

Online Seminar Series on Climate Change and Investment

Seminar 2

“Compensation and Valuation in Investment Treaty Claims: How to Account for Climate Change?”

2 February 2023

5:00 pm – 7:00 pm (SGT) / 9:00 am – 11:00 am (GMT) / 10:00 am – 12:00 pm (CET)

Register here https://nus-sg.zoom.us/webinar/register/WN_bvzcyW3KRPuABU8HTs-OIA

What This Seminar is About

This seminar addresses whether, and if so how, compensation standards and quantum valuations in investment treaty arbitration can take account of the impact of climate change. The two central areas of focus will be (1) the appropriate legal standard of compensation that should be used in deciding investment treaty claims involving challenges to climate mitigation measures and (2) ensuring that the valuation methodologies used in investment treaty arbitrations sufficiently capture the economic risks posed by climate change (and likely state measures to address it), especially for investments in carbon-intensive industries. More specifically, this seminar will address the content and context of the provisions on compensation and full reparation under the International Law Commission’s Articles on State Responsibility; the “but for” presumption of compensation quantifications; economic risks to investments in fossil fuels as the global economy moves away from carbon-intensive activities, such as concept of “stranded assets”; and the valuation methods employed in climate change mitigation cases.

Programme

Moderator

- **N Jansen Calamita** (Head, Investment Law & Policy; Centre for International Law; Research Associate Professor, Faculty of Law, National University of Singapore)

Panellists

- **Emma Aisbett** (Associate Professor, Australian National University)
- **Jonathan Bonnitcha** (Senior Lecturer, University of New South Wales)
- **Boaz Moselle** (Executive Vice President, Compass LexEcon)
- **Martins Paparinskis** (Professor, University College London)
- **Rick van der Ploeg** (Professor, University of Oxford)

Background to the Seminar Series on Climate Change and Investment

The CIL Seminar Series on Climate Change and Investment comprises six seminars examining how international law can serve as a tool to support Paris-aligned investment flows. Under Article 2(1)(c) of the Paris Agreement, states have committed to strengthening the global response to climate change by, *inter alia*, “making finance flows consistent with a pathway towards low greenhouse gas emissions (GHG) and climate-resilient development.” It is hard to overstate the magnitude of this ambition, essentially requiring the wholesale adjustment of state economic regulation and private sector investment approaches across the globe in order to limit financial flows to carbon-intensive activities and redirect those flows to Paris-aligned ones.

Private financing plays a pivotal role in the ability of states to curb GHG emissions and contain climate change while coping with its effects. According to the IMF, developing economies must collectively invest at least USD 1 trillion in energy infrastructure by 2030 and USD 3 to 6 trillion across all sectors per year by 2050 to mitigate climate change. As a result, the proper alignment of the international legal framework for investment – whether in terms of investment protection, investment facilitation, or standards and guidelines applicable to non-state actors – is of critical importance to addressing the existential threat posed by climate change.

The series focuses broadly on Asia. Not only does Asia account for approximately 60% of the world’s population but it is also the main GHG-emitting region in the world, accounting for approximately 50% of global CO₂ emissions per year. Moreover, compared to regulatory and treaty reform discussions in Europe and North America, the situation in Asia is often overlooked. To that end, in this series we ask broadly what role states in Asia can play in creating solutions, whether through the leadership of economic blocs like ASEAN or larger economies like China, India, Japan and Korea. Moreover, we also ask whether states in Asia are willing to lead in this space.

Forthcoming seminars in the series

<https://cil.nus.edu.sg/seminar-series-on-climate-change-and-investment/>

Seminar 3: “Facilitating Private Investment to Fund Climate Change Mitigation and Net Zero Policies”

- 15 March 2023

Seminar 4: “The Role of Non-State Actors in Supporting Net Zero Investment Flows”

- tbd

Seminar 5: “Aligning Investment with Net Zero Goals through Domestic Corporate Laws”

- tbd

Seminar 6: “The Role of Trade Law in Aligning Investment Flows”

- tbd