

Inaugural Conference of EFILA

EU law and investment treaty law: convergence, conflict, or conversation?



**Macmillan Hall, Senate House, London, UK
23 January 2015**

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The Inaugural Conference of EFILA is a premier event on EU and international investment law and arbitration in Europe. It will focus on the interaction between EU law and investment treaty law with regard to intra-EU BITs, extra-EU BITs and the future of investment treaty making and the challenges faced by the ISDS system.

08:30-09:00

Registration tea and coffee

09:00-09:15

Introduction by Chair/Secretary-General

Welcome to conference

- **Nikos Lavranos**, Secretary-General of EFILA, Head of Legal Affairs at Global Investment Protection (GIP) AG, Zürich; former Senior Trade Policy Advisor responsible for all Dutch BITs at the Dutch Ministry of Foreign Affairs

09:15-10:30

Panel 1: Pros and Cons of the existing ISDS system

Is the current system of ISDS biased towards international corporations? What are its main flaws and what are its main advantages?

- **Moderator: Sir Francis Jacobs, KCMG, QC**, Professor of Law at King's College London; Advisory Board member of EFILA
 - **Richard Happ**, Partner at Luther; Executive Board member of EFILA
 - **Kaj Hobér**, Professor of International Investment and Trade Law at Uppsala University
 - **Martti Koskeniemi**, Academy Professor at the University of Helsinki and Director of the Erik Castrén Institute of International Law and Human Rights
 - **Elisabeth Tuerk**, Chief of the UNCTAD's Section on International Investment Agreements (IIA) in UNCTAD's Division on Investment and Enterprise.
- 4 speakers for 15 minutes and a 15 minute discussion

10:30-11:45

Panel 2: Intra-EU issues

Can EU nationals bring BIT claims against other Member States; What is the relationship between EU and public international law; Liability of EU Member State for taking action mandated by EU law; The ECT debate - was it supposed to permit claims between EU members; How does the ECtHR fit in; Can the EU institutions stop awards being paid; should you choose Geneva over Paris as seat?

- **Moderator: August Reinisch**, Professor at the University of Vienna
 - **Matteo Barra**, Expert on Investment at Energy Charter Secretariat
 - **Frank ter Borg**, Manager Public Affairs at Achmea; Advisory Board member of EFILA
 - **Markus Burgstaller**, Partner at Hogan Lovells
 - **Stephen Jagusch**, Partner at Quinn Emanuel Urquhart & Sullivan; Executive Board member of EFILA
 - **Stefaan De Rynck**, Head of Unit, Free Movement of Capital and Enforcement of EU law at the DG Financial Services, Financial Stability, and Capital Markets Union, European Commission
- 5 speakers for 12 minutes and a 15 minute discussion

11:45-12:15 **Tea/coffee break**

12:15-13:30 **Panel 3: Extra-EU issues**

What will happen to BITs between Member States and third countries; should you sue the EU or the Member State/ allocation of responsibility/ does the claimant or the EU choose; practical issues with bringing a treaty claim against the EU/ ICSID membership/ enforcing against the EU;

- **Moderator: Jakob Ragnwaldh**, Partner at Mannheimer Swartling; Vice-Chairman of EFILA
- **Jacomijn van Haersolte-van Hof**, Director General of the LCIA
- **Davide Rovetta**, Of Counsel at Grayston & Company Law Firm; Chairman of the Advisory Board of EFILA
- **Christian Tietje**, Professor at the Faculty of Law, Economics and Business at the Martin Luther University Halle-Wittenberg, Germany
- **Matthew Weiniger QC**, Partner at Herbert Smith Freehills; Executive Board member of EFILA

4 speakers for 15 minutes and a 15 minute discussion

13:30-14:30 **Lunch**

14:30-15:45 **Panel 4: Future treaty making**

What would the EU-like investment treaties look like; the closed list of FET-elements, the concept of indirect expropriation without compensation except in rare circumstances, the possibility of binding interpretations - even with retroactive effect - by Contracting Parties and its effect on the arbitral tribunal's work and the proceedings as such, the removal of the umbrella clause, the carve out of financial services for using ISDS

- **Moderator: Professor Loukas Mistelis**, Clive M Schmitthoff Professor of Transnational Commercial Law and Arbitration at the Queen Mary University of London; Advisory Board member of EFILA
- **Sir Frank Berman KCMG QC**, Barrister at Essex Court Chambers; former Legal Adviser to the Foreign & Commonwealth Office
- **Markus Burianski**, Partner at White & Case; Executive Board member of EFILA
- **Christofer Fjellner**, Member of the Committee on International Trade (INTA) of the European Parliament
- **Annette Magnusson**, Secretary General of the SCC

4 speakers for 15 minutes and a 15 minute discussion

15:45-16:15 **Tea/coffee break**

16:15-17:30

Panel 5: Future Investment Policy Making and Its Expected Effects

How will the future policy making in the area of international investment look like? What will be its effect on FDI and dispute resolution in the area of international investment?

- **Moderator: Gerard Meijer**, Partner and Head of Arbitration team at NautaDutilh; Executive Board member of EFILA
- **Karel Daele**, International Arbitration Partner at Mishcon de Reya
- **Lukasz Gorywoda**, Assistant Legal Counsel at the Permanent Court of Arbitration; General Manager at EFILA
- **Elizabeth Snodgrass**, Counsel at Freshfields Bruckhaus Deringer LLP
- **Erica Stein**, Special Counsel at Dechert LLP

4 speakers for 15 minutes and a 15 minute discussion

17:30-17:45

Closing remarks

Short closing remark and summary of the event

- **Professor Hans van Houtte**, President of the Iran-United States Claims Tribunal; Advisory Board member of EFILA

Registration Information and Conditions:

Date, Venue & Language:

The Inaugural Conference of EFILA will take place on 23 January 2015. The venue of the Inaugural Conference will be the Senate House in London, United Kingdom. All events and documentation will be in English.

Conference Fees:

Inaugural Conference of EFILA – 23 January 2015 - £ 199

Conditions of Registration and Payment:

The fee includes administration costs of the conference, lunch and refreshments as well as the conference documents. All amounts are excluding 21 % VAT. The registration form for the Inaugural Conference constitutes a legally binding agreement, which obliges a person who registers to pay the stated amount. Payment must be made and received in full prior to the event. Payment can be made by bank transfer only. The organization cannot be held responsible for the non-arrival of registration information. If you have not received a confirmation of your registration 7 days after you made the registration, please contact Blazej Blasikiewicz, General Manager at EFILA at b.blasikiewicz@efila.org.

Cancellations and Non-Attendance:

In case you are unable to attend the Inaugural Conference, a substitute delegate is allowed to participate for no additional cost. A cancellation fee of £ 100 (excluding 21 % VAT) will apply to cancellations of the participation in the Inaugural Conference of EFILA received prior to 02 January 2015. After 02 January 2015 no refunds will be possible. Cancellations have to be made in writing.

Visa:

If you require a visa to visit the United Kingdom, we advise you to arrange your visa at least five weeks prior to departure. The organization does not arrange visas.

Insurance:

EFILA cannot be held liable for personal injuries or for loss and/or damage to the personal belongings of participants either during or as a result of the conference.