



Vrije Universiteit Brussel

| BRUSSELS DIPLOMATIC ACADEMY

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**The Brussels Diplomatic Academy
and the Association for International Arbitration (AIA)
kindly invite you to**



Master Class Investment Arbitration

The law on foreign investment protection is one of the fastest developing and intellectually challenging branches of international law with high practical relevance. Investment arbitration is predicted to be a major factor in the development of the global economic system. The number of investment disputes before international arbitral tribunals has increased significantly over the last decades and reflects the notable preferences of the international business community for resolving international investment disputes. Acquaintance with the legal regime for investment arbitration and case law has now become indispensable for anyone seeking to have a full picture of arbitration or enhance his knowledge in international dispute resolution domain.

In the course of the seminar, we will examine the fundamental notions relevant to investment arbitration and critically review a number of major cases. This seminar is especially relevant to government officials, diplomats, private investors and executives who are involved in investment decision-making processes.

AUDIENCE

The master class is aimed at:

- diplomats
- government officials responsible for negotiations of investment treaties and involved in representing a state in dispute resolution proceedings

- attorneys specializing in dispute resolution
- civil servants in state's investment policies
- investors in all kind of businesses
- other

ADDED VALUE

The four days seminar is designed to provide its participants with a concentrated educational experience in the areas of law on foreign investment protection and investment arbitration. It is specifically aimed to provide practical help to those who wishes to grasp the fundamentals of investment arbitration. The course also offers an explanation of legal rules and relevant guidelines as well as checklists and practice examples.

The course's unique feature is its international scope. Participants from a broad range of backgrounds will participate in a dynamic learning experience, where the multifaceted aspects of arbitration are considered from a range of comparative perspectives.

CONTENTS

Day 1: Introduction to Investor-State Arbitration

- A definition of investor-state arbitration and how it differs from international commercial arbitration
- The origins and sources of investor-state arbitration. The role of diplomatic protection in investment disputes. Drawbacks and advantages of diplomatic protection
- Consent to arbitration: by direct agreement, through host state legislation, through bilateral and multilateral investment treaties. Typical dispute settlement provisions
- The purpose and main content of an investment treaty. The rights protected by investment treaties and exceptions to protections accorded by investment treaties
- Main principles of interpretation and application of investment treaties
- Investment contracts in a nutshell: types, applicable law, stabilization clauses, and renegotiation/adaptation
- Arbitration institutions and regimes: ICSID and non-ICSID investment arbitration
- The process of filing a claim under investment treaties: who can file and where such dispute can be filed
- A "home" state and "host" state of an investor: whether an investor may arbitrate against his home state in investor-state arbitration?
- A relief available in investor-state arbitration: restitution and satisfaction; damages; compensation for expropriation; interests

Day 2: Standards of Protection in International Investment Agreements

- Standard of Fair and equitable treatment. What are the specific applications of the standard?
- Full protection and security
- The umbrella clause. Meaning and origin. Effective and restrictive application
- Access to justice, fair procedure, and denial of justice
- The options available to a national investor to protect his property against the adverse measures of the home state. Do foreign investors have a greater degree of protection than nationals? National treatment standard
- Most-favoured-nation treatment

Day 3: Jurisdiction and Admissibility in Investor-State Arbitration. Types of Jurisdictional Objections

- The pillars of arbitral tribunal's jurisdiction in ICSID cases. How do they differ in non-ICSID cases?
- The difference between jurisdiction and admissibility. What claims are inadmissible in investor-state arbitration?
- A "cooling off period" in investor-state arbitration, its purpose and duration. How is it triggered?
- Exhaustion of local remedies in investor-state arbitration. A "fork-in-the-road" clause
- A "temporality" requirement under investment protection treaties
- What constitutes an investment in investor-state arbitration: what are the criteria, if any, to distinguish the investment from non-investment? Whether such criteria differ between ICSID and non-ICSID cases? Can a sale of goods contract be considered an investment?
- The notion of an investor in investor-state arbitration. Are there any limitations on investors? Can a natural person be an investor? Whether a legal entity established according to the laws of the host state but owned by a foreign investor can be the claimant in investor-state arbitration?
- An objective and scope of summary dismissal in ICSID arbitration. Is this procedure available in non-ICSID cases? The test applied by arbitral tribunals in the summary dismissal. Whether the threshold is set high for summary dismissal?

Day 4: Annulment and Enforcement of Awards

- Main features of the annulment process under the ICSID Convention. What is the difference between annulment and appeal
- Main features of the annulment process in non-ICSID proceedings. The importance of the place of arbitration in a non-ICSID case
- The schemes for enforcement of arbitral awards under the ICSID Convention and the New York Convention on the Recognition and Enforcement of Arbitral Awards
- Sovereign immunity in enforcement proceedings

FACULTY

Johan Billiet, Billiet&Co Lawyers, Association for International Arbitration IVZW

Johan Billiet is a founding partner at Billiet & Co, Brussels. He is also the founder and President of the Association for International Arbitration (AIA IVZW). Johan Billiet is registered at both the Brussels and Paris bar (directive 98/5/EC) and has acted as Deputy Judge at the Court of First Instance in Brussels since 1981. Johan is frequently appointed to act as an arbitrator in all types of national and international arbitration procedures. Today he also teaches alternative dispute resolution, investment arbitration and comparative arbitration at the Vrije Universiteit Brussel (VUB) and at the European Mediation Training for Practitioners of Justice (EMTPJ) as well as at other ADR training providers.

LEARNING OBJECTIVES

By the end of the course, the participants should be able to:

- Understand the legal framework of international arbitration law relating to foreign investments and the major rules on interpretation of investment treaties.
- Understand the main standards of protection in international investment agreements and major jurisdictional objections; be able to explain main notions in investment arbitration such as investor and investment.
- Comprehend the main features of annulment proceedings and the schemes for enforcement of arbitral awards under the ICSID Convention and the New York Convention.
- Become familiar with the most important case law in investment arbitration field and learn how to search efficiently for relevant jurisprudence.

The working language of the course is English.

COURSE MATERIAL

Before the start of the lecture, a syllabus compiled by the lecturers will be handed over to the participants. For those who wish to enjoy some preparatory readings, the following texts are recommended:

- Dolzer and Schreuer, Principles of International Investment Law, 2012
- Redfern and Hunter, Law and Practice of International Commercial Arbitration, 2009, Chapter 8
- Lew, Mistelis, and Kröll, Comparative International Arbitration, 2003, Chapter 28
- Newcombe and Paradell, Law and Practice of Investment Treaties, 2009

CERTIFICATION

Participants to the course will receive a certificate of attendance from the Brussels Diplomatic Academy of the Vrije Universiteit Brussel.

Request for **bar points** has been submitted.

TIMING AND LOCATION

Dates:

This is a 4 days-course which takes place on **7-8 September** and **14-15 September 2015**, from **13.30 to 17.30**.

Location:

**Vrije Universiteit Brussel, Pleinlaan 5, 1050 Brussels
Room Bruges, level -1.**

It is building number 5 on the campus plan that can be downloaded at <http://www.vub.ac.be/english/infoabout/campuses/etterbeek.html>.

A description on how to find the campus is available on <http://www.vub.ac.be/english/infoabout/campuses/index.html#etterbeek>.

Free parking facilities are available on the campus on the other side of the building. A bar code gives access to the campus via campus entries 6 or 13 (see the red arrows on the campus plan). The scanner for the bar code is situated under the intercom. A few days before the start of the event, participants will receive a bar code giving access to the parking.

METHOD OF PAYMENT AND CANCELLATION

Fees:

The master class fee is 1.850 EUR.

VAT Settlement: exempted from VAT: Art 44 § 2, 4° of the VAT code.

The above prices include the registration fee and all material relating to the course on 'Investment Arbitration', as well as the coffee breaks and networking reception for the duration of the event.

The accommodation form is not included in the registration fees.

Flemish companies can make use of the "KMO-portefeuille": www.beaweb.be (Admission number BDA for "Training": DV.O211124).

Payment:

Attendees are requested to pay by bank transfer only, upon receipt of invoice.

Bank transfer details:

Confirmation of registration and practical information will be sent only after receipt of payment.

Cancellations:

In case of cancellation, a substitution between members of the same company is still possible at any time.

REGISTRATION

To register for this master class, please fill in the online registration form available on www.brusselsdiplomaticacademy.be.

For more information please contact us at bda@vub.ac.be.

