

CFRED's 18th International Economic Law Seminar:

**A CRITICAL LOOK AT THE EU-LED INVESTMENT
TRIBUNAL SYSTEM IN RECENT FTAs**

by

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Chaired by: **Prof. Julien Chaisse**, *Faculty of Law, CUHK*

20 November 2017, Monday, 12:30 – 2:00p.m.
The CUHK Graduate Law Centre, 2/F Bank of America Tower, 12 Harcourt Road, Central

This seminar is based on Elsa Sardinha's forthcoming article in *ICSID Review* (Vol. 32, Issue 3), titled "The New EU-Led Approach to Investor-State Arbitration: The Investment Tribunal System in the Comprehensive Economic Trade Agreement (CETA) and the EU-Vietnam Free Trade Agreement".

CETA and the EU–Vietnam FTA are the first treaties to specify new rules governing the identity, qualifications and tenure of arbitral members, and provide a more extensive review function through a two-tiered investment tribunal system (ITS). These treaties signal a shift towards a more public and judicialized system, akin to that of many national legal systems and the WTO. The ITS creates a permanent tribunal and appeal tribunal, featuring a pre-selected roster of adjudicators competent to review awards for errors of law and fact, in addition to Article 52 ICSID Convention grounds—making it a novel one-stop-appellate-shop. The EU has formally commenced talks with its trading partners towards the creation of a Multilateral Investment Court, using the ITS in these treaties as its blueprint.

The most striking, and potentially problematic, features of the ITS include the removal of disputing party involvement in the selection of the tribunal (through the abolishment of party-appointed arbitrators, in favour of a standing tribunal appointed by the treaty Parties), the purported modification of existing arbitral rules in various ways, and the short deadlines within which the tribunal must render final awards.

All are welcome!
Admission is free of charge!

Please register your interest [here](#) by 19 November 2017.

ABOUT THE SPEAKER:



Since joining CIL in 2015, Elsa has presented her sole-authored policy and legal analysis papers at over 15 international arbitration conferences in Canada, China, Germany, Italy, Korea, Philippines, Singapore, Spain, Switzerland, Taiwan, and the US. She has several publications in *The Law & Practice of International Courts and Tribunals*, *ICSID Review*, and *Canadian Yearbook of International Law*, among others.

Elsa also assists arbitrator Chris Thomas QC as a practice fellow on certain of his investor-state arbitrations, an *amicus curiae* brief requested by the Singapore Court of Appeal in *Sanum v. Laos*, and an expert report in a Canadian constitutional case. She also served as tribunal secretary in a SIAC arbitration for Professor Lucy Reed.

Prior to joining CIL, Elsa served as Legal Counsel at the LCIA and PCA. She holds an Advanced Masters of Law in Public International Law, which she pursued while concurrently working at the Special Tribunal for Lebanon. After graduating from law school, clerked at the Ontario Court of Appeal and then went on to work as a Litigation Associate at one of Canada's largest law firms, Borden Ladner Gervais LLP. Elsa is qualified as a Barrister and Solicitor in Canada.

In light of her international arbitration experience concerning a range of industries in various arbitral fora, Elsa was named to SIAC's Reserve Panel of Arbitrators earlier this year. She was subsequently appointed as a sole arbitrator in an international commercial arbitration conducted under Singapore's International Arbitration Act.