

Investor-state arbitration (ISA), also known as Investor-State Dispute Settlement (ISDS), by which a foreign investor is entitled to sue a state for damages resulting from the alleged violation of an applicable bilateral investment treaty or an investment chapter in a regional trade agreement, has come under scrutiny in many parts of the world. But in no countries has it been subject to greater scrutiny and challenge than in developed democracies.

First in Canada and the United States as a result of the adoption of NAFTA Chapter 11, subsequently in the European Union as a result of the adoption of the International Energy Charter and latterly in other countries such as Australia, critics have alleged that ISA grants an undue privilege to foreign investors whose complaints should be heard by domestic courts instead of panels of international arbitrators. Availability of ISA is in fact world-wide due to a network of over 3200 investment treaties and criticisms have been voiced in different parts of the world and various proposals for change have been made. However the criticisms in developed democracies have become sufficiently strong for it to be necessary to raise the question of whether recourse to ISA is appropriate in any form in developed democracies.

The papers prepared for this conference by leading experts from a number of developed democracies review the experience of ISA within each of these jurisdictions with a view to understanding the debates that have occurred in each one. The conference will thus provide a unique opportunity to compare and discuss the experience of a wide range of developed democracies. The focus of this debate is on developed democracies, but the implications for the whole international community are very much in mind.

## DRAFT AGENDA

### Friday, September 25, 2015

WESTIN HOTEL, OTTAWA

8:30–8:45

#### **Arrivals and Welcome**

**Speaker:** Oonagh Fitzgerald, Director, CIGI ILRP

8:45-9:15

#### **Outline of the Issues**

**Speaker:** Armand de Mestral, Senior Fellow, CIGI

9:15–10:15

#### **Reaction to ISA in Canada and the USA**

**Chair:** Armand de Mestral

**Speakers:** David Gantz, Ucheora Onwamaegbu, Charles-Emmanuel Côté, David Schneiderman, Howard Mann

- 10:15 – 10:30      **Health Break**
- 10:30 – 11:30      **Reaction to ISA in the EU and its Member States**  
**Chair:** H.E Ambassador of Germany  
**Speakers:** EU - August Reinisch, Germany - Andreas Ziegler,  
Eastern Europe - Csongor Nagy, Spain Carmen Otero García-Castrillón,
- 11:30- 12:30      **Reaction to ISA in Asia**  
**Chair:** TBC  
**Speakers:** Australia - Leon Trakman, Japan - Shotaro Hamamoto,  
South Korea - Younsik Kim
- 12:30 – 13:30      **Networking Lunch**
- 13:00 – 14.30      **Reaction of the Rest of the World**  
**Chair:** Andrea Bjorklund  
**Speakers:** Hugo Perezcano-Diaz; Speaker 2 TBC;  
**Commentator:** Julie Maupin
- 14.30 – 15:30      **Will Incremental Reforms be Sufficient?**  
**Chair:** Mark Jewett  
**Speakers:** Sylvie Tabet,, Marc Lalonde, Speaker 3 TBC  
Céline Lévesque
- 15:30 – 15:45      **Health Break**
- 15:45 – 17:15      **General Debate - Question and Answer discussion**  
**Chair:** Oonagh Fitzgerald  
*\*Questions to be submitted in advance to the entire panel of experts*
- 17:15 – 17:30      **Summing up**  
**Speaker:** Armand de Mestral
- 17:30 – 19:00      Wine and Cheese Reception
- 19:00 – 21:00      Dinner for invited guests

## Speakers List

Armand de Mestral, *CIGI Senior Fellow, McGill University*

Andrea Bjorklund, *McGill University*

David Gantz, *University of Arizona Schools of Law*

Ucheora Onwamaegbu, *Arent Fox, Washington DC. Formerly ICSID Secretariat*

Charles-Emmanuel Côté, *Faculté de droit, Université Laval*

David Schneiderman, *Faculty of Law, University of Toronto*

Howard Mann, *International Institute for Sustainable Development*

August Reinisch, *University of Vienna (presenting on behalf of Marc Bungenberg, University of the Saarland)*

Leon Trakman, *(University of New South Wales, Australia presenting on behalf of Luke Nottage)*

Andreas Ziegler, *Université de Lausanne*

Cszongor Nagy, *University of Szeged*

Carmen Otero García-Castrillón, *Universidad Complutense*

Shotaro Hamamoto, *Faculty of Law, University of Kyoto*

Younsik Kim, *College of Law, Sungshin Women's University*

Hugo Perezcano-Diaz, *Consultant,*

Julie Maupin, *Max Planck Institute Heidelberg*

Mark Jewett, *Bennett Jones LLP*

Sylvie Tabet, *DFATD*

Colin Brown – *European Commission*

Marc Lalonde, *Arbitrator*

Céline Lévesque, *Université d'Ottawa*

Marie-Anne Coninx, *HE EU Ambassador*

Oonagh Fitzgerald, *CIGI ILRP Director*