

ORGANISERS



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



2024 Investment Law & Investor-State Mediation Training

Investor-State Mediation – Workshop for State & Government Officials

DATE: 31 May & 1 Jun 2024

TIME: 09:30 – 16:30

VENUE: The Former French Mission Building, 1 Battery Path, Central, Hong Kong

This programme is for State & Government officials involved in Investment Disputes on behalf of their States or Governments. By the end of the programme, participants will be able to:

- Understand the landscape of dispute resolution available for investor-State disputes.
- Have confidence in explaining the mediation process and addressing objections to it.
- Engage in the mediation process on behalf of their States including dealing with preparatory matters of process design and stakeholder analysis and engage in negotiation and settlement of the dispute.

Enquiries: events@aail.org

Day 1

[31 May 2024, Friday]

09:30	Introduction <ul style="list-style-type: none"> • Welcome • Objectives • Getting to know each other
10:00	Landscape of Investor-State Dispute Resolution <ul style="list-style-type: none"> • Comparison of different processes: pros and cons • Exercise on Adjudication vs Settlement
10:45	Break
11:00	Overview of the Mediation Process <ul style="list-style-type: none"> • Understanding the phases of mediation • Applicable mediation rules (IBA, ICSID, UNCITRAL) • Show video overview of phases
11:45	Potential Obstacles to Mediation in Investor-State Disputes and How to Address Them <ul style="list-style-type: none"> • Overview – NUS research • Group exercise – what objection would you get from governments and investors • Demo – how the potential obstacles are addressed by mediator • Group exercise
12:45	Lunch
13:45	Preparation – Understanding Process Considerations <ul style="list-style-type: none"> • Aspects to consider when designing a mediation process for investor-State disputes (e.g. encouraging parties to use mediation; attendees and authority; practicalities (venue, timing, etc); settlement) • Exercise
15:00	Break
15:15	Preparation – Stakeholder Analysis and Mapping <ul style="list-style-type: none"> • Overview of stakeholder mapping frameworks • How to undertake stakeholder analysis and mapping
16:15	Preparation for Day 2
16:30	End of Day 1

Day 2

[01 Jun 2024, Saturday]

09:30	Review of Day 1
09:45	Representing the State 1 – Making a Good Opening <ul style="list-style-type: none"> • Role of representative, lawyer and mediator • What makes a good opening? • Practice exercise
10:15	Intercultural Competency <ul style="list-style-type: none"> • Understanding culturally-shaped preferences and expectations and different organisational cultures • Review a cultural competency framework and skills necessary to negotiate effectively in an investor-State Mediation
11:00	Break
11:15	Representing the State 2 – What to Reveal in Exploration <ul style="list-style-type: none"> • Role of representative, lawyer and mediator • Understanding positions and interests • Exercise on revealing interests in exploration phase
12:30	Lunch
13:30	Representing the State 3 – How to Make Offers in Mediation <ul style="list-style-type: none"> • Role of representative, lawyer and mediator • Understanding the negotiation framework • Exercise on making offer in mediation
14:45	Break
15:00	Representing the State 4 – How to Move Past Deadlock <ul style="list-style-type: none"> • Role of representative, lawyer and mediator • Exercise on how to manage potential deadlock
15:45	Finalising a Settlement Agreement <ul style="list-style-type: none"> • What is required for an enforceable mediated settlement agreement? • Issues around authority
16:15	Course Review and Evaluations
16:30	End of Day 2

SPEAKERS *(listed in alphabetical order)*



IU Ting-kwok MH

Founder/Director

Asia Conflict Resolution Institute

Professor Iu is the founder/director of Asia Conflict Resolution Institute and a consultant solicitor with Kwok, Ng & Chan, Solicitors & Notaries. He is an accredited mediator (general/family) and accredited family mediation supervisor with Hong Kong Mediation Accreditation Association Limited. Between 2013 and 2017, he advised the Department of Justice of the Hong Kong SAR on the enactment of the apology legislation. The Apology Ordinance came into effect on 1 December 2017. Professor Iu was a member of Steering Committee on Mediation chaired by the Secretary for Justice of the Hong Kong SAR between 2016 and 2022. In 2017, he was awarded Medal of Honour by the Hong Kong SAR Government in recognition of his contribution to the promotion of mediation. He is an adjunct professor of the Department of Law of The University of Hong Kong, School of Law of City University of Hong Kong, and The Hang Seng University of Hong Kong. Professor Iu is listed by Doyle's Guide 2021 to 2023 as a leading family mediator in Hong Kong. Who's Who Legal (2015 to 2023) named Professor Iu as a world leading practitioner in the field of commercial mediation. He is a co-author of *The Hong Kong Mediation Manual* (3rd Edition), *The Annotated Ordinances of Hong Kong: Mediation Ordinance (Cap.620)* (2022 Reissue), and *Asia Mediation Handbook*. He is a regular blog writer of *Kluwer Mediation Blog*.

SPEAKERS *(listed in alphabetical order)*



Wolf von KUMBERG

Independent Arbitrator & Mediator

Wolf is a renowned arbitrator and mediator with over 30 years of experience in resolving complex commercial disputes globally. With a background in aviation, defence, technology, cyber, engineering/infrastructure, energy, oil and gas, and investor-State dispute resolution, he previously held key legal roles at Northrop Grumman Corporation and Litton Industries Inc. spanning the EMEA regions. His expertise encompasses dispute management, regulatory compliance, and legal oversight. As a member of Arbitra International, Wolf specialises in international dispute resolution and serves as Managing Director of Global Resolution Services and CEO of the International Dispute Registry. His practice covers aviation, defence, energy, compliance, IP, cyber security, and high-tech industries across Asia, the US, Europe, and the Middle East, representing commercial, government, and State entities. Dedicated to advancing alternative dispute resolution methods, Wolf advocates for the use of dispute boards and mediation, particularly in Investor-State disputes. He played a pivotal role in developing mediation rules for ICSID and establishing the first Investor-State Mediation Panel in Abu Dhabi. Additionally, Wolf advises governments on integrating mediation into investor grievance processes to enhance Foreign Direct Investment strategies. An influential figure in energy transition disputes, Wolf assists oil and gas majors in managing ESG-related dispute risks and reducing carbon footprints post-COP26. He has chaired the International Mediation Institute and served on the boards of CIArb (Chartered Institute of Arbitrators), CEDR, and AAA (American Arbitration Association), contributing significantly to arbitration, mediation, and conflict avoidance board training.

SPEAKERS *(listed in alphabetical order)*



James SOUTH

Chief Executive, Mediator

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 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. In recent years he has worked with ICSID and other institutions to develop Investor-State Mediation and trained a body of experience mediators for such dispute. James holds a Masters in Law in International Dispute Prevention and Resolution, from the University of Westminster.