

THE INSTITUTE FOR TRANSNATIONAL ARBITRATION'S ACADEMIC COUNCIL
and the
AMERICAN SOCIETY OF INTERNATIONAL LAW

present

“SOFT LAW” INSTRUMENTS IN INTERNATIONAL ARBITRATION

April 9, 2008

The Fairmont Hotel
Washington, D.C.

Conference Co-Chairs

Yas Banifatemi, Shearman & Sterling LLP, Paris
Jeremy K. Sharpe, U.S. Department of State, Washington, D.C.

International law has undergone a dynamic shift in recent years through the development and application of soft law instruments. International arbitration is proving the crucible in which many of these instruments are being tested. This Symposium brings together leading scholars, practitioners and arbitrators to discuss the sources and impacts of soft law instruments, and will examine their legitimacy and practical use in international arbitration.

08:00 Registration

09:00 **WELCOME AND INTRODUCTION**

David D. Caron, C. William Maxeiner Distinguished Professor of Law, Boalt School of Law, University of California, Berkeley; Chair, Institute for Transnational Arbitration

09:05 to 10:20 **SOURCES OF SOFT LAW INSTRUMENTS**

Soft law instruments are increasingly playing an important role in international commerce. Debates continue concerning the legal significance of these instruments, the manner of their “codification” and their proper role in international commercial contracting and dispute resolution. This panel will address the sources and formation of soft law instruments, and discuss their practical importance as regards both procedural and substantive questions.

Chair and report: Jeremy K. Sharpe, U.S. Department of State, Washington, D.C.

Fertile Areas for Soft Law Instruments

James H. Carter, Sullivan & Cromwell LLP, New York

Are Soft Law Instruments Based on a Codification Method?

Gabrielle Kaufmann-Kohler, Lévy Kaufmann-Kohler, Geneva, Switzerland;
Professor of Law, University of Geneva

Roundtable: “Procedural” and “Substantive” Soft Law

Moderator: **William W. Park**, R. Gordon Butler Scholar in International Law, Boston University School of Law, Boston, Massachusetts – with James Carter and Gabrielle Kaufmann-Kohler

*The Roundtable will include questions from conference participants, submitted during or prior to the conference.**

10:20 Break

10:45 to 12:00 **IMPACT OF SOFT LAW INSTRUMENTS IN INTERNATIONAL ARBITRATION**

Arbitrators play an important role in the codification of transnational rules, which form the basis of soft law instruments. They also play an important role in the application and interpretation of soft law instruments. This panel will address the impact of soft law instruments in international arbitration and discuss how they contribute to the harmonization of international arbitration law, while highlighting the interplay of soft law and hard law instruments.

*Chair and report: **Yas Banifatemi**, Shearman & Sterling LLP, Paris, France*

The Role of the Arbitrators in Codifying Transnational Rules

Jan Paulsson, Freshfields Bruckhaus Deringer, Paris, France; Professor of International Law, Dundee University

Have Soft Law Instruments Contributed to the Harmonization of International Arbitration Law?

W. Michael Reisman, Myres S. McDougal Professor of International Law, Yale University School of Law, New Haven, Connecticut

Roundtable: Interplay of Soft Law and Hard Law Instruments in International Arbitration

*Moderator: **The Hon. Charles N. Brower**, Arbitrator, Iran-U.S. Claims Tribunal, The Hague, The Netherlands – with Jan Paulsson and Michael Reisman*

*The Roundtable will include questions from conference participants, submitted during or prior to the conference.**

12:00 **Concluding Remarks**

Jack J. Coe, Professor of Law, Pepperdine University School of Law; Chair, ITA Academic Council

12:10 Luncheon

13:30 Adjourn

Conference papers as well as contributions from other arbitration specialists and experts will be published in a book, forthcoming in 2008.