

GFA
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von
Auslandsinvestitionen
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present

50 Years of Bilateral Investment Treaties Conference 2009

Taking Stock and a Look to the Future

Date: 1-3 December 2009
Location: Hermann Josef Abs Saal, Deutsche Bank AG,
Frankfurt am Main, Germany

Topics include:

- Original Intent, Development and Economic Significance of BITs
- Current Substantive and Procedural Approaches in BITs around the World
- The Future of Investment Treaty Protection
- Europeanization and Regionalism: Challenges to BITs?
- What and Who are Protected: Are the Concepts of "Investment" and "Investor" being redefined?
- To Protect or not to Protect: Is there Non-protected Investment?
- The Changing Face of Investor-State Arbitration

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www.transnational-dispute-management.com

www.50yearsofBITs.com

Welcome to the 50 Years of BITs Conference 2009

THEME AND OBJECTIVES

This year marks the Golden Jubilee of the first Bilateral Investment Treaty ("BIT"). Signed on 25 November 1959 by the Federal Republic of Germany and the Islamic Republic of Pakistan, it formed part of the process of reconstruction in the aftermath of the Second World War. 1959 also saw the early attempts at multilateralism in the form of the draft Convention on Investments Abroad, a combination of the 1957 draft International Convention for the Mutual Protection of Private Property Rights, drafted by the Gesellschaft zur Förderung von Auslandsinvestitionen (promoter of this conference), and the 1958 Abs Shawcross Proposed Convention to Protect Foreign Investment.

This conference is the official celebration of this anniversary in Germany.

The purpose of this conference is not just to celebrate. With significant changes in the pattern of movement of foreign capital, a deep financial crisis, a turf war over competence in Europe and the threat of protectionism, this Golden Jubilee also provides a timely opportunity to examine the policy issues which will shape international investment law in the years to come. The conference will bring together academics, advocates, arbitrators, economists, investors, policy makers and political scientists to identify and debate these issues.

The conference has been designed to complement both in time and content the "OECD Global Forum on International Investment VIII" which will take place in Paris on 7-8 December 2009.

Details are available at
www.oecd.org/investment/gfi-8

Keynote Speakers & Panellists

KEYNOTE SPEAKERS

- **Roland Koch**, Prime Minister of the State of Hesse
- **[Representative]** of the Federal Government of Germany (Ministry of Economics and Technology)
- **[Representative]** of the Islamic Republic of Pakistan
- **Jürgen Fitschen**, Management Board of Deutsche Bank AG (Head of Regional Management worldwide)
- **[Representative]** of the OECD
- **Dr. Ludolf v. Wartenberg**, President of the Gesellschaft zur Förderung von Auslandsinvestitionen e.V.

PANELLISTS

- *Robert Ahomka-Lindsay*, former CEO of the Ghana Investment Promotion Centre
- *Dr. Christoph G. Benedict*, ALSTOM Deutschland AG
- *Professor Karl-Heinz Böckstiegel*, Chairman of the Board, German Institution of Arbitration (DIS); former President, International Law Association
- *Dr. Karl-Ernst Brauner*, Director General, External Economic Policy Department, Federal Ministry of Economics and Technology, Germany
- *Professor Bernardo Cremades*, Cremades y Asociados
- *Professor Rudolf Dolzer*, University of Bonn
- *Professor Piet Eeckhout*, King's College London
- *Florentino P. Feliciano*, SyCip Salazar Hernandez & Gatmaitan
- *L. Yves Fortier QC*, Ogilvy Renault LLP
- *Omar García Bolívar*, BG Consulting
- *Dr. Richard Happ*, Luther Rechtsanwaltsgesellschaft mbH
- *Dr. Christoph Hauschka*, PricewaterhouseCoopers Legal AG
- *Professor Stephan Hobe*, University of Cologne
- *Robert Hunter*, Lovells LLP
- *Professor Emmanuel Jolivet*, General Counsel, International Court of Arbitration, International Chamber of Commerce; Professor at the University of Versailles
- *Meg Kinnear*, Secretary-General of ICSID
- *Ulrich W. Klemm*, DEG - Deutsche Investitions- und Entwicklungsgesellschaft mbH
- *Dr. Patricia Nacimiento*, White & Case LLP
- *Daniel M. Price*, Sidley Austin LLP; former Deputy National Security Advisor for International Economic Affairs, USA
- *Lucy Reed*, Freshfields Bruckhaus Deringer LLP
- *Professor Giorgio Sacerdoti*, Bocconi University, Milan; WTO Appellate Body
- *Professor Philippe Sands QC*, Matrix Chambers
- *Dr. Manfred Schekulin*, Federal Ministry of Economic Affairs, Austria; Chair of the OECD Investment Committee
- *Professor Christoph Schreuer*, University of Vienna
- *Professor M. Sornarajah*, National University of Singapore
- *Joachim Steffens*, Head of Division International Investments and Finance, Federal Ministry of Economics and Technology, Germany
- *Professor Sompong Sucharitkul*, Rangsit University
- *Professor Christian Tietje*, University of Halle
- *Professor Ulrich Wölker*, Legal Service of the European Commission
- *James Zhan*, Director, Division for Investment and Enterprise, UNCTAD
- *Professor Yuejiao Zhang*, Shantou University; WTO Appellate Body; former Director-General of Law and Treaties at the Chinese Ministry of Foreign Trade and Economic Cooperation (1984-1997).

PROGRAMME

Day 1: Tuesday, 1 December 2009

17.00 Registration

18.00 Welcome Addresses

- Roland Koch, Prime Minister of the State of Hesse
- Representative of Federal Government of Germany (Ministry of Economics and Technology)
- Representative of the Islamic Republic of Pakistan
- Jürgen Fitschen, Management Board of Deutsche Bank AG
- Dr. Ludolf v. Wartenberg, President, Gesellschaft zur Förderung von Auslandsinvestitionen e.V.

19.30 Welcome Reception [Buffet, Jazz]

PROGRAMME

Day 2: Wednesday, 2 December 2009

Part I: Taking Stock – Aims, Achievements and Paradigms

9.00 Introduction by the Organisers

9.15 **Session 1:** Original Intent, Development and Economic Significance of BITs

Chair: Lucy Reed, Freshfields Bruckhaus Deringer LLP

- Original Intent and Scope of Protection of BITs - Professor Sompong Sucharitkul, Rangsit University
- The Spread of BITs and their Changing Face - James Zhan, UNCTAD
- Expectations of Governments and Investors vs Practice: The Governmental View - Joachim Steffens, Head of Division International Investments and Finance, Federal Ministry of Economics and Technology, Germany
- Expectations of Governments and Investors vs Practice: A View from the Bench - Yves Fortier, Ogilvy Renault LLP

11.00 Coffee Break

11.30 **Session 2:** BITs around the World: Different Substantial and Procedural Approaches

Chair: Dr Patricia Nacimiento, White & Case LLP

- The Asian Approach - Professor Yuejiao Zhang, Shantou University; WTO Appellate Body
- The North American Approach - Daniel M. Price, Sidley Austin LLP
- The European Approach - Professor Rudolf Dolzer, University of Bonn

13.00 Lunch

14.00 **Session 3:** Europeanization and Regionalism as a Challenge to BITs

Chair: Professor Stephan Hobe, University of Cologne

- Investment Protection and Dispute Settlement in Preferential Trade Agreements: A Challenge to BITs? - *tbc*
- The EU as a Player in the BIT Arena: Current and Future Legal Challenges - Professor Ulrich Wölker, Legal Service of the European Commission
- The EU as a New Player in the BIT Arena: Hopes and Fears of Member States - Dr. Manfred Schekulin, Federal Ministry of Economic Affairs, Austria; Chair of the OECD Investment Committee
- The EU as a new Player in the BIT Arena: Hopes and Fears of Investors - Dr. Christoph G. Benedict, ALSTOM Deutschland AG

15.30 Coffee Break

16.00 **Session 4:** The Future of Bilateral Investment Protection

Chair: Professor Christian Tietje, University of Halle and Dr. Richard Happ, Luther Rechtsanwaltsgesellschaft mbH

- Sovereignty vs Investment Protection: Back to Calvo? - Omar García-Bolívar, BG Consulting
- "Investment and..." BITs in Clinical Isolation? Conflicting Legal Obligations of Host States - Professor Philippe Sands, Matrix Chambers
- The Relationship of BITs and Other International Law Obligations: An Arbitrator's Perspective - Professor Karl Heinz Böckstiegel, Chairman of the Board, German Institution of Arbitration (DIS)
- New Players - New BIT Concepts? Protection of Business Interests vs. Sustainable Development and CSR - Robert Ahomka-Lindsay, former CEO of the Ghana Investment Promotion Centre

17.30 Close of Part I

19.30 Gala Dinner [separate registration, details to be announced]

PROGRAMME

Day 3: Thursday, 3 December 2009

Part II: (B)ITs in Evolution – Issues Shaping Future Developments

Morning Sessions: What and Who is Protected?

9.30 **Session 5:** Will the Concepts of "Investment" and "Investor" be Redefined?

Chair: Robert Hunter, Lovells LLP

- From FDI to Portfolio Investment – A Step too Far? - Professor M. Sornarajah, National University of Singapore and Ulrich W. Klemm, DEG - Deutsche Investitions- und Entwicklungsgesellschaft mbH
- Investment and Requirements of Approval: Current Challenges and Future Development - *tbc*
- Nationality of Investors: Legitimate Restrictions vs Business Interests - Professor Christoph Schreuer, University of Vienna

11.00 Coffee Break

11.30 **Session 6:** To Protect or not to Protect: Is there Non-protected Investment?

Chair: Dr. Karl-Ernst Brauner, Director General, External Economic Policy Department, Federal Ministry of Economics and Technology, Germany

- Conformity to Local Law: Debate - Professor Bernardo Cremades, Cremades y Asociados and Florentino P. Feliciano, SyCip Salazar Hernandez & Gatmaitan
- Corrupt Contracts: Arbitral Practice and Policy Initiatives - Professor Giorgio Sacerdoti, Bocconi University, Milan; WTO Appellate Body and Dr. Christoph Hauschka, PricewaterhouseCoopers Legal AG

13.00 Lunch

14:15 **Session 7:** The Changing Face of Investor-State Arbitration

Chair: *tbc*

- Arbitrability: Is EC law outside the Scope of International Investment Arbitration? - Professor Piet Eeckhout, King's College London
- Unmeritorious Claims as a Problem to Investment Arbitration? - *tbc*
- Pressures on Choice of Fora - Meg Kinnear, Secretary-General of ICSID and Professor Emmanuel Jolivet, General Counsel, International Court of Arbitration, International Chamber of Commerce; Professor at the University of Versailles

15.45 Closing Remarks

16.15 End of Conference

Registration Form

REGISTRATION

To register, please complete this form and fax it to +49 69 96236 9668. Alternatively, you can register by sending an email to registration@50yearsofbits.com or directly on the website www.50yearsofbits.com

The conference will be held from 1-3 December 2009 in the Hermann Josef Abs Saal, Deutsche Bank, Frankfurt am Main, Germany:

Name: _____
 Company: _____
 Job title: _____
 Address: _____
 Email: _____

How did you hear about the conference?

Data protection:

We shall use the registration information for responding to your enquiry, processing your booking, giving you access to further information regarding this event and preparing a list of delegates for the conference, in accordance with the applicable data protection regulations. You may expressly withhold permission for such use of your personal data.

If you do not wish to be listed on an official attendee list, please send a short message to: info@50yearsofbits.com

REGISTRATION FEES:

Regular:	€ 590 (incl. VAT)	Earlybird Rate (until 31 July):	€ 530 (incl. VAT)
Full-time Academic/Government employee:	€ 230 (incl. VAT)		€ 195 (incl. VAT)
Full-time student:	€ 100 (incl. VAT)		

CONDITIONS OF PARTICIPATION:

The attendance fee, which includes conference documentation, lunches, tea/coffee and welcome reception, is payable at the time of registration to the following account:

Account holder: Martin-Luther-Universität Halle-Wittenberg.

Account number: 800 015 24- Bank code: 810 000 00

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Reference: "B01020200"

Once your registration has been received you will be sent a confirmation slip. Registrations can be cancelled (in writing please) free of charge until 31 July 2009. In the event of cancellation or failure to attend the full fee will be payable. A registered delegate may send a substitute at no additional cost. The organisers reserve the right to amend the programme of events if necessary.

The event is not aimed at profit and is dependent on the generous support of its sponsors. Subject to the level of sponsorship and registration income received, bursaries may be available at the discretion of the organisers to enable attendance in certain cases.

Arrangement of Hotel Accommodation:

Limited accommodation at special rates is available at selected hotels. You will find detailed information on the website. Please mention the promotional code "50yearsofbits" when you make your reservation.

TARGET AUDIENCE:

The conference is aimed at a global audience of all those involved in and affected by the promotion and protection of foreign investment, in particular:

- Those involved in forming and implementing investment policy in both capital importing and capital exporting countries.
- Those involved in negotiating bilateral and multilateral treaties concerning foreign investment.
- Those investing capital abroad and their financiers, insurers and advisers.
- Those advocating, adjudicating and providing institutional support for investment disputes.
- Students and academics in the field of international law and economics.

DATE AND PLACE: 1-3 DECEMBER 2009

**HERMANN JOSEF ABS SAAL, DEUTSCHE BANK AG,
JUNGHOFSTRASSE 11, 60311 FRANKFURT AM MAIN, GERMANY**

LANGUAGE: ENGLISH

DIRECTIONS:



PROMOTER: MARTIN LUTHER UNIVERSITY HALLE-WITTENBERG, UNIVERSITÄTSPLATZ 10, 06099 HALLE

PATRON: FEDERAL MINISTRY OF ECONOMICS AND TECHNOLOGY

COMMITTEE: Professor Stephan Hobe, International Investment Law Center (IILCC), University of Cologne ; Robert Hunter, Lovells LLP; Joachim Steffens, Federal Ministry of Economics and Technology; Professor Christian Tietje, Transnational Economic Law Research Center (TELC), University of Halle; Dr. Heiko Willems, BDI/GFA.