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Webinar Invitation 50 Years of the Vienna Convention on the Law Of Treaties

Monday, 19 October 2020

9:30 AM (London time) / 4:30 PM (Singapore time) / 7:30 PM (Sydney time)

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*This year marks 50 years since the VCLT came into force. In this webinar **Sir Franklin Berman QC** (Essex Court Chambers), **Stephen Fietta QC** (Fietta LLP), and **Professor Nico Schrijver** (Leiden University) will discuss three enduring problems and uncertainties, namely:*

Interpretation

What is the interplay between Articles 31 and 32 VCLT and are international courts and tribunals getting it right in recent practice?

Fundamental change of circumstances

To view treaties as 'living instruments' rather than being cast in stone has gained considerable currency. What role is still left for Article 62 on fundamental change of circumstances? And for Articles 53 and 64 on jus cogens?

Breach and remedies

Is the issue of breach adequately dealt with in the VCLT? The ongoing debate around the EU Withdrawal Agreement and the UK Internal Market Bill raises the question of whether a treaty would be breached by the enactment by a State of legislation which disregards treaty obligations, or would the breach occur later, and if so when?

AGENDA

London Time

Activity

9:30 AM	Start of event and introduction by moderators.
9:35 AM	Presentations and panel discussions: 1. The interplay between Articles 31 and 32 (Stephen Fietta QC, Fietta LLP) 2. Fundamental change of circumstances (Professor Schrijver, Leiden University) 3. Breach and remedies (Sir Frank Berman QC, Essex Court Chambers)
10:50 AM	Question and answer session.
11:00 AM	End of event.

MODERATORS



Rachel Tan

Research and Development Operations Lead at the Singapore International Dispute Resolution Academy and Associate Counsel at RevLaw LLC

Rachel is an Advocate and Solicitor of the Supreme Court of Singapore. She is currently part of the leadership team at the Singapore International Dispute Resolution Academy and Associate Counsel at RevLaw LLC. Rachel's experience includes clerking for a world-renowned arbitrator, and working on disputes at a large law firm. Rachel also spent three years in the Ministry of Foreign Affairs as a Foreign Service Officer from 2011 to 2014.

Rachel's interests focus on public international law, mediation and conciliation, and arbitration. She has won several prizes, including placing 1st in the Chartered Institute of Arbitrators (Singapore) Procedural Order Competition 2018, 3rd in the Fountain Court Chambers Christopher Bathurst Essay Prize Competition 2017, and winning the Championship of the Essex Court Chambers – Singapore Academy of Law International Mooting Competition 2019.



Sean Aughey

Barrister, Essex Court Chambers

Sean Aughey is a practising Barrister at Essex Court Chambers, mainly in the field of international law, with cases in the International Court of Justice, investor-State arbitration tribunals, and courts in England and elsewhere.

His more notable cases include: before the ICJ, the *Alleged Violations* case (for Iran), the *Certain Iranian Assets* case (for Iran), and the *Ukraine v. Russia* case (for Russia); before investor-State arbitration tribunals, *Al-Tuwaitiqi v. Pakistan* (lead counsel for Pakistan), *Al Jazeera v. Egypt* (for claimant), *Tethyan v. Pakistan* (annulment, for Pakistan), *KLS v. Sri Lanka* (for Sri Lanka), *Alghanim v. Jordan* (for Jordan); in the UK Supreme Court, *Rahmatullah (No. 2) v. MOD* (for HMG), and *Belhaj v. Straw* (for HMG); and in the Singapore courts, *Lesotho v. Swissbourgh* (for Lesotho). He advises on a wide range of international law matters, including diplomatic and State immunity, sovereignty, dispute settlement, investment protection, sanctions, the laws of war, and human rights.

Sean was appointed Junior Counsel to the Crown (the UK Attorney General's Public International Law C Panel) in 2017, and he previously worked as an assistant legal adviser to the Foreign & Commonwealth Office.

He holds a BA (Law), LL.M (2nd in year) and various academic scholarships from Downing College, Cambridge. He previously held positions as a Bye Fellow of Downing College, a Visiting Scholar at Harvard Law School, and an associate professor in international law at Pepperdine University in London.

PANELLISTS



Sir Franklin Berman QC

Barrister, Essex Court Chambers

Sir Franklin (Frank) Berman joined HM Diplomatic Service in 1965 and was the Legal Adviser to the Foreign & Commonwealth Office from 1991-99. For the past 20 years he has been in practice in Essex Court Chambers specializing in international arbitration and advisory work in international law. He is Visiting Professor of International Law at Oxford and the University of Cape Town.

His over 50-year career in international law and diplomacy has spanned a wide and varied field, including settlement of disputes; the law of treaties; State responsibility; diplomatic and State immunity; maritime delimitation; the law of the Continental shelf; outer space and nuclear energy; the law of international organisations; the UN Security Council; the laws of war and neutrality; international criminal tribunals; and numerous other areas. In the light of this extensive experience, he is highly qualified for advisory work in all areas of public international law, for international dispute-settlement proceedings of all kinds and for international commercial and investment arbitration.

Sir Frank has served as an ad hoc Judge in the International Court of Justice: in the *Case concerning Certain Property (Liechtenstein v. Germany)* and recently in the two *Appeals Related to the Jurisdiction of the ICAO Council*. He was appointed by the Lord Chief Justice as the Legal Member of the Court of Arbitration in the Kishenganga dispute between Pakistan and India under the Indus Waters Treaty. He successfully represented Cambodia before the International Court in the *Case concerning the Temple of Préah Vihear (Interpretation)*.

He was appointed by the British Government in 2004 to the list of Arbitrators under the ICSID Convention, and has sat as Chairman and Party-appointed arbitrator in many ICSID arbitrations for both the claimant and host State. He has also sat in ICSID annulment proceedings, as well as in arbitrations under the ICC, PCA, Stockholm Arbitration Institute and LCIA (sole arbitrator), and ad hoc rules.

He is the former Chairman of the Diplomatic Service Appeal Board, and the Appeals Boards of the WEU and IOPCF. In 2001 he was appointed jointly by the Governments of the USA and Austria to be the Chairman of the Claims Committee of the General Settlement Fund for the Compensation of Victims of Nazi Persecution, a position he held throughout the work of the Committee. Since 2010 he has been a Member of the Permanent Court of Arbitration.

Sir Frank was made KCMG in 1995. In 2006 he was awarded the Grand Decoration of Honour in Gold with Star of the Republic of Austria, and in 2014 the Grand Cross of the Royal Cambodian Order.



Professor Nico Schrijver

Professor of Public International Law, Leiden University

Nico Schrijver is emeritus Professor of Public International Law at Leiden University. During 2005-2017 he was the Academic Director of the Grotius Centre for International Legal Studies and Head of the Department. Since 1 September 2017 he serves as State Councillor, Division of Legislation, in the Council of State of the Netherlands. From June 2011 till September 2017 he was a member of the Senate of the Dutch house of parliament. In the Senate he served as the chairperson of the Committee on Foreign Affairs, Defence and Development Co-operation, the vice-chair of the Senate Committee on European Affairs and leader of the Dutch delegation of the Parliamentary Assembly of the Council of Europa.

Schrijver is member of the Institut de Droit International since 2007 and its president during 2017-2019, and member of the Curatorium of The Hague Academy of International Law (since 2016). Since 2020 he is a judge ad hoc in the Special Chamber of ITLOS which deals with the case between Mauritius and the Maldives on the delimitation of their maritime boundaries in the India Ocean. During 2010-2012 he served as the president of the worldwide International Law Association and during 2008-2016 he was a member and vice-chair of the UN Committee on Economic, Social and Cultural Rights.

Schrijver is also visiting professor of The European Union and Co-operation with Developing Countries at the Université libre de Bruxelles Furthermore, he is a member of the Royal Netherlands Academy of Arts and Sciences and served as the chairperson of its Section on Legal Sciences.

Schrijver has also ample experience as legal counsel in international litigation and appeared before the International Court of Justice, the International Tribunal for the Law of the Sea and specialized tribunals on international investment disputes. He also serves frequently as an expert in such proceedings.

Among many other publications Nico Schrijver is the author of *Sovereignty over Natural Resources. Balancing rights and duties* (Cambridge: CUP, 1997; reprint 2008), *The Evolution of Sustainable Development in International Law* (Leiden: Brill, 2008; Chinese edition with Social Sciences Academic Press, Beijing, 2010), and *Development without Destruction. The UN and Global Resource Management* (Bloomington: IUP, 2010; with the 2012 award of the Academic Council United Nations System for the best recent book on UN issues).



Stephen Fietta QC

Principal, Fietta LLP

Stephen Fietta QC is the founder and principal of Fietta LLP. He is ranked by Chambers Global Directory as one of the world's top public international law practitioners.

He has practised at the forefront of public international law, whether within government or private practice, for more than 20 years. He has advised on cases before the International Court of Justice (ICJ), International Tribunal for the Law of the Sea (ITLOS), European Court of Justice, European Court of Human Rights and multiple domestic courts. He has one of the world's most prolific and longstanding practices in investment arbitration, having appeared in more than 30 pending and decided cases under the World Bank (ICSID), UNCITRAL and other rules. He has won some of the largest or most notable investment arbitration awards over recent years. He also practices widely in other areas of international law, including issues of sovereignty, the law of the sea, maritime boundary delimitation, international environmental law and human rights.

Stephen is a Visiting Senior Lecturer at King's College, London. In January 2015, Stephen was awarded the Smit-Lowenfeld Prize by the International Arbitration Club of New York for the best article published globally in the field of international arbitration, entitled *Public International Law, Investment Treaties and Commercial Arbitration: an emerging system of complementarity?* Stephen has co-authored (with Dr Robin Cleverly) *A Practitioners Guide to Maritime Delimitation*, published in March 2016, which has subsequently been cited before both the ICJ and ITLOS.

NOTICE

*The webinars in this series are free of charge, but places are limited and prior registration is required.
Successful registrants will receive a confirmation email.*

The webinars will be conducted via Zoom and you will be able to post questions live on-line.

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