



22nd ITF Public Conference

Investor-State Arbitration and Beyond

Thursday 8 May 2014, 08:30-17:00
BMA House, Tavistock Square, London WC1H 9JP

Programme

- 08:30-09:00 Registration with tea/coffee
- 09:00-09:15 **Welcome and Introduction**
N. Jansen Calamita, Investment Treaty Forum, British Institute of International and Comparative Law; University of Birmingham School of Law
- 09:15-10:00 **Keynote Address**
Professor Emeritus Andrea Giardina, University of Rome (Sapienza); Chiomenti Studio Legale
- 10:00-11:45 **Panel 1: Alternatives to Ad Hoc Arbitral Resolution**
- One-off, ad hoc arbitration is the default means for resolving disputes under investment treaties. Even institutionally administered investor-state arbitration, such as ICSID, is essentially ad hoc in character: claims arise under different treaties before different tribunals and challenges are considered by 'ad hoc' committees. This panel will explore alternatives to this model of dispute resolution such as the use of specialized dispute settlement mechanisms for particular classes of claims under individual treaties, treaty-based interpretative committees, and the adoption of treaty-based appellate mechanisms.
- Chair: Christoph Schreuer**, University of Vienna
- **Anne van Aaken**, University St Gallen
 - **Barton Legum**, Dentons
 - **Ted Posner**, Weil, Gotshal & Manges LLP
 - **Yannick Radi**, University of Leiden
- 11:45-12:15 Tea/Coffee break

12:15-14:00

Panel 2: Beyond Arbitration

Investor-state arbitration is a means and not an end. The goal of including arbitration in investment treaties has been to provide investors with a neutral and familiar mechanism for the resolution of treaty-based disputes with host states. But is arbitration a necessity for all bilateral (or multilateral) relationships? In 2004, Australia and the United States famously committed to investment protection standards without providing for investor-state arbitration. Now, the European Union and the United States have begun negotiation of a free trade agreement which will cover investment. Do European and American investors need the protection of investor-state arbitration? Elsewhere, some states, like South Africa, have sought to abandon investor-state treaties and arbitration altogether, replacing it with domestic regimes. One size will not fit all, but can, and should, states be moving beyond arbitration?

Chair: Mark McNeill, Shearman & Sterling

- Mark Kantor, Independent Arbitrator
- Rodrigo Polanco, University of Chile; World Trade Institute
- Christian Vidal-Leon, Price Waterhouse Coopers
- Jason Yackee, University of Wisconsin

14:00-15:00

Lunch

15:00-16:30

Panel 3: Making the Most of Current Processes

Regardless of the changes which states are making or may make in the future in their investment treaty practice, as a practical matter there are some 3,000 investment treaties presently in force. Arbitral institutions, treaty-based secretariats, and other organizations have made and continue to make adjustments to existing regimes to address areas of potential improvement in investor-state arbitral practice. This panel looks at changes to existing investor-state arbitral structures, such as UNCITRAL's new rules on transparency in treaty-based investment arbitration, the Energy Charter Secretariat's agenda for reform, and the IBA's initiatives on mediation.

Chair: Jean Kalicki, Arnold & Porter; Georgetown University

- Alejandro Carballo, Energy Charter Secretariat
- Wolf von Kumborg, Northrup Grumman
- Julia Salasky, UNCITRAL Secretariat

16:30-16:45

Closing Remarks

N. Jansen Calamita, Investment Treaty Forum, British Institute of International and Comparative Law; University of Birmingham School of Law

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