

# Andrea Menaker

Partner, White & Case (Washington, DC)



Andrea Menaker serves as counsel in complex international arbitration cases, with a focus on investment treaty arbitration.

Andrea has represented both claimant investors and respondent States in arbitrations before the International Centre for Settlement of Investment Disputes (ICSID) and its Additional Facility, the International Chamber of Commerce (ICC) and other arbitral institutions, as well as in ad hoc arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

Prior to joining White & Case, Andrea was Chief of the NAFTA Arbitration Division for the US State Department where she was lead counsel for the United States in investor-State arbitrations under the investment chapter of the North American Free Trade Agreement (NAFTA), and participated in the drafting of investment and dispute resolution provisions in United States' bilateral investment treaties and investment chapters of free trade agreements.

In recognition of her achievements in her field, she is frequently called upon to speak on international arbitration and investor-state dispute resolution issues. She has served as an adjunct professor at Georgetown University Law Centre, where she taught international commercial arbitration for several years, and has lectured at several other universities.

Andrea is a member of the Boards of the Arbitration Institute of the Stockholm Chamber of Commerce and the Association Suisse de l'Arbitrage, as well as an elected member of the American Law Institute, where she is serving as an Adviser on the Restatement (Third) Conflict of Laws. She recently served as Chair of the Programme Committee for ICCA's 2016 Congress in Mauritius and on the Executive Council of the American Society of International Law.

Andrea received a White & Case Pro Bono Award for conducting a workshop with the UNRCC on State-to-State dispute resolution for Central Asian States, and for preparing comparative law analyses for the Government of Nepal to assist in its drafting of a new constitution. In 2011, Andrea was ranked by Global Arbitration Review as one of the top 45 international arbitration practitioners worldwide under the age of 45.

Andrea has been described in Chambers USA as "a very impressive, poised and excellent speaker" who "is hailed for her flawless presentation skills" and in Global Arbitration Review's Who's Who as "spectacular" and "tremendously skilled and highly effective." Chambers Global notes her "reasoned, clear, and fast responses" and The Legal 500 describes her as "magnificent" and "very conscientious."

Ms. Menaker has served as counsel in numerous significant international arbitrations and related proceedings including:

- *Federal Elektrik Yatirim ve Ticaret A.Ş. and others v. Republic of Uzbekistan*: representing the Republic of Uzbekistan in an ICSID arbitration under the Turkey-Uzbekistan BIT and the ECT in a dispute concerning the natural gas industry.
- *Orascom TMT Investments S.à r.l. v. People's Democratic Republic of Algeria*: representing OTMTI in an ICSID arbitration under the Belgo-Luxembourg-Algeria BIT in a dispute arising out of an investment in the telecommunications industry.
- *Vladislav Kim and others v. Republic of Uzbekistan*: representing the Republic of Uzbekistan under the Kazakhstan-Uzbekistan BIT in a dispute concerning two cement plants.
- *Hanocal Holding B.V. and IPIC International B.V. v. Republic of Korea*: representing the claimants in an ICSID arbitration under the Netherlands-Korea BIT in a dispute concerning an investment in the petrochemical industry.
- *The Renco Group, Inc. v. The Republic of Peru*: representing the Republic of Peru in an UNCITRAL arbitration brought under the U.S.-Peru FTA in a dispute concerning a metallurgical complex.
- *Oxus Gold PLC v. Republic of Uzbekistan*: represented the Republic of Uzbekistan in an UNCITRAL arbitration under the UK – Uzbekistan BIT in a dispute concerning mines containing gold, silver, and other metals. Successfully defeated more than 99% of the claimant's \$ 1.3 billion claim.
- *Abaclat and others v. The Argentine Republic*: representing tens of thousands of Italian bondholders of Argentine sovereign bonds in an ICSID arbitration under the Italy-Argentina BIT.

- *TECO Guatemala Holdings, LLC v. Guatemala*: successfully represented TECO, a US electricity company, in an ICSID arbitration under the DR-CAFTA arising from its investment in an electricity distribution company, obtaining an award for violation of the treaty and for costs, and successfully represented TECO in ICSID annulment proceedings, defending the award and allowing it to pursue further damages and interest claims.
- *Metal Tech, Ltd. v. Republic of Uzbekistan*: successfully represented the Republic of Uzbekistan in an ICSID arbitration under the Israel- Uzbekistan BIT in a dispute arising from a joint venture engaged in mineral processing, obtaining dismissal of all claims,.
- *JSC BTA Bank v. The Kyrgyz Republic*: representing JSC BTA Bank in an UNCITRAL arbitration under the Kazakhstan-Kyrgyzstan BIT in a dispute arising out of an investment in a bank.
- *Fraport AG Frankfurt Airport Services Worldwide v. Republic of the Philippines*: represented the Republic of the Philippines in an ICSID annulment proceeding defending an award dismissing the claimant's claims in respect of a dispute concerning an airport terminal.
- *Philippine International Air Terminals Co., Inc. v. Republic of the Philippines*: successfully represented the Republic of the Philippines in an ICC arbitration sited in Singapore in a dispute concerning an airport terminal, obtaining dismissing all claims and an award of costs.
- Represented an Asian football club in a claim filed by a South American coach before the Court of Arbitration for Sport.
- *Roz Trading Ltd. v. Coca-Cola Export Corp., Republic of Uzbekistan and OziqOvqatSanoat*: represented the Republic of Uzbekistan and OziqOvqatSanoat in a Vienna Centre arbitration in a dispute arising out of a joint venture agreement to bottle and distribute Coca-Cola products.
- *Methanex Corp. v. United States of America*: successfully represented the U.S. in an UNCITRAL arbitration under the NAFTA concerning a dispute challenging California's regulations banning the use of a gasoline additive, obtaining dismissal of all claims and an award of costs.
- *In re Consolidated Softwood Lumber Proceedings*: successfully represented the U.S. in a consolidated UNCITRAL arbitration under the NAFTA brought by three Canadian softwood lumber companies in a dispute involving challenges to U.S antidumping and countervailing duties imposed on Canadian softwood lumber and the Byrd Amendment, obtaining dismissal or withdrawal of all claims and an award of costs against one of the claimants, and successfully represented the U.S. in related set aside proceedings.
- *In re NAFTA Chapter Eleven/UNCITRAL Cattle Cases*: successfully represented the U.S. in an UNCITRAL consolidated arbitration under the NAFTA involving more than 100 claimants in a dispute challenging the United States' closure of the border to imports of Canadian cattle, obtaining dismissal of all claims.
- *Glamis Gold Ltd. v. United States of America*: successfully represented the U.S. in an UNCITRAL arbitration under the NAFTA in a dispute concerning federal and state actions taken with respect to claimant's mining claims, obtaining dismissal of all claims and an award of costs.
- *Grand River Enterprises Six Nations, Ltd. et al. v. United States of America*: successfully represented the U.S. in the jurisdictional phase of this dispute under the NAFTA concerning action taken in connection with the 1998 Master Settlement Agreement between various state attorneys general and the major tobacco companies, obtaining dismissal of significant portions of the claim.
- *ADF Group, Inc. v. United States of America*: successfully represented the U.S. in an ICSID Additional Facility arbitration under the NAFTA in a dispute concerning federally-funded state highway procurement practices, obtaining dismissal of all claims.
- *The Loewen Group, Inc. et al. v. United States of America*: successfully represented the U.S. in an ICSID Additional Facility arbitration under the NAFTA in a dispute concerning litigation in Mississippi state courts and subsequent actions in federal court seeking to set aside the award.
- *Mondev Int'l Ltd. v. United States of America*: successfully represented the U.S. in an ICSID Additional Facility arbitration under the NAFTA in a dispute concerning litigation in Massachusetts state courts, obtaining dismissal of all claims.
- *United States of America v. India*: represented the U.S. in an arbitration arising under the Investment Incentive Agreement for losses sustained by U.S. investors and lenders to an energy project, obtaining a favourable settlement.
- Represented the United States in several arbitrations under NAFTA Chapter Eleven to which the Governments of Canada and Mexico were parties, such as *S.D. Myers Inc. v. Canada*, *Pope & Talbot v. Canada*, *UPS, Inc. v. Canada*, *Fireman's Fund Ins. Co. v. United Mexican States*, *GAMI Investments, Inc. v. United Mexican States*, *Marvin Roy Feldman Karpa v. United Mexican States*, *International Thunderbird Gaming Corp. v. United Mexican States*, and *Bayview Irrigation District, et al. v. United Mexican States*, where the United States invoked its right to make submissions on issues of treaty interpretation.