**INVESTMENT ARBITRATION MASTERCLASS**

**AGENDA**

**Monday 6 November 2017**

9:00 – 10:20

**Introduction to the International Energy Charter**

*Alejandro Carballo*, General Counsel, Energy Charter Secretariat  
*Marat Terterov*, Knowledge Centre Coordinator, Energy Charter Secretariat

*(short coffee break in between sessions)*

10:30 – 12:30

**Determination of damages: practical issues (with mock exercises)**

*Travis Taylor*, Director, Navigant  
*Chris Tune*, Director London Office, Navigant  
*Herfried Wöss*, Partner, Wöss & Partners Arbitration - Damages - Infrastructure

- Introduction; What are damages? The arbitration process
- The triallagmatic synallagma and income generating contracts, assets or investments, and its influence on damages analysis
- The measure of damages in international law and comparative law: expectation interest and the but-for premise or differential hypothesis, reliance interest or sunk investment, FMV, Chorzów, damnum emergens, lucrum cessans
- The difference in compensation between lawful and unlawful expropriation
- The Factory of Chorzów case: Date of valuation in investment arbitration and the rationale of the Chorzów case
- The framing of damages in case of partial illegality in case of discrimination or violation of FET
- The role of contractual liquidated damages clauses in investment arbitration

12:30 – 14:00

**Lunch**

14:00 – 17:00

**Determination of damages: methods of calculation with a mock case**

*Travis Taylor*, Director, Navigant  
*Chris Tune*, Director London Office, Navigant  
*Herfried Wöss*, Partner, Wöss & Partners Arbitration - Damages - Infrastructure

*(short coffee break in between sessions)*

- What is a damages expert? The role(s) of an expert – key tasks; Engaging an expert;
- Information required – documentation, evidence, etc.
- An overview of damages calculation – frameworks and tools
- Comparing methods adopted in recent arbitral decisions
- Description of a hypothetical case; Mock exercise
PCA investment arbitration practice and procedure (with interactive exercises)

**9:00 – 12:30**

- Notice of Arbitration
- Appointment of arbitrators/constitution of the Tribunal
- Procedural and logistical choices at the beginning of the process
- Arbitrator challenges

**12:30 – 14:00**

Lunch

**14:00 – 17:00**

PCA investment arbitration practice and procedure (with interactive exercises)

- Interim procedural decisions
- Evidence
- Preparation and conduct of the hearing
- Costs of arbitration
- Award and post-award remedies
Wednesday 08 November 2017

9:00 – 10:00
Opening and introduction into investment arbitration

Speakers:
Alison Tibell, Legal Counsel, SCC Arbitration Institute
Natalia Petrik, Legal Counsel, SCC Arbitration Institute
Comments:
Ginta Ahrel, Advokat, Advokatfirman Lindahl KB
Dmitri Evseev, Partner, Arnold & Porter Kaye Scholer LLP
Christer Söderlund, Advokat, Senior Counsel, Advokatfirman Morssing & Nycander
Erica Stein, Partner, Dechert, Brussels

- Investment Arbitration
- How institutional arbitration works: organization, decision-making, secretariats;
- Initial exchange of briefs: specifics of investment proceedings;
- Referral to tribunal

10:00-11:00
10 things to consider when faced with an investment treaty claim

Speaker:
Dmitri Evseev, Partner, Arnold & Porter Kaye Scholer LLP, London
Comments: Christer Söderlund, Erica Stein, Ginta Ahrel

(short coffee break)

11:30-12:30
Jurisdictional objections in investment arbitration

Speaker:
Christer Söderlund, Advokat, Senior Counsel, Advokatfirman Morssing & Nycander, Stockholm
Comments: Dmitri Evseev, Erica Stein, Ginta Ahrel

12:30 – 13:00
Constitution of the Tribunal and commencement of proceedings

Speakers:
Alison Tibell, Legal Counsel, SCC Arbitration Institute
Natalia Petrik, Legal Counsel, SCC Arbitration Institute
Comments: Dmitri Evseev, Christer Söderlund, Erica Stein, Ginta Ahrel

- Who are arbitrators;
- How are they appointed;
- Specifics of challenges in investment cases and at the SCC;
- How are their fees decided;
- Advance on costs vs final costs in investment cases;
- Pre-award relief and emergency arbitration under the SCC Rules

13:00 – 14:00
Lunch
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| 14:00 – 14:50| **Mock case with a request for appointment of an emergency arbitrator, development of emergency proceedings, emergency decision**  
Facilitators: Erica Stein and Ginta Ahrel (Parties) Christer Söderlund (Emergency Arbitrator) |
|              | *(short coffee break)*                                                |
| 15:15 – 16:00| **Mock case with request for arbitration, requests for extension of time, answer, jurisdictional objections**  
Facilitators: Erica Stein and Ginta Ahrel |
| 16:00 – 17:30| **Award ceremony and family photo**                                   |

*During the 3 days, Energy Charter Secretariat officials will also contribute to discussions:*

- Rusian Galkanov, Legal Assistant
- Iryna De Meyer, Junior Legal Assistant
- Vitali Hiarlouski, Legal Coordinator for the Knowledge Centre