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Asia FDI Forum IV

Special Economic Zones Issues & Implication for investment law

**Hong Kong
March 22-23, 2018**

Conference location
**The Chinese University of Hong Kong (CUHK) “Graduate Law Center”
2/F, Bank of America Tower,
12 Harcourt Road,
Central, Hong Kong**

PROGRAM



THE CHINESE UNIVERSITY OF HONG KONG
香港中文大學



KoGuan School of Law, SJTU

Conference Organizers

Faculty of Law, The Chinese University of Hong Kong

The Faculty of Law at The Chinese University of Hong Kong is one of the most dynamic and successful law schools in Asia. With more than 1300 students enrolled in its programmes (LLB, LLM, JD, Postgraduate Certificate in Laws and MPhil / PhD) it is the largest provider of legal education in Hong Kong. Its strength in research was recognised in the 2014 Research Assessment Exercise conducted by the Hong Kong University Grants Committee when it was ranked ahead of all other law schools in Hong Kong with 64% of its research ranked as “world leading” or “internationally significant”. The Faculty is ranked in the top 50 law schools globally by QS.

For more information, see: <http://www.law.cuhk.edu.hk/en/>

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The Columbia Center on Sustainable Investment (CCSI), a joint center of Columbia Law School and the Earth Institute at Columbia University, is a leading research center and forum dedicated exclusively to the study, practice and discussion of sustainable international investment (SII) worldwide. Through research, advisory projects, multi-stakeholder dialogue and educational programs, CCSI constructs and implements an investment framework that promotes sustainable development, builds trusting relationships for long-term investments, and is easily adopted by governments, companies and civil society.

For more information, see: <http://ccsi.columbia.edu>

KoGuan School of Law, Shanghai Jiao Tong University

Legal education at Shanghai Jiao Tong University can be traced back to special and political classes during the period of Nanyang College in September 1901. However, it was interrupted during the education reform in 1950s until the Law School was re-established on June 8 2002. The law School received the new title “KoGuan School of Law” in 2008 in memorial of the generous donation of Professor Leo KoGuan. KoGuan School of Law has a strong, well-structured and international team of faculty, including 65 full-time faculty members. A variety of research centers within the law school has produced high quality scholarship covering a wide range of fields and disciplines, from constitutional law to law and society, from maritime law to competition law, etc. KoGuan School of Law has explored its own style of educating a new generation of law students and future jurists, and established its own reputation in both academic and practical circles. For the time being, it offers a full-scale legal education system including LLB, LLM, JM and PhD programs. The Faculty is ranked in the top 100 law schools globally by QS.

For more information, see: <http://law.sjtu.edu.cn/En>

World Economic Forum

The World Economic Forum (WEF), committed to improving the state of the world, is the International Organization for Public-Private Cooperation. The Forum engages the foremost political, business and other leaders of society to shape global, regional and industry agendas. It was established in 1971 as a not-for-profit foundation and is headquartered in Geneva, Switzerland. It is independent, impartial and not tied to any special interests. The Forum strives in all its efforts to demonstrate entrepreneurship in the global public interest while upholding the highest standards of governance. Moral and intellectual integrity is at the heart of everything it does.

For more information, see: www.weforum.org

Supporting Organisations

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For more information, see: www.uncitral.org/uncitral/en/tac/rcap.html

World Free Zone Convention

At WFZC we monitor the increasing number of Special Economic Zones around the world. More than 120 countries now have some form of zone development programme. We liaise closely with international organisations whose work impacts upon Zones Speakers and Delegates who have participated in our meetings represent a wide cross-section of organisations from almost all these countries, and from others considering their establishment - Zones and the Authorities who regulate them, Government Ministries, Investment Promotion Agencies, Corporates and Location Specialists as well as Investors, Banks and other Financial Advisers. Since 2001 WFZC has built up an unparalleled network of partners, sponsors and speakers who have contributed to events held.

For more information, see: <http://www.freezones.org>

Asian Academy of International Law

The Asian Academy of International Law Ltd (AAIL) is an independent and non-profit making body, set up in Hong Kong to further the studies, research and development of international law in Asia. The AAIL provides a platform for discussions on international law issues and to research in developing areas of international law, in order to enhance and reinforce Asia's role and participation in the formulation of international law and international relations. AAIL aims to provide specialized education and training to practitioners, national judges, students and government officials in areas of international law. The unique distinction between AAIL and other international law institutes is that AAIL concentrates on involvement of Asian countries as well as collaboration between practitioners and academia.

For more information, see: www.aail.org

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Background note

The Asia FDI Forum series

Launched by the CUHK Faculty of Law in 2015, the series of Asia FDI Forum provides a multi-stakeholder platform anchored in Hong Kong for participants from academia, government, the private sector and civil society to discuss regional investment trends, highlight specific features of investment treaties and policies, analyze Asia's relationship with other regions of the world, and explore the various legal and policy implications of the emergence of new actors, issues and norms which shape the future of Asia FDI

The Asia FDI Forum is meant to provide a platform for expert discussion based on academic research and policy-oriented presentations, mostly related to legal developments but also sovereign economics and politics of FDI in Asia. To facilitate a frank dialogue, this meeting will take place under the Chatham House rule, a morally binding convention which allows all or part of a meeting to be held 'off the record'. In addition, 'Information gleaned under the **Chatham House Rule** may be reported [if so agreed], but the identity or affiliations of speakers must not be disclosed.

The Asia FDI Forum IV

In 2015, CUHK law launched the Asia FDI Forum series, with the purpose to provide participants from academia, government, the private sector and civil society with a multi-stakeholder platform anchored in Hong Kong for expert discussion based on academic research and policy-oriented presentations, mostly related to legal developments but also sovereign economics and politics of FDI in Asia. The conferences' aim is to discuss regional investment trends, analyze Asia's relationship with other regions of the world, and explore the various legal and policy implications of the emergence of new actors, issues and norms, which shape the present and future of Asia. To facilitate a frank dialogue, these meetings take place under the 'Chatham House rule', a morally binding convention allowing all or part of a meeting to be held 'off the record'.

The special focus of the Asia FDI Forum IV is on 'special economic zones' (SEZs), designated geographic areas within a country's national boundaries where special economic regulations are in place, which differ from those in force in the rest of the country. These special regulations intend to promote economic growth by leveraging investment, facilitating international trade, customs, and proper taxation. In this way, SEZs can offer a more attractive business environment than the rest of the country.

In 2015, the world counted about 4,300 SEZs and their number is steadily increasing. China established the first SEZs in 1980, and their success, in particular the one of Shenzhen, inspired other countries to follow China's example. India set up the first Asian Special Economic Zones in Kandla in 1965. Singapore, Malaysia, and the Philippines started their SEZs between 1968 and 1972. Nowadays, ASEAN Member States have widely adopted the SZE model, establishing more than 1,000 SEZs and recognizing their vital role in the development of the ASEAN Economic Community. In December 2015, Japan adopted The Law on National Strategic Special Zones as a part of the regulatory reform and more generally as part of "Abenomics", the economic policies advocated by Prime Minister Abe in 2012. In 2016, Dubai Multi Commodities Centre was awarded "Global Free Zones of the Year" for the second year running, thanks to the constant support the United Arab Emirates provide for investors. In 2017, the Vietnamese Planning and Investment Minister announced the establishment of three 'outstanding' SEZs, in the north, center and south of the country, that will offer investors greater incentives and fewer restrictions than those available to date in the country.

As a development strategy, SEZs have benefited both advanced economies, developing countries and transitional states, with emphasis ranging, in turn, on export (as in the Export Processing Zones in Bangladesh), financial liberalization (like in the Shanghai Free Trade Zone), or industry-specific policies (as in industrial parks for logistics, energy and telecommunications). Hence, the establishment of SEZs as a policy tool has greatly contributed to transformation and growth of Asian economies.

However, SEZs are not a cost-free miracle promoting economic growth. In fact, although fiscal incentives can represent a fine start for SEZs, in addition to creating distortions within economies, they are not a sustainable option as they are not in line with the liberalization inherent to the SEZs scheme. At heart, SEZs embody a testing ground, within the territory of states, for bold reforms aiming at a more liberal economic policy and a more efficient administrative procedure. It derives that both local and international companies investing in an SEZ will obtain a comparative advantage with respect to companies investing in other areas of the same state. Ultimately, projections of SEZs are to boost overall competitiveness of a country or a region. It is therefore necessary to elaborate a legal and regulatory framework to guide SEZs' development and ensure that they are properly designed, in order to successfully attract businesses and stimulate growth.

From the perspective of international trade and investment law, SEZs are not directly governed by WTO trade rules, but the SEZs incentives may be covered by the WTO Agreements. As a consequence, the relationship between SEZs and some WTO Agreements, such as the Agreement on Subsidies and Countervailing Measures, the General Agreement on Trade in Services and Agreement on Trade Related Investment Measures, and free trade agreements including provisions on the functions and treatment of SEZs may raise legal issues.

Furthermore, under SEZs, the application of certain state laws can be exempted: in order to attract investment, the standards of labor and environmental laws can be lowered, and this contrasts with the current tendency of attributing greater importance to quality rather than quantity of investments. In fact, with this aim, states are introducing some changes in their foreign investment policy, for instance issuing new rules to protect the environment and labor rights, and address tax avoidance. These changes may contravene to specific provisions included in international investment agreements aimed at the protection of foreign investment, and thus induce foreign investor to allege breaches of international obligations before investment tribunals. Such discrepancy is one more reason to rethink of the SEZs regulatory framework. It is time to take a closer look at magic and myth of SEZs.

In light of these developments, the Asia FDI Forum 2018 will provide a multi-stakeholder platform for participants from academia, government, the private sector and civil society to discuss regional trends in SEZs, highlight specific features of Asia's SEZs, explore the relation between SEZs and investment treaties, and discuss the various policy implications of the above.

Thursday, March 22, 2018:

8:30 – 9:00 **Coffee and registration**

9:00 – 9:30 **Welcome and opening remarks**

Mr. [Christopher Gane](#), Dean, Faculty of Law, CUHK, Hong Kong

Ms. [Aditi Sara Verghese](#), Policy Analyst, International Trade and Investment, World Economic Forum

Mr. [Jiaxiang Hu](#), Professor, KoGuan School of Law and Director, Asian Law Centre, SJTU Shanghai Jiao Tong University

Mr. [Julien Chaisse](#), Professor, Faculty of Law, CUHK, Hong Kong

9:30 – 11:00 **Session I: Global Trends in SEZs**

Chair: Ms. [Lise Johnson](#), Head, Investment Law and Policy, CCSI, Columbia University

- **Definition, Rationale and Purpose of Free Zones: Law and Policy**

Mr. [Julien Chaisse](#), Professor, Faculty of Law, CUHK, Hong Kong and Mr. [Graham Mather CBE](#), Chairman, World Free Zone Convention ([WFZC](#)), London

- **Special Economic Zones and FDI: Economic Incentives, Results and Directions**

Mr. [Jacopo Dettoni](#), Deputy Editor, FDI Intelligence, Financial Times Group, London

- **Raising the Game: Qatar Financial Centre Authority**

Mr. [Yousuf Mohamed Al-Jaida](#), Chief Executive Officer and Board Member, Qatar Financial Centre Authority, Doha

- **Lead discussants followed by Q&As**

Mr. [James Lockett](#), Vice President, Head of Trade Facilitation and Market Access, Huawei Technologies

Mr. [Jiaxiang Hu](#), Professor, KoGuan School of Law and Director, Asian Law Centre, SJTU Shanghai Jiao Tong University

11:00 – 11:30 **Coffee Break**

11:30 – 13:00 **Session II: Asian Trends in SEZ I**

Chair: Mr. [Jiaxiang Hu](#), Professor, KoGuan School of Law and Director, Asian Law Centre, SJTU Shanghai Jiao Tong University

- **Success Factors and Policy Recommendations for Asia SEZ Development, Operation and Management**

Mr. [Marc Proksch](#), Chief, Business and Development Section of the Trade and Investment Division, United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)

- **The Establishment and Development of China's SEZs: Normative Innovations and Regulatory Adventures**

Mr. [Manjiao Chi](#), Professor, Faculty of Law, Xiamen University, Xiamen

- **How do Special Economic Zones and Industrial Clusters Drive China's Rapid Development?**

Mr. [Hongzhen Jiang](#), Associate Professor, KoGuan School of Law, Shanghai Jiao Tong University

- **Lead discussants followed by Q&As**

Mr. [Li Ka-Yin](#), Consultant, AnJie Law Firm, Beijing; Fellow and Council Member, The Hong Kong Institute of Directors, Hong Kong

Mr. [Jae Woon Lee](#), Assistant Professor, Faculty of Law, CUHK

13:00 – 14:30 **Lunch** (*For speakers and invited guests only*)

14:30 – 16:00 **Session III: Asian Trends in SEZs II**

Chair: Mr. [Marc Proksch](#), Chief, Business and Development Section of the Trade and Investment Division, United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)

- **Mitigating Social Risks in the Development of Special Economic Zones in Asia**
Mr. [Matthias Vanhullebusch](#), Associate Professor, KoGuan School of Law, Shanghai Jiao Tong University
- **Japan's Current SEZ Policy: A Review of Issues and Options**
Ms. [Tomoko Ishikawa](#), Associate Professor, University of Nagoya
- **Belt and Road Initiative Economic Corridors and SEZs: Exploring the Linkages**
Mr. [Francisco Leandro](#), Associate Professor, Institute of Social and Legal Studies, Faculty of Humanities, Saint Joseph University, Macau SAR
- **Lead discussants followed by Q&As**
Mr. [Mark Feldman](#), Professor, School of Transnational Law, Peking University, Shenzhen
Ms. Chenzhu Wang, PhD. Cand. KoGuan School of Law, Shanghai Jiao Tong University

16:00 – 16:30 **Coffee Break**

16:30 – 18:00 **Session IV: Special Economic Zones and WTO Compliance**

Chair: Mr. [James Lockett](#), Vice President, Head of Trade Facilitation and Market Access, Huawei Technologies

- **Special Economic Zones under the WTO's Scrutiny**
Mr. [Sherzod Shadikhodjaev](#), Professor, KDI School of Public Policy and Management, Sejong City, Republic of Korea
- **WTO Compatibility of SEZs: The Case of China**
Mr. [Andrew Mitchell](#), School of Law, Melbourne University and Ms. [Ting Han](#), Visiting researcher, School of Law, Melbourne University
- **Trade Facilitation, Digital Trade and SEZs**
M. TBC, Alibaba Group, Beijing (TBC)
- **Lead discussants followed by Q&As**
Mr. [Stephen Olson](#), Research Fellow, Hinrich Foundation, HK (TBC)
Mr. [Jacopo Dettoni](#), Deputy Editor, FDI Intelligence, Financial Times Group, London

Friday, March 23, 2018:

8:30 – 9:00 **Coffee and registration**

9:00 – 10:30 **Session V: Special Economic Zones and Economic Transformation**

Chair: Ms. [Aditi Sara Verghese](#), Policy Analyst, International Trade and Investment, World Economic Forum

- **FDI, SEZs and Sustainable Economy in the MENA Region**
Mr. [Mohamed Al Musharrkh](#), Director, Sharjah FDI Office, United Arab Emirates, Dubai
- **Measuring the Impact of SEZs on FDI: An Empirical Assessment**
Mr. [Rodolphe Desbordes](#), Professor of Economics, SKEMA Business School, Paris
- **Special Economic Zones in India: Status, Issues and Potential**

Ms. [Arpita Mukherjee](#), Professor, Indian Council for Research on International Economic Relations (ICRIER), New Delhi

- **Subsidies Over Tax Benefits**

Mr. [Noam Noked](#), Assistant Professor, Faculty of Law, CUHK

- **Lead discussants followed by Q&As**

Mr. [Simon Lacey](#), Global Government Affairs, International Trade and the Digital Economy Leader, Huawei Technologies, Shenzhen

Ms. [Yan Xu](#), Assistant Professor, Faculty of Law, CUHK, Hong Kong

10:30 - 11:00 **Coffee Break (GLC Foyer)**

11:00 – 12:30 **Session VI: International Investment Arbitration and SEZs**

Chair: Mr. [Julien Chaisse](#), Professor, Faculty of Law, CUHK, Hong Kong

- **An Update on ISDS Reform Discussion**

Ms. [Caroline Nicholas](#), Senior Legal Officer, International Trade Law Division (UNCITRAL Secretariat) United Nations Office of Legal Affairs, Vienna

- **Lee John Beck v Kyrgyz Republic (2010)**

Ms. [Olga Boltenko](#), Chairperson, ICC Hong Kong Commercial Law and Practice Committee, Hong Kong

- **Ampal-American and others v Egypt (2016)**

Mr. [Prabhash Ranjan](#), Professor, Faculty of Legal Studies (FLS), South Asian University, Delhi

- **Goetz v Burundi (1999-2012)**

Ms. [Kehinde Olaoye](#), PhD. Cand. Faculty of Law, CUHK

- **Lead discussants followed by Q&As**

Ms. [Isabella Seif](#), Voltera Fietta, Hong Kong (TBC)

Ms. [Rachel Xu Qian](#), PhD. Cand. Faculty of Law, CUHK

12:30 – 14:00 **Lunch** (*For speakers and invited guests only*)

14:00 – 15:30 **Session VII: International Commercial Arbitration and SEZs**

Chair: Ms. [Aditi Sara Verghese](#), Policy Analyst, International Trade and Investment, WEF, Geneva

- **Theory and practice of recent changes of institutional arbitration rules in SEZs: multiple contracts (initially) and consolidating arbitrations (subsequently), streamlined procedures for emergency measures and interim measures**

Ms. [Jie \(Jeanne\) Huang](#), Senior Lecturer, UNSW Law, Sydney

- **Dispute Resolution Reforms in the Shanghai FTZ Underway**

Ms. [Susan Finder](#), Distinguished Scholar in Residence, School of Transnational Law, Peking University and Visiting Fellow, Centre of Chinese Law, University of Hong Kong

- **Lead discussants followed by Q&As**

Ms. [Vee Vian Thien](#), Associate, Allen&Overy, Hong Kong (TBC)

Ms. [Zhenfei Li](#), PhD. Cand, KoGuan School of Law, Shanghai Jiao Tong University

15:30 – 16:00 **Closing remarks**

Ms. [Aditi Sara Verghese](#), Policy Analyst, International Trade and Investment, WEF, Geneva

Mr. [Jiaxiang Hu](#), Professor, KoGuan School of Law and Director, Asian Law Centre, SJTU
Shanghai Jiao Tong University
Mr. [Julien Chaisse](#), Professor, Faculty of Law, CUHK, Hong Kong

Practical information

The Conference Venue

Tel: (852) 3943 0900 / 3943 0901

Fax: (852) 3942 0934

E-mail: law@cuhk.edu.hk

Address: Graduate Law Centre

2/F, Bank of America Tower

12 Harcourt Road

Central, Hong Kong

Directions:

The CUHK Graduate Law Centre 香港中文大學法律學院研究生部

2/F, Bank of America Tower, 12 Harcourt Road, Central, Hong Kong

香港中環夏慤道12號美國銀行中心2樓

MTR Admiralty Station Exit B, Central Station Exit L/J3

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1,5,5B,5S,5X,10,11,15,25,26,37A,75,90,90C,97,101,104,113,373A,690,811,905,914,960,961

Queensway Plaza station 金鐘廊站 -

1,2,5,5B,5C,5S,6,6A,6X,10,11,15,23,23B,25,26,40,40M,66,103,104,111,115,182,260,307,373,

511,601P,603,603P,619,621,630P,680X,681,681P,690,692,720,720A,722,930,930A,960P,961P,969B,982X,A11,E11



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How to get to GLC-CUHK

The Bank of America Tower is a 38-floor 146 m (479 ft) skyscraper located in the Admiralty area of Hong Kong Island
Coordinates 22.2813°N 114.16303°E