

SUSAN FRANCK

American University Washington College of Law
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PROFESSIONAL OVERVIEW

Professor Franck is an internationally recognized expert in international investment and commercial law, dispute settlement, and the empirical analysis of international arbitration. She has over forty publications and has made more than 125 presentations around the globe. While a practicing lawyer in Washington, DC and London, England, she served as tribunal secretary and arbitration counsel (representing both investors and states) in commercial and investment-related disputes in arbitrations at the AAA, ICC, ICSID, and LCIA. She regularly serves as an arbitrator and mediator.

LEGAL AND ACADEMIC EXPERIENCE

AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW, Washington, DC

Professor of Law

August 2016-present

■ Subject Matter Expertise: Alternative Dispute Resolution, Civil Procedure, Conflicts of Law, Ethics, International Arbitration, International Investment Law, and International Business Transactions including aspects involving international sales and shipment of goods, letters of credit, export controls, mergers and acquisitions, agency and distributorship agreements, intellectual property and licensing, joint ventures, concession agreements, international lending, antitrust and competition law, international taxation, project finance, and political risk insurance.

WASHINGTON & LEE UNIVERSITY SCHOOL OF LAW, Lexington, VA

Professor of Law

July 2013-July 2016

Associate Professor of Law

July 2008-June 2013

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, Geneva, Switzerland

Scholar in Residence

January 2010-July 2010

■ Designed the Joint Symposium on International Investment and Alternative Dispute Resolution, <http://investmentadr.wlu.edu>, and created online collaboration blog using social media and technology to support pre-conference rapporteur reports and conference discussion.

UNIVERSITY OF NEBRASKA LAW COLLEGE, Lincoln, NE

Assistant Professor of Law

May 2005-July 2008

UNIVERSITY OF MINNESOTA LAW SCHOOL, Minneapolis, MN

Visiting Associate Professor of Law

June 2004-May 2005

ALLEN & OVERY, London, U.K.

Senior Associate

January 2002-June 2004

■ Specialized in commercial and treaty-based arbitration for cases pending before ICSID, ICC, LCIA, AAA, and *ad hoc* UNCITRAL proceedings involving investment, insurance (including commercial general liability and political risk insurance), sovereign wealth funds, international procurement and transportation of goods, and technology disputes.

■ Advised on enforcement of arbitral awards before English courts and advised business teams on dispute resolution in oil and gas, aviation, capital markets, and technology sectors.

WILMER, CUTLER & PICKERING, Washington, D.C.

Associate

December 1999-December 2001

- Served as tribunal secretary in UNCITRAL *ad hoc* arbitration, *Lauder v. Czech Republic*.
- Acted in in AAA arbitration involving commercial disputes under political risk insurance and potential investment treaty dispute involving of Middle-East and Northern African state.
- Assisted in transnational litigation involving Russian sovereign debt and debt restructuring.
- Represented foreign and domestic airlines in commercial and international regulatory issues.
- Addressed commercial and trade matters involving antidumping, countervailing duties, export controls, and national security reviews by the U.S. Committee on Foreign Investment (CFIUS).

EDUCATION

UNIVERSITY OF LONDON, QUEEN MARY CENTRE FOR COMMERCIAL LAW STUDIES, London, U.K.

December 1999

LL.M., with merit, in Commercial Law

- U.S.-U.K. Fulbright Scholar

UNIVERSITY OF MINNESOTA LAW SCHOOL, Minneapolis, MN

May 1998

J.D., magna cum laude

- Associate Articles Editor, *Minnesota Law Review*
- Order of the Coif

MACALESTER COLLEGE, St. Paul, MN

May 1993

B.A., summa cum laude, in Psychology

- Phi Beta Kappa

REPRESENTATIVE PUBLICATIONS

BOOKS

ARBITRATION COSTS: MYTHS AND REALITIES IN INVESTMENT TREATY ARBITRATION (2019).

- *Book Review* by John Y. Gotanda, *Arbitration Costs: Myths and Realities in Investment Treaty Arbitration* (Oxford University Press 2019), 34 ICSID REVIEW—FOREIGN INVESTMENT LAW JOURNAL (2019), <https://bit.ly/2OWOiGB>.
- *Book Review* by Alexandre de Gramont, *The Costs of Investment Treaty Arbitration in the Age of Social Media, Fake News, and the Emergence of a New Nationalism*, 2020(1) ICC DISPUTE RESOLUTION BULLETIN 135 (2020).

Investor–State Disputes: Prevention and Alternatives to Arbitration: Proceedings of Symposium held on 29 March 2010 (UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, UNCTAD/WEB/DIAE/IA/2010/8 (2011), <http://bit.ly/1nCFcwC>).

VIDEOS AND PODCASTS

Arbitration Station, Sydney, Australia, May 2018, presented: “Costs in International Arbitration,” <https://bit.ly/2KL6jE5>.

Center for Strategic and International Studies, Washington, DC, October 2014, presented Keynote: “An Evidence Based Approach to International Investment Law,” <http://bit.ly/2iqzG0j> (15:20-44:40).

International Council for Commercial Arbitration, Miami, FL, Legitimacy: Myths, Realities and Challenges, April 2014, presented: “Law and Psychology of International Arbitration,” <https://bit.ly/2qFsRNL> (1:20:48-1:25:25).

ARTICLES, ESSAYS, AND BOOK CHAPTERS

The Fundamentals of Arbitration, in OXFORD RESEARCH ENCYCLOPEDIA OF ECONOMICS AND FINANCE (2020). doi: 10.1093/acrefore/9780190625979.013.369, <https://bit.ly/3sMwMWO>.

International Arbitration and Attorney-Client Privilege—A Conflicts of Law Approach, 51 ARIZ. ST. L.J. 935 (2019).

Inside the Arbitrator's Mind, 66 EMORY L.J. 1115 (2017) (with James Freda, et al.).

- *Featured and Discussed in* AMERICAN BAR ASSOCIATION, DISPUTE RESOLUTION MAGAZINE (Summer 2017), <http://bit.ly/2vmvAJS>.

Predicting Outcomes in Investment Treaty Arbitration, 65 DUKE L.J. 459 (2015) (with Lindsey Wylie).

- *Cited and Discussed in* Report of the Investment Treaty Working Group of the International Arbitration Committee of the American Bar Association Section on International Law (Oct. 2016), <http://bit.ly/2iqhyUh>.

The Diversity Challenge: Exploring the “Invisible College” of International Arbitration, 53 COLUM. J. TRANSNAT'L L. 429 (2015) (with James Freda, et al.).

- *Discussed and Quoted in* Christine Simmons, *Where Are the Women and Minorities in Global Dispute Resolution*, N.Y. L.J. (Oct. 7, 2016), <http://bit.ly/2hsODgH>.
- *Discussed in* Report of the Investment Treaty Working Group of the International Arbitration Committee of the American Bar Association Section on International Law (Oct. 2016), <http://bit.ly/2iqhyUh>.

Conflating Politics and Development in the Outcomes of Investment Treaty Disputes, 55 VA. J. INT'L L. 13 (2014).

- *Discussed and Quoted in* William Mauldin, *Dispute-Resolution Systems Fuels Criticism of Pacific Trade Pact*, WALL ST. J. (Mar. 2, 2015).

Using Investor-State Mediation Rules to Promote Conflict Management, 29 ICSID REV. 66 (2014).

- *Discussed and Quoted in* EUROPEAN UNION COMMISSION, INVESTOR-TO-STATE DISPUTE SETTLEMENT (ISDS): SOME FACTS AND FIGURES (Mar. 12, 2015), <http://bit.ly/18GkSEw>.

Rationalizing Costs in Investment Treaty Arbitration, 88 WASH. U. L. REV. 769 (2011).

Development and Outcomes of Investment Treaty Arbitration, 50 HARV. INT'L L.J. 436 (2009).

Empirically Evaluating Claims About Investment Treaty Arbitration, 80 N.C. L. REV. 1 (2007).

- *Reprinted in* AMERICAN CLASSICS IN INTERNATIONAL LAW: INTERNATIONAL INVESTMENT LAW (José E. Alvarez ed. 2017).
- *Cited in* Report of the U.S. Department of State's Advisory Committee on International Economic Policy Regarding the Model Bilateral Investment Treaty (Sept. 30, 2009).

International Decisions: Occidental Exploration and Production Company v. The Republic of Ecuador, 99 AM. J. INT'L L. 675 (2005).

The Legitimacy Crisis in Investment Treaty Arbitration: Privatizing Public International Law Through Inconsistent Decisions, 73 FORDHAM L. REV. 1521 (2005).

REPRESENTATIVE PRESENTATIONS

Hong Kong Ministry of Justice and United Nations Commission on International Trade Law, Forum for Further Preparatory Work on Investment Mediation, Hong Kong, China, May 2022, presented: “Key Considerations in the Design of Effective Investment Mediation Clauses and Rules.” (Presentation begins at 33:00, <https://aail.org/past-event-2022-05-uncitral-wgiii-forum/>.)

Center for Arbitration and Mediation of the Chamber of Commerce Brazil-Canada (CAM-CCBC), VIII CAM-CCBC Arbitration Congress, São Paulo, Brazil (via online conferencing platform), October 2021, presented: “Legitimacy of Arbitration: Is Winter Really Coming?”

University of St. Thomas School of Law, Minneapolis, MN, February 2020, presented Keynote Address: “The Past and Future of Investment Treaty Conflict and Dispute Systems Design.”

Georgetown University, Washington, DC, February 2019, moderated: “Treatment of Corruption Allegations in International Investment Arbitration.”

College of Commercial Arbitrators, CCA Annual Meeting, Atlanta, GA, October 2018. organized, moderated, and presented: “Access to Justice and Equality of Arms: New Frontiers for Domestic and International Arbitration?”

International Chamber of Commerce, 13th ICC New York Conference on International Arbitration, New York, September 2018, debated: “Arbitrator Appointment—Freedom of Choice vs. Assurance of Expertise.”

International Council for Commercial Arbitration, XXIV Congress, Sydney, Australia, April 2018, presented and moderated: “The Realities of Arbitration Economics: Who Gets to Play, and What are the Implications?”

■ *Discussed in* Tom Jones, *ICCA Congress Begins in Sydney*, GLOBAL ARBITRATION REVIEW (Apr. 16, 2018), <https://bit.ly/2lnLlNn>.

Institute for Transnational Arbitration and the American Society of International Law, Diversity and Inclusion in International Arbitration, Washington, DC, April 2018, commentary: “Lessons for Inclusion in International Arbitration.”

■ *Discussed in* Apoorva Patel, *Solving the Diversity Problem*, GLOBAL ARBITRATION REVIEW (May 18, 2018), <https://bit.ly/2s6TMm3>.

Fordham University Law School, Facing the Future in International Arbitration: Evolving Issues, Practices and Solutions, New York, NY, November 2017, organized, moderated, and speaker: “Emerging Expectations for Arbitrators? Duties, Accountability and Transparency.”

College of Commercial Arbitrators, CCA Annual Meeting, Minneapolis, MN, October 2017, presented: “Conflicts of Law, Attorney-Client Privilege, and Confidentiality in International Arbitration.”

American Arbitration Association, the International Centre for Dispute Resolution and Columbia Law School Conference: The Future of Arbitration—Challenges, Opportunities, and Expectations, New York, NY, May 2017, presented: “Getting the Facts Straight—Empirical Data Relating to Arbitration.”

McGill University, School of Law, John E.C. Brierley Memorial Lecture and Keynote Address, Montreal, Quebec, Canada, November 2016, presented: “International Arbitration: Between Myth and Reality.”

Trade Policy Forum, Washington, DC, June 2015, presented: “Predicting Outcomes in Investment Treaty Arbitration.”

University of Virginia, Crossing Borders: Rethinking International Development, Charlottesville, VA, February 2014, presented “Development and Investor-State Arbitration.”

British Institute of International and Comparative Law, The Economic and Financial Aspects of Investor-State Arbitration, London, United Kingdom, October 2013, presented: “Costs and Uncertainties of Investment Dispute Settlement”.

Arbitration Academy, Paris, France, July 2013, presented Lecture Series: “Empirically Assessing Investment Treaty Arbitration.”

Universität Hamburg, Institute of Law and Economics, Hamburg, Germany, February 2013, presented Keynote Address: “An Evidence Based Approach to International Investment Disputes.”

Seoul National University School of Law, Center for International Economic & Business Law at Seoul National University, Seoul, Korea, May 2012, presented “Investment Treaty Arbitration by the Numbers.”

French Commission on Arbitration, Paris, France, June 2010, presented: “Rationalizing Costs in Investment Treaty Arbitration.”

Washington & Lee Law School and United Nations Conference on Trade and Development, Joint Symposium on International Investment and ADR: Preventing and Managing Investment Treaty Conflict, Lexington, VA, March 2010.

- <https://www.youtube.com/watch?v=6XMzRS2vOXk>
- <https://www.youtube.com/watch?v=QSMt5KMAvK4>
- <https://www.youtube.com/watch?v=2vQtMVge-iM>
- <https://www.youtube.com/watch?v=TIpvtf7mGkk>
- <https://www.youtube.com/watch?v=ZWg4r-RQNRs>
- <https://www.youtube.com/watch?v=e12L4QbJ6s4>

University of Buenos Aires Faculty of Law, and the Government of Argentina’s Procuracion del Tesoro (Attorney General of the Treasury), Buenos Aires, Argentina, December 2009, presented “Legitimacy of Investment Arbitration: Empirical Assessments.”

Seoul National University School of Law, Ministry of Justice of the Republic of Korea and the Center for International Economic & Business Law at Seoul National University, Seoul, Korea, May 2009, presented “Empirical Assessments of Trends in Investment Treaty Arbitration.”

Columbia Law School, Symposium: Transparency and Consistency in International Investment Law, New York, NY, April 2006, presented: “Principal Challenges Arising from International Investment Disputes.”

International Law Weekend 2005, International Arbitrators: Civil Servants? *Sub Rosa* Advocates? Men of Affairs?, New York, NY, October 2005, presented: “The Role of International Arbitrators.”

MEMBERSHIPS

- American Bar Association
- American Society of International Law
- Chartered Institute of Arbitrators, A.C.I. Arb.
- Institute for Transnational Arbitration
- American Law Institute (elected)
- Arbitral Women
- London Court of International Arbitration

BAR ADMISSIONS

- Minnesota (1998, inactive)
- England and Wales (2001, inactive)
- District of Columbia (1999)

OTHER QUALIFICATIONS

Professional Association of Diving Instructors

- Rescue Diver (2018)
- Dive Master (2018)

LANGUAGE SKILLS AND CITIZENSHIP

- English (native speaker)
- German (conversational)
- Spanish (conversational)
- U.S.A. (citizen)