



CONNECTING FUTURES



Session 4: Looking into the Future Challenges to Investment Across Borders

Chair

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LOOKING INTO THE FUTURE: CHALLENGES TO INVESTMENT ACROSS BORDERS

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QUESTION 1

Over half of all disputes brought to the ICSID have been resolved by 15 individuals. Is this acceptable? What can be done to change it?



Image source: <https://ilcurry.files.wordpress.com/2013/02/pk-in-september-1-2012-court-of-arbitration-photo-1.jpg>

QUESTION 2

The Court of Arbitration for Sport used to have a revolving door policy, whereby arbitrators could also act as counsel and vice versa. But the CAS some years ago prohibited individuals from wearing both hats. Should investment arbitration have a similar prohibition?

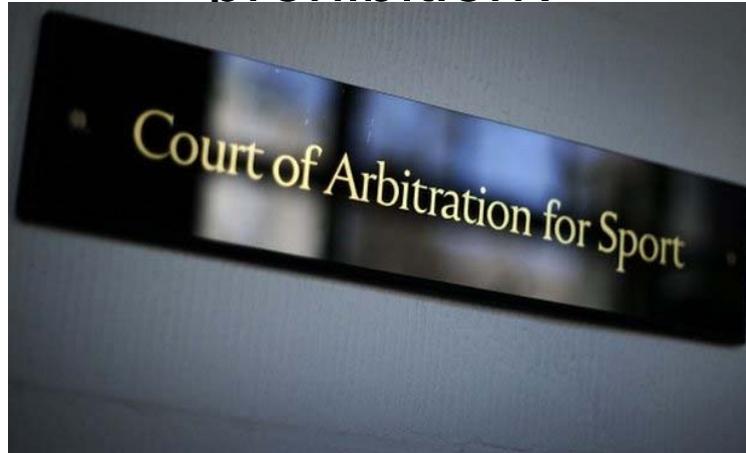


Image source:
[news.bbc.com/uk/media/images/58703000/jpg/_58703871_court_of_arbitration.jpg](https://www.bbc.com/news/58703000/jpg/_58703871_court_of_arbitration.jpg)

QUESTION 3

Should ICSID refrain from appointing members of annulment committees who also serve on ICSID tribunals?



Image source: http://bullion.directory/wp-content/uploads/2015/01/accrareport_the-world-bank-praises-ghanas-economic-growth-over-the-past-10-years.jpg

QUESTION 4

Is international investment law biased in favour of business interests and capital exporting states?



Image source: suffolkjournal.net/wp-content/uploads/2013/11/NSA.jpg

QUESTION 5

Is investment treaty arbitration biased against developing countries?



Image source: upload.wikimedia.org/wikipedia/commons/thumb/1/15/BRICS_leaders_G20_2013-2.jpg/1280px-BRICS_leaders_G20_2013-2.jpg

QUESTION 6

Do investment treaties and investment arbitrations have a chilling effect on states' abilities to regulate?



Image source: static.rappler.com/images/hk-legco-h_50665099-small.jpg

QUESTION 7

BITs traditionally aim to secure investment into countries with administrative and judicial systems seen as unreliable and presenting risk of undue intervention in private economic activities. However, the EU and US have robust administrative and judicial systems. So, is there a need for investor-state arbitration in the Transatlantic Trade and Investment Partnership (TTIP)?



Image source: www.euintheus.org/wp-content/uploads/2013/06/eu-us-flags-612x336.jpg

QUESTION 8

Latin America, the EU and the United States are experiencing investment arbitration backlash. Why is this not the case in Asia, which appears to be making progress on intra-Asia trade agreements?



Image source: www.tourismkm-asean.org/wp-content/uploads/2013/03/asean-fta.jpg

QUESTION 9

Would investment arbitration benefit from a procedure similar to that of the World Trade Organization – a permanent adjudicative body controlled by states, the decisions of which are non-appealable – to encourage procedural stability and cohesive decisions?



Image source: context-kommunikation.de/en/Press_lounge/Detail.html?id=239

QUESTION 10

Would investment treaty arbitration benefit from an appellate review mechanism as an alternative avenue to address state parties' concerns with the process?



Image source: [upload.wikimedia.org/wikipedia/commons/7/71/Court_of_Final_Appeal_\(HK\).jpg](https://upload.wikimedia.org/wikipedia/commons/7/71/Court_of_Final_Appeal_(HK).jpg)