

Maria Kostytska Discusses Nationality Planning and Treaty Shopping

JANUARY 11, 2013

Winston & Strawn of counsel [Maria Kostytska](#), based in the firm's Paris and Washington, D.C. offices, spoke at the International Chamber of Commerce's *ICC Young Arbitrators Forum*, held January 11, 2013 in Geneva. This seminar focused on arbitration in the field of commodities trading. The program included three sessions: commodities trading arbitration; the impact of trade sanctions on international arbitration; and current issues in the oil and gas sector.

An overview of the seminar was included in the January 22, 2013 issue of *Global Arbitration Review*. The article, "GENEVA: Arbitrating commodities disputes," included the issues raised by nationality planning and treaty shopping in investment arbitrations, which were provided in Ms. Kostytska's portion of the program.

The subtleties that can arise between the two was demonstrated by the ICSID case of *Mobil Corporation and others v Venezuela*, in which the tribunal decided that it had jurisdiction over only some of the issues raised by Mobil. Ms. Kostytska and other panel members discussed the criteria that should be applied in such cases and held that certain disputes had arisen before, and others after, the relevant corporate restructurings.

Ms. Kostytska concluded with remarks on "denial of benefits" clauses, which are one way in which states can try to mitigate the effects of nationality planning in their investment treaties.

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