


**Arbitration with States: New Solutions to Old Problems**

**Co-Chairs: Zachary Douglas, Carmen Núñez-Lagos, and Ana Serra e Moura**

**Paris 5 November 2026**

*08.30 - 09.00* *Welcome coffee*

09.00 - 09.10 **Introduction by Carmen Núñez-Lagos**, Independent Arbitrator, Núñez-Lagos Arbitration, France; Member, ICC Institute of World Business Law

09.10 - 09.25 **Welcome address by Pierre Mayer,** Independent Arbitrator; Emeritus Professor, Panthéon-Sorbonne University I, France; Council Member, ICC Institute of World Business Law

09.25 – 10.45 ***Back to the future? The re-emergence of state contract arbitration and the problem of change in applicable law***

One of the most remarkable recent trends in the settlement of investment disputes between States and corporations has been the reemergence to prominence in all the major arbitral institutions of claims under concession contracts. Might this be a practical response on the part of both States and corporations to the relative contraction of investment treaties? The result is frequently a shift back from claims governed by international law to claims under the chosen national law. In turn this reopens a question of great practical importance: in this environment, how do, or may, arbitral tribunals accommodate changes in host State law over the life of a long-term concession so as to balance the public interest of the State and the private interest of the investor? This session will seek to evaluate the opportunities and challenges that this shift represents by reference to the experience of the panel and recent published awards.

09.25 – 09.50: Rapporteur **Campbell McLachlan**, Professor, Cambridge University; Member, Essex Court Chambers, United Kingdom

09.50 – 10.45:

- **Isabelle Michou**, Partner, Quinn Emanuel Urquhart & Sullivan UK LLP, France
- **Gabriel Costa**, International Arbitration and Energy Counsel, Brazil
- **Maria Chiara Malaguti**, President Emeritus of UNIDROIT; Of Counsel, PedersoliGattai ; Member, ICC Institute of World Business Law, Italy
- **Melida Hodgson –** Partner, Arnold & Porter Kaye Scholer LLP, United States of America

*10.45 – 11.10* *Coffee break*




11.10 – 12.30 ***The Distinction between the Government and the State in International Arbitration***

The distinction between the Government and the State is fundamental in both domestic law and international law but is often misunderstood. This session will explore the significance of the distinction for a range of issues such as the proper party to a state contract, the ownership of natural resources, the circumstances in which international law can impact upon state contracts, the scope of interim measures and umbrella clauses.

11.10 – 11.35: Rapporteur: **Zachary Douglas KC,** Professor at the Geneva Graduate Institute and LUISS in Rome, Member 3VB Chambers

11.35 – 12.30:

- **Sophie Lemaire,** Professor of Law, Université Paris-Dauphine PSL, France
- **May Tai**, Independent Arbitrator, May Tai Law; Independent Non-Executive Director, ANZ Bank, China; Vice President, ICC Court of Arbitration
- Speaker TBC

12.30– 12.50 ***The ICC practice with States and States Entities***

- **Ana Serra e Moura**, Deputy Secretary General, ICC International Court of Arbitration, Paris

12.50 – 13.00 Q&A

*13.00 - 14.30 Lunch*

14.30 – 15.55 ***Investment contracts and good corporate citizenship***

This paper examines how investment contracts can be used not only to protect investors, but also to articulate and operationalize expectations of good corporate citizenship. It examines the evolving practice on contractual provisions governing investor conduct and responsible business practices and asks whether and to what extent such clauses can help rebalance the traditional allocation of rights and responsibilities between investors, local communities and host states.

14.30 – 14.55: Rapporteur: **Mavluda Sattorova,** Professor, University of Liverpool, United Kingdom

14.55 – 15.55:

- **Charles Nairac**, Partner, White & Case LLP, France
- **Margie-Lys Jaime**, Head of the Investment Arbitration Office, Ministry of Economy and Finances of the Republic of Panama, Panama
- Speaker TBC




*15.55 – 16.20* *Coffee break*

16.20 – 17.45 ***What Is 'Fair' Compensation? New Insights from Law & Economics***

This session explores how law and economics can help define "fair" compensation. It examines the underlying objectives of compensation, including efficiency, incentives, risk allocation, and distributive concerns. Scholarship in the law and economics tradition casts doubt on whether valuation techniques in investor-state arbitration currently achieve those goals. The session considers how compensation standards can be calibrated to better achieve these objectives.

16.20 – 16.45: Rapporteur: **Professor Michael Waibel**, Professor, University of Vienna, Austria

16.45 – 17.45:

- **Tafadzwa Pasipanodya**, Partner, International Litigation & Arbitration, Foley Hoag, United States of America
- **Chuan Thye,** Partner, Rajah & Tann Singapore LLP, Singapore,
- **Fernando Mantilla Serrano,** Of Counsel, Latham & Watkins LLP, France
- **Jaroslav Kudrna,** Head of International Arbitration and Investment Protection Unit, Ministry of Finance of the Czech Republic, Prague, Czechia

17.45 – 18.00 Q&A

18.00 – 18:10 **Concluding remarks**

- **Eduardo Silva Romero,** Founding Partner, Wordstone, France; Chair, ICC Institute of World Business Law

18.10 – 19.00 Cocktail