



# The International Arbitration Club of New York

## **The International Arbitration Club of New York's Eighth Annual Smit-Lowenfeld Prize Awarded to Simon Batifort and J. Benton Heath**

New York, January 23, 2019 – The International Arbitration Club of New York (IACNY) announced today that Simon Batifort and J. Benton Heath are the recipients of the 2019 Smit-Lowenfeld Prize for the best article in the field of international arbitration. The prize is being awarded for the article, “The New Debate on the Interpretation of MFN Clauses in Investment Treaties: Putting the Brakes on Multilateralization,” which was published in the *American Journal of International Law* (Vol. III No. 4). The article examines recent developments in how Most-Favored-Nation (MFN) clauses in investment treaties are used, arguing that the conventional view that MFN clauses can always be used to “import” substantive standards of treatment must be re-evaluated in light of emerging evidence, including many states increasingly questioning that use.

The prize was presented to Mr. Batifort and Mr. Heath on Tuesday, January 22, 2019, at a dinner and program held in their honor in New York City. The article was chosen by an IACNY selection committee chaired by Rory O. Millson, a retired partner of Cravath, Swaine & Moore LLP. “Mr. Batifort and Mr. Heath have challenged longstanding assumptions around Most-Favored-Nation clauses in a thoughtful and substantive manner,” said Mr. Millson. “They are deserving recipients of this year’s Smit-Lowenfeld prize.” The selection committee for the prize also included James P. Duffy IV of Baker McKenzie, Martin F. Gusy of K&L Gates LLP, Fredrick E. Sherman of Jones Day and Richard F. Ziegler of Jenner & Block LLP.

Lawrence W. Newman, Presiding Member of the IACNY and Of Counsel at Baker McKenzie, said: “The winning article approaches a topic, the evolution of MFN clauses in investment treaties, that is ripe for reassessment. Its conclusions merit the consideration of all practitioners in the field, and could lead to new approaches in the future.”

Simon Batifort said: “I am greatly honored to be receiving the Smit-Lowenfeld Prize. Our objective in writing this article was to contribute to the academic debate regarding the interpretation of MFN clauses as well as to provide practitioners with a new perspective on an issue that frequently arises in investment treaty arbitration. I am delighted that the quality of the article is being recognized by the International Arbitration Club of New York’s community of eminent international arbitration practitioners.”

J. Benton Heath said: “I am extremely grateful to the International Arbitration Club of New York for this honor. As calls intensify to redesign the system of investor-state dispute settlement, we must be willing to revisit issues that we once thought were settled, and I hope that our work has contributed to that critical reflection. I am even more pleased to be sharing this honor with Simon Batifort. Our close collaboration exemplifies the kind of partnership and teamwork that I believe is essential to a successful legal practice, and it is humbling to have that work recognized by the top practitioners in the field.”

This is the eighth year the IACNY has awarded this prize, selecting one article annually. Prior honorees include E. Alexandra Dosman and Grant Hanessian for their article “Songs of Innocence and Experience: Ten Years of Emergency Arbitration”; Gary Born for his article “A New Generation of International Adjudication”; Professor Charles H. Brower II for his article “Arbitration and Antitrust: Navigating the Contours of Mandatory Law”; Stephen Fietta and James Upcher for their article “Public International Law, Investment Treaties and Commercial Arbitration: An Emerging System of Complementarity?”; Catharine Titi for her article “Investment Arbitration in Latin America: The Uncertain Veracity of Preconceived Ideas”; Nicolas Ulmer for his article “The Cost Conundrum”; and Aloysius Llamzon and Anthony Sinclair for their article “Investor Wrongdoing in Investment Arbitration: Standards Governing Issues of Corruption, Fraud, Misrepresentation and Other Investor Misconduct.”

The annual Smit-Lowenfeld prize honors the late professors Hans Smit, former Stanley H. Fuld Professor Emeritus at Columbia Law School, and Andreas Lowenfeld, former Rubin Professor Emeritus at the New York University School of Law, for their distinguished careers in the field of international arbitration, both as scholars and as arbitrators. Article selection is based on originality, quality, significance and scholarship, among other factors. Honorees are selected annually by the IACNY and are awarded an honorarium of \$2,500.

### **The International Arbitration Club of New York**

The International Arbitration Club of New York was formed on June 25, 2010, by 70 founding members as a not-for-profit association. The Club now comprises 126 leading practitioners and scholars in the field of international arbitration who reside and/or work in the New York City area. The Club is governed by a steering committee that includes James H. Carter of Wilmer Cutler Pickering Hale and Dorr LLP; John Fellas of Hughes Hubbard & Reed LLP; David Lindsey of Chaffetz Lindsey LLP; Lawrence W. Newman (Chair) of Baker McKenzie; David W. Rivkin of Debevoise & Plimpton LLP; and Robert H. Smit, formerly of Simpson Thacher & Bartlett LLP. The purpose of the Club is to promote best practices in arbitration as a means of settling international commercial disputes, and the Club holds regular meetings to hear speakers from both within and outside of its membership.

## **The 2018 Award Recipients**



### **Simon Batifort**

Simon Batifort is a partner in the International Arbitration Group of Curtis, Mallet-Prevost, Colt & Mosle LLP in New York, where he practices investment treaty arbitration, international commercial arbitration and public international law.

He has represented sovereign states, state-owned entities and private companies in numerous investment treaty arbitrations and contractual disputes under the ICSID, UNCITRAL and ICC rules, in cases involving natural resources, telecommunications, construction, joint ventures and taxation. Among other high-profile disputes, he acted for the winning parties in *Venezuela Holdings v. Venezuela*, in which Curtis secured the largest annulment in ICSID history, and in *Içkale v. Turkmenistan* and *Erhas et al. v. Turkmenistan*, in which Curtis obtained full dismissal of the claims and favorable costs awards.

Who's Who Legal – Arbitration: Future Leaders has recognized him as one the Most Highly Regarded international arbitration attorneys under 45. He publishes and speaks regularly on issues of international arbitration and public international law, and teaches investment treaty arbitration at Brooklyn Law School.

Dual-qualified in Paris and New York, he holds degrees in public and private international law, civil law, common law and comparative law from Université Panthéon-Assas (Paris II), Université de Montpellier and NYU School of Law.



### **J. Benton Heath**

J. Benton Heath is an Acting Assistant Professor of Lawyering at New York University School of Law.

Prior to joining the NYU Lawyering Faculty, Professor Heath practiced international law and arbitration at the U.S. Department of State and at Curtis, Mallet-Prevost, Colt & Mosle in New York, where he represented foreign governments and state entities. He has worked on cases before the International Court of Justice, the Iran-United States Claims Tribunal, other international arbitral tribunals, and U.S. federal courts. Professor Heath's work at the State Department also included bilateral claims negotiations with foreign governments, matters relating to embargoes and economic sanctions, and advising the U.S. government with respect to cases brought against foreign states by victims of terrorism.

Professor Heath's research areas include international economic law, arbitration, global health law, humanitarian relief, and national security, and his work has appeared in the *American Journal of International Law*, the *Harvard International Law Journal*, and the *Vanderbilt Journal of Transnational Law*, among others.

He holds a J.D. and LL.M. from NYU School of Law and a B.A. in philosophy from the University of Texas at Austin, and he served as a clerk for Judge Robert D. Sack of the Second Circuit Court of Appeals.

*Those interested in submitting an article for consideration for the best article on international arbitration published in English in 2018, please visit The International Arbitration Club of New York's website at [www.arbitrationclub.org](http://www.arbitrationclub.org) or contact Ted Lynch at [telynch@jonesday.com](mailto:telynch@jonesday.com) or +1.212.326.3897*

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