

9th Transnational Commercial Law Teachers' Meeting

2 and 3 November 2017



K O N I N K L I J K E N E D E R L A N D S E
A K A D E M I E V A N W E T E N S C H A P P E N



‘Transnational Commercial Law
and Natural Resources’

- speakers' CVs and abstracts -



Camilla Andersen

Camilla Baasch Andersen is Professor of International Commercial Law at the University of Western Australia. She is a Trade Law Expert for UNCITRAL and a member of the core group of the Pro-Active Think Tank. She has written extensively on the CISG, international commerce, pro-active approaches to law and comparative commercial law. She works closely with business, government and academia in pursuit of commercial law facilitating trade, recently in the context of her new project on Comic Book Contracting and the visualisation of law. She maintains her fellowship at the Institute of International Commercial Law at Pace Law School (New York) supporting the Kritzer Database.



Steven Bartels

Professor Steven Bartels is an expert on private law, especially in the field of the law of property and insolvency law. He is a member of the executive board of the Business and Law Research Centre. Bartels is a deputy-justice at the Court of Appeal in 's-Hertogenbosch and a member of the Asser advisory council. He is Dean of the Faculty of Law.



Benjamin von Bodungen

Benjamin von Bodungen studied law at the University of Heidelberg and completed his Master of Laws degree at the University of Auckland in New Zealand. From 2008 to 2012 he worked in the Frankfurt office of Freshfields Bruckhaus Deringer LLP, where he specialised in asset and structured finance. Following a stint as an in-house lawyer at the state-owned KfW Bank Group, Benjamin joined the German Graduate School of Management and Law in 2013 where he teaches German and international commercial and corporate law, finance and tax law. In addition, he is an Of Counsel in the Banking & Finance practice group of the international law firm Bird & Bird LLP in Frankfurt/Main. Benjamin specialises in cross-border financing, especially the financing of mobile equipment, such as aircraft, railway rolling stock and ships. He is a member of the management committee of the Rail Working Group which is pursuing the implementation of a protocol for the rail industry to the 2001 Cape Town Convention on International Interests in Mobile Equipment. Very recently, Benjamin served as a member of the study group that was tasked by UNIDROIT with the preparation of a draft protocol to the Cape Town Convention in relation to agricultural, construction and mining equipment. Benjamin's research and practice also encompasses national and international transport, traffic and logistics law.

Topic outline (joint presentation with Howard Rosen)

From the Luxembourg Rail Protocol to the draft MAC Protocol

Whilst the Luxembourg Rail Protocol can be expected to come into force during 2019, the subsequent protocol for mining, agricultural and construction equipment (MAC Protocol) has just been approved by government experts and will now be proceeding to a Diplomatic Conference. It has become customary that later protocols in the Cape Town family closely follow previous protocols to the extent this is feasible in light of the equipment categories dealt with. Therefore there is much for the MAC Protocol to learn from the Rail Protocol. Among other things, insolvency remedies, registration of notices of sale and the registrar's liability. After examination of this common ground between both legal texts the presentation goes on to highlight some of the major deviations from the Rail Protocol, which pertain to defining the scope of the MAC Protocol, identifying MAC equipment for the purposes of registration and coming to grips with the legal implications of its association with immovable property.



Ole Boeger

Ole Boeger (Dr. jur., Goettingen; LL.M., King's College London) is a Judge at the Hanseatic Court of Appeal in Bremen. Previously he has been a Research Associate at the University of Goettingen and the Max Planck Institute in Hamburg and a Legal Officer at UNIDROIT and at the Federal Ministry of Justice and for Consumer Protection in Berlin. Together with Professor Ulrich Drobnig, he was one of the principal draftsmen of the Principles on Proprietary Security in Movable Assets in Book IX of the European Draft Common Frame of Reference (DCFR). He was a member of the German delegations to the Study Group and the Committee of Governmental Experts on the draft UNIDROIT MAC Protocol.

Topic outline

A Possible Protocol to the Cape Town Convention on Renewable Energy Machinery

UNIDROIT is currently considering the feasibility of a new Protocol to the Cape Town Convention on International Interests in Mobile Equipment which would extend the regime of proprietary security under the Cape Town Convention system to renewable energy equipment. There is an enormous growth of the market for renewable energies worldwide which creates a significant need for investment. The availability of effective proprietary security rights for financiers of such investment, which is the hallmark of the regime of proprietary security under the Cape Town Convention system, could be expected to contribute to the facilitation of such investment in a similar way as the aircraft financing industry has benefitted from the reduction of the costs of credit that has already been achieved under the Aircraft Protocol to the Cape Town Convention. Moreover, the promotion of renewable energy and climate protection is an issue that lends itself to international cooperation which further strengthens the case for international legal harmonization in this area of law.

A Protocol on renewable energy equipment would, however, have to address a number of legal issues that are considerably different from the existing Protocols to the Cape Town Convention, for example difficulties of definition, a lack or at least a lower degree of mobility of the equipment and problems arising in relation to the application of national property law to off-shore developments and in relation to conflicts with immovable property law in on-shore projects. To some extent, it is probably possible to draw on the experience of the current development of the draft Protocol on Agricultural, Construction and Mining Equipment (MAC Protocol) to solve these issues; in other aspects, new legal solutions would need to be found in order for a Protocol on renewable energy equipment to become a success.



Hannah Buxbaum

Hannah L. Buxbaum holds a J.D. from Cornell Law School and an LL.M. from the University of Heidelberg, and is Professor of Law and John E. Schiller Chair at the Indiana University Maurer School of Law. She specializes in private international law and international litigation and jurisdiction. She has been a visiting professor at Humboldt University and the universities of Cologne, Kiel, and Erlangen-Nürnberg, and spent a year as an Alexander von Humboldt Research Fellow at the University of Cologne. In 2013, she delivered a course in the area of private international law at The Hague Academy of International Law. Professor Buxbaum is active in a number of professional and scholarly organizations, including the American Society of International Law, the American Society of Comparative Law, and the Association of American Law Schools. She has been elected to membership in the American Law Institute, where she currently serves as Adviser to the Restatement (Fourth) of Foreign Relations Law—Jurisdiction. She is a titular member of the International Academy of Comparative Law. Professor Buxbaum has held a number of administrative positions at the Maurer School of Law, and served for two years as interim dean. In 2015, Professor Buxbaum was appointed Academic Director of Indiana University’s Europe Gateway office, located in Berlin.

Topic outline

Sustainability Reporting and Securities Disclosure Regimes

The objective of a sustainable finance regime, stated broadly, is “to integrate sustainability considerations into [the] financial policy framework in order to mobilise finance for sustainable growth.” One of the pillars of such a regime is sustainability reporting, in which companies disclose information relating to the environmental and social impacts of their operations, as well as related risks. Most of the sustainability reporting frameworks in place today were designed by non-governmental organizations or multilateral institutions, and share two primary characteristics. First, they are voluntary rather than mandatory. Second, they require the disclosure of only non-financial information. Recent initiatives, however, aim to change one or both of those characteristics. For instance, the move toward “integrated reporting” seeks to combine non-financial and financial information in order better to capture the total economic value (and ability to create value long-term) of a corporation. And some governments have enacted laws mandating certain forms of non-financial disclosure by certain companies.

This paper focuses on one particular regulatory strategy, which is the attempt to integrate sustainability reporting requirements into the disclosure regimes established by national securities laws. Such a strategy can follow a number of different pathways, including (1) the enactment of free-standing provisions in securities laws requiring the disclosure of specific types of non-financial information, and (2) the expansion of existing financial disclosure requirements to cover sustainability issues. The paper surveys some of these efforts in the United States, Canada, the European Union, and elsewhere. It also looks at the role of non-governmental actors—including the Sustainability Accounting Standards Board and various task forces on climate-related financial disclosures—in supporting these regulatory developments. The paper then draws on theoretical accounts of transnational law formation to identify some of the obstacles that could impede these developments. They include a lack of alignment between securities regimes and the goals of sustainable finance, as well as cross-border conflicts in the area of corporate governance.



Frans von der Dunk

Professor Dr. Frans G. von der Dunk holds the Harvey and Susan Perlman Alumni / Othmer Chair of Space Law at the University of Nebraska-Lincoln's LL.M. Programme on Space, Cyber and Telecommunication Law since January 2008. He also is Director of Black Holes BV, Consultancy in space law and policy, based in Leiden, The Netherlands.

Topic outline

One Billion Dollar Questions? Legal Aspects of Commercial Space Activities

Currently, several serious companies in the United States are in the process of developing long-term missions to asteroids to harvest any resources. Other companies are getting close to flying manned missions on sub-orbital trajectories or even into low-earth orbits. Outer space, indeed, is more and more becoming a multi-billion dollar sector. At the same time, outer space is gradually becoming a more risky environment – so-called ‘space debris’ is increasingly becoming a worry for public and private space activities alike.

This raises major questions regarding the legal framework, which was developed initially in the 1960's and 1970's when commercial space activities were hardly on the horizon, yet until today remains the baseline for mitigating any negative or threatening aspects of the growing use of outer space. The present contribution aims to provide an overview of the general aspects of these questions, as well as of some of the current debates trying to develop the current legal framework in the right direction.



Jan van Dunné

Jan van Dunné (Dutch), born 1941, Jakarta, Indonesia (then: Netherlands East-Indies), after obtaining a PhD from Leiden University (1971) was Professor of Private Law, Commercial Law and Law of Civil Procedure at Erasmus University Rotterdam, since 1972 (retired, 2006). He is expert on Contract and Tort Law, Construction Law and Environmental Law, in a comparative law setting, and served as Part-time judge at the District Court Rotterdam from 1975 (retired). He was director of the Institute of Environmental Damage and Liability Law and the Institute of Legal Decision Making at Erasmus University since the 1980's; President Dutch Private Law Association, 1986-1994; Chairman Legal Committee, Council for Small and Medium Sized Enterprises, 1988-1999; and Membre titulaire of the International Academy of Comparative Law, IACL (Paris).

Jan acted as arbitrator under NAI (Netherlands Arbitration Institute, Rotterdam), TAMARA (Transport And Maritime Arbitration, Rotterdam-Amsterdam), and ICC, Paris, also as sole arbitrator, in major construction contract and wreck salvage disputes. He was also Adjudicator (under FIDIC) in wind park projects. He is frequently called as a legal expert in court procedures and arbitrations, e.g. in Chevron III, Washington D.C., 2014 (ICSID).

Topic outline

Liability Issues in Gas and Coal Mining for Damage Caused by Soil Subsidence, Earthquake and Subsoil Water Management under Dutch Law. Or: A Tale of Two Provinces, Groningen and Limburg

In 2003 a new Mining Law was enacted in The Netherlands, replacing the old Napoleonic Mining Law of 1810, which until recently also governed mining law in the neighbouring countries, Belgium and France. In the Low Countries, after the closure of coal mines in Limburg (Southern Netherlands) in the early 1970's, the mining industry found new fields of operation in mineral gas and salt mining, on a great scale. The Groningen gas field (Northern Netherlands), discovered in 1959, is of enormous dimensions, and will be exploited into the 2030's; it was followed by other important finds in Frisia and North-Holland, and also in between: the Wadden Sea.

The Dutch Mining Law of 2003 was already outdated at its enactment. At the most, by the introduction of strict liability, it is an update of the former Napoleonic Law of 1810, as it was applied in Belgium and France during the past century. The presumption of the causal connection, however, as accepted in German law (1982), U.K. law (1991, 1994) and in French law (1994, 1999, and before), was missing in the new Law. The same holds for state liability (the licence Authority being the Ministry of Economic Affairs), and furthermore, joint and several liability, area of responsibility, and other modern concepts found in several jurisdictions. The 2017 amendment of the Law, introduced only a partial reversal of the burden of proof as an answer to considerable opposition to the Law in society at large, including Parliament. The influence of the mining industry in the Dutch legislative process however was and still is conspicuous. Soil subsidence may have tremendous consequences for private parties, which in practice encounter great difficulties in obtaining compensation for damage to their property from mining concession holders. The potential danger to the environment at large, finally, in an area bordering on one of Europe's foremost Habitat grounds (the Wadden Sea), is too close for comfort.

Mining typically may cause soil subsidence problems. In The Netherlands that was the case, originally in the coal mining district in Limburg (Southern Netherlands) and currently also in the new gas and salt mining area's in the North of the country. In the province Groningen, after three decades gas mining has caused a soil subsidence of over 35 cm. Furthermore, earthquakes increasingly occur, and their relation to mining activities is no longer denied

9th Transnational Commercial Law Teachers' Meeting
‘Transnational Commercial Law and Natural Resources’
2 and 3 November 2017

by the industry, after some decades of stubborn negation (passing the 3.3 Richter Scale, the threshold of danger to property, in the late 1990's).

In this paper, the new Dutch Mining Law is analysed, as amended in 2017, concentrating on liability for damage caused by soil subsidence to private property and the environment. The analysis will be comparative, with special attention to modern French, German and U.K. mining law.

For a number of reasons, including tort liability (strict liability, combined with reversal of proof, as applied in Limburg since the 1920's), the conclusion is reached that the Dutch Mining Law of 2003 (2017) cannot serve as a specimen of successful legislation and an expression of modern draftsmanship, to be expected from the legislator in this field, where so much is at stake, not just for the mining industry, but for citizens as well. Presently, the liability of mine operators is better regulated outside of The Netherlands.



Pauline Ernste

Pauline Ernste is a lawyer (*advocaat*) with NautaDutilh. She practices litigation and arbitration, with a focus on both national and international arbitration. She is also involved in arbitration related court proceedings in The Netherlands.

Pauline graduated from Radboud University Nijmegen in 2006. She holds a Masters' degree in Dutch Private Law and Dutch Criminal Law. In 2012, Pauline obtained her Doctorate at Radboud University Nijmegen with a thesis on binding third-party ruling ("bindend advies").

Alongside her legal practice, Pauline is fellow at the Business & Law Research Center of the Radboud University Nijmegen. She frequently publishes on topics in the field of litigation and alternative dispute resolution. Pauline is editor of TCR (*Tijdschrift Civiele Rechtspleging*), which is the Netherlands leading journal on litigation. In addition, Pauline regularly lectures to fellow legal practitioners and university students.

Pauline is admitted to the Rotterdam Bar (2015) and is a member of the Netherlands Arbitration Institute association for Young Arbitration Practitioners ("NAI Jong Oranje") and the Dutch Association for Procedural Law ("Nederlandse Vereniging voor Procesrecht").

Topic outline (joint presentation with Gerard Meijer)

Arbitration and Energy

The energy sector is a rapidly evolving and complex industry consisting of large capital investments and numerous long-term contracts. International arbitration has emerged as a particularly suitable method for resolving complex energy disputes. On the one hand, investment arbitration is used in investment disputes under the Energy Charter Treaty (the "ECT") and Bilateral Investment Treaty ("BIT"). Recently, different countries have embraced the use of renewable energy sources, e.g., solar and wind energy and a number of disputes have arisen regarding these new energy sources. For example, Nextera, a US energy company and investor in the Spanish solar power plant Termosol has commenced arbitration proceedings under the rules of the International Centre for Settlement of Investment Disputes (ICSID) on the basis of the ECT in order to demand redress resulting from the roll back on promises and cutting back subsidies enjoyed by the investor. Not only renewable energy sources lead to investment disputes under the ECT or a BIT. Over the years, a number of investment disputes have also arisen regarding, e.g., oil concessions, leading to ECT and BIT arbitrations. On the other hand, commercial arbitration is used to resolve disputes regarding, e.g., long-term energy contracts. For a number of years, gas price review disputes, whereby a party seeks to have the gas price under a long-term gas sales agreement adjusted, have been settled through commercial arbitration. The question that will be discussed during our presentation is for which kinds of disputes regarding energy arbitration is used in practice and whether arbitration is indeed a suitable method for resolving complex energy disputes.



Henry Gabriel

Henry Gabriel, is a Professor of Law at Elon University and formerly the DeVan Daggett Professor of Law at Loyola University, New Orleans. He has served three terms as a member of the UNIDROIT Governing Council, was a member of the Working Group and Chair of the Editorial Board of the UNIDROIT Principles of International Commercial Contracts, and Chair of the UNIDROIT Working Group on the Legal Guide to Contract Farming. He has served as United States delegate to the United Nations Commission on International Trade Law for over a decade working with both the Working Group on Electronic Commerce as well as the Working Group on Transport Law. He is elected member of the American Law Institute, a Fellow of the European Law Institute, a Fellow of the Chartered Institute of Arbitrators, and a life member of the American Uniform Law Commission. He was the reporter for the revision of the Sales and Leases Articles of the American Uniform Commercial Code and the Chair of the Revisions of the Uniform Commercial Code Article on Documents of Title. He is the author of ten books and over 60 articles.

Topic outline

UNIDROIT's Work in Contract Farming and Land Investments in the Broader Context of Agricultural Development and Food Security

In 2011, the Governing Council of UNIDROIT approved a long-term project in collaboration with other international organizations to undertake a series of projects on agricultural development and food security. These joint projects are designed to tap into UNIDROIT's expertise in private international commercial law with the particular expertise that the other organizations have with agricultural development and food security. The first project, jointly undertaken with the United Nations Food and Agricultural Organization and the International Fund for Agricultural Development resulted in the Legal Guide on Contract Farming that was adopted in 2015. The current UNIDROIT project in this overall project of food security and agricultural development is a Legal Guide on Land Investment Contracts. My paper will examine the past, current and future work of UNIDROIT in food security and how this work may serve as a model for the merging of private international law with broader concerns of economic and social development.



Roy Goode

Professor Sir Roy Goode CBE QC FBA is Emeritus Professor of Law in the University of Oxford and Emeritus Fellow of St John's College, Oxford. He was the founder and first director of the Centre for Commercial Law Studies at Queen Mary, University of London, now the largest such Centre in Europe and one of the largest in the world. The author of many widely used textbooks in the field of commercial law, Roy Goode, a former solicitor, moved to the Bar in 1988 and was appointed Queen's Counsel two years later. He is an Honorary Bencher of the Inner Temple. He was awarded the CBE in 1993 and was knighted in 2000 for his services to academic law. His works continue to be widely cited by and to the courts from the House of Lords/Supreme Court downwards. A Fellow of the British Academy, Roy Goode holds the degrees of LLD (Lond.) and DCL (Oxon), as well as honorary doctorates from the Universities of London and East Anglia and from the College of Law (now the University of Law). Roy Goode has played a leading role in the development and conclusion of a number of international Conventions and Protocols initiated by the International Institute for the Unification of private Law (UNIDROIT), and is the author of the three Official Commentaries on the Cape Town Convention on International Interests in Mobile Equipment and its associated Protocols on aircraft objects, railway rolling stock and space assets.



Louise Gullifer

Professor Louise Gullifer is Professor of Commercial Law at the University of Oxford and was elected to a Fellowship at Harris Manchester College in 2000. She holds one of the temporary chairs of the Business and Law Research Centre, International Commercial Law, at Radboud University, Nijmegen. She is the director of the Commercial Law Centre at Harris Manchester College and executive director of the Secured Transaction Law Reform Project, as well as the Oxford academic lead of the Cape Town Convention Academic Project, and one of the UK delegates to both UNCITRAL (working group VI) and UNIDROIT.

Topic outline

The UNCITRAL Model Law on Secured Transactions

The UNCITRAL Model Law was adopted in July 2016 by the Commission, and the Guide to Enactment was adopted in July 2017. This presentation considers the purposes of the Model Law, and how it may fulfil these. In particular, it considers the arguments for and against harmonization of the law in the area of secured transactions, the choice of instruments available, the implementation process and how the Model Law may best serve the aim of increasing access to and decreasing the cost of credit.



Athanassios Kaissis

Athanassios Kaissis is Professor Dr. em. at the Law Faculty of Aristotle University of Thessaloniki and Member of the Governing Board of the International Hellenic University. He is international arbitrator and practicing litigator and legal advisor, Scientific Director of the “LLM in Transnational and European Commercial Law, Banking Law, Arbitration / Mediation”, and Corresponding Fellow of the Institute for Foreign Law, International Law, Comparative Law, Conflicts of Law and International Business Law at the University of Heidelberg.



Thomas Keijser

Dr Thomas Keijser is Senior Researcher at the Business and Law Research Center of the Radboud University and Visiting Professor at the EBS Universität für Wirtschaft und Recht (Germany) and the International Hellenic University (Greece). From 2007-2012, he was primary responsible for the Geneva Securities Convention as Senior Officer, later Consultant, at UNIDROIT. He is one of the initial authors and co-editor of the Official Commentary on the Geneva Securities Convention (OUP, 2012), edited Transnational Securities Law (OUP, 2014), and contributed to the second edition of Transnational Commercial Law (OUP, 2015). Keijser was a member of the expert group that elaborated the UNIDROIT Legislative Guide on Intermediated Securities (forthcoming). He practised as a lawyer (*advocaat*) for seven years. Keijser co-organized several international conferences, and was visiting faculty at universities in Chile, Germany, Greece, Japan, the Netherlands, the Russian Federation, Spain, and the United States of America.



Herbert Kronke

Herbert Kronke, Emeritus Professor at Heidelberg University, Heidelberg (Germany), and Judge at the Iran-United States Claims Tribunal, The Hague (The Netherlands), served as Secretary-General of UNIDROIT from 1998 to 2008. Among some 200 books and articles on contract law, commercial law, company law, financial services law, civil procedure and arbitration there are 'Transnational Commercial Law – Text, Cases, and Materials', Oxford University Press, 2d ed 2015 (with Roy Goode and Ewan McKendrick) and 'Handbuch Internationales Wirtschaftsrecht', Otto Schmidt Verlag, Cologne, 2d ed 2017 (editors Herbert Kronke, Werner Melis, Hans Kuhn).



Vesna Lazić

Vesna Lazić is Associate Professor of International Commercial Arbitration at Utrecht University and a member of the staff at the T.M.C. Asser Institute in The Hague. In 2013 she was appointed Professor of European Civil Procedure at the University of Rijeka. Private international law, international dispute settlement, especially international commercial arbitration and international litigation, insolvency and commercial law are the fields of her particular interest and expertise. Her lectures and publications are particularly focused on the private international law instruments applicable within the EU Member States.

Topic outline

Enforcement of Annulled Arbitral Awards: the Pemex and Yukos Cases

This presentation analyzes the approaches followed in recent cases in the Netherlands and the USA concerning the enforcement of arbitral awards that had been annulled in the country where rendered. The line of reasoning in both legal systems differs from the widely known French approach. According to the latter, an annulled arbitral award may be enforced in France in reliance on national (French) law on enforcement as a law more favourable than the 1958 New York Convention. It has appeared that this approach is difficult to be 'exported' to other jurisdictions, in the absence of a legal framework similar to the French one. Recent cases in the Netherlands (Yukos) and USA (Pemex) differ from the line of reasoning of the French Supreme Court. They develop the idea of scrutinising the judgment which set aside the award so as to ignore the effects of the annulment in certain circumstances. Even though there are certain common denominators, there are substantial differences between the line of reasoning of the courts in the USA and the Netherlands. For the sake of legal certainty and predictability in arbitration it is crucial to develop certain guidelines and provide recommendations regarding the possibility/desirability of enforcing arbitral awards annulled in the country of origin.



Hans van Loon

Born Utrecht, the Netherlands. Studied law and sociology at the University of Utrecht (1966-1971), and international law and international relations at the University of Leyden (1971-1972) and the Graduate Institute of International Studies, Geneva (1972-1973). Traineeship with the Commission of Human Rights of the Council of Europe (1973).

Practiced law before the Supreme Court of the Netherlands (1974-1978; with Blackstone Rueb & Van Boeschoten, now DeBrauwBlackstoneWestbroek) and appeared before the European Commission and Court of Human Rights (1977, 1978). Deputy judge District Court, The Hague (1984-1996).

Secretary (1978-1996) of the Netherlands Standing Government Committee for the Codification of Private International Law; laid the groundwork for the codification of PIL in Book 10 Dutch Civil Code.

Joined the Permanent Bureau of the Hague Conference on Private International Law, 1978. Secretary General of the Conference, 1996–2013. Contributed to the development of over a dozen Conventions by the Conference.

Elected member of the European Group of Private International Law (since 1991); honorary member of the Asociación Americana de Derecho Internacional Privado (since 2007); elected member of the Institut de Droit International (2013; Associate since 2009).

Honorary Secretary (1977-1986) and member (1977-1992), Executive Board of the Netherlands Association of International Law. Rapporteur International Law Association (1988, 1990).

Has lectured worldwide, including at the Hague Academy of International Law (2015 inaugural lecture on “The Global Horizon of Private International Law”); Indian Law Society (2015); Xiamen Academy of International Law (2014); Organisation of American States Course on International Law, Rio de Janeiro (2005); (co-)organized numerous scientific colloquia with academic institutions, governments and international organizations. Has widely published on various topics of (private) international law.

Expert-consultant to several Governments and international organizations concerning international legal cooperation, in particular on the implementation of Hague Conventions.

Doctor honoris causa, University of Osnabrück, Germany (2001).

Topic outline

Principles and Building Blocks for a Global Legal Framework for Civil Litigation in Environmental Matters

The paper discusses some aspects of the role of transnational private law in influencing human conduct affecting the environment and indeed the planet's climate. It suggests that contestation through private law and private

international law (PIL) is of increasing importance as a means of giving practical effect to the – often abstract – principles and rules adopted at global or regional levels aimed at regulating the environmental impact of human activity.

Civil litigation in environmental matters will often extend beyond national borders. In the case of localized environmental damage, this may occur either because the harm and the event causing it are located in different States, or because legal action over environmental harm allegedly caused by a transnational company, its subsidiary or contractors, in a host State is taken in the courts of the company's home State (or a third State). In either case, litigants may face legal hurdles, in particular regarding the jurisdiction of national courts and the applicable law.

Civil litigation concerning greenhouse gas (GHG) emissions with global effects has, so far, mainly taken the form of domestic lawsuits, especially when directed against the central or local government. Despite their domestic appearance, however, such lawsuits have an inherently transnational dimension, since under the applicable domestic laws, interests of persons abroad may be represented in the proceedings, and public international (including EU) law may impact on the ruling. Domestic conceptions and rules on access to justice, on the effect of international law on domestic law, and on the role of the court, are thus crucial factors in determining the extent of this transnational dimension.

If, as in the Dutch Urgenda case, the government is ordered to reduce GHG emissions, companies will not necessarily be (directly) affected. But already there are examples of cases directed against companies (e.g. the German case of *Lliuya/RWE*), or mixed forms, directed both against the government and companies (such as the Oregon case of *Juliana v. U.S.*). Indeed, it seems likely that companies will become increasingly targeted in GHG emission cases. In so far as such companies are foreign-based, issues similar to those relating to localized environmental damage will arise.

Currently no global legal framework exists that deals with these PIL aspects of litigation on environmental damage and climate change. The draft Hague Convention on enforcement of judgments only tangentially deals with the problem. So, is it possible, building on the “patterns” emerging from existing global and regional principles and rules, and developing case law, to identify at least a number of “building blocks” for such a global legal framework?



Marc Loth

Marc Loth (1956) is Professor of Private Law at Tilburg University. Before he was justice at the Supreme Court of the Netherlands en Professor of Jurisprudence and Dean at Erasmus School of Law.

Topic outline

Too Big to Trial? Lessons from the Urgenda Case

The Urgenda-ruling sustains – for the first time in history – a climate change liability claim. Therefore it raised international support, but there is opposition as well. The objections rest on the observation that climate change somehow seems too big to trial. This raises many questions, some of which will be addressed in this paper. What are the key issues in tort law? What does the Urgenda-ruling mean for our current legitimations in private law? And what conclusions can be drawn for the relation between political decision-making by the Government and the Judiciary? In researching the lessons learned from the Urgenda-ruling we have to rethink the purpose of tort law adjudication in society at large.



Anna Marhold

Anna Marhold is Assistant Professor and Senior Researcher at the Tilburg Law and Economics Center (TILEC), a Centre of Excellence at Tilburg University in the Netherlands, where she researches and teaches on various topics of international and European law. Her main research interests lie at the intersection of international economic law, energy and environmental regulation. Anna is also a Fellow at the newly established Cambridge University-based C-EENRG Platform on Global Energy Governance and spent the Summer of 2017 as invited faculty teaching at Vermont Law School, the leading Environmental Law Programme in the United States. Anna regularly publishes her work in various academic outlets, presents at international conferences and provides policy advice to international think tanks on a regular basis (e.g., the International Centre for Trade and Sustainable Development (ICTSD), the Clingendael Institute). Her monograph, titled *Energy in International Trade: Concepts, Regulation and Changing Markets*, is forthcoming with Cambridge University Press (2018).

Anna obtained a PhD in Law at the European University Institute (EUI) in Florence. During her PhD, she was an EU-US Fulbright Schuman Grantee and Visiting Scholar at NYU School of Law. Additionally, she was a Marie Curie Early Research Fellow in the Framework of DISSETTLE, Dispute Settlement in Trade Law and Economics at the Graduate Institute in Geneva. Anna holds parallel degrees in Law (LLB, LLM) and Russian (BA, MA) from the University of Amsterdam.

Topic outline

Dispute Resolution Mechanisms and the Role of the Industry in European Regulatory Agencies for Energy: A Comparative Perspective

The creation of a well-functioning European internal energy market and an interconnected, sustainable and secure Energy Union requires major coordination, harmonization and standardization efforts. These efforts are by definition multifaceted in nature and involve a variety of actors: representatives from government, national regulatory agencies, the industry and stakeholder organisations from EU Member States and countries of the European Neighbourhood.

At the centre of these efforts we find a plethora of agencies and organisations relevant for energy, such as the European Network of Transmission System Operators for Electricity (ENSTOE), European Network of Transmission System Operators for Gas (ENTSOG), the Agency for the Cooperation of Energy Regulators (ACER), the Council of European Energy Regulators (CEER), the Energy Community and the Energy Charter framework.

The above-mentioned agencies vary in their setup, representation and objective. Considering their multi-dimensional nature, this contribution will critically assess their role in settling disputes in the energy sector. Additionally, the contribution aims to explore the influence of the energy industry on the creation of rules within the framework of these organisations and thereby its influence on designing the EU internal energy market.



Gerard Meijer

Gerard J. Meijer is a partner with NautaDutilh. He specialises in both arbitration and litigation. Gerard acts as counsel to Dutch, foreign, and multi-national corporations, as well as to governmental bodies, in high value matters in a variety of disputes. In addition, Gerard is involved in high profile arbitration associated court litigation, such as the enforcement of arbitral awards, the setting aside of arbitral awards, and interim measures in support of arbitral proceedings. Gerard also frequently sits as arbitrator.

Gerard graduated from Erasmus University in Rotterdam in 1990. He was admitted to the Amsterdam Bar in 2000 and joined NautaDutilh laterally as a partner, heading the Arbitration Practice, on 1 September 2006. He obtained his PhD degree in 2008.

Gerard is also Professor of Arbitration & Dispute Resolution at the Erasmus University in Rotterdam and secretary general at P.R.I.M.E. Finance, the global arbitration institute for the financial markets, and he is a member of the Advisory Board of the Netherlands Arbitration Institute and of the Arbitration Commission of the International Chamber of Commerce (ICC).

Topic outline (joint presentation with Pauline Ernste)

Arbitration and Energy

The energy sector is a rapidly evolving and complex industry consisting of large capital investments and numerous long-term contracts. International arbitration has emerged as a particularly suitable method for resolving complex energy disputes. On the one hand, investment arbitration is used in investment disputes under the Energy Charter Treaty (the "ECT") and Bilateral Investment Treaty ("BIT"). Recently, different countries have embraced the use of renewable energy sources, e.g., solar and wind energy and a number of disputes have arisen regarding these new energy sources. For example, Nextera, a US energy company and investor in the Spanish solar power plant Termosol has commenced arbitration proceedings under the rules of the International Centre for Settlement of Investment Disputes (ICSID) on the basis of the ECT in order to demand redress resulting from the roll back on promises and cutting back subsidies enjoyed by the investor. Not only renewable energy sources lead to investment disputes under the ECT or a BIT. Over the years, a number of investment disputes have also arisen regarding, e.g., oil concessions, leading to ECT and BIT arbitrations. On the other hand, commercial arbitration is used to resolve disputes regarding, e.g., long-term energy contracts. For a number of years, gas price review disputes, whereby a party seeks to have the gas price under a long-term gas sales agreement adjusted, have been settled through commercial arbitration. The question that will be discussed during our presentation is for which kinds of disputes regarding energy arbitration is used in practice and whether arbitration is indeed a suitable method for resolving complex energy disputes.



Charles Mooney

Charles Mooney Jr. is a leading legal scholar in the fields of commercial law and bankruptcy law. His book *Security Interests in Personal Property* (with S. Harris, Foundation Press, 2d ed. 1992; Supp. 1999; 3d ed. 2000; 4th ed. 2006; 5th ed. 2011; 6th ed. 2015) is a widely adopted text used in law schools around the United States. Mooney was honored for his contributions to the uniform law process by the Oklahoma City School of Law and was awarded the Distinguished Service Award by the American College of Commercial Finance Lawyers. He also served as U.S. Delegate at the Diplomatic Conference for the Cape Town Convention on International Interests in Mobile Equipment and the Aircraft Protocol and is involved in the current work on the Mining Agriculture and Construction equipment (MAC) Protocol to that Convention. He was a U.S. Delegate at the Diplomatic Conference for the UNIDROIT (Geneva) Convention on Intermediated Securities and at UNCITRAL work on the Model Law on Secured Transactions. Mooney also served as a Co-Reporter for the Drafting Committee for the Revision of UCC Article 9 (Secured Transactions), as the ABA Liaison-Advisor to the Permanent Editorial Board for the UCC, and as a member of Council and Chair of the Committee on UCC of the ABA Business Law Section.

Topic outline

Beyond Intermediation as We Know It: Something Old (Direct Holding) and Something New (Distributed Ledger Technology) for Financial Market Infrastructures for Intermediated Securities

This paper provides a modern critique of intermediated securities holding systems under domestic law and in the context of cross-border holding patterns. It argues that modern systems of information technology can play an important role in overcoming flaws, excessive risk, and inflexibility under current legal regimes and market structures. In particular it proposes a new platform for reducing risks in intermediated holding systems that would incorporate distributed ledger (i.e., blockchain) technology and connect all relevant stakeholders in one system at the end of a settlement cycle.



Tedd Moya Mose

Tedd Moya Mose is the inaugural PhD candidate of the Energy and Natural Resources Institute at Queen Mary University of London (QMUL). He was awarded a studentship for doctoral studies in international energy law upon completion of an LLM in Energy and Natural Resources Law at Queen Mary in 2016 where he also served as the course representative for the LLM.

Tedd also assisted in the EU Horizon 2020 research project on carbon capture and storage (CCS). His current research interests are inter-disciplinary work on international energy law, sustainable development and the role of technology in shaping the energy industry and a low-carbon energy future.

Prior to joining to QMUL, Tedd worked for a decade as a lawyer in Kenya advising on energy, natural resources, corporate and commercial law, environmental law, administrative law and dispute resolution.

Topic outline

International Financing of Renewable Energy

The aim of the presentation is to explore the role financing of energy projects plays in striking a global balance between building infrastructural capacity and environmental sustainability. A short highlight of the Energy Trilemma (the conflict between energy security, economic development and environmental protection) sets the scene for evaluation of various elements of the sustainable energy infrastructure challenge. These trifocal concerns and their interaction with financing of renewable energy projects are addressed as follows:

(1) The presentation highlights the need to build new infrastructure but not with the old fossil fuel configurations that dominate the global energy market. Specifically, what is the role of energy finance and technology in developing renewable energy infrastructure 'beyond the grid'? (2) The presentation underscores the importance of building the right international frameworks and institutions in governing local energy resources as a key element of sustainable renewable energy projects. Thus, enhanced cooperation between states, non-state actors and private entities is highlighted. (3) The transnational regulatory gap in expansion and management of energy infrastructure, especially in developing countries, is examined. The presentation proposes the consideration of energy justice concerns throughout the energy life cycle as well as development of international, regional and national energy law and planning regimes.



Caslav Pejovic

Caslav Pejovic is Professor of Law at the Faculty of Law, Kyushu University. Prior to joining Kyushu University in 1997, he was an Associate Professor at the University of Montenegro. He has an LL.B. degree from the University of Montenegro, LL.M. degree from the University of Belgrade and from Kyoto University, and Ph.D. degree from Zagreb University. His teaching and research interests include maritime law, comparative law, commercial law, international business law and foreign investment law. He is a member of a number of international academic and professional associations, such as the International Academy of Comparative Law (IACL), the International Academy of Commercial and Consumers Law (IACCL), the Asian Law and Society Association (ALSA), and the Japanese Association of Maritime Law. He also served as arbitrator of the ICC Arbitration.





Teresa Rodríguez de las Heras Ballell

Teresa Rodríguez de las Heras Ballell is Associate Professor of Commercial Law at University Carlos III of Madrid. She studied Law and Business Administration (with honors), and she is Doctor in Law. She has been James J. Coleman Sr. Distinguished Visiting Professor of Law at Tulane University Law School, Visiting Fellow at Harris Manchester College, Oxford University, fellow at Stanford Law School TTLF and Marie Curie Fellow at the Centre of European Law and Politics (ZERP) of the University of Bremen, among other visiting professorships and fellowships. She also held other visiting teaching or research positions at a number of prestigious universities and research centres such as Columbia University Law School, University of Washington, University of Tokyo and University College of London. Her main research interests focus on digital law (crowdfunding, shared economy, electronic platforms, digital intermediaries), international business transactions and secured transactions and corporate finance. Dr. Rodríguez de las Heras is, inter alia, Arbitrator at the Madrid Court of Arbitration, member of the Spanish Advertising Standards Tribunal (Autocontrol), member of the UNIDROIT Study Group on the elaboration of a Fourth Protocol for the Cape Town Convention on international security interests (MAC Protocol), member of the Aviation Working Group (AWG)'s Spanish Contact Group for work relating to the Cape Town Convention and its Aircraft Protocol for the implementation in Spain, member of the Rail Working Group relating to adoption and implementation of the 2007 Luxembourg Protocol to the Cape Town Convention on matters relating to railway rolling stock, Spanish Delegate before UNIDROIT at the Expert Governmental Committee on the MAC Protocol, representative of ASADIP and CEDEP at UNCITRAL Working Group VI on Security Interests. She is a Project Member of the ELI (European Law Institute) Project for EU Model Rules (Draft Directive) on Online Intermediary Platforms; member of the Common Core Project on "Immoral Contracts"; Vice-President of the International Working Group on "New Technologies" at the *Association Internationale de Droit des Assurances* (AIDA), and legal adviser to national and regional governments in the drafting of new legislation on electronic commerce, digital space, trust services providers and privacy protection.

Topic outline

Complexities Arising from the Expansion of the Cape Town System Philosophy to Other Sectors: The MAC Protocol's Innovative Solutions and Future Protocols' Challenges

1.- Premise: Foundational basis of the Cape Town system and sector-specific asset characteristics

The formulation of Cape Town Convention (CTC) solutions and the understanding of its principles and key concepts are appreciably influenced by the sector-specific characteristics of the assets covered by the original Protocols, primarily, the Aircraft Protocol. Hence, the triadic set of criteria delimiting the material scope (mobility, high-value, unique identifiability) are visibly construed from the perspective of these attributes in aircraft equipment. Thus, the CTC and the Aircraft Protocol together form a very consistent and solidly integrated compound.

2.- Evolution: The adoption of the Luxembourg Protocol and the Space Protocol

The subsequent preparation of the Luxembourg Protocol regarding railway rolling stock as well as the Space Protocol did already require the devising of some specific solutions suitable for these industries. Sector-specific rules have been indeed adopted to meet market needs and align with financing practices in each industry.

3.- Expansion: CTC expansive force and MAC Protocol Innovative Solutions

The new project to expand the Cape Town system to categories of objects other than those initially listed under Article 2.3 of the Cape Town Convention, as permitted by Article 51 of the Cape Town Convention, has led to the elaboration of a fourth Protocol to the Cape Town Convention on matters specific to mining, agricultural and construction equipment (MAC Protocol). The CTC system has proved a powerful expansive force, although some challenging complexities arise from such an expansion that require careful attention and innovative solutions.

In particular, challenges have been essentially focused on two main areas: delimitation of the scope and possible association to immovable property. On the one hand, from the beginning of the project and throughout its development, concerns were constantly raised in relation to the delimitation of the scope, that seemed to be vague and too broad, and the proper fulfilment of the three criteria under Article 51 (mobility, high value, unique identification) by mining, agricultural and constructions equipment. The MAC Protocol has deployed innovative and very particular solutions to define the scope and control ulterior modifications. On the other hand, mining, agricultural and construction equipment are likely to be located, placed, installed, operating on, or attached, affixed or otherwise associated to immovable property. Consequently, conflicts can arise and rules should be formulated to govern the creation and the continuation of security rights in equipment that is or becomes associated to immovable property, the effectiveness and the priority. The MAC Protocol deals with immovable-associated equipment and provides rules to solve possible conflicts.



Howard Rosen

Howard Rosen studied law at Exeter College, Oxford University, and graduated with a degree in Jurisprudence in 1977. After qualifying as an English solicitor in 1980, he worked as in-house counsel for international leasing companies before, at the beginning of 1989, setting up his own law firm in Zug, Switzerland where he specialises in international commercial and finance law, international leasing law and trusts. Howard is Chairman of the Rail Working Group established by UNIDROIT, the International Institute for the Unification of Private Law and has been closely involved in the drafting and implementation of the 2007 Luxembourg Rail Protocol to the Cape Town Convention on International Interests in Mobile Equipment. As such he works closely with governments and international organisations, as well as with financiers, operators, manufacturers and professional advisers in the rail industry. Howard is a frequent contributor to many journals and regularly chairs and speaks at international rail conferences.

Topic outline (joint presentation with Benjamin von Bodungen)

From the Luxembourg Rail Protocol to the draft MAC Protocol

Whilst the Luxembourg Rail Protocol can be expected to come into force during 2019, the subsequent protocol for mining, agricultural and construction equipment (MAC Protocol) has just been approved by government experts and will now be proceeding to a Diplomatic Conference. It has become customary that later protocols in the Cape Town family closely follow previous protocols to the extent this is feasible in light of the equipment categories dealt with. Therefore there is much for the MAC Protocol to learn from the Rail Protocol. Among other things, insolvency remedies, registration of notices of sale and the registrar's liability. After examination of this common ground between both legal texts the presentation goes on to highlight some of the major deviations from the Rail Protocol, which pertain to defining the scope of the MAC Protocol, identifying MAC equipment for the purposes of registration and coming to grips with the legal implications of its association with immovable property.



Jaap Spier

Graduated at Erasmus University (Rotterdam) 1973;
Attorney at the Bar of Rotterdam until 1977;
Lecturer of private law at Leyden University (1977 – 1981);
PhD (Doctor iuris) Leyden University 1981 (topic: *Overeenkomsten met de overheid*);
Company lawyer, Unilever NV (1982 – 1989);
Professor of private and commercial law, Tilburg University (1989 – 1999; after appointment in the Supreme Court part time);
Advocate-General in the Supreme Court of The Netherlands (as from 1997);
Honorary professor at Maastricht University (as from 1999; emeritus as from March 4, 2016);
Extraordinary Professor University of Stellenbosch (as from 1 July 2016);
Founder and honorary President of the European Group on Tort Law;
Co-founder (with Professor Thomas Pogge) of an expert group working on climate change principles (this group has issued the Oslo Principles; I served as rapporteur) and its successor on reduction obligations of enterprises;
Fellow of Stias (research institute attached to the University of Stellenbosch) for two subsequent years;
Fellow of ECTIL (European Institute for Tort and Insurance Law), Vienna (Austria);
Senior fellow Global Justice Program, Yale;
Author and (co-)editor of 25 books and hundreds of articles and case notes on tort law, insurance law and private law; since 2000 primarily on issues in the realm of sustainable development and climate change.

Topic outline

Enterprises Principles: a Follow-up to the Oslo Climate Change Principles for Enterprises and Investors

If we ignore the current US government (a hopeless case anyway) it is almost commonly accepted that unabated climate change poses a significant threat to humankind, the environment and the economy. Political and business leaders do not cease to emphasise the urgent need to take far-reaching steps to curb GHG emissions, whilst they also stress that much more must be done. Reality is different; the pledges made under the Paris Agreement fall considerably short. In the unlikely scenario that all countries honour their pledges we can keep global warming below 2,7 degrees C at best. Hence, much more is needed.

We must accept that states, enterprises and major investors have legal obligations in the face of climate change. The Oslo Principles and the subsequent Enterprises Principles aim to discern these.

My contribution will explore the challenges our groups faced, the obstacles to be removed and finally the key features of both sets of principles.



Hector Tsamis

Born in Thessaloniki, Hector Tsamis is currently a trainee lawyer at Panagiotis Akritidis & Partners Law Office as well as a postgraduate law student at the LL.M. programme on Transnational and European Commercial Law, Arbitration, Mediation and Energy Law at the International Hellenic University (IHU) in Thessaloniki, Greece. He concluded his undergraduate studies in law at the Aristotle University of Thessaloniki in September 2016, after spending a year in Brussels, Belgium, at the headquarters of the European Law Students' Association (ELSA), serving as the Secretary General of its International Board elected by its member countries across Europe, a placement which was funded by the Erasmus+ programme. Since May 2017, he holds the position of elected Vice President of the Committee of Trainee Lawyers of the Young Bar Association of Thessaloniki. He is fluent in Greek, English and French, an intermediate user of Italian and an elementary speaker of Mandarin Chinese. He is interested in legal, commercial, banking and financial matters and wishes to pursue further education on and be employed in a related field.

Topic outline

Legal and Regulatory Approaches towards Sustainable Finance

Committed to implementing the provisions of the 2016 Paris Agreement on Climate Change, adjusting its policies to the goals of the UN 2030 Agenda for Sustainable Development, and achieving viable and enduring financial stability across the EU in the context of its Capital Markets Union Action Plan, the European Union has taken the opportunity of being the driving force of the global transition towards sustainable finance. This objective entails the incorporation of environmental, social and governance considerations in financial planning, decision-making and investing. For this reason, in December 2016, the European Commission established the High-Level Expert Group on Sustainable Finance, which is comprised of senior experts from civil society, the financial sector and the academic community, while the contribution of observers from European and international institutions was deemed beneficial.

In July 2017, dedicated to its mandate of creating a comprehensive EU strategy on sustainable finance, the Group issued its Interim Report, while launching at the same time a period for public consultation and feedback. The opinions collected will be taken into account in the preparations of the Final Report to be published in December 2017. This is, therefore, the appropriate time to consider the main points the Interim Report addresses, understand the specific objective of the European Union regarding the hardwiring of sustainability into the EU financial policy, identify the barriers of the project, comment on the early recommendations on necessary legal and regulatory changes and conclude with the expression of aspirations for the Final Report. Special attention will be given to the environmental aspect of the topic and the development of a green economy in the European Union.



Anna Veneziano

Anna Veneziano, Secretary-General a.i. of UNIDROIT, is a Professor of Comparative Law in Italy (University of Teramo – on leave) and is affiliated to the University of Amsterdam (UvA), in The Netherlands as Professor of European Property Law. Her main teaching, research and publication areas include international, comparative and European secured transactions and contract and sales law.



Matthias Weller

Matthias Weller, Vice Dean, holds the Chair of Civil Law, Civil Procedure and Private International Law at the Law School of the EBS University for Business and Law (www.ebs.edu) in Wiesbaden, Germany.

He is the Director of the EBS Law School Research Center on Transnational Commercial Dispute Resolution and the Academic Director of the “EBS Law Term: Transnational Commercial Law”, the semester abroad programme for incoming foreign students from the more than 90 partner faculties of the EBS Law School worldwide. In this programme, in which he also teaches courses, comparative law methodology and practice play a central role.

In addition, Matthias Weller is a Member of the European Law Institute and its Special Interest Group on Dispute Resolution whose first constituting meeting took place at the EBS Law School in February 2016. He regularly speaks at conferences on international dispute resolution, private international law and the unification of law including recently the 10th Anniversary Conference of the Journal of Private International Law at the University of Cambridge.

He acted as the National Reporter for Germany to the XIV. Congress of the Academy of Comparative Law in Vienna in 2014 on the effects of corruption on commercial contracts (General Reporter: Michael J. Bonell), and he will act again as a National Reporter for Germany to the XX. Congress of the Academy of Comparative Law in Fukuoka in 2018 on optional choice of court agreements (General Reporter: Mary Keyes).

He was invited to teach a special course at the Hague Academy for International Law in 2019 on “Mutual Trust: A Suitable Foundation for Private International Law in Regional Integration Communities and Beyond?” In preparation of this course he stayed at the Harvard Law School for research in July and August 2016. He also stayed as a Guest Researcher at the Max Planck Institute for International Procedural and Regulatory Law in Luxembourg from February to April 2017.

In September 2017, he presented as Reporter for the German legal order on the law of set-off at the conference of the German Association for Comparative Law (Deutsche Gesellschaft für Rechtsvergleichung). His numerous publications focus on issues of comparative law, private and procedural international law.

In 2011, he completed his post-doc senior fellowship (Wissenschaftlicher Assistent) at the Institute for Foreign and Private International and Commercial Law at the University of Heidelberg (Habilitation) and received the *venia legendi* for civil law including European private law, private international law, comparative law, civil procedure and copyright law. During this time, he was involved in projects on European procedural law, for example the “Heidelberg Report” of 2008 on the Brussels I Regulation. In 2005, he completed his doctoral thesis at the University of Heidelberg, supported by a PhD stipend by the German National Scholarship Foundation (Studienstiftung des deutschen Volkes) on the public policy control of international choice of court agreements. In 1998/1999 he held the Joseph Story Fellowship in Private International Law at the Harvard Law School. In 1994/1995 he was a scholar of the exchange programme between the Universities of Heidelberg and Cambridge and studied law at St. John’s College. In 1992 he was awarded a scholarship by the German National Scholarship Foundation (Studienstiftung des deutschen Volkes).

Topic outline

Local Parent as ‘Anchor Defendants’ in European Courts for Claims against Their Foreign Subsidiaries: Some Thoughts on the UK Okpabi Litigation against Shell

Recently, the English High Court, Queen's Bench Division, Technology and Construction Court (*Okpabi & Ors v Royal Dutch Shell Plc & Anor*, [2017] EWHC 89 (TCC), 26 January 2017), decided that there was no international jurisdiction of the English courts to hear claims in tort against the Nigerian subsidiary of Shell in connection with environmental and health damages due to oil pollution in the context of Shell's oil production in Nigeria. As is generally known, there have been similar cases, e.g. involving other natural resources companies in connection with copper production in Zambia or other litigations of Shell elsewhere. The jurisdictional question is always the same: Can the parent company located in the state of the court seised with the matter serve as an "anchor defendant" for claims against its foreign subsidiary. This question will be discussed from a comparative perspective.



Daniel Wigboldus

Daniel Wigboldus has been President of the Radboud University Executive Board since 1 May 2017.

Daniel Wigboldus (1969) is professor of Social Cognition, with a specialisation in person perception in general and stereotyping and prejudice in particular. He is interested in and has published on how stereotypes are maintained through language use, how stereotypical expectancies influence the qualities we ascribe to people, and how implicit prejudice affects impulsive behaviour and face processing.

Professor Wigboldus is also interested in innovative research and teaching models. He believes that good teaching, in addition to good ideas and innovative research, advances science. Finally, he is convinced that the best research and teaching is done in collaboration with others. In 2008 he was awarded the Radboud University Teaching Prize. He was also closely involved in developing the university's vision on education, entitled *Kwaliteit, binding en duidelijkheid* ('Quality, Cohesion and Clarity', March 2013), and was the initiator of the Virtual Reality Lab at Radboud University's Behavioural Science Institute.

Professor Wigboldus is an experienced administrator, having served as dean of the Faculty of Social Sciences at Radboud University (2013-2017), chair of the *Disciplineoverleg Sociale Wetenschappen*, member of the Executive Committee of the European Association of Social Psychology (EASP), and chair of ASPO (Association of Social-Psychological Researchers).



Peter Winship

Peter Winship is the James Cleo Thompson Sr. Trustee Professor at the Dedman School of Law, Southern Methodist University, in Dallas, Texas, and, until 2010, visiting professor of law, King's College, London. His teaching, research and publications are primarily in the areas of international and domestic U.S. commercial law, including maritime law.

Professor Winship is a member of the American Law Institute, the [U.S.] Secretary of State's Advisory Committee on Private International Law, and of the [U.S.] Uniform Law Commission's Permanent Editorial Board on International Law. He has represented the United States at sessions of the United Nations Commission on International Trade Law (UNCITRAL) and is a correspondent of the International Institute for the Unification of Private Law (UNIDROIT). In 2008 he received the Leonard J. Theberge Award for service to U.S. efforts in the field of private international law. He has written numerous scholarly works on commercial law subjects, including *International Sales Law: A Problem-Oriented Coursebook* (with John A. Spanogle) (2nd ed. 2011).

He received an A.B. and LL.B. from Harvard University, an LL.M. from the University of London (London School of Economics), and is a candidate for a J.S.D at Yale University.

Topic outline

Reforming National Secured Transactions Laws: Are Cape Town Protocols the Way to Go?

Assuming the desirability of modern secured transactions law, the paper considers the efficacy of using protocols to the 2001 Cape Town Convention on International Interests in Mobile Equipment to introduce or reform national law. The paper analyses the potential scope of the Convention, with particular attention paid to recent consideration of a protocol covering mining, agricultural, and construction equipment. An assessment is made of the advantages and disadvantages of using such protocols to introduce reforms and the assessment is then contrasted with other possible methods.



Jeffrey Wool

Jeffrey Wool is the secretary general of the Aviation Working Group (AWG), the industry body for legal and regulatory issues in aviation finance. As secretary general, he coordinates all activities and communications of AWG and represents the group with third parties, including on matters relating to the Convention on International Interests in Mobile Equipment (the Cape Town Convention), international banking regulation, international export credit, cross-border transferability of aircraft, aviation liability and insurance and liability reform, airport and air navigation liens, and documentary practices.

Jeffrey has been involved in the development of the Cape Town Convention since its inception, where he chaired the group that prepared the original Aircraft Protocol to the Convention and continues to actively work with governments on their ratification and implementation of the texts, including the declarations to be made. Jeffrey chairs the International Registry Advisory Board created under the Convention and serves as an Executive Director of the Cape Town Convention Academic Project, a joint undertaking between Oxford University and the University of Washington.

Jeffrey is a Condon-Falknor Professor of Global Business Law at the University of Washington (teaching, among other things, Comparative and Transnational Commercial Law) and Senior Research Fellow at Harris Manchester College (directing projects on economic analysis of international commercial law reform, comparative commercial law, and best practices on electronic registries). He is co-director of UW's Global Business Law Institute.

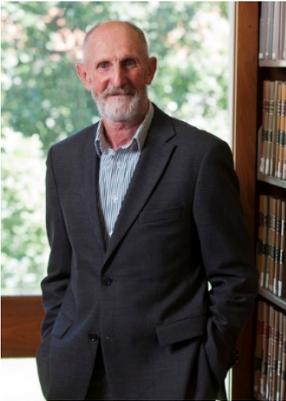
Topic outline

Briefing on the Cape Town Convention Academic Project

The Cape Town Convention Academic Project seeks to assist scholars, students, practicing lawyers, judges and other government officials, and industry by providing information on, and education about the Cape Town Convention and its protocols. This Convention, adopted in late 2001, is one of the most successful commercial law treaties, addressing property rights, insolvency, electronic commerce, and dispute resolution in the field of transnational commercial law.

The Project is a joint undertaking between the University of Oxford Faculty of Law and the University of Washington School of Law. The repository and journal are under the joint auspices of the Project and UNIDROIT, the international organization that led the development and acts as the depositary of the Cape Town Convention. The International Civil Aviation Organization (ICAO) and the Intergovernmental Organisation for International Carriage by Rail (OTIF) are also cooperating with the Project. The Aviation Working Group is the founding sponsor of the Project.

Major elements of the Project are: (1) A comprehensive database of the legislative history of, and all key documents relating to, the Convention and its protocols; (2) Publication of a yearly journal; (3) Holding of a major yearly academic conference; (4) Creation of a reporting system on administrative action under the Convention; (5) Legal analysis of cases and administrative action under the Convention (posting only); (6) Annotations of the Official Commentary to the Convention (as applied to aircraft); (7) Self-instructional materials (and contemplated course materials) relating to the Convention; (8) Practitioners' materials (posting only); (9) Economic assessment related materials.



Bruno Zeller

Professor Dr. Bruno Zeller, PhD (Law), is a Professor in Transnational Commercial Law at The University of Western Australia, Perth. His teaching interests include international trade law, conflict of laws, international arbitration and maritime law. His research contributes to the understanding of uniform international laws, which have been developed under the auspices of the United Nations, especially the United Nations Convention on Contracts for the International Sale of Goods. In addition, he has also published on alternative dispute resolution mechanisms and free trade agreements. He is an Adjunct Professor at Murdoch University, Perth, and an Adjunct Professor at the Sir Zelman Cowan Centre, Victoria University, Melbourne. He is also a visiting professor at La Trobe University, Melbourne and Humboldt University of Berlin. He is also a fellow of The Australian Institute for Commercial Arbitrations, and listed as an Arbitrator with the Maritime Law Association of Australia and New Zealand (MLAANZ).

Topic outline

Contract Farming: Global Standards or Market Forces? The Case of the Australian Dairy Industry

This submission examines the recent turmoil in the Australian dairy industry and examines whether the UNIDROIT projects on investments in agriculture, specifically in relation to contract farming, would have been of assistance in avoiding the near collapse of many dairy farms throughout Victoria. The issue was that two dairy processors engaged in a price war in a declining world market and in effect put the livelihood of many dairy farmers in jeopardy. The shockwaves have not yet subsided and the conclusion is that no model can guard against inept management and a government which thinks that intervention is not necessary and that market forces alone will remedy the situation.