



CONTEMPORARY PERSPECTIVES ON INTERNATIONAL INVESTMENT LAW

8th EXPERT SEMINAR

International Investment Law and the Pandemic: New Trends and Old Standards

Dates:

30 November - 1 December 2021

Venue:

Conference Room, Faculty of Law, University of Trento, via Verdi 53 - Trento

30 November 2021

2.00 - 3.30 pm - Panel 1. The Rise of Investment Screening

Chair: **Pia Acconci**, University of Teramo

Speakers:

- *FDI screening in times of Covid: broader and additional mechanisms*, **Antonino Ali**, University of Trento
- *The risks associated with foreign direct investment*, **Jens Hillebrand Pohl**, Maastricht University
- *Preventing unwanted acquisitions before and after the Covid crisis*, **Francesco Salerno**, Gianni & Origoni - Bruxelles (online)

Discussant: **Tarcisio Gazzini**, University of Padua

Q&A

4.00 - 5.30 pm - Panel 2. Investment Law: Standards and Norms in Times of Crisis

Chair: **Attila Massimiliano Tanzi**, University of Bologna

Speakers:

- *Full protection and security applied to the Covid emergency: States' inaction and its impact on the crisis*, **Sebastián Mantilla Blanco**, University of Bonn
- *FET standard: what expectations are legitimate in times of crisis?*, **Yulia Levashova**, Nyenrode Business University
- *Customary law defenses and investment arbitration: force majeure and the state of necessity*, **David Collins**, City University of London

Discussant: **Catharine Titi**, University of Paris II Panthéon-Assas

Q&A



1 December 2021

9.00 - 10.30 am - Panel 3. Investment Arbitration and Scientific Knowledge

Chair: **Giuseppe Nesi**, University of Trento

Speakers:

- *The WHO's role in providing scientific knowledge in investment arbitration*, **Marco Pertile**, University of Trento
- *Scientific knowledge to help arbitrators assessing domestic regulatory measures?*, **Sondra Faccio**, University of Trento
- *Scientific evidence in investment arbitration: procedural matters*, **Gian Maria Farnelli**, University of Bologna

Discussants: **Eric de Brabandere**, Leiden University (online) and **Pia Acconci**, University of Teramo

Q&A

11.00 - 12.00 am - Book presentation: Volume 20 of the Nijhoff Investment Law Series (online)

Reza Eftekhar, *The role of the domestic law of the host state in determining the jurisdiction *ratione materiae* of investment treaty tribunals. The partial revival of the localisation theory?*

Chair: **Eric de Brabandere**, Leiden University

Discussant: **Filippo Fontanelli**, University of Edinburgh



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International Investment Law and the Pandemic: New Trends and Old Standards

This is the 8th meeting of experts on *Contemporary perspectives on international investment law*. The series of seminars intends to offer a forum for the discussion of topical issues of investment law and gather experts from academia (including research students), legal practice, intergovernmental organizations, non-governmental organizations, governments and the private sector.

The topic of this year seminar focuses on the main repercussions of the pandemic on international investment law and arbitration. It starts from the assumption that the current health crisis has impacted on investment law and arbitration at different levels.

The situation of unprecedented emergency has led States to raise the bar of investment screening and to speed up the adoption of mechanisms to address risks to security or public order.

In addition, States have implemented a wide variety of emergency measures in the attempt to limit the spread of the virus. States' strategies to face the crisis have been adopted on the basis of complex scientific and factual determinations in a rapidly evolving scenario and have often resulted in significant restrictions on FDIs.

Arbitral tribunals may soon be confronted with investment claims challenging national emergency strategies under international investment agreements. In these proceedings, scientific knowledge is expected to play a major role in guiding adjudicators' assessment of the legitimacy and reasonableness of the State's measures (or decision not to take measures) in response to the pandemic.

Against this background, the conference aims to explore the new trends triggered by the crisis, in relation to the regulation of FDIs and the application of treaty standards, as well as the enhanced importance of scientific data and knowledge in investment arbitration, with a special focus on the role of the World Health Organisation.

The presentations given at the expert seminar will be submitted for publication, subject to blind peer review, in the Series on International Investment Law published by Brill | Nijhoff.

Previous Expert Seminars

1. The Sources of Rights and Obligations in the Field of Transnational Investment, University of Leiden and Vrije Universiteit Amsterdam, 15-16 June 2011
2. Foreign Investment in the Energy Sector: Balancing Private and Public Interests, University of Leiden and Vrije Universiteit Amsterdam, 1-2 October 2012
3. Foreign Investment in Africa: Gaining Development Momentum, University of Geneva, 10-11 October 2013
4. Foreign Investment in the Service Sector, University of Lausanne, 19 September 2014
5. Foreign Investment and Facilitation, University of Geneva, 18-19 February 2016
6. Public Participation in Foreign Investment Law, University of East Anglia, 4-5 July 2018
7. Good Governance and Foreign Investment in the Natural Resource Sector, University of East Anglia, 17-18 June 2019