Remarks on the Change of Chair in ITA

David D. Caron
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Introduction of Lucy F. Reed, the New Chair of ITA,
by David D. Caron

It is my pleasure to introduce the next chair of ITA. A year ago, a committee was formed of myself and the two previous chairs of ITA: Donald Donovan and Charles Brower. ITA is fortunate to have leading figures in its membership. In looking for the best candidate among us we felt we could also look for the best. We were unanimous in our recommendation to Mike Marchand, President of the Center, who appoints the chair, and who, in his wisdom, agreed with us. Tonight I am delighted to have the opportunity to introduce our new chair of the ITA, Ms. Lucy Reed. (Applause). Lucy is someone who has given much to international law, to our ITA community, and to her country, the United States. She is a friend and I would stress that I use that word, as many would use that word, to the fullest. She is a friend to many of us and a mentor sought out and appreciated by many others as well. And now she has agreed to step forward and lead ITA in its efforts to promote international arbitration.

I have had the privilege of knowing Lucy for over 25 years. Over those years there are several qualities that I have seen consistently exhibited by Lucy: an astounding ability to focus on the effort at hand, a clarity and maturity of insight that can redefine the entire effort at hand, a simply wonderful playful sense of humor that makes the joint effort not only fun, but memorable, and the capacity to ask the right questions to inspire us to right action.

Our new chair is a law graduate of the University of Chicago, formerly the U.S. Agent to the US-Iran Claims Tribunal, the first General Counsel of the Korean Peninsula Energy Development Organization, a member of the Ethiopia-Eritrea Claims Commission, the co-head of the international arbitration group at Freshfields, a member of the ITA's Executive Committee since 1995, the President of the American Society of International Law (for another nine months), and a very good friend to ITA. Please join me in calling Lucy Reed to the podium. (Applause).
Acceptance Remarks by Lucy F. Reed

Thank you David for that welcome. But this is David’s meeting and dinner after four years so I will be brief. For better or worse, you have me for the next four years to listen to. So tonight I just want to say thank you very much to everybody, especially Mike Marchand, for this honor and for the trust that you have in me, I am very excited about continuing to work with ITA in this new capacity. To be truthful, I did hesitate for a few minutes when asked whether I would take on the position of Chair because I think the world of the ITA and I wanted to make sure I would have enough time to give to it, what it really deserves. And then following in the footsteps of my acting coach, Cher, I recalled the line in Moonstruck and said: ‘Snap out of it! snap out of it!’, And for several reasons I immediately or almost immediately said, of course, I would be happy to do that. Let me just mention three reasons for that.

One is, and I am quite serious here, the unparalleled excellence of ITA in educating many people and communities about international arbitration and really succeeding in this educational mission. The quality is extraordinary. (Applause) A second reason that came to me is, and this is also quite serious, I owe the ITA a great deal for my success and my reputation in international arbitration, starting back in 1994 when Charlie Brower, then Chair, invited me to give a paper at what was the 6th Workshop of the ITA, and now today we are here at the, I’m sorry to admit, the 20th Workshop. And, following a theme that we have heard today, the third of my reasons is that I simply just like everybody in this community, and, however busy I am, I find a way to get to the ITA meetings because I just like the people in the community so much.

Now David Caron figures in each of these three reasons. First, David, you and the Chairs who came before you, have contributed so much to the ITA mission and its program. When we think about David developing the educational teaching guides to go with the early – remember this phrase – VCRs?, videos and DVDs. I have never seen a wingchair quite like the one from which David narrated the tapes. You enlivened and invigorated with Jack Coe the Academic Council, grew with Dietmar Praeger the America’s Initiative, hosted with Susan the meetings in Berkeley, and so
many other things. David, I especially respect you for preserving the traditions, the really best things about ITA, while at the same time innovating the ITA, and that is a big accomplishment. A lot was done in four years.

Second, I realized that my first paper for the ITA at the 1995 Workshop was co-authored by one David Caron with the dynamite title: "Post-Award Proceedings under the UNCITRAL Arbitration Rules." In that paper we focused the participants' attention on the fact that in post-award proceedings under the UNCITRAL arbitration rules, arbitrators are not paid, which got the attention of several people. And this is true too, after I delivered that paper with David (and this was before we had an all-day Workshop) I was out in the Galleria having a cup of coffee and a certain person unknown to me at the time, except by reputation, came up and said, "I really thought that was a very good paper, I want to make sure you and David publish it in Arbitration International." And that was my first meeting with one Jan Paulsson. So thank you ITA, what can I say?

The third reason I just mentioned was about how much I like everyone here. And here I really, really value the friendship that I have with David. I think it is 24 years, David, but it did start in our years in the Hague at the U.S.-Iran Claims Tribunal and since then reading glasses have come, children have come and gone off to school, and yet the ITA has continued to be the glue that has kept our friendship going, even though I have been on the east coast and David has been on the west coast. We really share a passion for international law, and in particular international arbitration and for many, I am afraid to admit, far less serious things, which I won't talk about.

Now, Mike Marchand and David Winn are about to talk a great deal more about you, David. So as your friend I want to advise you not to believe more than half of the things that are about to come. I also realize that if I say anything more I will be upstaging Mike Marchand in the first five minutes of my Chairmanship, Mike is my President, so I know better than that. So I will just say thank you to Mike, thank you to the Committee who recommended me, thank you to everybody here and especially thank you David for your four years. (Applause)
Remarks by Mike Marchand on the Chairmanship of ITA
by David D. Caron

When David Winn and I talked together about what we should
do to recognize four years of David Caron, and what we should
say, I said number one, I’d like to go first, and I want to do the
macro thing. David asked what I was going to say? I said we’ll
know when it’s done. Which is always the case. And number two,
I said, I want to say what David has meant to me as the President
of the Center.

When I look at the Center for American and International Law
and then the Institute for Transnational Arbitration as a part of
the Center, I say who would be a perfect Chair for the Institute. Of
course the first thing we need is an internationally recognized
expert. If we are going to maintain what this institute is, then we
need an internationally recognized expert. The second thing – I
would pick a people person, somebody who can convince other
people that this Institute is important. But more than that, it has
to be someone who is structured in their thinking, organized, able
to put together a group of people and build consensus. Now, it
helps, if they can coerce other folks to be part of the team, it helps
if they have brilliant ideas about what to do with programs, and
are visionaries about what an Institute like this should be and
why it should be important internationally. I think that’s good. I
think it’s even better if they can see beyond what ITA already is.
They need to see how they can take the vision of ITA and team up
with the Energy Institute and do a program in London. I am
looking for someone willing to come to the Academy of American
and International Law and talk about arbitration, and what it
might mean to the future of some very young lawyers. And, even
as importantly, to come to a Board of Trustees, and say, let me tell
you how important this Institute is to the Center. To be willing to
say why this Institute is important to the improvement of the
practice, to international relations, to the rule of law, and a bunch
of other things. And to be a friend at the same time. So if I could
pick a model for the Chair of the Institute of Transnational
Arbitration, it certainly would be David Caron. David, thank you
very much. But for Lucy accepting to serve, I would be doing the
four more years chant. (Applause)
Remarks by David Winn on the Chairmanship of ITA
by David D. Caron

I second the comments that Lucy and David have made about how rewarding it is to be part of the community that is ITA. The best part of what I do and what Mike does is having the opportunity to work with outstanding lawyers in this field and, through working with them, to become friends. The very first friend I made in ITA was David. My first assignment with ITA was to help produce a video that had already been recorded at the prior year’s workshop. In order to record introductions for all the different scenes, David flew into town with Marina, his charming daughter. We pulled a green chair from one office and a lamp from another office and created a set there at the temporary quarters that the Center was in at the time. And we made a movie, that you all can purchase tonight, if you want to, on our website. This was a wonderful opportunity for me to get to know David Caron and I have had so many great opportunities to work with him on a variety of things ever since.

The range of David’s work on behalf of ITA is remarkable. It can be said that David has done more things in more different roles for ITA than any other person. David is Chair of the ITA Advisory Board right now. Later on tonight he will be past-Chair. But David, you have also been Vice-Chair of the ITA, you were the first Chair of ITA’s Academic Council, you’ve been a Workshop Chair, and you were the first Chair of our ITA-ASIL Conference, which has become such a successful collaboration with the American Society of International Law, where you are headed next. You were the producer of the ITA DVDs, as well as the star of the DVDs – our own Alastair Cooke in the big stuffed green chair – and you prepared the study guides for the first several DVDs as well. You were the keynote speaker at one Workshop and you’ve been on many Workshop faculties, either scheduled or stepping in at the last minute when somebody else couldn’t come. You’ve been a scenario drafter and a script writer and a moderator at our Friday Forum. More recently you have been a lecturer in international arbitration at the Center’s Summer Academy of American and International Law, a Trustee of the Center, and now, Co-Editor-In-Chief of our own law journal, World Arbitration and Mediation Review. It is an extraordinary
range of hats that you have worn for this organization and it is a
great blueprint for anyone else who would like to be Chair of ITA.

In the last four years you have led us as the Chair. I will not
attempt a complete recitation of all that ITA has accomplished
under David's leadership in the last four years, but I do want to
give you a sense of what David has accomplished as the leader of
this organization.

Our Advisory Board is 40% larger than it was four years ago.
We have now annually twice the number of programs that we did
just four years ago and they all, I believe, and the evaluations that
we received confirm, meet the high standard that the Workshop
established for programs by this organization. We have added
three new publications, including WORLD ARBITRATION & MEDIATION
REVIEW, which you all get now as members of the Advisory Board.

In addition, David has led significant initiatives towards Latin
America where we have now done five programs, in Mexico and
Brazil and Argentina. Through those Latin American projects we
have now established relationships with twenty arbitral
institutions in that part of the world and globally that provide
opportunities for us to develop further in the future. Significant
outreach to young lawyers, as Aníbal mentioned, began under
David's watch and has guided us to where we now do programs
annually for young lawyers both here in the United States and in
Latin America. Finally, David has given great effort to
strengthening the ITA academic community, from creating the
educational DVDs to helping build the Academic Council into an
organization that is not just a list of prominent teachers in this
field, but rather is actively involved with the quality of our
programs and the quality of our publications.

David, we all love you, everybody in this room, everybody
feels this way. (Applause) It is one thing to inspire respect, and
you do that and that is a big part of why we have grown in the
ways that we have, with so many talented people willing to
commit their time to the projects that you have led. But you have
also inspired affection. It's been a real personal pleasure for me
working with you and I am looking forward to working with you
on many more projects going forward. This is not goodbye
tonight, but it is a time to say thank you.
And so we all say thank you with this award. It says: "Presented to David D. Caron, Chair, Institute for Transnational Arbitration, of the Center for American and International Law 2005-2009, In recognition of his wisdom, leadership and remarkable dedication to our educational mission." Thank you, David. (Applause)

Valedictory Remarks by David D. Caron:

Thank you Lucy for your kind words and for agreeing to be the new Chair. Thank you, Mike. Mike and I share a history and I appreciate and value that. And I give my deep thanks to David Winn. From the first moment we met, it was as though we had known each other for a long time. I appreciate and value that as well.

A friend of mine, an ambassador in Nepal, returned to the United States. He was a mountaineer and he pledged to climb every peak in California above nine thousand feet in altitude. He later said to me, be careful what you promise: He had not counted how many peaks there were that high and there were a lot. For those of you who have been here every year and a few of you have, four years ago I said I would tell a story every year, and every story, like the McGuffy Reader, would have a moral meaning. But what was then a three year term became a four year one and I have wondered whether my promise was imprudent, not because I do not have lots of stories, but because I am starting to feel like the hungry student who over stays their welcome at the faculty member's house. I have struggled with whether to tell any story at all this year and if I tell a story, which story. But since several of you came up to me today and said, "what's the story, what's the story," I guess there's going to be a story.

But let me ask for a moment to also reflect on the ITA and the last four years. And in saying anything, let me stress that many people are involved and they deserve the credit in all of this, with David Winn being at the top of the list. What I am happy about is that much of the last four years, as I hoped, has manifested the moral meaning of the first three stories. So let me just review those very quickly. First, appreciate the limits of yourself and of your institution. That was lesson of the first story, four years ago, of a young officer who salvaged a helicopter off the outer coast of...
Vancouver Island and found his pride give way to the dangers of that situation. Second: simultaneously it is important to be bold, always bold. That was the story of a first year law student on the third day of contracts who took up the challenge of the professor to teach the class – even though he hadn't read the case. Third, always value the community of which you are a part. This was the story of the second bass in a Welsh choir. He forgot his dress shoes at the Choir's first performance that season and learned the strength of the Welsh when all the men removed their shoes and walked on in solidarity.

Over the past four years we have tried to move boldly but not foolishly. Dietmar Prager was our genius on the American initiative, thank you so much. Jack Coe was the indispensable central force to the Academic Council. Aníbal Sabater made the Young Arbitrators Initiative an amazing institution. So many co-chairs of programs in this room, thank you for all your assistance in making these years work. And most importantly to me, all of this has been guided by always asking how every step can be taken to strengthen our community. We have always tried to find more ways for you to be involved, which David Winn is very happy about. We have sought more ways to deliver services to you that simultaneously bring us together and let us communicate with one another. Finally, and most importantly, we laid the foundation for our new constitution, which will allow us to grow, develop new leaders, and allow change to happen in an organization that – in its twentieth year – is reaching maturity.

Now let me leave you with just three thoughts, if all thus far is not enough.

The first thought is related to my message of the story from last year, which, if you recall, was different from the first three. It was a story of the Arctic and dark water with death avoided because someone followed the rules. The moral meaning of that story was that, although there is a sense in our country particularly over this past decade that some of the law is just plain stupid, the law on our most fundamental questions also must be seen as a something more than a command. The law, particularly on issues most important to us, is a message from the past, from everyone we most care about – our parents, our teachers, our leaders – that one choice, all things being equal, is better than another. So too my first thought tonight relates to my
teacher, Stefan Riesenfeld. His life was a series of painful, astonishing and hilarious stories. I could never match the stories in this man's life, nor can I even begin to recount his long eventful life. So let me mention just a couple things. He was born in 1908 in Breslau Germany, lost his father in World War I and then left for the United States before World War II, leaving his twin brother behind, a brother that would serve in the German army. For me, it is as though the first line of the UN Charter captured all of Steve's life, and ambitions to that point. Let me just share that line: "We the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind." The point of this is that Steve Reisenfeld felt it was a privilege to be an academic of international law, to bring excellence to bear on the most challenging questions of our time. For him it was serious business, and in him I found someone I believed in very deeply. Douglas Reichert here tonight was also a research assistant to Steve Reisenfeld and I see him nodding. And what I would say to you is that our business is serious business. The resolution of international disputes through arbitration is essential, invaluable, and very oddly fragile. It is decentralized so we feel our roles are only marginal and yet because it is decentralized, we all act at its heart. Every moment. So Lucy, I am glad you will carry forth the work of this very important institution. Thank you for agreeing.

My second thought comes from discussions with my wife who could not be here tonight, who is the love of my life and without whom nothing would be possible. We talk about the past four years and reminisce about the trip to Buenos Aires when the rain fell in biblical proportions and about the conference in Brazil when we dined beneath a magical tree in Sao Paolo. And as I contemplate telling you another story of mine, these memories carry the message that we must always make new stories. Susan and I take away many wonderful memories and for that we are very thankful to ITA.

Third and in closing, I have a brief story, the brief fifth and last story. But which story? I thought of a story that in print is referred to as "the kiss that launched a thousand push-ups," but it is both long and not a particularly upbeat story. So, that one will require a drink sometime, if anyone wants to hear it. So on to a brief last story.
I did not go to the Coast Guard Academy alone, three young men from my town went that same summer. Two were from the public high school, that was Gary and myself, and as is the wont of young men, we were close friends and fierce competitors with one another. In the midst of that summer, we awoke one morning in the mid-Atlantic aboard the Eagle. The Eagle is the tall ship of the United States, a magnificent vessel; we awoke to a blue, beautiful sky, fierce winds and a wickedly rough sea. On the Eagle, all the cadets sleep below decks amidships. As they get up there is a ladder that goes to the stern, up to the main deck, and as you go up to the main deck you come into the galley. There you are at a rail where you can get your breakfast and you exit to either the port or the starboard onto the main, open deck. Gary and I had been up for a long time because that morning we were the two cadets assisting the chief petty officer who ruled the galley with an iron fist. And so it was that we were stirring, on the other side of that rail, a very large vat of chipped beef. (For those of you who know the military this concoction is called SOS). The two of us with these very large metal spoons were stirring this big vat of chipped beef and, if you can just imagine this for a moment, there are ponds of grease, rolling, sliding with the movement of the ship across this surface of the vat. And both Gary and I were becoming quite ill, but we were determined that we would not be the first to be sick – competitive to the end. Finally, at one moment sweat broke out on my upper lip, and for me that is the sign that I had at most ten seconds before disaster struck. I ran quickly from the galley to the leeward side where a classmate grabbed my belt as I leaned over the side of the ship and relieved myself into the ocean. It was at that point I heard a horrific noise. The noise was the chief petty officer shrieking at Gary who had instead relieved himself into the morning breakfast.

The moral of this story in five words (the limit I have placed on our yearly Co-Chairs) is: Know when to fold 'em. (Applause)