

# **Investment Treaty Arbitration**

## **A Debate and Discussion**

In Cooperation with the *ABA Section of International Law*.

**Renaissance Mayflower Hotel  
Washington, D.C.  
17 May 2007**

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Space is Limited.**

### **Overview**

With the number of international investment arbitration cases filed each year showing no sign of decreasing, it is time for a dialogue between some of the brightest new stars in the field and some of its most seasoned practitioners. Ten up-and-comers have prepared papers on five of the most controversial and important issues in international investment law today. On May 17th our young authors will pair up to face a panel of arbitrators and arbitration specialists to discuss their findings. The discussion and debate that will follow is sure to be of tremendous value to the international business lawyer and litigation specialist alike.

### **Topics**

Where's my Umbrella? A Look Inside the Umbrella Clause Debate

Are the ICSID Rules Governing Nationality & Investment Working?

Debating the Necessity of a Necessity Defence for Investment Law

MFN Treatment – What Are Its Limits in the Investment Context?

National Treatment – Is Discriminatory Intent Relevant?

Please see the [Conference Schedule](#) for a detailed description of topics for discussion.

**Faculty :**

**The Authors**

**ROBERTO J. AGUIRRE LUZI** is a Special Legal Consultant in the International Arbitration Practice Group of King & Spalding's Houston office. Mr. Aguirre Luzi's practice focuses on international arbitration with an emphasis on international public law. He has been involved in numerous ICSID and UNCITRAL arbitrations, particularly involving the natural resources and utilities sectors.

**GABRIEL BOTTINI** serves as Counsel in the Office of the Attorney General for the Government of Argentina. He has represented his country in a large number of bilateral investment treaty cases and has written widely on the subject.

**LAURA HALONEN** is an Attorney in the Paris office of Freshfields Bruckhaus Deringer. She has been involved in a large number of international commercial arbitrations and both ad hoc and ICSID proceedings under bilateral investment treaties.

**WALID BEN HAMIDA** is a Professor of International law at the Universite d'Evry (Sciences Po), Paris. Dr. Hamida has previously taught at the University of Paris II, the University of Paris Dauphine, the University of Bucharest (college Franco-Roumain) and the University of Paris V.

**DEVASHISH KRISHAN** is an Attorney at Baker Botts in London. Dev Krishan has wide experience before a variety of international tribunals. He has previously been an assistant legal counsel at the Permanent Court of Arbitration in The Hague and has clerked for the Chief Justice of India.

**CRAIG MILES** is a Partner in King & Spalding's Houston Office who has served as first chair on numerous ICSID and ad hoc arbitrations.

**NOAH RUBINS** is Counsel in the International Dispute Resolution and public international law practice groups of Freshfields Bruckhaus Deringer in Paris, France. He has served as counsel in numerous investor-state arbitrations.

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**ANTHONY C. SINCLAIR** is an Associate in the International Arbitration Group of Allen & Overy LLP. He is admitted as a Solicitor in England and Wales and a Barrister and Solicitor of the High Court of New Zealand.

**SYLVIE TABET** is a Counsel in the Trade Law Bureau of the Department of Foreign Affairs & International Trade, for the Government of Canada. She has represented her country in a number of arbitrations under the NAFTA and has provided advice to her Government on the negotiation of its foreign investment protection agreements.

## **The Moderators**

**CHARLES H. BROWER II** is Jessie D. Puckett, Jr., Lecturer and Croft Associate Professor of International Law at the University of Mississippi Faculty of Law. A noted author on international investment and dispute settlement, Professor Brower currently serves on the Executive Council of the American Society of International Law and the Executive Committee of the Institute for Transnational Arbitration (ITA).

**IAN LAIRD** is a Foreign Counsel with the international arbitration practice of Fulbright & Jaworski LLP in Washington D.C. He is the co-founder and Editor-in-Chief of Investmentclaims.com. Mr. Laird was involved as counsel in some of the earliest NAFTA arbitrations and is currently involved in a number of investment treaty arbitrations.

**PAUL M. LALONDE** is a Co-Chair of the National Trade and Competition Group and a partner in the Business Law Group of Heenan Blaikie LLP. He chairs the International Law Section Executive of the Ontario Bar Association; has served as panellist under Canada's Agreement on Internal Trade and has been involved in a number of disputes arising under the WTO and various chapters of the NAFTA.

**ANDREA J. MENAKER** is Chief of the NAFTA Arbitration Division in the Office of the Legal Adviser for the U.S. Department of State. She also participates in the negotiation of dispute resolution and investment provisions in U.S. free trade agreements and bilateral investment treaties. Prior to working for the Department of State, Professor Menaker was a law clerk for the U.S. District Court for the Southern District of New York and worked for several years as an associate for Shearman & Sterling.

**DAVID R. HAIGH** is a Senior Partner in the Calgary offices of Burnet, Duckworth & Palmer LLP. He is a leading international commercial arbitrator with particular expertise in the oil and gas sector. David Haigh has also been involved in a number of ICC and ICSID proceedings involving sovereign governments as parties.

### **Panelists**

**ARIF HYDER ALI** is Co-Chair of Crowell & Moring LLP's International Dispute Resolution Practice. He is also an Adjunct Professor of Law at the Georgetown University Law Center, and an Honorary Lecturer at the University of Dundee's Centre for Energy, Mining and Petroleum Law and Policy. He has represented public and private parties in investment and commercial arbitrations under the rules of all of the major arbitral institutions, with a particular focus on the energy sector.

**PIETER H.F. BEKKER** is a Partner in the International Dispute Resolution Group at McDermott Will & Emery LLP in New York. He is an Adjunct Professor of International Arbitration at Fordham University School of Law in New York and a member of the Executive Council of the American Society of International Law. Prior to entering private practice, Dr. Bekker worked in the Registry of the International Court of Justice.

**R. DOAK BISHOP** is a Partner in King & Spalding's Houston office and Chair of the Firm's International Arbitration Practice Group. He is Vice-Chair of the Institute of Transnational Arbitration.

**ANDREA K. BJORKLUND** is an Acting Professor at the University of California, Davis, School of Law who specializes in international economic law, international arbitration and litigation, international trade, and conflict of laws. Before starting at Davis, she spent two years as a Bigelow Fellow and Lecturer in Law at the University of Chicago Law School and from 1999-2001, Ms. Bjorklund was an attorney-adviser in the Office of the Legal Adviser at the U.S. Department of State, where she defended the United States in investor-State arbitrations brought under the NAFTA.

**CHARLES N. BROWER** is a member of 20 Essex Street Chambers. During his career in international arbitration Judge Brower has served as counsel, arbitrator and expert witness in numerous ad hoc and institutional arbitration proceedings. A well known author and long-standing member of the American Society of International Law, Charles N. Brower served as Judge of the Iran-United States Claims Tribunal and as a member of the United Nations Compensation Commission.

**DAVID D. CARON** is the C. William Maxeiner Distinguished Professor of Law at the University of California at Berkeley. Professor Caron is a member of the U.S. Department of State Advisory Committee on Public International Law and serves as a Vice President of the American Society of International Law, and Chair of the Institute of Transnational Arbitration of the Center for American and International Law. Professor Caron served as Commissioner with the Precedent Panel (E2) of the United Nations Compensation Commission in Geneva, resolving claims arising out of the 1990 Gulf War, and acted as Counsel for Ethiopia before the Ethiopian - Eritrean Claims Commission in 2005. He currently serves as a Member of two NAFTA tribunals.

**JACK J. COE, JR.** is a Professor of Law at Pepperdine University School of Law, specializing in private international law. Professor Coe is an elected member of the American Law Institute, admitted to practice in California and Washington, and a member of the Chartered Institute of Arbitrators, London. He is a co-chair of the International Commercial Dispute Resolution Committee of the ABA International Law Section, and chairs the Academic Council of the Institute for Transnational Arbitration. Professor Coe has served as both counsel and expert in investor-state arbitrations.

**GRAHAM COOP** has served as General Counsel at the Energy Charter Secretariat since 2004. Prior to joining the Secretariat, Mr. Coop was partner with Denton Wilde Sapte's Energy and Infrastructure Department in London for two years and spent 10 years at the Paris office of Freshfields Bruckhaus Deringer, where he served as Head of the firm's Energy and Natural Resources Group.

**RUDOLPH DOLZER** is Director of the Institute for International Law at the University of Bonn. Dr. Dolzer has served as expert on a large number of investment treaty arbitrations and has written numerous articles and books covering the field.

**GONZALO FLORES** serves as Senior Counsel at the ICSID. In this capacity, Mr. Flores has served as tribunal secretary in a large number of proceedings instituted under the ICSID Convention, the ICSID Additional Facility Rules and the UNCITRAL Arbitration Rules.

**EMMANUEL GAILLARD** is a Partner in Shearman & Sterling LLP's Paris office and is Chair of the firm's international arbitration practice. He is also the Chairman of the International Arbitration Institute (IAI).

**TODD J. GRIERSON WEILER** is an Adjunct Professor at the Washington College of Law and the University of Calgary Faculty of Law. He is the co-founder of Investmentclaims.com and the publisher of NAFTAclaims.com. The editor of two popular books on investment treaty arbitration, Professor Grierson Weiler has served as counsel or arbitrator in a large number of NAFTA and investment treaty arbitrations.

**KAJ HOBÉR** is a Partner of Mannheimer Swartling in the Stockholm office, and Professor of East European Commercial Law at Uppsala University, Uppsala.

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**UCHE ONWUAMAEGBU** is Senior Counsel at ICSID. In addition to management of arbitral proceedings, he actively participates in ICSID's knowledge dissemination program and coordinates various institutional initiatives at the Centre including amendments to the Rules and Regulations of the Centre. Prior to joining ICSID in 2001, Mr. Onwuamaegbu was a Senior Legal Officer at the United Nations Compensation Commission. Mr. Onwuamaegbu is a Barrister of the Supreme Court of Nigeria and a Solicitor of the Supreme Court of England and Wales. He presently serves as a co-Chair of the International Courts Committee of the American Bar Association's International Law Section.

**WILLIAM W. PARK** is Professor of Law at Boston University. He has served as chairman, sole arbitrator and party-appointed arbitrator in numerous ICC, AAA, LCIA, ICSID, IACAC, UNCITRAL, NASD and ad hoc proceedings, covering a wide array of topics. Professor Park is a Fellow of the Chartered Institute of Arbitrators and the College of Commercial Arbitrators, and a former Vice President of the London Court of International Arbitration.

**DANIEL M. PRICE** is a Partner in Sidley Austin LLP's Washington, D.C. office and chairs the firm's International Trade and Dispute Resolution group. Mr. Price was appointed by President Bush to serve on ICSID's Panel of Arbitrators. He is former principal deputy general counsel for the Office of the US Trade Representative (USTR) and was lead negotiator on investment issues relating to the NAFTA.

**CHRISTOPH SCHREUER** is a Professor of International Law at the University of Vienna. He spent most of his academic career at the Department of International Law of the University of Salzburg and has also served as the Edward B. Burling Professor of International Law and Organization at the Paul H. Nitze School of Advanced International Studies (SAIS) of the Johns Hopkins University in Washington, DC.

**MARGRETE STEVENS** is a Consultant whose practice is based in the offices of King & Spalding LLP in Washington D.C. She recently stepped down as the ICSID's Acting Lead Counsel, a position she had held for two years. The co-author of one of the first monographs on the protection of foreign investment in international law, Ms. Stevens has personal experience with dozens of investment treaty arbitrations held under the ICSID Rules.

**THOMAS WÄLDE** holds the Jean-Monnet Chair on European Economic and Energy Law at the University of Dundee's Centre for Energy, Petroleum & Mineral Law & Policy and is a member of Essex Court Chambers in London. He serves as Editor-in-Chief of the OGEL Global Energy Law Web Portal, Transnational-dispute-management.com and the OGEMID electronic discussion group.

**DON WALLACE** is an Emeritus & Adjunct Professor of Law and Chairman of the International Law Institute at Georgetown University. The author of numerous articles and an active arbitrator and counsel, Professor Wallace serves of counsel in the Litigation Practice of Morgan, Lewis & Bockius LLP in Washington, D.C.

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