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05  
MAY 2022

# UNCITRAL

## Working Group III on ISDS Reform



### Forum for Further Preparatory Work on Investment Mediation

Preceded by the Inter-Sessional Meeting of Working Group III of the United Nations Commission on International Trade Law (UNCITRAL) held in October 2021, delegations of the Working Group, world-renowned practitioners and academics will gather again at the Forum in the Hong Kong Special Administrative Region of the People's Republic of China to further the discussion on the preparatory work on investment mediation. Through seminar presentations and roundtable discussion, the Forum will explore specific key issues in respect of the proposed model clauses and guidelines on investment mediation, which will be further developed in the drafting work of UNCITRAL Working Group III. Hybrid mode of virtual and in-person participation is adopted for this Forum.

TIME (GMT+8)		REGISTRATION LINKS
PART I	09:00–12:00	<a href="https://us06web.zoom.us/webinar/register/WN_-10Un9-NQzWF4p-UQch3kA">https://us06web.zoom.us/webinar/register/WN_-10Un9-NQzWF4p-UQch3kA</a>
*PART II	18:30–21:05	<a href="https://us06web.zoom.us/meeting/register/tZYqc-yhrzIqHNVUOpCLagAmZa7juy5gGRwQ">https://us06web.zoom.us/meeting/register/tZYqc-yhrzIqHNVUOpCLagAmZa7juy5gGRwQ</a> <i>* (Part II opens to Working Group III Delegations only)</i>

Simultaneous interpretation in English and Chinese will be provided

Enquiries: [events@aail.org](mailto:events@aail.org)



QR CODE: PART I



QR CODE: PART II

TIME (GMT+8)	PROGRAMME
<b>PART I – SEMINAR ON INVESTMENT MEDIATION</b>	
09:00–09:10	<b>OPENING REMARKS</b>
	<p><b>SUN Jin</b> Deputy Director-General Department of Treaty and Law, Ministry of Foreign Affairs, People's Republic of China</p> <p><b>Anna JOUBIN-BRET</b> The Secretary United Nations Commission on International Trade Law</p>
09:10–09:30	<b>BRIEFING ON THE DISCUSSION OF THE DRAFT MODEL CLAUSES AND GUIDELINES ON INVESTMENT MEDIATION</b>
	<p><b>Judith KNIEPER</b> Legal Officer United Nations Commission on International Trade Law</p>
09:30–11:45	<b>TOPICAL ISSUES ON MODEL CLAUSES AND GUIDELINES ON INVESTMENT MEDIATION</b>
	<p><b>MODERATOR</b> <b>Simon CHAPMAN QC</b> Regional Head of Dispute Resolution (Asia) Herbert Smith Freehills</p>
	<p><b>PANELLISTS</b> <b>Susan FRANCK</b> Professor of Law Washington College of Law, American University <b>TOPIC: Key considerations in the design of effective investment mediation clauses and rules</b></p>
	<p><b>SUN Huawei</b> Partner Zhong Lun Law Firm <b>TOPIC: In search of the optimal model for mandatory mediation in ISDS disputes</b></p> <p><b>LI Xiongfeng</b> Deputy Secretary General and Board Secretary South China International Arbitration Center (Hong Kong) Secretary of the Council Shenzhen Court of International Arbitration <b>TOPIC: Practitioner's perspective on balancing between confidentiality and transparency in investment mediation</b></p> <p><b>QI Tong</b> Professor School of Law, Wuhan University <b>TOPIC: The role of institutions in facilitating investment mediation for ISDS disputes</b></p>

	<p><b>Anthony NEOH QC SC JP</b>  Chairman  Asian Academy of International Law  <b>TOPIC: Unlocking the potential of mediation clauses and guidelines through investment mediation capacity building</b></p> <p><b>Pui-ki Emmanuelle TA</b>  Chief Executive Officer  eBRAM International Online Dispute Resolution Centre  <b>TOPIC: Overcoming the challenges on the use of Online Dispute Resolution for investment mediation</b></p> <p>PANEL DISCUSSION  Q&amp;A</p>
<p><b>11:45–12:00</b></p>	<p><b>WRAP-UP OF THE SEMINAR ON INVESTMENT MEDIATION</b></p> <p><b>Teresa CHENG GBM GBS SC JP</b>  Secretary for Justice  Hong Kong Special Administrative Region, People's Republic of China</p>
<p><b>PART II – ROUNDTABLE DISCUSSION</b> <i>(this part opens to Working Group III Delegations only)</i></p>	
<p><b>18:30–18:35</b></p>	<p><b>OPENING REMARKS</b></p> <p><b>Anna JOUBIN-BRET</b>  The Secretary  United Nations Commission on International Trade Law</p>
<p><b>18:35–19:45</b></p>	<p><b>ROUNDTABLE DISCUSSION</b></p> <p><u>MODERATOR</u>  <b>James DING</b>  Commissioner  Inclusive Dispute Avoidance and Resolution Office, Department of Justice,  Government of the Hong Kong Special Administrative Region, People's Republic of China</p> <p><u>DISCUSSION ITEMS</u></p> <ul style="list-style-type: none"> <li>▪ Recap of the discussion in Part I of the Forum</li> <li>▪ Draft Note by the UNCITRAL Secretariat on Mediation (Treaty Provisions on Mediation)</li> </ul>
<p><b>19:45–20:55</b></p>	<p><b>ROUNDTABLE DISCUSSION (CONTINUED)</b></p> <p><u>MODERATOR</u>  <b>Natalie MORRIS-SHARMA</b>  Rapporteur  United Nations Commission on International Trade Law Working Group III  Government Legal Counsel  Attorney-General's Chambers, Singapore</p> <p><u>DISCUSSION ITEM</u></p> <ul style="list-style-type: none"> <li>▪ Draft Note by the UNCITRAL Secretariat on Mediation (Guidelines for Participants in Investor-State Mediation)</li> </ul>
<p><b>20:55–21:05</b></p>	<p><b>WRAP-UP OF THE FORUM AND THE WAY FORWARD FOR THE WORK ON INVESTMENT MEDIATION</b></p> <p><b>Shane SPELLISCY</b>  Chair  United Nations Commission on International Trade Law Working Group III  Director General and Senior General Counsel  Trade Law Bureau, Canada</p>

## SPEAKERS OF HONOUR (Listed in order of appearance)



**SUN Jin**

Deputy Director-General  
Department of Treaty and Law, Ministry of Foreign Affairs, People's Republic of China

Dr Sun obtained his Ph.D. in Private International Law from the Wuhan University, China, and Master's degree in International Law and Comparative Law from the University of Melbourne, Australia. He was the chief negotiator and the major member of the Chinese delegation in the negotiations of many international conventions and legal instruments on private international law, international criminal justice, human rights and State immunity, climate and environment as well as bilateral treaties on judicial assistance and the promotion and protection of investments such as that of China-US, China-Canada and China-Japan-Korea. He has published books on international law and academic papers in both Chinese and English. Before taking up the current role, he was Counsellor and Legal Adviser of the Chinese Embassy in the US; Deputy Director General of the Bureau of International Cooperation of Supreme People's Court of China; Counsellor of the Department of Treaty and Law of the Ministry of Foreign Affairs, PRC; the MFA Special Representative on Climate Change Negotiations, etc.



**Anna JOUBIN-BRET**

The Secretary  
United Nations Commission on International Trade Law

Ms Anna Joubin-Bret is the Secretary of the United Nations Commission on International Trade Law (UNCITRAL) and Director of the International Trade Law Division in the Office of Legal Affairs of the United Nations, which functions as the substantive secretariat for UNCITRAL. She is the 9<sup>th</sup> Secretary of the Commission since it was established by the General Assembly in 1966. Prior to her appointment on 24 November 2017, Ms Joubin-Bret practised law in Paris, specialising in international investment law and investment dispute resolution. She focused on serving as counsel, arbitrator, mediator and conciliator in international investment disputes. She served as arbitrator in several ICSID (International Centre for Settlement of Investment Disputes), UNCITRAL and ICC (International Chamber of Commerce) disputes. Prior to 2011 and for 15 years, Ms Joubin-Bret was Senior Legal Adviser for the United Nations Conference on Trade and Development (UNCTAD). She edited and authored seminal research and publications on international investment law, notably the Sequels to UNCTAD IIA Series, and co-edited with Jean Kalicki a book titled *Reshaping the Investor-State Dispute Settlement System* in 2015. Ms Joubin-Bret holds a postgraduate degree (DEA) in Private International Law from the University of Paris I Panthéon-Sorbonne, a Master's Degree in International Economic Law from the University of Paris I and in Political Science from Institut d'Etudes Politiques. She was Legal Counsel in the legal department of the Schneider Group, General Counsel of the KIS Group and Director-Export of Pomagalski S.A. She was appointed judge at the Commercial Court in Grenoble (France) and was elected Regional Counsellor of the Rhône-Alpes Region in 1998.



**Teresa CHENG GBM GBS SC JP**

Secretary for Justice  
Hong Kong Special Administrative Region, People's Republic of China

Ms Teresa Cheng, SC, was appointed Secretary for Justice on 6 January, 2018. She was a Senior Counsel in private practice before joining the Government. She is also a chartered engineer and chartered arbitrator. She was frequently engaged as arbitrator or counsel in complex international commercial or investment disputes. Ms Cheng was one of the founders and Chairperson of the Asian Academy of International Law. She is a Past Vice President of the International Council of Commercial Arbitration, Past Vice President of the ICC International Court of Arbitration and Past Chairperson of Hong Kong International Arbitration Centre. In 2008, she became the first Asian woman elected through a global election as President of the Chartered Institute of Arbitrators. She served as Deputy Judge/Recorder in the Court of First Instance of the High Court of Hong Kong from 2011 to 2017. She is a member of the International Centre for Settlement of Investment Disputes Panel of Arbitrators, and was a member of the World Bank's Sanctions Board. Ms Cheng is a Fellow of King's College in London, and was the Course Director of the International Arbitration and Dispute Settlement Course at the Law School of Tsinghua University in Beijing.

## SPEAKERS (Listed in order of appearance)



**Judith KNIEPER**

Legal Officer  
United Nations Commission on International Trade Law

Ms Judith Knieper is Legal Officer at the Secretariat of the United Nations Commission on International Trade Law in Vienna. Until her appointment to the Secretariat, she had been working in South East Europe from 1998 to 2013 for numerous donors/organisations, e.g. OSCE (Organization for Security and Co-operation in Europe), CoE (Council of Europe), World Bank and GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit), the German international cooperation. She obtained both Legal State Exams in Frankfurt, Germany, as well as her Ph.D. and is also qualified and certified as a mediator.



### **Simon CHAPMAN QC**

Regional Head of Dispute Resolution (Asia)  
Herbert Smith Freehills

Mr Chapman leads the disputes practice in Greater China and focuses on international arbitration and arbitration-related litigation. A specialist advocate, he appears regularly as lead counsel before tribunals in the world's foremost arbitration centres, including Hong Kong, Singapore and London. Mr Chapman's practice covers investment treaty and commercial arbitration under all of the major arbitral rules. He has particular expertise in complex and high-value disputes, notably claims in fraud and breach of warranty, as well as post-mergers and acquisitions, joint venture and shareholder disputes. He has acted for governments, State-owned entities, sovereign wealth funds and corporations across a range of industries, including the energy, private equity, finance, hospitality, and technology, media and telecommunications sectors. Mr Chapman is ranked as a leading individual in all of the key directories. In addition to his work as counsel, he also sits as arbitrator and has experience as presiding arbitrator, co-arbitrator and sole arbitrator in various cases.



### **Susan FRANCK**

Professor of Law  
Washington College of Law, American University

Professor Franck is an expert in the fields of international dispute settlement, investment law, and empirical analysis of international law. Her legal experiences include serving at the United Nations Conference on Trade and Development (UNCTAD) and practising in international dispute settlement in both Washington, D.C. and London. Professor Franck served on the Executive Councils of both the American Society of International Law and Institute for Transnational Arbitration, serves as the co-chair of the Washington, D.C. Chapter of the Chartered Institute of Arbitrators, and is an elected member of the American Law Institute. She has presented her research to major international organisations, including the UNCTAD, Asian-Pacific Economic Cooperation, and International Centre for Settlement of Investment Disputes. Professor Franck's pioneering scholarship has made fundamental contribution to the development of international law and international dispute resolution, including her book, *Arbitration Costs: Myths and Realities in Investment Treaty Arbitration*, and the first article to explore the application of Dispute Systems Design theory to international investment law. She currently serves as an arbitrator and mediator in international commercial disputes.



### **SUN Huawei**

Partner  
Zhong Lun Law Firm

Ms Sun specialises in international commercial and investment treaty arbitration and has represented Chinese and foreign clients in cases conducted under the arbitration rules of ICC (International Chamber of Commerce), UNCITRAL (United Nations Commission on International Trade Law), LCIA (London Court of International Arbitration), SIAC (Singapore International Arbitration Centre), HKIAC (Hong Kong International Arbitration Centre), CIETAC (China International Economic and Trade Arbitration Commission), and ICSID (International Centre for Settlement of Investment Disputes). She has significant experience working as counsel and arbitrator on disputes involving cross-border joint ventures, energy and resources projects, financial products, intellectual property, and construction projects, with governing laws spanning a great variety of jurisdictions. She is well-versed in the evidentiary rules of common law and civil law jurisdictions and has significant experience in conducting advocacy before international tribunals. She has particular experience in investment treaty arbitration. She advised and defended the Chinese government in several investment treaty cases.



### **LI Xiongfeng**

Deputy Secretary General and Board Secretary  
South China International Arbitration Center (Hong Kong)

Secretary of the Council  
Shenzhen Court of International Arbitration

Mr Li Xiongfeng was a qualified Chinese lawyer and foreign legal counsel in Singapore, before he joined arbitration institutions. He was involved in the making of SCIA (South China International Arbitration Center) Arbitration Rules (effective from 2019) and the amending of these rules in 2020, and is also a member of the drafting group of the SCIAHK Arbitration Rules, which are institutional arbitration rules based on UNCITRAL (United Nations Commission on International Trade Law) Arbitration Rules (2013). He has handled numerous administered commercial arbitration and mediation cases, including the mediation cases at Canton Fair.



### **QI Tong**

Professor  
School of Law, Wuhan University

Dr Qi is a Professor of international economic law and Director of the Centre of Overseas Investment Law at the Law School of Wuhan University, China. His research focuses on international economic law. His selected English publications include *China, the EU and International Investment Law: Reforming Investor-State Dispute Settlement* (eds.) (Routledge, 2020); 'Improving Global Investment Governance: China as a New Variable', *ICSID Review*, (Vol.35, 2020); 'Multilateral Investment Court: The Gap Between the EU and China', *The Chinese Journal of Global Governance* (Vol.4, 2018); 'Is China Ready to Recognize and Enforce International Investment Arbitral Awards?', *China and WTO Review* (Vol.3, 2017), etc.



## **Anthony NEOH QC SC JP**

**Chairman**  
**Asian Academy of International Law**

Dr Anthony Neoh is a senior member of the Hong Kong Bar specialising in international litigation, arbitration and financial regulatory matters. In 1979, he commenced practice at the Hong Kong Bar after serving for 13 years in the Hong Kong Civil Service. From 1991 to 1994, he was a member of the Hong Kong Stock Exchange Council and its Listing Committee, and chaired its Disciplinary Committee and Debt Securities Group, and was Co-Chairman of the Legal Committee of the Hong Kong and China Listing Working Group. He was the chief architect of the legal structure for the listing of Chinese enterprises in Hong Kong. He is former Chairman of the Hong Kong Securities and Futures Commission from 1995 to 1998; during this time, he was the first Asian to be elected Chairman of the Technical Committee of the International Organization of Securities Commissions. From 1999 to 2004, he was Chief Advisor of the China Securities Regulatory Commission, at the personal invitation of former Premier Zhu Rongji. Dr Neoh was appointed as Chairman of the Hong Kong Independent Police Complaints Council from June 2018 to May 2021. He was the Convenor of the Hong Kong Monetary Authority (HKMA) Expert Group on the Finance Academy and now serves as Member of the HKMA Preparatory Committee for the Finance Academy. He is also the Co-Chairman of 2018 B20 Financing Growth and Infrastructure Task Force, and Co-Chairman of The China Securitization Forum.



## **Pui-ki Emmanuelle TA**

**Chief Executive Officer**  
**eBRAM International Online Dispute Resolution Centre**

Ms Pui-ki Emmanuelle Ta is the Chief Executive Officer of eBRAM International Online Dispute Resolution Centre. With over 15 years of experience in international arbitration and case management, she has supervised hundreds of international arbitration cases in a wide range of jurisdictions and economic sectors. As Counsel of the Secretariat of the International Court of Arbitration of the International Chamber of Commerce (ICC), Asia Office in Hong Kong (2016-2021), she was responsible for managing the Hong Kong team, including the administration of Asia-related arbitration cases. Ms Ta is qualified to practise at the Paris bar.



## **James DING**

**Commissioner**  
**Inclusive Dispute Avoidance and Resolution Office, Department of Justice,**  
**Government of the Hong Kong Special Administrative Region, People's Republic of China**

Dr James Ding is the Commissioner of Inclusive Dispute Avoidance and Resolution Office, Department of Justice of the Government of the Hong Kong Special Administrative Region of the People's Republic of China. He has been awarded the Chief Executive's Commendation for Government/Public Service in 2021. He coordinates and promotes various policy initiatives for dispute avoidance and resolution as well as on advancing the rule of law. He has published on different subjects of international law and international cooperation, and has given various presentations at international and regional conferences, including the UNCITRAL (United Nations Commission on International Trade Law) 50<sup>th</sup> Anniversary Congress, the UNCITRAL Asia Pacific Judicial Summit, the UNCITRAL Working Group III Inter-Sessional Meeting, and the UNCITRAL Colloquium on Possible Future Work on Dispute Settlement. He is also currently the Chair of the Asia-Pacific Economic Cooperation's Economic Committee.



## **Natalie MORRIS-SHARMA**

**Rapporteur**  
**United Nations Commission on International Trade Law Working Group III**  
**Government Legal Counsel**  
**Attorney-General's Chambers, Singapore**

Ms Morris-Sharma is Deputy Senior State Counsel in the international law department of Singapore's Attorney-General's Chambers. Prior to this, she served in various capacities, including Director of the International Legal Division of Singapore's Ministry of Law and Legal Advisor to Singapore's Permanent Mission to the United Nations. Ms Morris-Sharma has participated in and led several bilateral and multilateral negotiations. Amongst her roles at the United Nations Commission on International Trade Law (UNCITRAL) were Chairperson of the Working Group that developed the United Nations Convention on International Settlement Agreements Resulting from Mediation, Vice-Chairperson of the 50<sup>th</sup> UNCITRAL Commission session, where she led the meeting on the adoption of the mandate for Investor-State Dispute Settlement (ISDS) Reform, as well as Rapporteur to the UNCITRAL Working Group on ISDS Reform. Ms Morris-Sharma has published on topics relating to international trade and investment law, law of the sea, the work of the International Law Commission, and treaty law. She has taught at the Law Academy of the Association of Southeast Asian Nations and serves as a counsellor of the American Society of International Law.



## **Shane SPELLISCY**

**Chair**  
**United Nations Commission on International Trade Law Working Group III**  
**Director General and Senior General**  
**Trade Law Bureau, Canada**

Shane Spelliscy is currently the Director General of the Trade Law Bureau of the Government of Canada and Deputy Legal Adviser at Global Affairs Canada. As Director General, he is the Government's most senior international trade lawyer, responsible for all trade-related legal advice, including trade remedies, market access, trade barriers, trade in goods and services, and international investment law. He joined the Trade Law Bureau in 2008, and since then he has provided advice on Canada's obligations under its trade and investment treaties and served as counsel in trade and investment treaty negotiations and in disputes under its investment treaties. He has acted as Canada's delegate at the United Nations Commission on International Trade Law (UNCITRAL) since 2008, including with respect to the revision of the UNCITRAL Arbitration Rules, the development of the UNCITRAL Rules on Transparency, and the negotiation of the Mauritius Convention on Transparency in Treaty-Based Investor-State Dispute Settlement. In November 2017, he was elected by the Member States of UNCITRAL as Chair of Working Group III, which has been tasked with considering possible reforms in the field of investor-State dispute settlement.