

2022 **WAW**



WASHINGTON
ARBITRATION WEEK

WAW

2022

NOVEMBER 28 - DECEMBER 2

WASHINGTON ARBITRATION WEEK

Washington D.C. is the epicenter of investment arbitration. It has the headquarters of the International Centre for Settlement of Investment Disputes (ICSID), law firms specialized in investment arbitration, public international law and international commercial arbitration, international organizations, United States federal agencies specialized in investment arbitration, embassies, vibrant law schools, NGOs and think tanks. Washington D.C. Arbitration Week (WAW) is being launched to provide an organic D.C. forum in international arbitration for its legal community and the international and foreign community connected to it. WAW will further advance the analysis and discussion of developments reflected in arbitral awards, treaties and international instruments at the forefront of international arbitration.

During the first two editions of WAW, on average we reached 3,584 registrations and 1,691 attendees joined. Our audience in DC and overseas includes arbitrators, government and international organization officials, industry stakeholders and experts, academics, researchers, and students. These solid numbers, which place WAW as the arbitration week mostly attended in North America, have been achieved in cooperation with our Advisory Committee, and our Circle of Firms, Experts, Sponsors and Supporting Organizations.

WAW 2022 will hold 19 sessions in-person + online (hybrid) and 2 solely virtual sessions, for a total of 21 sessions.



WASHINGTON

ARBITRATION WEEK

These panels will follow a dynamic format and foster an open discussion about the future of international arbitration. They will shed light on new arbitration techniques, focus on developments and evolving interpretations and views, and discuss the best practices for international arbitration in the new virtual reality.

WAW 2022 will be a showcase of international arbitration in Washington, D.C. On behalf of all of our supporters, panel speakers and moderators, we welcome newcomers and experienced practitioners alike to our city and arbitration community.

WAW Founders,

José Antonio Rivas
Xtrategy LLP
Co-Chair of WAW

Ian A. Laird
Crowell & Moring LLP
Co-Chair of WAW



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EVENT PROGRAM

To Register, Please Select the Title of the Panel

Monday, November 29

9:30am - 10:00am	<u>Inagural Speaker on Status of Code of Conduct</u>
10:30am - 12:00am	<u>The Next Variant of International Arbitration: Life Sciences</u>
1:00pm - 2:30pm	<u>Battling The Goliath Of International Arbitration Proceedings: Top Blunders Revealed</u>
4:00pm - 5:30pm	<u>Economic Sanctions As An Exception To Complying With International Trade and Investment Obligations</u>

Tuesday, November 29

9:00am - 10:30am	<u>Technology: Gadgets In The Arbitration Jungle</u>
11:30am - 1:00pm	<u>Drafting A Compelling Facts Section: How To Win The Hearts And Minds Of The Tribunal (Arbitration Practitioners' Session)</u>
1:30pm - 3:00pm	<u>Riding The Arbitration Bicycle: The Importance of Achieving Balance In Your Arbitration Career</u>
4:00pm - 5:30pm	<u>Business And Human Rights In Time Of War And Conflict: The Power Of International Advocay</u>
6:15pm - 7:45pm	<u>ICC Arbitration Clauses: Stable Foundations In An Increasingly Unstable World (Workshop)</u>



EVENT PROGRAM

Wednesday, November 30

- 9:00am - 10:30am** Fair And Equitable Treatment And Denial Of Justice: Violations Of International Treaty Obligations By Domestic Courts?
- 12:00- 12:20pm** Keynote Speaker: Meg Kinnear
- 12:20- 2:00pm** History, Present And Future Of ICSID: Where it Came From, And Where It Might Go?
- 2:45pm - 4:15pm** Influence of Public International Law In Investment Arbitration
- 4:30pm - 6:00pm** Guidelines On Prevention And Defense In Investment Arbitration

Thursday, December 2

- 9:00am - 10:30am** International Investment Protection Of Space Assets
- 12:00pm - 1:30pm** The Environment, Climate Change, And Renewable Energies In International Arbitration: An Update On Mertis And Quatum



EVENT PROGRAM

Thursday, December 2

- 2:00pm - 3:30pm** Working With Your Expert: How To Draft The Damages Section Of A Memorial And Work With The Damages Expert In Preparation Of The Hearing? (Practical Session)
- 4:00pm - 5:30pm** From Inception To Recovery: A Panorama Of International Arbitration Featuring Women (ArbitralWomen & WAW Panel)

Friday, December 3

- 8:30am - 10:00am** Seabed Mining: Jurisdiction, Merits And Quantum
- 11:00am - 12:30pm** What Is An Arbitral Award But A Piece Of Paper Without Enforcement, Asset Tracers To Help Leverage Compliance, And Funding To Enforce And Collect?
- 1:00pm - 2:30pm** Arbitration And Infrastructure, Energy, And Construction Projects In The Midst Of Climate Change
- 3:00pm - 4:30pm** Class Or Collective Action In Arbitration





EVENT PROGRAM

DAY 1

9:30am - 10:00am
Monday, November 28

Inaugural Speaker on Status of Code of Conduct

Speaker: Chiara Giorgetti (Richmond Law School)

**Venue: Allen & Overy at 1101 New York Avenue, NW,
Washington, DC 20005**



EVENT PROGRAM

DAY 1

10:30am - 12:00pm
Monday, November 28

The Next Variant of International Arbitration: Life Sciences

Venue: Allen & Overy at 1101 New York Avenue, NW, Washington, DC 20005

With the rise of cross-border supply chain and pandemic related disputes, life sciences companies—comprising companies operating in the research, development and manufacturing of pharmaceuticals, biotechnology-based food and medicines, medical devices, biomedical technologies, nutraceuticals, cosmeceuticals, food processing, and other products that improve the lives of organisms—are increasingly turning to international arbitration as a preferred dispute-resolution mechanism.

International arbitration offers confidentiality, comparative cost-effectiveness, and nearly universal enforceability. Arbitral institution statistics appear to confirm this recent turn toward international arbitration, with the International Chamber of Commerce reporting that health and pharmaceutical disputes have more than doubled between 2015 and 2020 and the American Arbitration Association witnessing a 40% increase in the number of life sciences cases filed in 2019.



EVENT PROGRAM

DAY 1

10:30am - 12:00pm
Monday, November 28

The Next Variant of International Arbitration: Life Sciences

Moderator:

- Patrick W. Pearsall (Allen & Overy)

Panelists:

- Marney Cheek (Covington & Burling)
- Gaela Gehring Flores (Allen & Overy)
- Peter Rankin (Charles River Associates)



EVENT PROGRAM

DAY 1

1:00pm - 2:30pm
Monday, November 28

Battling the Goliath of Arbitration Proceedings: Top Blunders Revealed

Venue: Allen & Overy at 1101 New York Avenue, NW, Washington, DC 20005

International Arbitration proceedings can get large, complex, and unpredictable. Anything that can go wrong, will go wrong! Top legal support professionals share “blunder” stories from all phases of commercial and investment arbitrations while providing solutions to help you avoid an issue before it’s too late.

Moderator:

- Bonard Molina-Garcia (Windrose LLP)

Panelists:

- Kelby Ballena (Specialist, Allen & Overy LLP)
- Katiria Calderon (*Specialist and Project Manager*, Curtis, Mallet-Prevost, Colt & Mosle LLP)
- Staci Gellman (Specialist and Project Manager, Crowell & Moring LLP)
- Gabriella Guillen (Senior Legal Assistant, Arnold & Porter Kaye Scholer LLP)
- Anna Aviles-Alfaro (Senior Paralegal, Dechert LLP)



EVENT PROGRAM

DAY 1

4:00pm - 5:30pm
Monday, November 28

Economic Sanctions as an Exception to Complying with International Trade and Investment Obligations

States may resort to economic sanctions against States, entities and individuals in order to pursue their foreign policy objectives. The rationale behind those sanctions may be linked to a response to international wrongful acts such as the use of force in international relations, or acts of corruption or fraud.¹ The lawfulness of such sanctions may be debated in public international law, including in the international trade and investment regimes.

This panel will focus on discussing the legality of unilateral sanctions considering the existence of international trade and investment obligations, either at the multilateral WTO level, and at regional and bilateral levels in FTAs and investment treaties. Potential exceptions for States to impose non-conforming sanctions may be discussed. The discussion may be approached from a substantive and quantum perspective.

The panel may analyze trade sanctions considering Article I on Most Favored Nation and XI on Quantitative Restriction of the General Agreement on Tariffs and Trade (GATT). It may also consider potential defenses for non-compliance with trade obligations under Article XXI of the GATT, related to the legality of measures for the protection of essential security interests.



EVENT PROGRAM

DAY 1

4:00pm - 5:30pm
Monday, November 28

Economic Sanctions as an Exception to Complying with International Trade and Investment Obligations

Particular economic sanctions such as freezing assets and prohibitions to provide funds or economic resources, may also be subject of discussion pursuant to international investment law obligations on expropriation and compensation, and fair and equitable treatment; and the national security present in various investment treaties, including BITs of the US. The international trade and investment perspective may be enlarged when considering the value of the United Nations Security Council resolutions for the interpretation of national security and essential security defenses.

This and more will be addressed by the WAW panel on “Economic Sanctions as an Exception to Complying with International Trade and Investment Obligations”.

Moderator:

- Lucinda A. Low (Steptoe & Johnson)

Panelists:

- Janet Whittaker (Clifford Chance)
- Nikhil V. Gore (Covington & Burling)
- James Mendenhall (Sidley Austin)
- Craig Gaver (Allen & Overy)



EVENT PROGRAM

DAY 2

9:00am - 10:30am
Tuesday, November 29

Technology: Gadgets in the Arbitration Jungle

Join us on a hands-on journey to explore new technology in International Arbitration allowing users to gain an advantage to develop their practice, communicate with others, and present better filings and hearings.

Moderator:

- [Kelby Ballena](#) (Allen & Overy)

Panelists:

- [Jay Anaya](#) (CEO of Disruptica)
- [Hanh Huynh](#) (Head of Jus Connect by Jus Mundi)
- [Stephanie Jones](#) (Z-Axis)
- [Ian Chivers and Monica Dunne](#) (Delium)
- [Andrew Hutchinson](#) (Immediation)
- [Alex Karpman](#) (EverChron)
- [Dmitri Evseev](#) (ArbiCity)



EVENT PROGRAM DAY 2

11:30am - 1:00pm
Tuesday, November 29

Drafting a Compelling Facts Section: How to Win the Hearts and Minds of the Tribunal? (Arbitration Practitioners' Session)

Venue: Miller & Chevalier at 900 16th St NW, Washington, DC 20006

As fun and close to reality as they might be, hypothetical cases in law exams providing a clean and possibly difficult story for students to apply the law, remain a luxury that arbitration practitioners and arbitrators do not have.

In real practice, the evidence may be a universe vast enough to fill a law school library, with both irrelevant and essential information to Claimant's and Respondent's case. What to choose? In what order? The chronology of the case is a normal choice for a rational mind, but beyond a cold line of events, the question of what and how to tell the facts is crucial for the drafter of the facts section in an arbitration submission.

The art of drafting the facts goes beyond an exercise of dumping cold facts in a submission and citing the evidence. Offering an evidence-based narrative that makes sense to an intelligent and neutral audience—the tribunal—may be one of the most important parts of the drafting process. How should the drafter offer that story? What to do with those facts that are damaging to the case, or with lack of information that would be supportive to the factual theory that the drafter is considering?



EVENT PROGRAM DAY 2

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Drafting a Compelling Facts Section: How to Win the Hearts and Minds of the Tribunal? (Arbitration Practitioners' Session)

And of course, not everything is a story. The acts or measures of one party—either a State or a private party, depending on whether we are in investment or international commercial arbitration—had real economic consequences (as alleged by the claimant or denied by the respondent), which may lead to an award on damages. How to incorporate information on damages—which the claimant may have accumulated for years prior to submitting its case and the respondent will be vetting—will also be discussed by our panelists.

These and more will be addressed by the WAW panel on “Drafting a Compelling Facts Section: How to Win the Hearts and Minds of the Tribunal (Arbitration Practitioners' Session)”.

Moderator:

- [Ashley Riveira](#) (Crowell & Moring)

Panelists:

- [Maria Carolina Duran](#) (Sidley Austin)
- [Juan Pedro Pomes](#) (Freshfields)
- [Miguel Nakhle](#) (Compass Lexecon)
- [María Isabel Pradilla](#) (Jones Day)



EVENT PROGRAM

DAY 2

1:30pm - 3:00pm
Tuesday, November 29

Riding the Arbitration Bicycle: The Importance of Achieving Balance in Your Arbitration Career

Venue: Miller & Chevalier at 900 16th St NW, Washington, DC 20006

In the words of Albert Einstein: “Life is like riding a bicycle. To keep your balance, you must keep moving.” Sometimes life makes it difficult for those working in the field of arbitration to develop and maintain a sustainable work-life balance required to progress professionally and personally.

The pandemic has brought the importance of wellbeing into the forefront, with research undertaken by the International Bar Association and the New York State Bar Association indicative of a mental health crisis in the legal profession.

Drawing on the perspectives of arbitration professionals from a range of different backgrounds, this panel will explore ways in which we can promote and achieve balance in our professional and personal lives, offering practical tips and tricks to help practitioners to try to achieve rewarding and healthy careers in arbitration.

Moderator:

- [Amanda Lee](#) (International Arbitration Counsel and Arbitrator, and Founder of Careers in Arbitration and ARBalance)

Panelists:

- [Niki Irish](#) (DC Bar)
- [Kirsten Teo](#) (Dechert)
- [Munia El Harti Alonso](#) (Xstrategy LLP)
- [Manel Atserias Luque](#) (IBA Member of Task Force on Mental Wellbeing in the Legal Profession)



EVENT PROGRAM

DAY 2

4:00pm - 5:30pm
Tuesday, November 29

Business and Human Rights in Times of War and Conflict: The Power of International Advocacy

Venue: Miller & Chevalier at 900 16th St NW, Washington, DC 20006

Moderator:

- Doug Cassel (King & Spalding)

Panelists:

- Virginia Newman (Miller and Chevalier)
- Tatiana Sainati (Wiley Rein LLP)
- Jonathan Drimmer (Paul Hastings)



EVENT PROGRAM

DAY 2

6:15pm - 7:45pm
Tuesday, November 2

ICC Arbitration Clauses: Stable Foundations in an Increasingly Unstable World (Workshop)

Venue: Baker Hostetler at 1050 Connecticut Avenue, NW, Suite 1100, Washington, D.C- 20036

A good arbitration clause can be likened to a mouse trap. If no one is stealing your cheese it is inert – but if someone does, it should do what it needs to do. Arbitration clauses are the foundation for effective resolution of cross border disputes.

This panel will discuss some of the most critical aspects of the often-overlooked contractual arbitration clause and explain the necessary components of a stable foundation for effective international dispute resolution. In a time of increasing strains on globalization, disruptions in supply chains, and a perceived backlash against foundational international norms, our panelists will share their perspectives on protecting international transactions. In a workshop setting, panelists, relying on experience, will share stories of cases that shine light on unexpected complexities that can arise and provide invaluable advice on the foundational building block of international arbitration.

Moderator:

- Mary Kate Wagner (Baker Hostetler)

Panelists:

- José Ignacio Garcia Cueto (Clifford Chance)
- Anne-Marie Whitesell, Georgetown Law
- Elizabeth Snodgrass (Three Crowns)



EVENT PROGRAM

DAY 3

9:00am - 10:30am
Wednesday, November 30

Fair and Equitable Treatment and Denial of Justice: Violations of international treaty obligations by domestic courts?

**Venue: Boies Schiller Flexner LLP at 1401 New York Ave NW
Washington, DC 20005**

Moderator:

- Todd Weiler (International Arbitrator)

Panelists:

- Claudia Frutos-Peterson (Curtis)
- Ben Love (Bois Schiller)
- Sara Mansour Fallah (Vienna University)
- John Laird (Crowell Moring)



EVENT PROGRAM

DAY 3

12:00pm - 2:00pm
Wednesday, November 30

History, Present and Future of ICSID: Where It Came From, and Where it Might Go?

Venue: ICSID at 1818 H Street, N.W. MSN C3-300, Washington, D.C. 20433

Since the ICSID Convention came into force in October 1966, ICSID has continuously evolved as an institution, and its rules have kept pace with the challenges demanded of the times. In describing the international climate in 1963, and the urgent need for further progress, President John F. Kennedy stated in a speech that "Change is the law of life. Those who look only to the past or the present are certain to miss the future." This panel will look at the new Amendments in the context of the developments at ICSID over 56 years, the current amendments of 2022, and what these developments hold for the future of ICSID and investor-State dispute resolution.

ICSID is the leading investor-State arbitration centre, resolving over 70% of such disputes. How the ICSID Rules have evolved, especially following the 2022 Amendment, is a central question to understand ISDS and the role ICSID plays. Where the rules came from, how the ICSID system has been adjusting and relying on practice of tribunals, cognizant of principle and rules of public international law, and attentive to stakeholders of the foreign investment system, will be the essential topic of this panel.



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History, Present and Future of ICSID: Where It Came From, and Where it Might Go?

For the first two decades since the ICSID Convention came into force in 1966, ICSID administered only 21 cases, all of them investment-contract disputes. In 1987 the first investment-treaty arbitration was submitted in Asian Agricultural Products (AAPL) v Sri Lanka. In the 80s, 90s and 2000s the number of investment treaties (including bilateral investment treaties (BITs) and Free Trade Agreements with Investment Chapters (FTAs)) increased significantly reaching more than 3,000 investment treaties, setting the bases under which investment treaty arbitrations have increased and provided a neutral forum reaching 346 ICSID cases by 2022.

As investment disputes and arbitrations have increased during the last five decades, foreign investment stakeholders have witnessed critical geoeconomics events and State policies influencing the number of investment disputes. We have seen the pesification crisis in Argentina at the end of last century, the innovation of NAFTA with investment arbitrations between developed countries, energy and mining cases brought against States in the Americas, Africa and Asia, and, during the last decade, a surge of cases against the western European States who built the ISDS system to protect investments of their nationals overseas—and not to have the acts of their own government scrutinized under investment treaties and public international law.



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Wednesday, November 30

History, Present and Future of ICSID: Where It Came From, and Where it Might Go?

Within this time, ICSID has amended its rules four times: In 1984, 2003, 2006 and now in 2022.

This panel will look to discuss several topics which have generated discussion amongst scholars and practitioners. For instance, in the process of amendment of the rules, which has been a careful and participatory process, do the new Amendments reflect the evolution of the ICSID Secretariat as now performing a role more akin to that of the ILC in actively promoting progressive development and codification of the rules of arbitration in investor-State disputes? For example, concerning the powers of the tribunal to order security for costs, the rules now are more developed in new Rule 53 even though under the ICSID Convention such power already existed in the clause for provisional measures under ICSID Convention Article 47.

A distinctive feature of the ICSID Convention and its rules is the use of the term “manifest”. How has it been used in the ICSID instruments, in what areas, and how it has influenced investment arbitration beyond ICSID disputes, if at all, will also be subject of discussion?

The process of amendment, carried out for over 5 years since it was announced in October 2016, included an effort to promote transparency, pedagogy and diversity involving member States of the five continents, academics and experts who had a say in what is now the new rules. Is this an improved model for the development of dispute resolution in international law?



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History, Present and Future of ICSID: Where It Came From, and Where it Might Go?

Despite the significant accomplishments achieved in the 2022 Rules, many challenges for the ICSID and ISDS system remain. Regional and domestic law challenges to investment arbitration, as seen by the withdrawal from the Energy Charter Treaty by many State-founders of the ISDS system, and non-compliance with international investment awards in various jurisdictions of the EU show that the future is not certain. However, at the same time, ICSID membership and the wide use of ICSID arbitration remains stable and growing.

ICSID is the leading investor-State arbitration centre, resolving over 70% of such disputes. How the ICSID Rules have evolved, especially following the 2022 Amendment, is a central question to understand ISDS and the role ICSID plays. Where the rules came from, how the ICSID system has been adjusting and relying on practice of tribunals, cognizant of principle and rules of public international law, and attentive to stakeholders of the foreign investment system, will be the essential topic of this panel.

Moderator:

- [Meg Kinnear](#) (Secretary-General ICSID)

Panelists:

- [Donald M. McRae](#) (Emeritus Professor University of Ottawa)
- [Antonio R. Parra](#) (Consultant, World Bank)
- [Marinn Carlson](#) (Sidley Austin)
- [Susan Franck](#) (Washington University)
- [Jose Antonio Rivas](#) (Xstrategy LLP/ Georgetown Law)



EVENT PROGRAM

DAY 3

2:45pm - 4:15pm
Wednesday, November 30

Influence of Public International Law in Investment Arbitration

Venue: ArentFox Schiff LLP, 1717 K Street, NW, Washington DC 20006

This panel will discuss how public international law (PIL) has influenced investment arbitration beyond and with greater specificity than the notion that the investor-State dispute settlement (ISDS) is part of public international law. Considering investor-State arbitration proceedings from inception when the request for arbitration is submitted, to the time when the tribunal renders the award, there is a universe of topics in between where the influence of PIL may be observed and analyzed, guided by the question of what are the foundational instruments and landmark judgments or reports of other international adjudicatory bodies, including the International Court of Justice (ICJ), that have influenced investment arbitration. Structurally, such influence may be observed and assessed many-fold: (i) From the perspective of sources of international law: What role have general principles of law and customary international law had in ISDS? How is the Vienna Convention on the Law of Treaties relied upon by tribunals and how have Articles 31 and 32 been applied to interpret investment treaties? (ii) From the perspective of State Responsibility, the Articles on Responsibility of States for Internationally Wrongful Acts (2001), now at their 20th anniversary,



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Influence of Public International Law in Investment Arbitration

provide the basis to inquire the extent to which they are directly relied upon for purposes of attribution and as means to invoke circumstances to preclude wrongfulness – including Necessity, Self-Defense, Countermeasures, among others. (iii) The influence of PIL may be approached from a jurisdictional and procedural perspective by analyzing the jurisdictional requirements of other international tribunals, and the standards of review on preliminary measures. (iv) Similarly, the influence of PIL (including judgements of the ICJ among other international tribunals) on the traditional investment treaty obligations (national treatment, most-favoured-nation treatment, fair and equitable treatment, full protection and security, expropriation and compensation, . . .) may be explored, as well as (v) the approach taken in investment treaties and by tribunals concerning reparation for injury, including compensation and the treaty versus customary standard developed by international tribunals including, for example, the Iran-US Claims Tribunal and investment tribunal.

Moderator:

- [Lee Caplan](#) (Arent Fox)

Panelists:

- [Yannick Radi](#) (UC Louvain, Faculty of Law)
- [Josh Simmons](#) (Wiley Rein LLP)
- [Kiran Gore](#) (Law Offices of Kiran N Gore PLLC)
- [Jose Antonio Rivas](#) (Xtrategy LLP / Georgetown Law)
- [Pierre-Marie Dupuy](#) (Geneva Graduat Institute)



EVENT PROGRAM

DAY 3

4:30pm - 6:00pm
Wednesday, November 30

Guidelines on Prevention and Defense in Investment Arbitration

Venue: ArentFox Schiff LLP, 1717 K Street, NW, Washington DC 20006

The latent criticism of the investor-State dispute settlement system, as investment disputes continue to grow, has increased the interest on alternatives such as investment dispute prevention and preparedness when the dispute is a reality. The aim of prevention is to reduce tensions among stakeholders and address potential disputes before they become full-fledged investment disputes. For its part, the focus on preparedness seeks that the State be ready to mount a solid defense in case of arbitration.

In May 2018, Singapore hosted the “Investment Arbitration and Trans-Pacific Transactions Conference”, an event organized by the Section of International Law of the American Bar Association in cooperation with various international entities. In attendance were investment arbitration practitioners, academics and former and current government officials involved in the investment arbitration realm.

The conference included panels on (i) the experience of States in the prevention of investment treaty disputes and the means to improve a State’s readiness for investment arbitration; (ii) the choice of arbitration rules for the resolution of investment disputes;



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Guidelines on Prevention and Defense in Investment Arbitration

(iii) preliminary and jurisdictional objections; (iv) regulatory powers and defenses on the merits concerning expropriation and fair and equitable treatment; (v) issues of quantum as part of a State's defense strategy; (vi) defense models for States in investment arbitration; (vii) State representation in international arbitration and matters of public international law; and (viii) discussions on best practices and guidelines for the prevention and defense of investment disputes.

At the Singapore Conference, an earlier version of the Draft Guidelines for the Prevention of Investment Disputes and Defense in Investment Arbitration (Draft Guidelines) was circulated for comments among the participants.

Former government officials who have served as counsel for States in investment arbitrations, practitioners, and damages experts have provided comments on the Draft Guidelines during the past years. The Guidelines are intended to provide direction to States on means of preventing or minimizing investment disputes, and on practical aspects of investment arbitration, either because some States may not have acted as respondents yet, or because they may still be in the process of building the institutional framework and team to either manage or defend the State in investment arbitration cases.



EVENT PROGRAM

DAY 3

4:30pm - 6:00pm
Wednesday, November 30

Guidelines on Prevention and Defense in Investment Arbitration

This Panel will focus on the current version of the Draft Guidelines to further facilitate the discussion to include views of former and current government officials with experience as counsel in investment arbitrations, and private practitioners who have represented States. The objective of the Panel is to continue a dialogue that would lead to a set of best practices and non-binding actions that States may take to: (1) prevent investment disputes, and (2) improve their readiness and defenses in investment arbitration.

Moderator:

- Chester Brown (Sydney University)

Panelists:

- Mahnaz Malik (Twenty Essex)
- Timothy J. Feighery (Arent Fox)
- Jeremy Sharpe (International Arbitrator and PIL Practitioner)
- José Antonio Rivas (Xtrategy LLP)



EVENT PROGRAM

DAY 4

9:00am - 10:30am
Thursday, December 1

International Investment Protection of Space Assets

Venue: Boies Schiller Flexner LLP at 1401 New York Ave NW, Washington, DC 20005

The space economy is growing at unprecedented rates with an ever-increasing number of space objects being launched and large amounts of capital being invested. What are those assets and how is the industry shaping? Which threats do these investments face and how can they be protected? Does the international investment protection regime apply to investments in outer space? What alternatives do investors and States seeking to promote the development of the space industry have?

Moderator:

- Ben Love (Boies Schiller Flexner)

Panelists:

- Petr Polasek (White and Case)
- Laura Yvonne Zielinski (Holland & Knight)
- Ernie Chung (FTI Consulting)
- Philippe Oudinot (Airbus)



EVENT PROGRAM

DAY 4

12:00pm - 1:30pm
Thursday, December 1

The Environment, Climate Change, and Renewable Energies and International Arbitration: An Update on Merits and Quantum

Venue: Sidley Austin LLP at 1501 K Street, N.W. #600, Washington, DC 20005

Moderator:

- Marinn Carlson (Sidley Austin)

Panelists:

- Antolín Fernández Antuña (Antuña & Partners)
- Ian Laird (Crowell & Moring)
- Cherine Foty (Covington & Burling)
- Garrett Rush (Secretariat)



EVENT PROGRAM

DAY 4

2:00pm - 3:30pm
Thursday, December 1

Working With Your Expert: How to Draft the Damages Section of a Memorial and Work with the Damages Expert in Preparation of the Hearing? (Practical Session)

Venue: Sidley Austin LLP at 1501 K Street, N.W. #600, Washington, DC 20005

Moderator:

- Borzu Sabahi (Curtis Mallet-Prevost Colt & Mosle)

Panelists:

- Manuel Vasconcelos (Cornerstone)
- Julie Carey (NERA)
- Ian Laird (Crowell & Moring)



EVENT PROGRAM

DAY 4

4:00pm - 5:30pm
Thursday, December 1

From Inception to Recovery: A Panorama of International Arbitration Featuring Women (Arbitral Women and WAW Panel)

Venue: Covington & Burling LLP at 850 10th St NW, Washington, DC 20268

This panel will travel through an international arbitration from its earliest stages of inception to its final stages of recovery, featuring the voice of women at every step of the journey.

The conversation will begin with in-house counsel at the beginning of a dispute. What considerations do in-house counsel encounter at the outset of a dispute?

Companies will often consult an economic expert witness prior to even engaging outside counsel to test the viability of a claim or anticipate counterclaims should proceedings be initiated.

When considering the costs involved in bringing or defending a dispute, a third-party funder may be brought in to assess the case. Outside counsel are approached at various stages of a dispute: before a dispute crystalizes, once a claim has been filed, once a tribunal has been constituted, or even mid-proceeding.



EVENT PROGRAM

DAY 4

4:00pm - 5:30pm
Thursday, December 1

From Inception to Recovery: A Panorama of International Arbitration Featuring Women (Arbitral Women and WAW Panel)

Institutional representatives come into contact with the case once a notice or request for arbitration is filed in an institutional arbitration. They accompany the Parties, counsel, and the Tribunal throughout the dispute until the award is rendered.

An industry or technical expert may be asked to prepare a report and testify as to norms in the industry or technical issues which arise in the arbitration.

With an award in hand (and often before), the Parties will seek to enforce or annul the award in various jurisdictions and seek to identify assets to recover where payment of damages is refused. A local legal expert and an asset recovery specialist will be crucial at that stage.

Moderator:

- Cherine Foty (Covington & Burling)

Panelists:

- Nicole Silver (Validity)
- Wendy Simon-Pearson (Morgan Lewis)
- Alayna Tria (BRG)
- Amanda Tuninetti (Covington & Burling)
- Kim M. Keenan (JAMS)



EVENT PROGRAM DAY 5

8:30am - 10:00am
Friday, December 2

Deep Seabed Mining: Jurisdiction, Merits and Quantum

**Venue: Crowell & Moring at 1001 Pennsylvania Avenue NW,
Washington, DC 2000**

Rapid technological developments have broadened the options for exploring and exploiting natural resources in the depths of the oceans. This fast-paced evolution has paved the way for companies to pursue seabed mining beyond the limits of national jurisdiction, in the so-called “Area,” giving rise to multiple challenges for investment arbitration and international law.

Investors, States, environmental stakeholders, and the international community at large are at a place of uncertainty with regard to the environmental impact of deep seabed mining. On the one hand, the minerals to be extracted from the seabed are essential for the production of electric cars, wind turbines, batteries and other products in high demand as countries transition away from fossil fuels. At the same time, the impact deep seabed mining will have on marine ecosystems is not yet known and could be severe. Thus, balancing competing environmental concerns and the protection of investments remains a challenge.

The International Seabed Authority (ISA) has a key role in the regulation of activities carried out in the Area. In order to grant mining rights to a contractor in the Area, the contractor must be sponsored by a State. This relationship between sponsoring State



EVENT PROGRAM

DAY 5

8:30am - 10:00am
Friday, December 2

Deep Seabed Mining: Jurisdiction, Merits and Quantum

and contractor raises questions about which investment protections may apply to an activity taking place beyond the jurisdiction of the sponsoring State.

As the ISA's exploitation regulations are still a draft, no exploitation operations in the Area have yet commenced. This could have implications for the quantum aspects of a potential dispute involving a deep seabed mining operation: e.g., the lack of operations and transactions involving these minerals could make the valuation of deposits in the Area particularly challenging.

This panel will first provide an overview of deep seabed mining in the Area. It will then discuss the applicable legal regimes and mechanisms available for the resolution of potential disputes arising out of a mining project in the Area, as well as key legal and quantum issues that may arise.

Moderator:

- Patricia Cruz Trabanino (ICSID)

Panelists:

- Tafadzwa Pasipanodya (Foley Hoag)
- David Attanasio (Dechert)
- James C. Burrows (Charles River Associates)
- Chris Milburn (Secretariat)



EVENT PROGRAM

DAY 5

11:00am - 12:30pm
Friday, December 2

Enforcing an Arbitration Award: How Lawyers, Funders, and Asset Tracers (Try to) Turn Paper Judgments into Real Money

Venue: Crowell & Moring at 1001 Pennsylvania Avenue NW, Washington, DC 2000

Congratulations, you just won a significant award! Now the hard work begins. An arbitral award isn't worth more than the paper it's written on, unless you can successfully enforce that judgment against the respondent. This panel will discuss the latest strategies in the enforcement space. Today's clients look not only to lawyers but also to litigation funders, asset tracers, and other support to turn judgments into real money. We will explore how litigants can fund enforcement efforts; the growing market for arbitral awards; the role of asset tracers in enforcing and collecting judgments; and enforcement strategies across several leading jurisdictions.

Moderator:

- Will Marra (Validity)

Panelists:

- Max Odenthal (Gordian Special Assets)
- Chris Weil (Mintz Group)
- Jeffery Commission (Burford)
- Ucheora Onwuamaegbu (ArentFox)
- Matthew H. Kirtland (Norton Rose)



EVENT PROGRAM

DAY 5

1:00pm - 2:30pm
Friday, December 2

Arbitration and Infrastructure, Energy and Construction Projects in the Midst of Climate Change

**Venue: Crowell & Moring at 1001 Pennsylvania Avenue NW,
Washington, DC 2000**

Climate change is driving States to adopt laws and regulations for the energy transition and implementation of low-carbon technologies. As expected, the new regulations may affect ongoing investments in infrastructure, energy, and transportation. As new risks emerge for investors in the midst of fast-paced changing regulations, international arbitration—as the preferred mechanism to solve disputes involving large-scale energy projects—becomes increasingly relevant in the existing world of climate change.

A full transition to sustainable infrastructure and energy industries still remains to be seen. However, the technological transformation of such sectors into a green approach ought to happen rapidly and efficiently in order to meet international standards to fight climate change. Speedy changes, untested technologies and leaps into the unknown might increase the probability of disputes arising between investors and host States.



EVENT PROGRAM

DAY 5

1:00pm - 2:30pm
Friday, December 2

Arbitration and Infrastructure, Energy and Construction Projects in the Midst of Climate Change

Additionally, issues such as stranded assets relating to the exploitation of fossil fuels involve complex issues that may need to be addressed while the energy transition is taking place: May States, or State-owned companies be liable for halting or reducing investments planned in fossil fuel projects?

In the current reality of Climate change the world and particularly affected communities are witnesses to the occurrence of extreme weather events and natural disasters. Query as to whether host States or the investors themselves shall bear the risks of these catastrophes. Hence, it remains to be determined by dispute resolution bodies and arbitrators whether distinct approaches may be necessary to resolve disputes involving climate change and infrastructure.

Moderator:

- [Meagan Bachman](#) (Crowell & Moring)

Panelists:

- [Annette Magnusson](#), Climate Change Counsel
- [Christopher Goncalves](#) (BRG)
- [Pablo Lopez Zadicoff](#) (Executive Vice President at Compass Lexecon)



EVENT PROGRAM

DAY 5

3:00pm - 4:30pm
Friday, December 2

Class or Collective Action in Investment Arbitration

**Venue: Crowell & Moring at 1001 Pennsylvania Avenue NW,
Washington, DC 2000**

Moderator:

- Ian Laird (Crowell & Moring)

Panelists:

- Rob Houston (Executive Director of The Global Pro Bono Bar Association)
- Lisa Snow (Kroll)
- Matthew N. Drossos (White & Case)
- Kabir Dugal (Arnold & Porter)