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COLLOQUIUM

International Investment Law & State Capitalism

15 and 16 October 2020

Athens, Greece

CALL FOR PAPERS

The Athens Public International Law Center (Athens PIL) of the National and Kapodistrian University of Athens School of Law is hosting a *Colloquium on 'International Investment Law & State Capitalism'* which will take place on 15 and 16 October 2020 in Athens, Greece.

The *Colloquium on 'International Investment Law & State Capitalism'* is jointly organized by Athens PIL; the Tilburg Law and Economics Center (TILEC) at Tilburg University (the Netherlands); and Hamad Bin Khalifa University (HBKU) College of Law (Qatar).

The *Colloquium* is convened by Panos Delimatsis (Tilburg Law School), Georgios Dimitropoulos (HBKU College of Law), and Anastasios Gourgourinis (National and Kapodistrian University of Athens, School of Law; Athens PIL).

Colloquium theme

International Investment Law has been developed in the second half of the 20th century as colonial law was being replaced by the domestic laws of the newly emerging independent states. International investment law was part of the new liberal world order that was in the process of being developed in the post-World War II era. The liberal world order assumed that capital would flow from private investors of the North and West into the developing countries of the South and East; it also assumed that the economies of the South and East would transition towards the market economy system and privatize government-owned assets and enterprises to private investors of the North and West.

However, a paradigm shift is observed in recent times. New powers have emerged in the global economy. China is the most striking example, but not the only one; the BRICS group of countries is also competing on equal terms, alongside the Gulf states and other emerging markets. The polycentric world economic order of the 21st century is now being reshaped based on new premises: the emerging markets of the South and East are not only recipients, but also exporters of capital; global capital exportation is streamlined both towards the Southern and the Northern hemisphere; Foreign Investment is not solely based on private capital, but also on public money invested by institutional investors, such as pension funds, Sovereign Wealth Funds (SWFs), national oil companies (NOCs) and various other types of State-Owned Enterprises (SOEs) or State-Controlled Entities (SCEs). National policies give rise to even more complex issues when it state enterprises are provided incentives to invest overseas. In short, liberal capitalism has given way to a new model of capitalism in international economy: State capitalism.

State capitalism is reshaping the foundations of International Economic Law and the protection of Sovereign Investments under International Investment Agreements (IIAs), and potentially poses challenges to the system of investor-state dispute settlement (ISDS), as evidenced in investment claims such as *Ceskoslovenska Obchodni Banka, A.S. v. the Slovak Republic*, *Kaliningrad Region v. Lithuania*, *Rumeli Telekom A.S. and Telsim Mobil Telekomikasyon Hizmetleri A.S. v. Kazakhstan*, *Al-Kharafi and Sons Co. v. Libya*, *Abengoa S.A. y COFIDES S.A. v. Mexico*, *Beijing Urban Construction Group (BUCG) v. Yemen*, and *Ras-Al-Khaimah Investment Authority v. India*. In this context, it can be argued that state-to-state dispute settlement (SSDS) is more suitable than ISDS for the protection of Sovereign Investments. At the same time, soft law instruments of the International Forum of Sovereign Wealth Funds (IFSWF) and the Organisation for Economic Co-operation and Development (OECD) offer little practical solutions.

The organizers of the **Colloquium** invite scholars working in the relevant fields to submit abstracts of a conceptual, theoretical and empirical nature on the following, broadly defined areas:

- A. The Foundations of International Economic Order in the Age of State Capitalism
 - The new political economy of International Investment Law
 - The new philosophical foundations of the International Economic Order
 - Capitalism, liberalism, and International Economic Law
 - Third World Approaches to State Capitalism and Sovereign Investments
- B. Sovereign Investors in the Age of State Capitalism
 - Defining SWFs, SOEs and SCEs – Is a universal definition feasible and/or desirable?
 - The practical effect of IFSWF's Santiago Principles and OECD's Ministerial Declaration and the associated guidance for recipient country policies towards SWFs
 - Corporate Social Responsibility (CSR) policies of SWFs, NOCs, SOEs and SCEs

- C. Inward and Outward Sovereign Investments in the Age of State Capitalism
 - National policies, such China's One-Belt-One Road Initiative and Go Global strategy
 - The role of BRICS, Gulf states and emerging economies as capital-exporters *suo nomine*
 - The role of developed-economy SWFs in International Investment Law
 - National security restrictions on foreign government ownership
 - Foreign investment screening regimes relating to investments by foreign SOEs or SCEs
- D. Arbitrating Sovereign Investment Disputes in the Age of State Capitalism: procedural issues
 - Effectiveness of the 'Broches test' and its equivalents, if any, in non-ICSID arbitrations
 - Grounds for exclusion of Sovereign Investments from the *ratione materiae* scope of IIAs
 - Joinder of SWFs, NOCs, SOEs and SCEs in ISDS claims
 - Suitability of SSDS and/or diplomatic protection over ISDS for Sovereign Investments
- E. Arbitrating Sovereign Investment Disputes in the Age of State Capitalism: merits issues
 - Admission rights for Sovereign Investments under IIAs and/or the 1994 General Agreement on Trade in Services (GATS)
 - Interpretation of non-discrimination obligations in IIAs in the case of Sovereign Investors
 - Host states' police powers vis-à-vis Sovereign Investors in its territory
 - Fair and equitable treatment and full protection and security of Sovereign Investments
 - Invocation of national security exceptions in IIAs vis-à-vis Sovereign Investors, compared to the security exceptions of Art. XIV^{bis} GATS
 - Counterclaims against Sovereign Investors and attribution for the purposes of state responsibility

Guidelines for Submission

Senior and junior academics and practitioners with a legal, economic or other social science background (including PhD candidates and post-doctoral researchers) are invited to participate to the call for papers of the ***Colloquium on 'International Investment Law & State Capitalism'***. Authors are invited to submit abstracts of original papers which are neither published nor accepted for publication when the *Colloquium* takes place, by 15 March 2020. Papers will be selected based on submitted abstracts, subject to double-blind peer review. Only one abstract per author will be considered. Abstracts must not exceed 800 words, must be anonymous and not identify the name or affiliation of the author(s) in the abstract, the title, or the name of the document, and must be submitted to the following email addresses: agourg@law.uoa.gr; gdimitropoulos@hbku.edu.qa; and P.Delimatsis@uvt.nl. In addition to the abstract, each submission should contain, as a separate file, a short (one-page) author's CV, including the author's name and affiliation and contact details and a list of relevant publications.

Authors of selected abstracts for the ***Colloquium*** will be notified by 15 April 2020. Following this, they must submit a draft paper (6,000-8,000 words) by 15 August 2020. The draft papers will be distributed to the other participants in advance to facilitate an in-depth discussion during the ***Colloquium***.

After the ***Colloquium***, submission of final papers (up to 12,000 words) by authors is due by 15 November 2020. Final papers will be considered for publication, subject to further peer review, either as an edited volume with a reputable publisher or as a special edition of a law journal.

Venue, participation and registration

The *Colloquium* will be held at the premises of the National and Kapodistrian University of Athens. Attendance at the *Colloquium* will be open to the public, but a limited number of places is available. Speakers will be expected to bear the costs of their own travel and accommodation.

Key dates

- 15 March 2020: Deadline for abstracts submission
- 15 April 2020: Announcement of accepted abstracts
- 15 August 15 2020: Deadline for draft paper submission (6,000-8,000 words)
- 15 and 16 October 2020: *Colloquium*
- 15 November 2020: Deadline for final paper submission for publication (up to 12,000 words)

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