



2022 Executive Training on Investment Arbitration for Government Officials



Columbia Center on Sustainable Investment

A JOINT CENTER OF COLUMBIA LAW SCHOOL
AND THE EARTH INSTITUTE, COLUMBIA UNIVERSITY

Program Overview

Governments around the world are facing complex and pressing issues relating to their international investment treaties. Investor-state arbitrations based on those treaties are on the rise, involving ever-more novel and wide-ranging claims, and often claiming staggering sums in damages. Negotiations of new treaties continue, with many of these agreements being unprecedented in terms of the issues they seek to cover and the complexity of their provisions. States are also facing significant questions about what to do with their stocks of existing investment treaties, many of which no longer reflect the states' treaty policies and practices. Governments are considering reform options that they can take unilaterally, and reform discussions are increasingly underway at bi-, pluri-, and multilateral levels.

Against that background, there is an important need for officials in all branches and at all levels of government to learn about and stay up to date on new developments in investment treaty content and investor-state arbitration law and practice, and understand what those developments mean for them in their respective roles. This course aims to fill that need, and is aimed specifically at addressing the issues, opportunities, and challenges facing governments. It is relevant for:

- Treaty negotiators responsible for shaping the content of new agreements or revising existing ones;
- State attorneys responsible for defending the state in investor-state arbitral proceedings or overseeing outside counsel;
- Members of parliament or congress responsible for setting parameters for negotiations, ratifying treaties, and adopting implementing legislation; as well as those with questions about whether and in what circumstances their actions may give rise to investment arbitration cases;

- Government regulators – whether responsible for areas of taxation, environmental regulation, investments in mining and infrastructure, or other areas – whose actions are often challenged in investor-state arbitration and for whom the content of investment treaties can have important practical implications;
- Officials in investment promotion agencies who may be asked about investment treaties, and whose actions can also give rise to investment treaty claims;
- State and local officials who want a better understanding of how investment treaties and investment arbitration can be relevant for and impact their roles and responsibilities; and
- Representatives of government development institutions and inter-governmental organizations working on issues relating to international investment law and policy.

Through an intensive five-day course, government officials will increase their knowledge of crucial procedural and substantive aspects of investment law, better equipping them to deal with this complex and ever-evolving field with wide ranging implications for myriad areas of law and policy, and direct consequences for host-state liability.

Topics

Combining class lectures and exercises, the full course will cover a range of substantive and procedural issues through which participants will:

- Learn about and evaluate new trends in treaty practice, including ways in which governments are increasingly seeking to revise their treaty policies and practices in order to meet their specific economic, social and environmental objectives (Law and Policy Module);
- Gain up-to-date knowledge on how investment arbitration tribunals are interpreting core substantive standards such as the “fair and equitable treatment” obligation, the prohibition on uncompensated expropriation, and the non-discrimination obligations (Law and Policy Module);
- Gain better understanding of who investment treaties protect, and who can bring claims (Law and Policy Module);
- Explore the often unclear relationship between contract-based and treaty-based claims, which has particularly significant implications for government liability arising out of investments in the extractive industries and investments in infrastructure and public services (Law and Policy Module);
- Discuss different approaches to valuation and damages used in treaties and adopted by tribunals (Law and Policy Module); and
- Gain knowledge and skills relating to practical and procedural aspects of arbitration claims, including issues relating to responding to notices of arbitration, appointing and challenging arbitrators, developing and controlling litigation strategy, understanding key differences between different arbitration rules, gathering evidence, and participating in hearings. (Arbitration Practice Module).

Participants can elect to attend only the Law and Policy Module, which relates to substantive issues of investment law, only the Arbitration Practice Module, which focuses on procedural and practical issues regarding resolution of investment disputes and handling investment arbitrations, or both.

All participants must be able to read and communicate in English. A Certificate of Attendance will be provided by Columbia University upon successful completion of the course.

Who Should Attend

The program is designed for public sector officials whose responsibilities relate to or are affected by treaty negotiation or investor-state arbitration.

Contact

Paulo Cunha,
Director of Operations
pcunha@law.columbia.edu
+1.212.854.1830

Duration

The entire course will cover 5 instructional days from October 3-7, 2022.

Location

Columbia University
New York City, U.S.A.

Fee

Full course: \$500
Need-based scholarships may be available and will be prioritized for applicants from low-income countries.

How to Apply

Applications will be accepted on a rolling basis until August 1, 2022.

To apply, please visit the application page on our website:

www.ccsi.columbia.edu



Faculty

Sessions will be taught by leading academics and practitioners and will be tailored to uniquely address issues relevant to governments. Past faculty has included:

- **Lee Caplan**, Partner, Arent Fox LLP
- **Maria Chedid**, Partner, Arnold & Porter LLP
- **Kabir Duggal**, Senior Associate, Arnold & Porter LLP
- **Mark Feldman**, Associate Professor of Law, Peking University School of Transnational Law
- **Lauren Friedman**, Partner, Kirkland & Ellis LLP
- **Claudia Frutos-Peterson**, Partner, Curtis Mallet-Prevost, Colt & Mosle LLP; Adjunct Professor, American University College of Law
- **Alvaro Galindo**, International Counsel, Dechert LLP
- **Alejandro M. Garro**, Adjunct Professor of Law, Columbia Law School; Professor of Law, University of Buenos Aires; Senior Research Scholar, Parker School of Foreign and Comparative Law
- **Lindsey Gastrell**, Legal Counsel, ICSID
- **David Gaukrodger**, Senior Legal Advisor and Head of Unit, Investment Division, OECD
- **Grant Hanessian**, Partner, Baker & McKenzie LLP
- **Miriam Harwood**, Partner, Squire Patton Boggs
- **Anna Joubin-Bret**, Director, International Trade Law Division, UNCITRAL
- **Scott Little**, Trade Law Bureau, Government of Canada
- **Alexandra (Xander) A.K. Meise**, Partner, Mitchell Silberberg & Knupp LLP
- **Ucheora Onwuamaegbu**, International Attorney, Arent Fox LLP
- **Javier Rubenstein**, Partner, Kirkland & Ellis
- **Constantinos Salonidis**, Partner, Foley Hoag LLP
- **Jeremy K. Sharpe**, Partner, Shearman & Sterling, LLP
- **Shane Spelliscy**, Trade Law Bureau, Foreign Affairs, Trade and Development, Government of Canada
- **Ignacio Torterola**, International Partner, GST LLP
- **Elisabeth Tuerk**, Chief, Section on International Investment Agreements, Division on Investment and Enterprise, UNCTAD
- **Louis T. Wells**, Herbert F. Johnson Professor Emeritus of International Management, Harvard Business School

We look forward to welcoming you in 2022!

