



BIAMC

BALI INTERNATIONAL  
ARBITRATION & MEDIATION CENTER

**3 - Day Course July 8 - 10<sup>th</sup>, 2019**

# ***The Essentials of International Investment Law and Arbitration***

*Given the existing and emergent levels of cross-border investment across Asia Pacific, gaining practical familiarity with international investment law and its inherent applicability to global business development is vital. After all, embedded in every transaction is the one constant: money.*

*The increased inflow of FDI to economies in Asia has brought much attention to international investment law in the region and specifically to arbitration as the leading method to resolve dispute between foreign investors and host States. International arbitration continues to acclimatize to the changing forces and demands of the international community while such issues as asset valuation, the proper relationship between State regulation and investment protection, and third party funding drive evolutions in treaty and arbitration practice.*

*It has been almost 60 years since Germany and Pakistan entered into the first treaty to promote and protect reciprocal investments. At present, Asia, and the South-East Asian (SEA) region in particular, has become one the largest recipients of foreign direct investments (FDI) in the world. As cross-border partnerships and collaborations are formed across Asia Pacific between arbitration centers, financial institutions, universities, business councils, firms, and other stakeholders, the significantly improved awareness of and increased access to international arbitration make its use as a dispute settlement mechanism in bilateral and multilateral and investment treaties, free trade agreements, economic partnerships, and investment contracts practically a given, bolstering the role of Asia Pacific jurisdictions as a forum for cross-border dispute resolution.*

*Indeed, just in 2018-2019 alone we have witnessed the ratification and entering into force of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the inking of the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA), which comprise provisions on the protection of foreign investments. This ushers in a new era and actualizes the predictions of Indonesia's trajectory as a regional linchpin. The IA-CEPA Investment Chapter includes an Investor-State Dispute Settlement (ISDS) mechanism which provides investors from both countries with access to an independent arbitral tribunal to resolve disputes for breaches of underlying investment provisions. No doubt, savvy practitioners on all fronts must inform themselves of the substantive, procedural, and strategic aspects of bringing or defending an investment arbitration in order to be fully prepared and in a position to advise their private or State clients on salient matters pertaining to investment law. That's where BIAMC comes in.*

*Our 3-day intensive course provides a solid introduction to international investment law and arbitration practice focusing on the Asian region and the recent developments affecting the international investment regime. We offer functional, real-time training on not only the applicable legal framework but also on the global trends and best practices that are continually redefining the expectations and opportunities within the investment arbitration landscape. The course is delivered by leading scholars and practitioners and offers a unique opportunity to study both theoretical and practical aspects of ISDS. Let BIAMC help develop, consolidate, or re-orient your knowledge of international investment arbitration and take your professional skills to the next level.*

## **Topics Covered:**

- Interpretation of investment treaties
- Definition of investor and investment
- Jurisdiction and admissibility
- Defenses and exceptions
- The course of investment arbitration
- Enforcement and challenges of arbitral awards

## **Partners & Sponsors:**



ESSEX COURT CHAMBERS DUXTON  
(SINGAPORE GROUP PRACTICE)

**Arnold & Porter**



# Brief Tutor Profiles



## Dr. Kabir Duggal

Dr. Kabir Duggal is a senior associate in Arnold and Porter's International Arbitration and Public International Law Practice Groups in New York. He also acts as a Consultant for the United Nations Office of the High Representative for Least Developed Countries (UN-OHRLS) on the creation of a novel "Investment Support Program." Dr. Duggal is a Lecturer-in-Law at the Columbia Law School, teaching "International Investment Law and Arbitration." Dr. Duggal has published several articles and books and is regularly invited to speak at conferences globally. He is the Managing Editor for Columbia Law School's "The American Review of International Arbitration." He has co-authored a book entitled "Evidence in Investment Arbitration" published by Oxford University Press and "Principles of Evidence in Public International Law as applied by Investor-State Tribunals" by Brill Publishing. He has received the Burton "Law360 Distinguish Legal Writing Award" for his scholarly writings.



## Mr. Colin Liew

Colin has been recognised by leading directories as an outstanding and influential disputes practitioner who specialises in commercial disputes over a wide range of practice areas, with a particular focus on arbitration-related litigation. Colin also advises on and represents clients in arbitration, in addition to taking on arbitrator appointments. As both leading and junior counsel, Colin has acted in a number of reported cases involving novel points of law, and his legal submissions have been repeatedly commended by the courts. In addition, Colin has provided expert evidence of Singapore law to various tribunals, and contributes regularly to law journals and law reform initiatives.



## Mr. Elijah Putilin

Mr Elijah Putilin is partner at P&S dispute resolution boutique headquartered in Hong Kong. Currently, Mr Putilin also holds offices of the Deputy Head of Legal Services at the Asian International Arbitration Centre and the Secretary General of the Asian Domain Name Dispute Resolution Centre. Mr Putilin has advised clients in more than 50 cases before ICC, ICAC, ICDR, LCIA and SCC tribunals, national courts and international adjudication bodies. As part of the AIAC's team, Mr Putilin advised the Government of Malaysia on the revision of the Arbitration Act 2005. He also played an instrumental role in the revision of the Centre's Mediation Rules to tailor them for Investor-State disputes. Mr Putilin has published several articles in the field of public international law and dispute resolution and is the author of the forthcoming book "Guide to Malaysian Investment Treaties". Mr Putilin is regularly invited to speak at conferences and deliver courses on arbitration in Asia and Europe.



## Professor James Claxton

Has more than a decade of experience in international dispute resolution as advocate, academic, arbitrator, and mediator. He worked as legal counsel at the International Centre for Settlement of Investment Disputes (ICSID) in Washington and as attorney in the international arbitration practices of global law firms in Paris. Since 2008, he has given lectures and intensive courses in international dispute resolution at law faculties in Asia, Europe, and the United States. He is presently full professor of law in the Graduate School of Law at Kobe University in Japan. A CIARB Fellow and CEDR-accredited mediator, he currently advises emergent dispute-resolution institutions in Asia and serves on various international-dispute-settlement working groups including as a sub-committee chair of the Investor-State Mediation Task Force of the International Mediation Institute.

Day 1 - July 8<sup>th</sup>

Time	Agenda	Tutor
8.30 am	Registration Opens	
9.00 am	<b>Lecture 1: Introduction</b> <ul style="list-style-type: none"> <li>• Historical background</li> <li>• The modern system of international investment law &amp; arbitration</li> </ul>	Dr. Kabir Duggal
10.35 am	Coffee Break	
10.50 am	<b>Lecture 2: Understanding the Investment Treaties</b> <ul style="list-style-type: none"> <li>• Dissecting a BIT</li> <li>• Investment treaties interpretation</li> </ul>	Dr. Kabir Duggal
12.25 pm	Lunch Break	
1.25 pm	<b>Lecture 3: Material Scope of Investment Treaties</b> <b>Application: the Concept of Investment</b> <ul style="list-style-type: none"> <li>• The evolution of the definition of "investment"</li> <li>• Definition of the investment and jurisdiction</li> </ul>	Dr. Kabir Duggal
3.00 pm	Coffee Break	
3.15 pm	<b>Lecture 4: Personal Scope of Investment Treaties</b> <b>Application: Nationality of Investor</b> <ul style="list-style-type: none"> <li>• Nationality of investor and jurisdiction</li> <li>• Shareholders' standing</li> <li>• Dual nationality</li> </ul>	Mr. Colin Liew
5.00 pm	Class Dismissed	

Day 2 - July 9<sup>th</sup>

Time	Agenda	Tutor
8.45 am	Attendance	
9.00 am	<b>Lecture 5: Discrimination</b> <ul style="list-style-type: none"> <li>• National treatment</li> <li>• MFN treatment</li> </ul>	Mr. Colin Liew
10.35 am	Coffee Break	
10.50 am	<b>Lecture 6: Fair and Equitable Treatment and Umbrella Clauses</b> <ul style="list-style-type: none"> <li>• The evolution of the concept</li> <li>• The meaning of the fair and equitable: a case study</li> <li>• The concept of 'umbrella clauses'</li> </ul>	Mr. Colin Liew
12.25 pm	Lunch Break	
01.25 pm	<b>Lecture 7: Expropriation</b> <ul style="list-style-type: none"> <li>• The evolution of the concept</li> <li>• Direct &amp; indirect expropriation</li> </ul>	Mr. Elijah Putilin
3.00 pm	Coffee Break	
3.15 pm	<b>Lecture 8: Access to Investor-State Arbitration and the Applicable Law</b> <ul style="list-style-type: none"> <li>• Applicable procedural law</li> <li>• Consent to ISA and its scope</li> <li>• Conditions precedent: <ul style="list-style-type: none"> <li>- Exhaustion of local remedies</li> <li>- Cooling-off periods</li> </ul> </li> <li>• Applicable substantive law</li> </ul>	Mr Elijah Putilin
5.00 pm	Class Dismissed	

Day 3 - July 10<sup>th</sup>

Time	Agenda	Tutor
8.45 am	Attendance	
9.00 am	<b>Lecture 9: Investor-State Arbitration Procedure</b> <ul style="list-style-type: none"> <li>• Applicable procedural rules: <ul style="list-style-type: none"> <li>- ICSID: ICSID Arbitration Rules &amp; Additional Facility Rules</li> <li>- UNCITRAL Arbitration Rules</li> <li>- AIAC Arbitration Rules</li> </ul> </li> <li>• The course of typical ISA proceedings</li> </ul>	Mr. Elijah Putilin
10.35 am	Coffee Break	
10.50 am	<b>Lecture 10: Defenses, Exceptions and Counterclaims</b> <ul style="list-style-type: none"> <li>• Treaty-based and customary international law defenses</li> <li>• Exceptions to host-State's responsibility</li> <li>• Arbitrating investor's conduct: counterclaims by host-States</li> </ul>	Prof. James Claxton
12.25 pm	Lunch Break	
01.25 pm	<b>Lecture 11: Remedies, Enforcement and Challenge of Awards</b> <ul style="list-style-type: none"> <li>• Pecuniary and non-pecuniary remedies</li> <li>• Enforcement of ICSID and non-ICSID awards</li> <li>• Annulment of ICSID awards</li> <li>• Setting-aside of non-ICSID awards</li> </ul>	Prof. James Claxton
3.00 pm	Coffee Break	
3.15 pm	<b>Lecture 12: Contemporary Issues in International Investment Law &amp; Arbitration</b> <ul style="list-style-type: none"> <li>• ISDS Criticism: a quest for alternative to arbitration</li> <li>• Fragmentation of the international investment regime</li> </ul>	Prof. James Claxton
5.00 pm	Class Dismissed	

Registration close on Monday, June 24<sup>th</sup>, 2019

Early Bird	IDR 8.800K	Registration before June 10 <sup>th</sup>
Standard	IDR 10.800K	Registration before June 24 <sup>th</sup>

## Registration Link

<https://form.jotform.me/90661250063449>

## Udayana International Convention Centre - UICC

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