Fernando Bañez

SENIOR ASSOCIATE

Madrid | +34.620.925.528 | Fernando.Banez@brattle.com

Dr. Bañez has experience in arbitration, litigation, regulatory, and market manipulation, particularly in finance, energy, and infrastructure projects. He has provided expert testimony before key arbitration venues and national courts.

Dr. Bañez has worked on projects related to a wide range of industries – including conventional and renewable energy power plants, electricity and gas networks, oil and gas, district heating, financial services, real estate, hospitality and transport – and he advises private and public sector clients on valuation, pricing, and regulatory matters in different geographies (Europe, America, Middle East, Africa, Oceania). He also has experience with large infrastructure projects and performing sophisticated commodity prices (oil, gas, carbon, electricity) and financial modeling.

He provided expert testimony in international arbitrations, national arbitrations, and Spanish litigations. Additionally, Dr. Bañez has contributed to expert reports on more than 40 international arbitrations on matters before the International Centre for Settlement of Investment Disputes (ICSID), United Nations Commission on International Trade Law (UNCITRAL), International Chamber of Commerce (ICC), London Court of International Arbitration (LCIA), Stockholm Chamber of Commerce (SCC), and Spanish, English, US, and New Zealand courts.

Previously, Dr. Bañez worked as a researcher at Comillas Pontifical University (ICAI), where he obtained his PhD in engineering. His research focused on the functioning, regulation and expansion of the power system. His academic work has appeared in scientific journals, including *Energy*, *Applied Energy* and *Electric Power Systems Research*.

AREAS OF EXPERTISE

- International Arbitration and commercial litigation
- Disputes in restructuring processes
- Energy regulation and markets
- Finance

EDUCATION

- **Comillas Pontificial University, ICAI (Madrid, Spain)**
  PhD in Engineering (Excellent), Masters in Power Systems, and BSc. and MSc. in Industrial Engineering
- **Massachusetts Institute of Technology**
  Research Stay

PROFESSIONAL EXPERIENCE

- **The Brattle Group (2017–Present)**
  Senior Associate (2024–Present)
  Associate (2018-2023)
  Research Associate (2017–2018)
- **Institute for Research in Technology (IIT), Comillas Pontifical University (Madrid, Spain) (2010–2017)**
  Assistant Researcher

EXPERT TESTIMONY

- **Regulatory changes to renewable energy plants in Romania**
  Provided expert testimony in ICSID arbitrations between shareholders in renewable energy plants in Romania and the Republic of Romania. In several arbitrations, provided regulatory expert opinion and estimated damages to shareholders derived from the changes to the Romanian green certificate scheme that cut the plants' financial support. The analysis involved the modeling of the green certificate market and the valuation of a large portfolio of renewable assets.
- **Early closure of a coal power plant**
  Co-authored an expert report in an ICSID arbitration concerning the phase-out of coal plants in the Netherlands. Valued the coal plant and assessed its scope for conversion to biomass. The analysis included the development of a sophisticated model, Monte Carlo

simulation and long-term forecasting of electricity, commodity (coal, gas and oil), and carbon prices to account for "real options", and considered different damages methodologies.

- **Capital call default in an investment fund**
  Provided expert testimony in an ICC arbitration concerning the capital call default in a hospitality sector fund. The opinion explained the role of capital calls within an investment fund and calculated damages due to the capital call default to the fund itself and its general partner: the reduction in the manager's fee, the signal transmitted to the market, causing the firm's valuation to drop and the delay in developing the hospitality projects. We used standard financial techniques and recent economic research on venture firms.

- **Restructuring of a maritime transport company**
  For a restructured company, provided expert testimony in a national court assessing the restructuring approved by the Spanish national courts and responded to the issues raised by a group of minority bondholders. Assessed the contentious points of the company's valuation, the capacity of the company to incur more debt, and the "gifting" to the previous shareholders.

- **Market manipulation in the Spanish electricity market**
  Provided expert testimony in a national court about the alleged manipulation of the continuous intraday electricity market. The opinion explained the situation in the energy markets in 2022 and the behaviour of a competitive agent participating in the continuous intraday electricity market after the government's regulatory interventions. The opinion analysed the market offers in 2022, concluding they were consistent with a competitive agent.

- **Excise taxes overpayments of a beer company**
  Provided expert testimony in an ICSID case about alleged overpayments regarding an excise tax on beer in a South American country. Assessed the extent of the alleged overpayments, explaining the aim of excise taxes on alcohol and thus that they are normally incurred by consumers. The opinion concluded that the beer company was not affected.

- **Post-acquisition dispute over wind plants under development**
  Provided expert testimony in a Spanish arbitration about the buyer's failure to comply with one the established payments in the SPA. Explained the structure of the SPA, which established payments per phase of the wind plants' development. Assessed the potential damages under different legal theories.

- **Post-acquisition dispute over wind plants with a PPA**
  Provided expert testimony in a SCC arbitration regarding the disagreement between the parties on the amount of the variable purchase of the transaction. The disagreement arose due to a delay in the development of the wind plants and the disagreements between the parties on how to consider the PPA in the calculation of the variable purchase price. Explained the risk allocation at signing and the functioning of a PPA and its financial impact to the buyer without any production.

SELECTED CONSULTING EXPERIENCE

INTERNATIONAL ARBITRATION – INVESTOR-STATE

- **Regulatory changes to renewable energy plants in Spain**
  Worked in several ICSID arbitrations between shareholders in Spanish renewable plants and the Kingdom of Spain on behalf of the claimants. Estimated damages to investors in Spanish renewable plants resulting from cuts to their financial support, resulting from a change in the regulatory regime and the introduction and application of the generation tax. The analysis included an assessment of the previous regulatory regime and an analysis of the financial impact of the measures introduced by Spain.

- **Termination of a contract to build a hydropower plant in Georgia**
  For an international investor, worked on the damages estimation for the termination of the contract to build a hydropower plant in Georgia due to contract violations. For the valuation, the expert report modelled the region's electricity system, forecasting electricity prices for 100 years. The valuation incorporates the pre-operational stage of the power plant, including pre-construction risks, such as permitting, land or financing, and construction risks, with a detailed analysis of cost overruns and delays. The valuation also analyses the specific protections of the contracts signed (Build, Own and Operate, PPA, EPC, insurance).

- **Economic benefits of oil and gas development**
  Worked in an arbitration concerning the economic value of hydrocarbon reserves in a dispute regarding the value of a land lease in South-East Asia. The analysis valued the oil and gas fields through the Product Sharing Contracts, and the export and excess profit taxes to oil and gas and palm oil of the country, sophisticated long-term forecasting of oil and regional gas prices, and the application of real options.

- **Regulatory changes to district heating concessions in Eastern Europe**
  Worked in ICSID and SCC arbitrations between shareholders of an eastern European company and the host country on behalf of the claimants. I worked on the estimation of damages derived from the regulatory and contractual changes from the government of

an Eastern European country on a series of concessions on the district heating infrastructure.

- **Long-term concession of a high-speed rail link between two European countries**
  For an international investor, worked on the estimation of damages for the bankruptcy of the project because the governments failed to invest in the infrastructure associated with the high-speed rail link. The analysis assessed the original business plan of the project and estimated the traffic increase thanks to the investment in the infrastructure, and valued the project using the Adjusted Present Value Approach.

INTERNATIONAL ARBITRATION – COMMERCIAL

- **Failure to comply with usufruct agreement in the air cargo business**
  In an ICC arbitration, worked on behalf of one of the majority shareholder of a global air cargo business company in a dispute concerning the failure of the minority shareholder to honor the usufruct agreement, removing from the majority shareholder the control of the company. Explained the air cargo business and the changing market conditions after COVID and the war in Ukraine. Analyzed the performance of the company after the minority took control of the company. Explained that the declining performance of the company was due to management's decisions and its failure to capture favorable market developments. The analysis estimated the loss profits.

- **Production failure in a copper mine**
  Estimated preliminary damages for the production failure in a copper mine in Chile. The analysis estimated the production loss under different scenarios as well as potential mitigation options available to the mine owner. Our analysis reviewed analysts' reports to assess (i) whether the mine owner displaced anticipated maintenance work in other facilities to offset the loss of production, and (ii) whether contemporaneous forecasts already anticipated lower production due to market circumstances.

- **Termination of franchise agreements in the hospitality sector in the Middle East**
  In an ICC arbitration, worked on behalf of the franchisee of a well-known restaurant brand in the Middle East in a dispute concerning terminating the franchise agreements. Calculated damages for the franchisee, potential mitigation actions and the potential royalty payments lost by the franchisor.

- **Multi-billion capital increase and distribution of dividends of a bank in Brazil**
  Worked on an arbitration analysing the capital planning of a bank, the reasons for the capital increase, the evolution of its loan portfolio, the price formula used to estimate the share price in the capital increase, and the reasonableness of the bank's dividend retention during several years.

- **PPA of a Spanish PV plant**
  Worked in an ICC arbitration estimating damages for the breaches of the terms of a PPA

and to renegotiate the PPA terms due to market changes. Estimated damages for the breaches, assessed the distribution of risks between the parties under PPA agreements in the Spanish PV market and proposed potential measures to re-establish the balance of the PPA.

- **Allocation of payments of an Award**
  In an ICC arbitration, worked on behalf of the recipients of an award from a previous arbitration. The report assessed the allocation of the award between the parties according to an allocation agreement. The analysis considered different possibilities of the allocation agreement and their consequences to the parties.

- **Sale of a credit card portfolio**
  In an ICC arbitration, worked on behalf of the previous shareholder in a credit card company in a dispute with the new shareholder. Assessed the sharing of risks pursuant to the sale of the shares in the credit card company. Analysed the share purchase agreement and the value of the credit card portfolio at the date of the sale.

- **Bonus schemes in a banking institution in Saudi Arabia**
  For a multinational bank, worked analysing the allegations that senior executives permitted fraudulent bonus payments for deposit generation in Saudi Arabia. The analysis assessed fluctuations in deposits over time, broader market conditions, and the performance of individual depositors. The analysis estimated the market cost of deposits at the height of the liquidity crisis in 2015–2016, and the resulting reduction in the profitability of the Saudi Arabian business. The case settled after the delivery of the expert report.

- **Breach of the supplier's contract conditions of a multinational company**
  For a multinational company, worked in two arbitrations that estimated damages due to the failure of several suppliers to comply with their contractual conditions.

- **Contractual modifications to a long-supply contract of a CHP plant in the UK**
  Worked on several reports of a commercial arbitration regarding the removal of an environmental tax exemption and the impact of fixed distribution and transmission costs on a long-term supply contract. Our work proposed a modification in the contract to accommodate these changes.

- **Insurance claim following a transaction**
  Worked on a report calculating damages for the seller's failure to disclose certain information during the closing of the transaction. Explained the missed information would have impacted the price of the transaction and calculated the corresponding damages under several methods.

INTERNATIONAL ARBITRATION – GAS AND LNG

- **Long-term natural gas supply contract in Western Europe**
  In an ICC arbitration for the renegotiation of a gas contract, analysed the difference between "netback pricing" and pricing by reference to wholesale market benchmarks. Discussed the way that different pricing principles allocate risks and returns between the parties, and provided incentives for the development of competition. In addition, the analysis also evaluated the development of liquid wholesale markets for natural gas in Europe, and on the practices for indexing contracts to published spot prices. The analysis also involved the assessment of the gas flexibility provided by the long-term contract.

- **Extension of long-term natural gas supply contracts in the Caribbean**
  Provided analyses in two international arbitrations concerning the failure of one of the parties to comply with the extension of the long-term natural gas supply contract under the basis that there was not enough gas available at an economic price. The reports analysed whether there was sufficient gas available at an economic price and estimated this economic price. The reports also discussed the measures the gas seller could have taken to ensure the availability of gas and potential damages.

- **Natural gas contract in Africa**
  Worked to determine whether one of the parties of a natural gas contract suffered economic hardship during a relevant period, and whether the hardship was due to a failure of the company.

- **Long-term LNG contract in the South of Europe**
  Provided damages estimate regarding the significant reduction of deliveries by the gas supplier. The report analysed the original economic balance of the contract between the parties, assessed if recent events changed the economic balance, and calculated damages.

LITIGATION AND CRIMINAL PROCEEDINGS

- **Construction delay of a nuclear power plant in the US and its impact on auditor's opinion in 10-K disclosures**
  Worked on a case in the US courts concerning the auditor disclosure regarding construction delays and problems in a nuclear power plant in the US. The expert report explained the role of project schedules in forecasting completion of megaprojects and analysed contemporaneous project schedules to confirm that 10-K disclosures were reasonable.

- **Concession agreement in New Zealand**
  Worked on a case in the New Zealand courts concerning the economic implications of two proposals to determine the compensation sum to be payable due to the early termination of a concession agreement.

- **Equity issue of a multinational company**
  For the shareholders of a multinational company, worked in the damages claim in relation to a large Spanish construction company. The claim related to the conduct of one of the underwriters of an equity issuance. The Brattle team assessed the consequences of the underwriter's conduct, explained the underwriter's importance in an equity issue and documented the market reaction. The team also explained the difference between liquidity and insolvency and analysed several liquidity crisis. The analysis involved valuing the company using the "sum of the parts" approach, the Adjusted Present Value approach, and a discounted cash flow analysis, as well as financial techniques to assess the impact of events in stock prices. The analysis also analysed the liquidity of the shares of the company and inferred the company's probability of default using the Credit Default Swaps.
- **Alleged manipulation of the electricity market in Spain**
  For a multinational company, supported testifying experts in criminal proceedings assessing the allegations of market manipulation in the Spanish electricity market in 2013–2014. Assessed the renewable regulatory regime in Spain in 2013–2014 and the incentives a utility might have had to manipulate the electricity market to obtain a benefit from its renewable assets.
- **Disclosure of negative news affecting a multinational company**
  Worked on a report assessing the impact of the disclosure of negative news in the digital and physical press about a multinational company. The analysis involved assessing the effect of the news on the share price of the company.
- **Debt restructuring process of a multinational company**
  For the shareholders of a multinational company in a criminal proceeding, assessed the debt restructuring proposed by debtholders and approved by management. The report analysed the instruments proposed in the restructuring, including convertible bonds and options, and discussed its typical uses and benefits. The report also discussed the potential conflict of interests under the proposed restructuring, and assessed its value to shareholders.
- **Debt restructuring of a multinational company due to the Covid-19 crisis**
  In a dispute concerning the impact that a debt restructuring would have on different debtholders, provided analysis on behalf of a group of subordinated debtholders. The analysis implied the valuation of the company and the debt, and the reasonableness of the value recoveries for debtholders with and without the proposed restructuring.
  Allegation of "excessive profits" in UK pumped hydro bids
  For an electricity company, analysed allegations by the regulator, Ofgem, of "excessive profit" from the intraday and balancing bids in a period of congestion on the

transmission network. The analysis included a stochastic model to estimate the opportunity cost for bidding to reduce generation and pump.

ELECTRICITY AND GAS REGULATION AND MARKETS

- **Hydro generation plants' bids from a utility**
  For a major Spanish utility, contributed to a report assessing (i) the bids and reservoir levels of its hydropower plants and explained the rising electricity prices, and (ii) the compliance process of the utility. Based on this work, it made recommendations to ensure that bids were competitive, conformed to best market practice and could be properly documented to the competition authorities, avoiding accusations of abuse of dominance and price manipulation.
- **Analysis of the potential market power of a utility in Eastern Europe**
  For a major utility, worked on a report analyzing the potential market power of the utility. Assess the geographic and product market definition and market share. Analyzed the potential change in market results in a situation without the utility in the market.
- **Analysis of the impact of a new law on wind and solar power plant bids**
  For a major Spanish utility, worked on a report assessing the bids of its wind and solar power plants, explaining the impact of a new law – which introduced a fee – and that the lack of production from these plants on some days is due to the embedded increasing costs of the plants.
- **Assessment of the incentives of a company to manipulate the electricity market**
  For a multinational company, assessed the incentives a utility might have to manipulate the electricity market thorough its hydropower assets to obtain benefits from its retailing operations.
- **Due diligence for the sale of a gas distribution network in Spain**
  Participated in the regulatory due diligence of the potential sale of Gas Natural-Fenosa's gas distribution network in Spain to a consortium of international investors.
- **Analysis of the electric vehicles' integration in Spain**
  For Iberdrola Renovables, worked on a report that assessed the impact of the electric vehicle's integration in the power system operation, including the security of supply and prices. The report also evaluated different optimal strategies for the management of the power system, and for the charging of electric vehicles.
- **Analysis of the electric vehicles' integration in Europe**
  For the European Commission, worked on a project that assessed the impact of the electric vehicle's integration under different charging strategies in several European countries.

- **Design of feasible policies for the harmonization of RES support mechanisms in Europe**
  For the European Commission, contributed to a project that quantitatively assessed the support mechanisms to renewable energy sources using self-developed models. The performance of the support mechanisms for the post-2020 horizon was assessed qualitatively. The project considered the technical and economic effects in the power system operation and in the expansion of the transmission network.
- **Impact study of the RES support mechanisms on the power system**
  For the European Commission, analysed the adequacy of the actual market design in Europe to incentivise renewable generation investment to meet the established targets after 2020. The project estimated the revenues the renewable generations would obtain and if they would recover the investment.
- **Generation-network model estimating nodal prices in the Mexican power system**
  For an international investor, developed a tailored model for the Mexican power system able to represent accurately the transmission network. The model was used to estimate the prices in the power system.

VALUATION OF ASSETS

- **Valuation of wholesale fiber network**
  Worked on the going concern financial valuation of one of the largest wholesale fiber networks in Europe for a potential transaction by the stakeholders designed to strengthen the capital of the company.
- **Assessment of the WACC for the valuation a Group's units**
  Assessed the different elements in the WACC for the valuation of the different units within a Group in the context of an impairment assessment.
- **Valuation of power plants in the United Kingdom for a possible sale**
  Participated in the due diligence process for a potential sale of power plants in the UK.

EXPANSION OF THE TRANSMISSION NETWORK

- **Developed a methodology for the long-term planning of transmission network**
  For the European Commission, participated in the development of an advanced methodology for the transmission expansion planning of the network in the 2020–2050 period. The methodology should reduce the European power system into zones based on the identification of the transmission lines that are most important for the network expansion using clustering techniques. The project applied the methodology developed to a European case study.
- **Assessed transmission network reinforcements required to interconnect the power systems of the Middle East & North Africa region with Europe**
  For a consortium of international investors, worked on a study to assess the network

expansion in South-West Europe (Spain, France, and Portugal) in the 2030 and 2050 periods with technical and economic criteria. The study used clustering techniques to select the important periods to consider for the network expansion.

ARTICLES & PUBLICATIONS

- “Spain,” with Pedro Marín and José Antonio García, *In-Depth: Energy Regulation and Markets*; *14th Edition*
- “Spanish Court Upholds Naviera Armas’ Restructuring Plan, Highlighting the Importance of Expert Testimony,” with José Antonio García, Pedro Marín and Piero Fortino, *INSOL Restructuring Alert*, April 2025
- “Quantum in Extractive Sector Disputes: Oil and Gas and Mining,” with Darrell Chodorow and Florin Dorobantu, *GAR - The Guide to Damages in International Arbitration; Sixth Edition*
- “Reasonable Return Framework for RES in the Current Context,” with Richard Caldwell, *Jus Connect’s 2023 Energy Arbitration Report*
- “Spain,” with Pedro Marín and José Antonio García, *The Energy Regulation and Markets Review; 12th Edition*
- “Quantum in Oil and Gas and Mining Disputes,” with Darrell Chodorow and Florin Dorobantu, *GAR - Damages in International Arbitrations Guide; Fifth Edition*
- “Large-scale transmission expansion planning: from zonal results to a nodal expansion plan,” with Sara Lumbreras, Andrés Ramos, Luis Olmos, Patrick Panciatici, Camille Pache, and Jean Maeght, J., *IET Generation Transmission & Distribution*, vol. 11, pp. 2778–2786 (September 2017)
- “Beneficiaries of Transmission Expansion Projects of an Expansion Plan: An Aumann-Shapley Approach,” with Luis Olmos, Andrés Ramos, and Jesus M. Latorre, *Applied Energy*, vol. 195, pp. 382–401 (June 2017)
- “Optimal transmission network expansion planning in real-sized power systems with high renewable penetration,” with Sara Lumbreras and Andrés Ramos, *Electric Power Systems Research*, vol. 149, pp. 76–88 (April 2017)
- “Estimating the benefits of transmission expansion projects: An Aumann-Shapley approach,” with Luis Olmos, Andrés Ramos, and Jesus M. Latorre, *Energy*, vol. 118, pp. 1044–1054 (November 2016)
- “Impact of support schemes and market rules on renewable electricity generation and system operation: application to the Spanish case,” with José Pablo Chaves-Avila and

Andrés Ramos, *IET Renewable Power Generation*, vol. 11, number 3, pp. 238–244 (July 2016)

- "Implications from changing the priority dispatch for intermittent energy sources to a market based approach: application to the Spanish case," with José Pablo Chaves-Avila, Kristin Dietrich, and Andrés Ramos, presented at the event "14th International Workshop on Large-scale Integration of Wind Power into Power Systems as well as on Transmission Networks for Offshore Wind Power Plants - Wind Integration Workshop 2015" (October 2015)
- "Analysis of the Impact of Increasing Shares of Electric Vehicles on the Integration of RES Generation," with Andrés Ramos, Kristin Dietrich, Luis Olmos, and Jesus M. Latorre, chapter of the book "Use, Operation and Maintenance of Renewable Energy Systems: Experiences and Future Approaches" (2014)
- "Smart charging profiles for electric vehicles," with Jesus M. Latorre and Andrés Ramos, *Computational Management Science*, vol. 11, number 1–2, pp. 87–110 (July 2013)
- "Modeling the Operation of Electric Vehicles in an Operation Planning Model," with Andrés Ramos, Jesus M. Latorre, Angel Hernández, Germán Morales-España, Kristin Dietrich, and Luis Olmos, presented at the *17th Power Systems Computation Conference - PSCC'11* (August 2011)

REPORTS PUBLISHED

- "Report on the quantitative evaluation of policies for post 2020 RES-E targets" (September 2016), report prepared for the European Commission (Market4RES project)
- "Report on the Roadmap for RES penetration under the current Target Model high-level principles (2014–2020) - Part 2: recommendations about other short term market topics" (July 2016), report prepared for the European Commission (Market4RES project)
- "Detailed enhanced methodology for long-term grid planning" (November 2015), report prepared for the European Commission (e-Highway 2050 project)
- "Prototype for the definition of optimal grid architectures for 2050" (September 2015), report prepared for the European Commission (e-Highway 2050 project)
- "Enhanced methodology to define optimal grid architectures for 2050" (July 2015), report prepared for the European Commission (e-Highway 2050 project)
- "Final report of the beyond2020 project - approaches for a harmonisation of RES(-E) support in Europe" (February 2014), report prepared for the European Commission (Beyond2020 project)

- “Evaluation of the impact that a progressive deployment of EV will provoke on electricity demand, steady state operation, market issues, generation schedules and on the volume of carbon emissions” (February de 2012), report prepared for the European Commission (MERGE project)
- “Quantification of the increase in the amount of renewable power sources, namely wind power, that can be safely integrated in some EU countries” (February 2012), report prepared for the European Commission (MERGE project)
- “Report on the adequacy of generation and transmission systems for 2020 and 2030 considering the presence of EV and RES” (February 2012), report prepared for the European Commission (MERGE project)
- “Functional specification for tools to assess steady state and dynamic behaviour impacts, impact on electricity markets and impact of high penetration of EV on the reserve levels” (February 2011), report prepared for the European Commission (MERGE project)

PRESENTATIONS & SPEAKING ENGAGEMENTS

- “Effects of moving the timing of day-ahead markets towards real time,” presented at the event “How to pave the road into the renewable future: Electricity market analyses and policy implications for 2020–2030,” Brussels (19 May 2016)
- “Effects of RES support mechanisms on short-term markets,” presented at the event “How to pave the road into the renewable future: Electricity market analyses and policy implications for 2020-2030,” Brussels (19 May 2016)
- “Network partition based on critical branches for large-scale transmission expansion planning,” presented at the conference “PowerTech 2015,” Eindhoven, the Netherlands (29 June – 2 July 2015)
- “Smart charging profiles for electric vehicles,” presented at 9th International Conference on Computational Management Science,” Imperial College London (20 April 2012); awarded best student paper

LANGUAGES

- Spanish, English.