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The Law Society of Hong Kong and  
Hong Kong Mediation Accreditation Association Ltd.

#### ORGANISERS



Department of Justice  
The Government of the Hong Kong  
Special Administrative Region



**ICSID** | International Centre for  
Settlement of Investment Disputes  
WORLD BANK GROUP



ASIAN  
ACADEMY OF  
INTERNATIONAL  
LAW

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eBRAM

**11-14 MARCH 2022**

1500-2210 daily (GMT+8)

# INVESTOR-STATE MEDIATOR TRAINING MODULE

Multilateral investments bring about new opportunities, interflow of capital and also, inevitably, investor-State disputes. As an increasing number of parties are turning to mediation for a more expeditious, effective and parties-driven way to dispute settlement, mediation has been rapidly gaining traction in resolving investor-State disputes as a component of, or even a substitute for arbitration. The 2021/22 Investment Law & Investor-State Mediator Training is comprised of two modules. While the **Investment Law Module** has been held last October, the **Investor-State Mediator Training Module** will be held from 11-14 March 2022.

The Investment Law Module was a one-day webinar, focusing on consolidating participants' knowledge in international investment law such as basic principles, dispute resolution process, selected international treaties and other topical issues raised in international investment disputes. Its full recording is available for viewing [online](#).

The **Investor-State Mediator Training Module** is a four-day intensive online training on international mediation that covers considerations specific to investor-State mediation, inter-cultural competency, process design and conduct of an effective investor-State mediation as well as ethical challenges, among other topics. Participants will also have an opportunity to participate in interactive role-playing sessions, receiving feedback from A-list trainers of investor-State mediation. Government officials and mediators who are interested in learning more about investor-State mediation are invited to participate.

**Enquiries: [events@aail.org](mailto:events@aail.org)**

## SPEAKERS



### TERESA CHENG GBM GBS SC JP

#### Secretary for Justice

Government of the Hong Kong Special Administrative Region of the People's Republic of China

Ms Teresa Cheng, SC, was appointed Secretary for Justice on January 6, 2018. She was a Senior Counsel in private practice before joining the Government. She is also a chartered engineer and chartered arbitrator. She was frequently engaged as arbitrator or counsel in complex international commercial or investment disputes. Ms Cheng was one of the founders and Chairman of the Asian Academy of International Law. She is a Past Vice President of the International Council of Commercial Arbitration, Past Vice President of the ICC International Court of Arbitration and Past Chairperson of Hong Kong International Arbitration Centre. In 2008, she became the first Asian woman elected through a global election as President of the Chartered Institute of Arbitrators. She served as Deputy Judge/Recorder in the Court of First Instance of the High Court of Hong Kong from 2011 to 2017. She is a member of the International Centre for Settlement of Investment Disputes Panel of Arbitrators, and was a member of the World Bank's Sanctions Board. Ms Cheng is a Fellow of King's College in London, and was the Course Director of the International Arbitration and Dispute Settlement Course at the Law School of Tsinghua University in Beijing.



### ANNA JOUBIN-BRET

#### The Secretary

United Nations Commission on International Trade Law

Ms Anna Joubin-Bret is the Secretary of the United Nations Commission on International Trade Law (UNCITRAL) and Director of the International Trade Law Division in the Office of Legal Affairs of the United Nations, which functions as the substantive secretariat for UNCITRAL. She is the 9<sup>th</sup> Secretary of the Commission since it was established by the General Assembly in 1966. Prior to her appointment on 24 November 2017, Ms Joubin-Bret practised law in Paris, specialising in International Investment Law and Investment Dispute Resolution. She focused on serving as counsel, arbitrator, mediator and conciliator in international investment disputes. She served as arbitrator in several ICSID (International Centre for Settlement of Investment Disputes), UNCITRAL and ICC (International Chamber of Commerce) disputes. Prior to 2011 and for 15 years, Ms Joubin-Bret was Senior Legal Adviser for the United Nations Conference on Trade and Development (UNCTAD). She edited and authored seminal research and publications on international investment law, notably the Sequels to UNCTAD IIA Series, and co-edited with Jean Kalicki a book titled *Reshaping the Investor-State Dispute Settlement System* in 2015. Ms Joubin-Bret holds a postgraduate degree (DEA) in Private International Law from the University of Paris I Panthéon-Sorbonne, a Master's Degree in International Economic Law from the University of Paris I and in Political Science from Institut d'Etudes Politiques. She was Legal Counsel in the legal department of the Schneider Group, General Counsel of the KIS Group and Director-Export of Pomagalski S.A. She was appointed judge at the Commercial Court in Grenoble (France) and was elected Regional Counsellor of the Rhône-Alpes Region in 1998.



### FRAUKE NITSCHKE

#### Senior Counsel and Team Leader

International Centre for Settlement of Investment Disputes

Frauke Nitschke is a Senior Counsel at the International Centre for Settlement of Investment Disputes (ICSID). Frauke serves as the team lead for ICSID staff handling proceedings in English. Frauke also serves as Secretary of tribunals, conciliation commissions and ad hoc committees in investor-State proceedings conducted pursuant to the ICSID Convention and the ICSID Additional Facility Rules involving a variety of economic sectors and legal instruments. Frauke further leads ICSID's investor-State mediation activities, including the drafting of the ICSID Mediation Rules and amendments to ICSID's conciliation frameworks. Frauke has conducted investment mediation skills trainings for mediators and government officials. Frauke regularly speaks at international conferences on investment mediation and recently chaired ICSID's Investment Mediation Insights seminars. Prior to joining ICSID, Frauke served in the World Bank's Legal Vice Presidency and the Inspection Panel. Frauke is an accredited mediator and admitted to the D.C. and New York State Bar. She holds a law degree from the Freie Universität Berlin, an LLM from Georgetown University Law Center, and a master's degree in psychology from the FernUniversität Hagen.



### JAMES SOUTH

#### Chief Executive

Centre for Effective Dispute Resolution

James South is Chief Executive of the Centre for Effective Dispute Resolution London. As a mediator, facilitator, consultant and trainer, James has over 25 years of experience in over 30 countries, working with individuals, organisations and public institutions to prevent, manage and resolve conflict effectively. A lawyer in his native New Zealand, he acts as a mediator both in the UK and internationally, specialising in corporate and commercial disputes, with particular experience in international commercial contracts, insurance & finance, property, sales of goods & services and employment & workplace. James also combines his mediating and consultancy skills to provide facilitation, neutral chairing and conflict coaching services to Boards, leadership teams and other groups which find themselves in conflict. James is a fluent Spanish speaker and trains in cross-cultural issues in mediation and has experience in mediating cross-border and cross-cultural disputes, recently mediating cases with Spanish and Austrian parties. As a trainer and dispute resolution consultant, he has extensive experience in delivering training and consultancy services to government, corporates, the judiciary and the courts, universities and international organisations and has worked in over 30 jurisdictions including Hong Kong, Mainland China, Vietnam, Egypt, Russia, Ukraine, USA, India, Pakistan, Cuba, Colombia, Croatia, and Moldova, to name just a few. James holds a Masters in Law in International Dispute Prevention and Resolution from the University of Westminster.



## ALEJANDRO CARBALLO-LEYDA

**General Counsel and Head of Conflict Resolution Centre**  
International Energy Charter

Alejandro Carballo-Leyda (LL.B. with Economics, Certificate on international conflicts, LL.M., European Ph.D. in international law, Harvard Program on Negotiation, CEDR accredited mediator) is the General Counsel of the International Energy Charter and Head of its Conflict Resolution Centre, which provides good offices and mediation support to investors and governments. From December 2020 to mid-September 2021, he was also Acting Deputy Secretary-General of the International Energy Charter. He coordinated the 2016 Guide on Investment Mediation, the amendment to the energy transit conciliation rules (with a commentary), the 2018 Model Instrument on Management of Investment Disputes (a runner up 'highly commended' of the Financial Times Innovative Lawyers Awards in 2019) and the first training for investment mediators. Currently, he supports several countries in developing their internal instrument on managing investment disputes and is working on a joint research paper with the World Bank on investment dispute prevention in the energy sector. Alejandro also teaches foreign investment law at Paris 1 Panthéon-Sorbonne and was awarded the 2021 Energy Charter Award for his coordination of the negotiations to modernise the Energy Charter Treaty (ECT). Previously, he advised States and private clients on a wide range of public and private international law issues. He also participated in the working groups of *UNIDROIT Principles of International Commercial Contracts* (2010 ed.) and the *Hague Principles on Choice of Law for International Contracts*.



## WOLF VON KUMBERG

**International Mediator and Arbitrator**

Wolf von Kumberg spent nearly 25 years in Zurich, Switzerland and then London, England, as European Legal Director and Assistant General Counsel to Northrop Grumman Corporation, a global aerospace/security company. In that position he was responsible for its international legal affairs. Prior to that, he served 5 years as the Vice President – Legal Affairs for Litton Canada, after having spent several years in legal practice with a major Toronto law firm. He retired from Northrop Grumman in 2015 to develop his global practice as an arbitrator and mediator. He is now a member of specialist International ADR Chambers in London, Arbitra International – based at the International Dispute Resolution Centre. Wolf is also the Managing Director of Global Resolution Services, a provider of dispute resolution services. He is a qualified lawyer in both Canada and England, a certified CEDR (Centre for Effective Dispute Resolution) mediator, an American Arbitration Association Master Mediator and a Fellow of the Chartered Institute of Arbitrators. He has experience of disputes across Aviation & Aerospace, Defence, Compliance, IP, Cyber Security and High-Tech Industries – this throughout, Asia, US, Europe and Middle-East which includes commercial, government and State entities. Wolf is also active in international commercial and ISDS arbitration and mediation. He has been a thought leader working with ICSID (International Centre for Settlement of Investment Disputes), ECT (The Energy Charter Treaty), IMI (International Mediation Institute) and CEDR to help develop the use of mediation in investor/State disputes and has taught courses and written articles on the subject. He was the first Chair of the IMI, which has advocated international standards for mediators and in particular IS mediators. Wolf is also the former Chair of the CIARB Board of Management, a former director of the American Arbitration Association and a current director of CEDR in the UK.

## CURRICULUM

11 MAR 2022 ■ GOVERNMENT OFFICIAL FOCUS

**Welcome Speech by Ms Teresa Cheng** GBM GBS SC JP  
Secretary for Justice  
Government of the Hong Kong Special Administrative Region of the People's Republic of China

**Opening Remarks by Ms Anna Joubin-Bret**  
The Secretary  
United Nations Commission on International Trade Law

This online program has been specifically designed to focus on the State representative's role in an investor-State mediation. Over two 3-hour sessions, the workshop will address questions that State officials may have about how the mediation process works and how to prepare for and participate in mediation procedures effectively. Designed and delivered jointly by the International Centre for Settlement of Investment Disputes (ICSID), the International Energy Charter and the Centre for Effective Dispute Resolution (CEDR), the workshop aims to equip government officials to:

- Review the landscape of investor-State dispute settlement and be able to compare various dispute settlement mechanisms
- Understand the mediation process for investment disputes, including the roles of the mediator, parties and counsel
- Assess the suitability of mediation and address commonly voiced concerns about mediation in investment disputes
- Practise key advocacy skills as a State representative during an investment mediation

## 12 MAR 2022 ■ INVESTOR-STATE MEDIATOR TRAINING (DAY 1)

Day 1 of the Investor-State Mediator Training will first provide an overview of the context of Investor-State Disputes, following up on the previous day. Participants will then explore stakeholder analysis and specific process considerations for Investor-State Mediation and process design options. Using a role-play approach, participants will also engage as mediator with a party to design an appropriate mediation process. The principle of co-mediation and its application in the context of Investor-State Mediation will also be reviewed.

Ms Frauke Nitschke  
Mr James South  
Dr Alejandro Carballo-Leyda  
Mr Wolf von Kumberg

## 13 MAR 2022 ■ INVESTOR-STATE MEDIATOR TRAINING (DAY 2)

Day 2 of the Investor-State Mediator Training will explore further aspects of Investor-State Mediation. Participants will explore intercultural competency including culturally-shaped preferences and expectations. Participants will also review a cultural competency framework and the skills necessary to assist disputing parties in addressing cultural aspects arising between them. Participants will focus on core mediator skills and approaches to mediating Investor-State Disputes, such as managing the investor-State dynamic, exploring the range of possible interventions, facilitating the making of offers, addressing barriers to settlement and facilitating 'breakthrough'. Ethical issues and mediator conduct in the context of Investor-State mediation will also be addressed. Participants will review conflict of interest situations and the role of the mediator in subsequent or parallel arbitration or court proceedings. The course will also explore approaches to addressing allegations of fraud or corruption and compliance with relevant national anti-bribery and corruption laws.

Ms Frauke Nitschke  
Mr James South  
Dr Alejandro Carballo-Leyda  
Mr Wolf von Kumberg

## 14 MAR 2022 ■ INVESTOR-STATE MEDIATOR TRAINING (DAY 3)

Day 3 of the Investor-State Mediator Training will provide participants with an opportunity to practise the skills and knowledge acquired during the previous days. Using a role-play approach, each participant will act as mediator and receive customised feedback from experienced trainers. Participants will also have the chance to observe a variety of mediator styles.

Ms Frauke Nitschke  
Mr James South  
Dr Alejandro Carballo-Leyda  
Mr Wolf von Kumberg

While seats are very limited, please send the following information to [events@aail.org](mailto:events@aail.org) and we will be updating your application status within 7 working days.

- Title:
- First Name:
- Last Name:
- Nationality:
- Country of Residence:
- Phone Number:
- Organisation/Firm (please refrain from using abbreviation):
- Position Held (please refrain from using abbreviation):
- Bio (priority will be given to those with past/current mediation-related experience)

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Date	11–14 March 2022
Time	1500–2210 daily (GMT+8)
Mode of Participation	Online
Fee	US\$ 200 (or HK\$1,500 for participants in Hong Kong)
Enquiries	<a href="mailto:events@aail.org">events@aail.org</a>

