UGO DRAETTA

Prof. Ugo Draetta

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1. ACADEMIC DEGREES/QUALIFICATIONS

- Past Professor of International Law at the Catholic University of Milan.
- Course taught in 2006 at The Hague Academy of International Law on Internet and Electronic Commerce in International Business Law.
- Graduation from the Academy of American and International Law, at the International and Comparative Law Center, University of Texas at Dallas – South-Western Legal Foundation (1976).

2. EDUCATION/TITLES/POSITIONS HELD

- L.L.B., *summa cum laude*, Naples University School of Law. PhD in International Law equivalent ("*Libera docenza*") (1968).
- Admitted to the Milan Bar (1967).
- Member of the Council of the ICC Institute of World Business Law.
- Member of the ICC Commission on Arbitration and ADR.
- Member of the Arbitration Chamber of the Italian Anti-corruption Authority.
- Member of the Club of Arbitrators, c/o the Milan Arbitration Chamber.
- Included in the arbitrators' panel of DIAC (Dubai International Arbitration Center).
- Included in the arbitrators' panel of VIAC (Vienna International Arbitration Center).
- Included in the arbitrators' panel of KLRCA (Kuala Lumpur Regional Centre for Arbitration).
- Member of the Scientific Committee of the Italian Arbitration Association (AIA).
- Member of the Scientific Committee of ISDACI (Institute for the Study of Arbitration and International Trade Law), at the Chamber of Commerce of Milan.
- Co-founder and co-editor of the review "*Diritto del Commercio Internazionale*".
- Member of the Scientific Committee of the *Revue de droit des affaires internationales/ International Business Law Journal*, published by Sweet & Maxwell.

- Corporate Counsel Advisory Editor of the *European International Arbitration Review*, published by JurisNet.
- Member of the International Advisory Board of Transparency International (a NGO dealing with the fight of corruption) (from 2000 to 2015) and founder of the Italian Chapter of TI.
- Delegate of the Italian Government at the OECD Working Group on Bribery (from 2002 to 2004 and occasionally afterwards).
- Delegate of the Italian Government at the UNCITRAL Working Group on e-commerce (from 2002 to 2004).
- Chairman, upon nomination from the Italian Government, of the Stability Pact Anticorruption Initiative (SPAI) headquartered in Brussels (from 2001 to 2007).
- Honorary member of AIGI (Italian Association of Company Counsel).

3. PAST AND CURRENT PROFESSIONAL EXPERIENCE

- *July 1964 to June 1978* – **General Counsel and Secretary** of the Italian subsidiary of **General Electric Co. (USA)** and then **General Counsel – Europe Business Division** of **General Electric Co**. **(USA),** based in Brussels.
- *September 1978 to July 1980* – **General Counsel and Secretary** of **FIAT SpA**, based in Turin.
- *August 1980 to September 1987* – **Division Counsel – International Construction Business Division** of **General Electric**, Power Systems Group, based in the USA (Westport, CT).
- *October 1987 to December 1998* – **Vice President and Senior Counsel – International** of **General Electric Co (USA)**, based in London.
- *September 2002 – March 2003* – **Member of the Board of Directors** of **FIAT SpA.**
- *January 1999 to present* **:**
  - Consultant to major US and Italian corporations.
  - Arbitrator in international commercial arbitrations (ICC, UNCITRAL, IAA, Milan, Madrid, Vienna and Dubai international arbitration chambers, *ad hoc* arbitrations) - see point 4 below
  - Member of the Board of Directors of GE Italy Holding SpA.
  - Member of the Board of Directors of GE Medical Systems Italia SpA
  - Member of the Board of Directors of GE Healthcare Srl
  - Chairman of the Board of Directors of GE Capital Interbanca (until November 2016).
  - Independent Member of the Surveillance Body of ENI SpA and ENEL Italia.
  - Chairman of the Surveillance Body of EF Solare Italia SpA

4. ARBITRATION EXPERIENCE AND AREAS OF EXPERTISE

- **Areas of expertise**: International law; *lex mercatoria*; EU law; antitrust law; conflicts of laws and procedure; intellectual property law; construction contracts; agreements for the sale of goods; merger and acquisition agreements; shareholders' and joint venture agreements; R&D agreements; distribution agreements; telecommunications, State contracts; investment projects.
- **Arbitration experience**: see separate page.

5. MAIN PUBLICATIONS

Author of many publications in the fields of international law, industrial law, international trade law, EU law, including the following:

- *Monads or Triads: Conflict and Cooperation Among Arbitrators*, JurisNet, Huntington, New York, 2016.
- *Cooperation Among Arbitrators in International Arbitration*, in *Indian Journal of Arbitration Law*, vol. 5, Issue 1 (2016), at 107-146.
- *Internal Conflicts Among Arbitrators in International Arbitration*, in *Diritto del Commercio Internazionale/The Law of International Trade*, 2016, at 47-93.
- *The Transnational Procedural Rules for Arbitration and the Risks of Overregulation and Bureaucratization*, in *ASA Bulletin*, vol. 33, n. 2, at 327-342.
- *Counsel as Client's First Enemy in Arbitration?,* JurisNet, Huntington, New York, 2014.
- *Potential Inefficiencies Caused by the Document Production Process in International Arbitration*, in *Les cahiers de l'arbitrage*, n. 2014/2, at 225-242.
- *Italy as a Place for International Arbitrations: the Myths of the "Italian torpedo", the "Irritual" Arbitration* et alia*,* in *Revue de droit des affaires internationales/International Business Law Journal*, 2013, at 159-166.
- *What Does "Ethics in Arbitration" Really Mean,* in *European International Arbitration Review (EIAR),* Vol. 1 / No.1, 57-72, 2012 JurisNet.
- *International Arbitration as a Public Function: Some Short Considerations,* in *Revue de droit des affaires internationales/International Business Law Journal*, 2012, pp. 319-326.
- *The 1980 United Nations Convention on Contracts for the International Sale of Goods and Arbitration,* in *Revue de droit des affaires internationales/International Business Law Journal*, 2012, pp. 193-206.
- *Les dynamiques du délibéré dans l'arbitrage : quelques réflexions personnelles*, in *Revue de droit des affaires internationales/International Business Law Journal*, 2011, pp. 219-229.
- *Behind the Scenes in International Arbitration*, JurisNet, Huntington, New York, 2011.
- *Short Practical Notes on Security for Costs in Arbitration*, in *Les cahiers de l'arbitrage*, n. 2011/1, pp. 77-87.
- *Dispute Resolution in International Construction Linked Contracts,* in *Revue de droit des affaires internationales/International Business Law Journal*, 2011, pp. 69-83.
- *Arbitration Exception and Brussels I Regulation: No Need for Change* (with A. Santini), in *Revue de droit des affaires internationales/International Business Law Journal*, 2009, pp. 741-748.
- *The Role of In-House Counsel in International Arbitration*, in (2009) 75 *Arbitration* 468.
- *Leveraging the Arbitral Process to Encourage Settlement: Some Practical and Legal Issues,* in *Revue de droit des affaires internationales/International Business Law Journal*, 2009, pp. 487-496.
- *Arbitration in international construction contracts: selected practical problems*, in *Les cahiers de l'arbitrage,* n. 2008/4, pp. 13-22.
- *The International Arbitration Clause: Essential and Optional Elements – An Update*, in *Revue de droit des affaires internationales/International Business Law Journal*, 2004, p. 577 *et seq.*
- *Internet et commerce électronique en droit international des affaires*, Recueil des cours de l'Académie de droit international de La Haye, tome 314 (2005).
- *Breach and Adaptation of International Contracts. An Introduction to* Lex Mercatoria, Butterworth (USA), 1992 (with R. LAKE and V. NANDA)
- *Letters of Intent and Other Precontractual Documents. Comparative Analysis and Forms*, Butterworths, USA, 1990 e 1994 (Second edition) (with R. LAKE)
- *Contrats internationaux - Pathologie et Remèdes,* Bruylant, Bruxelles, 1996 (with R. LAKE).
- *Les clauses de Force Majeure et de Hardship dans les contrats internationaux*, in *Revue de droit des affaires internationales/International Business Law Journal*, 2002, p. 347 *et seq.*
- *Il regime internazionale della proprietà industriale*, Milano, Giuffrè, 1967.

- *Il diritto dei contratti internazionali. La formazione dei contratti,* Padova, CEDAM, 1984.
- *Il diritto dei contratti internazionali. La cooperazione tra imprese*, Padova, CEDAM, 1985.
- *Il diritto dei contratti internazionali. La patologia dei contratti*, Padova, CEDAM, 1988.
- *Clausole abusive e contratti conclusi dai consumatori,* Research for the Chamber of Commerce of Milan, edited with Parisi, Rinoldi, Chamber of Commerce, Milan, 2001.
- *Elementi di diritto dell'Unione Europea,* Giuffrè, Milano, Fifth edition, 2009.
- *Principi di diritto delle organizzazioni internazionali,* Giuffré, Milano, Third edition, 2010.

6. LANGUAGE SKILLS

- Mother language: Italian
- Fluent in English, French
- Reads and understands Spanish
- Basic knowledge of German, Portuguese

Prof. Ugo Draetta

Arbitration experience <u>since year 2000</u>

Sole arbitrator – Italian builder vs. Italian real estate company – re: claims under real estate construction contract – National and International Arbitration Chamber of Milan – case 1799/34 (2000).

Counsel – Italian steel company vs. French automobile company – re: breach of contract for asset sale in France – *Ad hoc* arbitration based in Geneva (2002).

Co-arbitrator – German Telephone Company vs. Cyprus and UK distributors – re: breach of distribution agreement – Arbitration place: Milan - ICC case No. 12047/ACS/FM (2003).

Co-arbitrator – Italian chemical company vs. Colombian company – re: breach of distribution agreement – Madrid Court of Arbitration – Place of arbitration: Madrid (2004/2005).

Co-arbitrator – Italian energy company vs. US supplier company – re: breach of development and supply agreement – Arbitration place: London - ICC case No. 13260/FM (2004/2005).

Co-arbitrator – British Glass Company vs. Italian purchasers – re: breach of non compete clause in sale of business agreement – Arbitration place: Geneva - ICC case No. 14046/FM (2005/2006).

Co-arbitrator – Italian subcontractor vs. German conglomerate – re: claims under construction contract in Spain – Arbitration place: Zurich - ICC case No. 14515/FM (2006 - 2010).

Co-arbitrator – Italian subcontractor vs. German conglomerate – re: claims under construction contract in Morocco – Arbitration place: Zurich - ICC case No. 14516/FM (2006). This proceeding has been later consolidated with the previous one.

Co-arbitrator – Italian subcontractor vs. German conglomerate – re: claims under construction contract in Germany – Arbitration place: Zurich - ICC case No. 14517/FM (2006). This proceeding has been later consolidated with the previous two.

Co-arbitrator – Italian construction company vs. Italian subcontractor – re: claims under construction contract in Russia – *Ad hoc* arbitration based in Milan – (2006 - 2011).

Co-arbitrator – German construction company vs. Italian subcontractor – re: claims under construction contract in Austria – Arbitration place: Munich - ICC case No. 14789/JHN – (2007 - 2010).

Co-arbitrator – Italian gas company vs. Italian gas company – re: determination of price for acquisition contract - National and International Arbitration Chamber of Milan – case 2007/12 – (2007 – dispute settled between the parties).

Counsel – Tadzhikistan company vs. UK company – re: claim for defects under supply contract – UNCITRAL arbitration – Arbitration place: London (2007 - 2008 – Dispute settled between the parties).

Counsel - Tadzhikistan company vs. US company – re: claim for defects under supply contract – UNCITRAL arbitration – Arbitration place: London (2007 – Request for arbitration subsequently withdrawn).

Co-arbitrator – Swiss company vs. Canadian company – re: price adjustment in connection with sale of company – Arbitration place: Rome - ICC case No. 15126/FM (2007 – 2009).

Chairman of arbitral tribunal – Italian company vs. Chinese and Japanese companies – re: claim under manufacturing agreement – National and International Arbitration Chamber of Milan – case 208/12 (2008 – Dispute settled between the parties).

Co-arbitrator – Italian company vs. Indian conglomerate – re: claim under a supply agreement – Arbitration place: Milan – ICC case No. 15739/FM (2008 - 2011).

Co-arbitrator – Iranian agent vs. Italian construction company – re: claim under agency agreement – Arbitration place: Paris – ICC case No. 15668/FM (2008 – 2011).

Counsel – Belgian energy company vs. US conglomerate – re: claim for breach of energy equipment supply contract – Arbitration place: Brussels – ICC case No. 15991/FM (2008 – Dispute settled between the parties).

Co-arbitrator – German construction company vs. Italian subcontractor – re: claims under construction contract in Austria – Arbitration place: Munich - ICC case No. 16018/JHN – (2009 – 2010 - case consolidated with ICC case No. 14789/JHN).

Co-arbitrator – Italian telephone company against main Italian telecommunication company – re: breach of interconnection contract – *Ad hoc* arbitration based in Rome – (2009 - 2011).

Co-arbitrator – Luxembourg real estate company vs. Italian real estate company – re: warranty claim under real estate M&A agreement – National and International Arbitration Chamber of Milan – case 1109 (2009 - 2010).

Co-arbitrator – Hungarian oil company vs. Italian/Portuguese/Irish oil companies – re: claim under acquisition agreement - National and International Arbitration Chamber of Milan – case 2209 (2009 – 2010).

Co-arbitrator – Italian company vs. Polish company – re: claim for breach of equipment supply contract and undue draw-down of performance bond – International Arbitration Center of the Austrian Federal Economic Chamber (VIAC) – Vienna – case SCH-5087 (2009 - 2010).

Counsel – Malaysian energy company vs. US conglomerate – re: claim for breach of energy equipment supply contract – Arbitration place: Singapore – ICC case No. 16386/CYK (2009 - 2011).

Co-arbitrator – Polish steel company vs. Italian conglomerate company – re: claim for breach of equipment supply contract – International Arbitration Center of the Austrian Federal Economic Chamber (VIAC) – Vienna – case SCH-5134 (2010 - 2012).

Chairman – Italian real estate development company vs. Italian construction company – re: extra work and penalty claims - National and International Arbitration Chamber of Milan – case 13109 (2010–2010).

Sole arbitrator – Italian mechanical company vs. Italian mechanical company – re: claim under contract for sale of ongoing business activities – Arbitration place: Lausanne – ICC case No. 16853/FM (2010 - 2011).

Co-arbitrator – US fashion distribution company vs. Italian fashion manufacturer – re: claim under distribution agreement – Arbitration under IAA Rules - Arbitration place: London (2010-2011).

Counsel – US refinery vs. Italian O&G company – re: claim under contract for equipment supply – Arbitration under the AAA Rules administered by ICDR – Arbitration place: Houston, US (2010- 2011).

Chairman – Italian development company vs. Italian construction company – National and International Arbitration Chamber of Milan – case 11610 (2010 – 2011).

Co-arbitrator – German bank vs. Italian company – re: breach of shareholders' agreement – Arbitration place: Paris – ICC case No. 17496/JHN (2010 - 2013).

Co-arbitrator – German Construction Company vs. Italian subcontractor – re: claims under construction contract in Austria – Arbitration place: Munich - ICC case No. 17666/JHN – (2011- 2012).

Co-arbitrator – Italian energy company vs. Italian oil company – re: claim for price determination under oil sale contract - Chamber of Arbitration of Milan – case 911/6 (2011 - 2012).

Co-arbitrator – Italian construction company vs. Middle East electrical utility – re: claims under construction contract in Middle East – Arbitration place: Bahrain - ICC case No. 17821/ND – (2011- 2013).

Counsel - Italian company vs. various Italian companies re: claim for breach of share sale contract – joinder by third party - Chamber of Arbitration of Milan – case 6810/2010 (2011 - 2013).

Co-arbitrator – Italian company vs. Polish company – re: claim related to draw-down of performance bond – International Arbitration Center of the Austrian Federal Economic Chamber (VIAC) – Vienna – case SCH-5224 (2011 - 2012).

Co-arbitrator – Spanish construction company vs. Italian energy companies – re: claim under Turnkey EPC Contract – Chamber of Arbitration of Milan – case 8011/4 – (2011 - 2013).

Co-arbitrator – Spanish construction company vs. Russian utility – re: claim under construction contract – Arbitration place: Paris – ICC case No. 18278/GZ (2011 - settled between the parties in 2013).

Counsel – Italian construction company vs. French equipment supplier – re: claim for defective goods – Arbitration place: Geneva – ICC case No. 18361/ARP (2011 – 2012 – settled between the parties).

Chairman – UK company vs. Russian company – re: claim for payment under service agreement – Arbitration under UNCITRAL Rules – Arbitration place: London (2012 – settled between the parties).

Chairman – Italian construction company vs. Italian construction company – re: claims for extra work under construction contract - Chamber of Arbitration of Milan – case 2112/19 – (2012 - 2013).

Co-arbitrator – Italian construction company vs. U.A.E. company – re: claim under construction contract – Arbitration place: London – ICC case No. 18363/ARP (2012 - 2014).

Counsel – US energy company vs. Malaysian company – re: claim for defective goods – Arbitration place: Singapore – ICC case No. 18734/CYK (2012 - settled between the parties).

Chairman – US company vs. Italian individuals – re: claims for breach of representation and warranties under Share Purchase Agreement - Chamber of Arbitration of Milan – case 8012/13 – (2012 - 2014).

Co-arbitrator – UK and German companies vs. Italian company – re: claims for breach of representation and warranties under Share Purchase Agreement - Chamber of Arbitration of Milan – case 6512/17 – (2012 – case settled in 2013).

Co-arbitrator – Italian investment company vs. French utility company – re: claims for breach of representations and warranties under Share Purchase Agreement – Arbitration place: Vienna – ICC case No. 18880/MHM (2012 - 2015).

Co-arbitrator – Abu Dhabi construction company vs. Abu Dhabi company – re: claims under construction contracts – Arbitration place: Dubai – DIAC (Dubai International Arbitration Center) cases 189/2012 and 190/2012 (2012 – settled between the parties in 2013).

Chairman – US consultant vs. Spanish company – re: claim under service agreement – Arbitration place: Paris – ICC case No. 18852/CA (2012 - 2013).

Co-arbitrator – Italian energy company vs. Italian energy company – re: claim for price revision under gas supply contract – Arbitration place: Geneva – ICC case No. 19374/EMT/GFG (2013 - 2015).

Co-arbitrator – Romanian energy company vs. Italian utility company – re: claim under privatization agreement – Arbitration place: Paris – ICC case No. 19431/MHM (2013 - 2016).

Co-arbitrator – US real estate developer vs. Italian construction company – re: claim for breach of agreement – Chamber of Arbitration of Milan – case 6614 – (2014 - 2016).

Co-arbitrator – Italian mechanical company vs. Kuwait agent – re: claim for breach of agency agreement – Arbitration seat: Milan – ICC case No. 21200/EMT (2015 - 2017).

Co-arbitrator – Swiss energy company vs. Italian entrepreneur – re: claim for breach of representations and warranties under Share Purchase Agreement - Chamber of Arbitration of Milan – case 7915/14 – (2016). Settled between the parties.

Co-arbitrator – German publishing company vs. German and Italian publishing companies – re: claim for price adjustment under acquisition contract - Arbitration seat: Milan – ICC case No. 21898/GR (c-21928/GR) – (2016 - 2017).

Counsel – Italian bank vs. Italian Service Company – re: interpretation of put clause in M&A agreement – Chamber of Arbitration of Milan – case No. 8316 – (2016 – settled between the parties).

Co-arbitrator – Norwegian energy company vs. Luxemburg energy company – re: claim for breach of Sale and Purchase Agreement - Chamber of Arbitration of Milan – case 8816 – (2016 –).

Co-arbitrator – Italian energy company vs. Italian energy company – re: claim for price adjustment under acquisition contract - Arbitration seat: Vienna – ICC case No. 21854/GR (2016 – settled between the parties).

Co-arbitrator – Italian construction company vs. Romanian public entity – re: claim under constructions contract – Arbitration seat: Bucharest – ICC case No. 22183/MHM (2016 -).