Thirty Seventh ITF Public Conference
Overlapping Treaty Regimes in International Investment Law

22 April 2022 | 09:00 – 16:15 | Hybrid

@BIICL #itflaw #ISDS
BIICL
Investment Treaty Forum +
CONTENTS

CONFERENCE OVERVIEW ......................................................... 2
PRACTICAL INFORMATION ...................................................... 2
AGENDA .................................................................................. 3
SPEAKER BIOGRAPHIES .......................................................... 5
INVESTMENT TREATY FORUM .................................................. 10
ISDS COURSE FLYER .............................................................. 13
NOTES .................................................................................... 14
CONFERENCE OVERVIEW

As the number of international law norms increases, so does its fragmentation. Cases in which the same issue is governed by overlapping and sometimes conflicting treaty regimes become increasingly common. How do investors and State reconcile their rights and obligations under investment, EU, environmental, human rights, anti-corruption, trade, and other treaty regimes? Are tribunals obliged to take into accounts rights and obligations of parties to investor-State disputes even if none of the parties pleads it? How to reconcile conflicting treaty rules taking into account the legitimate expectations of investors and the rights of States to regulate?

These and other questions will be addressed during a one-day conference hosted by Investment Treaty Forum, which will take place in the hybrid format (in-person and online) at the British Institute of International and Comparative Law.

PRACTICAL INFORMATION

Venue

British Institute of International and Comparative Law (Charles Clore House, 17 Russell Square, London) and online via Zoom.

Nearest underground stations

- Russell Square (Piccadilly line)
- Holborn (Central and Piccadilly lines)

Nearest main line train stations

- London Euston
- Kings Cross St. Pancras

Registration

Find out more information and register online: www.biicl.org/itf37

Follow us on social media

@BIICL #itflaw #ISDS
BIICL
Investment Treaty Forum +

Contact Us

eventsregistration@biicl.org
AGENDA

Friday, 22 April 2022 (09:00 - 16:15)

08.30 - 09.00
Registration with tea & coffee

09:00 - 09:15
Welcome and Introduction
Prof. Yarik Kryvoi, Investment Treaty Forum Director, BIICL, London

09:10 - 10:00
Keynote Address:
Prof. Joost Pauwelyn, Graduate Institute of International and Development Studies, Geneva

10:00 - 11:30
Panel 1. Conflict of Treaties in International Investment Law
Chair: Dr. Susan L. Karamanian, Hamad Bin Khalifa University (HBKU), Doha

- Dr. Ahmad Ghouri, University of Sussex, Brighton
  Interaction and Conflict of Treaties in Investment Arbitration
- Robert Volterra, Volterra Fietta, London
  Obligations of Arbitrators in the Context of Overlapping Treaty Regimes
- Suzy Nikiema, International Institute for Sustainable Development, Ouagadougou
  ISDS and sustainable development

11:30 - 12:00 – Coffee & Tea

12:00 - 13:30
Panel 2. EU Law, Environment and Armed Conflict
Chair: Can Yeginsu, 3 Verulam Buildings (3VB), London

- Markus Burgstaller, Hogan Lovells, London
  EU Law and ISDS
- Sylvia Tonova, Jones Day, London
  Environmental Law and ISDS
- Catharina Titi, French National Centre for Scientific Research, Paris
  International Investment Law and the Law of Armed Conflict

13:30 - 14:30 – Lunch

14:30 - 16:00
Panel 3. Human rights, Trade and National Security Issues
Chair: Jessica Gladstone, Clifford Chance, London

- Dr. Claudia Salgado Levy, Government of Ecuador, Quito
  National Security and ISDS
• **Charles Buder**, Curtis, Mallet-Prevost, Colt & Mosle, London  
  *Human Rights and ISDS*

• **Prof. Federico Ortino**, King’s College London, London  
  *Trade and ISDS*

16:00 - 16:15
Closing remarks

**José Manuel Gutierrez Delgado**, Permanent Representation of Spain to the European Union, Brussels

*This programme is subject to change*
Charles Buderi  
*Curtis, Mallet-Prevost, Colt & Mosle*

Charles Buderi is a partner in the International Arbitration group at Curtis, Mallet-Prevost, Colt & Mosle, with an acknowledged depth of experience in public international law. Mr. Buderi has extensive experience in sovereign representation, including international arbitration, public international law and the general representation of States in their international activities.

Mr. Buderi’s experience in international arbitration and dispute resolution is wide-ranging, focusing on representation of States in both investment treaty and commercial disputes. In such representations, he has handled cases arising under the rules of various arbitral institutions, including ICSID, UNCITRAL, ICC, OIC, DIAC and DIFC-LCIA, and involving disputes related to various industries, including the petroleum industry, infrastructure development and international transactions, among others. Prior to private practice he served as a legal advisor at the Iran-US Claims Tribunal in The Hague.

Markus Burgstaller  
*Hogan Lovells*

Markus Burgstaller is a partner at Hogan Lovells in London. He combines experience in public international law and EU law at the highest level of government with many years of experience in private practice. He acts for States, international organisations, businesses, and individuals in international disputes, mainly arbitrations under ICSID and UNCITRAL rules, and in proceedings before the Court of Justice of the European Union (CJEU) as well as national courts such as the German Constitutional Court. He is nominated to the ICSID Panel of Arbitrators by the Austrian Government. Markus was lead counsel for the Slovak Republic in the Achmea case before the CJEU. For his work Markus received the Financial Times Innovative Lawyers award for innovation in legal expertise – dispute resolution and the award for "Most Important Decision" by Global Arbitration Review. Markus is frequently interviewed and published in international media such as the Financial Times, The Economist, The Times, the BBC, and the Frankfurter Allgemeine Zeitung.

Dr. Ahmad Ghouri  
*University of Sussex*

Dr. Ghouri is an expert in international investment and commercial arbitration and Shariah compliant dispute resolution. As a practising lawyer in Pakistan, he has extensive experience in commercial law and dispute resolution and regularly advises private and public organisations and government ministries. He teaches commercial law at the University of Sussex covering both domestic and international contexts and a wide range of subjects including international investment law, international commercial arbitration, corporate law and governance, and Islamic commercial law.

Dr Ghouri is a member of the Commercial Law Reform, UK; British Association for Islamic Studies (BRAIS); and Sustainable Market Actors for Responsible Trade (SMART), University of Oslo, Norway. He is also on the Global Advisory Board of the Centre for International Investment and Commercial Arbitration, Pakistan, and a senior researcher at the Turku Institute for Advanced Studies, University of Turku, Finland.
Jessica Gladstone
Clifford Chance

Jessica Gladstone is a partner and solicitor-advocate focusing on public international law, international commercial and investment arbitration, complex litigation, and public law challenges at Clifford Chance in London. She represents states and international organisations, sovereign wealth funds and multinationals in complex international disputes, and advises on the full range of international law issues, including sanctions, international trade, business and human rights, and sovereign immunities. A former legal adviser for the UK Foreign & Commonwealth Office, Jessica has experience negotiating bilateral and multilateral treaties, drafting constitutions and legislation for overseas territories, acting for the UK in domestic and international litigation, and representing the UK at the United Nations, Council of Europe, and before the European Court of Human Rights.

José Manuel Gutiérrez Delgado
Representation of Spain to the European Union

José Manuel Gutiérrez Delgado is a State Attorney-Legal Counsellor of the Permanent Representation of Spain to the European Union. He is a former Head of the International Arbitration Department of the General Attorney’s Office, Department of Justice of the Kingdom of Spain. José read his Law degree and Economics degree at the Universidad Pontificia Comillas ICADE in Madrid. At the age of 24, he passed the public competition exams to qualify as an Abogado del Estado.

Formerly José worked for over 30 years in senior positions in many different fields at the Ministry of Justice and the Ministry of Economy and Taxes. In 2002, he was appointed General Director of Legal Policy and International Affairs in the Ministry of Justice. He has been member of the Board of Directors of five State owned companies and is currently the Secretary of the Board of Directors of ACUES SA. From 2012 to 2018, he worked as Financial Counsellor of the Spanish Embassy to the United Kingdom.

Dr. Susan L. Karamanian
Hamad Bin Khalifa University (HBKU)

Susan L. Karamanian is Dean of HBKU’s College of Law. She previously held leadership positions at the American University of Sharjah and the George Washington University Law School. Susan is a member of the Executive Council of the American Society of International Law (ASIL) and was previously Vice President of ASIL. She was also President of the Washington Foreign Law Society. She has lectured on international law at the University of Paris, the OAS Academy of International Law, Tamil Nadu National Law School, the National Law School of India University, Bangalore, and the Hague Academy of International Law (Director of English Studies). She has presented two lectures (“The Right to Property under International Law” and “The Intersection of Public International Law and Private International Law”) as part of the United Nations Audiovisual Library of International Law. She is a trustee of the Center for American and International Law, where she chairs the Southwestern Institute for International and Comparative Law, and a director of Texas Appleseed. She is a member of the Council on Foreign Relations, the American Council on Germany, the American Bar Foundation, and the Texas Bar Foundation.
Professor Yarik Kryvoi  
**Investment Treaty Forum Director, BIICL**

Professor Yarik Kryvoi is Senior Research Fellow in International Economic Law and Director of the Investment Treaty Forum at the British Institute of International and Comparative Law (BIICL).

He holds law degrees from Harvard, Moscow, Nottingham, Utrecht and St Petersburg and is admitted to practice in the State of New York. Before moving to academia, he practicing international investment law with Freshfields Bruckhaus Deringer in London, Morgan Lewis & Bockius in Washington, DC and Baker & McKenzie in Saint Petersburg. He is a co-founder of Arbitration Lab and serves on editorial boards of several international legal periodicals.

Professor Kryvoi is the course leader of the Institute’s online course International Investment Law and Dispute Resolution, available at [www.biicl.org/isds](http://www.biicl.org/isds).

Suzy Nikièma  
**International Institute for Sustainable Development (IISD)**

Suzy Nikièma is IISD’s Lead, Sustainable Investment for the Economic Law and Policy Program (ELP). She is based in Ouagadougou, Burkina Faso, and provides legal and policy advice on sustainable investment. She is ELP’s regional coordinator in Africa. Suzy has provided technical assistance to developing country governments, particularly in Africa, with respect to the negotiation, implementation, and drafting of investment treaties and treaty templates, and has published widely on the subject. She has assisted countries in designing their domestic investment laws.

Suzy is the Editor-in-Chief of the French edition of Investment Treaty News (ITN). She is a lecturer on investment law and mining law at the University Saint Thomas d’Aquin (USTA) and on mining law at the University Aube Nouvelle (U-AUBEN), both in Burkina Faso.

Professor Federico Ortino  
**King’s College London**

Dr Federico Ortino is Professor of International Economic Law at King’s College London. He is a member of the ILA Committee on the Rule of Law and International Investment Law; founding Committee Member of the Society of International Economic Law; consultative member of the Investment Treaty Forum; editorial board member of the Journal of International Economic Law; Yearbook on International Investment Law and Policy, Journal of International Dispute Settlement, Journal of World Investment and Trade. He is a Consultant to Clifford Chance.

Previously, he was co-rapporteur to the ILA Committee on the Law of Foreign Investment; Director, Investment Treaty Forum, British Institute of International and Comparative Law in London (2005-2007); Adjunct Professor at the Universities of Florence and Trento (2002-2007); Emile Noël Fellow and Fulbright Scholar at the NYU Jean Monnet Center in New York (2004); Legal Officer at the United Nations Conference on Trade and Development, Division on Investment and Enterprises (2003). He is a qualified attorney in Italy and in the state of New York. He holds: LLB, University of Florence; LLM, Georgetown University Law Center; PhD, European University Institute.
Overlapping Treaty Regimes in International Investment Law

Professor Joost Pauwelyn
Graduate Institute of International and Development Studies

Joost Pauwelyn is Professor of International Law at the Graduate Institute of International and Development Studies in Geneva, Switzerland and Co-Director of the Institute’s Centre for Trade and Economic Integration (CTEI). He is also the Murase Visiting Professor of Law at Georgetown University Law Center (since 2014). Previously he was Professor of Law at Duke University (2002-2007). He has also taught at Neuchâtel, Columbia, NYU, Stanford and Harvard law schools and worked as legal adviser for the WTO Secretariat (1996-2002). From 2007 to 2014, he was Senior Advisor with the law firm of King & Spalding.

Joost specializes in international economic law, in particular trade law and investment law, and its relationship to public international law. He also frequently advises governments and industry in WTO dispute settlement and investment arbitration and is a leading force behind the global www.tradelab.org network of legal clinics on international economic law. From 2015 to 2020, Joost was the Co-Editor in Chief of the Journal of International Economic Law. In late 2020, Professor Pauwelyn was appointed to the WTO's multi-party interim appeal arrangement (MPIA, nominated by the EU).

Dr. Claudia Salgado Levy
Attorney General Office of Ecuador

Dr. Claudia Salgado Levy is the National Director of International Affairs and Arbitration at the Attorney General Office of Ecuador. She has extensive experience working on international arbitration procedures (ICSID, UNCITRAL, ICC) as well as in proceedings before the Court of Justice of the Andean Community and the Inter-American Court of Human Rights. She is a former member of the Ecuadorian delegation negotiating the Investment Protocol between Ecuador and Chile and the Investment Association Agreement between the Andean Community and the European Union. She holds a PhD degree from the University of Geneva.

Catharine Titi
French National Centre for Scientific Research,

Catharine Titi, Dr iur., FCIArb, is a tenured Research Associate Professor at the French National Centre for Scientific Research (CNRS)–CERSA, University Paris-Panthéon-Assas, France. In addition to being a member of the Board of the European Society of International Law (ESIL), she serves as Deputy Chair on the Steering Committee of the Academic Forum on ISDS, whose work contributes to the discussions in Working Group III of the United Nations Commission on International Trade Law (UNCITRAL WG III), and on the Academic Council of the Institute for Transnational Arbitration (ITA) of the Center for American and International Law (CAIL). She is a member of the International Law Association (ILA) Committee on Rule of Law and International Investment Law and she serves on the Editorial Board of the Yearbook on International Investment Law & Policy (Columbia/OUP). Catharine is a Fellow of the Chartered Institute of Arbitrators (FCIArb), she sits on the panel of arbitrators of the Court of Arbitration for Art (CAfA), and she is appointed to the roster of the United States-Mexico-Canada Agreement’s (USMCA) Annex 31-B panellists.
Sylvia Tonova
Jones Day

Sylvia Tonova is a partner at Jones Day in London. Sylvia is a solicitor-advocate who focuses on the resolution of complex, high-stakes international disputes, with a particular emphasis on disputes between foreign investors and governments. She acts as both counsel and arbitrator and is appointed to the International Centre for Settlement of Investment Disputes (ICSID) Panel of Arbitrators and the Hong Kong International Arbitration Centre (HKIAC) List of Arbitrators. She has represented clients under all the major arbitration rules and advises clients on arbitration clauses, sovereign immunity, and protecting investments against political risk.

Sylvia serves on the International Bar Association’s Arbitration Committee as co-chair of the international commercial arbitration case law subcommittee. She teaches investment treaty arbitration procedure and enforcement of awards at Roma Tre Law School.

Robert Volterra
Volterra Fietta, London

Robert Volterra is a partner at Volterra Fietta in London. Robert has been recognised for many years in the global legal directories as one of the world’s top public international law practitioners. He is qualified as a barrister in Canada and as a solicitor-advocate in England and Wales. He advises and represents governments, international organisations and private clients on a wide range of contentious and non-contentious public international law and international dispute resolution issues. He regularly acts as co-agent, counsel and advocate before the International Court of Justice and ad hoc international arbitration tribunals, including under the Permanent Court of Arbitration, ICSID, ICC, SCC, LCIA, UNCITRAL, WTO and UNCLOS rules. He regularly sits as an arbitrator in ICSID, UNCITRAL, ICC, SCC and LCIA arbitrations.

Can Yeginsu
3 Verulam Buildings (3VB)

Can Yeginsu is a barrister and arbitrator practising from 3 Verulam Buildings (3VB) Chambers in the areas of commercial litigation, international commercial and investment arbitration, civil fraud, public law and human rights, and public international law. Described in one directory as “an outstanding advocate with impeccable judgement and formidable brainpower”, Can is ranked by Chambers Global, Chambers UK Bar, and Legal 500 as an outstanding junior in five practice areas: (i) commercial litigation; (ii) international arbitration; (iii) civil liberties and human rights; (iv) international human rights; and (v) public international law.

Can is Adjunct Professor of Law at Georgetown Law and Koç University Law School where he teaches investor-state arbitration. Can is also Lecturer-in-Law at Columbia Law School where he teaches international human rights law. He is the co-author of The Protections for Religious Rights: Law and Practice a leading practitioners’ text, published by Oxford University Press, and Partner Fellow at the Lauterpacht Centre for International Law, University of Cambridge.
INVESTMENT TREATY FORUM

Overview

The Investment Treaty Forum (ITF) was founded in 2004. Its aim is to provide a global centre for serious high level debate in the field of international investment law. The Forum is a membership-based group, bringing together some of the most expert and experienced lawyers, business managers, policy advisers, academics and government officials working in the field. Like BIICL itself, the Forum has a reputation for independence, even-handedness and academic rigour. The Forum membership is by invitation only.

People

Patrons

The Patrons of the Forum are: HE Judge Rosalyn Higgins GBE QC and Yves Fortier CC QC.

Forum Director

The Forum Director is Professor Yarik Kryvoi.

The Advisory Board

Since its inception the Investment Treaty Forum’s programme has been guided on an informal basis by a small Advisory Board which currently comprises:

- Professor Andrea Bjorklund, McGill University;
- José Manuel Gutiérrez Delgado, Permanent Representation of Spain to the European Union;
- Professor A Vaughan Lowe, All Souls College Oxford and Essex Court Chambers;
- Loretta Malintoppi, 39 Essex Chambers;
- Audley Sheppard, Clifford Chance LLP;
- Robert Volterra, Volterra Fietta, and Faculty of Law, UCL

Membership

The ITF’s strength lies in its membership, which is drawn from as wide a range of backgrounds as possible. Members meet regularly (typically 6-7 times each year) to discuss topical issues and, where appropriate, to develop views on issues of concern to governments and decision-makers. The Forum also has strong links with related institutions (including the UK Foreign Commonwealth and Development Office, UNCTAD and many others).

Benefits of membership

Key benefits for ITF members include:

- The right to participate in an independently-run Forum, including free entry to all ITF meetings and conferences.
- A direct influence on the agenda of Forum meetings and the opportunity to recommend events, speakers and topics for debate.
- The opportunity to suggest research or other work to be carried out by the Forum staff.
- Access to a members-only section of the website with materials related to investment treaty law.
- BIICL’s Individual membership benefits (electronic access to ICLQ, 40% discount on BIICL publications, 20% discount on CUP publications and member rate at BIICL events).
Conditions of membership

Forum membership is limited by invitation only, to ensure the highest quality in its plenary discussions. To guarantee continuity, and manageability of debate, membership is for named individuals only. However, at the time of joining, members may nominate a senior colleague to represent them on those occasions when they are unable to attend meetings.

Membership rates

Membership of the ITF is available at the following annual rates (exclusive of VAT):

- Corporate membership: £2,950
- Individuals: £750

Membership of the Forum is by invitation only. For more information on ITF membership please contact Prof Yarik Kryvoi (y.kryvoi@biicl.org).

Forum members

Organisations

- Allen & Overy LLP
- Baker & McKenzie LLP
- Baker Botts LLP
- Clifford Chance LLP
- Cooley LLP
- Curtis, Mallet-Prevost, Colt & Mosle LLP
- Debevoise & Plimpton LLP
- Dechert LLP
- DLA Piper LLP
- Eversheds Sutherland LLP
- Freshfields Bruckhaus Deringer LLP
- Gibson, Dunn & Crutcher LLP
- Herbert Smith Freehills LLP
- Hogan Lovells LLP
- Jones Day LLP
- Latham & Watkins LLP
- Linklaters LLP
- Mannheimer Swartling Advokatbyrå AB
- Mishcon de Reya LLP
- Reed Smith LLP
- Shearman & Sterling LLP
- Skadden, Arps, Slate, Meagher & Flom LLP
- Steptoe & Johnson LLP
- Three Crowns LLP
- Van Bael & Bellis
- Vinson & Elkins LLP
- Volterra Fietta
- White & Case LLP
- WilmerHale LLP
- Withers LLP

Individuals

- Prof Nicolas Angelet, Université libre de Bruxelles, Brussels
- Thayananthan Baskaran, Baskaran, Kuala Lumpur
- Prof Andrea Bjorklund, McGill University, Montreal
- Dr Tillmann Rudolf Braun, Federal Ministry for Economic Affairs and Climate Action
- Dr Stuart Dutson, Simmons & Simmons, London
- Raed Fathallah, Bredin Prat, Paris
- Prof Matthew Happold, University of Luxembourg, Luxembourg
- Robert Hunter, Osborne Clarke, London
- Prof Tomoko Ishikawa, Nagoya University, Nagoya
- Shreyas Jayasimha, Aarna Law, India
- Prof. Mark Kantor, Georgetown University Law Centre, Washington D.C.
• Dr Sabine Konrad, Morgan Lewis & Bockius, Frankfurt
• Dr Inga Martinkute, MMSP, Vilnius
• Prof. A Vaughan Lowe, All Souls College Oxford and Essex Court Chambers
• Loretta Malintoppi, 39 Essex Chambers, London
• Prof. Emeritus Maurice Mendelson QC, Blackstone Chambers, London
• David A. Pawlak, David A. Pawlak LLC, Warsaw & Washington, D.C.
• Dr Anthony Sinclair, Quinn Emanuel Urquhart & Sullivan, LLP, London
• Can Yeginsu, 4 New Square, London

Consultative Forum Members

Organisations

• Attorney General Office of the State of the Republic of Ecuador
• Business & Human Rights Recourse Centre
• The Energy Charter Secretariat
• General Attorney’s Office, the Kingdom of Spain
• Office of the General Counsel to the Republic of Poland
• International Council for Commercial Arbitration (ICCA)
• The International Institute for Sustainable Development
• The Legal Office for International Trade Law, Ministry of Economy, Government of Mexico
• Ministry of Finance of the Czech Republic
• The Organisation for Economic Cooperation and Development
• The Permanent Court of Arbitration
• The Permanent Representation of the Slovak Republic to the European Union
• Secretariat for Legal Affairs - Presidency of the Republic of Ecuador
• State Chancellery of Latvia
• Trade Law Bureau, Government of Canada
• Treasury Legal Advisers, Government Legal Department, United Kingdom
• The United Nations Conference on Trade and Development
• The United Kingdom Department for International Trade
• The United Kingdom Foreign, Commonwealth and Development Office

Individuals

• Sir Frank Berman, KCMG QC, Essex Court Chambers
• Professor Jansen Calamita, National University of Singapore (former ITF director)
• Professor James Crawford SC, FBA, University of Cambridge and International Court of Justice
• Norah Gallagher, Queen Mary University of London (former ITF director)
• Judge Christopher Greenwood QC, International Court of Justice
• Professor Loukas Mistelis, Queen Mary University of London
• Professor Peter Muchlinski, School of Oriental and African Studies, University of London
• Dr Federico Ortino, School of Law, King’s College London (former ITF Director)
• Dr Antonio Parra, Visiting Professor, University College London and former Deputy Secretary-General, International Centre for the Settlement of Investment Disputes
• Dr Karl P Sauvant, Columbia University Law School
• Professor Christoph Schreuer, University of Vienna
• Judge Stephen M. Schwebel, Essex Court Chambers
• Professor M Sornarajah, National University of Singapore
Online Course
International Investment Law and Dispute Resolution

Overview
This course covers the history and the rationale of protection of foreign direct investments, applicable law, the key principles of international investment law and investor-state dispute settlement (ISDS). Participants will develop their own critical appreciation of international investment law and will cover the nature of international investment law, the main substantive and procedural principles, dispute resolution mechanisms and the current professional criticisms of the system. Total guided learning time is approximately 18 hours.

Curriculum
- Introduction to international investment law and dispute resolution
- Why do we need international investment law?
- Conflict of law issues in investment arbitration
- Fair and equitable treatment and arbitrary measures
- Substantive standards of international investment law: expropriation and denial of justice
- Investor-State dispute settlement
- Legitimacy challenges and reform of international investment law

Tutors
- Professor Yarik Kryvoi (course leader)
- Suzanne Spears, Allen & Overy LLP
- Hussein Haeri, Withers LLP
- Stuart Dutson, Simmons & Simmons LLP
- Samantha Rowe and Patrick Taylor, Debevoise & Plimpton LLP
- Maurice Mendelson QC, Blackstone Chambers
- Professor Phillippe Sands QC, Matrix Chambers and University College London

Pricing and Registration
The course fee is $149 (approx £120) (incl. VAT). Discounts are available for groups of five and more people, please contact eventsregistration@biicl.org for more information.