

# GUSTAVO FERNANDES DE ANDRADE

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## PROFILE

**Gustavo Fernandes de Andrade is the head partner of the Arbitration Practice Group of Taül & Chequer Advogados in association with Mayer Brown LLP for Brazil. He concentrates his practice in complex domestic and international litigation and arbitration matters. He also sits as arbitrator in commercial *ad-hoc* and institutional arbitration proceedings.**

Mr. Fernandes has over 20 years of experience representing clients before Brazilian federal and state courts and serving as lead counsel in both domestic and international arbitration proceedings held under the auspices of the rules of the principal arbitration institutions in several venues around the globe, including ICC, LCIA, CAM-CCBC, CIESP/FIESP, FGV, CAMARB, CBMA, as well as in *ad hoc* proceedings and under the UNCITRAL Arbitration Rules.

Trained in both civil and common law, Mr. Fernandes' experience encompasses the representation of clients in commercial and corporate disputes related to a variety of industry sectors, including intellectual property; telecommunications, oil & gas; energy; and, mainly, engineering and construction projects, for which he is nationally acclaimed for the depth of his knowledge and exceptional capabilities on this subject matter.

Mr. Fernandes advises and represents clients in ancillary arbitration-related lawsuits, including recognition and enforcement of foreign arbitral awards applications with the Superior Court of Justice of Brazil.

He holds an LL.M degree in International Arbitration from the University of Cambridge and an LL.M degree on International Comparative Law from the University of Pennsylvania (UPenn).

He regularly serves as tribunal chairman, sole arbitrator and party-appointed arbitrator, in the list of arbitrators of the Brazilian major arbitration chambers, namely the Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM-CCBC); the Chamber of Conciliation, Mediation and Arbitration CIESP-FIESP; the Business Arbitration Chamber of Brazil (CAMARB), where he also serves as member of the Board of Directors. He is also member to the ICC Commission on Arbitration and ADR, appointed by the Brazilian National Comitee.

Mr. Fernandes co-coordinates the Study Group on Arbitration, Mediation and State Entities of the Brazilian Arbitration Comitee (CBar) and regularly speaks in conferences and seminars on arbitration, with particular emphasis on Arbitration Involving State or State Entities and on Foreign Investment Protection, topics on which he has published several journal articles and book chapters.

## AREAS OF FOCUS

Construction & Engineering  
International & Domestic Arbitration  
Latin America  
Oil & Gas  
Trial Litigation

## EDUCATION

Universidade Federal Fluminense, LLB  
University of Pennsylvania, LLM  
University of Cambridge, LLM

## BAR QUALIFICATIONS

Federal District, Brazil  
Rio de Janeiro, Brazil  
São Paulo, Brazil

## LANGUAGES

English  
Italian  
Portuguese

## ACCOLADES

- Chambers Latin America – 2016, 2017, 2018, 2019 – Arbitration: Brazil
- Chambers Global Guide – 2019 – Arbitration: Brazil
- Latin Lawyer 250 – 2017, 2018 – Arbitration: Brazil
- Latin American Corporate Counsel Association (LACCA) – 2019 – Litigation: Brazil
- Legal 500 Latin America – 2019 – Dispute Resolution: Brazil

## EXPERIENCE

Mr. Fernandes current and recent relevant cases include the representation of:

- Barra Energia do Brasil Petróleo e Gás Ltda. in a LCIA/UNCITRAL arbitration seated in Paris initiated by Dommo Energia S.A. The dispute arises from the performance of a joint operating agreement for the exploration, development, and operation of an oilfield located in the Santos Basin. Brazilian law applies and English is the language of the proceedings.
- Brazilian subsidiary of an Italian-Argentine steel-making conglomerate in a ICC arbitration seated in São Paulo against a company engaged in the production and distribution of electro technical products. The dispute arises from an EPC agreement for the construction of power facilities for an integrated steel mill plant owned by the Claimant. Brazilian law applies and English is the language of the proceedings.
- Renewable energy subsidiary of one of the largest Brazilian players for power generation, distribution, and retail in a CAM/CCBC (*Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada*) arbitration seated in São Paulo against a sugar cane mill owner. The dispute arises from the performance of a consortium agreement for the generation and sale of the energy produced by a biomass plant owned by the Claimant. Brazilian law applies and Portuguese is the language of the proceedings.
- Brazilian subsidiary of a Paris-based group engaged in the development of systems for railway transportation in a CAM/CCBC (*Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada*) arbitration seated in Rio de Janeiro against a state-owned public transportation company. The dispute arises from a rolling stock supply agreement related to the construction of the system of light rail vehicles in the City of Rio de Janeiro. Brazilian law applies and Portuguese is the language of the proceedings.
- Brazilian steel producer in LMAA (*London Maritime Arbitrators Association*) arbitration seated in London against a Canadian company engaged in mining crushed and broken limestone. The dispute arose from a supply agreement for the sale and purchase of high calcium limestone. English law applied and English was the language of the proceedings.
- Chinese oil and gas major player as Respondent in a LCIA (*London Court of International Arbitration*) arbitration seated in London initiated by a Brazilian company engaged in the construction of construction of onshore and offshore pipelines. The dispute arises from an EPC agreement for the construction of a gas-pipeline in the State of Bahia, Brazil. Brazilian law applies and English is the language of the proceedings.

## PUBLICATIONS

- Gustavo Fernandes de Andrade. *Arbitragem e Controle de Constitucionalidade: Algumas Reflexões [Arbitration and Constitutional Review: Brief Considerations]* In Carlos Alberto Carmona; Selma Lemes; Pedro Batista Martins (Coord.), 20 Anos da Lei de Arbitragem: Homenagem a Petrônio R. Muniz. 1ª Edição – São Paulo: Editora Atlas, 2017, pp. 737-762.
- Gustavo Fernandes de Andrade. *Arbitragem e Administração Pública: da Hostilidade à Gradual Aceitação [Arbitration and State Entities: from Hostility to Gradual Acceptance]* In Leonardo de Campos Melo; Renato Beneduzi (Eds.), A Reforma da Lei de Arbitragem. 1ª Edição – Rio de Janeiro: Editora Atlas, 2016, pp. 411-458.
- Gustavo Fernandes de Andrade; Alejandro Lopéz Ortiz. *A Year of Legal Developments for International Arbitral in Latin America*. Kluwer Arbitration Blog, published on 11 January 2016.
- Gustavo Fernandes de Andrade. *No bar to 'on-demand' guarantees but beware asking a bank to issue the bond*. IBA Construction Law International, Vol. 10, Issue 1, 2015.

- Gustavo Fernandes de Andrade; Gustavo Henrique Justino de Oliveira. *Foreign Investment and Brazilian Law: The Magic of Reality - Chapter 5* In Daniel de Andrade Levy; Ana Gerda de Borja; et al. (Eds.), *Investment Protection in Brazil*. 1<sup>st</sup> Edition – The Hague: Kluwer Law International, 2013, pp. 71-106.
- Gustavo Fernandes de Andrade. *Algumas Reflexões sobre as Arbitragens e as Regras da Câmara de Comercialização de Energia – CCEE [Brief Considerations on Arbitral Proceedings and Arbitration Rules of the Brazilian Electricity Clearing House – CCEE]* In Revista de Direito da Procuradoria Geral do Rio de Janeiro, Vol. 67, 2013, pp. 79-105.
- Gustavo Fernandes de Andrade. *Descabimento de Mandado de Segurança Impetrado contra Sentença Arbitral. Comentários à Apelação Cível nº 0120145-96.2011.8.26.0100 – Câmara Reservada de Direito Empresarial do TJ-SP [Grounds for Dismissal of Writ of Mandamus against Arbitral Award. Comments to the Civil Appeal nº 0120145-96.2011.8.26.0100 – Especialized Chamber for Business Law of the TJ-SP]* In Revista de Arbitragem e Mediação, São Paulo: Editora Revista dos Tribunais, Vol. 33/2012, pp. 387-409, 2012.
- Gustavo Fernandes de Andrade; André Chateaubriand Martins. *When is an Arbitration International and What Are the Implications? A Traditional Perspective on the Enforcement of Annulled Awards* In The International Comparative Legal Guide to International Arbitration, London: Global Legal Group Ltd., 2012, pp. 21-26.
- Gustavo Fernandes de Andrade. *Annulment of Arbitral Awards and Their Enforcement: Jarring and Conflicting Ideas*, Edição Especial da Revista do GEArb - Arbitragem: Questões Polêmicas, Ano I, nº 2, 2012.
- Gustavo Fernandes de Andrade. *Exceções e Defesas nas Arbitragens de Investimento [Exceptions and Defenses in Investment Arbitration]* In A Proteção ao Investimento Estrangeiro, Revista Brasileira de Arbitragem (Comitê Brasileiro de Arbitragem CBAr & IOB), 2011, pp. 180-214.
- Gustavo Fernandes de Andrade. *A Interferência Ilícita do Terceiro na Relação Contratual: A Tutela Externa do Crédito e a Oponibilidade dos Contratos [The Wrongful Interference of Third Parties in the Contractual Relationship: The External Protection of Credit and the Opposition to Contracts]*, Revista Forense, São Paulo: Editora Forense, Vol. 103, nº 391, 2007, pp. 99-110.
- Gustavo Fernandes de Andrade. *As Arbitragens Comerciais Internacionais e Domésticas e os Contratos com o Estado [The International and Domestic Arbitrations and Contracts with the State]* In Revista de Direito da Procuradoria Geral do Rio de Janeiro, Vol. 62, 2007, pp. 134-189.
- Gustavo Fernandes de Andrade. *Freezing Orders in Brazil (Comparative View of Freezing and Similar Order)* In Mark S. W. Hoyle (Ed.), *Freezing and Search Orders*. 4<sup>th</sup> Edition – London: Informa Law from Routledge, 2006, p. 212.
- Gustavo Fernandes de Andrade. *Comparative Constitutional Law: Judicial Review* In University of Pennsylvania Journal of Constitutional Law, Vol. 977, Issue 3:3, 2001, pp. 977-979.
- Gustavo Fernandes de Andrade. *O Processo Administrativo Fiscal Federal [The Federal Tax Administrative Proceedings]* In Revista de Direito IED, Vol. 2, 1995.
- Gustavo Fernandes de Andrade. *Cidadania, Mercado, Pobreza e Subdesenvolvimento: Realidade e Paradigmas Nacionais [Citizenship, Market, Poverty and Underdevelopment: Reality and National Paradigms]* In Revista de Direito IED, Vol. 2, 1994, p. 144.
- Gustavo Fernandes de Andrade. *Prisão Cautelar e Presunção de Inocência: Necessidade e Compatibilidade [Interim Arrest Order and the Presumption of Innocence: Needs and Compatibility]* In Revista de Direito IED, Vol. 9, 1993, p. 160.

## LECTURES

Mr. Fernandes recent lectures includes:

### 2018

- Speaker on *Corruption and Arbitration: Arbitrability and Related Issues* at the X Seminar of Arbitration and Mediation – IMAB (São Paulo, Brazil).
- Speaker on *The Decree No. 46.245 of the State of Rio de Janeiro* at the Rio de Janeiro I Arbitration and Public Law Symposium (Rio de Janeiro, Brazil).
- Speaker on *Corruption and Arbitration: Arbitrability and Related Issues* at the I Northern Arbitration Congress (Manaus, Brazil).
- Speaker on *Forthcoming Challenges for Arbitration* at the 2018 HARDtalk Seminar (São Paulo, Brazil, 2018).

- Host of the Mayer Brown/Brazilian Arbitration Committee (CBar) joint seminar on *The Brazilian Federal Transportation Agency's New Rules on Arbitration* (São Paulo, Brazil).
- Host of the Mayer Brown/Brazilian Arbitration Committee (CBar) joint seminar on *The Decree No. 46.245 of the State of Rio de Janeiro* (Rio de Janeiro, Brazil).

## 2017

- Speaker on *Arbitration, Mediation and State Entities* at the Federação das Indústrias do Estado do Rio de Janeiro (FIRJAN) Conference on Arbitration, Mediation and State Entities (Rio de Janeiro, Brazil).
- Speaker on *Arbitration Practice with State Entities: Experiences and Challenges* at the CAM/CCBC 4<sup>th</sup> Pan-American Arbitration Congress (São Paulo, Brazil).
- Speaker on *Arbitration and Class Actions* at the Mayer Brown/ICC joint seminar on International Arbitration (São Paulo, Brazil).
- Speaker on *Recourse to the Courts Pre-Arbitration and During Arbitration Proceedings: Urgent Relief, Anti-Arbitration Suits and Conflict of Jurisdiction in Arbitrations Involving State Entities* at the Attorney's General Office of the State of São Paulo Seminar on Arbitration and State Entities (São Paulo, Brazil).
- Speaker on *Interim Measures in International Arbitration* at the ICC São Paulo Office (São Paulo, Brazil)
- Speaker on *Arbitration, State Entities and Infrastructure* at the 1<sup>st</sup> Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM/CCBC) Workshop on Arbitration and State Entities (Brasília, Brazil)
- Speaker on *Arbitrability of Contracts with State Entities* at the Attorney's General Office of the State of Rio de Janeiro (Rio de Janeiro, Brazil)

## 2016

- Speaker on *Arbitration and the New Brazilian Code of Civil Procedure* at the VIII Seminar of Arbitration and Mediation – IMAB in São Paulo (São Paulo, Brazil).
- Host of the Mayer Brown/Brazilian Arbitration Committee (CBar) joint seminar on *Arbitrations and Contracts with the State in São Paulo* (São Paulo, Brazil).
- Speaker at the *Mayer Brown I Brazilian Controversy Day* in São Paulo (São Paulo, Brazil).
- Speaker on *Latin America Investment and Dispute Resolution* at the Mayer Brown Seminar on Investments in Latin America (Houston, USA).
- Speaker on *Latin America Investment and Dispute Resolution Seminar* at the Mayer Brown Seminar on Investments in Africa and Latin America and Dispute Resolution (Beijing and Shanghai, China).
- Speaker on *The Art of Advocacy* at the 3<sup>rd</sup> Annual GAR Live Brazil (São Paulo, Brazil).
- Speaker on *Practical issues regarding the negotiation and performance of oil and gas contracts* at the Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM/CCBC) I Oil and Gas Seminar (São Paulo, Brazil).
- Speaker on *The Enforcement of Arbitral Awards Against the State and State Entities* at the III International Congress on Arbitration and Engineering (São Paulo, Brazil).
- Speaker on *Arbitrators' Duties vis-à-vis the Parties and the Arbitral Institution* at the IX Arbitration and Mediation Seminar (São Paulo, Brazil).
- Host of the Mayer Brown/ICC Brazilian Committee joint seminar on *Arbitration and other Dispute Resolution Methods* (São Paulo, Brazil).
- Speaker on *Amendments to the Brazilian Arbitration Act* at the Migalhas Seminar on Arbitration in São Paulo (São Paulo, Brazil).
- Speaker on *Construction-Related Disputes and Arbitration* at the Brazilian Bar Association – Brasília Chapter Seminar on Arbitration (Brasília, Brazil).
- Speaker on *Expropriation under Brazilian Law* at the Brazilian Arbitration Committee's Foreign Investment Protection Seminar (Brasília, Brazil).
- Speaker on *Investing in Latin America, Brazil and the Mexican Energy Reform* at the Mayer Brown Seminar on Latin America and Developments (London, England)
- Moderator on the panel on *Arbitration and Contracts with State Entities* at the I Brazilian Center of Mediation and Arbitration (CBMA) International Arbitration Congress (Rio de Janeiro, Brazil)
- Participant at the Rio de Janeiro ICC workshop on arbitration (Rio de Janeiro, Brazil).

- Speaker on *How to Draft an Arbitration Clause: A Practical Approach* at the Mayer Brown Seminar on Arbitration (São Paulo, Brazil).
- Speaker on *Arbitration in Corporate Arbitration* at the British Chamber of Commerce and Industry Seminar on Corporate Disputes (Rio de Janeiro, Brazil).
- Speaker on *Amendments to the Brazilian Arbitration Act and the Enactment of the First Mediation Act of Brazil* at the American Chamber of Commerce in Brazil – AmCham Brazil (São Paulo, Brazil)
- Speaker on *Clause 67 of the on FIDIC Red Book* at the Hill International Master Class (São Paulo, Brazil)
- Speaker on *Independence and Impartiality of the Arbitrator* at the Brazilian Bar Association – Rio de Janeiro Chapter (Rio de Janeiro, Brazil).
- Speaker on *The Request for Arbitration: Breadth and Limitation of the Powers of the Arbitrator* at the VIII Arbitration and Mediation Seminary (São Paulo, Brazil).
- Speaker on *Hot Topics on Arbitration* at the British Chamber of Commerce in Brazil (Rio de Janeiro, Brazil).
- Speaker on *Arbitration and Intellectual Property* at the II Mediation Course of the Brazilian Association for Intellectual Property – ABPI (Rio de Janeiro, Brazil).
- Speaker on *Dispute Resolution Methods for State and State Entities* at the State of Sergipe Attorney General's Office (Aracajú, Brazil)