo's Arbitration and Mediação Center and the host and organizer of the Conference.

The fourth panel took the discussions to the relationship of the arbitrators with the parties and the parties' counsels (mainly), highlighting that the basic structure of these relationships

is trust. The participants were **Dany Khayat, Paula Forgioni, Paula Hodges, Nadia de Araújo, Marcelo Roberto Ferro** and **Rafael Villar Gagliardi** as moderator. In sum, **Paula Forgioni** stated that trust reduces the costs of transactions, thus leading to a better business environment, including the of an arbitration.

The event ended with a keynote interview of Professor **Dr. Julian D M Lew**, interviewed by **Dr. Crina Baltag** (modifying the traditional keynote speech format). Professor Lew brought again the discussion on "whose arbitration is this?" to question whether the publication of awards would serve well to the arbitral community rather than simply satisfying one's curiosity. For this question, Professor Lew shared his conclusions, highlighting that the arbitration belongs to the parties, which emphasizes the need for an adequate trustworthy system. Addressing trust as a key element of a procedure, the Professor shared his position that the parties seek arbitration expecting a playfield in which they will be allowed to present their cases, giving their best shot.

Submitted by Elis Wendpap, senior associate, Lefosse Advogados, São Paulo

Young ICCA Skills Training Workshop The nuts and bolts of cross-examination in international arbitration | Conference Report, 31May 2019 in Edinburgh, Scotland

On 31 May 2019, Edinburgh welcomed its first Young ICCA Skills Training Workshop entitled "*The nuts and bolts of cross-examination in international arbitration*". After a brief introduction by **Ms. Fiona Menzies** (Scottish Arbitration Center Business and Development Manager), **Ms. Lise Bosman** (Executive Director of the International Council for Commercial Arbitration, or "ICCA") and **Ms. Gloria Alvarez** (Young ICCA Mentorship Programme Coordinator), introduced the audience members to ICCA and Young ICCA.



L to R: Mr. James Clanchy, Ms. Patricia Saiz, Ms. Laura West, Mr. Brandon Malone, Mr. Basil Woodd-Walker, Mr. Farouk El-Hosseny

The event then continued with a panel including **Ms. Erica Stein** (Partner, Dechert LLP, Brussels), **Mr. Dipen Sabharwal QC** (Partner, White & Case, London), **Mr. Alexis Martinez** (Partner, Squire Patton Boggs, London), and **Ms. Alvarez**. The speakers offered a number of useful tips for a successful cross-examination: the considerations counsel should take into account before cross-examining a witness; the role of cross-examination in educating the tribunal on important documents in the record and in clarifying questions the tribunal may have; the importance for the cross-examiner to know and understand their party's case and the witness being questioned; advice on formulating questions for cross-examination (e.g., short, clear, leading) and on the delivery of such questions; and advice on preparing

one's own witnesses for cross-examination. The attendees intervened with insights from their own cases and commented on the presentations.

The second panel featured a scripted and a non-scripted mock cross-examination before a tribunal including **Patricia Saiz** (Professor, ESADE, Barcelona), **James Clanchy** (Independent Arbitrator FCI Arb, London) and **Brandon Malone** (Solicitor, Scottish Arbitration Centre, Edinburgh). During the scripted cross-examination, ArbitralWomen member **Iuliana Iancu** (Counsel, Hanotiau & van den Berg, Brussels) and **Eliane Fischer** (Principal Associate, Freshfields, Vienna), acting as cross-examining counsel, asked **Laura West** (Associate, CMS, Edinburgh), acting as a witness, pre-prepared questions based on a mock case included in the conference materials, while members of the audience and the tribunal

members intervened and commented on the techniques used. During the non-scripted part of the panel, **Basil Woodd-Walker** (Managing Associate, Simmons & Simmons, London) and **Farouk El-Hosseny** (Senior Associate, 3Crowns, London) cross-examined **Leigh Herd** (Associate, Shepherd and Wedderburn LLP, Edinburgh) on the basis of the same mock case, but making use of established techniques for cross-examination. At the end, the audience members were invited to offer their insights on this second cross-examination and remark on the lessons learned during the day's event.

The workshop closed with a cocktail reception.

Submitted by Iuliana Iancu, ArbitralWomen member, Counsel, Hanotiau & van den Berg, Brussels

Roundtable discussion on “Arbitration in Latin America: Current Hot Topics”, 4 June 2019 in Munich, Germany

On 4 June 2019, Weil, Gotshal & Manges LLP and Kantenwein, Zimmermann, Spatscheck & Partner jointly organised an event in Munich, Germany, exploring international arbitration in Latin America and comparing the hot topics to Germany.

The panel was composed of two speakers **Diana Gárate**, Senior Manager at Ernst & Young Law in Lima, Peru, and **Nadine Lederer**, Senior Associate at Hogan Lovells International LLP in Munich, Germany, and the moderator **Svenja Wachtel**, Senior Associate at Weil, Gotshal & Manges LLP in Munich, Germany (all ArbitralWomen members).

The host **Lisa Maria Oettig**, Associate at Kantenwein, Zimmermann, Spatscheck & Partner, opened the event with a short welcome-address followed by a lively panel discussion.

The panel first discussed current hot topics in arbitration in both Latin America and Germany. Diana Gárate identified the Prague Rules on the Efficient Conduct of Proceedings in International



L to R: Nadine Lederer, Svenja Wachtel, Diana Gárate and Lisa Maria Oettig

Arbitration, infrastructure and construction disputes as well as corruption as topical issues in Latin America. Nadine Lederer explained that also in Germany, the Prague Rules are widely discussed. She further referred to the new Arbitration Rules of the German Arbitration Institute (DIS), which entered into force on 1 March 2018, and the use of technology in arbitration as hot topics. The panel discussed in particular the future use of the Prague Rules in civil law jurisdiction like the Latin American countries and Germany and compared the DIS Arbitration Rules to the new Arbitration Rules of the Chamber of Commerce of Lima (CCL), which entered into force in January 2017.

The panel proceeded to discuss the second issue which concerned corruption and arbitration in Latin America as well as transparency and confidentiality in arbitration proceedings. Diana Gárate

provided a brief overview of the so-called Lava Jato corruption scandal ("Operation Car Wash") in Brazil, which involved at least eleven other countries, mostly in Latin America. She further described the efforts currently undertaken to address concerns about bribery of arbitrators, including the appointment of foreign arbitrators, rosters of arbitrators maintained by arbitral institutions, and the publication of awards. The panel in particular discussed the publication of awards in anonymous form by institutions and recent trends in relation to the parties' reluctance to consent to such a publication.

The third and final topic focused on the use of technology in arbitration proceedings. Diana Gárate and Nadine Lederer agreed that technology is more and more regarded as a useful tool to enhance efficiency in arbitration and that arbitral institutions

generally promote the use of technology, including the CCL and the DIS.

The audience, comprised by a diverse group of young arbitration practitioners based in Munich, actively participated and contributed thoughts on the various issues raised. The event finished with a dinner, affording the participants the opportunity to network and to exchange experiences.

Submitted by Diana Gárate, ArbitralWomen member, Senior Manager at Ernst & Young Law in Lima, Svenja Wachtel, ArbitralWomen member, Senior Associate at Weil, Gotshal & Manges LLP in Munich, Lisa Maria Oettig, Associate at Kantenwein, Zimmermann, Spatscheck & Partner in Munich, and Nadine Lederer, ArbitralWomen member, Senior Associate at Hogan Lovells International LLP in Munich

International Arbitration 2019: A New Era for California, Your Clients and You, seminars organised by Thomson Reuters (The Rutter Group) on 5 June 2019 in San Francisco and on 13 June in Los Angeles, California (United States)

On 5 and 13 June 2019, Thomson Reuters organized two three-hour workshops on the topic of international arbitration in California. The seminar was built around the new Californian regulations in the field of international arbitration: As of 1 January 2019, newly-enacted SB 766 explicitly allows non-U.S. or out-of-state attorneys licensed in their home jurisdictions to appear in a California international commercial arbitration proceeding.

The panel was composed of **Richard Chernick**, Vice President and Managing Director of JAMS Arbitration Practice, **Maria Chedid**, Partner at Arnold & Porter in San Francisco, **Howard B. Miller**, Mediator and Arbitrator at JAMS, and **Nathan D. O'Malley**, Partner at Musick, Peeler & Garrett LLP in Los

Angeles. **Katalin Meier**, Associate at Vischer in Basel (Switzerland) participated at both seminars as Program Lead Research Attorney.

The distinguished panel explained what has changed in California and the difference in an arbitration when it is international. **Howard B. Miller** introduced, next to SB 766, the new international treaty for mediation, the Singapore Convention, which is about to be implemented in August 2019. The convention will make mediated agreements enforceable in any signatory country, provided there is no conflict with the policies underlying state law. This is specifically relevant in California, because mediation is deeply rooted in the Californian legal environment.

Richard Chernick gave, amongst others, valuable advice for drafting considerations for clauses designating

California as the place of arbitration. One take away was that according to Californian *lex arbitri*, a broad formulation would most likely provide for including tort and statutory-based claims to the scope of an arbitration agreement. He also elaborated on the issue of punitive damages, which may be awarded under the Federal Arbitration Act ("FAA"), even if it also contains a choice of law provision designating state law under which such awards are prohibited. He emphasized that the FAA prevails over the California International Arbitration & Conciliation Act (Title 9.3 of the California Code of Civil Procedure, § 1297.11 et seq., "CIACA").

Later during the seminar, **Nathan D. O'Malley** made, among others, important points from the Californian perspective on the world-wide known

doctrine of competence-competence, which is not the default position under the Federal Arbitration Act. Even though the CIACA incorporates the competence-competence doctrine, the federal act in general prevails. The Parties may, however, delegate to the arbitrator the right/duty to determine arbitrability issues creating by contract the competence/competence authority.

Finally, **Maria Chedid** addressed issues of enforcement. As Maria explained, for international arbitrations

generally, the FAA is the governing law for enforcing such agreements in the United States. However, if parties have selected California as the seat of the arbitration, the CIACA is applicable subject to any agreement which is in force between the United States and any other state or states, such as the New York or Panama Conventions. Maria further made concise and to-the-point remarks on the interplay between the FAA and CIACA, which are contained in the written outlines provided to the audience.

The seminar, including the quite useful written outlines and compilation of legal texts, is available as “live and replay program” on The Rutter Guide’s website (<https://www.theruttergroup.com/>). The State Bar of California has approved the seminar for MCLE credit for 3 hours, of which 0.5 hour applies toward Legal Ethics.

Submitted by Katalin Meier, ArbitralWomen member, Associate at Vischer, Basel (Switzerland)

Access to Justice and Arbitration Colloquium, 7 June 2019 in London



Some of the speakers and participants

Sara Hourani, Lecturer at the School of Law, Middlesex University London, and **Leonardo de Oliveira**, Lecturer at the School of Law, Royal Holloway University of London, organised a conference on “Access to Justice and Arbitration” at the Royal Holloway University of London, Egham (UK) on 7 June 2019. Four panels addressed issues of access to justice from different perspectives. The first one, moderated by **Jill Marshal**, discussed the “Procedural guarantees to access to justice in arbitration”. **Ramona Cirlig** considered the interplay between courts and tribunals access to justice, **Clotilde Fortier** discussed the consent

to arbitrate, **Innhwa Kwon** examined the arbitrability of disputes securing access to justice in arbitration, **Joao Ilhao Moreira** discussed the independence and impartiality of arbitrators as a precondition for access to justice and Leonardo de Oliveira, addressed issues on how we should approach access to justice in arbitration. The second panel on “Access to Justice in practice, common disputes” was moderated by Sara Hourani and heard **Berk Demirkol** on access to justice through investment arbitration in cases of refusal of enforcement of commercial arbitration awards, **Crina Baltag** on access to justice

in investment arbitration and non-disputing parties, **Duarte Henriques** on ICSID and access to justice, and **Lijun Zhao** on the impact of cultural aspect on maritime arbitration law in practice and the experience of Chinese parties. The third panel on “Access to justice in practice, new disputes” moderated by **Paul Kinninmont**, considered issues related to private enforcement of competition law through arbitration and whether it is an effective instrument to have access to justice, presented by **Aysem Diker Vanberg** and **Johana Hoekstra**, **Ian Blackshaw** discussed access to justice in sports arbitration and **Robert Jago** in family law and arbitration, **Youseph Farrah** addressed issues of access to justice in business and human rights arbitration, and **Christine Sim** discussed advances on costs at the SIAC. The last panel moderated by **Lughaidh Kerin** examined “Access to justice, arbitration and the digital era”, and heard Sara Hourani on the resolution of B2B disputes in blockchain-based arbitration, **Mirèze Philippe** on access to justice through online dispute resolution (ODR) and the fact that it is no longer science fiction, and **Rosa Taban** about current practical issues in ODR.

Submitted by Mirèze Philippe, Co-founder ArbitralWomen, Special Counsel, ICC International Court of Arbitration

PLI International Arbitration 2019, 10 June 2019 in New York, USA



L to R: John Fellas, Hagit Elul, Lucilia Hemmingsen, Dana MacGrath, Rekha Rangachari, Galina Zukova

Leaders of the international arbitration community came together on 10 June 2019 for the full-day PLI International Arbitration 2019 conference organized by John Fellas. The first panel kicked off the conference day with an all-female lineup addressing "*Current Issues in International Arbitration*". Speakers included ArbitralWomen members **Hagit Elul**, **Dana MacGrath**, **Rekha Rangachari** and **Galina Zukova**, together with **Lucilia Hemmingsen** and moderator **John Fellas**. **Hagit Elul** addressed concerns about cybersecurity. **Dana MacGrath** addressed security for costs and the award of costs in international arbitration and the impact of third party funding. **Lucilia Hemmingsen** discussed recent US arbitration case law. **Galina Zukova** discussed the Prague Rules. **Rekha Rangachari** addressed recent developments at the New York International Arbitration Center (NYIAC) and diversity in international arbitration.

The second panel addressed the "*International Arbitrators' Point of View*" and offered practical tips for counsel. Speakers included ArbitralWomen member **Hilary Heilbron QC** together with **Charles Adams**, **Eric Schwartz** and **Eduardo Zuleta** and moderator **Laurence Shore**. **Hilary Heilbron** encouraged counsel to know the background of the arbitral tribunal, come to

the hearing prepared, think about the questions the tribunal asks, prioritise your best points and demonstrate a belief in your case. Witness statements should not contain block quotations or read like a second memorial, but rather set out the evidence that the witness would give on direct examination from the witness box. Counsel should not use redirect as a second bite at the apple to give additional new direct testimony. **Eric Schwartz** commented that counsel should avoid hyperbole and theatrics. On procedural issues, counsel should try to reach agreement with opposing counsel as much as possible. **Eduardo Zuleta** encouraged counsel to focus on the tribunal as the audience, not the client. Arbitrators find joint expert reports and hot-tubbing very helpful. **Charles Adams** commented that arbitrator candidate interviews are helpful but counsel should avoid discussing the merits of the dispute. When it comes to selecting the presiding arbitrator, both sides should have common understanding about the extent to which counsel can interact with its party-nominated arbitrator in the efforts to identify chair candidates.

Professor Jack Coe delivered a keynote address about the newly released ALI Restatement on International Arbitration completed in May 2019.

The third panel addressed the China Belt and Road Initiative. Speakers included **Chiann Bao** together with **Krystal Lee** and **Wesley Pang**. The fourth panel addressed "*The Standpoint of International Arbitral Institutions*." Speakers included ArbitralWomen **Jacomijn van Haersolte-van Hof** and **Monique Sasson** together with **Alexander Fessas**, **Luis Martinez**, **Wesley Pang** and **John Fellas**. Speakers discussed anticipated rule amendments, cybersecurity and GDPR issues, steps to reduce the time and cost of arbitration and current developments at the arbitral institutions. The final panel addressed "*Tips from Leading International Arbitration Advocates*." Speakers included ArbitralWomen members **Ank Santens** and **Wendy Miles QC** together with **Michelangelo Cicogna**, **Mark McNeill**, **David Roney** and **Michael Young QC**. Speakers offered insights on effective written and oral advocacy. The conference was attended by approximately 50 practitioners in person, plus additional attendees participated via live webcast.

Submitted by Dana MacGrath, ArbitralWomen President and Investment Manager at Bentham IMF, New York and Rekha Rangachari, ArbitralWomen member and Executive Director, New York International Arbitration Center

Claudia Salomon of Latham & Watkins Organises A Gathering of New York Women in International Arbitration on 11 June 2019 in New York, USA



On 11 June 2019, a cross section of women in international arbitration based in New York and abroad came together for a festive evening of cocktails and fine dining at a bistro restaurant in midtown Manhattan. The event was organized by ArbitralWomen Member **Claudia Salomon**, co-chair of the interna-

tional arbitration practice at Latham & Watkins LLP. Latham was a Jubilee sponsor of ArbitralWomen's 25th Anniversary Events in November 2018, including the ArbitralWomen Diversity Dividend Conference and the Gala Dinner.

In addition to welcoming several local newcomers to the New York women in international arbitration group,

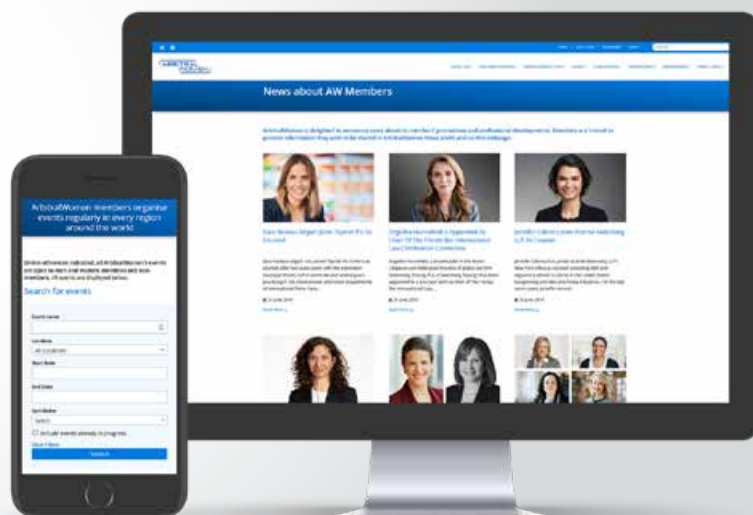
several prominent arbitration women from abroad who had spoken at the PLI International Arbitration 2019 Conference were able to join the festivities, including **Jacomijn van Haersolte-van Hof**, **Chiann Bao**, **Krystal Lee**, and **Monique Sasson**.

Gatherings of New York women in international arbitration in June and December each year, at which the female community toasts recent promotions and achievements, are now a tradition thanks to the organising efforts of **Claudia Salomon** and a handful of New York female international arbitration leaders. These gatherings facilitate professional relationships and friendships among the arbitration women in New York. They also are a reminder that we are very fortunate to have a truly supportive and growing network of women arbitrators and practitioners in New York.

Submitted by Dana MacGrath, ArbitralWomen President and Investment Manager at Bentham IMF, New York

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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](#).



4th ICC Africa Regional Arbitration Conference & ArbitralWomen Luncheon, 18–19 June 2019 in Lagos, Nigeria

The 4th ICC Africa Regional Arbitration Conference took place in Lagos on 18th and 19th June 2019. The Conference was preceded by a training workshop organised by the ICC Institute of World Business Law on 17th June 2018. The theme of the Conference was: *"Africa: Open For Business?"*. The Conference in its 4th Edition coincided with the Centenary Celebration of the International Chamber of Commerce (ICC) with the very important theme: *"Stop the rise in global inequality"*, and was a gathering of experts in the field of Arbitration from around the world. The topics of discussion were quite robust with an array of speakers, moderators and debaters whose expertise cut across the length and breadth of Arbitration and ADR Practice. Of great significance was the panel discussion on Dispute Resolution under the Africa Continental Free Trade Agreement (AFCTA). The discussion focused on the issue whether the AFCTA is a re-enactment of the Calvo Doc-

trine, which states that the authority to settle International Investment Disputes should reside with the Government of the Country where the investment is situated. Other topics discussed during the Conference included Arbitration of Banking and Finance Disputes, Diversity and Disqualifications, Recent trends in Domestic and International Arbitration, Presenting Damages In Construction Arbitration, Block Chain, Smart Contracts and Arbitration, including the Oxford Style Debates.

The Conference provided a unique opportunity for networking for participants and ArbitralWomen members in particular at the Conference. **Funke Agbor**, SAN of ACAS Law Firm sponsored a well attended ArbitralWomen luncheon on 19th June, at which event many ArbitralWomen members including **Laurie Aichtouk-Spivak** of Cleary Gottlieb Steen & Hamilton LLP, **Elizabeth Oger-Gross** of White & Case and **Ndanga Kamau**, to mention a few, at-

tended. While Funke Agbor, SAN gave the welcome remarks, **Dorothy Ufot**, SAN, former ArbitralWomen Board Member, went down memory lane reminiscing on the very early days of ArbitralWomen and the good work of its co-founders, **Mirèze Philippe** and **Louise Barrington** in bringing together women from diverse backgrounds in international dispute resolution under the umbrella of AW. **Doyin Rhodes-Vivor**, gave an insight into the Equal Representation in Arbitration (Era Pledge), and stated that it is a call for the international arbitration community, to increase, on an equal opportunity basis, the number of women appointed as arbitrators. The ArbitralWomen luncheon was indeed an afternoon of fun, merriment and laughter with lots of photographs taken at the event. See photo on cover page.

Submitted by Dorothy Ufot, SAN, former ArbitralWomen Board Member, Partner Dorothy Ufot & Co

SPEAKING AT AN EVENT?

If you or other ArbitralWomen members are speaking at an event related to dispute resolution, please let us know so that we can promote the event on our website and mention it in our upcoming events email alerts!

If you wish to organise an event with ArbitralWomen, please send the following information to events@arbitralwomen.org:

- Title of event or proposed event
- Date and time
- Names of ArbitralWomen members speaking at the event or who are potential speakers
- Venue
- Flyer or draft flyer which must be approved by ArbitralWomen Executive Board
- Short summary of the event for advertising purposes
- How to register/registration link

ArbitralWomen thanks all contributors for sharing their stories.

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ArbitralWomen 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:

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- 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. Forty 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.