Day 1
Sunday 6 December 2015

GENERAL OVERVIEW

09:00  Introduction/Welcome

09:30  Foreign Direct Investment, the Law and Policy

Instructors:
N. Jansen Calamita, Investment Treaty Forum, BIICL, London
Hussein Haeri, Withers, London

• Evolution of foreign investment flows: size, direction, composition.
• Foreign investment law as an interdisciplinary subject.
• The settlement of disputes between foreign investors and their host States (investor-State disputes) as central to the framework for foreign investment and its promotion.

10:45  Sources of Law – Domestic Law, Treaties and Customary International Law

Instructors:
Nassib G. Ziadé, BCDR-AAA, Manama
Devashish Krishan, Court of HRH the Crown Prince of Bahrain, Manama

• Key issues with respect to the treatment of foreign investors:
  • International minimum standard of treatment;
  • Non-discrimination;
  • Expropriation and compensation.

• Historic challenges to Western views on international investment law (socialist challenges, Latin American challenges, post-colonial challenges).

• Key issues with respect to the resolution of investor-state disputes:
  • The evolution of consent (from contracts to investment legislation and treaties): *SPP v. Egypt* / *AAPL v. Sri Lanka*;
  • The evolution of thinking about applicable law.
12:00 Coffee/tea break

12:30 Developments in the Second Half of the 20th Century

Instructors:
Adnan Amkhan Bayno, MENA Chambers, Manama
Hussein Haeri, Withers, London
Antonio R. Parra, World Bank, Washington

• The creation of the International Centre for Settlement of Investment Disputes (ICSID).
• Bilateral efforts – the rise of BITs:
  • General structure of investment treaties.
• Multilateral efforts – mixed results:
  • Failed efforts at a multilateral regime (OECD 1967; MAI; WTO);
  • Some success at regional agreements (NAFTA, Arab States’ Investment Agreement, Organization of the Islamic Conference Agreement);
  • Sectoral agreements (Energy Charter Treaty).

14:00 Lunch

15:00 More Recent Global Trends

Instructors:
Adnan Amkhan Bayno, MENA Chambers, Manama
N. Jansen Calamita, Investment Treaty Forum, BIICL, London
Devashish Krishan, Court of HRH the Crown Prince of Bahrain, Manama

• Post-NAFTA shift in approach to treaty drafting – more detailed, longer, more complex (eg, US/Canada 2004 models; ASEAN Comprehensive Investment Agreement 2009; EU post-Lisbon).
• Increasing transformation of investment treaties into investment chapters.
• Renewed move to regionalization (TPP; EU negotiating as a unit; ASEAN; SADC).
• Opting Out? (eg, South Africa, Brazil, Indonesia, Venezuela).

16:30 Coffee/tea break

17:00 The State of Play in the Middle East and North Africa

Instructors:
Mohamed Abdel Raouf, Cairo Regional Centre for International Commercial Arbitration, Cairo
Nassib G. Ziadé, BCDR-AAA, Manama

18:00 End of First Working Day
Day 2
Monday 7 December 2015

THE SETTLEMENT AND MANAGEMENT OF INVESTOR-STATE DISPUTES

09:00  The Management of Foreign Investment Relations and the Prevention of Foreign Investment Disputes

Instructors:
Mohamed Abdel Raouf, Cairo Regional Centre for International Commercial Arbitration, Cairo
Adnan Amkhan Bayno, MENA Chambers, Manama
N. Jansen Calamita, Investment Treaty Forum, BIICL, London

• Understanding the State’s obligations (with an emphasis on fair and equitable treatment and expropriation).
• Identifying potential sources of liability for the state.
• Information dissemination, training, capacity-building.
• Intra-governmental processes and procedures.

11:00  Coffee/tea break

11:30  Preparing for Investor Claims Before They Happen

Instructors:
N. Jansen Calamita, Investment Treaty Forum, BIICL, London
Hussein Haeri, Withers, London
Devashish Krishan, Court of HRH the Crown Prince of Bahrain, Manama

• Establishing institutional arrangements to advise on claims and, if necessary, defend a case.
• Setting up an in-house team.
• Internal or inter-agency cooperation for fact-finding.

13:30  Lunch

14:30  Procedures for Resolving Investor-State Disputes

Instructors:
Mohamed Abdel Raouf, Cairo Regional Centre for International Commercial Arbitration, Cairo
Antonio R. Parra, World Bank, Washington
Celeste E. Salinas Quero, Arbitration Institute of SCC, Stockholm
• Negotiation, mediation and conciliation: pros and cons.
• Possible fora for the resolution of investment disputes (national courts, International Court of Justice, international commercial arbitration, investor-State arbitration).
• National court litigation: pros and cons.
• Different forms of arbitration: national and international, *ad hoc* and institutional, advantages and disadvantages of each.
• Main forms of investor-state arbitration: UNCITRAL, SCC, PCA and ICSID (Convention and Additional Facility).

16:30 Coffee/tea break
17:00 Open Discussion – Questions and Answers
17:30 End of Second Working Day
THE CONDUCT OF INVESTOR-STATE ARBITRATION PROCEEDINGS UNDER SELECTED ARBITRATION RULES

09:00 Engaging with Counsel: Government, Local, International

Instructors:
Raëd Fathallah, Bredin Prat, Paris
Fatma Khalifa, Egyptian State Lawsuits Authority, Cairo
Andrea Menaker, White and Case LLP, Washington

• Selecting and managing counsel.
• Budgeting for fees, expenses, charges of arbitration centers, etc.
• Seeking costs: quantification of in-house costs.

10:45 Coffee/tea Break

11:15 Initiation of Proceedings

Instructors:
Mohamed Abdel Raouf, Cairo Regional Centre for International Commercial Arbitration, Cairo
Antonio R. Parra, World Bank, Washington
Celeste E. Salinas Quero, Arbitration Institute of SCC, Stockholm

• Notice of Arbitration.
• Statement of Claims.
• Arbitration Rule Requirements.
• Treaty-based Requirements: Waiting Periods, Forks-in-the-Road.

13:00 Lunch

14:00 Constitution of Tribunals

Instructors:
Brooks Daly, Permanent Court of Arbitration, The Hague
Antonio R. Parra, World Bank, Washington
Celeste E. Salinas Quero, Arbitration Institute of SCC, Stockholm

• Who and how to choose?
• Establishment and composition of the arbitral tribunal.
• Default procedures.
• Disclosure of possible conflicts of interest.

15:45 Coffee/tea break
16:15  Challenges of Arbitrators

Instructors:
Brooks Daly, Permanent Court of Arbitration, The Hague
Iain Maxwell, Herbert Smith Freehills, London
Nassib G. Ziadé, BCDR-AAA, Manama

• Replacement and disqualification of arbitrators.
• Grounds for challenge and strategic considerations.

18:00  End of Third Working Day
Day 4  
Wednesday 9 December 2015

AWARDS, POST-AWARD REMEDIES, AND RECOGNITION AND ENFORCEMENT OF AWARDS

09:00  The Award

Instructors:
Andrea Menaker, White and Case LLP, Washington
Jan Paulsson, Three Crowns, Washington
Georgios Petrochilos, Three Crowns, Paris

• Drawing up and rendition of the award.
• Formal requirements.
• Summary of outcomes in investor-State arbitrations.

10:45  Coffee/tea break

Sponsored by Bredin Prat, Paris

11:15  Remedies & Costs

Instructors:
Adnan Amkhan Bayno, MENA Chambers, Manama
Raëd Fathallah, Bredin Prat, Paris
Iain Maxwell, Herbert Smith Freehills, London

• Restitution; compensation; injunctive relief.
• Awards of costs and fees.

13:00  Lunch

13:45  Lunch Address: UNCITRAL Work on Transparency in Treaty-based Investor-State Arbitration

Timothy Lemay, UNCITRAL, Vienna

14:00  Recourse against an Award – National Courts and ICSID Annulment Committees

Instructors:
N. Jansen Calamita, Investment Treaty Forum, BIICL, London
Dany Khayat, Mayer Brown, Paris
Antonio R. Parra, World Bank, Washington
• Rectification.
• Interpretation.
• Revision.
• Annulment.
• Possibility of an appeal mechanism.

15:30  **Coffee/tea break**  
*Sponsored by Three Crowns*

16:00  **Recognition and Enforcement under the New York and the ICSID Conventions**

**Instructors:**
- Andrea Menaker, *White and Case LLP, Washington*
- Georgios Petrochilos, *Three Crowns, Paris*
- Nassib G. Ziadé, *BCDR-AAA, Manama*

• Relevant awards and court cases.
• Record to date.

17:30  **End of Fourth Working Day**