

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 3,200 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.

AGENDA

Friday, September 25, 2015

CONFEDERATION BALLROOM III, WESTIN HOTEL, OTTAWA

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| 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, Charles-Emmanuel Côté, David Schneiderman, |

- 10:15 – 10:30 **Health Break**
- 10:30 – 11:30 **Reaction to ISA in the EU and Its Member States**
Chair: Stephen Clarkson
Speakers: EU – August Reinisch (*paper to be presented by Julie Maupin*);
Germany – Marc Bungenberg (*paper to be presented by Andreas Ziegler*);
Eastern Europe – Csongor Nagy;
Spain – Carmen Otero García-Castrillón (*paper to be presented by Armand de Mestral*)
- 11:30 – 12:30 **Reaction to ISA in Asia**
Chair: Anthony van Duzer
Speakers: Australia – Luke Nottage (Paper to be presented by Leon Trakman); Japan – Shotaro Hamamoto; South Korea – Younsik Kim
- 12:30 – 13:30 **Lunch**
- 13:30 – 13:50 **Introduction - Lunch Keynote Speaker**
Oonagh Fitzgerald, Director, CIGI ILRP
- Lunch Keynote Speaker**
Her Excellency Ambassador Marie-Anne Coninx
- 14:00 – 14:45 **Reaction of the Rest of the World**
Chair: Andrea Bjorklund
Speakers: Hugo Perezcano-Diaz; Ucheora Onwuamaegbu,
Howard Mann, Elisabeth Tuerk
Commentator: Julie Maupin
- 14:45 – 15:45 **Will Incremental Reforms Be Sufficient?**
Chair: Mark Jewett
Speakers: Marc Lalonde, Matthew Kronby, Céline Lévesque
- 15:45 – 16:00 **Health Break**
- 16:00 – 17:30 **Questions and Discussion**
Chair: Oonagh Fitzgerald
**Questions to be submitted in advance to the entire panel of experts*

17:30 – 17:45	Summing up Speaker: Armand de Mestral
17:45 – 19:30	Wine and Cheese Reception
19:30 – 21:00	Dinner for invited guests

Speakers List

Armand de Mestral, *CIGI Senior Fellow, McGill University*
Andrea Bjorklund, *McGill University*
Andreas Ziegler, *Université de Lausanne (presenting on behalf of Marc Bungenberg)*
Anthony van Duzer, *University of Ottawa*
Céline Lévesque, *Université d'Ottawa*
Charles-Emmanuel Côté, *Faculté de droit, Université Laval*
Csongor Nagy, *University of Szeged*
David Gantz, *University of Arizona, James E. Rogers College of Law*
David Schneiderman, *Faculty of Law, University of Toronto*
Elizabeth Tuerk, *UNCTAD*
Her Excellency Marie-Anne Coninx, *Ambassador, EU Delegation to Canada*
Howard Mann, *International Institute for Sustainable Development*
Hugo Perezcano-Diaz, *Independent Consultant*
Julie Maupin, *Max Planck Institute, Heidelberg (presenting on behalf of August Reinisch)*
Leon Trakman, *University of New South Wales, Sydney (presenting on behalf of Luke Nottage)*
Marc Lalonde, *Arbitrator*
Mark Jewett, *Bennett Jones LLP, CIGI Senior Fellow*
Matthew Kronby, *Bennett Jones LLP*
Oonagh Fitzgerald, *Director, CIGI ILRP*
Shotaro Hamamoto, *Faculty of Law, University of Kyoto*
Stephen Clarkson, *University of Toronto*
Ucheora Onwuamaegbu, *Arent Fox LLP, Washington DC. Formerly ICSID Secretariat*
Younsik Kim, *College of Law, Sungshin Women's University*