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## THE RISE OF INTERNATIONAL ARBITRATION

By **María Cristina de la Vega**  
Vice President

It is timely to write about International Arbitration because it is a hot topic that is of great interest to the target markets of most LSPs (Language Service Providers); i.e., multinational companies and attorneys. That said, it follows that it is also relevant to linguists because of the exponential growth of this ADR (Alternate Dispute Resolution) variant with which we are tangentially involved. From my perspective as a Federally Certified Court Interpreter and owner of a large language services bureau, I have personally witnessed the increase in this type of assignment, from a relatively modest number of cases ten years ago to a significant volume that we have serviced in the last five years both in the U.S. and abroad. Caroline Mitchell, a

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partner at the international law firm of Jones Day, recently commented in an interview, “As the economy becomes more globalized, you have a lot more disputes that arise that span a lot of different continents and countries. You may have either foreign plaintiffs or employers who become crucial to the litigation, and need to testify...In what areas are we seeing a rise? I think you’re seeing a lot out of Africa and South America.” She made specific reference to a case in which she recently helped to defend Chevron, *Bowoto v. Chevron*, a high-profile lawsuit in which a group of Nigerians sued Chevron for its alleged role in aiding and abetting a brutal 1998 attack by Nigerian government forces. More than 100 Nigerians were deposed for the case, which involved

Ilage, a Yoruban language spoken in Nigeria. Mitchell brought the case to a successful conclusion partly because of her skill in questioning foreign witnesses. She went on to say, “You need to find someone who can translate at the deposition and also find a court reporter who is able to deal with witnesses who are testifying and have heavy accents. Oftentimes, if you get into some of the lesser-known languages, even the interpreters will have an accent, and it’s important that a court reporter will be able to pick up what they’re saying. And you have to become a student of the culture of the country. If there are ways you need to phrase questions, you need to be familiar with those ways and know how to ask questions to get information that you need”. Linguists are typically involved in these proceedings in several ways. We provide translations of pertinent documents, interpretation at the proceeding whenever testimony is given in several languages and, in addition, we often provide a transcript of the hearing in one or more languages, at venues where court reporting is not an established practice. As a recent graduate business student, it makes perfect sense to me that, as trade and commerce continue to grow on a global scale, so will the need for a flexible system that is not tethered to the laws of any particular country and enjoys the buy-in of many jurisdictions, as evidenced by the over 135 signatories to the New York Convention. The latter is formally known as the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. It was signed in New York in 1958 and followed by the UNCITRAL Arbitration Rules in 1976 and the adoption of the UNCITRAL Model Law in 1985. The New York Convention is the foundation instrument of international arbitration and requires courts of contracting States to give effect to an agreement to arbitrate when involved in a matter covered by an arbitration agreement and also to recognize and enforce awards made in other States, subject to specific limited exceptions. The Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international



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commercial arbitration. It reflects a worldwide consensus on key aspects of International Arbitration. Using this framework, many developed jurisdictions have enacted modern arbitration statutes from 1980 to the present time. From an international perspective, Professor Loukas Mistelis, LLB (Athens) MLE (magna cum laude), teaching at the Queen Mary University of London School of Law, and Director of the School of International Arbitration, shares that he has conducted a survey that demonstrates that 95% of the corporations currently involved in international arbitration will continue to use it. As legal interpreters and translators, it behooves us to stay abreast of these developments and learn the attendant terminology for these proceedings in our respective languages so that we may successfully ride the cusp of this wave and assist our clients in deriving its benefits to the fullest.