

## DERAINS & GHARAVI

### YVES DERAINS

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### **Languages: French, English, Spanish, Italian and Portuguese**

Yves Derains is ranked as “Senior Statesman” and presented as a “virtuoso arbitration figure with vast and varied experience” in Chambers Latin America 2012, “at the pinnacle of the profession” in Legal 500 2011/2012 and as a "Superstar" in French arbitration in Who's Who Legal 2008 Edition. In relation to his activities as counsel, Chambers 2008 states that "clients feel safe in his hands, as they know the job will always be great".

Chairman of the ICC Institute of World Business Law and former Secretary General of the ICC Arbitration Court, Yves Derains has more than 35 years experience in arbitration. At the time of his departure from the ICC, he joined the Canadian firm Phillips & Vineberg to create, shortly afterwards, one of the first arbitration firms Derains Gélinas & Associés, which would later become Derains & Associés.

He has not ceased to devote himself to the development of international arbitration and he successfully conducted the sessions for the review of the ICC Rules of Arbitration adopted in 1998 and participated in the review of the new Rules in force as of 1 January 2012.

Eager to offer companies a double culture of arbitrator and counsel, Yves Derains acts as arbitrator or Chairman of Arbitral Tribunals as well as counsel in arbitral proceedings conducted under numerous procedural Rules. He has recently been appointed in several investment arbitrations highly commented by practitioners of international arbitration.

Former Chairman of the *Comité Français de l'Arbitrage*, Yves Derains is on the arbitrators lists of numerous arbitration institutions and speaks at conferences all over the world.

He is co-author of the celebrated work which has become a seminal text on the application and interpretation of the ICC Rules of Arbitration (A Guide to the ICC Rules of Arbitration, 2nd Edition, with Eric Schwartz, Kluwer Law International, 2005).

His skills are particularly highly regarded in Latin America, where he chairs in several Arbitral Tribunals with proceedings conducted in Spanish. He also acts as counsel in proceedings conducted in the same language.

## **ILLUSTRATIVE EXPERIENCE AS COUNSEL**

- Representing an American company in an ICC arbitration against a French company in regard to the execution of a joint-venture contract (language of the arbitration: English/French; amount in dispute undetermined)
- Representing a Spanish consortium against an Algerian public entity, in an UNCITRAL arbitration in regard to a gas exploration and production contract (language of the arbitration: French; amount in dispute, several billion US dollars)
- Representing a Mediterranean state against an oil company, in an *Ad Hoc* arbitration in regard to an oil sales contract (language of the arbitration: English; amount in dispute: more than 900 million US dollars)
- Representing a European consortium in an ICC arbitration against a Latin American state public entity, in regard to a dam construction contract (language of the arbitration: Spanish; amount in dispute: 1 billion US dollars)
- Representing a European company in an annulment proceeding against an arbitral award in the amount of 20 million dollars in favour of an American company (proceedings before the French Courts)
- Representing a Central American State in an ICC arbitration against a Spanish group (language of the arbitration: Spanish; amount in dispute: 100 million Euros)
- Representing an American company in an ICC arbitration against several Brazilian companies (language of the arbitration: English/Portuguese; amount in dispute undetermined)

## **EXPERIENCE AS ARBITRATOR**

- Chairman or member of Arbitral Tribunals in more than 150 proceedings in commercial or investment matters carried out under the rules of the ICC, ICSID, UNCITRAL, Arbitration Institute of the Stockholm Chamber of Commerce, LCIA, AAA, Vienna Arbitral Chamber, Milan Arbitral Chamber and the Cairo Regional Centre for International Commercial Arbitration.
- In this role, he has applied numerous different civil and common law legal systems.
- Permanent Member of the FISA Contract Recognition Board.
- Member of various Panels of Arbitrators:

ICC, ICSID, LCIA, AAA, ASA, CEPANI, Cairo and Kuala Lumpur Regional Centres for Commercial Arbitration, Asian African Legal Consultative Committee, Indian Council of Arbitration, British Columbia International Commercial Arbitration, World Arbitration Institute, Arbitral Centre of Vienna, Greek Arbitration Association, Hong Kong International Arbitration Centre, Arbitration Court of the Polish Chamber of

Commerce, Arbitration Court of the Berlin Chamber of Commerce, Arbitration Court of the Czech Republic, Spanish Arbitration Club, Foreign Trade Court of Arbitration of the Serbian Chamber of Commerce, International Center of Arbitration of the American Chamber of Commerce of Peru.

- Designated by the Government of Albania on the ICSID Panels of Conciliators and of Arbitrators

## **PROFESSIONAL EXPERIENCE**

Since 2009	Founding Partner, Derains & Gharavi
1994-2008	Partner, Derains & Associés
1985 -1994	Partner, Derains-Gélinas & Associés
1982-1984	Partner, Philips & Vineberg Paris
1977-1981	Secretary General of the International Court of Arbitration of the ICC and Director of the Legal Department of the ICC
1973-1977	Secretary of the International Court of Arbitration of the ICC and Director of the Legal Department of the ICC.
1971-1973	Attaché to the International Court of Arbitration and to the Legal Department of the International Chamber of Commerce (ICC).

## **EDUCATION**

1970	D.E.S. in Private Law (Paris University)
1968	<i>Licence</i> in Private Law (Paris University)

## **MEMBERSHIP**

- Chairman of the ICC Institute of World Business Law
- Co-Chairman of the ICC Working Group on the reduction of costs and time in international arbitration
- Member of the bureau of the *Comité Français de l'Arbitrage*
- Chairman of the Working Party on the Revision of the ICC Rules of Arbitration (1995-1997)
- Chairman of the Commission on International Commercial Practices of the French National Committee of the ICC (1983-1994)

- Chairman of the ICC Working Party on Arbitration and Construction Contracts (1980-1982)
- Member of the French Committee on Private International Law (since 1979)
- Member of the International Council for Commercial Arbitration (since 1978)
- Member of the Council of the ICC Institute of World Business Law since 1988
- Member of the Advisory Board of the Institute for Transnational Arbitration
- Member of the ICC Commission on International Arbitration
- Member of the IBA

### **ACADEMIC POSITION**

- Honorary Professor of the Law Faculty of the San Ignacio de Loyola University, Lima, Peru
- Honorary Professor of the Universidad del Pacífico, Lima, Peru

### **PUBLICATIONS**

- “The application of transnational rules in ICC arbitral awards”, in “World Arbitration & Mediation Review”, Volume 5, No.2, 2011
- “Les nouveaux principes de procédure : confidentialité, célérité, loyauté” in “Le nouveau droit français de l’arbitrage”, Lextenso, 2011
- “Un demi-siècle de jurisprudence : à la croisée des chemins”, in “L’arbitrage relatif aux investissements : nouvelles dynamiques internationales”, Journée d’Études du 4 mars 2011, Dossier d’Orientation, Convention/s ([http://www.convention-s.fr/documents/CNV\\_journ%C3%A9e%20arbitrage\\_dossier\\_tr.pdf](http://www.convention-s.fr/documents/CNV_journ%C3%A9e%20arbitrage_dossier_tr.pdf))
- “Arbitrator’s Contract and Competence-Competence”, note sous CA Paris, 6 January 2011, n°10/20243, Mr. M. c./ Neftegaz, in “Les Cahiers de l’Arbitrage – The Paris Journal of International Arbitration” 2011-2, 2011
- “Los nuevos principios de lealtad, celeridad y confidencialidad del Código de Procedimiento Civil Francés”, co-author Stephan Adell, in “Spain Arbitration Review (Revista del Club Español del Arbitraje) n°11/2011”, Revista del Club Español del Arbitraje, Wolters Kluwer España, 2011
- “Les techniques anti-abus”, in “CIRDI, 45 ans après, Bilan d’un système”, Editions A. Pedone, 2011

- “The basis for applying EU competition law from a continental perspective” in *EU and US Antitrust Arbitration*, Wolters Kluwer, 2011
- “Is there a group of companies doctrine?” in *Multiparty Arbitration*, Dossiers Institute of World Business Law, 2010
- “Institutions d’arbitrage et responsabilité”, note sous CA Paris, 1re ch. C, 22 janv. 2009, n°07/19492, SNF SAS c/ Chambre de commerce internationale (CCI), co-author Catherine Schroeder, in “Les Cahiers de l’Arbitrage – The Paris Journal of International Arbitration” 2010-1, 2010
- “El concepto de inversión según la jurisprudencia arbitral” in “Arbitraje internacional y medios alternativos de solución de litigios: retos y realidades”, published by the Association Andrés Bello des Juristes Franco-Latino-Américains and the Unión Nacional de Juristas de Cuba, 2010
- "Panorama de jurisprudencia francesa", co-author Stephan Adell, in *Revista del Club Español del Arbitraje*, 6-2009, p. 127, Spain Arbitration Review, 2009
- "Aplicación de la ley más favorable en la ejecución de laudos", in *Revista del Club Español del Arbitraje*, 5-2009, Spain Arbitration Review, 2009
- “Evidence and confidentiality”, in *Confidentiality in Arbitration*, ICC International Court of Arbitration Bulletin - 2009 Special Supplement, 2009
- "El Arbitraje internacional: costo y duración" in *El Arbitraje en el Perú y el Mundo*, Director, Carlos Soto, Lima, 2008
- "La aplicación de la Convención a laudos a-nacionales" in *El Arbitraje Commercial Internacional*, Guido Tawil, Eduardo Zuleta, co-directors, Buenos-Aires, 2008
- "Langue et langages de l’arbitrage", in *Mélanges en mémoire de l’honneur de Pierre Tercier*, Bâle, 2008
- "How to improve the presentation of evidence in international arbitration" in *Liber Amicorum*, D. Mitrovic, Belgrade, 2007
- "How proceedings are managed up to the hearing" in *Contemporary Issues in International Arbitration and Mediation*, A. Rovine, Editor, The Fordham Papers 2007.
- "Evaluation of damages in international arbitration", co-editor, 2006
- "Améliorer l’efficacité de la production de documents devant les tribunaux arbitraux - un point de vue continental", ICC Bulletin, Special Supplement, 2006
- "La durée et le coût des procédures d’arbitrage international" *Le Magazine des Affaires*, n°9, novembre 2005
- "Conflits d’intérêts et impartialité de l’arbitre" *Le Magazine des Affaires*, n°6, juin 2005

- "Amendments to the claims and new claims: where to draw the line" in "Arbitral procedure at the dawn of the new millenium" *Actes du Colloque International du CEPANI*, October 15 2004, Bruylant, Brussels 2005
- "A guide to the ICC Rules of arbitration (Second Edition)" (with Eric Schwartz) Kluwer Law International, 2005
- "Le témoin en matière d'arbitrage international" in *Mélanges en l'honneur de François Knoepfler*", Helbing & Lichtenhahn, 2005
- "La pratique du délibéré arbitral" in "Global reflections on international law, commerce and dispute resolution / Liber Amicorum in honour of Robert Briner", ICC Publishing, 2005
- "Cláusulas compromisorias patológicas y combinadas" in "El Contrato de Arbitraje", *Universidad del Rosario*, Legis, 2005
- "L'administration de la preuve dans la pratique arbitrale", *Rev. arb.*, 2004, p.781
- "El arbitraje, auxilio del comercio exterior" *Revista Mexicana de Derecho Internacional privado y comparado*, Mexico 2004
- "L'indépendance de l'arbitre - Mythe ou réalité" in *Mélanges en l'honneur du Professeur Guy Horsman*, Brussels 2004
- "L'abus des "anti suit injunctions" en matière d'arbitrage international et la convention de New York", in *De Lege Ferenda, Réflexions sur le droit désirable en l'honneur du Professeur Alain Hirsch (2004)*, edited by Anne Héritier Lachat et Laurent Hirsch
- "The limits of the arbitration agreement in contracts involving more than two parties", in *Complex Arbitration: perspectives on their procedural implications*, ICC Bull. Special Supplement, 2003
- "The role of the UNIDROIT Principles in International Commercial Arbitration (1) a European perspective", in UNIDROIT Principles of international commercial arbitration / Reflections on their use in international arbitration, ICC Bull., Special Supplement 2002
- "La révision des sentences dans l'arbitrage international" in *Law of International Business and Dispute Settlement in the 21st Century*, Liber Amicorum Karl-Heinz Böckstiegel, 2001
- "A guide to the New ICC Rules of Arbitration", Paris, Kluwer, 1999 (with Eric Schwartz) – Spanish translation, Oxford University Press, Mexico, 2001
- "La Convention de Vienne sur la vente internationale et les INCOTERMS", Paris, 1989 (with Prof. Jacques Ghestin)

- Collection of ICC Arbitral Awards, 1975-1985, Paris, Deventer, 1990 (with S. Jarvin); 1986-1990, Paris, Deventer, 1994, (with S. Jarvin and J.J. Arnaldez) ; 1991-1996, Paris, Deventer, 1997 (with J.J. Arnaldez and D. Hascher) ; 1996-2000, Paris, Deventer, 2000 (with J.J. Arnaldez and D. Hascher) ; 2001-2007, Paris, Wolters Kluwer, 2009 (with J.J. Arnaldez and D. Hascher)
- "La pratique des INCOTERMS", Paris, 1988
- "Jurisprudencia arbitral de la Camara de Comercio Internacional", Madrid, 1985
- "Droit et Pratique de l'Arbitrage International en France", Paris, 1984
- "Possible conflict of law rules and the Rules applicable to the substance of the dispute", ICCA Congress, Series, Deventer, 1984
- "Normes d'application immédiate et arbitrage" in Etudes Offertes à Berthold Goldman, Paris, 1983
- "France as a place for international arbitration" in Liber Amicorum, Pieter Sanders, Denveter, 1982
- "Report on the law on arbitration in France", Yearbook Commercial Arbitration, Volume VI, 1981, Volume VII, 1982
- Author and co-author of the "Chronique of Arbitral Awards of the ICC" in the *Journal du Droit International* (1974-2006)