



**Asia-Pacific
Economic Cooperation**

**Capacity Building for
International Investment Agreements**

Singapore, May 2008

Washington DC, November 2008

Investment Experts' Group

APEC Committee on Trade and Investment

December 2008

CTI 02/2008T
Reproduced in February 2009

Produced for:

APEC Secretariat
35 Heng Mui Keng Terrace
Singapore 119616
Tel: (65) 68919 600 Fax: (65) 68919 690
Email: info@apec.org Website: www.apec.org

© 2009 APEC Secretariat

APEC#209-CT-01.2

CONTENTS

Project Summary.....	5
 <u>Workshop One (Singapore, May 2008)</u>	
Workshop summary	7
Agenda	9
Faculty.....	20
Participant list	25
 <u>Workshop Two (Washington, DC, November 2008)</u>	
Workshop summary	28
Agenda	30
Faculty.....	40
Participant list	53

PROJECT SUMMARY

Background and Objectives

The APEC Capacity Building for International Investment Agreements is a project of APEC Investment Experts' Group (IEG). The project was sponsored in the IEG by the United States, and co-sponsored by Australia, Canada, Japan, Mexico, Peru and Singapore. Funding for the project was provided from APEC's Trade and Investment Facilitation Special Account, and by the East Asian and Pacific Affairs Bureau of the U.S. Department of State.

The purpose of this project was to improve understanding among APEC member economies of the scope and content of high-standard international investment agreements (bilateral investment treaties and trade agreements with investment provisions), and to enhance the capacity of member economies to negotiate and implement these agreements. The project was executed over two one-week workshops. The first workshop, held in Singapore in May 2008, focused on the substantive provisions of high-standard international investment agreements. The second workshop, held in Washington DC in November 2008, focused on the mechanics and management of investor-State dispute settlement under these agreements.

Project Outcomes

Over the course of two weeks, the workshops were attended by 100 investment negotiators and policy officials from all 21 APEC member economies. The workshops afforded participants a unique opportunity for meeting and discussion with leading private attorneys in the field of investment treaty law, scholars of international investment jurisprudence, and experienced arbitrators of investment disputes. Through two intensive one-week workshops, the project covered a comprehensive range of topics relating to high-standard international investment agreements: their scope and content; the interaction between policy objectives and treaty text; strategies for negotiation; trends and recent developments in international treaty practice (including the impact of arbitration on rulemaking); and a detailed examination of the mechanics and management of investor-State dispute resolution under these agreements.

Each five-day workshop was comprised of 20 sessions led by mixed panels of faculty that afforded participants broad insights into the issues being discussed, from the perspectives of those who negotiate investment agreements, those who study them, those who might bring an investor claim under the agreements, those who would defend States against such claims, and those who might serve as arbitrators in tribunals established to consider such claims. Participant feedback on the program and execution of the workshops was highly positive. Many commented that it was the best APEC workshop they had attended, and most commented that the workshops had contributed to an improvement of knowledge and skills that would help them in their official functions.

Workshop Organizer

The workshops of this project were organized by the International Law Institute (ILI), in partnership with the Office of the U.S. Trade Representative. The ILI is an independent, not-for-profit educational institution that specializes in providing training and technical assistance to government officials in the areas of law, economics, and good governance. ILI has provided training to over 15,000 officials from more than 185 countries. Its faculty and advisors include over 500 professionals of multiple nationalities from government, academia, multilateral organizations, and the private sector.

www.ili.org



WORKSHOP ONE

Singapore, 5-9 May 2008

Workshop Summary

The Week One workshop was held at Le Meridien Hotel in the Orchard Road area of Singapore. The workshop was attended by 48 participants from 20 APEC economies, as well as representatives of the APEC Secretariat. The workshop was instructed by a faculty of 13 investment agreement experts, including government officials from five APEC economies. At the end of the first day, participants and faculty attended a reception at Le Meridien, sponsored by the U.S. National Center for APEC. Additional hospitality for participants was also provided during the week by Fulbright and Jaworski LLP.

A central theme of Week One was that effective drafting and negotiating of international investment agreements (IIAs) requires a firm understanding of the substantive provisions of these agreements. The week began with a discussion of the role that investment agreements play in reducing risk for foreign investors, thereby facilitating cross-border investment. Panelists noted that although IIAs can contribute to a more favorable investment climate for certain investors, domestic institutions and infrastructure are equally important. A speaker from the private investment community expressed his support for the inclusion in IIAs of provisions that improve the domestic business environment (such as with respect to transparency).

During the week, panelists introduced the evolution of international frameworks for protecting foreign investment, beginning with a system in which investors relied on their home government to resolve disputes with a host state on their behalf. Panelists discussed the limitations of this model, both from the perspective of States and investors, and how these limitations led to development of the modern system of IIAs in the 20th century. The key innovation of this system has been the access to private remedies for investors.

The workshop addressed a number of important substantive issues for IIA drafters, beginning with foundational issues such as definitions of “investment” and “investor”. Panelists emphasized the importance of these definitions for establishing the scope of the agreement’s obligations, and thereby for establishing the jurisdiction of dispute settlement tribunals. Panelists discussed the interpretations of investor-State tribunals on issues such as dual nationality of investors and indirect ownership of assets. Panelists also discussed IIA approaches to the issue of admission and establishment of foreign investments, noting the interaction between the language of these provisions and fundamental policy questions regarding economies’ openness to foreign investment.

Days Three and Four of the workshop focused on core investor protections of IIAs – obligations concerning standards of treatment, protection from expropriation without compensation, the ability to freely transfer capital, and disciplines on the use of performance requirements. In this discussion, panelists focused on only on the meaning of IIA provisions relating to these obligations, but also on how these provisions have been interpreted by tribunals in the course of investor-State arbitrations.

For instance, panelists addressed the question of what constitutes an expropriation, with one panelist suggesting that the criteria established in IIAs and in customary international law for when an investment may be expropriated have become defining conditions for determining whether it has occurred. Panelists discussed attempts by IIA Parties to provide guidance to tribunals on this issue, particularly with respect to what constitutes an indirect expropriation, an area subject to several investor-State arbitrations.

IIA obligations regarding national treatment, most-favored nation treatment, and fair and equitable treatment were also explored in depth during the workshop. Panelists noted that the national treatment obligation, though conceptually straightforward, is in practice subject to differences in interpretation, particularly with respect to questions regarding “like circumstances”. In addition to standards of treatment, the panelists also discussed provisions in IIAs on free transfers and performance requirements, noting that these obligations, while not frequently the subject of investment disputes, are nevertheless extremely to the day-to-day operations of investors.

On the final day of the workshop, participants heard from panels comprised solely of APEC government officials responsible for the negotiation of IIAs. Panelists discussed the different approaches of their governments to the development of negotiating texts and strategies. Officials of economies with federal systems of governments and high stakeholder interest in IIAs described the long consultative processes that led to development of ‘model’ negotiating texts. Officials from economies that do not negotiate IIAs on the basis of a model described how their governments approach negotiations, for instance by developing texts on the basis of the most recent IIA concluded, or with reference to developments in the IIAs of other major trading economies. Panelists held an engaging discussion on the advantages and limitations of negotiating on the basis of a model text.

APEC-economy panelists also shared the experiences of their governments with respect to internal coordination during negotiations. They noted the importance of educating government ministries about the obligations and operation of IIAs, and of involving officials from across the government in negotiations – noting that this is particularly important in the identification and negotiation of “non-conforming measures”. Several panelists described formal mechanisms or commissions that had been established within their governments to serve this purpose. The importance of communication with key stakeholders during the negotiation process, including the domestic business community, was widely noted.

* * *

The full agenda, speaker biographies, and participant list for this workshop are included below. Presentation and reading materials for the workshop were provided to participants in paper and electronic form, and were posted to the APEC Collaborative System website.

Workshop Agenda

TIME	DAY 1
8:00 – 8:45 am	<p><u>Registration</u></p> <p style="text-align: center;">Introduction to International Investment Law and Agreements</p>
9:00 – 10:30 am	<p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • What is investment in economic terms? • Contribution of investment to economic growth and development • Role of international investment agreements in strengthening the investment climate and promoting foreign investment • Who are investors: private and public sector investors • Why investors invest: corporate strategies
10:30 – 10:45 am	<p>Question and Answer</p> <p>Session Description: This session addresses the economic implications of the two main categories of foreign investment, direct investment and portfolio investment. It highlights the economic benefits of foreign investment, with an emphasis on the importance of private flows of foreign capital, especially for developing economies, and on methods to increase such flows including through bilateral and multilateral trade and investment agreements.</p>
10:45 – 11:00 am	<p>Break</p>
11:00 – 12:30 pm	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Historical background of international law of foreign investment • Promotion of foreign investment: from <i>ad hoc</i> approaches (investment contracts) to bilateral and multilateral approaches (bilateral and multilateral investment treaties and free trade agreements) • Sources of international law applicable to modern investment treaties and investor-state investment disputes
12:30 – 12:45 pm	<p>Question and Answer</p> <p>Session Description: This session provides an introduction to the international law of foreign investment; international initiatives that have been undertaken to encourage private flows of foreign capital; the role of international organizations such as the WTO, the UNCTAD, the World Bank, the</p>

TIME	DAY 1— <i>cont'd</i>
	<p>OECD and others in promoting improvement in investment climates and investment protection. The session will conclude by touching upon the sources of international law applicable in interpretation of investment treaties. The focus will be on the sources enumerated in Article 38 of the ICJ Statute. The more technical aspects of this subject will be covered in Week Two, Day 2, Morning Session 1, under the discussion of Applicable Law.</p>
12:45 – 2:15 pm	Lunch
2:15 – 3:45 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • The ICSID and MIGA Conventions • Discussion of BITs and multilateral agreements with investment provisions concluded by APEC economies • Latest generation of investment treaties: United States Model BIT of 2004 <p>Session Description:</p> <p>This session discusses the creation of the ICSID and later the MIGA Conventions as a direct response to the increasing needs, especially in developing countries, to attract foreign private capital; FCNs, BITs, and FTAs as vehicles to promote and protect foreign investment; and the increasing frequency with which investors have sought protection under BITs and other investment agreements</p>
3:45 – 4:00 pm	Break
4:00 – 5:30 pm	<p><u>Afternoon Session 2:</u></p> <ul style="list-style-type: none"> • Investment treaties scope and coverage with an emphasis on selected investment treaties of APEC member economies • Specific scope issues: differences between international investment and trade; FTAs and their coverage of both subjects; investment agreements and regulation of services, taxation, and transparency issues; relationship of the latter to trade • Latest model investment treaties: U.S. Model BIT of 2004 • Negative list framework (brief mention; more extended discussion in Day 5)
5:30 – 5:45 pm	Question and Answer

TIME	DAY 1—<i>cont'd</i>
	<p>Session Description:</p> <p>This session will provide a general overview of the structure and operation of the new investment agreements and key provisions of such agreements, such as definitions, substantive standards of protection, and general exceptions. Furthermore, it highlights the differences between the international investment and international trade regimes; possible areas that they could overlap such as services; and the regulation of matters such as services, taxation and transparency under investment treaties; and the relationship and interaction between the latter and stand-alone chapters in FTAs dealing with the same. In addition, the session introduces some of the latest developments in the structure of investment treaties with an emphasis on the U.S. Model BIT of 2004. Finally, it briefly explains what a negative list is under investment treaties.</p>

TIME	DAY 2
9:00 – 10:30 am	<p style="text-align: center;">Investment Treaties: Key Definitions</p> <p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Traditional approaches to the definition of investment under investment agreements (e.g., exhaustive list, open list) • Definition of investment in the new investment agreements • Concept of investment under the ICSID Convention; Schreuer criteria/Salini test; recent decisions: <i>MHS v. Malaysia</i>; <i>Patrick Mitchell</i> Annulment
10:30 – 10:45 am	Break
10:45 – 12:15 am	<p><u>Morning Session 2</u></p> <ul style="list-style-type: none"> • Who qualifies as an investor under the new investment agreements: issues of nationality, ownership, and control
12:15 am – 12:30 pm	<p>Question and Answer</p> <p>Session Descriptions:</p> <p>This session will contrast the concepts of “investment” and “investor” in the new investment agreements with those in earlier agreements. It will describe the different approaches to defining “investment,” such as exhaustive and non-exhaustive lists. It will also explain the significance of the concept for establishing jurisdiction <i>ratione materiae</i> of arbitral tribunals. It also explains which persons, whether natural or legal, qualify to invoke the protections of new investment agreements. In so doing, the session will particularly focus on examining the status of corporations as well as direct, indirect, and non-controlling shareholders for jurisdiction <i>ratione personae</i> of arbitral tribunals under both the ICSID Convention and the new investment agreements.</p>
12:30 – 2:00 pm	Lunch
2:00 – 3:30 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Admission and establishment of investment • Pre-establishment rights • New approaches to admission and establishment under the U.S. 2004 Model BIT; other economies’ approaches towards the right of establishment with a particular emphasis on EU member-states • Exceptions

TIME	DAY 2— <i>cont'd</i>
3:30 – 3:45 pm	<ul style="list-style-type: none"> • Implications of establishment rights for other obligations under investment treaties such as national treatment <p>Break</p>
3:45 – 5:15 pm	<p><u>Afternoon Session 2:</u></p> <ul style="list-style-type: none"> • Same topics continued • Dispute resolution provisions of investment treaties
5:15 – 5:30 pm	<p>Question and Answer</p> <p>Session Description: This session explains the concepts of admission and establishment; and the extent to which they have been applied in various investment treaty regimes. It also examines the implications of admission and establishment provisions for the core investment protections (e.g., national and most-favored-nation treatment, performance requirements) of the new investment agreements. Reference will be made to <i>Mihaly International v. Sri Lanka</i>. In addition, it will touch upon the various dispute resolution mechanisms of investment treaties (State - State and Investor - State).</p>

TIME	DAY 3
	Core Investment Protection Obligations I
9:00 – 10:30 am	<p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Expropriation • Compensation for expropriation (a brief discussion; more extended discussion in Week Two) • Exceptions to compensation • Expropriation, investment protection and regulation • Guidance on regulatory/indirect expropriation in the new investment agreements
10:30 – 10:45 am	Break
10:45 – 12:15 am	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Same topics continued
12:15 am – 12:30 pm	Question and Answer
	<p>Session Description:</p> <p>These sessions examine the concept of expropriation; various forms that it can take, such as indirect or regulatory expropriation; and the prompt, adequate, effective standard for compensation. The latter part of the sessions will be dedicated to the discussion of the relationship between expropriation and regulation; how regulatory measures of the government can breach investment agreements; how governments can reduce their liability in this respect. This part of the sessions will address the texts providing guidance on the analysis of indirect expropriation claims that have been included in some recent investment agreements.</p>
12:30 – 2:00 pm	Lunch
2:00 – 3:30 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Minimum standard of treatment, including fair and equitable treatment and full protection and security; BIT and NAFTA chapter 11 jurisprudence • Transparency and fair and equitable treatment; transparency under the 2004 U.S. Model BIT
3:30 – 3:45 pm	Break

TIME	DAY 3— <i>cont'd</i>
3:45 – 5:15 pm	<u>Afternoon Session 2:</u> <ul style="list-style-type: none"> • Same topics continued
5:15 – 5:30 pm	Question and Answer Session Description: These sessions examine the concept of the minimum standard of treatment of aliens in customary international law and the key customary international law standards of fair and equitable treatment and full protection and security. The discussion will address the interpretation of these concepts by various arbitral tribunals and their attempts to give content to these standards; the NAFTA Parties formal interpretive note of 2001 and its implications under customary international law; and the clarifying language on these standards included in the 2004 U.S. Model BIT and recent investment agreements. Cases to be discussed include <i>Tecmed</i> , <i>Saluka</i> , and <i>Mondev</i> .

TIME	DAY 4
9:00 – 10:30 am	<p style="text-align: center;">Core Investment Protection Obligations II</p> <p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • National treatment (NT) • Exceptions to NT • Cross reference to right of establishment <p>Session Description: This session examines the national treatment standard of protection in the new investment agreements and the exceptions to the standard that may be scheduled in a negative list. The discussion will consider the three-step approach to the analysis of national treatment claims developed in the context of various NAFTA cases, such as likeness issues and whether intent to discriminate is required on the part of the government. Cases to be discussed include <i>Feldman</i>, <i>Methanex</i>, and <i>Champion Trading</i>.</p>
10:30 – 10:45 am	Break
10:45 – 12:15 am	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Most Favored Nation treatment (MFN) • Exceptions to MFN • How MFN works within the entire framework of a treaty • Cross reference to rights of establishment <p>Session Description: This session examines the standard of MFN treatment in the new investment agreements and the exceptions to the standard that may be scheduled in a negative list; origins of MFN in trade agreements; its application to procedural matters as applied in <i>Maffezini v. Spain v. Plama v. Bulgaria</i>; and its application to substantive matters.</p>
12:15 am – 12:30 pm	Question and Answer
12:30 – 2:00 pm	Lunch
2:00 – 3:30 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Transfers; significance of this issue for various countries; uniqueness of the U.S. approach to the issue of transfers • Performance requirements • Coverage of concession contracts and umbrella clauses

TIME	DAY 4— <i>cont'd</i>
3:30 – 3:45 pm	Break
3:45 – 5:15 pm	<u>Afternoon Session 2:</u> <ul style="list-style-type: none"> • Same topics continued
5:15 – 5:30 pm	Question and Answer
	<p>Session Description:</p> <p>These sessions examine provisions of the new agreements with respect to the transfer and repatriation of profits and performance requirements. It also examines the coverage of concession contracts in the new investment agreements and the relationship of these provisions to traditional umbrella clauses. Cases to be examined include <i>SGS v. Pakistan</i>, <i>SGS v. Philippines</i>, and the recent <i>El Paso</i> and <i>BP</i> cases.</p>

TIME	DAY 5
	Negotiation of Investment Treaties
9:00 – 10:30 am	<p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Development of investment negotiating texts and strategies • Coordination among national government agencies on the drafting of investment negotiating proposals and on negotiating strategies • Coordination between national and sub-national governments • Consultation with key non-governmental stakeholders (e.g., business representatives, labor unions, NGOs) on investment negotiations
10:30 – 10:45 am	Break
10:45 – 12:15 am	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Same topics continued
12:15 am – 12:30 pm	Question and Answer
	<p>Session Description:</p> <p>During this session, government negotiators from APEC economies will address the internal coordination and external consultations required for the development of investment negotiating texts, the preparation of negotiating strategy, and the approval of new text proposals during the course of negotiations. The discussion will focus on, among other issues, the interaction between trade ministries or other lead negotiating agencies and the regulatory agencies whose authorities may be implicated in investment negotiations. Strategies for ensuring the support of key private sector stakeholders and sub-national governments will also be addressed.</p>
12:30 – 2:00 pm	Lunch
2:00 – 3:30 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Negotiation and scheduling of exceptions for sensitive sectors or matters • Negotiation and scheduling of general exceptions • Relationship between APEC investment agreements and other multilateral and bilateral agreements
3:30 – 3:45 pm	Break

TIME	DAY 5—<i>cont'd</i>
3:45 – 5:15 pm	<u>Afternoon Session 2:</u> <ul style="list-style-type: none">• Same topics continued
5:15 – 5:30 pm	Question and Answer
	Session description: This session focuses on the development by each side of a negotiating proposal for its negative list of exceptions and on the process of negotiating the negative list. It will also touches upon the negotiation of general exceptions. As in the morning session, this session will focus on the interaction between trade ministries or other lead negotiating agencies and the regulatory agencies whose authorities may be implicated in the negotiation of the negative list. Strategies for ensuring the support of key stakeholders will also be addressed.

Workshop Faculty

PERRY BECHKY

Academic, Arbitrator. Visiting Assistant Professor, University of Connecticut School of Law. Formerly Counsel At Shearman & Sterling, as a litigator primarily responsible for the management of million- and billion-dollar international disputes. Mr. Bechky has written and lectured extensively in the U.S. and abroad. Recent presentations include: "The Investment Case of the Year", at the University of Connecticut School of Law, February 2008, "Arbitration of Investment Disputes" and "Investment Climate: The Role of Investment Treaties", at the International Law Institute, December 2006, and "Multilateral and Bilateral Regulation of International Investments", at Howard University School of Law, Washington D.C., October 2005. J.D., Columbia University School of Law, 1993. B.A., with honors, Stanford University, 1990.

ALEXANDRE DE GRAMONT

Partner, Crowell & Moring. Specializes in International Dispute Resolution. Mr. Gramont has represented clients in a wide variety of international commercial arbitration and investor-state arbitration matters. Recognized by Chambers USA as one of the leading arbitration specialists in the United States. He has written and spoken about various legal issues, including international investment treaties and investment disputes. Recent publications include: "Key Issues and Recent Developments in International Investment Treaty Arbitration," ABA Section of International Law Meeting Materials, Spring 2007 (Co-author with Maria Gritsenko). Recent presentations include: "Debating the Necessity of a Necessity Defence For Investment Law," Investment Treaty Arbitration: A Debate and Discussion, Washington, D.C., May 17, 2007, "International Treaty Arbitration: Recent Developments and Predictions For The Future," ABA Section of International Law, 2007 Spring Meeting, Washington, D.C. , May 3, 2007, and "Political Risk and Investment Treaties: Navigating Risk and Managing Expectations Between Investors and Government," Institute of the Americas' Andean Energy Roundtable: Energy and Politics in Ecuador, Bolivia, Colombia & Peru in Quito, Ecuador, April 4, 2006. J.D., New York University, 1990. B.A., with high honors, Wesleyan University, 1986.

BRUCE PFLAUM

Managing Director for Asia, Russell Investment Group. Based in Singapore, Mr. Pflaum oversees the Group's Asian business, and is responsible for Russell's initiatives and business development in the region. Russell Investment Group is the global leader in the provision of multi-manager investment solutions. Russell is also recognized as one of the world's leading investment management and advisory firms, advising large investors in more than 30 economies on investment strategy. It's Chairman is a U.S. Member of the APEC Business Advisory Council. Mr. Pflaum first joined Russell in New Zealand in 1995 as Director of Consulting for Russell's New Zealand and Asian clients after more than 10 years of experience living and working in Asia. In 1997, he assumed overall responsibility for Russell's business development in Asia, and in 1999 became Managing Director of Russell's newly established Singapore office. A veteran of the trading markets, Mr. Pflaum spent nearly two decades in wide-ranging trading and risk management roles in the U.S., Japan and Hong Kong prior to joining Russell. During the course of his Asian experience he has dealt with a wide range of clients and financial issues across a variety of economies.

TODD J. GRIERSON-WEILER

Adjunct Professor, University of Calgary Faculty of Law and the Faculty of Law at the University of Western Ontario. Mr. Grierson-Weiler is a Member of the Law Society of Upper Canada. His practice focuses exclusively on investor-state arbitration. Mr. Grierson-Weiler has served as arbitrator, advising expert and co-counsel in over two dozen treaty disputes. In 2006 he was named by the Global Arbitration Review as one of its "45 Under 45" in the field of international arbitration and his name also appears on the Who's Who Legal list of international arbitrators. He is responsible for two popular international law web sites: www.naftaclaims.com, launched in 1999; and Oxford University Press' www.investmentclaims.com, which he co-founded in 2005. He has served as editor and co-author of three books on investment law and arbitration: "NAFTA Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects, and Foreign Investment Law" (Transnational: New York, 2004); "International Investment Law and Arbitration: Leading Cases..." (Cameron May: London, 2005); and "Investment Treaty Arbitration and International Law," Vol. 1 (Juris: New York, 2008). Mr. Grierson-Weiler holds an M.A. and LL.B from the University Western Ontario, LL.M degrees from the Unievrstity of Ottawa and the University of Michigan, and is currently completing a doctorate in international economic law at the University of Michigan.

IAN LAIRD

Foreign Legal Consultant, Fulbright & Jaworski LLP. Focuses his practice in the field of international investment law and arbitration. Advises clients on issues related to bilateral and multilateral international agreements, such as the WTO Agreement, the NAFTA and Bilateral Investment Agreements. Mr. Laird has spoken extensively and published numerous articles on international investment arbitration. Recent publications include: "Standards of Treatment in International Investment Law: The Move Towards Unification" (Co-author with Todd Grierson-Weiler), in Muchlinski, Ortino and Schreuer eds., The Oxford Handbook of International Investment Law, Oxford University Press, 2008 forthcoming, "Fair and Equitable Treatment: Emergency Exception/State of Necessity", Chapter in Investment Treaty Law: Current Issues II, British Institute of International and Comparative Law (BIICL), 2007, and "Finality versus Consistency: Does Investor-State Arbitration Need An Appellate System?" (Co-author with Rebecca Askew), 7(2) Journal of Appellate Practice and Process 101, 2006. LL.M., University of Cambridge, Faculty of Law, Cambridge, U.K. (St. Edmund's College), 1998. LL.B., University of Windsor, Faculty of Law, Windsor, Canada, 1993. B.A., joint honors, McGill University, Montreal, Canada, 1987.

JAMES MENDENHALL

Partner, Sidley Austin LLP. Practices in the International Trade and Dispute Resolution group, concentrating in international trade policy and litigation. From 2005 to January 2007, Mr. Mendenhall served as the General Counsel of the Office of the United States Trade Representative (USTR). In that capacity, Mr. Mendenhall supervised U.S. participation in World Trade Organization and NAFTA disputes and handled all legal aspects of U.S. bilateral, regional, and multilateral trade negotiations. Mr. Mendenhall also served as the principal U.S. negotiator of the United States-Canada Softwood Lumber Agreement and was the USTR representative on the Committee on Foreign Investment in the United States. Prior to joining the U.S. Government, Mr. Mendenhall spent nine years in private practice, concentrating in the areas of trade remedies litigation, international arbitration, trade policy and litigation before World Trade Organization panels. J.D., with honors, Harvard Law School, 1992. B.A., with highest honors, University of Notre Dame, 1989.

BORZU SABAH

Consultant, Fulbright & Jaworski LLP. Focuses on International Investment and Commercial Arbitration. Mr. Sabahi currently assists in major international investment arbitrations under ICSID and UNCITRAL Arbitration Rules. Adjunct Professor of Law, Georgetown University Law Center. He has published and lectured on investor-state arbitrations and international investment law. Recent publications include "Investor-State Arbitration" (Co-author with Don Wallace, Jr., Christopher Dugan and Noah Rubins), forthcoming Oxford University Press 2008, "Compensation, Damages, and Valuation in International Investment Law" (Co-author with Prof. Thomas W. Wälde), in The Oxford Handbook of International Investment Law (Muchlinski, Ortino, Schreuer (eds.)), forthcoming Oxford University Press 2008, and "National Treatment – Is Discriminatory Intent Relevant?", in Investment Treaty Arbitration: A Debate and Discussion, T. Weiler (ed.) Juris Publishing, 2007. SJD Candidate, Georgetown University Law Center, since 2004. LL.M., Georgetown University Law Center, 2002. M.A., Public International Law, with high honors, University of Tehran, Iran, 2000. B.A., Judicial Law, with distinction, University of Tehran, Iran, 1997.

JOHN SAVAGE

Partner, Shearman & Sterling LLP. He leads the firm's international arbitration practice in Asia. Mr. Savage has represented governments, corporations and high net worth individuals in over 60 international arbitrations, both institutional and ad hoc, including many investment treaty disputes. His practice focuses on the representation of Asian clients in arbitrations worldwide, and clients from outside Asia in arbitrations taking place in Asia. In addition to his work as counsel, Mr. Savage has been appointed as arbitrator in ICC, ICSID, KLRCA, SIAC and ad hoc arbitrations. Advisory Board Member, Investment Treaty Forum, British Institute of International and Comparative Law (BIICL) and Vice Chair of the Dispute Resolution and Arbitration Committee, Inter-Pacific Bar Association. Author of articles on international arbitration in various publications. Recent publications include: "Investment Treaty Arbitration and Asia: Survey and Comment", Asian International Arbitration Journal, Vol. 1, No. 1, 2005, "The International Comparative Legal Guide to International Arbitration 2004" (Singapore Chapter), and "New Opportunities For Resolving Disputes Involving Asian States" (FinanceAsia, January 2003). Guildhall University, Final Examination of the Law Society, 1991, First Class Honours. Maîtrise en droit privé, Université de Paris I - Panthéon-Sorbonne, 1990. LL.B., King's College London, University of London, 1988.

DON WALLACE, JR.

Chairman, International Law Institute. Professor of Law, Georgetown University Law Center. Counsel, Morgan, Lewis & Bockius. Courses taught include: Public International Law; International Business and Economic Law; GATT/WTO; International Monetary, Finance and Investment Law; Infrastructure Projects in Developing and Transition Countries; and Investor-State Dispute Settlement. Member, Secretary of State's Advisory Committee on Private International Law; US delegate to UNCITRAL; arbitrator; member panel of arbitrators of Cairo Regional Center for International Commercial Arbitration; member, Board of Directors, Institute of Investment and Arbitration, Cairo; member, American Law Institute; emeritus member, Board of Directors, International Development Law Institute, Rome; member, advisory committee, ABA/UNDP International Legal Resource Center; member, Legal Advisory Council; AEI Legal Center for the Public Interest; liaison of American Bar Association to UNCITRAL; correspondent, UNIDROIT, and vice president, Board of Governors, Uniform Law Foundation (UNIDROIT foundation), Rome; member, Academic Council, European Center for Peace and Development, UN University for Peace, Belgrade. Mr. Wallace has written and lectured extensively in the U.S. and abroad. Recent

publications include “Investor-State Arbitration” (Co-author with Christopher Dugan, Borzu Sabahi and Noah Rubins) (forthcoming Oxford University Press 2008). Eisenhower Exchange Fellow, 1976. Fellow, St. Antony's College, Oxford, 1973-74. Fulbright Fellow, Turkey, 1967. LL.B., cum laude, Harvard, 1957. B.A., with high honors, Yale, 1953.

APEC GOVERNMENT SPEAKERS

ANA AMPUERO (PERU)

Ana Ampuero is Legal Advisor to the Minister of Foreign Trade and Commerce. From 2004 to 2006, Ms. Ampuero worked as an advisor to the Legal Office of Peru's Private Investment Promotion Agency – PROINVERSIÓN. During this time, she was a member of the negotiation teams for the investment chapters of FTAs with Singapore, Thailand and the United States, and legal advisor to the Negotiating Commission for bilateral investment treaties with Belgium, Canada, Chile and Mexico. Ms. Ampuero was for 12 years a professor of Public International Law at the Pontifical Catholic University of Peru, and has taught this subject at Peru's Diplomatic Academy Foundation. She holds a law degree from the Law Faculty of Pontifical Catholic University of Peru, and has undertaken post-degree studies in Economic International Law and in Management.

JONATHAN KALLMER (UNITED STATES)

Jonathan (Josh) Kallmer is Deputy Assistant U.S. Trade Representative (USTR) for Investment. In this capacity, he is responsible for developing and implementing U.S. foreign investment policies, including by representing the United States in investment negotiations. He is the lead U.S. negotiator for the investment chapters of FTAs with Republic of Korea and Malaysia, and for bilateral investment treaty exploratory discussions with India and Russia. Mr. Kallmer was previously Assistant General Counsel at USTR, where he represented the United States in disputes before the World Trade Organization (WTO). Prior to joining USTR, Mr. Kallmer was an associate in the Washington, D.C. office of Hogan & Hartson L.L.P., practicing principally in the areas of international litigation/arbitration and international trade. He is a graduate of Stanford University and holds a law degree from the Georgetown University Law Center in Washington, DC.

YASUJIRO MIYAKE (JAPAN)

Yasujiro Miyake is Deputy Director in the Multilateral Trade System Department of the Ministry of Economy, Trade and Industry. As a negotiator, Mr. Miyake worked on the Japan-Malaysia FTA, as well as on WTO non-tariff barrier and tariff elimination issues in the Doha Development Round. He is currently in charge of negotiations on bilateral investment treaties and investment chapters of FTAs with China, India, Republic of Korea, and ASEAN, among others. Mr. Miyake has worked previously in the Research Institute of Economy, Trade and Industry, as well as in the Japanese Patent Office. He holds an LL.B. from the University of Tokyo, and LL.M. degrees from the University of Cambridge and University of Southampton (U.K).

ROBERT READY (CANADA)

Robert Ready is Director, Investment Trade Policy Division in the Department of Foreign Affairs and International Trade Canada. He manages the teams responsible for conducting Canada's international trade policy in the area of investment, including in foreign investment protection agreements (FIPAs), FTAs, in international organizations such as APEC and the OECD, and on issues relating to government procurement and corporate social responsibility. Prior to this assignment, Mr. Ready was Canada's lead negotiator for trade in services in the

WTO Doha Development Round. He has held a number of other positions in the public sector, including with Industry Canada, Investment Canada, and the Canadian House of Commons. Mr. Ready holds a B.A. (Hons) and a Masters in Public Administration (MPA) from Queen's University in Kingston, Ontario.

DAREN TANG (SINGAPORE)

Daren Tang is currently State Counsel with the International Affairs Division of the Attorney-General's Chambers of Singapore. He was a lead negotiator and legal counsel on the US-Singapore FTA, focusing on, inter alia, services and investment issues. Mr. Tang is currently involved in negotiations on a number of regional trade agreements, including the ASEAN-EU FTA, for which he is the ASEAN coordinator on Dispute Settlement. He holds an LL.B. from the National University of Singapore and an LL.M. from the Georgetown University Law Center in Washington, DC, where he was a Fellow of the Institute of International Economic Law.

Workshop Participants

Economy	Name	Title	Office	Ministry
Brunei Darussalam	Nurussa'adah Muharram	Second Secretary	Trade Development Unit	Ministry of Foreign Affairs and Trade
	Norhijradini Haji Saidi	Counsel		Ministry of Finance
Canada	Jasmine Rokolj	Trade Policy Officer		Foreign Affairs and International Trade
	Robert Ready	Director, Investment Trade Policy		Foreign Affairs and International Trade
Chile	Nicolas Munoz Montes	Counsel	Program for Defense in Foreign Investment Arbitration	Ministry of Economy
	Cristián Rodríguez Chiffelle	Legal Advisor	General Directorate for International Economic Affairs	Ministry of Foreign Affairs
People's Republic of China	Liu Keyi	Section Chief	Treaty and Law Department	Ministry of Commerce
	Han Yi	Deputy Section Chief		Ministry of Commerce
Hong Kong China	Agnes Cheung	Senior Government Counsel		Department of Justice
	Helen Yip	Trade Officer		Trade and Industry Department
Indonesia	Selamat Riyanto Hasiholan	Acting Head, Section for ASEAN Cooperation	Directorate for Regional Cooperation	Investment Coordinating Board
	Harditya Suryawanto	Head, Investment Section	Treaty Division	Investment Coordinating Board
Japan	Yasujiro Miyake	Deputy Director	Multilateral Trade System Department	Ministry of Economy, Trade and Industry
Republic of Korea	Won-Mog Choi	Investment Advisor to Ministry of Knowledge Economy		WTO Law Center, Ewha Womans University
	Yoo Jung Choi	Legal Assistant		WTO Law Center, Ewha Womans University
	Ja Young Kim	Legal Assistant		WTO Law Center, Ewha Womans University

Economy	Name	Title	Office	Ministry
Republic of Korea	Jaeyoung Lee	Investment Advisor to Ministry of Knowledge Economy		College of Law, Korea University
Malaysia	Thavamani Krishnan	Assistant Director		Ministry of International Trade and Industry
	Vinodh Mariappa	Assistant Director		Malaysian Industrial Development Authority
Mexico	Israel Octavio Torres López	Deputy Director for International Treaties		Ministry of Economy
	Claudio Saucedo Pagola	Deputy Director General for International Affairs	Directorate General of Foreign Investment	Ministry of Economy
New Zealand	Caroline Bayliss	Legal Advisor	Trade Negotiations Division	Ministry of Foreign Affairs and Trade
	Danie Beukman	Investment Lead Negotiator		Ministry of Foreign Affairs and Trade
	Rod Harris	Deputy Director	Trade Law Unit	Ministry of Foreign Affairs and Trade
	Ben King	Senior Policy Officer	Trade Negotiations Division	Ministry of Foreign Affairs and Trade
Papua New Guinea	Thomas Rhemmy Tarabu	Manager - Investment Promotions		Investment Promotion Authority
	Joan Waine	Assistant Director	Bilateral and Regional Economic Affairs Branch	Department of Foreign Affairs, Trade and Immigration
Peru	Ana Ampuero	Legal Advisor	Minister's Office	Ministry of Foreign Trade and Tourism
	Carlos Gallardo	Economist	General Directorate of International Economy, Competition and Private Investment Affairs	Ministry of Economy and Finance
Philippines	Esmeralda G. Fulgentes	Investment Specialist	Office of Industrial Policy, Board of Investments	Department of Trade and Industry
	Jose Vincente B. Salazar	Undersecretary		Department of Justice
Russia	Aleksandra Chagovets	Advisor, Services and Investment Division	Department of Trade Negotiations	Ministry for Economic Development and Trade

Economy	Name	Title	Office	Ministry
Russia	Nikolay Platonov	Deputy Head, Services and Investment Division	Department of Trade Negotiations	Ministry for Economic Development and Trade
Singapore	Daphne Hong	Senior State Counsel		Attorney General's Chamber
	Daren Tang	State Counsel	International Affairs Division	Attorney General's Chamber
	Ong Kiat Yeng	Senior Assistant Director		Ministry of Trade and Industry
	Tee Yiting	Assistant Director		Ministry of Trade and Industry
Chinese Taipei	Stefan C. W. Lin	Specialist	Department of Investment Services	Ministry of Economic Affairs
	Jen-Ni Yang	Deputy Chief Representative	Office of Trade Negotiations	Ministry of Economic Affairs
	Shu-Mei Yang	Senior Commercial Specialist	Department of Investment Services	Ministry of Economic Affairs
Thailand	Bonggot Anuroj	Senior Investment Promotion Officer	Board of Investment	Ministry of Industry
	Nathasit Diskul	Officer	Department of Trade Negotiations	Ministry of Commerce
	Wanaporn Techagaisiyavanit	Third Secretary		Ministry of Foreign Affairs
Viet Nam	Bui Hong Duong	Deputy Director, APEC-ASEM Division	Multilateral Trade Policy Department	Ministry of Industry and Trade
	Hoang Gia Khanh	Senior Expert	Department of Planning and Investment	Ministry of Industry and Trade
	Le Thi Hai Van	Deputy Head, Statistics and Policy Division	Foreign Investment Agency	Ministry of Planning and Investment
	Le Thi Le Thu	Officer		Ministry of Planning and Investment
United States	Jonathan Kallmer	Deputy Assistant U.S. Trade Representative for Investment	Office of the U.S. Trade Representative	Executive Office of the President
	Jai Motwane	Director for Services and Investment	Office of the U.S. Trade Representative	Executive Office of the President

WORKSHOP TWO

Washington DC, 3-7 November 2008

Workshop Summary

The second workshop of this project was held at the Latham Hotel in the Georgetown area of Washington DC. The workshop was attended by 52 participants from 19 APEC economies, and by a representative of the APEC Secretariat. The workshop was instructed by a faculty of over 40 experts – international investment attorneys, experienced arbitrators of investment disputes, government attorneys responsible for defense against investor claims, and staff of the International Center for the Settlement of Investment Disputes (ICSID). The workshop included a mock arbitration conducted in World Bank facilities used for actual ICSID arbitration hearings. On the second day of the workshop, participants and faculty attended a luncheon and roundtable discussion at the Four Seasons Hotel, hosted by the U.S. National Center for APEC.

The objective of the Week Two workshop was to provide a comprehensive review of all aspects of investor-State dispute settlement under IIAs. The workshop began with a discussion of the unique characteristics of the investor-State arbitration, and in particular the political considerations that are largely absent from similar litigation between private parties. Other aspects of investor-State arbitration noted by panelists as differing from other dispute settlement processes included its unique jurisdictional issues, differences in the selection processes for adjudicators, and the fact that investor-State tribunals are “extra-judicial” bodies.

Workshop panelists discussed the types of disputes that can be brought to arbitration under the provisions of IIAs, and the question of whether and when breaches of contract by a State can constitute a violation of international agreements. The workshop then delved into the issue of jurisdiction of tribunals and the identity and nationality of claimants, particularly with reference to disputes that may be brought before the ICSID. Panelists discussed scenarios involving investors of dual or changing nationality, and how these issues have been addressed in arbitral conventions, in IIAs, and by arbitral tribunals.

The second day of the workshop focused on discussion of applicable law in investor-State arbitrations, and on rules of procedure. Panelists noted the absence of a legal “hierarchy” for investor-State arbitration, and the role of precedent as informing, but not binding, the decisions of tribunals. Much discussion during these sessions focused on alternative approaches in IIAs to the forum selection, and requirements of “fork in the road” and “no U-turn” approaches. Panelists noted that the former approach could discourage the use of domestic courts as it removed an investor’s recourse to international arbitration. Participants queried whether a method could be found to more strongly encourage the use of local remedies in IIAs, without requiring it as a condition for bringing a dispute to arbitration.

Panelists discussed the importance of managing the process of selecting arbitrators well, and noted the impact this selection can have on the outcome of an investor-State arbitration. Among the factors identified by panelists as key in selecting an arbitrator were: experience and reputation; past awards and other writings; current caseloads; and potential conflicts of interest. Panelists also discussed provisions in recent IIAs aimed at achieving greater

efficiency in the arbitral process, such as those relating to consolidation of claims and the dismissal of frivolous claims.

On Day Three of the Workshop, representatives of APEC member economies spoke of their governments' approaches to preparing for and managing the investor-State arbitration process. The officials emphasized the need to develop a proper internal framework for responding to investor claims, including establishing clear responsibilities, ensuring coordination among ministries, and centralizing information. Panelists discussed factors that should be considered by States in deciding whether to manage cases "in-house" or to retain outside counsel. Panelists stressed the importance of including State defense attorneys in negotiations, of devoting resources to hiring and training qualified individuals, and to maintaining good contacts within the community of investment law, including through participation in workshops such as this.

On the afternoon of Day Three, participants attended a mock investor-State arbitration at the ICSID facilities of the World Bank. The mock, organized and performed by attorneys of Crowell and Moring LLP, involved a hypothetical dispute involving claims of expropriation, failure to provide fair and equitable treatment, discriminatory treatment, and other alleged breaches or a fictional IIA. The mock included demonstrations of client consultation, hearing procedures and arguments, witness preparation and examination, and the role of arbitrators in hearings.

Day Four of the workshop focused on discussion of types of arbitral awards, and mechanisms for the enforcement, challenge and annulment of awards. Panelists noted that in the majority of known investor-State arbitrations to date, investors have received little to no monetary compensation. They noted that, according to available research, investors have received a monetary award in approximately 20 of 200 known cases, and that the average award was less than 3% of the amount claimed (or US\$10 million). Panelists then discussed the procedures for obtaining recognition and enforcement of an award, and legal and political challenges that can arise in this process. Finally, panelists outlined circumstances under which governments can seek to have an award annulled or set aside.

On the final day of the workshop, a broad array of panelists discussed strategies by which States can seek to avoid arbitration, including through alternative dispute resolution mechanisms. Panelists from APEC governments stressed the importance of understanding and fulfilling IIA obligations, including through education of officials at sub-national levels of government. The final sessions of the workshop were focused on discussion of key current issues in the investor-State arbitration, such as attempt to achieve greater transparency and participation in the arbitration process, and to achieve greater consistency in arbitral decisions.

* * *

The full agenda, speaker biographies, and participant list for this workshop are included below. Presentation and reading materials for the workshop were provided to participants in hard-copy and electronically on a compact disc.

Workshop Agenda

TIME	DAY 1
8:00 – 9:00 am	<p><u>Registration:</u></p> <p style="text-align: center;">Jurisdiction: Scope of Disputes Subject to Arbitration</p>
9:00 – 10:30 am	<p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Art and science of managing investment disputes • Forums available under BITs, free trade and regional agreements, and national laws • Introduction to the ICSID and ICSID Convention
10:30 – 10:45 am	<p>Break</p> <p>Session Description:</p> <p>This session begins with an overview of general approaches to managing investment disputes. It then discusses various types of disputes that may be submitted to arbitration under the provisions of new investment agreements; various forums in which an investment treaty dispute could be resolved; and an introduction to ICSID, the institution that administers a significant number of investment treaty disputes.</p> <p style="text-align: center;">Breach Contract v. Breach of Treaty</p>
10:45 – 12:15 am	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Kinds of disputes subject to arbitration under investment agreements <ul style="list-style-type: none"> ○ Alleged breaches of investment treaties ○ Disputes that involve both alleged breaches of investment treaties and contract disputes • Effect of breach of contract in customary international law • Breach of contract in investment treaties: Umbrella clauses; handling breach of contract issues in new investment treaties (no traditional umbrella clause; arbitration available for breach of certain concession contracts) <p>Session Description:</p> <p>This session begins with an examination of the status of contracts in international law, and the distinction between contract and treaty claims, as considered by the <i>Vivendi</i> Annulment tribunal. It then examines how breach of contract issues are handled in investment treaties that have umbrella clauses and those that do not have such clauses.</p>

TIME	DAY 1— <i>cont'd</i>
12:15 – 12:30 pm	Question and Answer
12:30 – 2:00 pm	Lunch
2:00 – 3:30 pm	<p data-bbox="384 533 667 566"><u>Afternoon Session 2:</u></p> <ul data-bbox="443 566 1249 678" style="list-style-type: none"> • Jurisdiction of international tribunals • Requirement of consent (including under new agreements) • Scope of dispute resolution clauses in investment treaties <p data-bbox="384 723 667 757">Session Description:</p> <p data-bbox="499 757 1369 902">This session discusses the fundamental requirement of consent to arbitrate, and implications of consent for the jurisdiction of arbitral tribunals. It then examines the effect of a narrow or broad dispute resolution clause in admitting or excluding contractual disputes.</p>
3:30 – 3:45 pm	Break
3:45 – 5:15 pm	<p data-bbox="384 1059 667 1093"><u>Afternoon Session 2:</u></p> <ul data-bbox="443 1093 1390 1283" style="list-style-type: none"> • Identity of respondents: States; State entities; attribution • Identity of claimants: nationality and continuous ownership requirements, direct or indirect ownership and control; jurisdiction <i>ratione personae</i> • Subject matter jurisdiction, and jurisdiction <i>ratione materiae</i>
5:15 – 5:30 pm	<p data-bbox="384 1317 667 1350">Question and Answer:</p> <p data-bbox="384 1395 667 1429">Session Description:</p> <p data-bbox="499 1429 1353 1561">This session also examines the identity of claimants and respondents under the provisions of investment treaties and under the ICSID Convention (i.e., requirements <i>ratione materiae</i> and <i>ratione personae</i>).</p>

TIME	DAY 2
9:00 – 10:30 am	<p style="text-align: center;">Applicable Law</p> <p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Applicable law clauses of investment treaties • Article 42 of the ICSID Convention; role of domestic law of host States • Law applicable to procedure <p>Session Description: This session examines the “applicable law” provisions of new investment agreements. It further examines applicable law in an ICSID proceeding, and the interaction of the national law of the host State with international law and investment treaties. Finally, it discusses the law applicable to procedural issues.</p>
10:30 – 10:45 am	Break
10:45 am – 12:15 pm	<p style="text-align: center;">Avoiding Parallel Proceedings</p> <p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Exhaustion of remedies; Article 26 of ICSID Convention • “No u-turn,” “waiver,” and “fork in the road” clauses • <i>Res judicata</i> • Forum election issues: arbitration clauses in investment contracts and their relationship to treaty obligations
12:15 – 12:30 pm	<p>Question and Answer:</p> <p>Session Description: This session discusses exhaustion of local remedies and treaty clauses which delineate how investors may choose among various dispute resolution fora. This session will also examine the effect of exclusive forum selection clauses in investment contracts.</p>
12:30 – 2:00 pm	Lunch
2:00 – 3:30 pm	<p style="text-align: center;">Mechanics of Arbitration</p> <p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Rules and procedural provisions under new investment agreements • Selection and appointment of arbitrators; applicable treaty clauses • Challenges to nominated arbitrators, IBA Guidelines • Conflicts of interest, IBA Guidelines

TIME	DAY 2— <i>cont'd</i>
	<ul style="list-style-type: none"> • Venue: choosing the place of arbitration • Interim measures; ICSID and investment treaty provisions <p>Session Description: This session begins with a discussion of the origin of the contemporary system of investor-State arbitration. It then examines in detail various legal and practical issues that may arise at the beginning of the arbitral process, including the important issue of selection of arbitrators and potential challenges to suggested arbitrators on grounds of conflict of interest. It will then discuss procedural provisions of new investment agreements, including as they relate to choice of place of arbitration. Finally, the session will examine various ways in which parties can request interim measures, and the approach to this issue in new investment agreements.</p>
3:30 – 3:45 pm	Break
3:45 – 5:15 pm	<p><u>Afternoon Session 2:</u></p> <ul style="list-style-type: none"> • Consolidation of claims—NAFTA Article 1126, approach in recent investment agreements • Consolidation in situations where the applicable treaty and arbitral rules lack provisions dealing with it; • Precluding frivolous claims: new approaches in recent investment agreements and in the amended ICSID arbitration rules
5:15 – 5:30 pm	<p>Question and Answer</p> <p>Session Description: This session discusses various methods to consolidate related claims into a single arbitral proceeding and the issues that would arise, taking note of NAFTA Article 1126 jurisprudence, and reviewing ICSID decisions where arbitral tribunals have dealt with these issues. The session will also touch upon treaty approaches to precluding frivolous claims, and the approach adopted in the amended ICSID Arbitration Rules.</p>

TIME	DAY 3
9:00 – 10:30 am	<p style="text-align: center;">Management of Arbitration I</p> <p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Training of legal and contracting staff in the governmental agencies • Selection and hiring of outside counsel • Maintaining project documents and records in anticipation of disputes • Coordination among government entities on preparation of the respondent's case. • Coordination among State parties to the agreement on interpretive guidance for tribunals (e.g., 1128 submissions under NAFTA and similar provisions in recent agreements) <p>Session Description: This session will discuss the perspectives and experiences of APEC economy officials with respect to preliminary issues such as the training of legal staff for investment arbitration, the selection of outside counsel, and coordination activities within and between governments.</p>
10:30 – 10:45 am	Break
10:45 am – 12:15 pm	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Facts in investment arbitration: taking of evidence, IBA Guidelines • Production of documents: exchanges of relevant documents between parties, by agreement or by order of the arbitration tribunal; implications of laws on secrecy; protection of proprietary information • Approaches to preparation of memorials and briefs
12:15 – 12:30 pm	<p>Question and Answer:</p> <p>Session Description: This session will discuss various issues related to the taking and production of evidence, such as the implications of laws on document secrecy, the effect of non-production, and adverse inferences. The session concludes with a general discussion of effective advocacy methods.</p>
12:30 – 2:00 pm	Lunch

TIME	DAY 3— <i>cont'd</i>
2:00 – 3:30 pm	<p style="text-align: center;">Management of Arbitration II—Mock Arbitration</p> <p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Organizing the proceedings: pre-hearing conferences • Fact witnesses and expert (legal, financial, and accounting) witnesses, preparation of witnesses • Organization of hearings • Examination and cross-examination of witness
3:30 – 3:45 pm	Break
3:45 – 5:15 pm	<p><u>Afternoon Session 2:</u></p> <ul style="list-style-type: none"> • Same topics continued
5:15 – 5:30 pm	<p>Question and Answer:</p> <p>Session Descriptions: By way of enactment, these sessions will illustrate some of the practical tasks that counsel must perform during the course of an investment arbitration, including organization of pre-hearing conferences, the preparation of fact and expert witnesses, and hearing examination.</p>

TIME	DAY 4
9:00 – 10:30 am	<p style="text-align: center;">Compensation, Damages, and Non-Pecuniary Remedies</p> <p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Compensation and damages; standards of compensation for various violations of investment treaties • Restitution of property v. money damages • Valuation of investment; choice of valuation experts • Awarding interest; simple v. compound interest • Arbitration costs and legal fees: costs follow the event v. American rule
10:30 – 10:45 am	<p>Question and Answer:</p>
10:45 – 11:00 am	<p>Session Description:</p> <p>This session examines standards of compensation for violation of investment treaty provisions; valuation methods; possible ways that governments can reduce the amount of compensation; and the extent of governments' obligations to abide by non-pecuniary remedies ordered by an arbitral tribunal.</p>
10:45 – 11:00 am	<p>Break</p>
11:00 am – 12:30 pm	<p style="text-align: center;">Recognition, Enforcement, Challenges and Annulment of Arbitration Awards</p> <p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Recognition and enforcement under the ICSID Convention • Recognition and enforcement under the New York Convention • Enforcement provisions in the new agreements, including annulment and set aside provisions • Immunity of sovereign property from execution <ul style="list-style-type: none"> ○ relevant treaties and laws ○ exceptions to immunity: commercial activities, waiver
12:30 – 2:00 pm	<p>Lunch</p>
2:00 – 3:30 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Grounds for challenging ICSID awards, annulment proceedings • Challenge and set aside procedures under the New York Convention and UNCITRAL Model Law

TIME	DAY 4— <i>cont'd</i>
3:30 – 3:45 pm	Question and Answer
	<p>Session Descriptions: These sessions discuss various issues related to enforcement of, and challenges to, arbitral awards under the ICSID and New York Conventions, as well as under national laws, including UNCITRAL Model Law. In this context, they will also discuss State sovereign immunity defenses against the attachment of assets.</p>
3:45 – 4:00 pm	Break
	<p>Transparency and Third-Party Participation in Arbitral Proceedings</p>
4:00 – 5:30 pm	<p><u>Afternoon Session 2:</u></p>
	<ul style="list-style-type: none"> • Transparency requirements in new investment agreements; publication of awards and submissions • Third Party participation, <i>amici curiae</i>, civil society groups • Amendment of ICSID and UNCITRAL Rules to allow for third party participation
	<p>Session Description: This session examines the extent to which arbitral proceedings must be conducted transparently, as reflected in the text of investment treaties, and as required by some arbitral tribunals. It also examines the status of <i>amici curiae</i> under various investment treaties, the ICSID Arbitration Rules, and other arbitral rules; and the impact of the participation of the <i>amici</i> on arbitral proceedings.</p>

TIME	DAY 5
9:00 – 10:30 am	<p style="text-align: center;">Strategies for Avoiding Arbitration</p> <p><u>Morning Session 1:</u></p> <ul style="list-style-type: none"> • Legal and policy coordination among government entities • Coordination between national and local governments • Standing dispute review boards
10:30 – 10:45 am	Break
10:45 – 12:15 am	<p><u>Morning Session 2:</u></p> <ul style="list-style-type: none"> • Alternative dispute resolution • Negotiation, mediation and conciliation mechanisms
12:15 – 12:30 pm	Question and Answer
	<p>Session Descriptions:</p> <p>These sessions will discuss the experiences of APEC member economies with respect to methods for managing investor relations and avoiding investor-State arbitration. These methods may include general practice such as enhanced coordination among government agencies to avoid treaty-inconsistent actions, as well as institutional arrangements such as standing review boards. They will then focus on alternative dispute resolution, mediation and conciliation mechanisms, which can be used to resolve disputes without arbitration.</p>
12:30 – 2:00 pm	Lunch
	<p style="text-align: center;">Key Developments and Trends in Investor-State Arbitration</p>
2:00 – 3:30 pm	<p><u>Afternoon Session 1:</u></p> <ul style="list-style-type: none"> • Concerns regarding the inconsistency of arbitral awards on certain issues • Attempts to create an appellate mechanism for ICSID; U.S. contemplation of ad hoc bilateral appellate tribunals in its 2004 Model BIT and recent FTAs
3:30 – 3:45 pm	Break

TIME	DAY 5— <i>cont'd</i>
3:45 – 5:15 pm	<p data-bbox="395 309 667 342"><u>Afternoon Session 2:</u></p> <ul data-bbox="443 349 1377 495" style="list-style-type: none"> <li data-bbox="443 349 1302 421">• Impact of investor-State arbitration on investment rulemaking; trends in treaty drafting <li data-bbox="443 427 1377 495">• The growing complexity, cost and “judicialization” of the process— and ways to deal with these developments
5:15 – 5:30 pm	<p data-bbox="395 533 683 566">Question and Answer:</p> <p data-bbox="395 607 675 640"><u>Session Descriptions:</u></p> <p data-bbox="501 647 1382 752">These sessions will examine, among other things, recent developments, trends, and policy issues in investor-State arbitration, and how these impact the future of the system.</p>

Workshop Faculty

STANIMIR ALEXANDROV

Partner, Sidley Austin LLP. Mr. Alexandrov focuses his practice in the areas of international dispute resolution, including investor-State arbitration and international commercial arbitration, and resolution of trade disputes before the World Trade Organization (WTO). He has represented private parties and governments in arbitration before the International Centre for Settlement of Investment Disputes (ICSID), as well as the International Chamber of Commerce (ICC), United Nations Commission on International Trade Law (UNCITRAL), and American Arbitration Association (AAA) international arbitrations. He has also represented governments in WTO disputes. Mr. Alexandrov has been appointed to the ICSID's Panel of Arbitrators and Panel of Conciliators and has served as an arbitrator in a number of cases. He has appeared as an expert witness in international arbitration on investment treaty interpretation. Mr. Alexandrov's current and recent international arbitration cases include representation of global investors, such as Bayindir Holdings, Vivendi, Fireman's Fund Insurance Co., General Electric, Bechtel, Impregilo S.p.A., and Cargill, as well as representation of sovereigns, including Costa Rica, Turkey and Peru. S.J.D., George Washington University Law School; LL.M., George Washington University Law School; J.D., Moscow Institute of International Relations; B.A., Sofia University.

MARKHAM BALL

Director, Alternative Dispute Resolution Center and Senior Fellow, International Law Institute. Mr. Ball is active as an arbitrator and mediator. He has served as arbitrator, usually as a sole arbitrator or tribunal chair, in approximately 25 cases under the rules of the ICC, the AAA (both domestic and international rules), the CPR Institute for Dispute Resolution and other institutions, as well as under the UNCITRAL Rules. The cases arbitrated have included a wide variety of commercial matters, including both domestic and international contract and investment disputes. Mr. Ball has also mediated successfully under the rules of the AAA and in an ad hoc mediation. He spent more than 40 years in the private practice of law in Washington, DC, where he specialized in domestic and international arbitrations and other forms of alternative dispute resolution (ADR). Mr. Ball was previously a partner at Holland & Knight LLP, and has taught international commercial arbitration at the University of Virginia Law School and at the Georgetown University Law Center. He has spoken and led seminars on commercial arbitration in the United States and numerous other countries, and has published extensively. He has served as consultant to several national governments on drafting national arbitration and mediation laws, and on putting these laws into practice. J.D., Harvard Law School; B.A., Amherst College; Rhodes Scholar, Oxford University.

PERRY BECHKY

Academic, Arbitrator. Mr. Bechky is a visiting assistant professor at the University of Connecticut School of Law. Formerly a counsel at Shearman & Sterling LLP, as a litigator primarily responsible for the management of million- and billion-dollar international disputes. Mr. Bechky has written and lectured extensively in the U.S. and abroad, including on topics such as: "The Investment Case of the Year", "Arbitration of Investment Disputes", "Investment Climate: The Role of Investment Treaties" and "Multilateral and Bilateral Regulation of International Investments". J.D., Columbia University School of Law; B.A., Stanford University.

DAVID BRANSON

Senior Advisor, International Law Institute. Mr. Branson was formerly a Partner with the law firm of Wallace, King, Domike, and Branson. He specializes in arbitration work and now serves as an arbitrator. He has served as an arbitrator and participated as counsel in proceedings conducted under the rules of the AAA, the ICC, and the ICSID, among others. LL.M., St. John's College, Cambridge University; J.D., Georgetown University Law Center.

MARK BRAVIN

Partner, Morgan, Lewis & Bockius LLP. Mr. Bravin heads Morgan Lewis' International Arbitration and Litigation Practice and focuses on transnational litigation and commercial arbitration matters. He also has a substantial background in international trade matters and administrative law. Mr. Bravin has represented private parties and sovereign governments in bilateral investment treaty disputes before ICSID, enforcement cases under the New York Convention, and claims at the Iran-U.S. Claims Tribunal in The Hague. His international arbitration cases have included disputes about oil field concessions, power projects, banking, engineering, shipping, distributorships and joint ventures, procurement and construction contracts, licensing agreements, and services agreements. Mr. Bravin has published and spoken widely in the field of international dispute resolution, include on topics such as: "Planning For and Successfully Resolving International Disputes", "Enforcing International Arbitral Awards in the United States", and "Ten Things That Can Go Wrong With An International Arbitration and What To Do To Fix Them". J.D., Harvard Law School; M.P.P., Harvard University; B.A., University of California, Los Angeles.

MARINN CARLSON

Partner, Sidley Austin LLP. Ms. Carlson focuses her practice in international dispute settlement, with an emphasis on trade policy and investment disputes, including investor-state arbitration and WTO disputes. She has represented foreign investors as well as respondent governments in ICSID arbitrations under investment treaties and trade agreements, including NAFTA. She has also represented clients in U.S. litigation with international ramifications, and as amici curiae in foreign affairs, intellectual property, and Commerce Clause cases before the United States Supreme Court and various courts of appeal. Ms. Carlson has previously worked in several organizations with a focus on trade and its intersection with environmental policy, including the Environmental Defense Fund and the White House Office on Environmental Policy. J.D., Yale Law School; M.P.A., Princeton University; B.A., Dartmouth College.

MARK CLODFELTER

Of Counsel, Winston & Strawn LLP. Mr. Clodfelter concentrates his practice in international arbitration, including investor-state treaty arbitration. He has had extensive private and public practice experience involving disputes before a wide range of international arbitration fora. Immediately prior to joining the firm, he served for seven years as the U.S. State Department's assistant legal adviser for international claims and investment disputes. In this role, Mr. Clodfelter directed 25 attorneys in the representation of the United States in international arbitration proceedings, including ICSID-AF and UNCITRAL proceedings under the investment chapter of NAFTA, in which he led his office's unblemished record of success. He also led representation of the United States before the Iran-U.S. Claims Tribunal, the U.N. Compensation Commission, and in a major dispute under the auspices of the Permanent Court of Arbitration arising under a bilateral investment incentive agreement. In his previous private sector work, Mr. Clodfelter represented a wide range of clients in international arbitrations before the ICC International Court of Arbitration, the Arbitration

Institute of the Stockholm Chamber of Commerce, the American Arbitration Association, the Iran-U.S. Claims Tribunal, and ad hoc tribunals. J.D., M.A. and B.A., University of Michigan.

CHRISTOPHER DUGAN

Partner, Paul, Hastings, Janofsky & Walker LLP. Mr. Dugan focuses his practice on international arbitration, international litigation and complex fraud litigation. He is the Chair of the litigation department in the firm's Washington DC office and Co-Chair of the Paul Hastings International Arbitration Practice. Mr. Dugan has been lead counsel in numerous significant representations, including *Karaha Bodas v. Pertamina, et al.*, a global enforcement of a \$261 million arbitration award against the Indonesian national oil company; and *The Loewen Group v. United States*, an \$800 million NAFTA arbitration claim (the first NAFTA claim filed against the United States). He is currently representing clients on arbitral matters including oil leases in Azerbaijan, energy regulation in Colombia, and government guarantees in Tajikistan. He also has advised numerous clients on the U.S. Foreign Corrupt Practices Act and export licensing matters. Mr. Dugan serves as an adjunct professor at the Georgetown University Law Center. J.D., Georgetown University Law Center; B.A., Johns Hopkins University.

GONZALO FLORES

Senior Counsel, International Centre for Settlement of Investment Disputes, World Bank. In his capacity as senior counsel, Mr. Flores has served as Secretary of the Tribunal in numerous ICSID and UNCITRAL arbitral proceedings instituted under the ICSID Convention, the ICSID Additional Facility Rules and the UNCITRAL Arbitration Rules. He holds an LL.B. degree from the University of Chile School of Law and an LL.M. degree from Cornell University Law School.

ALEXANDRE DE GRAMONT

Partner, Crowell & Moring LLP. Mr. Gramont specializes in International Dispute Resolution. He has represented clients in a wide variety of international commercial arbitration and investor-State arbitration matters. He is recognized by Chambers USA as one of the leading arbitration specialists in the United States. He has written and spoken about various legal issues, including international investment treaties and investment disputes. Recent publications include: "Key Issues and Recent Developments in International Investment Treaty Arbitration," ABA Section of International Law Meeting Materials, Spring 2007 (co-authored with Maria Gritsenko). J.D., New York University; B.A., Wesleyan University.

TODD GRIERSON-WEILER

Adjunct professor, University of Calgary Faculty of Law and the Faculty of Law at the University of Western Ontario. Mr. Grierson-Weiler is a Member of the Law Society of Upper Canada. His practice focuses exclusively on investor-state arbitration. Mr. Grierson-Weiler has served as arbitrator, advising expert and co-counsel in over two dozen treaty disputes. In 2006 he was named by the *Global Arbitration Review* as one of its "45 Under 45" in the field of international arbitration and his name also appears on the *Who's Who Legal* list of international arbitrators. He is responsible for two popular international law web sites: www.naftaclaims.com, launched in 1999; and Oxford University Press' www.investmentclaims.com, which he co-founded in 2005. He has served as editor and co-author of three books on investment law and arbitration: "NAFTA Investment Law and Arbitration: Past Issues, Current Practice, Future Prospects, and Foreign Investment Law"

(Transnational: New York, 2004); “International Investment Law and Arbitration: Leading Cases...” (Cameron May: London, 2005); and “Investment Treaty Arbitration and International Law,” Vol. 1 (Juris: New York, 2008). Mr. Grierson-Weiler holds an M.A. and LL.B from the University Western Ontario, LL.M degrees from the University of Ottawa and the University of Michigan, and is currently completing a doctorate in international economic law at the University of Michigan.

ANNA JOUBIN-BRET

Senior Legal Adviser, Division on Investment and Enterprise, United Nations Conference on Trade and Development (UNCTAD), Geneva. Ms. Joubin-Bret is head of UNCTAD’s technical assistance and training Work Programme on international investment agreements (IIAs) and oversees the research work of UNCTAD’s IIA programme, including the publications of the UNCTAD Series on Issues in International Investment Agreements. Ms. Joubin-Bret has previously been appointed judge at the Commercial Court in Grenoble (France). She has been Legal Counsel in the legal department of the Schneider Group, General Counsel of the KIS Group, and Director-Expert of Pomagalski S.A. Ms. Joubin-Bret holds a post-graduate degree (DEA) in Private International Law from the University of Paris I, Panthéon-Sorbonne. She graduated in International Economic Law from University Paris I and in Political Science from Institut d'Etudes Politiques.

JEAN ENGELMAYER KALICKI

Partner, Arnold and Porter LLP. Ms. Kalicki is responsible for a wide variety of international arbitration and litigation matters and has particular expertise in investment treaty arbitration, having represented both sovereigns and investors in disputes before the ICSID. She also has extensive experience in commercial arbitration, and has represented companies on five continents, as well as the United Nations, in disputes before the ICC, the AAA and its International Centre for Dispute Resolution (ICDR), and ad hoc tribunals under the UNCITRAL Rules. Ms. Kalicki frequently counsels clients on structuring international business transactions to obtain protection from applicable investment treaties and selecting arbitration clauses appropriate to particular transactions. She is a frequent speaker on arbitration topics. She is a member of the ICC Commission on Arbitration, and the seven-time Chair or Co-Chair of the Washington DC Bar's International Dispute Resolution Committee. Ms. Kalicki serves as an arbitrator for numerous institutions and as an adjunct professor at the Georgetown University Law Center. In litigation practice, she has substantial experience with the special treaties, statutes, and procedural rules governing transnational litigation in U.S. courts. J.D., Harvard Law School; B.A., Harvard College.

MARK KANTOR

Independent arbitrator; Fellow, Columbia Program on International Investment. Mr. Kantor teaches both international arbitration and international business transactions as an adjunct professor at the Georgetown University Law Center. He was a partner in the Global Project Finance Department of Milbank, Tweed, Hadley & McCloy LLP, where his principal focus was in international financings and investments. Mr. Kantor is active as an arbitrator and mediator, particularly in connection with international disputes. His recent dispute resolution engagements include matters involving telecommunications, energy, mergers and acquisitions, the building industry, the securities industry, and infrastructure development. He was a leader of Milbank's Asian Task Force and was extensively involved in the firm's Asian workouts and restructurings, including engagements in Indonesia and Pakistan. Mr. Kantor has written numerous journal and law review articles on a number of subjects,

including international arbitration and finance. M.P.P and J.D., University of Michigan; B.A., University of Southern California.

BRENT KACZMAREK

Managing Director, Navigant Consulting. Mr. Kaczmarek leads the International Arbitration practice of Navigant's Disputes and Investigations practice in Washington, DC. He advises clients and provides expertise on issues involving business and investment valuation, finance, accounting, and economics in industries such as financial services, manufacturing, energy, healthcare, telecommunications, utilities, and business services. His foreign investment and financial consulting has included corporations, foreign nationals, and sovereigns in the United States as well as in Central and Eastern Europe, Central America, South American, and the Caribbean. Mr. Kaczmarek has served as a testifying expert on more than 20 international arbitration matters, including many bilateral investment treaty cases. Mr. Kaczmarek holds the internationally recognized designation of Chartered Financial Analyst from the CFA Institute (formerly, the Association of Investment Management and Research).

RICHARD KREINDLER

Partner, Shearman & Sterling LLP. Mr. Kreindler practices in the areas of international arbitration and litigation. As counsel, Mr. Kreindler has handled approximately 150 commercial, construction, infrastructure and investment arbitrations before and under the rules of the leading U.S., European and other institutional and ad hoc arbitration regimes, including AAA, ICC, ICSID, LCIA, Singapore International Arbitration Centre (SIAC), Stockholm Chamber of Commerce, Swiss Rules, UNCITRAL, Vienna Rules, World Intellectual Property Organization (WIPO) and other arbitral institutions. His experience as an arbitrator includes 28 arbitrations, of which five were as Chairman, three as sole arbitrator, and 20 as party arbitrator. He has also represented private and sovereign entities in some 45 commercial, construction and natural-resource damage claims under public international law before the Iran-United States Claims Tribunal and the United Nations Compensation Commission. He has advised on cross-border enforcement of foreign arbitral awards and vacatur/set aside proceedings respecting domestic and international arbitral awards in Austria, China, France, Germany, India, Korea, Netherlands, Switzerland, the United Kingdom and the United States. Mr. Kreindler also routinely advises on multijurisdictional aspects of U.S., German, European, Asian and Middle Eastern civil litigations, including cross-border taking of evidence, and recognition and enforcement of judgments. Dr. jur., Westfälische Wilhelms University of Münster; J.D., Columbia University; Magister, Ludwig Maximilians University of Munich; A.B., Harvard University.

IAN LAIRD

Foreign Legal Consultant, Fulbright & Jaworski LLP. Mr. Laird focuses his practice in the field of international investment law and arbitration. He advises clients on issues related to bilateral and multilateral international agreements, such as the WTO Agreements, the NAFTA and bilateral investment agreements. Mr. Laird has spoken extensively and published numerous articles on international investment arbitration. Recent publications include: "Standards of Treatment in International Investment Law: The Move Towards Unification" (co-authored with Todd Grierson-Weiler), in *The Oxford Handbook of International Investment Law* (forthcoming); "Fair and Equitable Treatment: Emergency Exception/State of Necessity," in *Investment Treaty Law: Current Issues II* (2007); and "Finality versus Consistency: Does Investor-State Arbitration Need An Appellate System?" (co-authored with Rebecca Askew), *Journal of Appellate Practice and Process* (2006). LL.M.,

St. Edmund's College, University of Cambridge; LL.B., University of Windsor; B.A., McGill University.

LAUREL MALSON

Partner, Crowell & Moring LLP. Ms. Malson is a member of Crowell's Washington-based International Disputes Resolution Group, specializing in international and governmental litigation, mediation and arbitration, and complex appellate and administrative litigation. She routinely counsels foreign and domestic clients regarding litigation risk management; and has litigated extensively under the Foreign Sovereign Immunities Act, Alien Tort Statute, Federal Tort Claims Act, and other "public law" provisions where foreign and U.S. government, and related entities, are involved. Ms. Malson is a Mediator for the U.S. District Court for the District of Columbia, and also currently serves on the National Panel of Distinguished Neutrals for the International Institute for Conflict Prevention and Resolution. Before entering private practice in 1985, Ms. Malson served in the Office of Legal Counsel of the U.S. Department of Justice, where she was responsible for a broad range of constitutional and federal statutory matters. She has spoken and published on topics relating to litigation, mediation and alternative dispute resolution, including as co-author and editor of "The ABCs of Cross-Border Litigation in the United States". J.D., Harvard Law School; B.A., Wesleyan University.

JAMES MENDENHALL

Partner, Sidley Austin LLP. Mr. Mendenhall practices in the International Trade and Dispute Resolution group, concentrating on international trade policy and litigation. From 2005 to January 2007, Mr. Mendenhall served as General Counsel of the Office of the United States Trade Representative (USTR). In that capacity, Mr. Mendenhall supervised U.S. participation in World Trade Organization and NAFTA disputes and handled all legal aspects of U.S. bilateral, regional, and multilateral trade negotiations. Mr. Mendenhall also served as the principal U.S. negotiator of the United States-Canada Softwood Lumber Agreement and was the USTR representative on the Committee on Foreign Investment in the United States. Prior to joining the U.S. Government, Mr. Mendenhall spent nine years in private practice, concentrating in the areas of trade remedies litigation, international arbitration, trade policy, and litigation before WTO panels. J.D., Harvard Law School; B.A., University of Notre Dame.

STUART NEWBERGER

Partner, Crowell & Moring LLP. Mr. Newberger's practice centers on complex litigation in the U.S. federal and state trial and appellate courts, as well as the U.S. Supreme Court, and in international arbitration venues around the world. He also co-chairs the firm's "International Dispute Resolution" practice group. A large part of his practice arises from actions and decisions of governments, including issues ranging from "private commercial" activities such as aircraft ownership and oil and energy contracts/concessions, to "public policy" issues such as confiscation/expropriation of property and violations of international law. In addition to courts and arbitration venues, he has extensive contact with international organizations (United Nations, World Bank/IMF), U.S. and foreign executive and regulatory agencies, and legislative bodies such as the U.S. Congress. Mr. Newberger served for many years as an adjunct professor of law at Georgetown University, and has lectured widely on law, international affairs and public policy issues at numerous institutions. J.D., Georgetown University; B.A., George Washington University.

MICHAEL NOLAN

Partner, Milbank, Tweed, Hadley & McCloy LLP. Mr. Nolan's practice has a focus on international arbitration and litigation, represented clients in arbitrations under AAA, ICC, ICSID, UNCITRAL and other rules. He has represented both investors and states in arbitrations pursuant to bilateral investment treaties and the Energy Charter Treaty, and is a member of the Panel of ICSID Arbitrators by appointment of Mongolia. He has represented companies and states in U.S. court proceedings involving sovereign immunity, act of state, and the recognition and enforcement of foreign judicial and non-judicial awards. Mr. Nolan has taught as an adjunct professor of law at the Georgetown University Law Center both the introductory course on international arbitration and seminars on investor-state arbitration and ICSID practice. He is listed in Euromoney Guide, Experts in Commercial Arbitration as well as Chambers USA. Mr. Nolan is a graduate of Harvard College and of the University of Chicago Law School.

ELOÏSE OBADIA

Senior Counsel, Team Leader, International Centre for Settlement of Investment Disputes, World Bank. Ms. Obadia has served as Secretary of the Tribunal in several arbitral proceedings brought under the ICSID Convention, the ICSID Additional Facility Rules, and the UNCITRAL Rules. She has also served as Secretary of the ad hoc Committee in annulment proceedings brought under the ICSID Convention, and as Coordinator in an Expert Determination under the Indus Waters Treaty (1960). From 1998 to 2003, Ms. Obadia was on the editorial board of the ICSID Review—Foreign Investment Journal. Prior to joining ICSID, she was in private practice in Paris, France. LL.M., Duke University; M.A., University of Paris—Dauphine.

UCHEORA ONWUAMAEGBU

Senior Counsel, International Centre for Settlement of Investment Disputes, World Bank. Mr. Onwuamaegbu is a barrister of the Supreme Court of Nigeria and a solicitor of the Supreme Court of England and Wales. Prior to joining ICSID, Mr. Onwuamaegbu was Senior Legal Officer of the UN Compensation Commission in Geneva. He has been involved in private legal practice in Nigeria and in the United Kingdom. Mr. Onwuamaegbu has written and lectured extensively on various issues relating to investor-state arbitration.

JOSEPH PROFAIZER

Of Counsel, Paul, Hastings, Janofsky & Walker LLP. Mr. Profzaizer maintains a litigation and arbitration practice that focuses on international dispute resolution, including matters regarding both private and public international law. Mr. Profzaizer has represented public and private corporations as well as sovereigns and their instrumentalities in a variety of complex multi-jurisdictional disputes, including insurance, investment, commercial, construction, energy, employment, e-commerce, securities, and technology disputes. He has served as lead counsel and counsel in threatened or actual litigation or arbitration in over 40 foreign countries. He has successfully represented clients in state and federal courts at both the trial and appellate levels, as well as in all aspects of arbitrations under the rules of the ICC, AAA/ICDR, LCIA, JAMS and UNCITRAL. Mr. Profzaizer has also led internal investigations on behalf of corporations in the United States and Europe, including those faced with criminal and civil investigations by the U.S. Department of Justice and the Securities and Exchange Commission. Chambers and Partners USA (2008) and Legal 500 (United States, 2007, 2008) rank Mr. Profzaizer as a leading attorney in international arbitration. Mr. Profzaizer is the author of several articles and regularly speaks on various aspects of international litigation, international arbitration, mediation and international law.

He has lectured in the United States, England, Canada, Germany and South Africa. LL.M., London School of Economics and Political Science; B.A., University of Texas at Austin.

RICARDO RAMÍREZ

Counsel, Chadborne & Parke LLP. Mr. Ramírez is head of Chadborne's International Trade Practice for Latin America. His practice focuses on issues related to NAFTA and trade across Latin America, including international trade dispute resolution (in fora such as the ICSID, WTO, UNICITRAL, NAFTA and dispute settlement mechanisms provided in other international trade agreements). He was previously Deputy General Counsel for Trade Negotiations of the Ministry of Economy in Mexico. For more than 11 years, Mr. Ramírez provided advice on trade and competition policy matters related to all trade agreements signed by Mexico, and represented the Mexican government in its most complex international trade litigation and arbitration. LL.M., Washington College of Law, American University; Law Degree, Universidad Autónoma Metropolitana.

PHILIP ROBBERN

Partner, Kelley Drye & Warren LLP. Mr. Robben's practice focuses on all aspects of international and domestic commercial litigation and arbitration. Mr. Robben's broad experience encompasses representing clients in disputes concerning bilateral investment treaties, antitrust, fraud, breach of contract, and product liability matters. He represents clients in industries such as pharmaceuticals, banking and finance, industrial manufacturing, consumer products, and many multinational companies facing litigation in the United States. Mr. Robben is currently representing a leading multinational automotive and financial services company in an arbitration proceeding against the Republic of Argentina before the ICSID. He is also currently representing a major European construction services company in a separate ICSID arbitration against the Republic of Argentina. J.D., Fordham University; B.A., Fordham University.

CHRISTOPHER RYAN

Associate, Shearman & Sterling LLP. Mr. Ryan's practice focuses on international litigation and commercial and investor-State arbitration. He has represented clients before various U.S. federal courts, as well as in AAA, ICC, ICSID, and ad hoc arbitral panels, the World Trade Organization's Dispute Settlement Body, and NAFTA Chapter 19 panels. He has also counseled clients on U.S. investment policy, as well as the legal and commercial aspects of potential investment treaty disputes. Mr. Ryan has written and spoken widely on issues relating to international law and investment treaty arbitration. J.D., George Washington University Law School; M.A., Villanova University; B.A., Temple University.

BORZU SABAH

Consultant, Fulbright & Jaworski LLP; adjunct professor, Georgetown University Law Center. Mr. Sabahi focuses on international investment and commercial arbitration. He is currently assisting in major international investment arbitrations under the ICSID and UNCITRAL Arbitration Rules. He has published and lectured on investor-State arbitrations and international investment law. Recent publications include "Investor-State Arbitration" (co-authored with Don Wallace, Jr., Christopher Dugan and Noah Rubins), (OUP, forthcoming) and "Compensation, Damages, and Valuation in International Investment Law" (co-authored with Thomas W. Wälde); as well as contributions in "The Oxford Handbook of International Investment Law" (OUP, forthcoming) and "Investment Treaty Arbitration: A Debate and Discussion" (Juris Publishing, 2007). S.J.D. candidate, Georgetown University

Law Center; LL.M., Georgetown University Law Center; M.A. and B.A., University of Tehran.

JOHN SAVAGE

Partner, Shearman & Sterling LLP. Mr. Savage leads the firm's international arbitration practice in Asia. He has represented governments, corporations and high net-worth individuals in over 60 international arbitrations, both institutional and ad hoc, including many investment treaty disputes. His practice focuses on representation of Asian clients in arbitrations worldwide, and clients from outside Asia in arbitrations taking place in Asia. In addition to his work as counsel, Mr. Savage has been appointed as an arbitrator in ICC, ICSID, Kuala Lumpur Regional Centre for Arbitration, SIAC and ad hoc arbitrations. He is an Advisory Board Member, Investment Treaty Forum, British Institute of International and Comparative Law (BIICL) and Vice-Chair of the Dispute Resolution and Arbitration Committee, Inter-Pacific Bar Association. Mr. Savage has authored articles on international arbitration in various publications. Recent publications include "Investment Treaty Arbitration and Asia: Survey and Comment," Asian International Arbitration Journal (1:1, 2005); "The International Comparative Legal Guide to International Arbitration 2004" (Singapore chapter); "New Opportunities For Resolving Disputes Involving Asian States," FinanceAsia (January 2003). Final Examination of the Law Society, Guildhall University; Maîtrise en droit privé, Université de Paris I - Panthéon-Sorbonne; LL.B., King's College London, University of London.

MARGRETE STEVENS

Consultant, King & Spalding LLP. Ms. Stevens works in the International Investment Arbitration Practice Group. Prior to joining King & Spalding, Ms. Stevens worked as legal counsel at the World Bank Group's ICSID, where she served as Acting Lead Counsel, supervising the ICSID Secretariat's administration of more than 100 investor-State arbitration proceedings, including cases brought under bilateral investment treaties, the NAFTA, and The Energy Charter Treaty. Ms. Stevens also served with the United Nations High Commissioner for Refugees (UNHCR) in Botswana and Malaysia. She has co-authored one of the leading textbooks on investment treaties – "Bilateral Investment Treaties" (Martinus Nijhoff, 1995) – and has published on various topics related to the ICSID Convention and to investment treaties. She holds degrees from the University of Copenhagen and the London School of Economics and Political Science.

BAIJU VASANI

Counsel, Crowell & Moring LLP. Mr. Vasani works in Crowell's International Dispute Resolution Group, and focuses his practice exclusively on international investment and commercial arbitration covering various sectors and industries across the globe. He has appeared as counsel in numerous major international disputes under the auspices of, among others, the ICSID, the ICC, the LCIA, as well as ad hoc arbitrations under the UNCITRAL Arbitration Rules. His international arbitration experience includes countries across the Americas, Africa, Asia, Europe and the Middle East. Prior to joining Crowell, Mr. Vasani was an associate in the international arbitration group of another international law firm, and in-house legal counsel for a Fortune 500 company. He is an adjunct professor of law at the Georgetown University Law Center, where he teaches International Arbitration. LL.M., London School of Economics; J.D., Northwestern University School of Law; B.CL., St. Peter's College, Oxford; LL.B., King's College, University of London.

DON WALLACE, JR.

Chairman, International Law Institute; Professor, Georgetown University Law Center; Counsel, Morgan, Lewis & Bockius LLP; Member, Secretary of State's Advisory Committee on Private International Law; U.S. delegate to UNCITRAL; arbitrator; Member, panel of arbitrators of Cairo Regional Center for International Commercial Arbitration; Member, Board of Directors, Institute of Investment and Arbitration, Cairo; Member, American Law Institute; Emeritus Member, Board of Directors, International Development Law Institute, Rome; Member, Advisory Committee, ABA/UNDP International Legal Resource Center; Member, Legal Advisory Council, AEI Legal Center for the Public Interest; Liaison of the American Bar Association to UNCITRAL; Correspondent, International Institute for the Unification of Private Law (UNIDROIT); Vice President, Board of Governors, Uniform Law Foundation (UNIDROIT foundation), Rome; Member, Academic Council, European Center for Peace and Development, UN University for Peace, Belgrade. Prof. Wallace has written and lectured extensively in the United States and abroad. Recent publications include "Investor-State Arbitration" (co-authored with Christopher Dugan, Borzu Sabahi and Noah Rubins) (OUP, forthcoming). Eisenhower Exchange Fellow; Fellow, St. Antony's College, Oxford; Fulbright Fellow; LL.B., Harvard; B.A., Yale.

HENRY WEISBURG

Partner, Shearman & Sterling LLP. Mr. Weisburg has represented clients in international arbitrations for more than 20 years, in proceedings administered by many different bodies, including the AAA, the ICC, ICSID, LCIA and ad hoc proceedings. He is highly experienced in cross-border financial disputes (often involving sovereigns), and has handled arbitrations arising out of such matters as expropriations, cross-border investment disputes, foreign exchange and currency control disputes, banking insolvencies, sovereign debt restructurings and post-merger disputes. Mr. Weisburg also regularly handles complex cross-border insurance and reinsurance disputes, and is particularly experienced in the area of political risk insurance matters. He is frequently in court with respect to arbitration matters, litigating such issues as the construction of arbitration clauses, the enforceability of arbitration clauses against non-parties, award enforcement issues, and arbitrator qualification disputes. J.D., New York University School of Law; B.A., Trinity College.

LORIN WEISENFELD

Head, Washington office of Felsberg & Associates, a Brazilian corporate law firm. Following practice on Wall Street, Mr. Weisenfeld has spent the bulk of his career involved with issues relating to promoting, financing, and protecting cross-border investments, concentrating on investments in developing countries. He was principal counsel of the Multilateral Investment Guarantee Agency (MIGA), the investment insurance facility of the World Bank, for more than 15 years, where he served as director of the agency's facility for the mediation of investment disputes. Prior to his service with MIGA, Mr. Weisenfeld was assistant general counsel at the Overseas Private Investment Corporation, an agency of the U.S. government providing financing and political risk insurance to investors in developing countries. Mr. Weisenfeld has been a visiting professor of law at the University of Costa Rica and a specialist at the Ford Foundation in legal education in Latin America. He currently teaches on a limited basis at the law school of Xiamen University, in the southern Chinese city of Xiamen. Mr. Weisenfeld has published numerous articles relating to the treatment of foreign investment. LL.B., Harvard Law School; B.A., Hamilton College; DES, University of Paris (Sorbonne).

APEC GOVERNMENT SPEAKERS

RICHARD BRADDOCK (AUSTRALIA)

Richard Braddock is head of the International Trade Law Section in the Office of International Law of the Attorney-General's Department, Australia. He acted as lead negotiator for Australia on investment in the recently concluded ASEAN-Australia-New Zealand FTA. He provided advice on the Australia-Chile FTA, focusing on the area of investor-State dispute settlement, and is involved in all of Australia's current FTA negotiations. Before joining the Office of International Law Richard worked as a lawyer in the law firm Mallesons Stephen Jaques and at the Department of Foreign Affairs and Trade. He holds an LL.B. from the University of Sydney and an LL.M. from the University of Cambridge.

MEG KINNEAR (CANADA)

Meg Kinnear is currently Senior General Counsel and Director General of the Trade Law Bureau (JLT), a joint unit of the Departments of Justice and Foreign Affairs and International Trade Canada. She has appeared as counsel before international investment tribunals and trade dispute panels, participated in the negotiation of international trade and investment agreements, and advised on Canada's international trade and investment obligations. Prior to joining the Trade Law Bureau, Ms. Kinnear was Executive Assistant to the Deputy Minister of Justice and Counsel at the Civil Litigation Section of the Department of Justice. Ms. Kinnear has spoken at a variety of conferences on matters related to dispute settlement in international trade, in particular NAFTA Chapter 11. Ms. Kinnear has also written various publications including *Investment Disputes Under NAFTA: An Annotated Guide to NAFTA Chapter 11*, (Kluwer - June 2006) with Andrea Bjorklund and John Hannaford; and *Federal Court Practice*, (1988-1990, 1991-1992, and 1993-2006 annually) with D. Sgayias, B. Saunders, G. Garton & D. Rennie.

MASAFUMI SUGANO (JAPAN)

Masa Sugano is Deputy Director of the Economic Partnership Division, Trade Policy Bureau at the Ministry of Economy, Trade and Industry. His current remit includes the negotiation of bilateral investment treaties and investment chapters of EPA/FTAs with India, Australia, Switzerland, the Gulf Cooperation Council, Qatar, Peru, and Kazakhstan. He also oversees investment treaty-related issues in multilateral forums such as APEC and the OECD. Previously, he has served as the Japanese delegate to the WTO Committee on Technical Barriers to Trade, devoting attention to specific trade concerns regarding standards and technical regulations. A member of the Ministry of Economy, Trade and Industry since 2001, Mr. Sugano received his M.Sc. in International Politics from the University of Edinburgh and has an M.B.A. from the University of Cambridge.

NOBUHIRO WATANABE (JAPAN)

Nobuhiro Watanabe is Senior Deputy Director for Economic Partnership Agreement Negotiations in the Economic Affairs Bureau of the Ministry of Foreign Affairs. As a negotiator, Mr. Watanabe is currently working on several EPA/FTAs including investment matters. Mr. Watanabe has worked previously in the International Trade Division (WTO affairs) of the Economic Affairs Bureau of the Ministry of Foreign Affairs. He has also worked previously in the legal affairs division (public international law) as well as in the treaties division (bilateral treaties including investment treaties) of the Treaties Bureau of the Ministry of Foreign Affairs. He joined the Ministry of Foreign Affairs in 1982 and has

served in several overseas posts, including the Permanent Mission of Japan to the International Organizations in Vienna.

HUGO PEREZCANO DÍAZ (MEXICO)

Hugo Perezcano is Head of the International Trade Practices Unit of Mexico's Ministry of Economy. In this position he is responsible for administrative investigations in antidumping, countervailing duty, and safeguards cases; the negotiation of international commercial treaties; and the management of international litigation involving Mexico. For 12 years he was the Ministry's Director General of Legal Consultation for Negotiations, responsible for the legal aspects of trade negotiations and international litigation. He participated in the negotiation of trade and investment agreements and represented Mexico in litigation initiated under free trade agreements, bilateral investment treaties, and the dispute settlement mechanism of the World Trade Organization. Mr. Perezcano has spoken and published widely on issues relating to investment treaties and investor-State arbitration. He is a graduate of the Instituto Tecnológico Autónomo de México and the Escuela Moderna Americana.

ANA AMPUERO (PERU)

Ana Ampuero is Legal Advisor to the Minister of Foreign Trade and Commerce and a member of the Comisión Especial Ley 28933—a commission charged with representing the Peruvian State in international investment disputes. From 2004 to 2006, Ms. Ampuero worked as an advisor to the Legal Office of Peru's Private Investment Promotion Agency (PROINVERSIÓN). During this time, she was a member of the negotiation teams for the investment chapters of FTAs with Singapore, Thailand and the United States, and legal advisor to the Negotiating Commission for bilateral investment treaties with Belgium, Canada, Chile and Mexico. Ms. Ampuero was for 12 years a professor of Public International Law at the Pontifical Catholic University of Peru, and has taught this subject at Peru's Diplomatic Academy Foundation. She holds a law degree from the Law Faculty of Pontifical Catholic University of Peru, and has undertaken post-degree studies in Economic International Law and in Management.

DAREN TANG (SINGAPORE)

Daren Tang is currently State Counsel with the International Affairs Division of the Attorney-General's Chambers of Singapore. He was a lead negotiator and legal counsel on the US-Singapore FTA, focusing on, inter alia, services and investment issues. Mr. Tang is currently involved in negotiations on a number of regional trade agreements, including the ASEAN-EU FTA, for which he is the ASEAN coordinator on Dispute Settlement. He holds an LL.B. from the National University of Singapore and an LL.M. from the Georgetown University Law Center in Washington, DC, where he was a Fellow of the Institute of International Economic Law.

LISA GROSH (UNITED STATES)

Office of the Legal Adviser for International Claims and Investment Disputes, U.S. Department of State.

JONATHAN KALLMER (UNITED STATES)

Jonathan Kallmer is Deputy Assistant U.S. Trade Representative (USTR) for Investment. In this capacity, he is responsible for developing and implementing U.S. foreign investment policies, including by representing the United States in investment negotiations. He is the lead U.S. negotiator for the investment chapters of FTAs with Republic of Korea and

Malaysia, and leads USTR in bilateral investment treaty discussions with India and Russia. Mr. Kallmer was previously Assistant General Counsel at USTR, where he represented the United States in disputes before the World Trade Organization (WTO). Prior to joining USTR, Mr. Kallmer was an associate in the Washington, D.C. office of Hogan & Hartson L.L.P., practicing principally in the areas of international litigation/arbitration and international trade. He is a graduate of Stanford University and holds a law degree from the Georgetown University Law Center in Washington, DC.

JEFFREY KOVAR (UNITED STATES)

Jeffrey Kovar is Assistant Legal Adviser for International Claims and Investment Disputes at the U.S. Department of State. Mr. Kovar's 80-person office represents the United States government before the Iran-U.S. Claims Tribunal, NAFTA Chapter 11 arbitration tribunals, and the United Nations Compensation Commission. He was previously the Legal Adviser to the U.S. Mission to the United Nations in Geneva, Assistant Legal Adviser for Private International Law, and Deputy Assistant Legal Adviser for International Claims and Investment Disputes, where he was the lead attorney on U.S. filings before the Iran-U.S. Claims Tribunal in Case B-1 (Termination) and Case A-30. Mr. Kovar has been an adjunct professor at Georgetown University Law Center, where he conducted a graduate seminar on international human rights law. He is a graduate of Williams College and the University of Michigan Law School.

MICHAEL TRACTON (UNITED STATES)

Michael Tracton is Coordinator of the U.S. Bilateral Investment Treaty Program for the U.S. Department of State's Office of Investment Affairs. He served on the team that developed the 2004 U.S. model bilateral investment treaty (BIT), and he has co-lead BIT negotiations or discussions with several economies, including those with Rwanda and China. He has presented on international investment issues in various fora, including APEC and the Columbia Program on International Investment. Mr. Tracton received his J.D. from the University of Maryland School of Law and his B.A. from the University of Maryland, College Park.

HEATHER VAN SLOOTEN WALSH (UNITED STATES)

Heath Van Slooten Walsh is an Attorney-Adviser in the Office of the Legal Adviser for International Claims and Investment Disputes in the U.S. Department of State. Ms. Walsh represents the United States Government in investor-State arbitrations arising under the investment chapter of the NAFTA, and in disputes before the Iran-U.S. Claims Tribunal. She also serves as the advisor on investment disputes in South America and the Caribbean. Ms. Walsh regularly speaks and publishes on international arbitration issues. Prior to joining the State Department, she was an associate in the International Arbitration and Litigation departments at White & Case LLP, in the firm's Washington, DC office. She is a graduate of American University, and holds a law degree from the University of Virginia School of Law.

Workshop Participants

Economy	Name	Title	Office	Ministry
Australia	Richard Braddock	Principal Legal Officer	Office of International Law	Attorney-Generals' Department
Brunei Darussalam	Riana Dewi Aji	Legal Counsel		Attorney General's Chambers
	Helyati DP Haji Mahmud Saedon	Legal Counsel		Attorney General's Chambers
	Nooraslena Sallehuddin	Second Secretary	Department of Trade Law	Ministry of Foreign Affairs and Trade
Canada	Meg Kinnear	Senior General Counsel and Director General	Trade Law Bureau	Foreign Affairs and International Trade
Chile	Eduardo Bobadilla	Coordinator	Program for Defense in Foreign Investment Arbitration	Ministry of Economy
	Rodrigo Monardes	Legal Advisor, Services Investment and Air Transport Department	General Directorate for International Economic Affairs	Ministry of Foreign Affairs
	Nicolas Munoz Montes	Counsel	Program for Defense in Foreign Investment Arbitration	Ministry of Economy
	Ana Novik	Head, Services Investment and Air Transport Department	General Directorate for International Economic Affairs	Ministry of Foreign Affairs
People's Republic of China	Wang Jing	Deputy Director	Foreign Investment Administration	Ministry of Commerce
	Liu Keyi	Section Chief	Treaty and Law Department	Ministry of Commerce
Indonesia	Selamat Riyanto Hasiholan	Acting Head, Section for ASEAN Cooperation	Directorate for Regional Cooperation	Investment Coordinating Board
	Syahda Guruh L. Samudera	Legal Adviser	Directorate of Legal and International Treaties on Economic, Social and Cultural Affairs	Department of Foreign Affairs
Japan	Masafumi Sugano	Deputy Director, Economic Partnership Division	Trade Policy Bureau	Ministry of Economy, Trade and Industry

Economy	Name	Title	Office	Ministry
Japan	Nobuhiro Watanabe	Senior Deputy Director for EPA Negotiations	Economic Affairs Bureau	Ministry of Foreign Affairs
Republic of Korea	Jae Hoon Kim	Legal Counsel, Public Prosecutor	International Legal Affairs Division	Ministry of Justice
	Ji-Ho Kim	Director		Korean Commercial Arbitration Board
	Keebong Paek	Director	International Legal Affairs Division	Ministry of Justice
	Suhng Tae Suh	Deputy Director	FDI Policy Division	Ministry of Knowledge Economy
Malaysia	Eunice Yeo Huan	Principal Assistant Director		Ministry of International Trade and Industry
	Johan Khalidi Mohd Mokhtazar	Assistant Director	International Cooperation Division	Malaysian Industrial Development Authority
Mexico	Hugo Perezcano Diaz	Head, Trade Remedies Unit		Ministry of Economy
	Claudio Saucedo Pagola	Deputy Director General for International Affairs	Directorate General of Foreign Investment	Ministry of Economy
New Zealand	Rod Harris	Deputy Director	Trade Law Unit	Ministry of Foreign Affairs and Trade
	Ben King	Senior Policy Officer	Trade Negotiations Division	Ministry of Foreign Affairs and Trade
	Shannon Ward	Legal Advisor	Trade Law Unit	Ministry of Foreign Affairs and Trade
Papua New Guinea	Eunice Dorothy Kewere	Legal Officer - International Law	State Solicitor's Office	Department of Justice and Attorney General
	Thomas Rhemmy Tarabu	Manager - Investment Promotions		Investment Promotion Authority
Peru	Ana Ampuero	Legal Advisor	Minister's Office	Ministry of Foreign Trade and Tourism
	Pedro Bravo	Counsellor	Undersecretariat for Economic Affairs	Ministry of Foreign Affairs
Philippines	Jose Vincente B. Salazar	Undersecretary		Department of Justice
	Marjorie O. Ramos-Samaniego	Chief, Legal Services Department	Board of Investments	Department of Trade and Industry
	Jane E. Yu	Senior State Solicitor		Office of the Solicitor General

Economy	Name	Title	Office	Ministry
Singapore	Tan Tse Chia Christopher	Senior Assistant Director, WTO and International Trade Negotiations	Trade Division	Ministry of Trade and Industry
	Sharon Ong	State Counsel	International Affairs Division	Attorney General's Chamber
	Daren Tang	State Counsel	International Affairs Division	Attorney General's Chamber
Chinese Taipei	Chern-Chyi Chen	Negotiator (Legal Affairs)	Office of Trade Negotiations	Ministry of Economic Affairs
	Stefan C. W. Lin	Specialist	Department of Investment Services	Ministry of Economic Affairs
	Shu-Mei Yang	Senior Commercial Specialist	Department of Investment Services	Ministry of Economic Affairs
Thailand	Pathkamol Dattibongs	Trade Officer	Bureau of Multilateral Trade Negotiations	Ministry of Commerce
	Vilawan Mangklatanakul	Counsellor		Ministry of Foreign Affairs
	Siriporn Narkjure	Senior Investment Promotion Officer	Office of the Board of Investment	Ministry of Industry
	Sarulthorn Soonthornpan	Second Secretary	Department of Treaties and Legal Affairs	Ministry of Foreign Affairs
Viet Nam	Hoang Manh Phuong	Officer	Department of Legislation	Ministry of Planning and Investment
	Nguyen Minh Quan	Legal Expert	International Law Department	Ministry of Justice
United States	Daniel Bahar	Director for Investment Affairs	Office of the U.S. Trade Representative	Executive Office of the President
	Heather Goethert	Financial Economist	Office of Investment Affairs	Department of State
	Dan Jacobs	Senior Negotiator	Office of Investment Affairs	Department of State
	Jonathan Kallmer	Deputy Assistant U.S. Trade Representative for Investment	Office of the U.S. Trade Representative	Executive Office of the President
	Jai Motwane	Director for Services and Investment	Office of the U.S. Trade Representative	Executive Office of the President
	Mr. Michael Tracton	Bilateral Investment Treaty Coordinator	Office of Investment Affairs	Department of State
	Ms. Meeta Yajnik	Financial Economist	Office of Investment Affairs	Department of State

Economy	Name	Title	Office	Ministry
APEC Secretariat	Ms. Hiroko Taniguchi	Program Director	Investment Experts' Group	