Faculty of Law
The Chinese University of Hong Kong

Research Seminar

“The EU as a New Global Actor of the International Investment Regime - legal issues and policy conjectures”

By

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Abstract: The Treaty on the Functioning of the European Union (TFEU) has given the EU competence to conduct its external trade policy, now covering foreign direct investment as a completely new feature. The seminar presentation will explore the constitutional changes and policy consequences concerning the transfer to the supranational level of an external competence in the field of investment. The analysis is conducted on the basis of an analysis of two documents released by the EU Commission in July 2010: namely, (i) a Communication discussing how the European international investment policy can increase competitiveness in the EU; and (ii) a draft Regulation proposing how to deal with the approximately 1,200 bilateral investment treaties which the Member States have concluded with Non-EU countries. This seminar will explain why EU Member States lose their competence to conclude investment treaties and the impact on the global investment architecture. The new
comprehensive European investment policy enables the EU to utilise its leverage to negotiate favorable terms with non-Member States and consistency in protection rights worldwide, leading to an even (as well as a superior) playing field for EU investors. This horizon is however darkened by technical but important issues of treaties implementation and the uncertain future of existing investment treaties signed by Member States.

About the Speaker: Julien Chaisse joined CUHK Faculty of Law in 2009 where he teaches Public International Law and Legal Research/Thesis Writing (I & II). He holds a PhD in international economic law and has developed practical and theoretical expertise in International trade law, European economic law, and the international law of foreign direct investment. Upon completing his Master studies, he worked first for the French Ministry of Foreign Affairs at the Centre de Sciences Humaines of New Delhi (2003–2004). While involved in research for a PhD, he became a Lecturer in France at Sciences-Po Aix, where he taught Public International Law and European Union Law (2004–2007). Julien Chaisse then moved to the World Trade Institute in Switzerland to coordinate an interdisciplinary project on ‘Multilateral Rules on Investment’ (2007–2009). During his time at the WTI, he was also a Visiting Professor at the International Law Institute of Wuhan University in China (WS 2008), where he taught World Trade Organisation law and EU law. Julien also taught EU trade policy in the American College Program (Switzerland) and WTO law at the University of Antwerp (Belgium). At a time when economic globalization deprives many States of independent monetary and fiscal policies or obliges them to make cruel choices between economic competitiveness and the preservation of social safety nets, Julien’s research interests have been centered on much needed improvements to global governance. He has carried out research into national trade and investment policies (India, China, European Union) and their implications on the architecture of global economic governance in order to trace innovations in rule making. He has shed light on the emergence of some new actors and developed an expertise regarding the laws and policies of regional integration through studies of the European Union and the Association of Southeast Asian Nations. This work resulted in two recent books entitled ‘Expansion of Trade and Foreign Direct Investment in Asia’ (2009) and ‘Regulatory and Corporate Drivers of ASEAN Competitiveness’ (2010). The research he is currently leading at CUHK aims to investigate the evolution of investment law across relevant agreements and to discern patterns of congruence and divergence across key issue areas, substantive disciplines and countries and regions. At the crossroads of public international law, investment law and WTO law his research explores notably the uncertainties as to the scope and content of the expropriation obligations in their application to regulatory measures by a host Government which are an issue of vital concern for host States. What legal criteria will crystallize to harmonize the tension between indirect expropriation and the government regulatory measures is the question at the heart of this research.