

## CENTRE FOR INTERNATIONAL LAW

### Seminar Series

10 March 2011, Thursday, 4.00 PM to 5.30 PM

Raffles Room, Level 3 @ Maxwell Chambers  
32 Maxwell Road, Singapore 069115 (Location map on next page)

# CIL

## INTERNATIONAL INVESTMENT TREATY JURISPRUDENCE: FRAGMENTATION AND CONSISTENCY

### SPEAKER



J Christopher Thomas QC

J. CHRISTOPHER THOMAS, Q.C. is a lawyer and Chartered Arbitrator who has practiced for many years in the field of international trade and commercial law with emphasis on trade and investment regulation and dispute settlement. He has been counsel in many international disputes, in domestic administrative law procedures (anti-dumping and countervailing duty cases), and in contentious proceedings before the superior courts of Canada. He now acts primarily as an arbitrator in international investment, trade and commercial disputes. He is Editor of Investor-State LawGuide, an on-line research database which is being launched in February 2011. He was appointed Queen's Counsel in 2002 and has been designated a Chartered Arbitrator by the ADR Institute of Canada.

### VENUE SPONSOR



### INTRODUCTION

Bilateral investment treaties and free trade agreements with investment protection chapters continue to be negotiated by States and then invoked by claimants. The result has been a large and rapidly growing body of case law which is the subject of close scrutiny by scholars and practitioners alike. Many differences of doctrinal opinion have emerged. At the Madrid meeting of the International Bar Association in October 2009, James Crawford spoke of the deep divisions in the case law on some of the fundamental issues presented in these arbitrations. While true, it is also the case that in many areas of this developing law, there has been substantial congruence and consistency in the treatment of many issues common to this type of arbitration. Moreover, the divergences in approach may in part be attributable to differences in the substantive content of the applicable investment treaties. Each tribunal must apply the rules of treaty interpretation to the treaty before it, not some other treaty, and the expression of specific obligations will vary from one treaty to the next. Hence one should not expect complete consistency in the jurisprudence.

This Seminar will focus on three areas where fragmentation in investment treaty law can occur: procedurally (as a result of the operation of different arbitral rules invoked by claimants), substantively (as a result of the varied expression of the substantive obligations undertaken by States in treaties), and in the review of awards (comparing ICSID ad hoc annulment and judicial review by domestic courts of the place of arbitration). One question worth considering is how much fragmentation is really occurring? Another is whether it is correct to consider international investment arbitration law as a single legal system, considering that tribunals are having to apply different treaties (even if they deal with the same subject matter of investment protection). This Seminar will explore these questions.

In addition to his law practice, for the past two years, J Christopher Thomas QC has led an initiative to "map the universe" of international investment treaty law and to present it in a new software environment. The culmination of this project is Investor-State LawGuide. At the conclusion of the seminar, he will provide a demonstration of this new way of viewing international investment treaty law.



FREE ADMISSION Email Geraldine Ng at [cilnwfg@nus.edu.sg](mailto:cilnwfg@nus.edu.sg) to register.

### ABOUT THE CENTRE FOR INTERNATIONAL LAW (CIL)

The Centre for International Law (CIL) is based at the Bukit Timah campus of the National University of Singapore. CIL's mission is to enable Singapore and the Asia-Pacific region to play a more significant role in the promotion and development of international law and policy. The Centre's aim is to become the region's intellectual hub and thought leader for research on and teaching of international law and policy. The Director of CIL is Associate Professor Robert C Beckman and the Deputy Director is Dr Navin Raj. For more information, please visit the CIL website at <http://www.cil.nus.edu.sg> or email: [cil.info@nus.edu.sg](mailto:cil.info@nus.edu.sg)

# Location Map

## Maxwell Chambers

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Singapore 069115

