Association for International Arbitration
In Touch

January 2010

arbitration-adr.org

CONTACT US:
146, Avenue Louise
B-1050 Brussels
Belgium
Fax: +32 2 646 24 31
Tel: +32 2 643 33 01
Email:
administration@arbitration-adr.org

Inside this month's issue:

Season's Greetings from the AIA

As the year draws to a close, the sun sets on the horizon of 2009, with the promise for a better, brighter and bigger 2010.

We are thankful to our members and readers for their continued faith and support.

As promised 2009, was a year of great achievements for the AIA. We organized some great conferences in Brussels, the capital of the European Union, that saw tremendous participation from leading arbitrators across the globe.

Our readership and membership base grew still bigger. We are proud to announce that by the end of the present year we have one of the largest readership bases with over 30,000 readers from all across the world and over 500 plus members, as the numbers continue and look only one direction viz north.

Once again we thank you for your support and cooperation and promise to organize and collaborate in arbitration events across the world.

It would be a pleasure to hear from you and what positive changes you would like to see in 2010.

Yukos Shareholders Draw One Step Closer to Compensation

On November 30, 2009 Yukos shareholders drew one step closer to enforcing their claim for compensation after Russia's politically motivated act of expropriation of the former oil company's assets in Russia. The Permanent Court of Arbitration in The Hague (Netherlands) found their claim to be admissible and declared itself competent to decide on the subject matters of the dispute. In essence, the judgment binds Russia to conduct the arbitration in compliance with the Energy Charter Treaty (ECT) and allows Yukos shareholders to pursue their claim of over US$ 100 billion in damages from the government of Russia.

Russia's History in ECT

The Energy Charter Treaty—ECT, was signed by 51 states, including Russia, in December of 1994. The ECT was drafted in the aftermath of the Cold War and was thought to be the perfect instrument to align the needs of the East to export its energy resources with the high demands of Western and Central Europe to off-take and import vast amounts of energy. While the core principle of the ECT was to provide foreign (mostly European) investors with adequate protection against state measures of the country where the energy project was being undertaken, it is said that its purpose was mainly concerned with unifying the East with the West.

The ECT provides for two dispute settlement procedures. One of them consists of a state-vs-state arbitration mechanism for interstate trade and transit disputes. The other contains an arbitration procedure for energy investment related conflicts (i.e. wrongful expropriation by the host government) that arise between foreign investors and national authorities where a bilateral investment treaty has been concluded between the investor's home country and the investment project's host state. The number of these international arbitrations linked to the energy sector is increasing, as a result of the proliferation of international energy contracts which have binding arbitration clauses, the increase in the number of treaties signed between nations, and the substantial changes in international energy policies, regulations, economics and markets.

While Russia is a signatory to the ECT, until today, it has not yet made any efforts to ratify its provisions. At the time of the Treaty's signing, Russia swore to comply with the substance of the Treaty's wordings on a provisional basis until October 19, 2009. It was therefore obliged to provide foreign investors with equal protection when investing in energy projects in Russia within this period. The issue at stake is the extent to which Russia is and was bound by this provisional application after Russia has renounced from planning to ratify the ECT on August 18, 2009 and has let the provisional application expiry date of October 19, 2009 pass.

Factual Background of the Yukos Case

As Russia's largest private oil company at the time, OJSC Yuganskneftegaz, the most valuable subsidiary of the larger Yukos Group, was expropriated in 2004 in what appeared to be a politically motivated move against Yukos's founder, Mikhail Khodorkovsky. However, Yukos's expropriation has, from that point onwards, been repeated in a number of cases where oil and gas companies have been forced to sell assets. Through this expropriation, the state owned oil company Rosneft acquired the assets and liabilities of OJSC Yuganskneftegaz. Amongst these liabilities were four loan debts to be serviced to Yukos Capital, a second Yukos subsidiary established in Luxembourg. In the loan agreements, an arbitration clause was included which obliged the parties to arbitrate their disputes concerning the loans in case it was impossible for them to renegotiate the terms of the agreements.

Prior to the expropriation, Yukos Capital had already obtained four Russian arbitral awards in its favor to have the loans repaid by OJSC Yuganskneftegaz. After the fusion of Yuganskneftegaz with Rosneft, Yukos Capital proceeded to request the execution by Rosneft of the arbitral awards. In May of 2007, the Arbitrazh Court of the City of Moscow, however, set aside all awards due to Rosneft's complaint of several procedural violations on behalf of the arbitral tribunal, including the partiality of an arbitrator who attended a seminar organized by Yukos Capital's lawyer.

Reluctant to throw in the towel, Yukos Capital later sought enforceability of the awards in the Netherlands, the country where several assets of Rosneft were located. However, the Dutch Court of First Instance upheld the non-recognition and unenforceability of these awards due to the fact that the decision by the Russian civil courts had to be respected unless general public policy provisions concerning due process such as the principles of impartiality and independence of the judiciary power were violated by the Russian courts. It was said that such an allegation was not adequately proven by Yukos Capital that primarily used newspaper articles to establish the Russian state's influence on Russian courts' judgments in cases where the Russian state was acting as a party or was indirectly involved, e.g. by having a majority shareholder in one of the parties concerned.

On April 28, 2009, the Amsterdam Court of Appeal, however, found the same arguments brought forward by Yukos Capital, which were backed up by several reports and evidentiary case law , to be sufficient to establish the partiality and dependence of the Russian Arbitrazh Court of the City of Moscow, when it set aside the four arbitral awards. By violating Dutch *ordre public*, the judgment of the Russian courts was therefore to be ignored under the New York Convention and should not have hindered the enforceability of the four awards in the Netherlands.

Back in 2005, Hulley Enterprises, Yukos Universal, Veteran Petroleum Trust and Group Menatep (GML), Yukos former shareholders, filed another arbitration claim against Russia under the provisions of the ECT for the alleged expropriation of their investment in Yukos. In essence, they blamed Russia for not intervening and forcing Rosneft to order its acquired subsidiary OJSC Yuganskneftegaz to repay the loans to Yukos Capital. It is said that there was a depreciation in value of over US $1 billion for the former Yukos shareholders because of Russia's and Rosneft's alleged passivity. Russia, however, denies the jurisdiction of the Permanent Court of Arbitration in The Hague (Netherlands) appointed under the auspices of the ECT and argues that the absence of a parliamentary ratification procedure is inconsistent with the provisional application of the ECT by Russia.

Russia Bound by Provisional Application for Another 20 Years

Although a final award is not expected to be made over the next two years, the Permanent Court of Arbitration has, nevertheless, reached a decision on its jurisdiction to deal with the claims former Yukos shareholders have brought forward against Russia. The partial award made on November 30, 2009 was not published in order to safeguard the confidentiality in the ongoing dispute, but a press conference of the former Yukos shareholders' counsel revealed a tip of the iceberg.

Confirming ICSID's decision in *Ioannis Kardassopoulos v. Georgia,* the Permanent Court of Arbitration found itself competent under the ECT to decide on the merits of the case. The Permanent Court of Arbitration was not convinced by Russia's argument that it should not be bound by the arbitration provisions of the ECT (art. 26) because it had explicitly renounced from its ratification plans on August 18, 2009 or that the provisional application expiry date of October 19, 2009 had already passed.

The Court's finding is rather unsurprising in light of art. 23 of the 1995 Federal Law on International treaties of the Russian Federation, which explicitly recognizes the provisional application by Russia of international treaties provided that

such treaties so proclaim. Art. 45 of the ECT becomes relevant on this point, since it confirms the provisional application of the ECT insofar as it is consistent with the signatory's domestic legislation. More precisely, the Court declared that: *"pursuant to Article 45(3)(b) of the Treaty, investment-related obligations, including the obligation to arbitrate investment-related disputes ... remain in force for a period of 20 years following the effective date of termination of provisional application. In the case of the Russian Federation, this means that any investments made in Russia prior to October 19, 2009 will continue to benefit from the Treaty's protection for a period of 20 years – i.e. until October 19, 2029."*

It is thus fair to say that the former Yukos shareholders are now protected under the arbitration provisions of the ECT and are now one step closer in obtaining compensation for the nationalization of their oil assets. One of Russia's other defenses was its argument that GML was not the proper claimant to this dispute and should, therefore, be denied the admissibility to claim for damages. The Permanent Court of Arbitration also rejected this argument since it explicitly found the shareholders' claim to be admissible.

It is now upon GML and other former Yukos shareholders to prove on the merits that they have been discriminated against by the Russian government.

Consequences for energy related investments under the ECT

Although one swallow doesn't make a summer, it appears that the Permanent Court of Arbitration's partial award will provide some reassurance for foreign investors putting money into energy projects set up in an ECT signatory country that has opted for a provisional application approach and subsequently wishes to break its 'promise' to arbitrate investment / expropriation related disputes. Such countries are looking at another two decades of providing ECT protection after their declaration of renunciation from the ECT has been notified to the ECT Depositary. It is said that this decision will trigger a flood of new expropriation cases in the energy and oil industry brought by foreign investors against Russia. One can think primarily of some smaller former shareholders of Yukos such as Rosinvest and those litigating before the Stockholm courts.

The question also arises what the future foreign investment policy of Russia will entail now that it has suggested a preference for a new legal basis for international cooperation in the field of energy in the EU-Russia Energy Dialogue Progress Report of November of 2009. The EU is on negotiating terms with Russia to agree on a new version of the Partnership and Co-operation Agreement (PCA) of 1994, the energy chapter of which should include several key principles also contained in the ECT. The PCA, however, is a bilateral agreement between two countries that can only become legally enforceable where an investor and its counterparty agree to the terms of the PCA in their investment contract. Whether this agreement will convince Russia to reverse its tight policy of state control over energy matters, remains to be seen.

The EU-Russia Energy Dialogue Progress Report of November of 2009 at least brings forward Russia's intention to implement "a formerly approved schedule of electrical energy and power markets' liberalization". It continues by saying that "a long term power market model, which increases investor confidence and contributes to creating a solid basis for developing an electrical energy industry investment strategy, is being implemented".

Arbitration Awards and Third Parties

Modern industrial and commercial transactions have reached such a degree of complexity, that the classic one-contract-two-parties model is threatened with extinction. Rather, multiple parties enter into multiple contracts for the completion of a single economic transaction. The rights and obligations of the parties in such transactions are factually and legally linked, crossed and interdependent. Therefore, one event may give rise to multiple disputes between different combinations of parties.


Kristof Cox

Ideally, such multi-party disputes would be resolved by one decision maker in one decision. However, parties A and B may opt for the Brussels based Institute of Arbitration with three arbitrators; parties B and C for ICC-arbitration with a single arbitrator sitting in Paris; parties C and D for ad hoc arbitration under the UNCITRAL-rules and maybe D and A select the courts of New York. Even if all parties to the transaction are bound by the same arbitration agreement, the inherent difficulties of multi-party arbitration may lead to the splitting-up of the dispute into several parallel and subsequent court and arbitral proceedings.

Since all these proceedings deal with the same transaction, the judges and arbitrators are presented with connected and even identical issues of fact and law. Inevitably, one of the proceedings will be first to result in a decision on those issues. The party in subsequent

AIA
arbitration-adr.org

proceedings that is favored by that decision will be tempted to rely on it, no matter whether he and/or his opponent were parties to the prior arbitration. Which effect – if any - should the judge or arbitrator in the second proceedings attach to the findings of the earlier award? That is the question **Kristof Cox** examines in his thesis **"Arbitration awards and third parties"**. His thesis focuses on the Belgian, French, English and American law on this largely undiscovered subject. The thesis does not specifically focus on investment arbitration, given the fundamentally different nature of investment arbitration and international commercial arbitration.

The effects of an arbitration award vis-à-vis third parties are not determined by conventions, arbitration acts and procedural rules. Therefore, Kristof Cox goes back to the foundations underlying the *res judicata* effect of a judicial decision in general: finality, consistency, legal certainty and efficiency. The thesis seeks to establish those effects of an arbitration award vis-à-vis third parties that further the foundations of *res judicata* to the furthest possible extent, without violating the fundamental due process rights of both parties and third parties.

So far, much confusion surrounding the issues has been caused by unclear definitions of "party", "arbitration award" and the parts of the award that may enjoy res judicata effect. The thesis suggests that third parties to an arbitration award are all those that are not parties. Parties to an award on jurisdiction are all those over whom it has been claimed that the tribunal has jurisdiction. Parties to an award on the merits are all those over whom the tribunal has actually assumed jurisdiction. All documents rendered by the tribunal that contain decisions on issues of fact and/or law that were explicitly disputed by the parties qualify as arbitration awards. All those decisions may potentially enjoy *res judicata* effect.

To further the rationale of *res judicata*, the findings of an arbitration award should function as binding irrefutable evidence against the parties to the award, even if these findings are invoked by a third party. Many arguments have been raised why such an effect would not be appropriate: mutuality (*an award should not work for a third party if it may not work against him*), the procedural differences between arbitration and litigation (*arbitration would be more informal and therefore less accurate*) and the private and contractual nature of arbitration (*which would also be witnessed by the confidentiality of arbitration and the requirement of consent for consolidation of proceedings and the joinder or intervention of third parties*). However, the author shows why these counterarguments are not persuasive.

While the traditional assumption is that a decision between others should have no effect *against* third parties, this thesis submits that the findings of an arbitration award should function as a refutable presumption against third parties. To rebut the presumption, it should not be required that the third party formally initiates third party opposition. Further, the initiative to challenge an arbitral award should be reserved to the parties.

Certain third parties, however, are in such a specific relation of dependence to the parties (*successors, insurers, guarantors, sub-contractors, etc.*), that the findings of an arbitration award may create a binding irrefutable presumption against them. The basis for the binding effect does not lie in any theory of virtual representation, but in the legal relation between the parties and the third party itself.

Finally, Kristof Cox presents a short and ready-to-use set of guidelines on the effects of an arbitration award vis-à-vis third parties. These guidelines may be supplementary to the guidelines of the International Law Association on *Res Judicata* and Arbitration. Thereby, this study seeks to shed some light on the dark and complex questions that flow from the confrontation between *res judicata*, arbitration and third parties.

The Court of Arbitration for Sport Updates its Rules of Procedure.

By Ian Blackshaw*

The Court of Arbitration for Sport (CAS), based in Lausanne, Switzerland, has revised its procedural rules and issued a new Code of Sports-related Arbitration, effective as of January 1, 2010, in respect to cases filed on or after that date, unless the parties to existing CAS proceedings agree to apply the new rules to their ongoing case.

The new rules replace those issued in January of 2004; the rules are issued in the two official languages of the CAS: English and French, both of which are authentic. But, in the event of any discrepancy between them, the French text shall prevail (Art. R69).

Included in the changes is a new Schedule of Arbitration Costs. The filing fee remains the same at Sw.Frs. 500 (non-refundable), and there are increased costs payable in respect of matters where the value of the dispute exceeds Sw.Frs. 500,000.

One of the other main changes is that, in future, a CAS Arbitrator or Mediator may not act as Counsel before the CAS. This new rule is to avoid conflicts of interests and to preserve the independence of CAS Arbitrators and Mediators and of the CAS itself. This change has been mooted for some time and is now part of the rules (Art. S18).

Another important change is that exhibits attached to written submissions may now be sent to the CAS Court Office by electronic mail and the CAS may also distribute them amongst the parties electronically (Art. R31).

Also, dissenting opinions amongst members of CAS Panels are not recognised and not recorded in the Awards (Art. R59). Thus, majority decisions are accepted. Furthermore, a new time limit for rendering an Award of 3 months from the date of transfer of the complete case file to the Panel of Arbitrators has been introduced (*ibid*.). This replaces the previous general time limit of four months.

New decentralised offices of the CAS, in addition to those already established in Sydney and New York, or the possibility of establishing partnerships with arbitral bodies in other countries, with a view to facilitating access to the CAS, are foreseen. Likewise, the possibility of establishing an Ad Hoc Procedure for the FIFA World Cup in South Africa in 2010 is also foreseen.

Again, new guidelines on the provision of legal aid to assist individuals financially to bring cases to the CAS are also foreseen and are to be issued.

There are currently 279 CAS Arbitrators and 67 CAS Mediators, drawn from more than 80 countries around the world, so well able to handle the increasing case load of the CAS, which has just celebrated 25 years of operations, in some measure, the extra work is due to football-related disputes, since FIFA, the world governing body of football, acceded to the CAS in 2002.

The new CAS Rules should go some way to streamlining and speeding up the handling of cases, which, as mentioned, are on the increase.

They will also help to cement the professionalism and independence of the CAS, which is absolutely essential if the sporting world is to have confidence in its operations as the 'Supreme Court of World Sport' which is what the founders of the CAS intended it to be.

Copies of the new rules are available from the CAS Court Office at Chateau de Bethusy, Av. De Beaumont 2, 1012 Lausanne, Switzerland, from the beginning of 2010, and also on the CAS official website at www.tas-cas.org.

** Ian Blackshaw is an International Sports Lawyer; a Member of the CAS; and the author of 'Sport, Mediation and Arbitration' published in 2009 by the TMC Asser Press in The Hague.*

The Independent Arbitrator in Multistep ADR

One of the most resounding issues yet incompletely resolved problem among multistep ADR is the loss of independence and confidentiality that parties must face when the same person who acts as mediator is also acting as arbitrator.

Such situation may appear when mediation is used in a multistep scheme previously to an arbitral proceeding and the mediator that acts in the first instance is in its turn, the arbitrator to the same matter in second instance.

The question revolves around whether or not values such as independence, impartiality, and confidentiality are seen at stake in these cases. Currently, diverse positions can be found among different jurisdictions in relation to this subject, while the absence of explicit regulation leaves the discussion, still unresolved.

Some jurisdictions argue that these precepts of independence, impartiality, and confidentiality have been adopted as principles and therefore see no need for explicit regulation on the matter. In their view, the obligation of disclosure will make it practically unviable for the appointment of an arbitrator to affect the procedural integrity of the arbitration if there were to exist any conflict of interest or previous caucuses. Such are the cases of the ICC rules and the UNCITRAL model law on International Commercial Arbitration which have both provided an obligation of disclosure through the whole life of the arbitration.

In other views, however, it has been implied that if there is no prohibition then the appointment of an arbitrator that has acted as mediator to the same matter is allowed, without restriction, despite the existence of a previous mediation.

Explicit regulation on the matter exposed can be found in the UNCITRAL rules on conciliation which have specifically tackled this situation by indicating in article 19 that "*(…) the conciliator will not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings (…)*".

To avoid regulatory discussion, a rather inadequate solution is often suggested, which is to include an opt-out clause when designing a multistep ADR scheme. This does, in fact grant the involved parties freedom and right to decide if they wish to continue with the arbitration, but will result in a failed application of the ADR method.

Asian arbitral procedures commonly admit pre-arbitral proceedings and seem fairly positive of the idea that the same person can act as mediator and arbitrator in a given proceeding. This is common in China, Hong Kong, and Singapore, amongst others. In these rules, although there are existing provisions and specific ruling on confidentiality, that which in some-way acknowledge the existence of sensible information gained through the process of mediation, yet there is no definite prohibition of any kind in this matter.

Association for International Arbitration
In Touch

Disqualifying an Arbitrator? When form becomes substance

Arbitration is built upon the principle that arbitrators should be independent. Therefore, arbitrators must not be linked to either of the parties and must not have any interest in the outcome of the dispute. This principle has created the obligation of impartiality and disclosure for arbitrators. On the other side of the equation, the parties have the right to ask for disqualification of one or more of the arbitrators when there are doubts which could compromise the arbitration process and its outcome. In a recent decision under the International Centre for Settlement of Investment Disputes (ICSID), the issue has been analyzed from the perspective of what could be a timely or untimely challenge.

Background

In the matter of Cemex Caracas Investments B.V. and *Cemex Caracas II Investment B.V.(The Cemex case) 2008,* companies incorporated in the Netherlands, filed a request for arbitration against the Bolivarian Republic of Venezuela at ICSID. After the claimant requested provisional measures and before the first session of the Tribunal, the respondent filed a formal proposal for disqualification of one of the arbitrators on 26 October 2009.

This formal proposal was preceded by two requests for supplemental information and clarification concerning the exact nature of one of the arbitrator's relationship with a law firm, who was acting as a counsel at that time to *Holcim Ltd., Holderfin B.V. and Caricement B.V.* in a case against the *Republic of Venezuela*, registered by ICSID on April 10, 2009 *(The Holcim case)*, which, like the Cemex case, related to the nationalization of the cement industry in Venezuela taken in 2008.

As part of this process, the arbitrator explained he was a retired partner of the law firm and provided detailed information on the relation under scanner. He specified that the firm has had for many years a generous policy of providing office and some secretariat services to its retired partners. He also mentioned that after his retirement he structured his practice of arbitration so that neither the firm, nor he were in conflict with one another's activities and that he received a pension from the firm based on the firm's earnings during his period of partnership.

Finally, he declared that he did not know that the firm was counsel in the *Holcim case* and had no knowledge about it. In short, he stated that he would decide the *Cemex case* on the sole basis of the relevant facts and the applicable law. On the other hand, the respondent supported its request for disqualification on the ground of the arbitrator's continuing relationship with the law firm and stressed that the necessity of ensuring impartiality and maintaining confidentiality made it inappropriate for the arbitrator to serve as such in the *Cemex case*.

As a result, the two other members of the tribunal informed the parties that they would promptly consider the request for disqualification and that the proceeding was suspended according to article 58 of the ICSID Convention and ICSID Arbitration Rule 9 (4). The President of the Tribunal asked the arbitrator to furnish his explanations and the parties to submit their observations. According to the Decision, the only new argument was presented by the claimant who contended that the respondent's challenge to the arbitrator was untimely.

Discussion and Decision

The analysis of the request was mainly if the proposal to disqualify the arbitrator was untimely. The Tribunal stressed that neither the ICSID Convention, nor the ICSID Arbitration Rules provided a definite deadline beyond which a challenge is not to be considered. It mentioned that this is different in the case of the UNCITRAL Rules where the time limit is 15 days, as well as the Guidelines of the International Bar Association on Conflicts of Interest where the limit is 30 days. Having this in mind, the decision focused on ICSID Arbitration Rule 9 (1) which establishes that a "*party proposing the disqualification of an arbitrator pursuant to Article 57 of the Convention shall* ***promptly,*** *(…) file its proposal with the Secretary-General, stating its reasons therefore*".

It was explained that "promptly" has been defined with words like readily, quickly, directly at once, without a moment's delay and expeditiously by the Oxford English dictionary and the Webster unabridged dictionary. In this context, it is on a case by case basis that the tribunals must decide whether or not a proposal for disqualification has been filed in a timely manner. According to the arbitrators, the text of ICSID Arbitration Rule 9 (1) implies that such a proposal must be made as soon as the party concerned learns of the ground for a possible disqualification. In addition, it was stressed that the sanction for the failure to object promptly is waiver of the right to make objection.

The arbitrators, before reaching a final decision, referred to four previous cases considered under the ICSID forum. First, *Azurix v. Argentina* in which the ICSID Tribunal considered a delay of eight months as obviously too long under any reasonable standard. Second, *CDC v. Seychelles* where the ad hoc Committee arrived at the same conclusion for a delay of 147 days. Third, *Vivendi v. Argentina* where a delay of 53 days in submitting a challenge did not constitute acting promptly given the nature of the case and the fact that the hearings on the merits were scheduled to take place within two weeks of the submission. Fourth, *Saba Fakes v. Turkey*, where the Tribunal noted that the claimant filed its proposal for disqualification promptly, e.g., ten days after the constitution of the Tribunal.

In the present case, the two members of the Tribunal concluded that the respondent

had in April of 2009 all the elements allowing it to raise the issue under consideration way back in September of 2009. Therefore, it unreasonably waited for more than five months to raise questions on the arbitrator and it did it two months after the constitution of the Tribunal. In a nutshell, the Bolivarian Republic of Venezuela did not file the proposal to disqualify the arbitrator "promptly" within the meaning of ICSID Arbitration Rules 9 (1) and therefore it waived such objection under ICSID Arbitration Rule 27. Not surprisingly, and taking into consideration the arguments just mentioned, the members did not consider the substance of the Respondent's objection.

Comment

The recent decision gives a clear message to the parties involved in an ICSID's dispute. The word *prompt* has a clear scope and limit which has been interpreted by different Tribunals. While a factual and circunstantial analysis could apply for every case, the burden of proof about an expeditious and reasonable action is on the party asking for disqualification. The idea behind this interpretation is the fact that the challenges must be made on time and the latter must be probed. This matter is so significant that an aspect of form has become an aspect of substance.

The unresolved question, though, is to what extent is it possible for the same individual to play the role of arbitrator and counsel (or, like in this case, to be linked to a firm providing services as counsel) in separate disputes, particularly where the legal issues are similar. This is a line that will have to be defined at some point.

Elsa Moot Court Competition on WTO Law

The AIA is pleased to honor its promise of a brighter and more eventful new year 2010 by sponsoring the ELSA Moor Court Competition (EMC²) on WTO Law.

The 2010 EMC² involves a hypothetical dispute regarding measures aimed at protecting and enforcing intellectual property rights. The case requires participants to analyze the consistency of certain intellectual property related provisions and certain enforcement provisions with the WTO agreements. The case raises further legal issues regarding the relationship between the WTO, free trade agreements, and general principles of international law.

As *golden sponsors we have the privilege to attend the opening ceremony. The AIA would like to invite its members to participate in the opening ceremony and take advantage of this golden opportunity.*

Attending members will be introduced personally by the president of the AIA, Mr. Johan Billiet, to all the participants of the EMC² .

For more information on the Elsa Moot Court Competition please visit the following web sites

www.elsabelgium.org

www.elsamootcourt.org

Upcoming Events

- **The Resolution of Intellectual Property Disputes.** Yearly Conferences on Intellectual Property Law. Organized by the University of Geneva. February 8, 2010.
- Conference on **The UNCITRAL Model Law on International Commercial Arbitration: 25 years** organized by the Association for International Arbitration in Brussels, Belgium. ***NEW DATE :*** June 4, 2010
- Conference on **The Most Favored Nation Treatment of Substantive Rights** organized by the Association for International Arbitration in Brussels, Belgium. October 22, 2010.

For further information on conferences organized by the Association for International Arbitration in Brussels, Belgium, please visit our web site

http://www.arbitration-adr.org

In Memoriam

Colleague and highly distinguished swiss arbitrator, **Mr. Robert R. Briner** passed away on the 3rd of December, 2009. Mr. Briner was former chairman of the ICC, and chairman to the Iran-United States claims Tribunal in the Hague. The AIA, respectfully sends its sympathy to family members and friends.

AIA
arbitration-adr.org