COLLOQUIUM

Actors in International Investment Law:
Beyond Claimants, Respondents and Arbitrators

26-27 September 2019
University Paris II
Panthéon-Assas
12, Place du Panthéon
75005 Paris

With the kind support of
Colloquium 2019

The University Paris II Panthéon-Assas is hosting, in the context of the Investment Law Initiative, a Colloquium on ‘Actors in International Investment Law: Beyond Claimants, Respondents and Arbitrators’, on 26 and 27 September 2019, in Paris, France. The Colloquium is jointly organized by the CERSA, research centre of the French National Centre for Scientific Research (CNRS) and of the University Paris II Panthéon-Assas (France); the University of Zaragoza (Spain) and its Faculty of Law; the Athens Public International Law Center (Athens PIL) of the National and Kapodistrian University of Athens Faculty of Law (Greece). These academic and research institutions joined forces in 2016 and established the Investment Law Initiative, an international collaboration aimed at strengthening research and systemic analysis of international investment law. The Colloquium is convened by Dr Katia Fach Gómez (University of Zaragoza, Faculty of Law), Dr Anastasios Gourgourinis (National and Kapodistrian University of Athens, Faculty of Law; Athens PIL), and Dr. Catharine Titi (CNRS-CERSA, University Paris II Panthéon-Assas).
Thursday, 26 September 2019

Rooms
Salle des conseils: Plenary Panels and Panels with odd numbers
Salle des fêtes: Panels with even numbers

8.20 / 8.45 Registration

8.45 / 9.00 Conference Opening

Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas (co-organiser)
Katia Fach Gómez, University of Zaragoza (co-organiser)
Anastasios Gourgourinis, National and Kapodistrian University of Athens (co-organiser)

9.00 / 10.00 Opening Keynote

Marc Bungenberg, Saarland University

10.00 / 11.30 Panel 1 Arbitral Institutions and Appointing Authorities

Chair Michael Hahn, University of Bern, Institute of European and International Economic Law & World Trade Institute

David Gaukrodger, OECD
— Arbitration Institutions and Appointing Authorities in ISDS: Markets, Competition and Accountability

Alfredo De Jesus O., Alfredo De Jesus O. – Transnational Arbitration and Litigation
— The Role of Arbitral Institutions in the Constitution of Arbitral Tribunals: Reflections on Recent Developments

Chiara Giorgetti, University of Richmond
— Adopting a Code of Conduct for Arbitrators: What is the Role of Institutions?

Patricia Shaughnessy, Stockholm University, Ex-SCC Vice Chair
— Tribunal Secretaries in SCC Rules and Practice

/ Panel 2 Counsel

Chair Gavan Griffith QC, Essex Court Chambers

Diana Paraguacuto-Maheo, Foley Hoag
— The Role of Counsel for the State Party in Investment Arbitration

Jonathan Kabre Rimdolmsom & Andreas R. Ziegler, University of Lausanne
— Counsel and the Reforms of the ISDS Regime
Anna Mantakou, Law Office Dr. Anna P. Mantakou & Hellenic Arbitration Association
— Many Wish to Play but a Few Can Play Well

Elie Kleiman, Jones Day
— The Role of Counsel in the Progressive Development of International Law

Jeremy Sharpe, Shearman & Sterling
— Should States Appoint Agents in International Arbitration?

11.30 / 12.00 Coffee Break 🍵

12.00 / 13.30 Panel 3 Third-Party Funding/Funders

Chair José Alberro, Cornerstone Research

Jeffery Commission, Burford Capital
— The Law and Practice of Arbitration Finance in International Investment Arbitration

José Ángel Rueda García, Cuatrecasas
— Third-Party Funding and Access to Justice in International Investment Arbitration

Richard (Rory) Walck, Global Financial Analytics LLC
— A Quantum Expert’s Perspective on Third-Party Funding

Maria Beatriz Burghetto, JA Cremades & Partners (Paris Office)
— Risk Assessment and Third-Party Funding in Investment Arbitration, with a Focus on Claims Involving Developing Countries

Ina C. Popova, Debevoise & Plimpton
— Lessons in Lawmaking and Rulemaking from Third-Party Funded Arbitrations

Panel 4 The Investor’s Home State

Chair Anastasios Gourgourinis, National and Kapodistrian University of Athens

Tarcisio Gazzini, University of East Anglia
— Beyond Protection: The Role of the Home State in Modern Investment Treaties

Rodrigo Polanco, World Trade Institute
— Bringing Back the State into Investor-State Disputes: Recent Developments

Rebecca E. Khan, University of the Philippines
— Not a Third Party: Home State Participation as a Matter of Right in Investment Treaty Arbitration
Vishakha Choudhary, Saarland University
— Caught in the Crossfire: Safeguarding Sovereign Interests of a ‘Predecessor’ Home State in the Aftermath of Unlawful State Succession

Carlo de Stefano, Roma Tre University
— The Investor’s Home State: Nationality Issues in International Investment Arbitration

Panel 5 Scrutiny by Public Institutions

Chair Iza Lejarraga, OECD

Emanuel Castellarin, University of Strasbourg
— The Role of the EU’s and Member States’ Institutions in Screening Foreign Investment

Shotaro Hamamoto, Kyoto University
— Scrutiny of Foreign Investments at the State and Local Levels: The Case of Japan

Pascale Accaoui Lorfing, Independent Legal Researcher
— Screening by National Institutions Outside the EU in Light of the OECD, UNCTAD and Other Guidelines for Recipient Country Investment Policies

Aliki-Athina Papanastasiou, University of Cambridge
— Media Wars: Transparency and Aggravation in International Investment Arbitration

Panel 6 National Courts

Chair Photini Pazartzis, National and Kapodistrian University of Athens

Aniruddha Rajput, International Law Commission
— National Courts as Actors in Investment Arbitration: A Paradox

Gustavo Prieto, University of Turin
— The Role of Constitutional Courts in the Reform of International Investment Law: A Comparative Analysis between Europe and Latin America

Ksenia Polonskaya, Centre for International Governance Innovation
— The Role of Domestic Courts in International Investment Law: Canadian Courts in Focus

Katerina Florou, Sciences Po. & DG Energy European Commission
— A Middle Path of ISDS Reform: Strengthening the Role of National Courts in the Enforcement of Investment Arbitral Awards
Panel 7  International Courts and Other Tribunals

Chair Geneviève Bastide Burdeau, University Paris 1 Panthéon-Sorbonne

Panos Merkouris, University of Gröningen
— The Achmea Effect: Judicial Dialogue (or Discord) between the CJEU and Investment Tribunals

Fulvio Maria Palombino, University of Napoli Federico II

Ioannis Prezas, IREDIES, University Paris 1 Panthéon-Sorbonne
— International Non-Investment Courts and Tribunals as Actors in International Investment Law?

Álvaro Galindo, Dechert
— Third Party Rights: The 'Monetary Gold Principle' and its Application in International Investment Arbitration

Panel 8  The European Union

Chair André von Walter, European Commission

Luis Hinojosa, University of Granada
— EU Changing Perspective on FDI: Achmea and CETA Opinion

Rosario Ojinaga Ruiz & Maria Lina Leiva, Universidad de Cantabria
— EU as a Driver in the Judicialization Process of International Investment Dispute: the ISDS Reform and the EU’s Judicial System

Csongor István Nagy, University of Szeged
— The European Union as an Emerging Actor in International Investment Law: Speaking Globally, Thinking Regionally?

Ewa Żelazna, University of Leicester
— The Impact of the Court of Justice of the European Union on the Field of International Investment Law: An EU Law Perspective

Rafael Gil Nievas, Independent Attorney and Arbitrator
— A New Approach to Intra-EU ISDS
Cercle National des Armées
8, Place Saint-Augustin,
75008 Paris

Gala Dinner
19.00 / 23.00
Friday, 27 September 2019

Rooms
Salle des conseils: Plenary Panels and Panels with odd numbers
Salle des fêtes: Panels with even numbers

9.00 / 10.30 Panel 9 International Organisations (Excluding the EU)

Chair Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas

Bruno Sousa Rodrigues, Sciences Po.
— UNCITRAL and the Governance of International Investments

David Collins, City, University of London
— The International Bar Association’s Quiet Influence on the Development of International Investment Law

Ana Novik, OECD
— The Role of the OECD in Supporting Inter-Governmental and Stakeholder Evaluation and Reform of Investment Treaty Policy

/ Panel 10 National Governments and Treaty Negotiators

Chair Makane Moïse Mbengue, University of Geneva

Federica Cristani, Comenius University
— The Role of Sub-Regional Systems in Shaping International Investment Law-Making: The Case of the Visegrád Group

Krystle M. Baptista, Armesto & Asociados
— New Actors in Investment Arbitration: The Legitimate Government

N. Jansen Calamita, National University of Singapore
— The Challenge of Governing with Investment Treaties: Bringing the Civil Service Onside

Sarah Spottiswood & Chrysoula Mavromati, UK Department for International Trade
— Voices that Shape Investment Treaties: Inside, Outside and Between States

Carlos José Valderrama, Sidley Austin
— The Role of the Host State in Preventing Disputes: The Experience of Peru

10.30 / 11.00 Coffee Break ☕
11.00 / 12.30  Panel 11  Academics

Chair Stephan Schill, University of Amsterdam

Loukas Mistelis, Queen Mary University of London
— Academic Independence and Expert Opinions in ISDS

Fernando Dias Simões, Chinese University of Hong Kong
— Academics, Biases and Conflicts of Interest

Thomas Schultz, CIDS, Geneva, and Niccolò Ridi, University of Liverpool
— Empirically Mapping Arbitration Scholarship: A Scientometric Analysis

Franck Latty, University Paris Nanterre
— The Teachings of the Most Highly Qualified Publicists of the Various Nations’ in Investment Arbitration

Paolo Vargiu, University of Leicester
— Establishing a Dialogue among Arbitrators, Academics and Other Actors in International Investment law

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Panel 12  Public Participation

Chair Anna De Luca, Bocconi University

Jörg Philipp Terhechte, Leuphana Universität Lüneburg
— Public Participation in International Investment Disputes – Ruin or Continuing Revolution of the System?

Karsten Nowrot & Emily Sipiorski, University of Hamburg
— Towards a Republicanization of International Investment Law? Conceptualizing the Legitimatory Value of Public Participation in the Negotiation and Enforcement of International Investment Agreements

Kendra Magraw, Graduate Institute, Geneva (IHEID)
— Trends and ISDS Backlash related to Non-Disputing Treaty Party Submissions

Jinyup Kim, University of Glasgow
— Amicus Curiae in International Investment Arbitrations: An Instrument to Help Indigenous Peoples and Local Communities Tackle Biopiracy

José Manuel García Represa, Dechert
— Intervention of Non-Disputing Parties: Pros, Cons and Legitimacy Concerns

12.30 / 14.00  Lunch Break
14.00 / 15.30 **Panel 13 Experts**

**Chair** Marc Bungenberg, Saarland University

Sébastien Manciaux, University of Burgundy
— Some Thoughts on the Independence of Party-Appointed Experts

Julian Scheu, University of Cologne
— From Hired Gun to Fourth Arbitrator: Identifying the Role of Experts in International Investment Arbitration

Marie Stoyanov, Allen & Overy
— Do Experts Speak the Same Language as Arbitrators?

Matthias Cazier-Darmois, FTI Consulting
— Perspective of an Expert on Frequently Asked Questions

Luis Bergolla Álvarez, Stanford Law School

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15.30 / 16.00 **Coffee Break** 🍵

16.00 / 17.30 **Panel 14 Mediators**

**Chair** Katia Fach Gómez, University of Zaragoza

Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas
— Between Utopia and Realism: Mediation and the Settlement of Investment Disputes

Peter Cameron, University of Dundee
— Mediation in International Energy Disputes

Calliope M. Sudborough, IÉSEG School of Management
— Mediation of Sovereign Debt Disputes

Phoebe Winch, Office of International Law, Attorney-General’s Department, Canberra
— Transparency and Confidentiality in International Investment Mediation

Alina Leoveanu, Mayer Brown
— Mediating with States under the ICC Mediation Rules

**Panel 13 Experts**

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16.00 / 17.30 **Panel 15 Hidden/Invisible Actors**

**Chair** Shotaro Hamamoto, Kyoto University

Raymundo Tullio Treves, Max Planck Institute for Comparative Public Law and International Law
— Other Actors in Investment Arbitration: Community Value
**Concluding Remarks by the Organisers**

*Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas*  
*Katia Fach Gómez, University of Zaragoza*  
*Anastasios Gourgourinis, National and Kapodistrian University of Athens*

**Panel 16: Investment Promotion Agencies, Investment Facilitation Mechanisms, and Political Risk Insurance**

**Chair Clotilde Jourdain-Fortier, University of Burgundy**

**Gustavo Laborde, Laborde Law**  
— The Multilateral Investment Guarantee Agency: Role and Overview

**Jana Jandova, Deloitte**  
— How Efficient Are Investment Promotion Agencies?

**Thomas Papanastasiou, Neapolis University Pafos**  
— The Implications of Political Risk Insurance (PRI) Policies in the Governance of Energy Projects

**Sufyan El Droubi, University of Dundee**  
— National Focal Points and Joint Committees: Investment Facilitation Mechanisms in the Brazilian CFIAs

**17.30 / 18.30 Concluding Keynote**

*Diego Fernandez Arroyo, Sciences Po.*

**18.30 / 18.45 Concluding Remarks by the Organisers**

*Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas*  
*Katia Fach Gómez, University of Zaragoza*  
*Anastasios Gourgourinis, National and Kapodistrian University of Athens*