



2018

AIIB LEGAL CONFERENCE

September 5-6, 2018
AIIB Headquarters
Beijing, China

International Organizations and the Promotion of Effective Dispute Resolution



ASIAN INFRASTRUCTURE
INVESTMENT BANK

Welcome to AIIB

As legal entities and global actors, international organizations are sustained by the rule of law, in place of the hinterland of states, and so the effectiveness of international organizations is aligned with the efficient interaction and reconciliation of the laws which enable them to exist and to act. The lawful and effective resolution of disputes is therefore of central concern to all international organizations.

By examining the role of international organizations in promoting the effective resolution of disputes, both as dispute participants and by providing dispute resolution platforms and expertise, it is intended to gain a greater understanding of both the practices and possibilities of international organizations to contribute to the rule of law in this way.

Our panels will address five broad themes, examining: (i) the potential of dispute resolution to drive development, especially consistent with the mandate of multilateral development banks; (ii) the development of dispute resolution through international arbitration, of which international organizations are notable exponents; (iii) the emergence of modern procedures intended to enhance the effectiveness of dispute resolution; (iv) the challenges faced by the wide range of dispute resolution facilities afforded by international organizations and (v) the consequences to dispute resolution of the international legal status possessed by international organizations.

The Asian Infrastructure Investment Bank (AIIB) is therefore delighted to have this year brought together the insights of, and afford a dialogue between, distinguished experts in this field, drawn from across legal practice, international organizations and academia, to address these essential concerns, for the second annual AIIB Legal Conference.

Gerard Sanders,
General Counsel, AIIB

Peter Quayle
Chair, 2018 AIIB Legal Conference

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Legal Conference Schedule

Wednesday, Sep. 5, 2018

8:45–9:30 a.m. Registration and Coffee

9:30–9:45 a.m. Welcome from the General Counsel, Gerard Sanders, AIIB
Introduction from the Conference Chair, Peter Quayle, AIIB

9:45 a.m.–noon Panel 1:

Dispute Resolution and Development
Chair: Gerard Sanders, General Counsel, AIIB

- Andreas Baumgartner, Executive Director, Dubai International Financial Centre, Dispute Resolution Authority, **Commercial Dispute Resolution of the Future: A Catalyst of Economic Development**
- Marie-Anne Birken, General Counsel, European Bank for Reconstruction and Development, **The Evolution of Mediation in Central Asia: The Perspective of the European Bank for Reconstruction and Development**
- William T. Loris, Director, Rule of Law for Development Institute, Loyola University Chicago & former Director-General, International Development Law Organization, **International Financial Institution Safeguard Policies and Opportunities: Effective Dispute Resolution and Grievances in Partner Countries**
- Ramit Nagpal, Deputy General Counsel, Asian Development Bank, **Dispute Resolution in Development Finance: The Perspective of the Asian Development Bank**

Noon–1:00 p.m. Lunch, 21st Floor

1:00–3:15 p.m. Panel 2:

Dispute Resolution and International Arbitration
Chair: Rüdiger Woggon, Assistant General Counsel, AIIB

- Cavinder Bull, Vice President of the Singapore International Arbitration Centre, Court of Arbitration, **An Effective Platform for International Arbitration: Raising the Standards in Speed, Costs and Enforceability**
- Jackie van Haersolte-van Hof, Director-General, London Court of International Arbitration, **The Role of Institutional Expertise: How the London Court of International Arbitration Appointment and Challenge Procedures Lead to Effective Arbitrations**
- Alexander G. Fessas, Secretary-General, International Chamber of Commerce, International Court of Arbitration, **International Organizations and the International Chamber of Commerce Court: Distinctive Contributions Towards Effective Dispute Resolution**

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Legal Conference Schedule

3:15–3:45 p.m. Tea

3:45–6:00 p.m. Panel 3:

Dispute Resolution and Procedural Innovation
Chair: Diana Michaliova, Head of Investment Law, AIIB

- Matthew Gearing, Chair, Hong Kong International Arbitration Centre, **A Contribution to Effective International Dispute Resolution: The Example of the Hong Kong International Arbitration Centre**
- Jingzhou Tao, Managing Partner, Asia, Dechert LLP & Member, Advisory Committee of China International Economic and Trade Arbitration Commission, **Resolving Disputes in China: New and Sometimes Unpredictable Developments**
- Malik Dahlan, Professor of International Law and Public Policy, Queen Mary University of London, **Dispute Resolution and the Institutional Development of the Asian Infrastructure Investment Bank: The Normative Legal Implications of the Belt and Road Initiative**
- Gonzalo Flores, Deputy Secretary-General, International Centre for the Settlement of Investment Disputes Secretariat, **At the Forefront of International Investment Law: Modernizing the Rules and Regulations of the International Centre for the Settlement of Investment Disputes**

6:00–6:45 p.m. Conference Reception, 2nd Floor

6:45–8:45 p.m. Conference Dinner, 5th Floor

Thursday, Sep. 6, 2018

9:00–9:45 p.m. Coffee

9:45 a.m.–noon Panel 4:

Dispute Resolution and International Organizations
Chair: Xuan Gao, Head of Institutional Law, AIIB

- Asif Qureshi, Professor of International Economic Law, Korea University, **In Times of Trade Wars: The World Trade Organization and the Promotion of Effective Dispute Resolution**
- Frits Bontekoe, Legal Counsel, World Intellectual Property Organization, **The Promotion of Effective Dispute Resolution: The Example of the World Intellectual Property Organization**
- Locknie Hsu, Professor of Law, Singapore Management University, **The Role Model of International Organizations: Promoting Effective Dispute Resolution in the 21st Century**
- Heikki Cantell, General Counsel, Nordic Investment Bank, **The Nordic Investment Bank's Experience of Amicable and Alternative Dispute Resolution: Is there a 'Nordic Approach'?**

Legal Conference Schedule

Noon–1:00 p.m. Lunch, 21st Floor

1:00–3:15 p.m. Panel 5:

Dispute Resolution and International Legal Status
Chair: Peter Quayle, Head of Corporate Law, AIIB

- Kristina Daugirdas, Professor of Law, University of Michigan, **The Role of Alternative Accountability Mechanisms: Is the Immunity of International Organizations Contingent?**
- Diego Devos, General Counsel, Bank for International Settlements, **The Argentine Acid Test: The Immunities of the Bank for International Settlements, Dispute Resolution Mechanisms and Third Parties**
- Wenwen Liang, School of Law Lecturer, Wuhan University, **International Organizations and the Boundaries of Legitimacy: The World Bank's Creation of the International Centre for Settlement of Investment Disputes**
- Hugo Hans Siblesz, Secretary-General, Permanent Court of Arbitration, **Fostering Legitimacy in Dispute Resolution: The Role of International Organizations**

3:15–3:45 p.m. Tea

3:45–4:45 p.m. Plenary:

International Organizations and the Promotion of Effective Dispute Resolution
Chair: Gerard Sanders, General Counsel, AIIB

4:45–5:30 p.m. 2018 AIIB Law Lecture Reception

5:30–6:30 p.m. 2018 AIIB Law Lecture:

International Organizations in the Recent Work of the International Law Commission
Georg Nolte, Chair of the International Law Commission
of the United Nations (69th Session, 2017/2018)

Dispute Resolution and Development

Panel 1: Dispute Resolution and Development

Chair: Gerard Sanders, General Counsel, Asian Infrastructure Investment Bank

Andreas Baumgartner, Executive Director, Dubai International Financial Centre, Dispute Resolution Authority

Commercial Dispute Resolution of the Future: A Catalyst of Economic Development

The rule of law is a major driver of economic development. Within the wide field of the rule of law, effective and efficient commercial dispute resolution is critical for investor attractiveness as well as for the feasibility of large projects. When surveying investors, it is one of the most frequently mentioned concerns, especially with respect to emerging countries. Yet, it is an area often overlooked in development programs, whether on the domestic level or in efforts sponsored by international organizations or in the context of bilateral/multilateral development cooperation. This is surprising, as examples around the world have demonstrated that improvements to commercial dispute resolution are feasible, politically appreciated and achievable at relatively low investment cost, within a relatively short time frame. At the same time, technological progress will soon reshape how to think about and do commercial dispute resolution, opening up new opportunities of providing better services to dispute parties, wherever they are in the world. Using the example of the Dispute Resolution Authority (DRA) of the Dubai International Financial Centre (DIFC), this paper shares what has been achieved in Dubai, introduces some of the latest ambitions and innovations ("Courts of the Future") and also examines the international outreach program of DRA, which is targeted to helping both countries and economic free zones in Africa and Central Asia (as well as elsewhere) advance their commercial dispute resolution offering, in the interest of improving business attractiveness and opening up opportunities.

Marie-Anne Birken, General Counsel, European Bank for Reconstruction and Development

The Evolution of Mediation in Central Asia: The Perspective of the European Bank for Reconstruction and Development

Commercial mediation is getting traction throughout the world, including in the Commonwealth of Independent States (CIS) region, including Russia, Ukraine and Central Asia. Many jurisdictions are busy putting in place laws, training mediators and creating the infrastructure for case referral. Stakeholders in that part of the world hope to build on the legacy of Soviet-era pre-court amicable resolution contract clauses and provisions in civil procedure codes, as well as community-based dispute resolution. Currently, in many CIS countries the courts are slow, overloaded and not trusted due to perception of corruption. The lack of efficiency in the court system in the CIS region was evidenced through various assessments by the EBRD on judicial decisions and on enforcement agents. This underpins the demand for mediation from the governments' point of view. Businesses from their side need to be convinced that this is an effective mechanism. Mediation is a party-driven process where both sides to a dispute can: (1) agree on the best solution suitable for their businesses, irrespective of the law; (2) preserve their business relationship; (3) keep the case confidential and (4) save on costs and time. In many western jurisdictions mediation sprang out as a private mechanism, if nudged and supported by the courts. The formalistic judicial and legal approach in the CIS region requires mediation first to be written in the law and in the judicial procedure rules. In addition, it must be supported by a trustworthy body of mediators, an incentives mechanism for case referrals and a convincing public awareness campaign. This was our conclusion based on EBRD mediation projects in Moldova, Kyrgyz Republic and Tajikistan, as well as preparatory work in Armenia and Ukraine.

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Dispute Resolution and Development

William T. Loris, Director, Rule of Law for Development Institute, Loyola University Chicago & former Director-General, International Development Law Organization

International Financial Institution Safeguard Policies and Opportunities: Effective Dispute Resolution and Grievances in Partner Countries

How can the international financial institutions (IFIs) best work to improve the effectiveness and wider use of alternative dispute resolution techniques and grievance procedures in partner countries in the context of working with IFI borrowers, investees and other relevant stakeholders on the implementation of IFI safeguard policies? This paper aims to afford an answer, beginning with a general description and analysis of such policies as they have been formulated, by way of example, in AIIB's 2016 Environmental and Social Framework and similar IFI safeguard policy documents and highlighting the importance assigned in such policies to dispute resolution techniques and grievance procedures for the management of conflicts and grievances arising in the context of IFI-supported operations. This paper then identifies specific examples which demonstrate the range of ways which these policies refer to the need for borrowers, investees and other relevant stakeholders to make available grievance procedures and dispute resolution mechanisms for people/entities affected by the business activities of such stakeholders. The International Financial Corporations' Compliance Advisor Ombudsman affords a case study in how its offices help parties resolve specific disputes through alternative dispute resolution techniques. This paper also identifies the extent to which the IFIs contemplate in their safeguard policies the provision of technical assistance and capacity building in the implementation of their safeguard policies and how such engagement can be used to strengthen capacity in alternative dispute resolution techniques and the use of grievance procedures in their partner countries.

Ramit Nagpal, Deputy General Counsel, Asian Development Bank

Dispute Resolution in Development Finance: The Perspective of the Asian Development Bank

The Asian Development Bank (ADB) seeks to add value to its developing member countries (DMCs) by combining financing, knowledge and partnerships, including dispute resolution mechanism. This paper provides an ADB perspective on dispute resolution in development finance at operational, developmental and institutional level. In financing projects, ADB normally requires its borrowers to provide grievance redress mechanism for people adversely affected by the projects. If any direct and material harm to a project-affected person is attributable to non-compliance of an ADB operational policy, ADB also provides a redressal mechanism under its Accountability Mechanism policy. This mechanism covers both informal problem-solving as well as a more formal compliance review process. In procurement of ADB-financed goods, works or services, ADB requires its borrowers to resolve disputes with contractors and consultants through conciliation and arbitration. ADB has, under the new Procurement policy, also introduced a mechanism to receive procurement complaints in bidding processes in its projects. ADB has a range of programs that foster dispute resolution mechanisms in DMCs. This paper examines the case study of ADB's Infrastructure Referee Program which aims to promote mediation and dispute resolution in public-private partnership projects and under its Law and Policy Reform program, ADB provides technical assistance to DMCs to enhance access to justice or assist in creating or strengthening arbitration laws. ADB has supported thematic interventions, such as creation of a green bench for administration of environmental justice, a gender court for resolution of disputes related to gender-based violence and access to justice for urban poor. This paper concludes by noting how thematic and targeted interventions have proved to be more effective than broader interventions in the justice sector.

Dispute Resolution and International Arbitration

Panel 2: Dispute Resolution and International Arbitration

Chair: Rüdiger Woggon, Assistant General Counsel, Asian Infrastructure Investment Bank

Cavinder Bull SC, Vice President of the Singapore International Arbitration Centre, Court of Arbitration

An Effective Platform for International Arbitration: Raising the Standards in Speed, Costs and Enforceability

International arbitral institutions have been innovating rapidly in the last 10 years in order to meet the needs of users. By making changes to their institutional rules, arbitral institutions have been raising standards for speed, cost-efficiency and enforceability. These innovations include emergency arbitrator provisions, expedited procedures, procedures for early dismissal of claims and defenses, institutional investment arbitration rules and the Arb-Med-Arb Protocol, just to name a few. Such innovations have proven popular with users and have been actively utilized. Knowing that such innovations attract more users, arbitral institutions are driven toward more innovation and to keep abreast with other institutions' innovations. This paper explores how this has resulted in a virtuous cycle of continual improvement of the international arbitral process and argues that arbitral institutions have a collective interest in continually improving themselves to ensure that they remain an efficient and cost-effective alternative to litigation in national courts. This paper concludes that the group that reaps the most benefits from this competitive dynamic are the users of institutional international arbitration who over time enjoy increasingly effective platforms for dispute resolution.

Jackie van Haersolte-van Hof, Director-General, London Court of International Arbitration

The Role of Institutional Expertise: How the London Court of International Arbitration Appointment and Challenge Procedures Lead to Effective Arbitrations

As one of the world's leading arbitral institutions, with around 300 arbitration referrals each year from a diverse range of industries and from around the world, the London Court of International Arbitration (LCIA) is a truly international enterprise, providing effective dispute resolution facilities. The vast majority of cases referred to the LCIA are referred under the LCIA Rules, which provide a reliable template for robust and efficient arbitrations. These Rules, developed in consultation with the broader international arbitration community, are designed to give parties and arbitrators a framework for resolving disputes, while remaining flexible enough to accommodate any idiosyncrasies. Just as important as the Rules, however, is the implementation and enforcement of these Rules through the supervision of each arbitration by the LCIA Secretariat. This paper argues that just as the Rules are flexible, the supervision of the LCIA Secretariat is adaptable, providing guidance without interruption. This paper argues that a key component of an effective arbitration procedure is the selection, appointment and supervision of arbitrators, as the quality and conduct of arbitrators will play a pivotal role in ensuring a successful arbitration. This paper explores how the LCIA's appointment procedures are supported by rigorous and transparent challenge procedures. These ensure that parties are given the opportunity to hold arbitrators to account in the few cases in which they fall short of the standards expected of them. This is thankfully rare: successful challenges were made in only around 0.4 percent of cases registered between 2010 and 2017. Through its appointment and challenge procedures, the LCIA lends to parties its expertise in providing effective and efficient arbitration proceedings and provides a standard for the wider arbitration community.

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Dispute Resolution and International Arbitration

Alexander G. Fessas, Secretary-General, International Chamber of Commerce, International Court of Arbitration

International Organizations and the International Chamber of Commerce Court: Distinctive Contributions Towards Effective Dispute Resolution

The International Court of Arbitration of the International Chamber of Commerce (ICC) is an innovative institutional frontrunner that has administered close to 24 000 arbitrations. The ICC Court enjoys universal acceptance in managing complex, high-value, multi-party and multi-contract disputes with the same success that it administers relatively straightforward, low-value disputes. Its mission is to ensure that arbitral procedures are managed well in terms of time and cost and that arbitral awards are both enforceable at law and of high quality. ICC arbitration is used across the spectrum of economic activity as a means of settling both commercial and investor-state disputes engaging corporations, state-owned entities, sovereign states and international organizations (IOs). This paper argues that the ICC Court has made a series of distinctive contributions in this regard, which are directly relevant to the work and operations of IOs. First, ICC performs case management services as a dispute resolution provider to international organizations acting as arbitration users: IOs are parties in ICC arbitrations, provide funding or other support to projects from which disputes arise and, on occasion, appear as third parties before arbitral tribunals. Second, ICC operates as an expert forum and think tank which advances collective knowledge and solutions on dispute resolution. The task forces of its Commission on Arbitration and Alternative Dispute Resolution often comprise representatives of IOs or propose dispute resolution actions directly relevant to their areas of competence (financial institutions, climate change, tax disputes, competition, etc.). And third, ICC enjoys a long and privileged relationship with the United Nations (UN). From ICC's efforts leading to the adoption of the New York Convention in 1958 to its involvement in the debate on the potential reform of investor-state disputes and to its unique status as UN General Assembly observer, ICC also assists from within the UN structure in shaping the future of dispute resolution. This paper concludes by noting that industry surveys tell us that arbitral institutions are best placed to influence the evolution of international arbitration. The future includes IOs and the ICC Court will continue to answer this call.

Dispute Resolution and Procedural Innovation

Panel 3: Dispute Resolution and Procedural Innovation

Chair: Diana Michaliova, Head of Investment Law, Asian Infrastructure Investment Bank

Matthew Gearing QC, Chair, Hong Kong International Arbitration Centre

A Contribution to Effective International Dispute Resolution: The Example of the Hong Kong International Arbitration Centre

The Hong Kong International Arbitration Centre (HKIAC), established in 1985 as a regional arbitration center, has evolved to its present status as one of the world's major international dispute resolution organizations. HKIAC has made a series of contributions to effective international dispute resolution over that time, including legislative reforms in and outside of Hong Kong, China, the center's role in capacity-building in the Asia-Pacific region and its promulgation of arbitration rules with trendsetting provisions for increasingly complex disputes including in investment treaty and commercial cases involving private or state-owned companies, governments or international organizations. This paper discusses the use of HKIAC for dispute resolution by international organizations. In this respect, the paper draws upon real-life examples to examine a number of disputes that were submitted by international organizations to HKIAC for arbitration under loan agreements or shareholders agreements. The nature of the disputes and the role of HKIAC in facilitating the resolution of those disputes will be analyzed. This paper also explores a recent project in which an international organization decided to include an HKIAC dispute resolution clause in its employment agreements after considering other alternatives. This paper will conclude by addressing Hong Kong, China's unique status as a connecting jurisdiction between Mainland Chinese and foreign parties and what that means for future international dispute resolution needs, with a particular focus on China's Belt and Road Initiative.

Jingzhou Tao, Managing Partner, Asia, Dechert LLP & Member, Advisory Committee of China International Economic and Trade Arbitration Commission

Resolving Disputes in China: New and Sometimes Unpredictable Developments

China's unique and complex political and economic environment renders it somewhat difficult to predict the destiny of international dispute resolution institutions, such as ICC and others, that are eager to enter into China's dispute resolution market. However, positive signals are perceived in recent years, especially considering the several judicial interpretations issued by China's Supreme Peoples Court in answering the State's call for judicial supports to its Belt and Road Initiative. Several innovative measures have been issued with respect to China's free trade zones, ad hoc arbitration's and its judicial review of arbitration-related applications. This paper argues that these developments are encouraging, and demonstrate China's determination to become a regional, if not international, arbitration hub. The China International Economic and Trade Arbitration Commission (CIETAC), the oldest Chinese arbitration institution with early privileges to administer foreign-related disputes, which still administers cases with the highest annual amount in disputes today, has been constantly making progress in order to match leading international arbitration institutions. This paper explores the promulgation of CIETAC's Investment Arbitration Rules in September 2017 and the establishment of the CIETAC Mediation Center in May 2018 should be considered as among the major efforts and moves adopted by CIETAC in order to remain its leading role and competitive edge in China. Lastly, this paper will examine the recent establishment of China's "International Commercial Court" in 2018", which was designed to create a transparent legal environment and credible (and additional) dispute resolution mechanism that serves the construction of the Belt and Road Initiative.

Dispute Resolution and Procedural Innovation

Malik Dahlan, Professor of International Law and Public Policy, Queen Mary University of London

Dispute Resolution and the Institutional Development of the Asian Infrastructure Investment Bank: The Normative Legal Implications of the Belt and Road Initiative

This paper examines the prospects and possibilities of instituting a dispute resolution venue affiliated with AIIB, and in concert with the Belt and Road Initiative and specialist tribunals recently established by China. This paper considers problems of coordination with, and relative attractiveness of such a venue to foreign investors set against, other international arbitration centers, such as Hong Kong International Arbitration Centre. Would it be better for such a venue to exclusively settle investor-state disputes between a member of AIIB and an investor from another AIIB member, equipped with facilitation measures? Or, should this extend to any such commercial disputes between two parties? In other words, should there be any requirement for qualification of the parties or nature of dispute? This paper also contemplates the selection of personnel, fee-setting and how to maximize the institutional efficiency of such a venue. Lastly, this paper considers what measures could be taken to strengthen enforceability of arbitral awards and mediation agreements connected to an AIIB-related dispute resolution venue.

Gonzalo Flores, Deputy Secretary-General, International Centre for the Settlement of Investment Disputes Secretariat

At the Forefront of International Investment Law: Modernizing the Rules and Regulations of the International Centre for the Settlement of Investment Disputes

Since its establishment in 1966, the International Centre for the Settlement of Investment Disputes (ICSID) has been at the forefront of the development of international investment law, having administered the majority of all international investment cases. States have agreed on ICSID as a forum for investor-State dispute settlement in most international investment treaties and in numerous investment laws and contracts. In October 2016, ICSID launched a process for the modernization of its Rules and Regulations. This is the first amendment effort since 2006, and the most comprehensive to date, seeking to update ICSID's current rules for arbitration, conciliation and fact-finding and introducing new mediation rules. During the process, ICSID has considered its extensive experience in the administration of investment disputes, the views of its member states and comments received from the general public. A guiding principle of the exercise has been to maintain a balance between the interests of investors and States, to ensure continued integrity of the process. On Aug. 3, 2018 the Centre unveiled a working paper with the proposed changes to the Rules. This paper addresses the reform effort and highlights the main changes, which include: efforts to reduce time and cost in proceedings (with new and shorter timelines for issuing awards and decisions and new rules for Expedited Proceedings), enhanced transparency rules, introducing a disclosure of third-party funding obligation and a special rule on security for costs, a revised process for the disqualification of arbitrators and expanded access to the Additional Facility (including access of Regional Economic Integration Organizations to the system). ICSID has invited States and the general public to comment on the proposals. The paper elaborates on these developments, which are argued that they will enhance ICSID's contribution in providing effective dispute resolution facilities.

Dispute Resolution and International Organizations

Panel 4: Dispute Resolution and International Organizations

Chair: Xuan Gao, Head of Institutional Law, Asian Infrastructure Investment Bank

Asif Qureshi, Professor of International Economic Law, Korea University

In Times of Trade Wars: The World Trade Organization and the Promotion of Effective Dispute Resolution

There is much in the name of national security/existential threats that can and has enabled politicians to galvanize public opinion in support of actions leading to trade wars. In the same vein, the mantra of "unfair trade", along with efforts to reorganize the world trading order through its initial deconstruction through trade wars outside the World Trade Organization (WTO), while crippling its Appellate Body, is a phenomenon that has similar populist characteristics to the national security narrative. Yet there has to be clarity in the concept of national security as much as the notion of "unfair". Moreover, both need the rule of international law in their invocation and application no matter the developments in conventional international trade law. The justification of national security for departures from international obligations, and the deconstruction of the existing world trading order in the name of fairness through a trade war, are essentially symptomatic of phenomena that strain the application of the law, the rule of law and established international systems of deliberations. Against this background, this paper focuses on the current state of play of the WTO Dispute Settlement System, in particular through the apparatus of the WTO Appellate Body. The paper also highlights the less considered, but nevertheless important, role the WTO has played in inculcating effective dispute settlement mechanisms, albeit in the trade sphere, at the domestic level. The paper also concludes with a focus on the capacity of the WTO Dispute Settlement system in managing "trade wars".

Frits Bontekoe, Legal Counsel, World Intellectual Property Organization

The Promotion of Effective Dispute Resolution: The Example of the World Intellectual Property Organization

The World Intellectual Property Organization (WIPO) promotes effective dispute resolution in different ways and thus, more generally, contributes to a rule of law based resolution of legal disagreements in the field of intellectual property. First, this paper analyzes WIPO's internal justice, illustrating how WIPO resolves disputes in which it is a participant itself, including those involving staff and third parties. This paper also expounds upon the work of the WIPO Arbitration and Mediation Center as a neutral, international and non-profit dispute resolution center. It facilitates dispute resolution in intellectual property cases and enables parties to settle their domestic or cross-border disputes out of court. Furthermore, WIPO's leading role and extensive experience, with over 40,000 processed cases regarding internet domain name dispute resolution, is explored by this paper, building on the WIPO-initiated and ICANN-mandated Uniform Domain Name Dispute Resolution Policy (UDRP). Lastly, this paper examines WIPO's active and diverse contributions to the promotion of effective dispute resolution. While WIPO does not adjudicate intellectual property disputes, it provides a global policy forum to shape balanced international intellectual property rules, which help prevent and resolve disputes. WIPO also offers a platform for multilateral engagement and the creation of a legal normative framework that forms the basis for effective intellectual property dispute resolution at a national and international level. This is illustrated through an overview of different WIPO programs and initiatives in the area of capacity building, technical assistance and legislative advice, as well as coordination as regards enforcement of intellectual property rights, and international cooperation in the area of judicial administration of intellectual property.

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Dispute Resolution and International Organizations

Locknie Hsu, Professor of Law, Singapore Management University

The Role Model of International Organizations: Promoting Effective Dispute Resolution in the 21st Century

This paper argues that international organizations (IOs) can be positive role models in the promotion of effective dispute resolution in a number of ways. First, IOs can provide exemplary rules and practices in their own dispute resolution mechanisms, such as establishing systems which uphold the rule of law, provide effective dispute resolution rules and procedures, and promote values such as access to justice, fairness and transparency. Secondly, IOs can encourage dispute resolution systems of related stakeholders/"clients" to adhere to such values. Thirdly, IOs have the opportunity to promote goals such as inclusiveness in non-adversarial dispute resolution, as well as dispute avoidance, both with a view to more lasting solutions. Fourthly, IOs of the 21st Century—like private organizations—have at their disposal an increasing and unprecedented array of technological tools to promote such values and goals, as well as to speed up dispute resolution processes. Finally, IOs can record their own best practices, as well as encourage learning of other organizations' best practices in dispute resolution. This paper examines the role of IOs in promoting effective dispute resolution through these various perspectives, providing views from both inside and outside IOs.

Heikki Cantell, General Counsel, Nordic Investment Bank

The Nordic Investment Bank's Experience of Amicable and Alternative Dispute Resolution: Is there a 'Nordic Approach'?

Notwithstanding what at first sight seems relatively standard provisions in relation to disputes, the Nordic Investment Bank (NIB) enjoys an unusually low level of uptake of formal dispute procedures. Dispute resolution provisions are relevant in relation to lending activities, funding activities, administrative/supplier arrangements and staff rules and each of these areas are considered. This paper therefore examines the relevant provisions, how some recent disputes have been resolved and finally consider other factors which may encourage informal dispute resolution such as local legal and cultural influences. This paper examines how, in relation to lending and funding activities, NIB's experience is very similar to other IFIs. But, it is in relation to staff cases and relationships with suppliers that differences from other IFIs are more noticeable. However, while cultural reasons are likely a strong influence, on close examination this paper concludes that rather unique legal structures and provisions may also be influential.

Dispute Resolution and International Legal Status

Panel 5: Dispute Resolution and International Legal Status

Chair: Peter Quayle, Head of Corporate Law, Asian Infrastructure Investment Bank

Kristina Daugirdas, Professor of Law, University of Michigan

The Role of Alternative Accountability Mechanisms: Is the Immunity of International Organizations Contingent?

International organizations typically enjoy comprehensive immunities from legal process in national courts. While there are good reasons to accord such immunities to international organizations, that immunity often comes at a heavy price: it can leave individuals who are harmed by an international organization without any recourse. To avoid that problem, some international organizations have established alternative mechanisms to resolve those disputes and, in some cases, to provide compensation. The employees of international organizations are usually able to turn to specialized administrative tribunals. Private individuals or firms that have contracted with international organizations may negotiate waivers that provide for dispute settlement. Immunity often poses the biggest problem for tort victims who lack a contractual relationship with an international organization. For these individuals, alternative accountability mechanisms are few and far between. This paper explores ways to reconcile the tension between immunity and accountability, focusing on the argument that immunity should be contingent on the availability of an alternative dispute settlement mechanism. Crafting an effective rule is genuinely difficult. If any alternative mechanism suffices to assure immunity from suit, international organizations might be tempted to develop minimalist procedures that offer nothing meaningful to injured individuals. If, on the other hand, national courts recognized immunity only when they deem the alternative mechanism adequate, there is a risk of recreating the problems that justify immunity in the first place: courts might issue decisions that evaluate alternatives based on parochial standards, yielding inconsistent decisions from one jurisdiction to the next, and potentially subjecting organizations to undue influence of individual member states outside of the organization's formal governance mechanisms.

Diego Devos, General Counsel, Bank for International Settlements

The Argentine Acid Test: The Immunities of the Bank for International Settlements, Dispute Resolution Mechanisms and Third Parties

The Bank for International Settlements (BIS) was subject to various judicial and administrative proceedings initiated by holdout creditors of the Republic of Argentina between 2009 and 2012 in relation to assets held on BIS books on behalf of the Central Bank of Argentina. These proceedings gave rise to final court and administrative decisions in Switzerland and in New York, which were published and/or reported in the press. This paper presents an overview of these actions, given the important legal principles that have been applied in those cases, to confirm the immunities of international organizations. The paper notes that the claimant in these cases was not actually a creditor of the international organization which may avail itself of the alternative dispute resolutions mechanisms put in place by the organization for litigations to which the BIS is a party. Instead, recourse to the host state's administrative authorities was available as part of the monitoring of the application of the Host Country Agreement between Switzerland and the BIS. This paper addresses the consequent limitations in the context of the enforcement of creditors' claims against sovereign entities whose assets are held by an international organization as part of its core functions, protected as such by specific immunities from jurisdiction and execution.

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Dispute Resolution and International Legal Status

Wenwen Liang, School of Law Lecturer, Wuhan University

International Organizations and the Boundaries of Legitimacy: The World Bank's Creation of the International Centre for Settlement of Investment Disputes

Since creating a judicial institution for resolving investment disputes between host states and private investors is not explicitly provided as its purpose in the Articles of Agreement of the World Bank, reexamination of the legitimacy of the International Centre for Settlement of Investment Disputes (ICSID) deserves urgent enquiry as a precedent for the creation of dispute resolution mechanism by new IFIs. The paper analyzes the Articles of Agreement of the World Bank and doctrines of interpreting of the constitutive documents of international organizations: the doctrine of implied powers and relevant jurisprudence of the International Court of Justice; and considers the expansion of the World Bank activities into judicial reform and environmental issues by the functional approach of interpreting its Articles of Agreement. The paper takes into account the legislative basis leading to the creation of the ICSID, identify the reasons for creating ICSID by a convention, rather than by an administrative resolution within the World Bank, the relevant impact on state sovereignty, the experience of the World Bank in facilitating the resolution of investment disputes at the invitation of parties, the current international law on enhancing the protection of overseas private investment and calls for facilitating arbitration between private investors and host states at the time of the ICSID's establishment. This paper concludes by arguing that the Articles of Agreement of the World Bank, state consent and public international law constitute the basis of the legitimacy of IFIs creating investment dispute resolution bodies, and the latter two operate as the boundary to such activities.

Hugo Hans Siblesz, Secretary-General, Permanent Court of Arbitration

Fostering Legitimacy in Dispute Resolution: The Role of International Organizations

Legitimacy is a critical element to ensuring the effectiveness of any system of dispute resolution. Among other things, it ensures participation in, and use of, a dispute resolution system, including the acceptance of both favorable and adverse decisions emerging therefrom, and this in turn promotes economic participation and lowers the cost of doing business. While the legitimacy of national courts derives formally from their being part of a sovereign state structure, the legitimacy of international dispute settlement regimes is primarily based on consent. International organizations (IOs) can enhance that basic legitimacy by the promotion of key values such as procedural justice, neutrality and democratic participation. IOs involved in dispute resolution, such as the Permanent Court of Arbitration (PCA), embody and endorse these values in their work, and thereby are crucial vehicles by which dispute settlement regimes may gain greater legitimacy and consequently, effectiveness. This paper argues that these institutions, for example, are typically seen as neutral, which allows for the depoliticization of otherwise tricky disputes that involve sensitive and hot-button issues. They often have special legal status providing immunity from national courts, which enables them to insure independence in the administration of state-related disputes. These institutions are also well placed to promote procedural justice and consistency across the cases they administer, and through this experience, participate in and support the work of other similar IOs to further enhance consistency across regimes, while keeping in mind the normative conflict that is endemic to international law. This paper concludes that through these avenues that are created by virtue of their institutional work, IOs involved in dispute resolution, such as the PCA, allow novel disputes, whether in terms of subject matter, method of dispute resolution, or the nature of the parties, to be settled efficiently and effectively notwithstanding the absence of structurally derived legitimacy and long-standing practice and precedence.

2018 AIIB Law Lecture

**Lecturer: Professor Georg Nolte, Chair of the 69th session (2017/2018),
International Law Commission of the United Nations**

Chair: Gerard Sanders, General Counsel, Asian Infrastructure Investment Bank

International Organizations in the Recent Work of the International Law Commission

The work of the International Law Commission extends to cover the law relating to international organizations. The best-known example is perhaps its work in preparation of the 1986 "Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations". It is less well-known, but perhaps more important for the practice of international organizations, that the Commission has in recent years also addressed other relevant issues in this field. Those include the law regarding the responsibility of international organizations (2011), the role which the practice of international organizations may play in the interpretation of their constituent instruments (2018) and for the formation of customary international law (2018), as well as reflections on the settlement of disputes to which international organizations are parties (2016-2018). In discussing contemporary challenges facing the international legal community, the lecture will draw from the work of the Commission on these aspects of the law of international organizations and will also offer some broader reflections.

Biography



Georg Nolte is Professor of International Law at Humboldt University Berlin (since 2008) and Co-Chair of the Berlin Potsdam Research Group "The International Rule of Law – Rise or Decline?". He is a Member of the International Law Commission of the United Nations (since 2007, and Chair, 69th Session, 2017/2018), including Special Rapporteur for the topic "Subsequent agreements and subsequent practice in relation to the interpretation of treaties" (from 2013 to 2018). He is an Associate Member of the Institut de Droit International. From 2013 to 2017, Professor Nolte was President of the German Society of International Law. His recent publications include *The Charter of the United Nations: A Commentary*, Oxford (OUP) 2012, (co-edited with Bruno Simma, Andreas Paulus & Daniel-Erasmus Khan); *The Interpretation of International Law by Domestic Courts*, Oxford (OUP) 2016, (co-edited with Helmut Aust) and *Treaties and Subsequent Practice*, Oxford (OUP) 2013 (editor) and *Community Interests across International Law*, Oxford (OUP) 2018 (co-edited with Eyal Benvenisti).

Panel 1: Dispute Resolution and Development

Chair: Gerard Sanders, General Counsel, Asian Infrastructure Investment Bank



Gerard Sanders is General Counsel of AIIB. He advises the President and governance bodies of the AIIB, is responsible for the legal aspects of the Bank's work and leads the Office of the General Counsel. For the two years prior to joining AIIB, he was General Counsel at the International Fund for Agricultural Development, a specialized agency of the United Nations, working at its headquarters in Rome. Previously, he held various positions at the European Bank for Reconstruction and Development working in its principal office in London, most recently as Deputy General Counsel. Earlier in his career, he worked for law firms in Wellington, Washington, D.C. and Amsterdam and in a corporate legal role in London. He graduated B.Com., LL.B. from the University of Otago, New Zealand, and has graduate law degrees from Victoria University of Wellington and Harvard Law School. He is qualified to practice law in New Zealand, the State of Victoria, Australia, and England and Wales. He is a Chartered Accountant. Mr. Sanders is a Fellow of the Chartered Institute of Arbitrators, a Chartered Fellow of the Chartered Institute for Securities and Investment, a member of the Law Society of England and Wales and a member of Chartered Accountants Australia and New Zealand. He is Visiting Professorial Fellow at Queen Mary, University of London, Founding Editor of "Law in Transition" and General Editor of the "AIIB Yearbook of International Law".

Andreas Baumgartner, Executive Director, Dubai International Financial Centre, Dispute Resolution Authority



Andreas Baumgartner is the managing director of StIR StrategyImpact Reputation and acting as Executive Director of the Dispute Resolution Authority (DRA) of the Dubai International Financial Centre (DIFC). DRA includes the DIFC Courts, the DIFC International Arbitration Centre, the DIFC Academy of Law, and the DIFC Wills Service Centre. His career has always been at the crossroads of politics, law and business, with a strong economic development as well as infra-structure component. Before his current position, he worked for the Office of Tony Blair/Tony Blair Associates, in charge of the Middle East, Central Asia and Eastern Europe, and spent almost nine years at McKinsey & Company. He studied law, international business administration, and political sciences at the University of Vienna, Austria.

Marie-Anne Birken, General Counsel, European Bank for Reconstruction and Development



Marie-Anne Birken was appointed General Counsel at EBRD in June 2014. She is a member of the Executive Committee and various other committees of the Bank. She joined EBRD from ADB where she was the Secretary and previously served as Deputy General Counsel and as Assistant General Counsel responsible for private sector operations. She has extensive emerging markets experience and lived and worked in Asia from 1995 until 2014. She was previously a partner in two international law firms and held the position of regional general counsel at Barclays Bank where she supported corporate banking activities in Asia, the Middle East and Africa. She is a Dutch national; she has a Master's degree in law from the University of Utrecht and is qualified as a solicitor in England and Wales.

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Biographies

William T. Loris, Director, Rule of Law for Development Institute, Loyola University Chicago & former Director-General, International Development Law Organization



William T. Loris served for 10 years as a Legal Advisor to USAID, first in West Africa Regional Support Office and then in USAID's Egypt mission. He then co-founded the International Development Law Institute, a Dutch foundation, which was later transformed by an international convention into an inter-governmental organization, the IDLO. He served as IDLO's General Counsel, as its Director of Programs and finally for 10 years as its Director-General. He is presently the founding Director of the Rule of Law for Development Institute of the Loyola University Chicago School of Law which offers practice-oriented LLM and Masters in Jurisprudence (MJ) degrees in rule of law for development. He has served on the World Economic Forum's Global Agenda Council on Corruption where he began his advocacy for the use of private civil actions against corruption. He holds a Juris Doctorate degree from the Santa Clara University School of Law and a LL.M from the Vrije Universiteit Brussel.

Ramit Nagpal, Deputy General Counsel, Asian Development Bank



Ramit Nagpal is the Deputy General Counsel in the Office of the General Counsel (OGC) at ADB since June 2014. As the Deputy General Counsel, he provides high-level policy advice and support to the General Counsel in carrying out the work program of OGC and in planning, implementation and supervision of OGC's goals, strategies and work plan consistent with ADB's overall goals. He also contributes to the development and formulation of various operational policies and works on key financial and institutional initiatives at ADB. He has 30 years of legal experience, 12 years of which are with ADB. He served as Assistant General Counsel from October 2012 to June 2014 and supervised the provision of legal support to ADB's sovereign operations in South Asia, the Pacific, and in Central and West Asia. He holds a Master of Laws degree in International Finance from Harvard Law School, US, and two Bachelors degrees; one in Law and the other in Economics, both from the University of Delhi, India.

Panel 2: Dispute Resolution and International Arbitration

Chair: Rüdiger Woggon, Assistant General Counsel, Asian Infrastructure Investment Bank



Rüdiger Woggon is Assistant General Counsel of AIIB, and Head of Finance Law, reporting directly to the General Counsel. He also oversees the Office of the General Counsel's Knowledge Management function and coordinates the recruitment activities of the Office. Before joining AIIB he was Director, Chief Counsel of the European Bank for Reconstruction and Development, where he led the legal team advising on funding operations, derivatives, repos, cash and custody accounts and a variety of other Treasury matters. After graduation from law school and admittance to the bar in 1987 in Germany, he started his legal career as an associate for a law and tax firm, afterwards became a research fellow at the University of Konstanz (Germany), where he also earned his doctorate in law, and then joined the capital markets department of Bankgesellschaft Berlin AG in Berlin and London.

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Biographies

Cavinder Bull SC, Vice President of the Singapore International Arbitration Centre, Court of Arbitration



Cavinder Bull SC is Vice-President of the Singapore International Arbitration Centre (SIAC) Court of Arbitration and was the Deputy Chairman of SIAC from 2010 to 2017. He is also a member of the Governing Board of ICCA, Vice-President of the Asian Pacific Regional Arbitration Group and a member of the Asian Business Law Institute's Advisory Board. He practices at Drew & Napier LLC, one of the largest firms in Singapore, where he is the Chief Executive Officer. He graduated with First Class Honours in law from Oxford University and holds a Masters-in-Law from Harvard Law School which he attended on a Lee Kuan Yew Scholarship. He is called to the bars of Singapore, New York and England & Wales. He has an active practice in complex litigation as well as in international arbitration where he acts both as counsel and as arbitrator in commercial and investor-state arbitrations.

Jackie van Haersolte-van Hof, Director-General, London Court of International Arbitration



Jackie van Haersolte-van Hof is Director-General of the London Court of International Arbitration since July 2014. Previously, she practiced as a counsel and arbitrator in The Hague, at her GAR 100 boutique HaersolteHof. She set up HaersolteHof in 2008 after three years as of counsel in the international arbitration group at Freshfields Bruckhaus Deringer in Amsterdam. She was previously with Amsterdam firm De Brauw Blackstone Westbroek from 2000 to 2004, and before that Loeff Claey's Verbeke in Rotterdam, which she joined on her qualification in 1992. She has sat as arbitrator in cases under the ICC, LCIA and UNCITRAL rules, as well as those of the Netherlands Arbitration Institute (NAI). She has also arbitrated cases at the Royal Dutch Grain and Feed Trade Association and the Institute of Transport and Maritime Arbitration, both based in the Netherlands. She is on the ICSID roster of arbitrators and has sat on an ad hoc annulment committee. She was also involved in setting up the arbitral process for the Claims Resolution Tribunal in Zurich, which analyzed claims from Holocaust survivors over dormant accounts in Swiss banks. She is a lecturer in international arbitration at VU University Amsterdam and a member of GAR's editorial board. Her 1992 PhD thesis on the application of the UNCITRAL rules by Iran-US Claims Tribunal was one of the first books to be published on the subject.

Alexander G. Fessas, Secretary-General, International Chamber of Commerce, International Court of Arbitration



Alexander G. Fessas is the Secretary-General of the International Chamber of Commerce (ICC) International Court of Arbitration. As Secretary-General, he is responsible for the operational management and coordination of the ICC Court's Secretariat and other dispute resolution services in Paris, Hong Kong, China, New York, Sao Paulo and Singapore. He joined the Secretariat in late 2011 and held consecutive positions in three case management teams, of which two as counsel. Prior to his appointment as Secretary-General, he was the Secretariat's Managing Counsel over a three-year term. He read law at the University of Athens, Greece having specialized in international commercial transactions and conflict of laws. Prior to joining the ICC Court, He practiced as counsel out of Athens where he established a sole practice in 2008. He was previously an associate at an Athens-based law firm. During the same period, he was also the editor-in-chief of the *Revue hellénique de droit international*. He is admitted to the Athens Bar and speaks English, French and Greek.

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Panel 3: Dispute Resolution and Procedural Innovation

Chair: Diana Michaliova, Head of Investment Law, Asian Infrastructure Investment Bank



Diana Michaliova is Head of Investment Law of AIIB, reporting directly to the General Counsel. She specializes in cross-border finance and is responsible for legal services to the Investment Operations Vice Presidency of the AIIB. She is formerly Director, Chief Counsel of the EBRD. She was formerly an official at the Competition Directorate General of the European Commission. She started her legal career at a large Baltic law firm and was admitted to the Lithuanian Bar in 2001. She holds law degrees from Vilnius University, Lithuania, and University College London.

Matthew Gearing QC, Chair, Hong Kong International Arbitration Centre



Matthew Gearing QC practices in the field of international arbitration. He is Chairperson of the Hong Kong International Arbitration Centre, Queen's Counsel (England & Wales) and has been a partner at Allen & Overy since 2015. He has split his career between Europe and Asia and has acted in a large number of complex and high-profile arbitrations around the world. His experience includes arbitrations under the ICC, UNCITRAL, SIAC, HKIAC, KLRCA, SCC, LCIA and ICSID Rules. As well as being a QC, he is a Solicitor-Advocate qualified in Hong Kong. He routinely appears as advocate in his cases. He has also sat as arbitrator in a variety of matters, as sole and party appointed arbitrator and as Chair. Mr. Gearing is on the HKIAC, SIAC and KLRCA panel of arbitrators. He is also on the P.R.I.M.E. Finance Dispute Resolution Panel for financial disputes.

Jingzhou Tao, Managing Partner, Asia, Dechert LLP & Member, Advisory Committee of China International Economic and Trade Arbitration Commission



Jingzhou Tao is the Managing Partner at Dechert LLP China practice. He has more than 30 years of experience advising Fortune 500 companies on China-related matters. He has acted as counsel, chief arbitrator or party-nominated arbitrator in over 100 international arbitration proceedings. He is a Member of the ICC International Court of Arbitration (1999-2018), a Member of the Advisory Committee of China International Economic and Trade Arbitration Commission (CIETAC) and a Member of the International Advisory Board of the Hong Kong International Arbitration Centre (HKIAC). He is a frequent speaker among the legal and business world and has also published several books and many articles in English, French and Chinese. He is also an adjunct professor at Peking University Law School, East China University of Political Science and Law, and a specially invited professor of law for the International Arbitration Program at Tsinghua University School of Law. He frequently contributes to publications such as Caixin and Financial Times.

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Malik Dahlan, Professor of International Law and Public Policy, Queen Mary University of London



Malik Dahlan is the Chaired Professor of International Law and Public Policy at Queen Mary University of London. He is also a Professor and Steering Committee Member of the Energy Law Institute, based at Queen Mary's and leads the Trade Initiative and sits on the Sovereign Wealth Funds Working Group. He teaches in International Trade; Energy Law and Ethics, Renewable Energy Law and Energy Geopolitics; and International Dispute Resolution. He is RAND Europe Senior Research Fellow, Fellow of the Chartered Institute of Arbitrators and Director of the International Mediation Institute. He is also the Principal of the Institution Quraysh for Law and Policy.

Gonzalo Flores, Deputy Secretary-General, International Centre for the Settlement of Investment Disputes Secretariat



Gonzalo Flores serves as Deputy Secretary-General of the International Centre for Settlement of Investment Disputes (ICSID), the world's leading institution devoted to international investment dispute settlement. Mr. Flores joined ICSID in June 1998, acting in different capacities during his tenure. As ICSID counsel, he served as secretary of tribunals in over 60 arbitration proceedings under the ICSID Convention, the ICSID Additional Facility Rules and the UNCITRAL Arbitration Rules. He also served as committee secretary in numerous annulment proceedings. In October 2016, he was elected Deputy Secretary-General by the Member States of ICSID's Administrative Council. He is a regular speaker at conferences on international investment law and procedure. Prior to joining ICSID, he worked as an associate with the law firms of Estudio-Carvallo S.A and GQMC & Cía in Santiago, Chile, advising clients on corporate and financial matters. He holds degrees from Cornell University (LL.M.) and University of Chile Law School (LL.B.). He is admitted to practice law in Chile.

Panel 4: Dispute Resolution and International Organizations

Chair: Xuan Gao, Head of Institutional Law, Asian Infrastructure Investment Bank



Xuan Gao is Head of Institutional Law of AIIB, reporting directly to the General Counsel. He is Editor of the AIIB Yearbook of International Law and Deputy Editor-in-Chief of the Manchester Journal of International Economic Law. Between 1999 and 2016, He also served in different positions at the United Nations, EBRD, INTERPOL as well as the Peoples' Bank of China, for varying periods. He has published nine books and more than 10 academic articles on topics of public international law and international economic law with OUP, Kluwer, Routledge and other publishers. He has held various guest and visiting professorships including at Loyola University Chicago, Roma Tre University, Peking University Law School and China University of Political Science and Law. He received a PhD and an LL.M from the University of Manchester, an LL.B from China University of Political Science and Law, and a postgraduate certificate in Economics from the University of Peking.

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Biographies

Asif Qureshi, Professor of International Economic Law, Korea University



Asif H. Qureshi is Professor of International Economic Law at the School of Law, Korea University, Korea since 2012. Prior to that, he was a Professor at the Law School, University of Manchester, in the United Kingdom, since 1985. He is a barrister attached to Quadrant Chambers in London, since 1998. He has acted as a consultant to and for various governments and international organizations, in particular on WTO law including Pakistan, Saudi Arabia, Cambodia, Korea, the Commonwealth Secretariat, the European Commission, UNCTAD and the WTO. He is the founding Editor-in-Chief of the Manchester Journal of International Economic Law established in 2004. He has held various Visiting Professorships including at Osaka University; University of Malaya; Fudan University; China-EU School of Law, Beijing; Tsinghua University Law School; University of Lausanne and Paris 1 Sorbonne. In addition, he was a Visiting Professor in the IMF Legal Department, Washington, US.

Frits Bontekoe, Legal Counsel, World Intellectual Property Organization



Frits E. Bontekoe is the Legal Counsel of the World Intellectual Property Organization (WIPO), one of the Specialized Agencies of the United Nations, based in Geneva, Switzerland. Before joining WIPO, he served as Head of the Legal Affairs Service at the Office of the United Nations High Commissioner for Refugees (UNHCR) in Geneva. Previously, he was General Counsel of the International Development Law Organization based in Rome, Italy, and Legal Adviser for the United Nations Department of Peacekeeping Operations. He began his career in the private sector as an attorney in New York, US. He holds a Juris Doctor degree from the University of Amsterdam, Netherlands and was admitted to the New York State Bar in 1988.

Locknie Hsu, Professor of Law, Singapore Management University



Locknie Hsu is a full Professor of Law at the School of Law, Singapore Management University. She received her legal training at the National University of Singapore and Harvard University and is a member of the Singapore Bar. She was previously attached to Singapore's Ministry of Trade and Industry to assist in international trade law work. She specializes in international trade and investment law, including areas such as trade issues in the digital economy/Industry 4.0, trade facilitation, e-commerce, cross-border dispute settlement, free trade agreements, ASEAN economic integration and SME issues, trade and public health, and sovereign wealth funds. She has published extensively and a recent book, *Trade, Investment, Innovation and their Impact on Access to Medicines—An Asian Perspective*, was published by Cambridge University Press in 2016. On March 22, 2018, the final report on "Improving Connectivity Between ASEAN's Legal Systems to Address Commercial Issues" was launched in Singapore. She was one of two *amici curiae* (impartial experts) appointed by the Singapore Court of Appeal during 2015-2016 to provide an expert legal opinion in a significant cross-border investment treaty dispute. She is a Research Fellow in the International Academy of the Belt and Road (Hong Kong) and a member of the Advisory Panel of the Vietnamese Chamber of Commerce in Singapore. She is an active member of the ASEAN Law Association, the Singapore National Committee's Executive Council and the International Law Association and a member of the Editorial Board of the peer-reviewed *Journal of World Investment and Trade*.

Heikki Cantell, General Counsel, Nordic Investment Bank



Heikki Cantell is General Counsel and Head of Legal Department, and also serves as Secretary General, at the Nordic Investment Bank (NIB), since 2007. He has extensive experience in managing all legal aspects of the activities of International Financial Institutions. Prior to his current position, he served as General Counsel at the Council of Europe Development Bank from 1995 to 2007. Before this, he was assigned head of the Paris branch office by his employer at the time, Heikki Haapaniemi Law Offices. He is an invited expert member of the P.R.I.M.E Finance Panel and has acted as arbitrator under the International Chamber of Commerce (ICC). He holds an LL.M. (Master of Law) degree from University of Helsinki and a postgraduate degree in commercial law from University of Paris II. He attended the Harvard Business School Advanced Management Program 1992.

Panel 5: Dispute Resolution and International Legal Status

Chair: Peter Quayle, Head of Corporate Law, Asian Infrastructure Investment Bank



Peter Quayle is Head of Corporate Law of AIIB, reporting directly to the General Counsel, and Editor of the AIIB Yearbook of International Law. He is responsible for legal services to AIIB's Administration Vice Presidency and ethics, integrity, communications and headquarters-related functions. He is formerly Associate Director, Senior Counsel of the EBRD and Legal Advisor of the Office of Foreign Litigation, Civil Division European Office, of the US Department of Justice. He was educated at the Universities of Oxford and London and is a solicitor of England and Wales. He is Visiting Professor of International Organizations Law at Peking University Law School.

Kristina Daugirdas, Professor of Law, University of Michigan



Kristina Daugirdas is a Professor of Law at the University of Michigan Law School. She teaches and writes about international law, international institutions and US foreign relations law. In 2014, she was awarded the Francis Deák Prize for an article published in the American Journal of International Law. From 2014 to 2017, she co-authored the Contemporary Practice of the United States section of that journal. She is currently a member of the editorial board for the International Organizations Law Review. In 2016-2017, she was a Visiting Fellow at the Graduate Institute and worked as a consultant for the World Intellectual Property Organization. Before transitioning to academia, Professor Daugirdas served as an attorney at the US Department of State and law clerk to Judge Stephen F. Williams. She earned her JD, magna cum laude, from the New York University School of Law, and her AB, with honors, from Brown University.

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Biographies

Diego Devos, General Counsel, Bank for International Settlements



Diego Devos is General Counsel of the BIS since October 2009. As Head of the Legal Service, he serves as a member of the BIS Executive Committee. He joined the BIS in 2006 as Deputy General Counsel, providing legal advice on a broad range of issues. Before coming to the BIS, he was Deputy General Counsel of Euroclear Bank in Brussels. Previously, he was Legal Advisor in the legal department of the National Bank of Belgium and a barrister at the Brussels bar. He holds degrees in law from the University of Brussels.

Wenwen Liang, School of Law Lecturer, Wuhan University



Wenwen Liang is Associate Professor, LuoJia Young Scholar, of Wuhan University Law School, China. She holds a PhD in Law from the University of Manchester. Her main areas of research include international financial law and private international law. She is an English Law Expert with the Supreme People's Court Fourth Tribunal Center for the Proof of Foreign Law. She was seconded to the Ministry of Foreign Affairs of China and has been the Chinese delegate to UNIDROIT intergovernmental meetings on close-out netting and HCCH intergovernmental meetings on adoption. Her publications include "Title and Title Conflicts in Respect of Intermediated Securities under English Law" (Cambridge Scholar Publishing 2013) and articles in leading international legal journals. She has been a visiting scholar to UNIDROIT, the Max Planck Institute for Comparative and International Private Law and Geneva University.

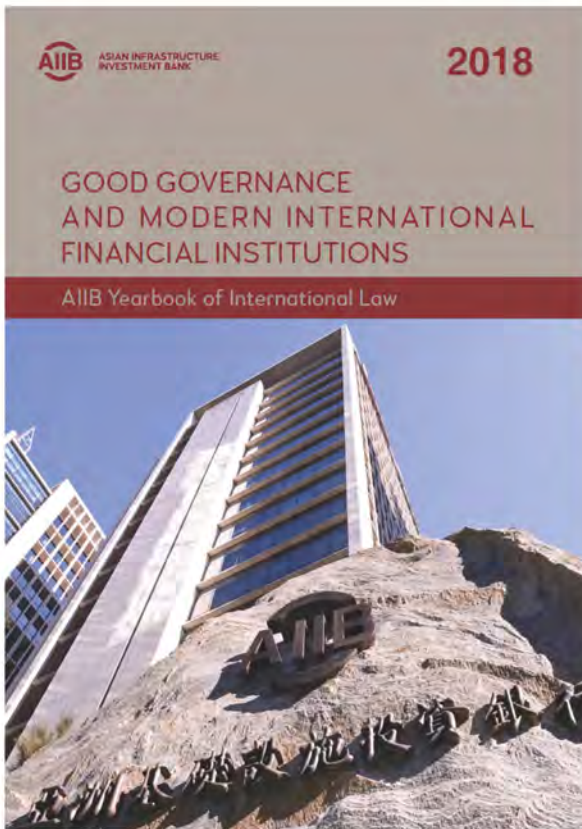
Hugo Hans Siblesz, Secretary-General, Permanent Court of Arbitration



Hugo Hans Siblesz is Secretary-General of the Permanent Court of Arbitration (PCA) since 2012. As Secretary-General, he is responsible for the overall functioning of the PCA's International Bureau, which provides registry services and administrative support for arbitration, conciliation, mediation, fact-finding, expert determination and other dispute resolution proceedings. The Secretary-General of the PCA may act as Appointing Authority for purposes of appointing one or more members of an arbitral tribunal, ruling on challenges to arbitrators, or deciding on fee arrangements. This role is foreseen in a number of procedural regimes (primarily the UNCITRAL Arbitration Rules), national laws and treaties. Prior to assuming his position at the PCA, he served as the Netherlands' Ambassador to France, Monaco and Andorra (2006 to 2012). During his career at the Netherlands' Ministry of Foreign Affairs he occupied a number of different positions, notably that of Assistant Legal Adviser, Director of the Consular Department and Director-General for Political Affairs. He received his law degree from the Free University of Amsterdam.

2018 AIIB Yearbook of International Law

Good Governance and Modern International Financial Institutions



This first edition of the AIIB Yearbook of International Law (AYIL) examines the theme of "Good Governance and Modern International Financial Institutions" (IFIs). Drawing upon the dialogue begun at the 2017 AIIB Legal Conference and expertise from other IFIs, international law practitioners and eminent academics, this edition of AYIL is divided into three parts to reflect a series of overarching themes. First, the role of the membership of IFIs as expressed through their executive governance organs, including the benchmark of private financial institution management, the influence of gender diversity, and the particularly essential governance role of an FI's leading shareholder. Second, the legal basis of governance of IFIs, utilizing the example of the rule of law at the IMF, a comparative constitutional analysis of AIIB and the accountability ensured by international administrative tribunals. Third, the interaction around governance between IFIs and external stakeholders, with case studies afforded by the public information policies, implementation of international labor standards and anti-corruption enforcement procedures of IFIs.

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The Rule of Law in the International Monetary Fund: Past, Present and Future

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Governance of the Asian Infrastructure Investment Bank in Comparative Context

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The Evolving Jurisprudence of the International Administrative Tribunals: Convergence or Divergence?

- Joan Powers, former Assistant General Counsel, IMF

Open Data for Development: The World Bank, Aid Transparency, and the Good Governance of International Financial Institutions

- Catherine E. Weaver is Associate Professor, LBJ School of Public Affairs and Co-Director, Innovations for Peace and Development, The University of Texas

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- Frank Fariello, Lead Counsel, World Bank Legal Vice Presidency, The World Bank
- Kathleen Peters, Senior Legal Consultant, World Bank Group Integrity Vice Presidency, The World Bank

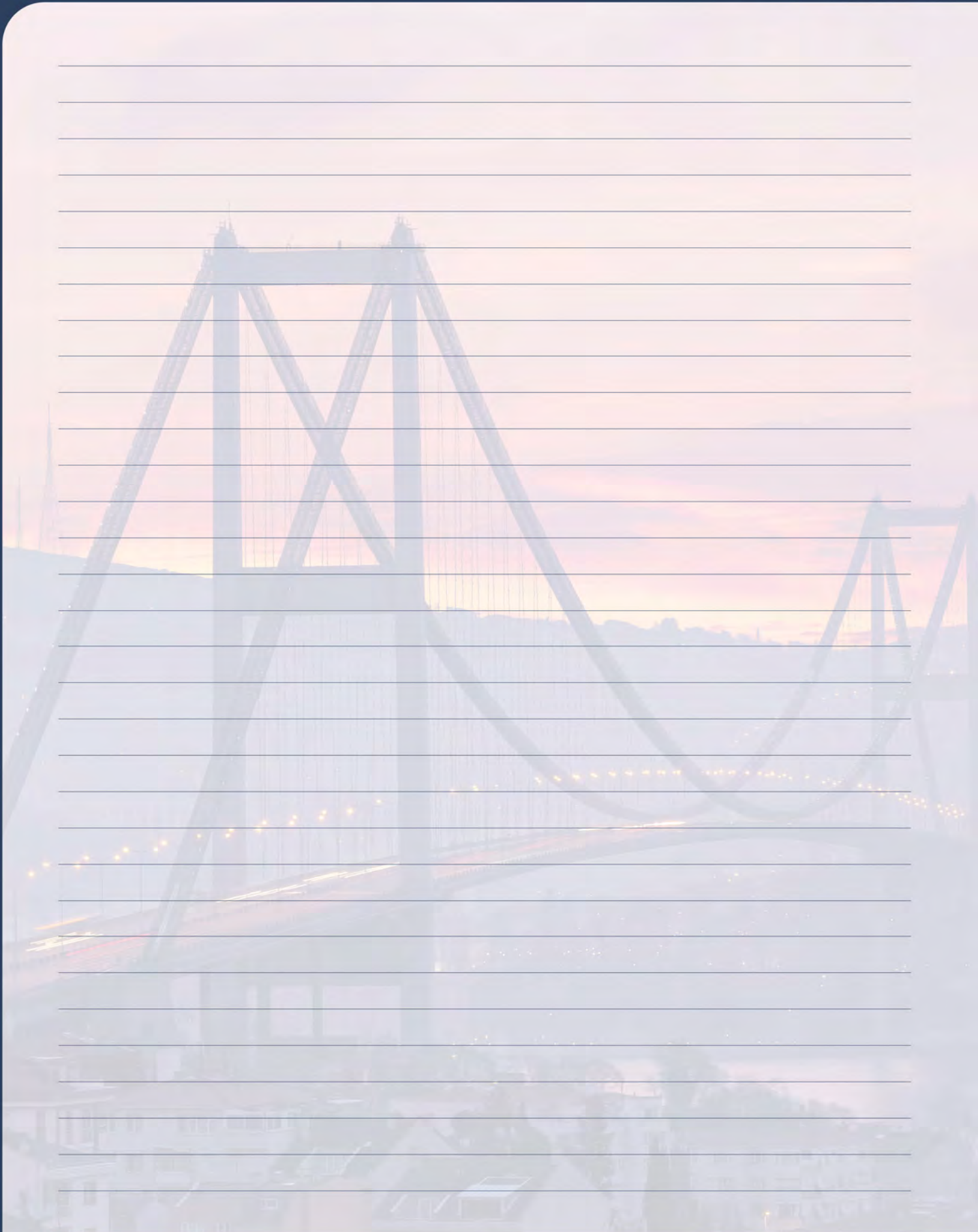
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