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# The 3rd Annual Singapore International Investment Arbitration Conference

12 December 2012, Wednesday, Azalea Room, Shangri-La Singapore

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## Can Investment Treaty Arbitration Be Improved?

### INTRODUCTION

International arbitration of disputes between foreign investors and States is rapidly taking hold in Asia.

In recent years, claims have been brought against Bangladesh, Cambodia, China, India, Indonesia, Sri Lanka, Thailand, and Vietnam. International law firms have increasingly regarded this remedy as an important area of legal practice.

CIL has organised two Investment Arbitration Conferences in the past and this third Conference is intended to provide further legal education in this rapidly changing area of law. The Faculty consists of expert practitioners, scholars, arbitrators and government officials (with treaty drafting and experience in handling such claims), all highly knowledgeable of this area of practice.



**5.5 PUBLIC CPD POINTS**

### 5.5 Public CPD Points

**Practice Area: Alternative Dispute Resolution**

**Training Category: General**

#### **SILE Attendance Policy**

A participant who is present at the event, and is not at anytime absent for more than **15 minutes** after the commencement of the activity, shall be awarded the full CPD Points approved by SILE. To ensure the award of CPD Points, participants requiring CPD Points are reminded to **sign-in** on arrival and **sign-out** at the conclusion of the event, at the Registration Counter. Please refer to [www.sileCPDcentre.org.sg](http://www.sileCPDcentre.org.sg) for more information on the Attendance Policy and the CPD Scheme.

**PROGRAMME**

9:00am - 9:15am

**WELCOME CEREMONY**

9:15am - 10:30am

**Can investment treaty arbitration be improved and if so, in what ways?**

This is a general introductory session in which experts in the field will cover some of the more challenging areas of practice and discuss whether it needs to be improved, and if so, how.

**Panellists**

M Sornarajah, Faculty of Law, National University of Singapore, Singapore  
Daniel M. Price, Daniel M. Price PLLC, Washington, D.C., USA  
Philippe Sands, Q.C., Matrix Chambers, London, UK

*10:30am – 10:45am Morning Refreshment Break*

10:45am - 12:00nn

**Should the institution of party-appointed arbitrators be done away with?**

One of the issues which has come to the fore, particularly in the last year, has been a debate as to whether the institution of party-appointed arbitrators should be maintained in the investor-state arbitration field. Some experienced arbitrators maintain that the selection of tribunal members should be changed in favour of other, more institutional mechanisms of appointment; others have argued that this is an important feature of party autonomy that must be maintained. This session will discuss the arguments for and against the appointment of arbitrators by the disputing parties.

**Panellists**

Sabine Konrad, K&L Gates LLP, Frankfurt, Germany  
John Savage, King & Spalding LLP, Singapore  
Peter Turner, Freshfields, Paris, France

*12:00nn - 1:15pm Lunch*

**LUNCHEON SPEAKER**

Mustaqeem De Gama  
Director of Legal International Trade and Investment, Republic of South Africa

Some states have begun to express reservations as to whether bilateral investment treaties are necessary or even appropriate, and some have expressed concerns as to the expression of legal obligations contained in such treaties. Mr Mustaqeem De Gama of the government of South Africa will discuss the current thinking of the South African government as to these issues.

*programme continued ...*

1:15pm - 3:00pm

**Is predictability and consistency of arbitral decision-making important? Is it attainable?**

Investor-state arbitration jurisprudence contains a number of areas of substantive law on which there have been deep divisions in the approaches taken by tribunals. This raises questions as to the predictability and consistency of arbitral decision-making and has an impact on claims. This panel will discuss this issue and consider ways to improve consistency.

**Panellists**

Mark S. McNeill, Shearman & Sterling LLP, Paris, France

Andrew Newcombe, University of Victoria, Canada

Jürgen Kurtz, University of Melbourne Law School, Australia

Michael Ewing-Chow, Centre for International Law, National University of Singapore

*3:00pm – 3:15pm Afternoon Refreshment Break*

3:15pm - 4:30pm

**Are BITs and FTAs drafted with sufficient clarity to give guidance to tribunals?**

Many investment treaties are drafted in relatively simple and general terms. This form of drafting tends to confer discretion on tribunals to determine the scope and content of the substantive obligations. A number of recent treaties have been drafted with more precision and have addressed such specific questions as prudential measures taken by states in relation to financial services. The question to be addressed by this panel will be whether the drafters of treaties have attained a sufficient degree of clarity or whether the process could be improved by more detailed treaty texts.

**Panellists**

Mark Feldman, Peking University School of Transnational Law, Shenzhen, China

Makhdoom Ali Khan, Fazle Ghani, Karachi, Pakistan

Bernard Hanotiau, Hanotiau & van den Berg, Brussels, Belgium

4:30pm - 5:00pm **Wrap up "open floor discussion" and close of day**

Drinks reception sponsored by



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**CAN INVESTMENT TREATY ARBITRATION BE IMPROVED?**

Please email completed registration form to [cilnwfg@nus.edu.sg](mailto:cilnwfg@nus.edu.sg) or fax your form to (65) 6469 2312.

For enquiries, please email Geraldine Ng at [cilnwfg@nus.edu.sg](mailto:cilnwfg@nus.edu.sg)

**REGISTRANT DETAILS**

**5.5 Public CPD Points**

Practice Area: Alternative Dispute Resolution

Training Category: General

Professor / Dr / Mr / Mrs / Ms \_\_\_\_\_ Surname \_\_\_\_\_

Organisation \_\_\_\_\_

Designation \_\_\_\_\_

Address \_\_\_\_\_

Country \_\_\_\_\_

Tel \_\_\_\_\_ Mobile \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

**Claiming CPD Points: YES/NO AAS No.** \_\_\_\_\_

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**CONFERENCE RATES Please circle your rate (Rates include all relevant taxes):**

Note: The registration fee includes conference materials, refreshments and lunch during the conference.

Standard	<b>S\$720 nett</b>
Govt Official (Local / Overseas)	<b>S\$500 nett</b>
Singapore Academy of Law / SI Arb / CI Arb / SCCA Members	<b>S\$600 nett</b> Your Membership # ( )
Academic	<b>S\$350 nett</b>
Student (Local / Overseas)	<b>S\$ 50 nett</b> Your University ( )
Singapore International Arbitration Academy participant	<b>FREE ADMISSION</b>

**PAYMENT METHODS**

**CHEQUE / BANK DRAFT** Crossed cheque / Bank Draft in Singapore Dollars made payable to NATIONAL UNIVERSITY OF SINGAPORE. Please mail your payment together with this registration form to Ms Geraldine Ng, Centre for International Law, 469 Bukit Timah Road, Block B, Level 2, Singapore 259756.

**CREDIT CARD** VISA / MasterCard / AMEX (Please circle)

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