

2017 AIIB LEGAL
CONFERENCE

GOOD GOVERNANCE AND MODERN INTERNATIONAL FINANCIAL INSTITUTIONS

AIIB Headquarters, Beijing, China
17-18 October 2017



ASIAN INFRASTRUCTURE
INVESTMENT BANK

Welcome from the General Counsel

Welcome to the headquarters of the Asian Infrastructure Investment Bank and Beijing, China, and the inaugural AIIB Legal Conference!

The debate and discourse surrounding the good governance of International Financial Institutions (IFIs) and the broader standards set by these intergovernmental institutions is of pressing relevance in an era in which the acceptance of globalized trade, investment and interconnectedness comes under pressure.

By examining the benchmarks of good governance, such as transparency, stakeholder participation, the rule of law, accountability and efficiency, the 2017 AIIB Legal Conference intends to bring together the insights of, and afford a dialogue between, experts in the field of IFI governance – drawn from the IFI, other practitioner and academic legal communities.

Our panels are grouped around four broad areas of governance involving multiple aspects of the mandate and operations of IFIs. The first panel – The Governance Role of Multilateral Shareholders – considers the part played by, and interactions with, state members of IFIs. Panel two – Institutional Design and Effective Governance – looks closely at the governance choices and intentions that figure in the constitutional arrangements of IFIs. External Dimensions and a Governance Mandate – panel three – considers how the interior governance arrangements of IFIs become a springboard to external good governance influence and ambitions. The fourth and last panel – Good Governance and the Rule of Administrative Law – examines the legal basis and applicable principles of much of the administrative existence and interests of IFIs. A final plenary session will aim to bring together all of these themes to consider the multiple meanings of Good Governance and Modern International Financial Institutions.

We welcome both our distinguished speakers, as well as all our AIIB Legal Conference participants. One of the reasons that the AIIB exists is to improve infrastructure connectivity in Asia. So, with the 2017 AIIB Legal Conference, we look to understand this mandate in its fullest sense, and bring together and connect an unrivalled range of diverse experiences and expertise to help us examine this important subject.

Gerard Sanders

General Counsel

Asian Infrastructure Investment Bank.

Beijing, China, 2017

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Legal Conference Schedule

DAY 1: Tuesday, 17 October 2017

09:00 – 09:45, Registration and Coffee, 2nd Floor

09:45 – 10:00, Welcome from the General Counsel, Gerard Sanders, Asian Infrastructure Investment Bank
Introduction from Conference Chair, Peter Quayle, Senior Counsel, Asian Infrastructure Investment Bank

10:00 – 12:00, Panel 1:

The Governance Role of Multilateral Shareholders

Chair: Diana Michaliova, Principal Counsel, Asian Infrastructure Investment Bank

- Whitney Debevoise, Arnold & Porter LLP and former World Bank US Executive Director, *International Financial Institutions: The Perspective of a Shareholder Representative*
- Rutger de Witt Wijnen, General Counsel a.i., Global Fund to Fight AIDS, Tuberculosis and Malaria, *The Status of Multilateral Funds: Between a Rock and a Hard Place*
- Dan Sarooshi, Essex Court Chambers and University of Oxford, *The Life, Times, and (Occasional) Death of International Organizations: Lessons from Practice*

12:00 – 13:00, Lunch, 5th Floor

13:00 – 15:00, Panel 2:

Institutional Design and Effective Governance

Chair: Xuan Gao, Senior Counsel, Asian Infrastructure Investment Bank

- Ngoire Woods, Dean of the Blavatnik School of Government, University of Oxford, *Good Governance in International Organizations: Challenges for the Asian Infrastructure Investment Bank*
- Natalie Lichtenstein, inaugural General Counsel, Asian Infrastructure Investment Bank, *Governance of the Asian Infrastructure Investment Bank: A Comparative Context*
- Stilpon Nestor, Nestor Advisers Ltd. and former Head of Corporate Affairs Division, OECD, *What Drives Effectiveness in the Boards of International Financial Institutions? A Practitioner's Perspective*

15:00 – 15:30, Coffee and Tea, 2nd Floor

15:30 – 17:30, Panel 3:

External Dimensions and a Governance Mandate

Chair: Rüdiger Woggon, Lead Counsel, Asian Infrastructure Investment Bank

- Yifeng Chen, Peking University Law School, *A Governance Vocation: The Role of International Financial Institutions Setting International Labour Standards*
- Marie-Anne Birken, General Counsel, European Bank for Reconstruction and Development, *The Case for Gender Diversity on Corporate Boards: A Focus on Selected Asian Countries*

Legal Conference Schedule

- Yan Liu, Assistant General Counsel, International Monetary Fund, *The Role of Law and the International Monetary Fund: Past, Present and Future*

17:30 – 18:30, Conference Reception, 2nd Floor

18:30 – 20:30, Conference Dinner, 5th Floor

DAY 2: Wednesday, 18 October 2017

08:30 – 09:00, Coffee and Tea, 2nd Floor

09:00 – 11:00, Panel 4:

Governance and the Rule of Administrative Law

Chair: Peter Quayle, Senior Counsel, Asian Infrastructure Investment Bank

- Pascale Helene Dubois, Vice President for Integrity, World Bank Group, *The World Bank's Sanctions System: Using Debarment to Combat Fraud and Corruption in International Development*
- Catherine Weaver, University of Texas, *Open Data for Development: The Promise and Pitfalls of Information Disclosure by International Financial Institutions*
- Joan Powers, former Assistant General Counsel, International Monetary Fund, *The Evolving Jurisprudence of the International Administrative Tribunals: Convergence or Divergence?*

11:00 – 11:30, Coffee and Tea, 2nd Floor

11:30 – 12:30, Plenary:

Good Governance and Modern International Financial Institutions

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

12:30 – 12:45, Closing Remarks by Jin Liqun, President, Asian Infrastructure Investment Bank

12:45 – 13:45, Lunch, 5th Floor

14:00 – 17:30, Optional Cultural Excursion, Summer Palace

The Governance Role of Multilateral Shareholders

Panel 1: The Governance Role of Multilateral Shareholders

Chair: Diana Michaliova, Principal Counsel, Asian Infrastructure Investment Bank

Whitney Debevoise, Arnold & Porter LLP and former World Bank US Executive Director

International Financial Institutions: The Perspective of a Shareholder Representative

Shareholder representatives at International Financial Institutions (IFIs) face a variety of challenges. They are diplomats who represent shareholder interests in the formulation of the IFI's policies and transaction approvals. They are also directors of institutions with, inter alia, large balance sheets, securities issued to the public in global financial markets, large treasury operations, immense knowledge generation, human resources, pension, governance, audit, integrity, procurement and evaluation issues. These shareholder representatives fulfil an important accountability function, but also a communications role to their own constituencies. This paper explores, how should shareholder representatives strike the balance among these multiple, and sometimes contradictory, functions?

Rutger de Witt Wijnen, General Counsel a.i., Global Fund to Fight AIDS, Tuberculosis and Malaria

The Status of Multilateral Funds: Between a Rock and a Hard Place

Multilateral funds, like the Green Climate Fund (GCF) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund), are typically created pursuant to less-established legal instruments than a Charter or Articles of Agreement unambiguously embodied in an international treaty. Related to the United Nations but not quite part of it – the GCF – or as a spin-off of a United Nations Specialized Agency – the Global Fund – the precise legal characterization of such funds poses various questions under public international law. This paper explores some of these questions. Do the funds qualify as international organizations? Do they have privileges and immunities? And what is the impact of their status in their day-to-day operations and does this then affect governance?

Dan Sarooshi, Essex Court Chambers and University of Oxford

The Life, Times, and (Occasional) Death of International Organizations: Lessons from Practice

The simple feature of an international organization invested with a legal personality separate from its member States leads to a complex array of legal and governance controversies. Drawing upon the example of the United Nations, the Global Fund to Fight AIDS, Malaria, and Tuberculosis, the Global Green Growth Institute, and others, this paper examines some of these principle controversies, in particular, the role of major funders and the system of funding, the symbiotic relationship between the various political organs of an organization and the Secretariat, the entrenchment of political power in decision-making, the role of law in governing the organization and its headquarters, the relationship between an organization and its officials when employment disputes arise, new forms of international organization and public/private partnerships, and how an organization can seek to ensure that itself and its officials remain independent and free from influence by States through privileges and immunities. The paper sees these controversies as notably illuminated when, rarely, an organization is dissolved, and considers the winding-up of the International Tin Council and the International Oil Pollution Compensation Fund 1971 in this light.

The Governance Role of Multilateral Shareholders

Panel 1 Biographies:

Whitney Debevoise, Arnold & Porter LLP and former World Bank US Executive Director



Whitney Debevoise is a Washington, DC-based partner in the international law firm of Arnold & Porter Kaye Sholer LLP with more than twenty-five years of experience in sovereign finance and International Financial Institutions (IFIs). From 2007 to 2010, Mr. Debevoise served as the United States Executive Director of the World Bank Group. He has experience with projects involving both the public and private sector windows of regional development banks, as well as institutional, integrity and immunity issues and IFI relationships with national regulatory regimes such as derivatives regulation and international economic sanctions. Mr. Debevoise currently serves as a Vice President of the American Society of International Law and as a member of the Council of the International Law Section of the American Bar Association. He is a graduate of Yale College and the Harvard Law School and is fluent in French, Spanish and Portuguese.

Rutger de Witt Wijnen, General Counsel a.i., Global Fund to Fight AIDS, Tuberculosis and Malaria



Rutger de Witt Wijnen joined the Global Fund to Fight AIDS, Tuberculosis and Malaria as General Counsel a.i. in June 2017. From August 2014 to June 2017, he was General Counsel at the Green Climate Fund (GCF). Before joining the GCF, Mr. de Witt Wijnen was a partner at the Amsterdam office of the international law firm Simmons & Simmons LLP. Prior to joining Simmons in 2011, he was a partner at the Dutch law firm, De Brauw Blackstone Westbroek. As a private sector lawyer, Mr. de Witt Wijnen acted for governments, multilateral institutions, International Financial Institutions and private sector companies in a variety of finance, governance and climate change related matters. As a member of numerous advisory committees in the public and private sector, he was at the forefront of developments in the carbon markets, both domestic and international. Mr. de Witt Wijnen has lectured at the Universities of Amsterdam and Groningen. He has published on project and carbon finance and speaks regularly at conferences.

Dan Sarooshi, Essex Court Chambers and University of Oxford



Dan Sarooshi is Professor of Public International Law at the University of Oxford. He is a practicing barrister who has, to date, been instructed by governments, international organizations, and a number of corporations, in important cases before the Supreme Court of the United Kingdom (such as for the Lead Claimant in the recent Brexit case), International Court of Justice, European Court of Human Rights, World Trade Organization, and international arbitration proceedings. He has been appointed as a member of the United Kingdom Attorney General's Public International Law "A Panel" of Counsel in order to represent the Government of the United Kingdom in "the most complex public international law cases in various courts". His publications include *International Organizations and Their Exercise of Sovereign Powers* (OUP) and *The UN and the Development of Collective Security* (OUP), and he was the sole editor of *Responsibility and Remedies for the Actions of International Organizations* (Martinus Nijhoff), and co-edited *State Responsibility Before International Judicial Institutions* (Hart). His writing has been awarded the 2006 American Society of International Law Book Prize ("Certificate of Merit"); the 2006 Myres S. McDougal Prize awarded by the American Society for the Policy Sciences; the 2001 American Society of International Law Certificate of Merit; and the 2000 (biennial) Guggenheim Prize by the Guggenheim Foundation in Switzerland.

Institutional Design and Effective Governance

Panel 2: Institutional Design and Effective Governance

Chair: Xuan Gao, Senior Counsel, Asian Infrastructure Investment Bank

Ngairé Woods, Dean of the Blavatnik School of Government, University of Oxford

Good Governance in International Organizations: Challenges for the Asian Infrastructure Investment Bank

Drawing on the experiences of international organizations created in the period after the Second World War (and the specific examples of the International Monetary Fund, World Bank, GATT/World Trade Organization, the regional multi-lateral development banks, and the United Nations agencies), this paper focuses on how governance arrangements affect, firstly, member States' trust and confidence in the organization; secondly, the efficiency and performance of the organization; and thirdly, its capacity to learn and to respond to external stakeholders.

Natalie Lichtenstein, inaugural General Counsel, Asian Infrastructure Investment Bank

Governance of the Asian Infrastructure Investment Bank: A Comparative Context

How do the governance arrangements under the Asian Infrastructure Investment Bank's (AIIB) Articles of Agreement compare and contrast to the governance structures established by the constituent instruments of other International Financial Institutions (IFIs)? This paper explores the origins of the AIIB's Articles of Agreement and other IFIs, and the history and rationale behind common features. Similarities and differences between the constituent instruments of the Asian Development Bank, African Development Bank, Inter-American Development Bank, European Bank for Reconstruction and Development and the World Bank are given particular attention.

Stilpon Nestor, Nestor Advisers Ltd. and former Head of Corporate Affairs Division, Organisation for Economic Co-operation and Development

What Drives Effectiveness in the Boards of International Financial Institutions? A Practitioner's Perspective

In contrast to most commercial organizations, International Financial Institutions (IFIs) and other International Stakeholder Organizations (ISOs) design their Boards of Directors as representative platforms of their constituents. The representation imperative, combined with prominent public service elements in IFIs and ISOs, creates additional challenges for the IFI/ISO Boards, over and above those facing commercial organizations. These challenges are often compounded by low levels of delegation of authority compared to commercial organizations resulting in unusually heavy Board workloads that leave little time for traditional commercial Board considerations such as long term strategic direction. This paper explores the diverse tools available to address the Board effectiveness challenges facing IFI/ISOs. These tools may include carefully designed nomination and appointment procedures, considerations of the size and diversity of Boards, committee structures, and processes and procedures related to the Board's functioning. Effectiveness improvements rely not only on change towards best practice but also on proper governance "maintenance". In this respect, this paper will also discuss recent trends in the IFI/ISO world, borrowing Board evaluation practices from the commercial sector.

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Institutional Design and Effective Governance

Panel 2 Biographies:

Ngaire Woods, Dean of the Blavatnik School of Government, University of Oxford



Ngaire Woods is the founding Dean of the Blavatnik School of Government and Professor of Global Economic Governance at the University of Oxford. Her research focuses on how to enhance the governance of organizations, the challenges of globalization, global development, and the role of international institutions and global economic governance. Previously, she founded the Global Economic Governance Programme at the University of Oxford and co-founded (with Robert O. Keohane) the Oxford-Princeton Global Leaders Fellowship programme. Professor Woods serves as a member of the International Advisory Panel of the Asian Infrastructure Investment Bank, on the Board of the Mo Ibrahim Foundation, and as a Rhodes Trustee. She is co-Chair of the World Economic Forum's Global Future Council on Values, Technology and Governance. She serves on the Advisory Group of the Center for Global Development (Washington, DC). Professor Woods' published work is extensive, and most recently includes: *The Politics of Global Regulation* (with Walter Mattli, OUP), and *Networks of Influence? Developing Countries in a Networked Global Order* (with Leonardo Martinez-Diaz, OUP). She was educated at the University of Auckland and University of Oxford and before taking up her Fellowship at University College, Oxford, taught at Harvard University.

Natalie Lichtenstein, inaugural General Counsel, Asian Infrastructure Investment Bank



Natalie Lichtenstein is a US lawyer who has specialized in legal issues at International Financial Institutions (IFIs), and legal development in China, since the 1970s. She was the inaugural General Counsel at the Asian Infrastructure Investment Bank (AIIB) in the early part of 2016. As Chief Counsel for the Multilateral Interim Secretariat for establishing the AIIB, she was the principal drafter of the AIIB's Articles of Agreement. Her work for the AIIB drew on her 30-year legal career at the World Bank, where she advised on lending operations in China and other countries. At the World Bank, Ms. Lichtenstein served in senior positions, specializing in institutional governance issues and reforms. She is formerly of the US Treasury Department, where she worked on IFI matters and normalization of US relations with China. Ms. Lichtenstein has taught Chinese law as an Adjunct Professor in the United States since the 1980s, and consulted on Chinese legal development. She is a member of the Advisory Board of the Duke-Kunshan University. She is the author of a forthcoming book on the AIIB (for OUP), and numerous articles in professional journals.

Stilpon Nestor, Nestor Advisers Ltd. and former Head of Corporate Affairs Division, Organisation for Economic Co-operation and Development



Stilpon Nestor is the Managing Director of Nestor Advisers Ltd, a London-based consultancy he founded in 2003 focusing on corporate governance and organization. In this capacity, he has advised the Boards of some of the largest financial institutions and companies in the European Union as well as in several emerging markets. The firm's clients include various International Financial Institutions (IFIs) and international Non-Governmental Organizations. Mr. Nestor has also advised several regulatory and supervisory agencies on corporate governance policies. Until March 2002, Mr. Nestor was the Head of the Corporate Affairs Division at the Organisation for Economic Co-operation and Development (OECD), leading the team which produced the global corporate governance benchmark, the OECD Principles of Corporate Governance. He is a non-executive director of ACC, one of the largest contractors in the Gulf. He was also a non-executive director and a member of the risk committee of the European Investment Bank (2009-2013), a member of the EU Commission's Advisory Board on Company Law and Corporate Governance (2007-2011) and a member of the board of the International Corporate Governance Network (2004-2007). He was educated at the University of Thessaloniki Law School and Harvard Law School.

External Dimensions and a Governance Mandate

Panel 3: External Dimensions and a Governance Mandate

Chair: Rüdiger Woggon, Lead Counsel, Asian Infrastructure Investment Bank

Yifeng Chen, Peking University Law School

A Governance Vocation: The Role of International Financial Institutions Setting International Labour Standards

Through expansive interpretations of their mandates, International Financial Institutions (IFIs) have been able to constantly redefine their own roles. The activities of IFIs have long since moved beyond purely financial matters. In the search for popular legitimacy, during the past several decades IFIs have embarked on a governance vocation and reinvented themselves as agents of global governance. In so doing, IFIs increasingly absorb labour standards into their operational policies. The inclusion of labour standards into the 2016 Environmental and Social Framework of the World Bank serves as a recent example. This paper examines the role and limits of IFIs in setting and enforcing labour standards. Engagement with labour issues also presents enormous knowledge-management and institutional challenges to the IFIs. And this also brings further cultural, ideological, and institutional changes to IFIs. The potential transformation of IFIs into public authorities of global environmental and social justice repays closer scrutiny.

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

The Case for Gender Diversity on Corporate Boards: A Focus on Selected Asian Countries

Good corporate decision-making requires the ability to consider and analyze issues from different perspectives. Historically, corporate governance literature has focused on ensuring that Boards can draw on the diversity of their members' expertise and professional experience. In the last few years, attention has increasingly shifted to the impact that gender diversity can bring to the decision-making process. There is now supporting evidence that gender-diverse Boards boost companies' performance and that companies with greater female representation on Boards are less likely to be affected by governance scandals involving bribery, fraud and other negative factors likely to depress business confidence. Optimizing corporate governance standards, including diversity on Boards, can also potentially help companies take advantage of the immense business opportunities that the Belt and Road Initiative is likely to bring. This paper analyses the gender diversity on the Boards of companies in selected Asian countries and compares this with peer countries in Europe and the United States. It then critically reviews some of the key measures introduced by companies, governments, institutional investors and International Financial Institutions in these countries, aimed at addressing the gender diversity gap. Finally, the paper proposes concrete measures that Asian companies, governments and key investors may consider adopting to address the gender gap on boards, based on successful experiences of their European and United States counterparts.

Yan Liu, Assistant General Counsel, International Monetary Fund

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

Since its establishment in 1945, the functions of the International Monetary Fund (IMF) have continued to adapt to developments in the global economy and the changing needs of its membership. Throughout this evolution, lawyers have played an important role in safeguarding the rule of law, which is essential to the IMF in effectively carrying out its mandates. They not only provide independent advice to the institution and its membership on the law of the Fund, but also contribute to the development of policies to promote and preserve financial stability and integrity. Moreover, their roles have expanded over the years, including to assist member countries in reforming their legal and institutional frameworks that are supportive of economic growth.

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External Dimensions and a Governance Mandate

Panel 3 Biographies:

Yifeng Chen, Peking University Law School



Yifeng Chen is an Associate Professor at Peking University Law School and Assistant Director of the Peking University Institute of International Law. He is also a research fellow with the Human Rights and Humanitarian Law Research Center at Peking University. Before joining Peking University Law School, he was a post-doctoral researcher at the University of Helsinki from 2010-2013 and from March 2014 has served as a docent in international law at the University of Helsinki. He has been a visiting scholar at the Max Planck Institute for Comparative Public Law and International Law, Lauterpacht Center for International Law at the University of Cambridge, Stockholm Centre for International Law and Justice, and Norwegian Centre for Human Rights, amongst other institutions. Dr. Chen's fields of research include legal theory, international law, international organizations, global governance, international and comparative labour law, and humanitarian law.

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



Marie-Anne Birken was appointed General Counsel at the European Bank for Reconstruction and Development (EBRD) in June 2014. Ms. Birken is a member of the Executive Committee and various other management committees of the EBRD. She joined EBRD from the Asian Development Bank where she was the Secretary and previously served as Deputy General Counsel and as Assistant General Counsel responsible for private sector operations. Ms. Birken 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. Ms. Birken was educated at the University of Utrecht and is a solicitor of England and Wales.

Yan Liu, Assistant General Counsel, International Monetary Fund



Yan Liu is Assistant General Counsel in the Legal Department of the International Monetary Fund (IMF). In this capacity, Ms. Liu leads the Department's work on developing and implementing IMF policies on sovereign debt management and restructurings. She also provides strategic, intellectual and operational leadership in managing the Department's work on private sector debt resolution with a focus on corporate, household and SME insolvency reform, enforcement of civil and commercial claims, corporate deleveraging and nonperforming loan resolution. Ms. Liu oversees the Financial Integrity Group, the largest unit of the Legal Department, that deals with anti-money laundering and combating the financing of terrorism, tax evasion and anticorruption issues at both the policy and the individual member country level. Finally, Ms. Liu supervises the Legal Department's work on designing and implementing strategies and policies on capacity development. Prior to joining the IMF in 1999, Ms. Liu practiced corporate and securities law at Fried Frank Harris Shriver & Jacobson and Milbank Tweed Hadley & McCloy in the United States. Ms. Liu was educated in China and the United States. She regularly lectures and frequently publishes on issues related to legal aspects of international finance.

Governance and the Rule of Administrative Law

Panel 4: Governance and the Rule of Administrative Law

Chair: Peter Quayle, Senior Counsel, Asian Infrastructure Investment Bank

Pascale Helene Dubois, Vice President for Integrity, World Bank Group

The World Bank's Sanctions System: Using Debarment to Combat Fraud and Corruption in International Development

Over the past 20 years, International Financial Institutions (IFIs) have developed a variety of tools to respond to allegations of fraud and corruption in the projects that they finance. Many IFIs now have well-established administrative law systems that cover investigation and adjudication and provide for the imposition of sanctions, most often in the form of debarment. This paper examines the experience of the World Bank, including the origins and evolution of the World Bank's investigative function (the Integrity Vice Presidency) and the development of the adjudicative process – or “sanctions system” – that the World Bank has established to provide due process to firms and individuals accused of misconduct. The paper looks at the key structural features of the system, as well as the legal framework and associated policies and practices that support its operation, and covers a number of notable recent developments, including the introduction of negotiated resolution agreements (settlements). An overarching theme is the increasing importance of integrity compliance, both as a condition to release from debarment in IFI sanctions cases and as a concept of increasing importance in global anti-corruption efforts generally. The paper also considers the experience of the World Bank's Integrity Compliance Office in assessing the compliance programs put into place by firms seeking their release from debarment, and explores ways in which IFIs might support their private and public sector partners in the area of integrity compliance.

Catherine Weaver, University of Texas

Open Data for Development: The Promise and Pitfalls of Information Disclosure by International Financial Institutions

Open and transparent information is widely thought to be a precondition for improved effectiveness of international development aid and the legitimacy of modern International Financial Institutions (IFIs) that provide such assistance. The paper examines the evolution of the open data movement, in particular, the various events and actors that contributed to the creation and diffusion of open data norms and policies in global development aid. This paper then reviews the complex processes through which multilateral development banks have engaged in reform of their information disclosure policies, and offers an assessment of the key factors determining these organizations' varying success in implementing and enforcing open data policies and practices. A critical commentary is offered on the ways in which IFIs have pursued open data policies, and the prevailing disconnects between the supply and the actual demand and use of open data. The paper draws from extensive primary qualitative research in nine countries (developed and developing nations), with material drawn from over 400 semi-structured interviews, a robust review of primary and secondary materials on aid transparency and participant and non-participant observation in the international aid transparency and open data movements.

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Governance and the Rule of Administrative Law

Joan Powers, former Assistant General Counsel, International Monetary Fund

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

Between the late 1940's and 1980, there were two principal international administrative tribunals – the tribunals established to adjudicate employment-related disputes of international civil servants – the United Nations Administrative Tribunal and the Administrative Tribunal of the International Labour Organization. Observers at the time noted that certain principles of international administrative law had become well-established in the jurisprudence of these tribunals, and that their judgments reflected a commonality in approach. However, since 1980, a number of new administrative tribunals have been established by various international organizations, including each of the multilateral development banks and other International Financial Institutions, and the United Nations has changed to a two-tier internal judicial system. Now, with over 15 administrative tribunals in operation, can it still be said that there is a general harmonization amongst the tribunals? Or have the tribunals gone in different directions in analyzing the legal framework for the employment relationship within an international organization? This paper examines these questions with respect to selected issues considered by administrative tribunals.

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Governance and the Rule of Administrative Law

Panel 4 Biographies:

Pascale Helene Dubois, Vice President for Integrity, World Bank Group



Pascale Helene Dubois is the Integrity Vice Presidency (INT) of the World Bank Group (WBG). Ms. Dubois leads the WBG's investigative efforts and the pursuit of sanctions in connection with allegations of fraud and corruption on WBG-financed projects. INT also supports WBG operations with risk mitigation and prevention. Ms. Dubois previously served as the World Bank's Chief Suspension and Debarment Officer, and prior to that she managed the Voluntary Disclosure Program in INT. Before joining the WBG, Ms. Dubois was in private practice in the United States and Belgium. She is Co-Chair of the International Bar Association's Anti-Corruption Committee, Senior Advisor to the American Bar Association's Section of International Law Anti-Corruption Committee, a Certified Fraud Examiner and Adjunct Professor at the Georgetown University Law Center. Ms. Dubois received her Lic. Jur., cum laude, from the University of Ghent, Belgium, and her LL.M. from New York University.

Catherine Weaver, University of Texas



Catherine (Kate) Weaver is Associate Professor of Public Affairs and Co-Director of Innovations for Peace and Development at the University of Texas at Austin, United States. Her research focuses on the culture, behavior and reform of International Financial Institutions such as the World Bank and the IMF. Her most recent work examines transparency and accountability in international development aid, focusing on the evolution and impact of information disclosure and open data policies. Dr. Weaver has contributed to the development of systems to track and dynamically geomap international development aid, climate change adaptation and food security assistance using information technology and fieldwork in Africa, Asia and Central America. Dr. Weaver writes broadly on the shifting power, players and paradigms in global economic governance, including the rise of new international development institutions. She is the author of numerous books, articles and policy reports, including *Hypocrisy Trap: The World Bank and the Poverty of Reform* (Princeton University Press).

Joan Powers, former Assistant General Counsel, International Monetary Fund



Joan Powers, a United States lawyer, is a former Assistant General Counsel of the International Monetary Fund (IMF). Ms. Powers had responsibility for administrative legal matters at the IMF for over 25 years. She dealt with employment-related issues and internal dispute resolution, including the establishment of the IMF Administrative Tribunal and representation of the IMF before the Tribunal, as well as privileges and immunities, standards of conduct and the disciplinary framework, and internal governance questions. Since her retirement from the IMF, she has been a consultant to various public international organizations in Europe and Asia with respect to employment-related policy issues, including review of their internal justice systems, as well as governance, ethics and disciplinary matters. Ms. Powers previously worked for the law firm of Wilmer, Cutler & Pickering in Washington, DC and London. She is a graduate of Brown University (A.B., History) and the University of Pennsylvania Law School (J.D.) and is a member of the District of Columbia Bar.

Panel 1 Chair:

Diana Michaliova, Principal Counsel, Asian Infrastructure Investment Bank



Diana Michaliova is Principal Counsel of the Asian Infrastructure Investment Bank (AIIB), and heads the Investment Unit, reporting directly to the General Counsel. She specializes in cross-border finance and is responsible for advising the Investment Operations Vice Presidency of the AIIB. Ms. Michaliova is formerly Director, Chief Counsel of the Office of the General Counsel, European Bank for Reconstruction and Development. 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. Ms. Michaliova holds law degrees from Vilnius University, Lithuania, and University College London.

Panel 2 Chair:

Xuan Gao, Senior Counsel, Asian Infrastructure Investment Bank



Xuan Gao is Senior Counsel of the Asian Infrastructure Investment Bank (AIIB), and heads the Institutional Unit, reporting directly to the General Counsel. He is Deputy Editor-in-Chief of the Manchester Journal of International Economic Law (MJIEL). Between 1999 and 2016, Dr. Gao also served in different positions at the United Nations, European Bank for Reconstruction and Development, INTERPOL as well as the Peoples' Bank of China. He has published nine books and more than ten 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. Dr. Gao received a Ph.D. 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 Peking University.

Panel 3 Chair:

Rüdiger Woggon, Lead Counsel, Asian Infrastructure Investment Bank



Rüdiger Woggon is Lead Counsel of the Asian Infrastructure Investment Bank (AIIB), and heads the Finance Unit, reporting directly to the General Counsel. He also oversees the Office of the General Counsel's Knowledge Management function and co-ordinates the recruitment activities of the Office. Before joining AIIB, he was Director, Chief Counsel of the Office of the General Counsel, 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, subsequently becoming 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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Panel 4 Chair:

Peter Quayle, Senior Counsel, Asian Infrastructure Investment Bank



Peter Quayle is Senior Counsel of the Asian Infrastructure Investment Bank (AIIB), and heads the Corporate Unit, reporting directly to the General Counsel. He is responsible for advising the AIIB's Administration Vice Presidency, and ethics, integrity, communications and headquarters-related functions. He is formerly Associate Director, Senior Counsel of the Office of the General Counsel, European Bank for Reconstruction and Development. Between 2004 and 2012 he was Legal Advisor to the Office of Foreign Litigation, Civil Division European Office, of the US Department of Justice. He was educated at New College, Oxford (BA (Hons) and MA, Modern History) and University College London (LL.M) and is Visiting Professor of International Organizations Law at Peking University Law School. He is a solicitor of England and Wales and trained at Norton Rose Fulbright, qualifying in 2001.

Plenary Chair:

Gerard Sanders, General Counsel, Asian Infrastructure Investment Bank



Gerard Sanders is General Counsel of the Asian Infrastructure Investment Bank (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, Mr. Sanders 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. Mr. Sanders 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, and Founding Editor of *Law in Transition*.

AIIB President:

Jin Liqun, President, Asian Infrastructure Investment Bank



Mr. Jin Liqun is the chief of staff and has accountability for all of the Asian Infrastructure Investment Bank's (AIIB) operations. He ensures the mission of the Bank is carried out under the direction of the Board of Directors. Before being elected as the Bank's first president, Mr. Jin served as Secretary-General of the Multilateral Interim Secretariat tasked with establishing the AIIB. Mr. Jin has rich experience across the private and public sectors, as well as with Multilateral Development Banks. He served as Chairman of China International Capital Corporation Limited, China's first joint-venture investment bank, Chairman of the Supervisory Board of China Investment Corporation, and as Chairman of the International Forum of Sovereign Wealth Funds. Mr. Jin previously served as Vice President, and then Ranking Vice President, of the Asian Development Bank, and as Alternate Executive Director for China at the World Bank and at the Global Environment Facility. He spent nearly two decades at the Chinese Ministry of Finance, reaching the rank of Vice Minister. Mr. Jin holds an M.A. degree in English Literature from Beijing Institute of Foreign Languages (now Beijing Foreign Studies University). He was also a Hubert Humphrey Fellow in the Economics Graduate Program at Boston University from 1987 to 1988.

