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ILA BRITISH BRANCH ANNUAL CONFERENCE:
*NEW INTERNATIONAL ORDER IN AN
ISOLATIONIST WORLD*

22-23 SEPTEMBER 2017

CONFERENCE PARTNERS



Foreign &
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Office

VOLTERRA FIETTA

ILA BRITISH BRANCH ANNUAL CONFERENCE:
NEW INTERNATIONAL ORDER IN AN ISOLATIONIST WORLD
22-23 SEPTEMBER 2017

The conference theme *New International Order in an Isolationist World* will address the pressing challenges faced by international law in the political and economic climate prevailing in many regions of the world.

These include the challenges caused by rising populism in Europe and North America and reactions against free trade and economic interdependence, manifested most obviously in the Brexit referendum and policies advocated by President Trump, the changing foreign policies of many countries towards military and diplomatic intervention in politically unstable regions and the flows of refugees into Europe, the role of international criminal law in the modern world along with the challenges faced by the International Criminal Court, and the increased scrutiny of the legitimacy of investment treaty arbitration, whether as a standalone system or as an aspect of mixed trade and investment agreements.

The conference will include six panels covering the following topics: peace and security; human rights and international humanitarian law; international trade law; international investment law; regionalism; and accountability and remedies under international law, and will include selected speakers drawn from private practice, the public sector and academia in order to incorporate diverse perspectives, both theoretical and practical, on the conference theme.

AGENDA

Day 1: Friday 22 September - Morning

Start Time	End Time	
▶ 9.00 am	▶ 9.30 am	▶ General Registration and Coffee
▶ 9.30 am	▶ 10.30 am	▶ Keynote Speech: Ben Emmerson QC, UN Special Rapporteur on Counter-Terrorism and Human Rights
▶ 10.30 am	▶ 12.00 pm	▶ Panel: Peace and Security • MODERATOR: Professor Antonios Tzanakopoulos, University of Oxford • Felipe Alviar-Baquero, INDECS Consulting Limited – <i>Helping ex-guerrilla children in a post-war Colombia is the key for a long term peace process</i> • Aristoteles Constantinides, University of Cyprus – <i>The Security Council and 'frozen conflicts': the case of Cyprus</i> • Steven Haines, University of Greenwich – <i>From Lucens to Buenos Aires: The Formulation and Adoption of the Safe Schools Declaration</i> • Anna McLeod, Foreign & Commonwealth Office – <i>International law and Cyberspace: principles and practice</i>
▶ 12.00 pm	▶ 1.00 pm	▶ Lunch
▶ 1.00 pm	▶ 2.30 pm	▶ Panel: Human Rights • MODERATOR: Professor Mary Footer, University of Nottingham • Mr. Michael K Addo, Notre Dame University in London / UN Working Group on Business & Human Rights – <i>The United Nations Special Procedures System in an Isolationist World</i> • Dr. David James Cantor, The Refugee Law Initiative • <i>The End of Refugee Law?</i> • Dr. Edward Guntrip, University of Sussex – <i>International Investment Law in an Isolationist World: A Human Rights Perspective</i> • Claire Methven O'Brien, The Danish Institute for Human Rights – <i>Home states' duty to regulate TNCS abroad: A case of extraterritorial overreach?</i>
▶ 2.30 pm	▶ 3.00 pm	▶ Coffee Break

AGENDA

Day 1: Friday 22 September - Afternoon

Start Time		End Time	
▶ 3.00 pm	▶ 4.30 pm		Panel: Trade • MODERATOR: Audley Sheppard QC, Clifford Chance • Roderick Abbott, European Centre for International Political Economy – <i>Order and Disorder in the International Trade World, and What Isolationism Means in the Global Trade Context</i> • Stephen Adams, Global Counsel – <i>Trade policy for an isolationist world?</i> • David Browitt, Department for International Trade Legal Advisers, Government Legal Department – <i>Supporting Government in the new world of trade policy</i> • Dr. Federico Ortino, King's College London/ Clifford Chance – <i>Services in the future UK-EU FTA: Options for a 'bold and ambitious' agreement</i>
▶ 4.30 pm	▶ 6.00 pm		Panel: Accountability and Remedy • MODERATOR: Rae Lindsay, Clifford Chance • Shehzad Charania MBE, UK Attorney General's Office – <i>The Future of the ICC: the Role of States</i> • Paul Kearney, EBRD – <i>The MDB Suspension and Debarment Regime – a perspective from the EBRD</i> • Tim Otty QC, Blackstone Chambers – <i>Domestic Courts and scrutiny of State conduct: recent developments in state and diplomatic immunity and foreign act of state non-justiciability</i> • Richard Rogers, Global Diligence – <i>Victim led justice at the ICC: Challenging kleptocracies</i> • Dr. Jennifer Zerk, Jennifer Zerk Consulting – <i>Access to remedy for business-related human rights abuses: towards more responsive and resilient domestic remedial systems</i>
▶ 6.00 pm	▶ 7.00 pm		Drinks reception
▶ 6.00 pm	▶ 6.15 pm		ILA British Branch ExecCouncil Meeting
▶ 6.15 pm	▶ 7.00 pm		ILA British Branch General Meeting
▶ 7.00 pm	▶ 9.00 pm		Dinner (by ticket only)

AGENDA

Day 2: Saturday 23 September - Morning

Start Time	End Time	
▶ 9.30 am	▶ 10.00 am	▶ General Registration and Coffee
▶ 10.00 am	▶ 11.30 am	▶ Panel: Regionalism • MODERATOR: Jeremy Carver, International Law Association • Professor Kerry Brown, Director, Lau China Institute • <i>China's World: What Does China Want</i> • Malgosia Fitzmaurice, Queen Mary, University of London • <i>The Arctic: The Curious Case of Internal and External Isolation</i> • Richard Schofield, King's College London • <i>Changing borders in the Middle East?</i>
▶ 11.30 am	▶ 1.00 pm	▶ Panel: Investment • MODERATOR: Charles Claypoole, Latham & Watkins • Christophe Bondy, Cooley LLP • <i>Tweaking, updating, or tearing up? Potential directions for NAFTA reform</i> • Markus Burgstaller, Hogan Lovells • <i>Is denunciation of investment treaties becoming a trend?</i> • Alejandro Escobar, Baker Botts LLP • <i>Walking the Line: 20 Years of Investment Treaty Arbitration in Latin America</i> • Luis Gonzalez Garcia, Matrix Chambers • <i>A Mexican perspective on the value of NAFTA Investment Arbitration</i>
▶ 1.00 pm	▶ 1.30 pm	▶ President's Round-Up

KEYNOTE SPEECH:

THE FUTURE OF NATIONAL SECURITY AND HUMAN RIGHTS PROTECTION IN AN INCREASINGLY UNPREDICTABLE WORLD



BEN EMMERSON QC

Former UN Special Rapporteur on Counter-Terrorism and Human Rights

Ben Emmerson QC is an international lawyer, specialising in European human rights law, public international law and international criminal law. He was the UN Special Rapporteur on Counter Terrorism and Human Rights from 2011 to 2017. He was a founder member of Matrix Chambers and has 25 years' experience litigating before international courts and tribunals including the International Court of Justice, the European Court of Human Rights, the European Court of Justice, the International Criminal Court and the International Criminal Tribunal for the Former Yugoslavia. Within the UK he is a deputy High Court Judge, a Master of the Bench of Middle Temple and an Honorary Fellow of Mansfield College, Oxford. He also currently sits as a judge of the Appeal Chambers of the International Criminal Tribunals for Rwanda and the Former Yugoslavia.

PANEL: PEACE AND SECURITY

MODERATOR:

PROFESSOR ANTONIOS TZANAKOPOULOS

UNIVERSITY OF OXFORD



FELIPE ALVIAR-BAQUERO, INDECS Consulting Limited

Helping ex-guerrilla children in a post-war Colombia is the key for a long term peace process

Felipe will talk about how children in Colombia, which participates in the guerrilla forces need help and are the key for a long term peace process. He will be talking about the work that Children Change Colombia does and what they see are the opportunities and barriers to help such children including education and land distribution.

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Felipe Alviar-Baquero is a Solicitor of the Senior Court of England and Wales. He worked at Slaughter and May and Latham & Watkins, specialising in international project finance. Felipe now works at INDECS Consulting Limited, a independent insurance consultancy company where, he works in some of the largest project finance transactions in the world advising lenders, governmental organisations and corporates. Felipe has experience working in Latin America and in Asia and speaks Spanish fluently. He holds a First Class Honours degree in Law and Business Administration from the University of Kent and a Distinction in the B.C.L. from Oxford University. Felipe was born in Colombia and is a Trustee of the charity Children Change Colombia. He is a public speaker and is an ambassador for a number of charities.



ARISTOTELES CONSTANTINIDES, University of Cyprus

The Security Council and 'frozen conflicts': the case of Cyprus

The Security Council was first seized of the Cyprus issue in December 1963 and has remained involved ever since. The paper will present an overview of the Council's involvement in the various phases of the problem: the establishment of the United Nations Force in Cyprus in 1964 with the consent of the (Greek) Cypriot Government; the reaction towards Turkey's use of force against Cyprus in 1974; the robust stance against the secession of the 'Turkish Republic of Northern Cyprus' in 1983; and the endorsement of the framework for a federal settlement as agreed by the Greek and Turkish Cypriot leaders and was further elaborated by UN Secretary-Generals. In presenting the Council's involvement in the Cyprus problem, the paper will trace and highlight similarities with other 'frozen conflicts' such as the absence of Chapter VII action, reliance on means of peaceful settlement including (never-ending) negotiations and good offices of the Secretary-General, and the role of peace-keeping forces in maintaining the status quo.

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Aristoteles Constantinides is an Associate Professor of International Law and Human Rights at the Law Department of the University of Cyprus. He holds a PhD in International Law from Aristotle University of Thessaloniki, Greece. He has held visiting positions at the European Inter-University Center for Human Rights and Democratization in Venice, the University of Amsterdam, the University of Grenoble-Alpes and McGill University. He was a member of the ILA Committee on Non-State Actors and is currently a member of the ILA Committee on Recognition/Non-Recognition in International Law. His research interests and publications include the law of the United Nations, statehood and recognition, international human rights law and armed groups. He is member of the team of lawyers advising the President of the Republic of Cyprus and the Greek Cypriot negotiator in the talks for the settlement of the Cyprus problem and participated in the UN Conference on Cyprus in Geneva and Crans Montana. In 2017 he was awarded the first-ever quality teaching award of the University of Cyprus.

PANEL: PEACE AND SECURITY



STEVEN HAINES, University of Greenwich

From Lucens to Buenos Aires: The Formulation and Adoption of the Safe Schools Declaration

This will give an account of the rationale for and the drafting of the International Guidelines for the Military Use of Schools in Conflict, followed by their inclusion at the core of the Safe Schools Declaration championed by Norway and Argentina. It will also briefly provide information on the British position (the UK has not adopted the Guidelines to date).

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Steven Haines has been Professor of Public International Law at the University of Greenwich since 2012, prior to which he was on the Management Board of the Geneva Centre for Security Policy and an Adjunct Faculty member of the Geneva Academy of International Humanitarian Law and Human Rights teaching on its LLM Programme in IHL. A retired officer in the British Armed Forces, his responsibilities in the Ministry of Defence included chairing the Editorial Board of the UK Manual of the Law of Armed Conflict (OUP, 2004). Since 2012 he has been legal and military consultant to the Global Coalition for the Protection of Education in Armed Conflict and was the author of its Guidelines on the Military Use of Schools, which have so far been endorsed by 62 states.



ANNA MCLEOD, Foreign & Commonwealth Office

International law and Cyberspace: principles and practice

The interpretation of international law in cyberspace is one of the key challenges facing states and the lawyers who advise them. States have traditionally been reluctant to comment publicly on rapidly developing and often sensitive technologies. However as cyber operations between states become more prevalent, it is incumbent upon states to demonstrate, by their practice and their public statements, the international law principles that guide their use of cyber capabilities, in the interests of greater stability in international relations and the promotion of a rules based international order. Anna will draw on her extensive experience of advising on cyber and international law at the Foreign Office to share views on the UK's role in state led negotiations on cyber at the UN; challenges for international lawyers advising on cyber; and what the future may hold for international law in cyberspace.

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Anna McLeod is Senior Legal Adviser on International Law at the Attorney General's Office, where she is currently seconded from the Legal Directorate at the Foreign and Commonwealth Office. Whilst at FCO, Anna advised Senior Officials and Ministers on international law in a range of policy contexts including the UK delegation to UN negotiations on Cyber and International law; as legal adviser to geographical desks including Syria; Libya; and the Middle East Peace Process teams; and as UK Agent before the European Court of Human Rights. Anna co-chaired the joint FCO-King's College seminar series of "Conversations on Law and War" with Dr Philippa Webb of King's College London. Prior to FCO, Anna was in the Operational and International Humanitarian Law team at the UK MoD. Anna began her legal career at Allen & Overy LLP after graduating with a BA in Modern History from Keble College, Oxford.

PANEL: HUMAN RIGHTS

MODERATOR:

PROFESSOR MARY FOOTER
UNIVERSITY OF NOTTINGHAM



MR. MICHAEL K. ADDO, Notre Dame University in London / UN Working Group on Business & Human Rights

The United Nations Special Procedures System in an Isolationist World

In an increasingly isolationist world order, the role of the United Nations Special Procedures system – including Special Rapporteurs, Independent Experts and Working Groups – in ensuring universal respect for human rights has become ever more pressing. With their broad mandates and flexible working methods, mandate holders are well placed to respond to isolationist arguments. This presentation will review how special procedure mandate holders have adapted their responsibilities using country visits, communications and reporting to challenge all member States of the United Nations on their human rights performance.

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Mr. Michael K. Addo is an academic expert in international human rights law with a particular focus on its implications for international business policy. He is currently director of the Law Program at the London Global Gateway at the University of Notre Dame where he researches and teaches international law, human rights and human rights & business policy. In this capacity, Mr. Addo has successfully supervised doctoral research in diverse fields of international human rights law including in the field of business and human rights. Mr. Addo has authored and edited several books and scholarly publications including *The Legal Nature of International Human Rights* (Nijhoff, 2014) alongside one of the earliest collection of essays on *Human Rights Standards and the Responsibility of Transnational Corporations* (Nijhoff 1998).



DR. DAVID JAMES CANTOR, The Refugee Law Initiative

The End of Refugee Law?

Debates about the end of the global refugee protection regime suggest that refugee law has somehow failed in its objectives. Can it be that refugee law has outlived its utility? Has it failed to articulate a shared set of values in international relations? The narrow discipline of refugee law might seem poorly positioned to contribute to 'big picture' debates about the future of refugee law and protection. However, this is not to say that perspectives from within the refugee law discipline might not usefully complement broader social and political analyses. Developing just such an analysis, this paper explores the potential of refugee law to contribute to the development of a new global vision of refugee protection.

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Dr. David James Cantor is the founding Director of the Refugee Law Initiative (RLI) at the School of Advanced Study, University of London, where he is also a Reader in Human Rights Law. Since 2000, David has worked in the field of refugee law for organisations such as the Refugee Legal Centre and UNHCR and provided training and advice to governments, INGOs and NGOs around the world. He is the author of five books, two special issues and over 30 journal articles and book chapters and serves as Editor-in-Chief of the International Refugee Law books series published by Brill.

PANEL: HUMAN RIGHTS



DR. EDWARD GUNTRIP, University of Sussex

International Investment Law in an Isolationist World: A Human Rights Perspective

This paper asks whether contemporary state conduct can accurately be described as 'isolationist' and whether it is creating a 'new' international order. To consider both of these terms, examples are drawn from the intersection of international investment law and international human rights law. The paper initially considers whether there are human rights justifications for isolationist conduct relating to international investment law. To determine whether this creates a 'new' international order, comparisons are drawn between current practice and state conduct that occurred during the development of the international human rights law and international investment law regimes.

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Dr. Edward Guntrip is a Lecturer in Law at the University of Sussex. Edward's research focuses on the intersection of international human rights law and international investment law. Edward has written blogs for EJIL Talk!, published in the International and Comparative Law Quarterly and is currently assisting the United Nations Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.



CLAIRE METHVEN O'BRIEN, The Danish Institute for Human Rights

Home states' duty to regulate TNCs abroad: A case of extraterritorial overreach?

The UN Committee on Economic, Social and Cultural Rights has recently suggested that TNCs' home states have an extraterritorial obligation to protect against human rights abuses in host states. Many advocates of a business and human rights treaty rely on similar claims. But what is their legal basis? This presentation will critically explore this question focusing in particular on issues of jurisdiction, attribution and responsibility, and positive obligations, with reference to international and regional human rights cases and materials outside the business and human rights area.

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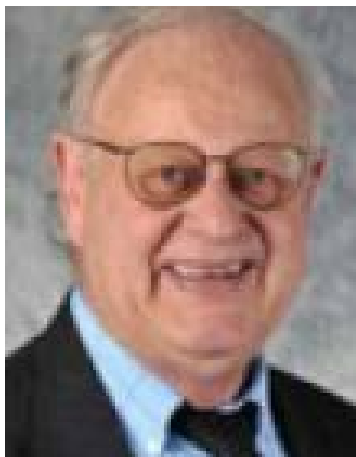
Claire Methven O'Brien is Strategic Adviser on Human Rights and Business at the Danish Institute for Human Rights in which role she has provided technical advice and capacity building to a wide range of multinational enterprises, governments, international and civil society organisations. Claire has a PhD in Law from the European University Institute, Florence and other degrees from the University of Cambridge, the London School of Economics and Political Science and City University, London. She has been called to the London Bar. She is author of the Council of Europe's forthcoming *Handbook for Legal Professionals on Business and Human Rights* and Co-editor (with Olga Martin Ortega) of *Public procurement and Human Rights: Opportunities, risks and dilemmas for the state as buyer* to be published by Edward Elgar in 2018.

PANEL: TRADE

MODERATOR:

AUDLEY SHEPPARD QC

CLIFFORD CHANCE



RODERICK ABBOTT, European Centre for International Political Economy

Order and Disorder in the International Trade World, and What Isolationism Means in the Global Trade Context

The presentation will refer to WTO and trade agreements, and President Trump's declarations on the subject. And the British decision to leave the EU and the related new trade agreements.

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Roderick Abbott is a member of ECIPE's Steering Committee and Advisory Board and a Senior Adviser on trade policy at ECIPE, covering issues which go from GATT and WTO to European trade policy. Although officially retired since 2005, he remains fascinated with the trade world. He is also a part-time consultant with KREAB, a Swedish economic consultancy in Brussels.

After 10 years doing trade work with the British Government, he spent 30 years in DG Trade at the European Commission. During its time at the Commission, he was working as a central member of the European negotiating teams during two GATT negotiation rounds: the Tokyo Round (1975-79) and the Uruguay Round (1987-93).

In the early years of WTO, he was the EU Ambassador in Geneva and he was later a close collaborator with Pascal Lamy, the Trade Commissioner. After leaving the Commission, he was for three years a Deputy Director General at the WTO in Geneva. He has written about how the Doha Round might have been negotiated differently, and about dispute settlement in the WTO – with a focus on the participation of developing countries in years 1995 to 2005.



STEPHEN ADAMS, Global Counsel

Trade policy for an isolationist world?

For much of the period before 2008, trade policy often assumed a one-way dynamic of integration in the global economy and convergence in approaches to regulation. Do such assumptions need to be reassessed, and what might this mean for trade policymaking?

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Stephen Adams is a Director of Global Counsel. Stephen has more than fifteen years of experience in European and British public policy and regulation, chiefly in the field of international economic policy, trade policy, cross-border financial services policy, and European integration.

He has advised senior politicians and policymakers in roles in the European Parliament, European Commission and Whitehall on a range of business policy and trade issues, generally with a focus on cross-border issues, particularly for financial services. He has also been an Executive Director of Goldman Sachs International, based in London.

At Global Counsel, Stephen leads teams advising Global Counsel clients navigating EU and UK policymaking and politics. He has advised clients across a wide range on policy areas and strategic challenges, generally with a cross-border dimension, from banks adapting to a diverging landscape of financial services regulation to global manufacturers anticipating the challenges of a UK exit from the EU single market.

PANEL: TRADE



DR. FEDERICO ORTINO, King's College London/ Clifford Chance

Services in the future UK-EU FTA: Options for a 'bold and ambitious' agreement

The presentation will focus on the options for liberalising trade in services in a 'bold and ambitious' free trade agreement between the UK and the EU. The analysis will rely on an examination of the approaches adopted at the multilateral level by the GATS and by the many regional and bilateral agreements concluded in the past twenty years (with a particular focus on the most recent ones concluded by the EU). The analysis will also try to identify options (as well as any related challenge) available in order to achieve a level of integration that comes closer to the one currently enjoyed by many service providers under the EU single market.

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Dr. Federico Ortino is Reader in International Economic Law at King's College London, where he has been involved in a number of high profile research projects related to WTO law, international investment law and arbitration and the law of the EU internal market. He is a renowned expert on international trade and international economic governance and serves as a member of the ILA Committee on The Rule of Law and International Investment Law, the Society of International Economic Law (of which he is a Founding Member and Co-Treasurer) and the Investment Treaty Forum. He has written extensively on international trade issues and is an editorial board member of the Journal of International Economic Law, the Yearbook on International Investment Law and Policy and the Journal of International Dispute Settlement. He recently joined the Brexit advisory team of Clifford Chance LLP, on which his international trade expertise assists the firm in providing a range of Brexit scenario advice to clients. Dr Ortino has also served as an international trade practitioner at a high level, with his previous posts including co-rapporteur to the ILA Committee on the Law of Foreign Investment and Legal Officer for the Division on Investment Enterprises at the UN Conference on Trade and Development in 2003.

DAVID BROWITT, Department for International Trade Legal Advisers,
Government Legal Department

Supporting Government in the new world of trade policy

David Browitt will speak about the different types of challenge facing the UK's Department for International Trade, and in particular its legal team, as they prepare for the UK's future role in trade and trade policy. What are the questions facing the DIT Legal Team, what are the areas on which we are focusing, and what are the skills that a Government Lawyer will need in this new world?

PANEL: ACCOUNTABILITY AND REMEDY

MODERATOR:

RAE LINDSAY

CLIFFORD CHANCE



SHEHZAD CHARANIA MBE, UK Attorney General's Office

The Future of the ICC: the Role of States

The 1990s was the high point for the international criminal justice project. Today, 15 years on from States establishing the ICC, and approximately 25 years since the ICTY and ICTR came into being, the future of the project is uncertain. If we are living in a more isolationist world, how does that affect prospects for the progress of such supranational organisations? I will examine this question through the perspective of four themes: relevance, credibility, legitimacy and desirability, of international criminal justice. I will consider the evolution of the project, evaluate existing challenges, and offer conclusions as well as pose some questions for States to consider in taking the project forward.

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Shehzad Charania MBE is the Head of International and EU Law at the Attorney General's Office, and International Lawyer to the Prime Minister's Office. He is on secondment to these roles from the Foreign and Commonwealth Office. Prior to his current position, Shehzad was the Legal Adviser and Head of International Law at the British Embassy in The Hague, with conduct and oversight over implementation of the UK's international justice policy. He was also the UK's Deputy Agent to the International Court of Justice. Shehzad is a Member of the British Institute of International and Comparative Law Public International Law Advisory Panel. He began his career as a finance lawyer at the city firm Linklaters, where he spent time in the firm's Bratislava office, as well as undertaking secondments to Credit Suisse and JP Morgan.



PAUL KEARNEY, EBRD

The MDB Suspension and Debarment Regime – a perspective from the EBRD

In September 2006, various multilateral development banks, including the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group and the World Bank Group (the "MDBs"), issued a joint statement. In their statement the MDBs outlined various joint actions which they planned to take, designed to combat fraud and corruption. Since 2006, the MDBs have given flesh to that statement through a series of concrete measures, including an agreement for the mutual enforcement of their respective debarment decisions. This presentation will take a high-level view of those measures, as seen from the perspective of the European Bank for Reconstruction and Development.

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Paul Kearney has been the Enforcement Commissioner at the European Bank for Reconstruction and Development ("EBRD") since November 2015. In that role, he is the first tier decision-maker under EBRD's revised Enforcement Policy and Procedures. Mr. Kearney joined EBRD in 1998 and there has worked on a wide range of matters, including:– the financing and restructuring of EBRD projects; the development of EBRD's carbon credit product line; a range of contentious, enforcement and criminal cases; and institutional matters. Previously, Mr. Kearney worked with McCann FitzGerald, in Dublin and in London, and with Salans Hertzfeld & Heilbronn, in London. Mr. Kearney was admitted as a solicitor in Ireland in 1988 and had been admitted as a solicitor in England and Wales since 1991.

PANEL: ACCOUNTABILITY AND REMEDY



TIM OTTY QC, Blackstone Chambers

Domestic Courts and scrutiny of State conduct: recent developments in state and diplomatic immunity and foreign act of state non-justiciability

This session will address recent High Court, Court of Appeal and Supreme Court cases relating to the doctrine of foreign act of state as applied in state defendant and private defendant claims, non-justiciability more broadly, the commercial activity exception to diplomatic immunity, claims against state agents for human trafficking and state immunity in the employment context. Cases to be considered will include *Bel Haj v Straw*, *Reyes v Al-Malki*, *Benkharbouche v Libya* and *Law Debenture v Ukraine*.

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Tim Otty QC is widely recognised as a leader in public international law, sanctions, public law and civil liberties and human rights, appearing in some of the most high profile cases of recent times. He has appeared in more than 40 cases in the European Court of Human Rights and on numerous occasions before the House of Lords, Supreme Court and Privy Council. He took silk in 2006 as the youngest in his year. He is currently engaged in domestic and international litigation and advisory work raising rule of law issues in a range of jurisdictions including Brazil, Hong Kong, Iran, Kenya, the Palestinian Territories, Romania, Syria, the Russian Federation, Turkey and Ukraine. He won the Liberty & Justice Human Rights Lawyer of the Year Award in 2008 and served on the Foreign Secretary's Advisory Panel on Human Rights from 2010 to 2015. He is one of only 11 UK silks ranked by Chambers Global 2017 as a leader in public international law.



RICHARD ROGERS, Global Diligence

Victim led justice at the ICC: Challenging kleptocracies

Isolationist tendencies have affected international criminal justice in several ways. Ad hoc international criminal tribunals are out of fashion, hybrid courts are back in, and domestic prosecution of international crimes is seen as a real alternative. The International Criminal Court was established during a brief window of opportunity when the rules based international order was empowered following the end of the cold war. But it must now adapt to new political realities. If increased isolationism means fewer ICC referrals by States or the UN Security Council, who will initiate cases? Can victims and civil society fill the void?

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Richard Rogers specialises in international criminal law and transitional justice. He has worked as a barrister in London, a litigation lawyer in San Francisco, and a legal officer at the UN. He was the OSCE's chief legal monitor in Kosovo, the Principal Defender at the UN's Extraordinary Chambers in the Courts of Cambodia and the head legal advisor to the Appeals Chamber at the ICTY. He has recently advised or represented the Registrar of the ICC, the UK's Stabilisation Unit, the Foreign Minister of Bangladesh, a Burundian opposition party, a Sri Lankan diaspora group, and the Seychelles on its Truth and Reconciliation Commission. On behalf of Cambodian victims, Richard filed a 'Communication' before the ICC alleging crimes against humanity resulting from mass land grabbing. He has testified before the US Congress House Committee on Foreign Affairs, and spoken to human rights issues before European Parliamentary committees and the Parliament of Bosnia and Herzegovina.

PANEL: ACCOUNTABILITY AND REMEDY



DR. JENNIFER ZERK, Jennifer Zerk Consulting

Access to remedy for business-related human rights abuses: towards more responsive and resilient domestic remedial systems

Despite the protectionist and isolationist positioning of some political leaders, improving access to remedy for business-related human abuses remains a cooperative and collaborative effort by States. Dr Zerk will discuss the outcomes of recent work on access to remedy at UN level, focusing in particular on cross border aspects.

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Dr. Jennifer Zerk is a freelance writer, researcher and analyst specialising in law and corporate social responsibility. She holds a LLM in international economic law from the University of London and a PhD in international law from the University of Cambridge. She is a regular contributor and adviser in relation to UK and EU policy initiatives and consultations. Internationally, she is a respected and sought after consultant, commentator and speaker. She has advised on a number of significant law reform and policy initiatives in the business and human rights field including, most recently, as lead legal consultant on the Accountability and Remedy Project of the Office of the UN High Commissioner for Human Rights.

PANEL: REGIONALISM

MODERATOR:

JEREMY CARVER

INTERNATIONAL LAW ASSOCIATION



PROFESSOR KERRY BROWN, Lau China Institute

China's World: What Does China Want

China in the last decade has become a global power. It now has a prominence on issues from the management of climate change to promotion of free trade agreements it never had before. Its influence stretches from Asia to the Arctic. Its domestic issues, through size and speed of change, are also global ones. And yet the motives driving its global ambitions remain little understood. What is the 'China Dream' that current president Xi Jinping often refers to, and what impact will its realisation have on the rest of the world?

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Kerry Brown is Professor of Chinese Studies and Director of the Lau China Institute at King's College, London. From 2012 to 2015 he was Professor of Chinese Politics and Director of the China Studies Centre at the University of Sydney, Australia. Prior to this he worked at Chatham House from 2006 to 2012, as Senior Fellow and then Head of the Asia Programme. From 1998 to 2005 he worked at the British Foreign and Commonwealth Office, as First Secretary at the British Embassy in Beijing, and then as Head of the Indonesia, Philippine and East Timor Section. He lived in the Inner Mongolia region of China from 1994 to 1996. He has a Master of Arts from Cambridge University, a Post Graduate Diploma in Mandarin Chinese (Distinction) from Thames Valley University, London, and a Ph D in Chinese politics and language from Leeds University. Professor Brown directed the Europe China Research and Advice Network (ECRAN) giving policy advice to the European External Action Service between 2011 and 2014.



MALGOSIA FITZMAURICE, Queen Mary, University of London

The Arctic: The Curious Case of Internal and External Isolation

Globalisation has changed to a certain degree the legal and political structure of the Arctic. It has brought the new approach that the region is part and parcel of the international order and that the governance should involve the participation of non-Arctic actors (such as Asian States and markets). The most fundamental and very complex question is the extent of the accommodation of divergent external interests and how the Arctic will fit into global issues. The Arctic States the eight permanent member of the Arctic Council, and in particular its five members (costal States) want to preserve their dominant position in decision-making process relating to the Arctic. The internal isolation stems from a different approaches to several pertinent issues concerning the governance of the Arctic between this region's States. The most important are the security questions. There are several approaches to this question in Antarctic's sub-regions: North America (Canada and the United States); Europe (Denmark, Finland Norway and Sweden); and Russia which has its own policy in this respect in the Arctic. There is no indication of the establishment of a common security in this region in a foreseeable future.

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Professor Malgosia Fitzmaurice holds a chair of public international law at the Department of Law, Queen Mary University of London (QMUL). She specialises in international environmental law; the law of treaties; and indigenous peoples. She publishes widely on these subjects. Her latest publications are a monograph *Whaling and International Law*, Cambridge University Press, 2015 and (co-edited with Dai Tamada) *Whaling in Antarctic: Significance and Implications of the ICJ Judgment*, Brill/ Nijhoff, 2016. She has delivered a lecture on the International Protection of the Environment at The Hague Academy of International Law. Professor Fitzmaurice was invited as a Visiting Professor to and lectured at various universities, such Berkeley Law School; University of Kobe; Panthéon-Sorbonne (Paris I).

PANEL: REGIONALISM



RICHARD SCHOFIELD, King's College London

Changing borders in the Middle East?

Popular recent claims that borders are changing in the Middle East (and renewed academic interest in them) is inevitable with the marked increase in fortified limits across the region and the appearance of new borderland spatialities in the sovereign margins of the collapsed Iraqi, Syrian and Yemeni states. Yet these are almost certainly overplayed, part of a continuing broad tendency to see the Middle East as exceptional. Similarly, while striking images of vulnerable displaced populations at reinforced walls and defences may seem to define the contemporary Middle Eastern border, there are many other recent representations of the international boundary that continue have a significance today – territorial disputes and conflict, natural resources and territorial definition not to mention the appearance of new states. There is no one typical Middle Eastern borderscape.

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Richard Schofield directs the Masters programme in Geopolitics, Territory and Security in the Department of Geography at King's College London. Richard founded the well-regarded academic journal *Geopolitics* in 1996 and co-founded the London International Boundary Conference (whose most recent convention was during June 2017). He has written extensively about international boundaries and territorial questions in the Middle East and has served as adviser in a number of negotiated, arbitrated or adjudicated boundary cases ([Bahrain/Qatar, Israel/Jordan, Saudi/Yemen]), also as an expert witness before the Permanent Court of Arbitration in the 2008-9 Abyei case (Government of Sudan vs. SPLM/A).

PANEL: INVESTMENT

MODERATOR:

CHARLES CLAYPOOLE

LATHAM & WATKINS



CHRISTOPHE BONDY, Cooley LLP

Tweaking, updating, or tearing up? Potential directions for NAFTA reform

U.S. President Trump campaigned on an anti-NAFTA platform, but the first 100 days of his administration sent out mixed signals about the rewriting of this 25-year-old trade deal. Christophe Bondy will discuss the potential direction of talks between Canada, the United States and Mexico and the range of options open to them for NAFTAa.2.

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Christophe Bondy spent nearly a decade at Canada's Trade Law Bureau, where he repeatedly led Canada's defence against investor-State claims brought under Chapter Eleven of the NAFTA. His most recent victory as lead counsel for Canada under NAFTA came with the dismissal of all claims brought by Eli Lilly and Company and the award to Canada of substantial costs. Christophe also represented Canada in multiple international trade and investment negotiations, most notably the Canada – European Union Comprehensive Economic and Trade Agreement (CETA). Since his return to private practice in London in 2015 he has successfully represented States in investment treaty disputes on four continents, advised leading corporations on investment and trade issues, and provide extensive advice on issues of sovereign and diplomatic immunity, among other public international law issues.



MARKUS BURGSTALLER, Hogan Lovells

Is denunciation of investment treaties becoming a trend?

Over the past few years a number of States decided to review their investment protection policies. This has often led to the denunciation of all or some of these States' investment treaties. News on termination of bilateral and withdrawal from multilateral investment treaties have been coming from virtually all continents. Examples include but are not limited to Ecuador, India, Indonesia, Italy, Poland, and South Africa. This presentation will attempt to review causes of these developments, methods through which these are or may be implemented, and potential consequences thereof, in particular as to how investors' rights may be affected.

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Markus Burgstaller is a partner at Hogan Lovells in London. He combines experience in public international law at the highest level of government with many years of experience in advising and representing states, international organizations and businesses in private practice. He focuses on international investment law and acts in arbitrations under ICSID, ICC, LCIA and UNCITRAL rules and in proceedings before the Court of Justice of the European Union. He also advises investors on structuring investments worldwide. He is nominated to the ICSID Panel of Conciliators by the Austrian Government.

PANEL: INVESTMENT



ALEJANDRO ESCOBAR, Baker Botts LLP

Walking the Line: 20 Years of Investment Treaty Arbitration in Latin America

The presentation will provide an overview of the emergence of investment treaty practice among Latin American countries, followed by the sustained growth in investment treaty claims against those countries in different contexts, and noting the present continuation in force of BITs coupled with the more modern practice of agreeing investment protection chapters in trade agreements. The presentation will then focus on about three illustrative examples of cases that show a somewhat delicate balance between the standards of protection and the host state's right to regulate. The presentation will attempt to infer certain implications for both the challenges and the enduring attractiveness of investment treaty arbitration as a legal discipline.

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Alejandro Escobar practices in public international law and arbitration. He advises businesses and states in disputes arising out of investment protection treaties and in arbitrations arising out of project agreements. He has handled numerous claims of expropriation and abusive regulation in various industries, including power, oil & gas, telecommunications, and public concessions and procurement. Alejandro advises on other international law issues, including boundary disputes, relevant to international business.



LUIS GONZALEZ GARCIA, Matrix Chambers

A Mexican perspective on the value of NAFTA Investment Arbitration

In the presentation Luis Gonzalez will discuss the economic and legal implications for Mexico of NAFTA's Investment Chapter, address whether the nature and number of claims has constrained the Mexican authorities from taking regulatory action over foreign investor conduct. While NAFTA's Investment Chapter is considered to be a success story in Mexico, there are lessons to be learned from the NAFTA claims. The renegotiation of NAFTA will bring a unique opportunity to resolve the procedural and structural flaws of the investment mechanism.

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Luis Gonzalez Garcia is a member of Matrix Chambers. He specialises in public international law, international trade and dispute settlement. Prior to joining Matrix, Luis was Deputy General Counsel for International Trade Negotiations of the Government of Mexico. He appeared as counsel and lead counsel for Mexico in investment treaty arbitrations under the NAFTA. Luis also served as trade negotiator of free trade agreements and legal advisor for Mexico in the negotiation of bilateral investment treaties.

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