2018 Investment Arbitration & Trans-Pacific Transactions Conference

May 10-11, 2018
Maxwell Chambers, Singapore

Platinum Sponsor:
Arnold & Porter
2018 INVESTMENT ARBITRATION & TRANS-PACIFIC TRANSACTIONS CONFERENCE
Maxwell Chambers, 32 Maxwell Road #03-01, Singapore 069115

Planning Committee
SECTION CHAIR 2017-18
Steven M. Richman • Clark Hill PLC • Princeton, NJ

PLANNING COMMITTEE
Christopher Bloch • Singapore International Arbitration Center • Singapore
Chester Brown • University of Sydney • Sydney, Australia
Jansen Calamita • Center for International Law at NUS • Singapore
Whitney Debevoise • Arnold Porter Kaye & Scholer LLP • Washington, DC
Stephen Denyer • Law Society of England and Wales • London, United Kingdom
Kirstin Dodge • Homburger AG • Zurich, Switzerland
Pieter de Ridder • Mayer Brown LLP • Singapore
Judith Gill • Allen & Overy LLP • London, United Kingdom
William Greenlee • DFDL Myanmar Limited • Yangon, Myanmar
Hanim Hamzah • ZICOlaw Network • Singapore
Alex Hao • JunHe • New York, NY
Alexander A. Jeglic • PPP Canada Inc. • Ottawa, Canada
Hermann Knott • Andersen Tax & Legal • Cologne, Germany
Mickaël Laurans • Law Society of England and Wales • London, United Kingdom
Thomas C. Malayil • TCM Property Advisory • Los Angeles, CA
Malcolm McNeil • Arent Fox LLP • Los Angeles, CA
Kevin Nash • Singapore International Arbitration Center • Singapore
Delissa Ridgway • US Court of International Trade • New York, NY
Bhalinder Rikhye • Bartlett McDonough & Monaghan LLP • New York, NY
José Antonio Rivas • Arnold & Porter Kaye Scholer LLP • Washington, DC
Marcy Stras • Cozen O’Connor • Washington, DC
Yu-Jin Tay • Mayer Brown JSM • Singapore
Roland Trope • Trope & Schramm LLP • New York, NY
Deanne Wilson • Resolutions LL • Mendham, NJ
Mark E. Wojcik • The John Marshall Law School • Chicago, IL
### Schedule of Events

**Thursday, May 10, 2018**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:30 AM – 8:30 AM</td>
<td>Registration &amp; Breakfast - Maxwell Chambers</td>
</tr>
<tr>
<td>8:30 AM – 9:00 AM</td>
<td>Opening and Introductory Remarks</td>
</tr>
<tr>
<td>Lucien Wong, Attorney-General of the Republic of Singapore</td>
<td></td>
</tr>
<tr>
<td>9:00 AM – 10:30 AM</td>
<td>State Experience in The Prevention Of Investment Treaty Disputes and the Improvement of State Readiness for Investment Arbitration</td>
</tr>
<tr>
<td>In connection with ongoing research at the Centre for International Law at the National University of Singapore, this panel will discuss the approach that States have taken in attempting to prevent investment disputes or minimize investment arbitrations, including capacity building of State officials with powers over foreign investment, stocktaking of economic sectors potentially or historically susceptible to investment disputes, early warning systems for differences that may escalate to full-fledged investment disputes, and prevention programs implemented by some States. The panel will also discuss alternative means for prevention of investment arbitration from an investor’s perspective including, for example, the relevance of dispute boards and ombudsmen for investment disputes.</td>
<td></td>
</tr>
<tr>
<td>Concerning State readiness for investment arbitration, panelists will address the steps that States may take, and the administrative structures they may consider implementing to manage an investment arbitration as respondent efficiently and to ensure the State’s responsiveness with respect to the issues raised by the investors both prior to and during arbitration proceedings.</td>
<td></td>
</tr>
<tr>
<td>Panel Chair:</td>
<td>José Antonio Rivas, Arnold &amp; Porter Kaye Scholer, Georgetown University Law Center, Washington, DC</td>
</tr>
<tr>
<td>Speakers:</td>
<td>Daphne Hong, Attorney-General’s Chambers, Singapore</td>
</tr>
<tr>
<td></td>
<td>N. Jansen Calamita, Centre of International Law, National University of Singapore</td>
</tr>
<tr>
<td></td>
<td>Luz Angela Ramirez, ProColombia, Bogota, Colombia</td>
</tr>
<tr>
<td>10:30 AM – 10:45 AM</td>
<td>Networking Break</td>
</tr>
<tr>
<td>10:45 AM – 12:15 PM</td>
<td>Choice of Rules for Resolution of Investment Disputes</td>
</tr>
<tr>
<td>This panel will feature experts — on the rules of arbitration of the International Centre for Settlement of Investment Disputes (ICSID), the United Nations Commission on International Trade Law (UNCITRAL), the International Chamber of Commerce (ICC), and the Singapore International Arbitration Centre (SIAC) — who will explain those rules, and any other rules of common usage in the resolution of investment disputes. Panelists will focus on the distinctive elements making the respective rules a particularly attractive choice for States and/or investors.</td>
<td></td>
</tr>
<tr>
<td>Panel Chair:</td>
<td>Kevin Nash, Singapore International Arbitration Center (SIAC), Singapore</td>
</tr>
<tr>
<td>Speakers:</td>
<td>Meg Kinnear, ICSID, Washington, DC</td>
</tr>
<tr>
<td></td>
<td>Anna Joubin-Bret, UNCITRAL, Vienna, Austria</td>
</tr>
<tr>
<td></td>
<td>Lee Caplan, Arent Fox, LLP, Washington DC</td>
</tr>
<tr>
<td></td>
<td>Salim Moollan, QC, Essex Court Chambers, London, United Kingdom</td>
</tr>
<tr>
<td>12:15 PM – 1:45 PM</td>
<td>Lunch and Keynote Address</td>
</tr>
<tr>
<td>Mr. VJ Rajah, Essex Court Chambers Duxton and Former Attorney General, Singapore</td>
<td></td>
</tr>
<tr>
<td>1:45 PM – 3:10 PM</td>
<td>Preliminary and Jurisdictional Objections</td>
</tr>
<tr>
<td>This panel will discuss the preliminary objections available to Respondent States under applicable rules of arbitration (e.g. Article 41(5) of the ICSID Rules of Arbitration, Article 45 of the ICSID Additional Facility Rules of Arbitration, Article 26 of the SIAC Investment Arbitration Rules, and Article 29 of the SIAC Rules of Arbitration) and the strategic pros and cons of formulating those objections (akin to summary judgment motions) at the early stages of arbitration proceedings. Panelists...</td>
<td></td>
</tr>
</tbody>
</table>
also will address the jurisdictional objections that may be available to Respondent States to seek dismissal of an investment case for lack of jurisdiction.

Panel Chair:
Toby Landau QC, Essex Court Chambers, London, United Kingdom

Speakers:
Swee Yen Koh, Wong Partnership LLP, Singapore
Whitney Debevoise, Arnold & Porter Kaye Scholer, Washington, DC
Eduardo Silva Romero, Dechert, Paris, France
Lijun Cao, Zhong Lun, Beijing, China

3:15 PM – 4:40 PM
Regulatory Powers and Defenses on The Merits Concerning Claims of Expropriation and Violation of Fair and Equitable Treatment

Investment arbitration, as a body of international law, has been under close scrutiny by States, civil society, and commentators for the limitations — whether real or perceived — that investment treaties impose on States’ regulatory powers with a view to ensure international standards of treatment to foreign investors. Recent treaties (e.g. the CETA between the EU and Canada, and the EU-Singapore FTA) have recognized the State’s right to regulate and adopt measures necessary to pursue legitimate policy objectives such as social, environmental, security, public health and safety, and promotion and protection of cultural diversity. This panel will discuss Respondent States’ potential defenses against claims of indirect expropriation, and violations of fair and equitable treatment, and the current breadth of protection of investors as recognized by case law and influenced by the evolution of investment treaties. Panelists will also address the broad scope of FET protection for investors in spite of investment treaty evolution.

Panel Chair:
Ian Laird, Crowell Moring, Washington, DC

Speakers:
Anton Ware, Arnold & Porter Kaye Scholer, Shanghai, China
Rob Kirkness, Freshfields Bruckhaus Deringer, Singapore
Paul Reichler, Foley Hoag, Washington, DC

4:40 PM – 4:55 PM                          Networking Break
4:55 PM – 6:20 PM
Quantum as Part of The State’s Strategy to Articulate an Effective Defense in Investment Arbitration

Quantum — following jurisdiction and the merits — constitutes the phase in which the investor seeks to quantify the Respondent’s liability in the form of a damages award. For the State, by contrast, even if a Tribunal rules that a Respondent State is internationally liable for breach of investment treaty obligations, the State may effectively articulate a defense based on lack of causation, or on the speculative nature of the alleged damages. This panel will discuss the perspectives, assumptions, and arguments typically made by counsel and damages experts, for investors and for States.

Panel Chair:
Natalie Morris-Sharma, Director, International Legal Division, Ministry of Law, Singapore (TBC)

Speakers:
Cavinder Bull SC, Drew & Napier LLC, Singapore
Claudia Frutos-Peterson, Curtis Mallet-Prevost, Colt & Mosle LLP, Washington, DC
Shreyas Jayasimha, Aarna Law, Bengaluru, India
Miguel A. Nakhele, Compass Lexecon, Houston, TX

6:20 PM – 6:30 PM                            Closing Remarks
6:30 PM – 7:30 PM                          Reception at Maxwell Chambers
7:30 PM                                           Dinners on Your Own
### Defense Models for States in Investment Arbitration

Depending on several factors, including legal culture and tradition, expertise in international law and investment arbitration, number of cases, and priorities, States have adopted different models of defense in investment arbitration ranging from appointing in-house counsel to represent the State in investment disputes, to appointing outside international counsel by hiring practitioners specialized in investment arbitration. This panel will discuss a range of models and factors that States may wish to consider in choosing a particular defense model, and how those models may or may not influence counsel for the investor’s strategic decisions during the course of the arbitration.

Panel Chair: 
Chester Brown, University of Sydney, Essex Court Chambers, Sydney

Speakers:
- Bill Campbell, Office of International Law, Attorney General’s Department, Australia
- Luis Guillermo Velez, National Agency of State Defense, Colombia
- Azusa Kikuma, Deputy Director, Investment Policy Division, Economic Affairs Bureau, Ministry of Foreign Affairs, Japan (Invited)
- George Pothan, Ministry of External Affairs, New Delhi, India

### Cybersecurity Due Diligence and Cyber Risks in M&A Transactions

Cybersecurity has become a significant factor in M&A transactions, exemplified by the experience of Verizon in acquiring the internet business of Yahoo! and dealing with the security breaches Yahoo! suffered. This panel will discuss how to avert the next Yahoo!/Verizon and minimize the potential of destructive kinetic attacks (like Petya malware) that could seriously disrupt an M&A deal by modifying, damaging, or making inaccessible high-value digital assets.

Panel Chair and Moderator: 
Sajai Singh, J. Sagar Associates, Bangalore, India

Speakers:
- Stephanie Choo, Covington & Burling LLP, Redwood Shores, CA
- Elizabeth Cole, Jones Day, Singapore
- Matt Staples, Wilson Sonsini Goodrich & Rosati, Seattle, WA
- Bryan Tan, Pinsent Masons, Singapore
various agencies involved in the case at issue (including the organ that allegedly acted contrary to international law). This panel will discuss the difficulties that are generally encountered while providing advice to States in international matters or while representing States before international tribunals, and practical ways to address those challenges.

Panel Chair:  
Loretta Malintoppi, 39 Essex Chambers, Singapore

Speakers:  
Rodman Bundy, Eversheds Harry Elias LLP, Singapore  
Timothy Feighery, Arent Fox, Washington, DC  
Promod Nair, Arista Chambers, Bangalore, India  
Michael Owen, Trade Law Bureau, Ontario, Canada

Foo Siang-tse, Quann Asia Pacific Pte Ltd., Singapore  
Tanveen Vohra, Akamai Technologies Singapore Pte Ltd, Singapore

12:45 PM-2:00 PM                         Networking Luncheon

Lucy Reed, Director of the Centre for International Law (CIL), National University of Singapore (Invited)

2:30 PM – 4:00 PM                           Concurrent Sessions

Task Force:  
Potential Guidelines and Best Practices for Prevention and Defense of Investment Disputes — Focus on Prevention

A draft paper on potential guidelines will be distributed in advance that will address issues of prevention of investment disputes, defense models relied upon by Respondent States, readiness for investment arbitration, and best practices for State defense. Participants will include government officials, practitioners with experience as counsel for investors and for States, arbitrators and academics. In this session the Working Group will focus on discussing matters of prevention of investment disputes.

Moderator:  
Chester Brown, University of Sydney, Essex Court Chambers, Sydney, Australia

Speaker:  
Roberto Echandi, IFC, Washington, DC (TBC)

Regulation of Foreign Direct Investment

The panel will survey national security reviews by the Committee on Foreign Investment in the US (CFIUS) and similar reviews by other countries’ regulatory agencies.

Panel Chair and Moderator:  
Gopika Pant, Indian Law Partners, New Delhi, India

Speakers:  
Jason Brown, Thales Australia, Melbourne, Australia; Chairman, Board at Security Professionals Australasia, Sydney, Australia  
Alex Hao, JunHe LLP, New York, NY  
Syeda Kazim, U.S. Department of State, Washington, DC  
Roland Trope, Trope and Schramm LLP, New York, NY  
Lawrence Ward, Dorsey & Whitney LLP, Seattle, WA  
Ruth Wedgwood, Johns Hopkins University, Washington, DC

4:00 PM – 4:30 PM                         Networking Break

4:30 PM – 6:00 PM                        Concurrent Sessions

Task Force:  
Potential Guidelines and Best Practices for Prevention and Defense of Investment Disputes — Focus on Readiness and Defense

In this session the Working Group will focus on issues related to defense models relied upon by Respondent States, readiness for investment arbitration, and best practices for State defense. Participants will include government officials, practitioners with experience as counsel for investors and for States, arbitrators and academics.

Moderator:  
Roland Trope, Trope and Schramm LLP, New York, NY

Averting and Responding to Corporate Ethical Crises (Ethics)

This panel of experts will discuss the ethical responsibilities of Boards and professional legal ethical duties of counsel in recent ethical crises by Management, Boards, and General Counsel at multi-national enterprises such as VW, Rolls Royce, Wells Fargo, Equifax, and Uber, and best practices for averting such crises.

Panel Chair:  
Roland Trope, Trope and Schramm LLP, New York, NY
<table>
<thead>
<tr>
<th>Speaker: Pierre-Olivier Savoie, Savoie Arbitration, Paris, France</th>
</tr>
</thead>
<tbody>
<tr>
<td>Panel Chair and Moderator: V. Lakshmikumaran, Lakshmikumaran &amp; Sridharan, New Delhi, India</td>
</tr>
<tr>
<td>Speakers:</td>
</tr>
<tr>
<td>Elizabeth Cole, Jones Day, Singapore</td>
</tr>
<tr>
<td>Hermann Knott, Anderson Tax &amp; Legal, Cologne, Germany</td>
</tr>
<tr>
<td>Gopika Pant, Indian Law Partners, New Delhi, India</td>
</tr>
<tr>
<td>Steven Richman, Clark Hill LLC, Princeton, NJ</td>
</tr>
</tbody>
</table>
The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 9.0 CLE credit hours including 1.5 ethics hours in 60-minute states, and 9.0 credit hours including 1.5 ethics hours in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit our meeting website or contact Thomas.Happell@americanbar.org.

A limited number of registration fee reductions are available for this program upon application. The fee-reductions will be determined on a one-time only, case-by-case, first-come first-serve basis. Requests must be received at least three weeks before the program start date. You will be notified prior to the program if your application is approved. A minimal fee may be charged on all approved applications to defray expenses. For programs with tuition costs of $500 or more, qualifying attorneys will receive at least a 50% reduction in the course fee(s) only. To apply, send a letter outlining the basis for your request of a fee reduction to intlawmeetings@americanbar.org.