

ISDS Reform Conference – Mapping the Way Forward

Date: 13 February 2019

Venue: Room S221, Hong Kong Convention and Exhibition Centre

09:00 – 09:25	<p><u>Opening Session</u></p> <ul style="list-style-type: none">● Welcome remarks by Ms Teresa Cheng GBS SC JP (Secretary for Justice, Hong Kong SAR)● Opening remarks by Mr Jiang Chenghua (Deputy Director-General of the Department of Treaty and Law of the Ministry of Commerce of the PRC)● Opening remarks by Dr Anthony Francis Neoh QC SC JP (Chairman, Asian Academy of International Law)
09:25 – 10:25	<p><u>Panel Session 1 – Investment Mediation</u> <i>(Discussion paper prepared by Mr David Ng – Acting Senior Government Counsel (Treaties & Law), DoJ)</i></p> <p>Moderator: Dr Anthony Francis Neoh QC SC JP (Chairman, Asian Academy of International Law)</p> <p>Speakers:</p> <ul style="list-style-type: none">● Professor Lucy Reed (Director, Centre for International Law of the National University of Singapore) <p>Topic: To explore how to incentivize host governments and investors to utilize investor-State mediation</p> <ul style="list-style-type: none">● Professor Jack J. Coe Jr (Professor of Law, Pepperdine School of Law) <p>Topic: To explore the relationship between investor-State mediation and investor-State arbitration and how the two processes can complement with each other</p>

	<p>Commentator: Mr Paul Starr (Partner, King & Wood Mallesons)</p>
10:25 – 10:45	<p>Break</p>
10:45 – 12:00	<p><u>Panel Session 2 – Appeal Mechanism for ISDS Awards</u> <i>(Discussion paper prepared by Mr Antony Crockett – Senior Associate, Herbert Smith Freehills)</i></p> <p>Moderator: Mr Paul Tsang (Law Officer (International Law), Department of Justice, Hong Kong SAR)</p> <p>Speakers:</p> <ul style="list-style-type: none"> ● Mr Matthew Gearing QC (Global Co-Head, International Arbitration Group and Partner, Allen & Overy) <p>Topic: To assess how to strike a balance between finality and consistency of ISDS awards, with reference to international and domestic experience (including the UK experience)</p> <ul style="list-style-type: none"> ● Professor Albert Jan van den Berg (Partner, Hanotiau & Van Den Berg)) <p>Topic: How the appeal mechanism for ISDS awards would interact with the existing international instruments (e.g. New York Convention and ICSID Convention)</p> <ul style="list-style-type: none"> ● Professor Zhang Yuejiao (Former Member, Appellate Body of the World Trade Organization) <p>Topic: In light of the experience of the Appellate Body of the World Trade Organization, whether the introduction of an appeal system for ISDS awards is desirable and alternative ways to ensure the correctness</p>

	<p>and consistency of awards</p> <p>Commentator: Ms May Tai (Managing Partner, Greater China, Herbert Smith Freehills)</p>
12:00 – 13:00	<p><u>Panel Session 3 – Third Party Funding in ISDS</u> <i>(Discussion paper prepared by Mr Eric Ng – Barrister, Gilt Chambers)</i></p> <p>Moderator: Mr Matthew Hodgson (Partner, Allen & Overy)</p> <p>Speakers:</p> <ul style="list-style-type: none"> ● Dr James Ding (Commissioner, Inclusive Dispute Avoidance and Resolution Office, Department of Justice, Hong Kong SAR) <p>Topic: To consider third party funding in the context of ISDS (including investment arbitration and investment mediation)</p> <ul style="list-style-type: none"> ● Professor Julian D M Lew QC (Professor of International Arbitration and Head of the School of International Arbitration Centre for Commercial Law Studies, Queen Mary University of London) <p>Topic: To explore how the ISDS reform should address the concerns over the use of third party funding in investment arbitration and investment mediation</p>
13:00 – 14:30	<p>Conference Lunch (For speakers and invited guests only)</p>
14:30 – 15:50	<p><u>Panel Session 4 (Davos Style) – Appointment of Arbitrators and Related Issues</u> <i>(Discussion paper prepared by Mr Adrian Lai – Barrister, Des Voeux Chambers)</i></p>

	<p>Co-Moderators: Ms Caroline Nicholas (Senior Legal Officer and Head, Technical Assistance Section, United Nations Commission on International Trade Law) and Ms Sun Huawei (Partner, Zhong Lun Law Firm)</p> <p>Speakers:</p> <ul style="list-style-type: none"> ● Ms Meg Kinnear (Secretary General, ICSID) <p>Topic: To examine the pros and cons of various methodologies in the appointment of arbitrators (e.g. party-appointment, and appointment by appointing authority and roster)</p> <ul style="list-style-type: none"> ● Professor Brigitte Stern (Professor Emeritus, University of Paris I (Panthéon-Sorbonne)) <p>Topic: To examine the desirability (or undesirability) of replacing ad hoc arbitrators by full-time judges</p> <ul style="list-style-type: none"> ● Professor Stanimir A. Alexandrov (Principal, Stanimir A. Alexandrov PLLC) <p>Topic: To explore how the ISDS reform should tackle the issues of double hatting, issue conflicts and improving the arbitrator challenge procedures</p>
15:50 – 16:00	Break
16:00 – 17:30	<p><u>Debate Session – Permanent Investment Court</u></p> <p>Debate Motion: “The permanent investment court system is the solution to the concerns over ISDS”</p> <p>Moderator: Professor Chin Leng Lim (Choh-Ming Li Professor of Law, Chinese University of Hong Kong)</p> <p>Speakers:</p> <p>For the Motion</p>

	<ul style="list-style-type: none"> ● Professor Shan Wenhua (Dean, School of Law of Xian Jiaotong University and Yangtze River Chair Professor of International Economic Law) ● Mr Emmanuel Jacomy (Partner, Shearman & Sterling) <p>Against the Motion</p> <ul style="list-style-type: none"> ● Professor Brigitte Stern (Professor Emeritus, University of Paris I (Panthéon-Sorbonne)) ● Professor Stephan Schill (Professor of International and Economic Law and Governance, University of Amsterdam)
17:30– 17:45	<p><u>Closing Session</u></p> <ul style="list-style-type: none"> ● Mr Jiang Chenghua (Deputy Director-General of the Department of Treaty and Law of the Ministry of Commerce of the PRC) ● Ms Teresa Cheng GBS SC JP (Secretary for Justice, Hong Kong SAR)
18:00	<p>Conference Dinner (For all speakers and invited guests only)</p>