

went well beyond what would generally be understood as the “administrative.” It is difficult to see how Mr. Valasek could have billed such a very large number of hours – 2,625 – in the decisive phase of the arbitrations without having been allowed to participate in the review and assessment of the arguments and evidence and/or drafting of the Awards.

117. Independent of these numbers, I have been provided with an expert report submitted before The Hague District Court by Dr. Carole Chaski, who is an expert in forensic linguistics and who analyzed the authorship of the Final Awards.⁸¹
118. Dr. Chaski’s Report concludes that it is “extremely likely” that Mr. Valasek wrote the majority of at least three substantive – and unquestionably vital – sections of the Final Awards, namely, 78.57% of the Preliminary Objections section, 65.38% of the Liability section and 71.43% of the Quantification of Claimant’s Damages.
119. Dr. Chaski’s Report substantiates my conclusion that the Tribunal must have allowed Mr. Valasek to play a very substantive role in the arbitral proceedings, and notably in drafting substantive parts of the Final Awards.

Conclusion

120. International arbitration is distinctive, among other ways, in the prerogative of parties to name the members of the adjudicatory body that will hear and decide their dispute. This is among the factors behind arbitration’s great appeal as a mode of international dispute resolution. Parties select their arbitrators in consideration of their highly personal characteristics and in the legitimate expectation that those chosen will themselves perform all core substantive arbitral functions.
121. Simply stated, parties involved in arbitration rely on the notion that their chosen arbitrators will personally study the record, assess the evidence and legal arguments, and make a judgment on their claims. These functions cannot be delegated to administrative secretary or assistant.
122. The functions commonly viewed as administrative, and thus appropriate for secretarial performance, do not include discussion or sharing of views on any substantive matters in the case (as the drafting of substantive portions of an award would entail), or indeed any activity not essentially ministerial in character.
123. From the available indications, the functions performed by Mr. Valasek in this case greatly exceeded the legitimate expectations of the parties. Nor is there any indication that the parties were clearly put on notice of, much less approved, this reassignment of essential arbitral functions.

⁸¹ See Carole Chaski, Expert Report Regarding Authorship of the Final Awards dated September 11, 2015, ¶ 7.

D. WOULD ENFORCEMENT OF THE AWARDS VIOLATE PUBLIC POLICY? (N.Y. Conv. Art. V(2)(b))

124. Here I consider the question whether enforcement of the Awards would violate public policy within the meaning of Article V(2)(b) of the New York Convention. That determination turns in large part on the answers to the two questions that follow.

- *Question 1: In international practice, would enforcement of an arbitral award condoning or failing to address fraud or illegality be proper under Article V(2)(b) of the New York Convention?*
- *Question 2: Was the Tribunal free to disregard the allegations and evidence of fraud or illegality raised by the Russian Federation?*

Question 1: In international practice, would enforcement of an arbitral award condoning or failing to address fraud and illegality be proper under Article V(2)(b) of the New York Convention?

125. Article V(2)(b) of the New York Convention provides that a court in the country where recognition and enforcement of a foreign award is sought may decline to recognize or enforce that award if “[t]he recognition or enforcement of the award would be contrary to the *public policy of that country*”⁸² (emphasis added).
126. According to the International Law Association’s Final Report on Public Policy as a Bar to Enforcement of International Arbitral Awards, public policy justifying a court’s refusal to enforce a foreign award includes “fundamental principles, pertaining to justice or morality, that the State wishes to protect even when it is not directly concerned.”⁸³
127. In international practice, courts regularly refuse to give effect on public policy grounds to arbitral awards condoning or failing properly to address serious fraud or illegality. In *Soleimany v. Soleimany*,⁸⁴ the English Court of Appeal refused to enforce an award giving effect to a contract between a father and son, which required the smuggling of carpets out of Iran, in breach of Iranian revenue laws and export controls. The French

⁸² See *Parsons & Whittemore Overseas v. Société Générale de l’Industrie du Papier*, 508 F.2d 969, 974 (2d Cir. 1974): “Enforcement of foreign arbitral awards may be denied on [the basis of public policy] only where enforcement would violate the forum state’s most basic notions of morality and justice.”

⁸³ International Law Association, Final Report on Public Policy as a Bar to Enforcement of International Arbitral Awards (2002), at 6, Recommendation 1(d).

⁸⁴ *Soleimany v. Soleimany*, [1999] QB 785 (1998).

courts have likewise made clear that, while arbitrators are empowered to determine whether a contract is tainted by serious illegality (for example, corruption), their determination in this respect is subject to *de novo* review by the courts at the award enforcement stage and an award condoning such illegality would be of no effect:

Fraud overrides all other rules and, when established, justifies setting aside the award or refusing its incorporation into the national legal order ... as contrary to international public policy; such is the case where the decision of the arbitrators was obtained, in all or in part, through the fraudulent conduct of one of the parties and also where the contract the enforcement of which is sought had at its origin and as its object influence-peddling.⁸⁵

128. Similarly, the European Court of Justice has on several occasions required courts of the Member States to annul or deny enforcement to an arbitral award that fails to satisfy the public policy requirements of EU law.⁸⁶
129. Likewise in the United States, the U.S. Supreme court has made it clear that, should an arbitral tribunal fail to address properly issues of fraud and serious illegality, its award will be denied recognition. In its watershed decision in *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*,⁸⁷ the Court stated clearly that an arbitral tribunal, though sitting in Tokyo and deciding a dispute under Swiss contract law, could entertain claims of violation of U.S. antitrust laws. However, a U.S. court, the Court emphasized, must stand ready to deny recognition of the resulting award under the New York Convention's public policy defense if the award failed to do justice to those laws. Likewise, in its earlier ruling in *Scherk v. Alberto-Culver Co.*, the Court, in sending a securities law claim to arbitration, expressly stated that "presumably the type of fraud alleged here could be raised, under Art. V of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, in challenging the enforcement of whatever arbitral award is produced through arbitration."⁸⁸
130. In the United States, the judicial policy against assisting a fraud is sufficiently strong and well-anchored to justify a court in refusing to give effect to an arbitral award condoning or disregarding fraud. In a leading U.S. decision, *Commercial Union Ins. v. Lines*, the

⁸⁵ See *Thomson CSF v. Société Brunner Sociedade Civil de Administracao Limitada and Société Frontier AG Bern*, Paris Court of Appeal (Sept. 10, 1998), *Revue de l'arbitrage* (2001), 583, at 585 ("[L]a fraude fait exception à toutes les règles et lorsqu'elle est établie, elle justifie l'annulation d'une sentence ou fait obstacle à son intégration dans l'ordre juridique national ... en raison de sa contrariété à l'ordre public international ; tel est précisément le cas lorsque des manœuvres frauduleuses accomplies par l'une des parties ont déterminé en tout ou partie la décision des arbitres ou encore lorsqu'il s'avère que le contrat dont l'exécution est poursuivie avait pour cause et pour objet l'exercice d'un trafic d'influence. ").

⁸⁶ See, e.g., *Eco Swiss China Time Ltd v. Benetton Int'l NV*, Case C-126/97, [1999] E.C.R. I-3055 (competition law public policy).

⁸⁷ *Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.*, 473 U.S. 614 (1985).

⁸⁸ *Scherk v. Alberto-Culver Co.*, 417 U.S. 506, 519 n.14 (1974).

court refused to affirm an award that the tribunal had issued notwithstanding its own finding that the prevailing party had acted fraudulently. The court viewed the case as “pitting” the public policy favoring arbitration against the judicial obligation to avoid assisting or protecting a fraud, and concluded that to enforce the award would violate the principle, “fundamental in our jurisprudence,” to the effect that “a wrongdoer shall not be permitted to profit through his own wrongdoing.”⁸⁹

131. While courts applying Article V(2)(b) generally consult their own jurisdiction’s conception of what public policy interest may justify denying effect to a foreign award, they may legitimately take into consideration principles that reflect a consensus within the international community. Thus, the International Law Association specifically recommends as follows:

[I]n order to determine whether a principle forming part of its legal system must be considered sufficiently fundamental to justify a refusal to recognise or enforce an award, a court should take into account, on the one hand, the international nature of the case and its connection with the legal system of the forum, and, on the other hand, the existence or otherwise of a consensus within the international community as regards the principle under consideration (international conventions may evidence the existence of such a consensus). When said consensus exists, the term “transnational public policy” may be used to describe such norms.⁹⁰

132. If such a consensus, sometimes referred to as “transnational public policy” or “truly international public policy,” can be established, it further strengthens the case for denying recognition or enforcement of an award. While U.S. courts have so far not explicitly endorsed the concept of “transnational public policy,” Justice Breyer recently suggested that courts may legitimately look beyond national borders to ascertain public policy for the purposes of the New York Convention.⁹¹ In my opinion, it is therefore proper for a U.S. court to take into account such consensus as may exist within the international community.
133. According to the same ILA Recommendation referred to earlier,⁹² determining whether an international public policy consensus exists on any given issue requires consideration of various sources, including international conventions, the practice of other courts, and

⁸⁹ *Commercial Union Ins. Co. v. Lines, et al.*, 378 F. 3d 204, 208-09 (2d Cir. 2004) (internal quotations omitted).

⁹⁰ International Law Association, Final Report on Public Policy as a Bar to Enforcement of International Arbitral Awards, Recommendation 2(b) (2002) (emphasis omitted).

⁹¹ STEPHEN BREYER, *THE COURT AND THE WORLD* 195 (2015) (noting that “an open question is how U.S. courts should apply the ‘public policy’ exception of the New York Convention so as to avoid serious conflict with other countries or undermining arbitration’s advantages.”).

⁹² International Law Association, Final Report on Public Policy as a Bar to Enforcement of International Arbitral Awards (2002).

the writings of commentators.⁹³ These sources establish the prevalence of a sufficient consensus within the international community condemning serious fraudulent and illegal conduct, treating such practices as violative of public policy, and justifying the non-recognition or non-enforcement of awards tainted by misconduct of that kind. I have referenced above examples of judicial practice. The writings of commentators are also to the same effect.⁹⁴

134. Arbitral tribunals have also pronounced on the issue. By way of example, the arbitral tribunal in *Plama v. Republic of Bulgaria* held:

[T]he Tribunal has decided that the investment was obtained by deceitful conduct that is in violation of Bulgarian law. The Tribunal is of the view that granting the ECT's protections to Claimant's investment would be contrary to the principle *nemo auditor propriam turpitudinem allegans* invoked above. It would also be *contrary to the basic notion of international public policy – that a contract obtained by wrongful means (fraudulent misrepresentation) should not be enforced by a tribunal.*⁹⁵

135. Likewise, the tribunal in *Inceysa Vallisoletana, S.L. v. Republic of El Salvador* stated:

This Tribunal considers that assuming competence to resolve the dispute brought before it would mean recognizing for the investor rights established in the BIT for investments made in accordance with the law of host country. It is not possible to

⁹³ *Id.*, ¶¶ 41-42.

⁹⁴ The legal literature treating serious fraud and illegality as contrary to transnational public policy is abundant. See, for example:

Catherine Kessedjian, *Transnational Public Policy*, in INTERNATIONAL ARBITRATION 2006: BACK TO BASICS? 857-70 (Albert Jan van den Berg ed. ICCA Congress Series 2007).

To conclude this section of our inquiry, we would propose that transnational public policy contains both prohibitions and positive obligations. On the prohibition side, we would list *corruption; fictitious schemes; tax evasion; abuse of dominant position and other unfair practices; and dealing in dangerous goods* (emphasis added).

Catherine A. Rogers, *The Arrival of the "Have-Nots" in International Arbitration*, 8 NEV. L.J. 341, 371 (2007):

[I]nternational arbitrators have also developed rules of international public policy involving such important topics as *bribery and corruption, tax evasion, and money laundering*.

BERNARDO M. CREMADES & DAVID J.A. CAIRNS, *Transnational Public Policy in International Arbitral Decision-Making: The Cases of Bribery, Money Laundering and Fraud*, in ARBITRATION: MONEY LAUNDERING, CORRUPTION, AND FRAUD, DOSSIERS OF THE ICC INSTITUTE OF WORLD BUSINESS 65, 85-86 (Andrew Berkeley & Kristine Karsten eds. 2003):

[T]here is no doubt today that the suppression of corruption and money laundering is an established part of international public policy and must be respected by international arbitrators. The place of fraud in international public policy is more complex, but certainly some manifestations of fraud [NB: with specific reference to accounting fraud], particularly those that might conceal corruption and money laundering or serious crime, are also proscribed by international public policy.

⁹⁵ *Plama v. Republic of Bulgaria*, ICSID Case No. ARB/03/24, Decision on Jurisdiction, ¶ 143 (Feb. 8, 2005).

*recognize the existence of rights arising from illegal acts, because it would violate the respect for the law which, as already indicated, is a principle of international public policy.*⁹⁶

136. The consensus to this effect is so strong that, as a corollary to the preceding discussion, arbitral tribunals are required to treat seriously allegations and evidence of fraud or illegality in connection with the cases before them and, on their own initiative, to investigate them. Recent international arbitral awards so state.
137. For example, in the case of *Metal-Tech Ltd. v. Republic of Uzbekistan*,⁹⁷ the tribunal became aware during oral testimony of evidence suggesting the possibility of corruption on the claimant's part. The tribunal accordingly demanded explanations, invoking its authority under Article 43 of the ICSID Convention.⁹⁸ Based on responses to this request for information, the tribunal ordered the parties at the end of the hearing to produce still further information and to submit two rounds of post-hearing briefs.⁹⁹ On that basis, the tribunal proceeded still further, directing "the [c]laimant to submit information about the payments made to each individual consultant, identifying (a) the specific services rendered, (b) which consultant rendered the service, and (c) when the services were rendered," and also asked claimant to respond to a series of questions related to its consultants. There followed additional witness statements, as well as an additional hearing solely for this purpose.¹⁰⁰
138. The notion that an arbitral tribunal must, if need be at its own initiative, investigate suspicions of serious illegality is also clearly supported in the international arbitration literature. Cremades and Cairns write:

The position today is that the international arbitrator has a clear duty to address issues of bribery, money laundering or serious fraud whenever they arise in the arbitration and whatever the wishes of the parties and to record its legal and factual conclusions in its award. This is the only course available to protect the enforceability of the award and the integrity of the institution of international commercial arbitration.¹⁰¹

⁹⁶ *Inceysa Vallisoletana, S.L. v. Republic of El Salvador*, ICSID Case No. ARB/03/26, Award, ¶ 249 (Aug. 2, 2006).

⁹⁷ *Metal-Tech Ltd. v. Republic of Uzbekistan*, ICSID Case No. ARB/10/3, Award, ¶¶ 239-41 (Oct. 4, 2013).

⁹⁸ *Id.* ¶¶ 86-97, 239-41, 246. Article 43 provides that: "[e]xcept as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings, (a) call upon the parties to produce documents or other evidence ..."

⁹⁹ *Id.* ¶¶ 86-87.

¹⁰⁰ *Id.* ¶¶ 93-97.

¹⁰¹ Bernardo M. Cremades & David J.A. Cairns, *Transnational Public Policy in International Arbitral Decision-Making: The Cases of Bribery, Money Laundering and Fraud*, in *ARBITRATION: MONEY LAUNDERING, CORRUPTION, AND FRAUD, DOSSIERS OF THE ICC INSTITUTE OF WORLD BUSINESS* 65, 85-86 (Andrew Berkeley & Kristine Karsten eds. 2003).

To the same effect, Elaine Wong writes:

If a tribunal proceeds to issue an award in an arbitration where issues of fraud are raised, this very fact may lead to a challenge at the enforcement stage. In particular, such an award may be liable to be set aside under the public policy exception if it is found at the enforcement stage that the tribunal had failed to adequately investigate issues of fraud.¹⁰²

Conclusion

139. Fraud and illegality are among the forms of misconduct that reappear with regularity across jurisdictions in judicial refusals to give effect to arbitral awards – so much so that their condemnation is firmly viewed as an aspect of public policy – indeed of “transnational public policy” – justifying a denial of enforcement. There is a strong consensus within the international community in this regard, and it is proper for a court in this country to take into account such consensus under Article V(2)(d) of the New York Convention.
140. Arbitral tribunals are not free to disregard allegations and evidence of fraud and illegality. Indeed, there is considerable authority for the proposition that an arbitral tribunal should, on its own motion, investigate suspicions of serious illegality. Fraud and illegality are considered to be such violations of public policy that international arbitral tribunals are expected to act upon any serious indications that fraud or illegality may have occurred, by which I mean not only fraud or illegality in connection with the arbitral proceeding itself, but also in connection with the underlying transaction.
141. It follows that enforcement of awards condoning, disregarding or failing to address serious fraud or illegality is contrary to public policy within the meaning of Article V(2)(b) of the New York Convention.

Question 2: Was the Tribunal free to disregard the allegations and evidence of fraud and illegality raised by the Russian Federation?

142. In these arbitrations, the Russian Federation raised a number of allegations of serious fraud and illegalities, including with respect to the fraudulent acquisition of Yukos in the mid-1990s¹⁰³ and the subsequent aggressive tax optimization scheme adopted by Yukos.¹⁰⁴

¹⁰² Elaine Wong, *Procedural Issues Resulting from a Fraud Claim in International Commercial Arbitration: An English Law Perspective* (Kluwer Arbitration Blog, Jan. 24, 2014).

¹⁰³ Final Awards, ¶¶ 1283-90.

¹⁰⁴ Final Awards, ¶¶ 1291-1308.

143. However, the Tribunal declined to consider the allegations regarding the fraudulent acquisition of Yukos on the ground that the fraud was the work not of the Petitioners themselves, but of the individuals behind the Petitioners (and the bank they controlled at the time, Bank Menatep):¹⁰⁵

It is common ground between the Parties that these actions were taken before Claimants became shareholders of Yukos in 1999, 2000 and 2001 and, consequently, were not taken by Claimants themselves, but by other actors, such as Bank Menatep and the Oligarchs. Claimants submit that these actions are thus irrelevant to these arbitrations, as the conduct complained of was not that of Claimants' themselves and, in any event, pre-dates Claimants' investment.

...

In the present case, however, Respondent has failed to demonstrate that the alleged illegalities to which it refers are sufficiently connected with the final transaction by which the investment was made by Claimants. The transactions by which each Claimant acquired its investment were their purchases of Yukos shares. As established in the Interim Award, these purchases were legal and occurred starting in 1999. On the other hand, the alleged illegalities connected to the acquisition of Yukos through the loans-for-shares program occurred in 1995 and 1996, at the time of Yukos' privatization. They involved Bank Menatep and the Oligarchs, an entity and persons separate from Claimants, one of which—Veteran—had not even come into existence.

144. I note that the Tribunal made this finding on the basis that the fraud was committed by the "Oligarchs", not "Claimants," even though it acknowledged elsewhere that the "Oligarchs" beneficially owned and controlled Petitioners/Claimants. In its Final Awards, the Tribunal thus defined "Oligarchs" as "the individuals who have or had a beneficial interest in the trusts behind Claimants, namely Messrs. Khodorkovsky, Lebedev, Nevzlin, Dubov, Brudno, Shakhnovsky, and Golubovitch."¹⁰⁶ In the Interim Awards, the Tribunal also set out the holding structure of Petitioners, confirming the roles of Messrs. Khodorkovsky, Lebedev, Nevzlin, Dubov, Brudno, Shakhnovsky, and Golubovitch.¹⁰⁷
145. Given the gravity of the Russian Federation's allegations, the Tribunal's decision to disregard them on the basis that the fraud was committed by the "Oligarchs," not the "Claimants," is troubling and highly formalistic. As the Tribunal itself acknowledged, "[a]n investor who has obtained an investment in the host State only by acting in bad

¹⁰⁵ Final Awards, ¶¶ 1367, 1369-70.

¹⁰⁶ Final Awards, p. xv.

¹⁰⁷ Hulley Interim Award, Appendix; Yukos Interim Award, Appendix.

faith or in violation of the laws of the host state, has brought itself within the scope of application of the ECT through wrongful acts. Such an investor should not be allowed to benefit from the Treaty.”¹⁰⁸

146. In its Awards, the Tribunal also explicitly found that Yukos breached Russian tax laws and abused certain low-tax regimes through the use of sham entities and *prima facie* abused certain double taxation agreements.
147. More specifically, the Tribunal ruled as follows:

While there is ample evidence in the record that nearly all Russian oil companies also availed themselves of such tax optimization arrangements which were permitted by law, there is no evidence that the operation of those other oil companies, in any respect, breached the legislation and abused the low tax regimes as the Tribunal has found Yukos did through the sham-like nature of some elements of its operations in at least some of the low-tax regions notably in the ZATOs of Lesnoy and Trekhgorny.¹⁰⁹

[I]t seems clear to the Tribunal, on the facts, that Yukos’ operations under the DTA were wholly conducted by Mr. Lebedev from Yukos’ established offices in Moscow, that his ‘place of management’ where he habitually concluded contracts relating to operations under the Treaty was in Moscow, which of itself demonstrates that Yukos’ avoidance of hundreds of millions of dollars in Russian taxes through the Cyprus-Russia DTA, was questionable. Hulley appears to the Tribunal to have falsely declared on Cypriot withholding tax forms that ‘income’ – dividends from Yuko – ‘was not connected with activities carried on in the Russian Federation despite Mr. Lebedev’s activities in Moscow.’¹¹⁰

In any event, even if there was an abuse by Yukos of that treaty, as in the Tribunal’s *prima facie* view there was, such conduct would be subsumed into and enlarge the abuse by some of Yukos’ trading companies in some of the low tax regions, which the Tribunal has already found amounted to contributory fault on the part of Yukos.

¹⁰⁸ Final Awards, ¶ 1352.

¹⁰⁹ Final Awards, ¶ 1611.

¹¹⁰ Final Awards, ¶ 1611

148. The Tribunal further found that these fraudulent actions constituted “material and significant mis-conduct by Claimants and by Yukos (which they controlled)”¹¹¹ and that “Claimants should pay a price for Yukos’ abuse of the low-tax regions by some of its trading entities, including its questionable use of the Cyprus-Russia DTA, which contributed in material way to the prejudice which they subsequently suffered at the hands of the Russian Federation.”¹¹²
149. Notwithstanding these unequivocal findings, the Tribunal did not consider that these fraudulent actions barred the claim, justifying its refusal on the ground that public international law does not recognize an “unclean hands” doctrine.¹¹³

Since the Tribunal will not read into the ECT any legality requirement with respect to the conduct of the investment, it must consider Respondent’s more general proposition that a claimant who comes before an international tribunal with “unclean hands” is barred from claiming on the basis of a ‘general principle of law.’¹¹⁴

The Tribunal therefore concludes that “unclean hands” does not exist as a general principle of international law which would bar a claim by an investor, such as Claimants in this case.¹¹⁵

It follows that the alleged instances of “unclean hands” listed in Subsections IX.B.2(b), (c) and (d) above – specifically, the instances related to the alleged abuse of the Russia–Cyprus DTA, the tax optimization scheme and the obstruction of Russia’s enforcement of tax claims against Yukos, all of which relate to actions that were taken after the making of Claimants’ investment, cannot have any impact on the availability of ECT protection for Claimants.¹¹⁶

Instead, the Tribunal decided to decrease the damages awarded to Claimants by 25% (without offering any explanation for that specific percentage), but nonetheless still awarded in excess of US\$ 50 billion, to my knowledge, the largest amount of damages ever awarded by an arbitral tribunal.¹¹⁷

¹¹¹ Final Awards, ¶ 1637.

¹¹² Final Awards, ¶ 1634.

¹¹³ Final Awards, ¶ 1363.

¹¹⁴ Final Awards, ¶ 1357.

¹¹⁵ Final Awards, ¶ 1363.

¹¹⁶ Final Awards, ¶ 1365.

¹¹⁷ Final Awards, ¶ 1637.

150. The Tribunal accordingly did not merely fail to investigate suspicions of serious wrongdoing on the part of the Petitioners (and those behind them), but found such wrongdoing and did not adequately address it. As noted above, arbitral tribunals are not free to turn a blind eye to indications of serious fraud and illegality. Enforcement of an award predicated on such a failure would offend the public policy of this forum.

Conclusion

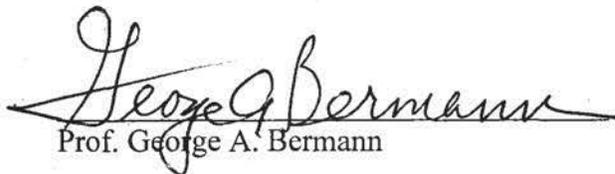
151. The Tribunal was faced with serious indications of fraud, deceitful practice and other illegalities by Petitioners in connection with the transactions at issue in the present case. With respect to the allegations of fraudulent conduct, the Tribunal fundamentally disregarded the realities of the case and shielded parties effectively responsible for that conduct from any accountability in that regard, in violation of public policy. With respect to the other allegations of fraud and misconduct, the Tribunal found that Petitioners had in fact perpetrated such serious wrongdoing, but removed the notion of “unclean hands” from consideration, thus enabling Petitioners to profit from that wrongdoing. Recognition or enforcement of an award that knowingly refuses to hold Petitioners accountable for such misconduct and, here too, allows them to profit thereby, notwithstanding fundamental and universally recognized principles of good faith, would be offensive to public policy within the meaning of New York Convention Article V(2)(b).

III. CONCLUSION

152. The conclusions I have reached in this Opinion are several.
153. First, I find that the Russian Federation has invoked solid reasons for concluding that an agreement between it and the Petitioners to arbitrate the dispute in this case was never formed. The Russian Federation signed the ECT on the understanding that the treaty would be applicable to it only provisionally and only to the extent such application would be in conformity with all of Russian law. That is the express understanding on which Russia’s signature of the ECT was conditioned. Insofar as Article 26 of the ECT, which incorporates the Contracting Parties’ standing offer to arbitrate is contrary to Russian law (as the Russian Federation argues), no offer to arbitrate was extended to the Petitioners and no agreement to arbitrate can have been formed. An enforcement court should make a determination on this matter on a *de novo* basis. Similarly, an offer to arbitrate under the ECT cannot be accepted unless the party purporting to accept it qualifies as an “Investor of another Contracting Party.” *De novo* inquiry into these matters is called for as well. Denial of enforcement of the Awards is justified under New York Convention Article V(1)(a).

154. Second, in the arbitral proceeding itself, the Tribunal adopted and applied a critical damages valuation methodology of which the parties were unaware and on which they were therefore unable to present their views. This constituted a surprise ruling. A party faced with an award based on such a ruling will have been effectively deprived of the right to be heard on that issue and is entitled to defeat the award's recognition or enforcement under New York Convention Article V(1)(b).
155. Another precondition of an award worthy of recognition and enforcement is respect by an arbitral tribunal of the parties' specifications as to composition of the tribunal. Parties to arbitration select the arbitrators on the reasonable understanding that the latter will personally perform all functions relating to the merits of the case in all respects as well as the award's drafting. According to a fundamental principle governing composition of a tribunal, the arbitrators must perform those tasks themselves delegating to arbitral secretaries or others only tasks of an administrative nature. The latter may include composing ministerial portions of the award, but they do not include discussion of or influence upon substantive aspects of the case or drafting of substantive portions of the award. All indications made available to me strongly suggest that the Tribunal did not observe these basic precepts – and to such an extent as to warrant denial of enforcement of the Awards under New York Convention Article V(1)(d).
156. Lastly, the Awards in this case appear to be tone-deaf to serious allegations of fraudulent conduct – misconduct that runs afoul of public policy in any and all of its manifestations. Recognition or enforcement of an award under those circumstances itself is contrary to public policy and should be denied on the basis of New York Convention Article V(b)(2).

Executed in New York this 20th day of October 2015


Prof. George A. Bermann

Appendix A

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European Union Law
Comparative Law and European Law

Foreign Investment Law and Arbitration
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Government and Public Official Liability

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Director, European Legal Studies Center, 1998 to 2014

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Chair, Comparative and International Law Committee, 1991 to 1996, 1997 to 2003, 2008-10

Steering Committee, Columbia-IALS Research Centre (London), 2000 to date

Chair, Curriculum Committee, 1987 to 1988

Advisory Committee, 2000-2002, 2004 to 2008

Appointments Committee, 1984 to 1986

Junior Faculty (Promotions) Committee, 1989 to 1993 (chair 1990 to 1991)

Advisory Committee, University Institute for the Study of Europe, 2000 to date

Chair, Advisory Committee, Reid Hall Institute for Scholars (Paris), 2002-03
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Visiting Professor, University of St. Gallen (Switzerland), Master of European Law and International Business Law, offered at Collège d'Europe, Bruges (Belgium) (September 1999, September 2000)
Visiting Professor, Faculty of Law of University of Fribourg (Switzerland) (January-July, 1997))
Visiting Professor, New York University School of Law, New York (spring term 2001)
Eason-Weinmann Visiting Professor of Comparative Law, Tulane Law School, New Orleans, La. (fall term 1998)
Faculty, June Program for International Lawyers, Parker School of Foreign and Comparative Law, New York, New York (June 1987-June 1989, June 1992)
Visiting Professor, Faculties of Law of Universities of Paris I and Rouen (France) (1981-1982)
Professor, Leyden-Amsterdam-Columbia Summer Program in American Law, Leyden and Amsterdam (Netherlands) (1979-1982)
Lecturer, International Faculty for the Teaching of Comparative Law (Pescara, Italy, August 1975)
Associate, Davis Polk & Wardwell, One Chase Manhattan Plaza, New York, New York (litigation) (1970-1973)

PROFESSIONAL MEMBERSHIPS AND ACTIVITIES:

Chief Reporter, ALI Restatement of the Law (Third) of the US Law of International Commercial Arbitration 2009 to date
Co-author (with Emmanuel Gaillard), UNCITRAL Guide to the New York Convention, 2011 to date
Chair, Global Board of Advisers, New York International Arbitration Center, 2013 to date
Board of Advisers, Center for Conflict Prevention and Resolution (CPR), 2014 to date
Advisory Committee to US State Department Luxembourg Seminar on a US Supreme Court/European Court of Justice Dialogue, 2012 to date
Founding Member, Governing Board, International Chamber of Commerce, Court of International Arbitration, 2012 to 2014)
President of Board, Center for International Investment and Commercial Arbitration, Lahore, Pakistan (2014 to date)
President, International Academy of Comparative Law (Académie internationale de droit compare (2006 to 2014)
Member, Advisory Committee, ALI, Restatement(4th) of Foreign Relations Law of the United States (2013 to date)
Member, ICC Commission on Arbitration, 2011 to date
Co-Editor in Chief, *American Review of International Arbitration*, 2011 to date
President, American Society of Comparative Law (ASCL), 1998 to 2002
Chief Reporter, ALI Restatement of the U.S. Law of International Commercial Arbitration (2007 to date)
Council Member, European Law Institute, 2011 to date
Member, Comité scientifique of the Revue de l'Arbitrage (Paris), 2011 to date
Co-Editor in Chief, *American Journal of Comparative Law*, 2004 to 2008

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Board of Directors, American Society of Comparative Law (ASCL), 1988 to date; ASCL Vice-President, 1994-1998

Member, Board of Editors, *American Journal of Comparative Law*, 1976 to date

Board of Directors, American Arbitration Association, 2008 to date

Member of Roster, International Centre for Dispute Resolution ICDR, AAA, CPR, CIETAC, Korean Commercial Arbitration Board, LCIA, Stockholm Chamber of Commerce, Kuala Lumpur Arbitration Center

Member, Academic Council, Institute for Transnational Arbitration (ITA), 2006 to date

Member, New York City Bar Committee on International Commercial Dispute Resolution, 1998 to date

Member, International Arbitration Club of New York, 2009 to date

Consultant to members of the US bar and Expert Witness and Deponent on Foreign (French, German, Swiss, Belgian, UK and European Union) Law and Transnational Law, 1979 to date

Court-appointed Foreign Law Expert on French, German and Swiss Law

Adviser to the Legal Service of the Commission of the European Communities

Member of Board of Advisors, Koç University Law School, Istanbul, Turkey, 2005 to date

Member, Advisory Committee, Centre for European Legal Studies, University of Cambridge, U.K.. 2006 to date

Founder and chair of the Executive Editorial Board, *Columbia Journal of European Law*, 1997 to date (Editor-in-Chief, 1994-1997)

Board of Directors, *Columbia Journal of Transnational Law*, 1989 to date (Board of Advisors, 1976 to date)

Member, Board of Editors, *Tulane European and Civil Law Forum*, 1992 to date

Member, Board of Editors, *Indiana Journal of Global Legal Studies*, 1997 to date

Member, International Academy of Comparative Law (Paris, France), 1991 to date, President of the Common Law Group, 2002 to date

Member of Executive Committee, European Union Studies Association (EUSA), 2001 to 2003

Member, US State Department, Advisory Committee on the Hague Convention on Jurisdiction and Judgments

Member, American Law Institute (ALI), Advisory Committee on the Hague Convention on Jurisdiction and Judgments

Member, American Law Institute (ALI), Advisory Committee on WTO Trade Law

Member, Board of Advisors, Institute for the Study of Europe, Columbia University, 2000 to date

Member, Reid Hall (Paris) Committee, Columbia University, 2000 to date

Member, Advisory Board, Institute for Global Legal Studies, Washington University of St. Louis, School of Law, 2001 to date

Board of Directors, American Foreign Law Association (New York, New York), 1983-1986; Vice-President, 1986 to date

Secretary and member of Board of Directors, American Academy of Foreign Law, 1983 to 1996

Member, European Law Committee, New York City Bar Association (New York, New York), 2000 to date

Delegate of American Bar Association (ABA) to the Union Internationale d'Avocats (UIA), 1993-1995

Member, Team Europe, EU Delegation to the US, 1992 to date

Member, Société de Législation Comparée (Paris, France), 1980 to date

Board of Directors, German American Law Association (GALA) (New York, New York), 1978-1982; member, 1978 to date

Public Member, Administrative Conference of the United States, 1986-1989; Consultant, 1983-1986, 1989-1995

Executive Director, Leyden-Amsterdam-Columbia Summer Program in American Law (Netherlands), 1979-1982; member, Leyden-Amsterdam-Columbia Summer Program Board of Directors, 1979 to date

Consultant, New York State Bar Association, 1979-1981

Consultant and Lecturer, National Center for Administrative Justice, 1979-1982

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EDUCATION:

Legal:

Jervey Fellow, Parker School of Foreign and Comparative Law, 1973-1975, resulting in LL.M. Columbia University School of Law, 1975 (program of study of French, German and Swiss law)
J.D. Yale Law School, 1971; Editor of the *Yale Law Journal*; Legal Education Research Project with Professor Robert B. Stevens (Stevens, Law Schools and Law Students, 59 Va. L. Rev. 551 (1973))

Undergraduate:

B.A. Yale College, 1967; Summa cum laude with exceptional distinction in political science; University Prize for best senior essay in political science; Phi Beta Kappa; Senior editor and copy editor Yale Daily *NEWS*; William S. Cowles Scholarship

Other:

Tocqueville-Fulbright Scholar, University of Paris I (Pantheon-Sorbonne), Paris, France, 2006
Visiting Fellow, Center for International Studies, Princeton University, Princeton, New Jersey, 2000
Visiting Scholar, Legal Service of the Commission of the European Communities, Brussels, Belgium, 1994
Visiting Scholar at Max Planck Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany, 1976
Non-degree legal studies at University of Paris II, 1974-1975; University of Munich, 1975; and University of Heidelberg, 1976
Visiting Scholar at Conseil d'Etat, Paris, France, 1975
Marshall Scholar, University of Sussex, Falmer, Brighton, England, 1967-1968, in law and comparative politics

MAJOR PUBLICATIONS:

ALI, Restatement of the US Law of International Commercial Arbitration, ch. 2 (“Enforcement of the Arbitration Agreement”) (completed March 2015) (slated for ALI approval, May 2015)
The Interpretation and Application of the New York Convention in National Courts (forthcoming Springer Pub. (2015))
Cases & Materials on European Union Law (West Pub., 4th ed. 2015)
International Commercial Arbitration: Past Present & Future (publication of Center for Conflict Prevention and Resolution (CPR) (2015))
The European Law Institute: A Transatlantic Perspective (festschrift for Prof. Bernard Audit) (2015)
Dramatic Sideshows at the Hearing (festschrift for Michael Schneider) (forthcoming 2015)
Une vue outre-atlantique de la Cour et de sa jurisprudence, in *The Court of Justice and the Construction of Europe: Analysis and Perspectives on Sixty Years of case law 719* (T.M.CV. Asser Press 2013)
Navigating EU Law and the Law of International Arbitration, 28 *Arb. Int'l* 397 (2012)
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- Une Vue Outre-Atlantique de la Cour et de sa Jurisprudence , in volume celebrating the 60th Anniversary of the European Court of Justice (forthcoming 2012)
- Comparing U.S. Law and the Law of the European Union (festschrift for Prof. Camille Jauffret-Spinosi) (forthcoming 2012)
- The “Gateway Problem” in International Commercial Arbitration, 37 Yale Journal of International Law 1 (2012); also in International Arbitration and International Commercial Law: Synergy, Convergence and Evolution (Liber amicorum for Eric Bergsten) (S. Kröll, L.A. Mistelis, P. Perales Viscasillas & V. Rogers, eds.) 55 (Kluwer 2011)
- The Prospects of *Eco Swiss v. Benetton* for International Commercial Arbitration: A Comment on *Eco Swiss v. Benetton*, in The Practice of Arbitration: Essays in Honor of Hans van Houtte (eds., P. Wautelet, T. Kruger & G. Coppens) 305 (Hart Pub. 2012)
- American Exceptionalism in International Arbitration, in Contemporary Issues in International Arbitration and Mediation: The Fordham Papers 2011 (Arthur Rovine, ed.) 3 (Martinus Nijhoff 2012); also in 2 Interdisciplinary Association of Comparative and Private International Law (IACPIL, Vienna, Austria) (2011)
- Reconciling European Union Law Demands with the Demands of International Arbitration, in “A Man for All Treaties” (Liber Amicorum JC Piris) (Jean Paul Jacqué et al., eds.) 41 (Bruylant, 2011); also in 34 Fordham Int’l L. J. 1193 (2011)
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- The Prospects of *Eco Swiss v. Benetton* for International Commercial Arbitration (festschrift for Prof. Hans van Houtte) (forthcoming 2012)
- Domesticating the New York Convention: The Impact of the Federal Arbitration Act, 2011 Journal of International Dispute Settlement 317 (2011); also in Comparative Perspectives on international Arbitration (Giuditta Cordero Moss, ed.) (Cambridge Univ. Press (forthcoming (2012)
- Mandatory Rules in International Commercial Arbitration, in CONFLICT OF LAWS IN INTERNATIONAL ARBITRATION (eds., F. Ferrari & S. Kroll) 325 (Sellier Pub., 2010)
- American Law Institute, Restatement 3rd of the US Law of International Commercial Arbitration (in progress)
- A Restatement of European Administrative Law: problems and prospects, in Comparative Administrative Law (Susan Rose-Ackerman & Peter L. Lindseth, eds.) 595 (Edward Elgar Pub. 2010)
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- CASES AND MATERIALS ON WTO LAW (with P. Mavroidis & m. Wu) (West Pub., 2010)
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- New Frontiers in the Relationship between National and European Courts, 32 Ford. Int’l L. J. 601 (2009).
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- The Role of Courts and arbitrators in determining Arbitral Jurisdiction in U.S. Law, in *festschrift for Pierre Tercier* 727 (Montcretien 2008)
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- The Highest Court in Federal Systems, in *The Future of the European Judicial system in a Comparative Perspective*, Nomos, Berlin (eds. I. Pernice, J. Kokott, C. Saunders) p. 91 (2006)
- Introduction to "Immunity and Accountability: Is the Balance Shifting?," *Proceedings of the American Society of International Law* (2005 annual meeting, Washington DC), 2005 *ASIL Proceedings*, p. 227 (2006)
- Jurisdictional and *Forum non Conveniens* Limitations on the Enforcement of Foreign Arbitral Awards (co-authored report of New York City Bar Association, Committee on International Commercial Dispute Resolution)
- The Constitution, International Treaties and Contracts, in *Convergence of Legal Systems in the 21st Century: General Reports 16th Congress, Brisbane* (Bruylant Pub.), p. 1073 (2006)
- Constitutional Steps toward Administrative Legitimacy in the European Union, in *Festschrift for Prof. Xavier-Blanc Jouvan* (forthcoming 2007)
- La concertation réglementaire transatlantique, in *Festschrift for Prof. Helene Gaudemet-Tallon* (forthcoming 2007)
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<<http://icon.oupjournals.org/cgi/reprint/3/2-3/440?ijkey=X1dLQfEComNDzAp&keytype=ref>>
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- The Application of Private International Law Norms to 'Third Countries': The Jurisdiction and Judgments Example, in *International Civil litigation in Europe and Relations with Third States* (N. Watte & A. Nuyts, eds.) 55 (Bruylant, Brussels, 2005)
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- LAW AND GOVERNANCE IN AN ENLARGED EUROPEAN UNION (ed., with K.Pistor) (Hart Pub., Oxford 2004)
- INTERNATION COMMERCIAL ARBITRATION (West Pub., forthcoming 2005)
- Litigation under the Civil Law and the Common Law, in *International Litigation Deskbook: Strategies and Practice in Cross-Border Disputes* (ed. B. Legum) (ABA Publishing, forthcoming 2005)
- Marbury v. Madison*: Implications for European Law, 36 *G.W.U. Int'l L. Rev.* 557 (2004)

Professor G.A. Bermann

- Competences of the Union, in *EUROPEAN UNION LAW FOR THE 21st CENTURY: RE-THINKING THE NEW LEGAL ORDER* (T. Tridimas & P. Nebbia, eds.) 65 (Hart Pub., Oxford 2004)
- Le droit comparé et le droit international: alliés ou ennemis?, 2003 *Revue internationale de droit comparé* 519 (2003)
- TRANSNATIONAL LITIGATION (West Pub. 2003)
- The Constitutional Convention and EU Institutional Reform, in *THE GOVERNMENT OF EUROPE: INSTITUTIONAL DESIGN FOR THE EUROPEAN UNION* (J.M. Beneyto Perez, ed.) 27 (S.L. Dykinson, Madrid, 2003), republished in *THE GOVERNMENT OF EUROPE: WHICH INSTITUTIONAL DESIGN FOR THE EUROPEAN UNION?* (J.M. Beneyto Perez & I. Pernice, eds) 119 (Nomos Verlagsgesellschaft, Baden-Baden 2004)
- Member State Liability in the Member State's Own Court: An American Comparison," in *UNE COMMUNAUTE DE DROIT* (festschrift for President Gil Carlos Rodriguez Iglesias, European Court of Justice) 305 (BWV Pub. Berlin 2003)
- Policy Recommendations for Dispute Prevention and Dispute Settlement in Transatlantic Relations: Legal Perspectives, in *TRANSATLANTIC ECONOMIC DISPUTES: THE EU, THE US, AND THE WTO* (E-U Petersmann & M. Pollack, eds) 569 (Oxford Univ. Press 2003)
- CASES AND MATERIALS ON EUROPEAN UNION LAW (with R. Goebel, W. Davey & E. Fox) (West Pub. 2d ed. 2002), plus *SELECTED DOCUMENTS* (2d ed. 2002), caesbook supplement (2004)
- Proportionality and Subsidiarity; in *THE LAW OF THE SINGLE EUROPEAN MARKET: UNPACKING THE PREMISES* (C. Barnard & J. Scott, eds.) 75 (Hart Pub. 2002)
- Law in an Enlarged European Union, in *LAW AND LAWS IN A MULTI-STATE SYSTEM* (festschrift in honor of Prof. Arthur von Mehren) (S. Symeonides & J. Nafziger, eds.) 555 (Transnational Pub. 2002)
- TRANSATLANTIC REGULATORY COOPERATION: LEGAL PROBLEMS AND POLITICAL PROSPECTS (Oxford University Press) (ed., with M. Herdegen & P. Lindseth) (2001)
- The Role of Law in the Functioning of Federal Systems, in *THE FEDERAL VISION* (K. Nicolaidis & R. Howse, eds.) 191 (Oxford Univ. Press 2001)
- European Law: Yesterday, Today and Tomorrow, 36 *Texas Int'l L.J.* 525 (2001)
- The Discipline of Comparative Law in the United States, 1999 *Revue Internationale de Droit Comparé* 1041 (1999)
- Judicial Enforcement of Federalism Principles, in *ENTWICKLUNGS PERSPEKTIVEN DER EUROPAISCHEN VERFASSUNG IM LICHT DES VERTRAGS VON AMSTERDAM* (M. Klöpfer & I. Pernice, eds.) 64 (Nomos Verlagsgesellschaft, Baden-Baden 1999)
- Comparative Law in the New European Community (festschrift for Prof. Rudolf Schlesinger), 21 *Hastings Int'l & Comp. L. Rev.* 865 (1998)
- The European Intergovernmental Conference: An American Perspective (festschrift for Prof. Peter Herzog), 25 *Syracuse J. Int'l L. & Comm.* 61 (1998)
- Provisional Relief in Transnational Litigation, 35 *Colum. J. Transnat'l L.* 553 (1997)
- REGULATORY FEDERALISM: EUROPEAN UNION AND UNITED STATES (Hague Academy of International Law), 263 *Recueil des Cours de l'Académie de Droit International de la Haye* 9 (1997)
- Comparative Law in Administrative Law, in *L'ETAT DE DROIT* (Mélanges en l'honneur de Guy Braibant) 29 (Editions Dalloz, Paris 1996)
- Regulatory Decisionmaking in the European Commission, 1 *Colum. J. Eur. L.* 415 (1996)
- Regulatory Cooperation Between the European Commission and U.S. Administrative Agencies, 9 *Adm. L.J. of Amer. Univ.* 933 (1996)
- European Community Law from a U.S. Perspective, 4 *Tulane J. Int'l & Comp. L.* 1 (1995)
- Managing Regulatory Rapprochement: Institutional and Procedural Approaches, in *REGULATORY COOPERATION FOR AN INTERDEPENDENT WORLD* 73 (OECD Pub. 1994)
- Taking Subsidiarity Seriously: Federalism in the European Community and the United States, 94 *Colum. L. Rev.* 331 (1994)

Professor G.A. Bermann

- Subsidiarity and the European Community, 17 *Hastings Int'l & Comp. L. Rev.* 97 (1993); reprinted in 3 [Canadian] *National Journal of Constitutional Law* [Revue Nationale de Droit Constitutionnel] 357 (1993) and in *EUROPE AFTER MAASTRICHT: AMERICAN AND EUROPEAN PERSPECTIVES* (P. Lützel, ed.) 139 (Providence: Berghahn Books 1994)
- A Commentary on the Harmonization of European Private Law, 1 *Tulane J. Int'l & Comp. L.* 47 (1993)
- Competence to Set Aside an Award and Procedural Grounds for Refusing Enforcement: The Viewpoint and Role of the Arbitration Law Expert, in *IUS ARBITRALE INTERNATIONALE, ESSAYS IN HONOR OF HANS SMIT* (T. Carbonneau & V. Pechota, eds.), 3 *Am. Rev. Int'l Arb.* 93 (1992)
- Bijuralism in Federal Systems and in Systems of Local Autonomy (with M. Hilf), in *GENERAL REPORTS OF THE XIIIITH INTERNATIONAL CONGRESS OF THE INTERNATIONAL ACADEMY OF COMPARATIVE LAW* (Montreal, Aug. 1990) 21 (Cowansville, Quebec: Les Editions Yvon Blais 1992)
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- Regulatory Cooperation with Counterpart Agencies Abroad: The FAA's Aircraft Certification Experience, 24 *Law & Policy in Int'l Bus.* 669 (1993), also published in *Administrative Conference of the US, Recommendations and Reports* 63-172 (1991)
- EEC Community-Building under the Single European Act, in *COMPARATIVE AND PRIVATE INTERNATIONAL LAW* (festschrift for John Henry Merryman) (D. Clark, ed.) 333 (Berlin: Duncker & Humblot 1990)
- The Use of Anti-Suit Injunctions in International Litigation, 28 *Colum. J. Transnat'l L.* 501 (1989)
- The Single European Act: A New Constitution for the Community?, 27 *Colum. J. Transnat'l L.* 529 (1989)
- The Hague Evidence Convention in the Supreme Court: A Critique of the *Aérospatiale* Decision, 63 *Tulane L. Rev.* 525 (1989)
- FRENCH LAW: CONSTITUTION AND SELECTIVE LEGISLATION* (Transnational Juris Pub.) (with H. de Vries & N. Galston) (1988) (with annual supplements)
- Federal Tort Claims at the Agency Level: The FTCA Administrative Process, 35 *Case W. Res. L. Rev.* 509 (1985)
- Administrative Handling of Monetary Claims: Tort Claims at the Agency Level, in *Administrative Conference of the United States, Administrative Conference of the US, Recommendations and Reports* 639-895 (1984)
- La Responsabilité civile des fonctionnaires au niveau fédéral aux Etats-Unis: vers la solution d'une crise, 1983 *Revue Internationale de Droit Comparé* 319 (1983)
- Occupational Licensing in New York State: A Report of the New York State Bar Association, published in *New York State Bar Association, NEW YORK STATE REGULATORY REFORM* 10 (1982)
- Contracts between States and Foreign Nationals: A Reassessment, in *INTERNATIONAL CONTRACTS* (H. Smit, N. Galston & S. Levitsky, eds.) 184 (New York: Matthew Bender 1981)
- French Treaties and French Courts: Two Problems in Supremacy, 28 *Int'l & Comp. L.Q.* 458 (1979)
- Integrating Governmental and Officer Tort Liability, 77 *Colum. L. Rev.* 1175 (1977)
- The Scope of Judicial Review in French Administrative Law, 16 *Colum. J. Transnat'l L.* 195 (1977)
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CONFERENCE AND WORKSHOP PAPERS. PRESENTATIONS AND REPORTS:

- The European Union and International Arbitration : A Study in Tensions between International Legal Regimes (presentation at University of Geneva, April 29-30, 2015)
- The U.S. Restatement through the Prism of French Arbitration Law (presentation at Paris Bar Association, Paris, France, March 28, 2015)
- The Preclusive Effect of Arbitral Awards in Subsequent Court Proceedings (Columbia Arbitration Day,

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Columbia Law School, March 6, 2015)
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Complex Issues in International Arbitration (conference at New York City Bar Association, Oct. 9, 2014)
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International Commercial Arbitration and its Relationship to Third-Party Funding (conference of Center for International Commercial and Investment Arbitration (CICIA)), Columbia Club, New York (Feb. 7, 2014)
The BG Group Case in the US Supreme Court, Houston International Arbitration Center (Jan. 15, 2014)
Exceptionalism in US Arbitration Law, University of Texas School of Law, Austin, Texas (Jan. 14, 2014)
Lessons from the Restatement, American Foreign Law Association (New York) (Nov. 5, 2013)
Moderator, Challenges to International Commercial Arbitration: A View from the ICC, ” Columbia Law School (Sept. 18, 2013)
Punitive Damages in international Dispute Resolution, conference on *dommages punitifs* at University of Nancy, Nancy, France (May 5, 2013)
Dealing with the Incomplete Award, Leading Arbitrators’ Symposium on the Conduct of International Arbitration, Vienna, Austria (April 16, 2013),
Speaker at Ministry of Foreign Affairs of Finland (Helsinki), “The Need for an International Investment Consensus-building Process” (Apr. 8, 2013)
Speaker at ASA/DIS Arbitration Practice Seminar, Badenweiler, Germany (Feb. 18, 2013)
Collision Course: Arbitration and EU law (paper at Program in Law and Public Affairs, Princeton University, March 11, 2013)
Moderator, panel on Exclusion of Judicial Recourse in Arbitration (Columbia Arbitration Day, Columbia Law School, March 8, 2013)
The State of the Restatement (conference on corporations and arbitration at Yale Law School, March 1, 2013)
Forum Shopping at the Gateway to Arbitration (conference at New York University School of Law, Feb. 28, 2013)
Moderator, Arbitration Debates (event in memory of Hans Smit, Feb. 27, 2013)
Commentator, Tensions between Arbitral Tribunals and Sovereign Courts (conference at New York University Law School, Jan. 28, 2013)
Commentator, Exceptionalism and Normalcy in Arbitration Law (talk by Prof. Rusty Park) (conference at New York University Law School, Nov. 28, 2012)
The Interplay of Mandatory Provisions of Law: The Law of the Contract, the Law of the Seat or the Law of the Place of Enforcement? (ICC Conference on International Arbitration in Latin America, Miami, Nov. 12, 2012)
Moderator, The Clash between Constitutional and International Norms: The *Kadi* Case and its Implications: a conference in honor of Louis Henkin (Nov. 9, 2012)
Injunctions and International Arbitration Proceedings: Academic Perspectives (conference at New York City Bar Association (Oct. 18, 2012)
Moderator, Collective Action in International Arbitration: Problems and Prospects (conference of Deutsche-Amerikanische Juristen-Vereinigung at Columbia Law School, Oct. 5, 2012)
Commenter, Transnational Law of Commercial Contracts (conference on Stateless Law, McGill University, Montreal, Sept. 28, 2012)
Arbitrability Trouble (presentation at New York City Bar Association, Sept. 12, 2012)
The Fundamental Differences between Treaty Rights and Contract Rights (conference of ICC on Arbitration with States and State Entities, New York, N.Y., Sept. 10, 2012)
International Arbitration: How it Differs from Domestic Arbitration (presentation at New York State Bar

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- Association, Dispute Resolution Section, and Benjamin N. Cardozo School of Law, New York. N.Y., July 17, 2012)
- An Agenda for the US Supreme Court – European Court of Justice Dialogue, conference at the European Court of Justice (May 28, 2012)
- Restating the Law of International Commercial Arbitration in the United States: Views from Within and Without (inaugural conference of Atlanta International Arbitration Authority (ATLAS) on “The United States and its Place in the International Arbitration System of the 21st Century: Trendsetter, Outlier or One in a Crowd? Atlanta, Ga., April 16, 2012)
- Threshold Issues in International Arbitration (workshop paper at International Law Colloquium, University of Georgia School of Law, Athens, Georgia, Apr. 13, 2012)
- Competence-Competence in Arbitration Law in Comparative Perspective (debate of the Paris – Place de l’Arbitrage on “La Compétence-Compétence à la française: Faut-il toujours donner la priorité à l’arbitre?”, Hotel de Ville, Paris, France, Apr. 3, 2012)
- Dealing with the Incomplete Award (presentation at Leading Arbitrators’ Symposium on the Conduct of International Arbitration, Vienna, Austria, April 2, 2012)
- Navigating EU Law and International Arbitration Law (workshop at Yale Law School, New Haven, Conn., Mar. 27, 2012)
- The Gateway Problem in International Arbitration (workshop at Yale Law School, New Haven, Conn., Mar. 26, 2012)
- Moderator, panel on Enforcement of Arbitral Awards against Foreign Sovereigns (Columbia Arbitration Day conference on Arbitrating with a Sovereign: Issues in Commercial and Investment Arbitration, Columbia Law School, March 23, 2012)
- Codification of Administrative procedure: The American Experience (conference on “Towards an EU administrative procedure law?” at Office of European Ombudsman, European Parliament, Brussels, Belgium, March 15, 2012)
- “Multi-party arbitration: from Paris to NY” (conference at NYU Law School, Feb. 27, 2012)
- The Influence of the UNCITRAL Model Law in non-Model Law Countries (conference at McGill University, School of Law, Nov. 26, 2011)
- Salient Issues in Contemporary International Arbitration (conference at Washington College of Law, American University, Center on International Commercial Arbitration, Washington DC, Nov. 16, 2011), published as “Arbitration in the Roberts’ Supreme Court” in 27 American University Law Review (forthcoming 2013)
- Comments on 20th Anniversary of Joseph Weiler’s “the Transformation of Europe” (conference at Yale Law School, New Haven, Conn, Oct. 6, 2011)
- Master Class on Gateway Issues in Arbitration, 3rd ICC YAF Global Conference (Paris, July 3, 2011)
- Arbitration Academy course on “Gateway issues in international arbitration in the United States” (Arbitration Academy, Paris, France, July 2011)
- Third Party Funding of International Arbitration Claims: The Newest “New New Thing” (conference at Fordham Law School, New York, June 15, 2011)
- Cross-Examining the Expert Witness in Arbitration (conference at Harvard Club, New York, June 14, 2011)
- The European Law Institute: Comments from a Transatlantic Perspective (inaugural congress of European Law Institute, Paris, France, June 1, 2011)
- Autour de l’ordre juridique arbitral (conference at Ecole de Droit, Institut des Sciences Politiques, Paris, France, June 1, 2011)
- The ‘Gateway Problem’ in International Commercial Arbitration (conference at Max Planck Institute (Hamburg, Germany) and University of Münster (Münster, Germany, May 24, 26, 2011)
- Techniques of Parallel Litigation in International Litigation (conference at University of Tübingen, Germany, May 25, 2011)
- Preliminary Jurisdictional Issues in International Arbitration, (conference of the Leading Arbitrators of the World, Vienna, Austria, April 18, 2011)
- Launching the European Law Institute (European Public Law Organization, Cape Sounian, Athens, Greece,

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- April 15, 2011)
The Complexity of Annulment, Recognition and Enforcement of Arbitral Awards (Columbia Arbitration Day, Columbia Law School, New York, March 25, 2011)
The Fragmentation of the International Legal Order (Annual meeting of American Society of International Law, Washington DC, March 24, 2011)
The Role of Courts in Supervising Arbitration (conference at George Washington University School of Law, March 18, 2011)
The Immunity of International Arbitrators (master class of International Chamber of Commerce, Paris, France, March 2, 2011)
Comment, The Social Dimension of International Law (conference of the réseau juridique franco-américain, Collège de France, March 8, 2011)
Paris in America: Edouard Laboulaye and Stephen Breyer (conference of the Collège de France, March 7, 2011)
The European Law Institute (Vienna, Austria, Nov. 23, 2010)
Privilege in International commercial Arbitration (27th AAA/ICC/ICSID Joint Colloquium on International Arbitration, Paris, France, Nov. 17, 2010)
The UK Supreme Court in its First Year: An American Perspective, Queen Mary College, University of London, Nov. 3, 2010)
Reviewing the Koç University School of Law (Istanbul, Turkey, Nov. 1, 2010)
Emerging Issues in International Civil Litigation (European University Institute, Florence, Italy, Oct. 15 2010)
Planning for a European Law Institute (European University Institute, Florence, Italy, Oct. 14, 2010)
The Federalism Dimension of International Commercial Arbitration (annual conference of the American Trial Lawyers Association, Washington DC, Sept. 23, 2010)
Commentator, Emmanule Gaillard on The Representations of International Arbitration (conference at New York University School of Law, Sept. 21, 2010)
Panel, Comparative Law: Problems and Prospects (closing plenary session of International Congress of Comparative Law, Washington, D.C., July 28, 2010)
Introduction to 19th World Congress of Comparative Law (Law schools of American University, George Washington University and Georgetown University, Washington DC, July 25, 2010)
Enforceability of the Arbitration Agreement: Who Decides and under Whose Law? (annual Fordham Conference on International Arbitration, June 14, 2010)
The Restatement of International Commercial Arbitration (conference of Conferencia Latinoamericana de Arbitraje, Asuncion, Paraguay, June 10, 2010)
Domesticating the New York Convention: The Impact of the US Federal Arbitration Act (conference at University of Oslo, Norway, May 6, 2010), published, in PERSPECTIVES ON INTERNATIONAL ARBITRATION (Giuditta Cordero Moss, ed.) (Cambridge Univ. Press 2013)
The Role of the Judiciary in Class Arbitration (Columbia Arbitration Day, Columbia Law School, April 17, 2010)
Electronic Discovery in International Arbitration: Boon or Bane? (conference of the Leading Arbitrators of the World, Vienna, Austria, March. 29, 2010)
International Arbitration in Iraq's New Oil Concession Agreements of Iraq (organizer of and speaker at program for lawyers and engineers from the Iraqi Ministry of Oil, Columbia Law School, Feb. 17-19, 2010)
Bankruptcy and Arbitration on a Collision Course (panelist at annual meeting of the Center for Conflict Prevention and Resolution, New York, N.Y., Jan. 14, 2010)
Enforcement and Execution of Foreign Arbitral Awards: Two Different Things (conference of Bolivian-American Chamber of Commerce on "Bolivia at the Crossroads of Arbitration, Dec. 10, 2009)
Introduction to Private International Law for U.S. District Court Judges (speaker at seminar of International Judicial Academy, U.S. District Court for the eastern district of New York, Brooklyn, N.Y., Nov. 20, 2009)

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- The Challenges of Parallel Litigation (conference of Asociacion Americana de Derecho Internacional Privado, Caracas, Venezuela, Nov. 13, 2009)
- Table ronde sur l'université d'aujourd'hui (conference of Centre de Droit Comparé, Paris, France, Nov. 6, 2009)
- Moderator, International Arbitration in Periods of Economic Downturn (International Chamber of Conference (ICC) conference on Arbitration in Latin America, Nov. 2, 2009)
- Transparency in International Commercial Arbitration: An Arbitrator's View (paper at International Law Weekend, New York, N.Y., Oct. 23, 2009)
- Mediation and Arbitration panel, in Global Justice Forum: Global Litigation in a Post-Economic Crisis World (conference at Columbia Law School, Oct. 16, 2009)
- Proportionality Principles in American Law (paper at conference on Proportionality, University of Aix-Marseilles, Aix-en-Provence, France, Sept. 14, 2009), published in *Le Juge constitutionnel et la proportionnalité*, 2009 *Annuaire international de justice constitutionnelle* 181 (Economica 2010)
- Observations sur la primauté du droit communautaire sur les constitutions nationales, in *Regards croisés sur l'internationalisation du droit: France – Etats-Unis* (Mireille Delmas-Marty & Stephen Breyer, eds.) 94 (Société de Législation Comparée 2009)
- Observations sur le changement climatique devant les juridictions européennes, in *Regards croisés sur l'internationalisation du droit: France – Etats-Unis* (Mireille Delmas-Marty & Stephen Breyer, eds.) 218 (Société de Législation Comparée 2009)
- Moderator, Effective International Arbitration: A Transatlantic (ICC UK Annual Arbitration Practitioners Symposium, London, U.K., July 9, 2009)
- Toward a Restatement of European Administrative Law (paper at conference on Renewing European Administrative Law, University of Osnabrück, Germany, June 17, 2009)
- Moderator, International Networks and Administrative Law (Yale Law School symposium on Comparative Administrative Law, May 9, 2009)
- U.S. Class Actions and the Global Class (presentation to Columbia Law faculty, Apr. 7, 2009)
- Restatements and International Law (paper at Tribute to Prof. Andreas Lowenfeld, New York University Law School, April 16, 2009)
- Rome I: A Comparative View (paper at conference on the Rome I Regulation, University of Verona, Verona, Italy, Mar. 20, 2009)
- The Restatement of International Commercial Arbitration Meets the Federal Arbitration Act (paper at conference on 50th anniversary of the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards at University of Georgia, Athens, Georgia, Jan. 30, 2009)
- Introduction to Conference on the Harmonization and Unification of Private Law (conference of International Academy of Comparative Law, Mexico City, Nov. 13, 2008)
- Transatlantic Regulatory Networks (paper at conference at Southern Methodist University Law School, Dallas, Texas, Nov. 7, 2008)
- The ALI and the Restatement of International Commercial Arbitration (paper at Columbia Law European Alumni Reunion, London, Oct. 18, 2008)
- Discussant, The *Kadi* case: United Nations Law and European Union Law (New York University School of Law, Oct. 6, 2008)
- Recognition and Enforcement of U.S. Class Action Judgments Abroad (presentation at International Bar Association annual meeting, Buenos Aires, Argentina, Oct. 15, 2008)
- Transatlantic Regulation (paper at fall meeting, ABA International Law Section, Brussels, Sept. 24, 2008)
- National Parliaments and Subsidiarity: An Outsider's View (paper at conference of European Constitutional Law Network on the Treaty of Lisbon, University of Sofia, Bulgaria, April 16-18, 2008) (forthcoming publication by Nomos Pub.)
- Restating International Arbitration (paper at American Society of International Law, Wash. DC, April 11, 2008)
- Moderator of Friedmann Conference on the European Human Rights Convention: Lessons for the Interamerican System (Columbia Law School, April 8, 2008)
- Soft Law in International Commercial Law (paper at conference of Queen Mary College, University of

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- London, Feb. 8, 2008)
- Supranational Administrative Law: The EU Experience (paper at conference on International Regulatory Authority: A Look at the legal landscape, Georgetown Law Center, Institute of International Economic Law, Nov. 16, 2007)
- Americanization and Europeanization of Law: Are there Cultural Aspects? (paper at conference on Law and Culture, Cornell Law School, Nov. 3, 2007)
- Legal Aspects of Turkish Accession to the EU (moderator at conference on Turkish accession, New York City Bar Association, Oct. 10, 2007)
- Constitutional Adjudication in the EU and US (paper given at conference between justices of the Supreme Court and judges of European courts, US Mission to the EU, Brussels, Belgium, July 12, 2007)
- The Law of the European Union, lecture at 18th annual Harold R. Medina Seminar for State and Federal Judges on the Humanities and Science (Princeton University, June 15, 2007)
- Organizer and moderator of colloquium on Mandatory Rules of Law in International Arbitration (Columbia Law School, June 8, 2007)
- Ethical Considerations in International Arbitration (panel in conference on the Conduct of International Arbitration, Juris Conferences, Harvard Club, New York, June 1, 2007)
- Non-State Law-Making in International law (conference on A World of Legal Conflicts: Multiple Norms in the International System, at Princeton University, May 31-June 1, 2007)
- Commenter, on Olivier Dutheillet de Lamothe, Les cours constitutionnelles européennes et l'intégration des normes communautaires (Cardozo School of Law, May 15, 2007)
- Class Actions and Europe (conference on Class Actions at the Crossroads (ABA/IBA conference, Rome, May 24-25, 2007)
- Globalization through through Regulatory Dialogue (conference on Europe and the Management of Globalization at Princeton University, Feb. 23, 2007)
- Regulatory Dialogue, presented at conference on European Administrative Law – The Move Towards an Integrated Administration” (Univ. of Luxembourg, Luxembourg, Feb. 8, 2007)
- Head of Roundtable on European Administrative Law (Commission of the European Communities, Brussels, Feb. 1-2, 2007) [part of ABA Project on EU Administrative Law]
- Tocqueville-Fulbright address on La Concertation réglementaire transatlantique (Univ. of Paris I, Jan. 22, 2007)
- Speaker at conference of Juris Pub. on “Take the Witness: The Art of Cross-Examination in Arbitration (Paris, France, Jan. 20, 2007)
- Comparative Administrative Law in the Context of EU/US Regulatory Dialogue (paper presented at the annual meeting of the Association of American Law Schools, Washington, D.C., Jan. 4, 2007)
- Transatlantic Regulatory Dialogue, speech at the Center for European Legal Studies, University College London (UCL), University of London (Nov. 15, 2006)
- The New Hague Choice of Court Convention, International Law Weekend, New York City Bar Association (Oct. 27, 2006)
- Bilingualism and Translation in the US Legal System: A Study of the Louisiana Experience, paper at 17th International Congress of Comparative Law (Utrecht, the Netherlands, July 20, 2006)
- Transatlantic Regulatory Dialogue, paper delivered at the annual Leiden/London Meeting on European Law (Europea Institute, Leiden University, Netherlands, June 24, 2006)
- European Union Law in Transatlantic Perspective, general course of the annual Academy of European Law (European University Institute, Fiesole, Italy, June 10-13, 2006)
- The Law of the European Union, lecture at 17th annual Harold R. Medina Seminar for State and Federal Judges on the Humanities and Science (Princeton University, June 8, 2006)
- Commentator, “Nested and Overlapping Institutions in International Law (Princeton University, Feb. 24, 2006)
- Commentator, Implementation of WTO Rulings (at conference on the WTO at 10: Governance, Dispute Settlement and Developing Countries, Columbia University, April 7, 2006)
- Commentator, Promoting Transparency and Consistency in International Investment Arbitration (at conference of the Center of Global Legal Problems on Law (at conference on Promoting Transparency and Consistency in International Investment, Columbia University, April 4, 2006)

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- Americanization and the Law (paper presented at the annual meeting of the Association of American Law Schools, Washington, D.C., Jan. 5, 2006)
- The Transnational Civil Procedure Rules and Parallel Litigation (paper presented at the University of Trieste, Italy, Institute of Comparative Private Law, Dec. 2, 2005)
- The “Highest” Court in Federal Systems (paper presented on conference on the future of the European Judiciary, Humboldt University, Berlin, Germany, Nov. 3, 2005)
- Constitutionalism in Federal Systems: The European Example (paper presented at 2005 annual meeting of American Society of Comparative Law, University of Hawaii, Honolulu, Hawaii, Oct. 28, 2005)
- Americanization and Europeanization: Some Legal Perspectives (paper delivered at conference of Oxford University, St. Anthony’s College, UK, Apr. 15-17, 2005)
- Moderator, State and Public Official Immunities for International Law Violations (annual meeting American Society of International Law, Washington DC., Apr. 1, 2005)
- International Commercial Arbitration in the Contemporary World (Young Arbitrators Forum of United States Council for International Business, New York, Feb. 28, 2005)
- The Influence of European Union Law on French Administrative Law (paper delivered at conference at University of San Diego and University of California at San Diego, Jan. 21, 2005)
- Transnational Law in the First-Year Curriculum (paper presented at annual meeting of the Association of American Law Schools, San Francisco, California, Jan. 8, 2005)
- The European Constitution (paper delivered at International Conference on Comparative Constitutional Law, University of Nice, France, July 12, 2004)
- Commentator on Professor Paul Craig’s “Executive Power under the Draft European Constitution” (conference at NYU Law School, and Princeton University, Apr. 29-30, 2004)
- Parallel Litigation in the United States (panel at ABA International Law Section Annual Meeting, New York, NY, Apr. 14, 2004)
- Moderator, “The Big Bang: EU Competition Law on the Eve of Enlargement” (conference at Columbia Law School, Mar. 31, 2004)
- Report to ABA, Administrative Law Section, on Project on European Union Administrative Law and Practice (report presented, San Antonio, Texas, Feb. 8, 2004)
- The Application of Private International Law Instruments to Third Countries (papers delivered at workshops at University of Barcelona, Oct. 24, 2003, and Free University of Brussels, Jan. 23, 2004)
- What’s Constitutional about the New Constitution?” (comment on address by Giuliano Amato, vice-president of the Convention on the Future of Europe, Columbia University School of Law, Oct. 7, 2003)
- The Institutions and the New Draft Constitution of Europe (paper delivered at conference at University of Lisbon, Portugal Sept. 26, 2003)
- The European Union and its New Federalism (paper delivered at conference at Princeton University, Law and Public Affairs Program, Princeton, N.J., May 29, 2003)
- The Treaty Basis for European Judicial Cooperation in Civil and Commercial Matters (paper delivered at workshop of Free University of Brussels, European Legal Studies Center of Columbia Law School and New York City Bar Association, at New York City Bar, New York, NY, May 19, 2003)
- A US View of “The European Model” (paper delivered at 4th Vienna Globalization Symposium, Austrian Chamber of Commerce, Vienna, Austria, May 15, 2003)
- The Competences of the EU under the New Draft Constitution (paper delivered at Hart Workshop, Institute for Advanced Legal Studies, University of London, June 24, 2003)
- The New Europe (paper delivered at Columbia Law School Alumni Reunion, Paris, France, June 29, 2003)
- Moderator, “The Accession of Cyprus to the EU: Challenges and Opportunities” (conference of the Columbia University Institute for the Study of Europe, New York May 4, 2003)
- Marbury v. Madison*: Implications for European Law (paper delivered at conference at George Washington University College of Law, Wash., D.C., Apr. 11, 2003)
- Discussant (with G. deBurca), European Union Governance after Enlargement (conference at Columbia Law School, on Law and Governance in an Enlarged European Union, Apr. 4, 2003)

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- Discussant, Developments in Law and Federalism in the EU (paper delivered at 7th biennial conference of the European Union Studies Association, Nashville, Tenn., Mar. 29, 2003)
- The Constitutional Convention and EU Institutional Reform (paper delivered at conference at University of Madrid, Spain, Jan. 30, 2003), published in *THE GOVERNMENT OF EUROPE: INSTITUTIONAL DESIGN FOR THE EUROPEAN UNION* (M. Oreja Aguirre & J-M Beyneto Perez, eds.) (2003), and republished in *THE GOVERNMENT OF EUROPE: WHICH INSTITUTIONAL DESIGN FOR THE EUROPEAN UNION?* (J.M.Beneyto Perez & I. Pernice, eds) 119 (Nomos Verlagsgesellschaft, Baden-Baden 2004)
- The Precautionary Principle in WTO Case Law (paper delivered at conference at School of International and Public Affairs, Columbia University, NY, NY, Nov. 8, 2002)
- Moderator, Comparative Law in Multi-State Practice (conference at Harvard Law School, Cambridge, Mass, Oct. 27, 2002)
- Discussant, Trade Diplomats Meet Academics (conference at European University Institute, Florence, Italy, Sept. 13-14, 2002)
- Contracts, International Law and Constitutions (general report to the XVith Congress of the International Academy of Comparative Law, Brisbane, Australia, July 2002)
- Policy Recommendations for Dispute Prevention and Dispute Settlement in Transatlantic Relations: Legal Perspectives (conference at European University Institute, Florence, Italy, May 10-11 2002)
- Discussant, Non-Discriminatory Sanitary and Phytosanitary Standards: Lessons from the Disputes over Hormones and Genetically Modified Organisms (comment delivered at conference on Dispute Prevention and Dispute Settlement in Transatlantic Partnership, European University Institute, Florence, Italy, July 5, 2001)
- The Common Core Project (paper delivered at the 2001 session of the Common Core Project, Trento, Italy, July 14, 2001)
- International Tribunals and United States Courts: A New Relationship for the New Millennium (comment delivered at panel at Second Circuit Judicial Conference, Sagamore Resort, Bolton Landing, N.Y. June 16, 2001)
- Developments in International Trade and Regulatory Law (Columbia Law School, European alumni reunion, European University Institute, Fiesole, Italy, June 11, 2001)
- Transatlantic Regulatory Cooperation: Legal Problems and Political Prospects (paper delivered at 6th biennial conference of the European Community Studies Association, Madison, Wis., June 1, 2001)
- Discussant, Making Member States Comply with Community Law (paper delivered at 6th biennial conference of the European Community Studies Association, Madison, Wis., June 1, 2001)
- Comment on «Proceduralization of Law and the Transformation of Adjudicative Functions in the EC and the WTO» (Oliver Gerstenberg) and «Indeterminacy and the Establishment of a Working Law of Market Administration» (Michelle Everson) (comments delivered at workshop on Law and New Approaches to Governance in Europe, University of Wisconsin, Madison, Wis., May 29, 2001)
- Proportionality and Subsidiarity (paper delivered at workshop on The Legal Foundations of the Single Market: Unpacking the Premises, Cambridge University, Cambridge UK (April 27, 2001)
- Opinion on the Implications of Membership in the European Union for a Constitutional Settlement in Cyprus (co-authored opinion of March 29, 2001, to the Attorney-General of Cyprus, published in “Cyprus and European Membership: Important Legal Documents,” Press and Information Office, Republic of Cyprus, Nicosia, Cyprus (2001)
- The Future of Comparative Law (paper delivered at Centennial Congress of Comparative Law, Tulane University, New Orleans, La., Nov. 4, 2000)
- Panelist, Free Movement of Services: European Union Lessons for NAFTA (U.S-Mexico Law Institute, Santa Fe, N.M., Oct. 28, 2000)
- European Law: Yesterday, Today and Tomorrow (paper delivered at conference of Texas International Law Journal in honor of Prof. Hans Baade, University of Texas, Austin, Texas, Sept. 29, 2000)
- Comment, The WTO and Human Health and Safety (paper delivered at World Trade Institute, University of Berne, Berne, Switzerland, August 21, 2000)

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- Panelist, The European Commission: The World's Most Powerful Administrative Agency? (annual meeting of Association of American Law Schools, Washington D.C., Jan. 8, 2000)
- La Jurisprudence (paper delivered at colloquium on the Bicentennial of the Conseil d'Etat, Paris, Dec.13-15, 1999, published in 2000 La Revue Administrative 38, 2001 La Revue Administrative 175 (Presses Universitaires de France, 2001)
- Regolazione e liberalizzazione dei mercati: un'analisi comparativa (Regulation and Market Liberalization: A Comparative Analysis), in REGOLAZIONE E CONCORRENZA (G. Tesaro & M. D'Alberti eds.) 27 (Soc. Il Mulino, Bologna, 2000) (paper delivered at conference on Regulation and Competition, Autorità garante della concorrenza e del mercato (Italian Competition Authority), Rome, Nov. 22-23, 1999)
- The Transatlantic Dimension of U.S. and E.U. Federalism (paper delivered at Kennedy School of Government, Harvard University, conference on U.S. and E.U. Federalism, Apr. 19-20, 1999)
- The Federalism Dimension of Transatlantic Regulatory Cooperation (paper delivered at conference on Transatlantic Regulatory Cooperation, Columbia University School of Law, Apr. 16-17, 1999)
- Judicial Enforcement of Federalism Principles (paper delivered at inaugural conference of Walter Hallstein Institute of European Constitutional Law, Humboldt University, Berlin, Nov. 10-11, 1998)
- The Supreme Court's Role in Policing U.S. Federalism (paper delivered at Joint U.S. Supreme Court-European Court Justice Symposium, European Court of Justice, Luxembourg, July 5, 1998)
- Constitutional Implications of U.S. Participation in Regional Integration, in U.S. NATIONAL REPORTS TO THE XVth CONGRESS OF THE INTERNATIONAL ACADEMY OF COMPARATIVE LAW (Bristol, U.K., July 1998), 46 Am. J. Comp. L. (Supp.) 463 (1998)
- The Treaty of Amsterdam: Institutional Reforms (paper delivered at 1997 International Law Weekend, New York City Bar Association, Nov. 8, 1997)
- Comment, Legal Aspects of the New European Single Currency, 4 Colum. J. Eur. L. 353 (1998) (paper delivered at conference on The Euro: A New Single Currency for Europe?, Washington University School of Law, St. Louis, Missouri, Oct. 30, 1997)
- La Codification aux Etats-Unis, in FAUT-IL CODIFIER LE DROIT? EXPÉRIENCES COMPARÉES, 82 Revue française d'administration publique 221 (1997) (paper delivered at colloquium of Institut International d'Administration Publique, Paris, France, June 16, 1997)
- An American Perspective on the Intergovernment Conference (paper delivered at colloquium of the Free University of Brussels, Belgium, May 23, 1997)
- Regulatory Federalism: A Reprise and Introduction, 2 Colum. J. Eur. L. 395 (1997) (paper delivered at Columbia-Frankfurt symposium on comparative federalism at Columbia University School of Law, April 11, 1996)
- Transnational Provisional Relief in the Courts, in INTERNATIONAL DISPUTE RESOLUTION: THE REGULATION OF FORUM SELECTION (J.L. Goldsmith, ed.) 99 (Transnational Publishers Inc., Irvington, N.Y., 1996) (paper delivered at 14th Sokol Colloquium on Private International Law, University of Virginia School of Law, March 23, 1996)
- Civil Procedure: Trends and Recent Developments in Civil Procedure: Towards a Modern *ius commune*, in International Association of Legal Science, 1995 Colloquium 253 (Universidad Argentina de la Empresa, Buenos Aires, Argentina, 1999) (paper delivered at colloquium of International Association of Legal Science (IALS), Buenos Aires, Argentina, Sept. 6, 1995)
- The Constitutional Amendment Process, in THE EUROPEAN CONSTITUTIONAL AREA (R. Bieber & P. Widmer, eds.) 291 (Schulthess Polygraphischer Verlag, Zurich 1995) (paper delivered at colloquium on the European Constitutional Area, Swiss Institute of Comparative Law and University of Lausanne, Lausanne, Switzerland, April 11, 1995)
- Harmonization of Law and Regulatory Federalism, in HARMONIZATION OF LEGISLATION IN FEDERAL SYSTEMS (I. Pernice, ed.) 37 (Nomos Verlagsgesellschaft, Baden-Baden 1996) (paper delivered at Columbia-Frankfurt symposium on comparative federalism at University of Frankfurt-am-Main, Frankfurt, Germany, Feb. 9, 1995)
- Decisionmaking Aspects of the European Commission (paper delivered at annual meeting of the Association of American Law Schools, New Orleans, Jan. 6, 1995)

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- Regulatory Cooperation by the EC Commission with US Agencies (report to the Administrative Conference of the United States, Washington, D.C., December 1994)
- Subsidiarity as a Principle of U.S. Constitutional Law, in U.S. NATIONAL REPORTS TO THE XIVth CONGRESS OF THE INTERNATIONAL ACADEMY OF COMPARATIVE LAW (Athens, Greece, August 1994) (G. Bermann, F. Juenger, P.J. Kozyris, eds.), 42 Am. J. Comp. L. (Supp.) 555 (1994)
- Post-Maastricht Europe (paper delivered at 1993 International Law Weekend, New York City Bar Association, Oct. 29, 1993)
- Managing International Regulatory Cooperation (paper delivered at conference of Organization for Economic Cooperation and Development [OECD], Paris, France, Oct. 4, 1993)
- Subsidiarity and the European Community, in POST-MAASTRICHT EUROPE (P. Lützel, ed.) 153 (Berghahn Books 1994) (paper delivered at conference on Post-Maastricht Europe at Washington University in St. Louis, Oct. 2, 1993)
- Taking Subsidiarity Seriously (paper delivered at conference of Department of Justice of Canada on Federalism, Economic Union and Subsidiarity: Canadian and European Perspectives, Ottawa, Canada, April 30, 1993)
- Subsidiarity and Federalism (paper delivered at symposium of Hastings International and Comparative Law Review on the European Community, San Francisco, California, March 27, 1993)
- Moderator, Foreign Sources of Financing Privatization, at conference on Privatization in Eastern Europe (Parker School of Foreign and Comparative Law at Columbia University, New York, New York, Feb. 18, 1993)
- The Contemporary Use of Comparative Law in Law Reform (paper presented at annual meeting of the Association of American Law Schools, San Francisco, California, Jan. 9, 1993)
- Le Dialogue entre les Entreprises et le Gouvernement fédéral aux Etats-Unis (paper delivered at colloquium of la Commission pour l'Etude des Communautés Européennes [CEDECE] at Université de Paris II, Paris, France, Oct. 8-9, 1992)
- Moderator, Communitarianism and the Law (annual meetings of American Society of Comparative Law and International Association of Legal Science, Provo, Utah, Sept. 1992)
- Commentator, The Impact of European Integration on Private Law (comment on papers delivered at the Eason-Weinmann Colloquium of the Tulane Law School at University of Helsinki, Helsinki, Finland, June 4, 1992)
- 1992: The European Community at a New Crossroads (annual meeting of the American Society of International Law, Washington, D.C., April 18, 1991)
- Le dualisme juridictionnel: le débat aux Etats-Unis, in LE DUALISME JURIDICTIONNEL (G. Timsit, ed.) 56 (Paris: Presses Universitaires de France 1992) (paper delivered at colloquium of Université de Paris I at the French Senate, Paris, France, May 11, 1990)
- Anti-suit Injunctions in International Litigation, and moderator of panel on Provisional Relief from Foreign Courts in International Litigation (1989 International Law Weekend, New York City Bar Association, Nov. 4, 1989)
- Le droit administratif américain et le droit administratif français, 42 Conseil d'Etat, Etudes et Documents 169 (1990) (paper for seminar of United States Supreme Court justices, federal circuit court judges and members of the French Conseil d'Etat, in the Franco-American Judicial Exchange, at the National Archives, Washington D.C., Sept. 5, 1989)
- Moderator of panel on Equality, Minorities and Pluralism, at Conference of Columbia University Center for the Study of Human Rights on The Declaration of the Rights of Man: France and the United States (Columbia University, April 5-6, 1989)
- The Autonomy of the International Arbitral Process (paper delivered at the Third Journées Juridiques Franco-Américaines, New Orleans, Louisiana, Nov. 11-12, 1988)
- The Legal Uniqueness of the Italian Constitution, in 2 Italian Journal 5 (1988) (paper delivered at Columbia University colloquium on the Fortieth Anniversary of the Italian Constitution, New York, New York, Sept. 30, 1988)

Professor G.A. Bermann

- Le régime juridique des fondations aux Etats-Unis, in *LE DROIT DES FONDATIONS EN FRANCE ET A L'ETRANGER* (La Documentation Française, Notes et Etudes Documentaires, no. 4879) 65 (Paris 1989) (paper delivered at colloquium organized by the Collège de France, Paris, France, Jan. 29-30, 1988)
- Federalism: European and American, in *TWO HUNDRED YEARS OF US CONSTITUTION AND THIRTY YEARS OF EEC TREATY* (K. Lenaerts, ed.) 75 (Brussels: Story-Scientia, and Deventer: Kluwer 1988) (paper delivered at Leuven Day, Leuven University, Belgium, Mar. 27, 1987)
- Les mesures de restriction aux exportations d'application extraterritoriale dans les relations entre l'Europe et les Etats-Unis, in *LES RELATIONS COMMUNAUTÉ EUROPEENNE ETATS-UNIS* (J. Bourrinet, ed.) 169 (Paris: Economica 1987) (paper delivered at colloquium of la Commission pour l'Etude des Communautés Européennes [CEDECE] at Université d'Aix-Marseille, France, Oct. 9-10, 1986)
- Public Law in the Conflict of Laws, in *LAW IN THE USA FACES SOCIAL AND SCIENTIFIC CHANGE* (Reports for the Twelfth World Congress of Comparative Law, Sydney-Canberra, Australia), published in 34 *Am. J. Comp. L. (Supp.)* 157 (1986)
- The Premises of Government Liability (paper delivered at Administrative Conference of the United States, Washington, D.C., plenary session of June 14, 1985)
- Comment, Government in the Sunshine: Lessons from the American Experience (paper delivered at the Second Journées Juridiques Franco-Américaines, Paris, France, Mar. 17-19, 1983)
- Administrative Delay and its Control, in *LAW IN THE USA FOR THE 1980s* (Reports for the Eleventh World Congress of Comparative Law, Caracas, Venezuela) (J. Hazard & W. Wagner eds.), published in 26 *Am. J. Comp. L. (Supp.)* 473 (1982)
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- Jurisdictional and *Forum non Conveniens* Limitations on the Enforcement of Foreign Arbitral Awards (co-authored report for the NYC Bar Association, committee on international dispute resolution, forthcoming, 2006, in the American Review of International Arbitration)
- General Editor, Columbia Law Series on WTO Law and Policy (Cambridge University Press)
- General Editor, Columbia-London Law Series in Comparative Law (Hart Pub., Oxford, UK)
- Editorial: “La Constitution interminable de l’Europe,” Le Figaro (Oct. 27, 2004), La Libre Belgique (Oct. 29, 2004)
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- Book Review, Z. Nedjati and J. Trice, English and Continental Systems of Administrative Law, 28 Am. J. Comp. L. 105 (1980)

GUEST LECTURES AND KEYNOTE ADDRESSES:

- Cravath, Swain & Moore LLP (2014)
 « International commercial Arbitration : Past, Present and Future »
 McGill University, Montreal (2012)
 « The Arbitrability Trap » (John E. C. Brierley Memorial Lecture)
 Washington & Lee University School of Law, Lexington, Va. (2012)
 «Exceptionalism in the U.S. Law of international Arbitration »

Professor G.A. Bermann

- Institute for Transnational Arbitration, Annual Meeting of Academic Council, San Francisco, CA (2012)
« A Conversation with George Bermann » (« fireside chat » luncheon conversation with David Caron)
- Loyola University School of Law, Chicago, Ill, Wing-Tat Lee Distinguished Lectureship in International and Comparative Law (2011)
« American Exceptionalism in International Arbitration »
- Fordham Law School (keynote address for 6th Annual Arbitration & Mediation Conference) (2011)
« American Exceptionalism in International Arbitration »
- Gateway Issues in International Commercial Arbitration (luncheon keynote address to International Chamber of Commerce, Young Arbitrators Forum, Global Conference, Paris, France (2011)
- University of Freiburg, Germany (keynote address for opening of Institute on Media and Information Law) (2011)
« Data Privacy Protection : Cooperation and Conflict between the EU and US »
- Max-Planck Institut für Privatrecht und Internationales Privatrecht, Hamburg, Germany (2011)
“The Gateway Problem in International Commercial Arbitration “
- Les Questions Liminaires en Arbitrage International Commercial (Cour de Cassation, Paris, France, March 11, 2011)
- International Chamber of Commerce, Court of Arbitration (2011)
“The Gateway Problem in International Commercial Arbitration “
- University of Stockholm, Sweden (2011)
“Domesticating the New York Convention in American Law”
- Deutsche-Amerikanische Juristen-Vereinigung, Stuttgart, Germany (2011)
« Adapting the Federal Arbitration Act to the New York Convention in American Law »
- University of Vienna (2011)
« A Status Report on the American Law Institute Restatement of International Commercial Arbitration »
- University of Geneva, Institut des Hautes Etudes (2010)
« Domesticating the New York Convention in American Law »
- City University of Hong Kong, graduation speaker for Program in legal education for mainland Chinese judges (City University of Hong Kong, 2010)
“Solving the Puzzles of Parallel Litigation”
- Practicing Law Institute, New York (2010)
“The Restatement of International Commercial Arbitration: An Update”
- International judicial Academy (2009)
Seminar on International Arbitration Issues for U.S. Judges, held at U.S. district court for the eastern district of New York
- Bar Association of Washington, D.C. (2009)
“The Restatement of the US Law of International Commercial Arbitration: A Progress Report”
- International Law Weekend West (Willamette Law School, Salem, Oregon, 2009)
“The American Law Institute Goes Global”
- American Society of International Law (ASIL), 2009 annual meeting, Washington DC, 2009)
“Restating the U.S. Law of International Commercial Arbitration”
- George Washington University Law School Global Law Workshop, Washington DC, 2009)
“Restating the U.S. Law of International Commercial Arbitration”
- New York Law School, C.V. Starr Lecture (2009)
“The Restatement of International Commercial Arbitration”
- American Foreign Law Association, New York, N.Y. (2009)
“The ‘International’ American Law Institute” (2009)
- University of Kansas (Lawrence, Kansas), Inaugural Lecture of the endowed Robert Casad Lecture Series (2008)
“U.S. Class Actions and the ‘Global Class’”

Professor G.A. Bermann

- University of Paris I (2007)
 - « La Concertation Reglementaire entre l'Union Europeen et les Etats-Unis »
- Columbia Law School Association, at Allen & Overy LLP, London, U.K. (2006)
 - “A Transatlantic Perspective on EU Law”
- Columbia Law School Lecture Series on Challenges of International Governance Regimes (2004)
 - “The European Union as a Constitutional Experiment”
- Cour de Cassation (Supreme Court) of France (2003)
 - “Le droit comparé et le droit international: alliés or ennemis?”
- American Foreign Law Association (New York) (2003)
 - “The Expatriation of US Statutory Claims”
- Cambridge University (UK), Center for European Law, Cambridge, UK (2002)
 - “The Judicial Role in Policing Federalism: The US and the EU”
- Institut des Science Politiques, Paris, France, (2002)
 - “The Judicial Role in Policing Federalism: The US and the EU”
- European Community Studies Association, 6th biennial conference, Madison, Wis (2001)
 - «Law in an Enlarged European Union», published in 4 European Union Studies Association (EUSA) Review, no. 3 (summer 2001)
- British Institute of International and Comparative Law, London, UK (2001)
 - «European Law and European Enlargement»
- Institut de Droit Comparé, University of Paris II, Paris, France (2001)
 - «Proportionality and Federalism in Recent Supreme Court Case Law»
- Federal Judicial Center and Princeton University, Princeton, NJ (2001)
 - “European Union: Between Law and Politics”
- European University Institute, Florence, Italy (2001)
 - «Litigating in the Other’s Court: A New Forum for Fashioning EU/US Relations»
- Columbia University, School of International and Public Affairs (1999-2001)
 - “Law in an Enlarged European Union”
- Princeton University, Center of International Studies, Princeton, New Jersey (2000)
 - «The States and Foreign Affairs»
- Tulane University, School of Law, New Orleans, Louisiana (2000) «Introduction to the Centennial World Congress of Comparative Law»
- University of Wisconsin, Madison, Wisconsin (2000) «Genetically-Modified Organisms and Food Safety in US/ EU Relations»
- European University Institute, Florence, Italy (2000)
 - «Federalism and the Treaty Power»
- School of International and Public Affairs, Columbia University (2000)
 - «Flexibility in the EU: A Critique of the Amsterdam Treaty’s Provisions on ‘Closer Cooperation’»University of Paris I, France (1998)
- University of Paris I, France (1998)
 - «Constitutional Jurisdiction of U.S. Courts over Non-Nationals
- Legal Service of the Commission of the European Communities, Brussels, Belgium (1998)
 - «Federalism Obstacles to Effective US Participation in International Legal Regimes»
- Princeton University, Woodrow Wilson School of International Affairs, New Jersey (1998)
 - «Subsidiarity: An Update»
- Princeton University, Alumni College, New Jersey (1997)
 - «The Idea of Europe: A Legal Dimension»
- Universities of Berlin (Humboldt University), Bonn, Erlangen-Nürnberg and Munich, Germany (1997)
 - «An American Perspective on the 1996 European Intergovernmental Conference»
- Universities of Rome (La Sapienza), Italy, and Lausanne, Switzerland (1997)
 - Subsidiarity: Does it Have a Future?» (published in Centro di studi e ricerche di diritto comparato e straniero, «Saggi, Conferenze e Seminari» (No. 26) (Rome, 1997))

Professor G.A. Bermann

American Bar Association, Section of Administrative Law and Regulatory Practice 1996 Mid-year Meeting, Baltimore, Maryland (1996)
"Regulatory Practice in the European Commission"
University of Barcelona, Spain (1995)
"U.S. Administrative Law in Comparative Perspective"
Tulane Law School, Eason-Weinmann Distinguished Lecture, New Orleans, Louisiana (1994)
"European Community Law from a US Perspective"
Legal Service of the Commission of the European Communities, Brussels, Belgium (1994)
"The Interstate Commerce Clause: Lessons for the European Community"
Association of the Bar of the City of New York, Comparative and Foreign Law Committee (1992)
"Europe after the French Referendum on Maastricht"
Association of the Bar of the City of New York, International Law Weekend (1992)
"The Maastricht Treaty"
National People's Congress of the People's Republic of China (Legislative Affairs Commission, Administrative Litigation Research Group), Beijing, China (1991)
"Administrative Procedure in the United States and in Western Europe"
National People's Congress of the People's Republic of China (Legislative Affairs Commission, Administrative Litigation Research Group) Beijing, China (1989)
"Government Liability in the United States, France, West Germany and the European Economic Community"
New York State Bar Association annual meeting, New York, New York (1989)
"1992: Its Constitutional Significance"
Carnegie Council on Ethics and International Affairs, New York, New York (1987)
"The Single European Act: A New Constitution for the Community?"
Crossroads Africa, African Leaders Program, Southampton, New York, New York, (1983-87)
"Introduction to the American Legal System" (orientation seminar for African jurists)
University of Clermont-Ferrand, Clermont-Ferrand, France (1982)
"Vermont Yankee and Judicial Review of Agency Rulemaking" and
"Trends in Governmental and Officer Liability in the United States"
Centre d'Etudes du "Common Law," University of Paris I, Paris, France (1982)
"Trends in Governmental and Officer Liability in the United States"
University of Lausanne, Lausanne, Switzerland (1982)
"Legislative Control of Administrative Action in the United States,"
"Executive Control of Administrative Action in the United States," and
"Judicial Control of Administrative Action in the United States"
University of Paris I, Paris, France (1981)
"Freedom of Information in the United States" and "Proceduralism in American Administrative Law"
Max-Planck-Institut, Hamburg, Germany (1980)
"Governmental Liability Reform in Germany and the United States"
University of Bonn, Bonn, Germany (1980)
"Governmental Liability Reform in Germany and the United States"

HONORARY DEGREES AND AWARDS:

Université de Versailles-St. Quentin (France), doctorate *honoris causa* (conferred Oct. 2011)
Honorary Member, Group of the 100 of the Center of Legal Innovation, Development and Research for Latin America (Feb. 2011)
Honorary Member, American Association of Private International Law (ASEDIP) (Nov. 2009)
C.V. Starr Award, New York Law School (Apr. 2009)
Honorary Member, American Bar Association, Section of Administrative Law and Regulatory Practice (Aug. 2008)

Professor G.A. Bermann

Director, American Arbitration Association
Tocqueville-Fulbright Distinguished Professorship (University of Paris) (June-Dec. 2006)
Arbitration recognition
 Chambers USA (2006 to date)
 Who's Who Legal (2005 to date)
 Juris Guide to International Arbitrators (2001 to date)
Distinguished Service Award, American Foreign Law Association (conferred June 2005)
Honorary President, American Society of Comparative Law (conferred Oct. 2004)
Jean Monnet Chair of European Law (conferred July 2001)

BAR ADMISSIONS:

Supreme Court of the United States (1992)
Southern District of New York (Federal) (1980)
Eastern District of New York (Federal) (1980)
New York State (1972)

LEGISLATIVE TESTIMONY:

UK Select Committee of House of Lords: UK Ratification of the Draft European Constitution (2005)
Senate Judiciary Committee: The OPEC countries, sovereign immunity and act of state (2004)
House Committee on Foreign Affairs: Colombian practice in international arbitration and Andean
 legislation benefits (2002)
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FOREIGN LANGUAGES:

French, German
Spanish (reading)

date: April 2015

Appendix B

Description	Exh. #
<i>China Minmetals Materials Import and Export Co., Ltd. v. Chi Mei Corp.</i> , 334 F.3d 274 (3d Cir. 2003)	N/A
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Eric Schwartz, <i>The Rights and Duties of ICC Arbitrators</i> , in THE STATUS OF THE ARBITRATOR 67 (ICC Ct. Bull. Spec. Supp. 1995)	RLA-15
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George A. Bermann, <i>The "Gateway" Problem in International Commercial Arbitration</i> , 37 YALE J. INT'L L. 1 (2012)	RLA-19
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<i>Inceysa Vallisoletana, S.L. v. Republic of El Salvador</i> , ICSID Case No. ARB/03/26, Award (Aug. 2, 2006)	RLA-22
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Joint Report of the International Commercial Disputes Committee and the Committee on Arbitration of the New York City Bar Association, <i>Secretaries to International Arbitration Tribunals</i> , 17 AM. REV. INT'L ARB. 575 (2006)	RLA-24
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KLAUS PETER BERGER, <i>Part III, 27th Scenario: Deliberation of the Tribunal and Rendering of the Award</i> , in <i>Private Dispute Resolution in INTERNATIONAL BUSINESS NEGOTIATION, MEDIATION AND ARBITRATION</i> 613 (3d rev. ed. 2015)	RLA-26
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<i>Maritime International Nominees Establishment (MINE) v. Guinea</i> , ICSID Case No. ARB/84/4, Decision (Jan. 6, 1988)	RLA-28

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<i>Occidental Petroleum Corp, & Occidental Exploration and Prod. Co. v. Republic of Ecuador</i> , ICSID Case No. ARB/06/11, Award, (October 5, 2012)	RLA-33
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Pierre Bienvenu & Martin J. Valasek, <i>Compensation for Unlawful Expropriation, and Other Recent Manifestation of the Principle of Full Reparation in International Investment Law</i> , in 50 YEARS OF THE NEW YORK CONVENTION (Albert Jan van den Berg (ed.), ICCA Congress Series vol. 14 2009)	RLA-50
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Robert H. Smit, <i>Separability and Competence-Competence in International Arbitration: Ex Nihilo Nihil Fit? Or Can Something Indeed Come from Nothing?</i> , 13 AM. REV. INT'L ARB. 19 (2002) (excerpt)	RLA-39
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<i>Soleimany v. Soleimany</i> , [1999] QB 785 (1998)	RLA-42
<i>Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentine Republic</i> , ICSID Case No. ARB/03/19 (Apr. 9, 2015)	RLA-44
The Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Amended by 2010 Protocol) (opened for signature on 1 June 2011), Preamble	RLA-45
Thomas Clay, <i>Le secrétaire arbitral</i> , REVUE DE L'ARBITRAGE (Issue 4 2005)	RLA-10
<i>Thomson CSF v. Société Brunner Sociedade Civil de Administracao Limitada and Société Frontier AG Bern</i> , Paris Court of Appeal (Sept. 10, 1998)	RLA-46
<i>Wena Hotels Limited v. Arab Republic of Egypt</i> , ICSID Case No. ARB/98/4, Annulment Proceedings, Decision (Feb. 5, 2002)	RLA-47

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William W. Park, <i>Determining Arbitral Jurisdiction: Allocation of Tasks Between Courts and Arbitrators</i> , 8 AM. REV. INT'L ARB. 133 (1997)	RLA-48
3. Record Documents	
2012 White & Case/Queen Mary International Arbitration Survey	R-156
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Carole Chaski, Expert Report Regarding Authorship of the Final Awards	R-251
Expert Opinion of Professor Avakian dated February 21, 2006	R-311
Expert Report of Professor Asoskov dated October 30, 2014	N/A
Expert Report of James Dow dated November 8, 2014	N/A
Global Arbitration Review, 45 Under 45 (2011), <i>available at</i> http://globalarbitrationreview.com/surveys/article/29699/gar-45-under-45-2011-introduction/	R-312
Hulley Final Award dated July 18, 2014	R-63
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LCIA Website, Frequently Asked Questions, "What is the LCIA's position on the appointment of Secretaries to Tribunals", http://www.lcia.org/frequently_asked_questions.aspx	R-313
Letter from Secretariat to Parties dated June 2, 2009, enclosing Statement of Account dated February 4, 2009 for the period through December 31, 2008	R-314
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Opinion of Professor Baglay dated February 26, 2006	R-317
Profile of Martin Valasek, Norton Rose Fulbright Webpage, <i>available at</i> http://www.nortonrosefulbright.com/people/42426/martinjvalasek	R-318
Russian Federation Statement of Reply before the District Court of the Hague dated September 16, 2015	R-318
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