



Faculty of Law, Criminal Justice and Public Administration | HEC Lausanne |
Tax Policy Center

Tax Matters In International Investment Arbitration: General Questions, Jurisdiction, Merits And Remedies

European Book Launch Conference
Venue: University Of Lausanne (Switzerland)

2 June 2026

In cooperation with

**Swiss Arbitration
Association**



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OVERVIEW

Tax Matters In International Investment Arbitration: General Questions, Jurisdiction, Merits And Remedies

As tax disputes continue to increase globally, foreign investors are placing greater reliance on investment treaty protection. From a dispute prevention perspective, treaty guarantees are for example increasingly assessed when entering new markets. Moreover, investors have, in a growing number of cases, turned to Investor-State Dispute Settlement (ISDS) to challenge taxation measures adopted by host states that affect their investments.

Tax-related investment disputes raise a wide range of issues, including alleged breaches of legitimate expectations and legal certainty, arbitrary or discriminatory treatment, violations of due process, indirect expropriation, and claims arising out of investment contracts. Over the past decade, a number of landmark arbitral awards have contributed to shaping investment treaty practice in taxation matters. At the same time, new questions continue to emerge, in particular as arbitral tribunals interpret tax carve-outs and apply substantive standards of protection in tax-related contexts. The interaction between these standards, the principles of the international tax system and global tax standards—increasingly shaping state conduct in cross-border taxation—has also begun to feature more prominently in arbitral awards.

At the policy level, developments have been equally significant. On the one hand, increasingly sophisticated tax carve-outs and filter mechanisms—sometimes incorporating references to the principles of international tax law—are being included in investment agreements. On the other hand, the relationship between investment arbitration and taxation has recently been the subject of focused work by the UN Committee of Experts on International Cooperation in Tax Matters. In addition, tax issues may arise incidentally in investment disputes that are not primarily tax-driven, for instance in relation to the taxation of arbitral awards.

***Tax Matters in International Investment: General Questions, Jurisdiction, Merits and Remedies (Kluwer)**, comprising 18 chapters authored by leading experts from both the international tax and investment law communities, provides a comprehensive analysis of these developments. The volume offers in-depth research, practical insights, and policy-oriented perspectives on the role of taxation in investment arbitration.*

*The editors are looking forward to welcoming you at the University of Lausanne (Switzerland) on **2 June for the European Book Launch Conference**. During this full-day event, contributing authors and prominent invited speakers will engage with its subject-matter.*



AGENDA

Tax Matters In International Investment Arbitration: General Questions, Jurisdiction, Merits And Remedies

8h00-8h20 **Welcome coffee**

**PART I: Presentation Of The Volume:
"Tax Matters In International Investment Arbitration"**

8h20-8h40: **Why this book and why now?**

- **Prof. Dr. Robert J. Danon**, Professor of Law, University of Lausanne, Partner, Danon, Lausanne
 - **Sebastian Wuschka**, Of Counsel, Luther, Hamburg
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**PART II: Setting The Scene: The Evolution Of The Investment
Treaty Regime And The International Tax System**

This initial session will set the scene for the rest of the conference. The investment treaty regime and its recent evolution will first be presented. The focus will then shift to the international tax system, which today consists of a relatively coherent body of norms, reflected not only in a largely uniform tax treaty network based on the OECD and/or UN Model Tax Conventions, but also in municipal tax laws increasingly shaped by global tax standards. Attention will also be paid to the jurisprudence of both national and international courts (notably the Court of Justice of the European Union and the European Court of Human Rights) which may contribute to the understanding of international tax norms in tax-related investment disputes. Finally, the differences between ISDS and dispute resolution mechanisms under international tax law, which remain rooted in State-to-State diplomatic protection, will be highlighted.

Moderator:

- **Sebastian Wuschka**
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8h40-9h00 **Origin and Evolution of the Investment Treaty Regime (Chapter 2 of the volume)**

- **Prof. Dr. Ursula Kriebaum**, Professor of International Law, University of Vienna
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9h00-9h20 **Notion and Evolution of the International Tax System (Chapter 1 of the volume)**

- **Prof. Dr. Robert J. Danon**
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9h20-9h30 **Discussion with the floor**

9h30-9h35 **Closing comments**

- **Prof. Dr. Christoph Schreuer**, Of counsel, ZEILER Rechtsanwälte
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Tax Matters In International Investment Arbitration: General Questions, Jurisdiction, Merits And Remedies

PART III: Jurisdictional And Procedural Issues

This session will explore procedural matters and especially the key issues relating to the jurisdiction of investment treaty tribunals over taxation measures, in light of recent arbitral jurisprudence and policy developments. The discussion will begin by examining selected foundational questions, including the relationship between investment and tax treaties under the rules governing conflicts of treaty norms, the scope of consent to investment treaty arbitration in tax-related disputes, the notion of a "taxation measure" (notably the distinction between bona and mala fide taxation measures), the application of tax carve-outs and claw-backs and filter mechanisms and whether these mechanisms are justified from a practical and policy standpoint. The session will then turn to the treatment of taxation measures under selected investment treaties, including the ECT, NAFTA, CETA, and CUSMA. Finally, it will consider the recent and controversial addition to the UN Model Tax Convention aimed at overriding ISDS through tax treaties.

Moderator:

- **Dr. Claudia Annacker**, Annacker, International Disputes

9h35-10h05 **Tax-Related Disputes in the Jurisdictional Phase of Investment Treaty Arbitration: A Proposed Methodology and Relationship to the International Tax System (Chapter 3 of the volume)**

- **Prof. Dr. Robert J. Danon**

10h05-10h30 **Coffee break**

10h30-10h55 **The Tax Carve-out Regime under the Energy Charter Treaty in Light of the Arbitral Jurisprudence (Chapter 9 of the volume)**

- **Samantha Rowe**, Partner, Debevoise & Plimpton LLP, London

10h55-11h15 **From NAFTA to CETA and CUSMA: Foreign Investment and Taxation Measures in Canada's Free Trade Agreements and Foreign Investment Protection Agreements (Chapter 8 of the volume)**

- **Mark A. Luz**, *General Counsel*, Trade Law Bureau, Global Affairs Canada

11h15-11h35 **The UN Model Tax Convention's Attempt to Override Investment Treaties: A Critical and Normative Assessment (Chapter 6 of the volume)**

- **Prof. Dr. Robert J. Danon**

- **Prof. Dr. Adolfo Martín Jiménez**, Professor of Law, University of Cadiz

11h35-11h45 **Discussion with the floor**

11h45-12h00 **Closing comments**

- **Prof. Dr. Christoph Schreuer**

12h00-13h00 **Lunch break**



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Tax Matters In International Investment Arbitration: General Questions, Jurisdiction, Merits And Remedies

PART IV: Substantive Issues And Remedies

This session will turn to the merits phase of tax-related investment disputes. It will first examine foundational questions, including the various sources comprising the applicable law in such disputes, as well as the application of standards of protection and their potential alignment with the principles of the international tax system and global tax standards. The session will also discuss the role of fair and equitable and national treatment in modern tax-related disputes. Next, the session will turn to disputes arising out of investment contracts. Finally, the session will discuss the debates surrounding the taxation of an award.

Moderator:

- *Prof. Andrea K. Bjorklund*, Professor of Law, McGill University

13h00-13h30 **Tax-Related Disputes in the Merits Phase of Investment Treaty Arbitration: A Proposed Methodology and Relationship to the International Tax System (Chapter 4 of volume)**

- *Prof. Dr. Robert J. Danon*

13h30-13h45 **Non-discrimination, National Treatment and Taxation (Chapter 14 of the volume)**

- *Prof. Dr. Adolfo Martín Jiménez*

13h45-14h05 **Fair and Equitable Treatment and Full Protection and Security Standards in Light of the Arbitral Jurisprudence on Tax Matters (Chapter 11 of the volume)**

- *Matthias Scherer*, Partner, Lalive, Geneva/Zurich

14h05-14h25 **The FET Standard and Tax-Related Investment Disputes: From Systemic Integration to "The Global Tax Standards" Approach—Practical Examples (Chapter 12 of the volume)**

- *Prof. Dr. Robert J. Danon*

14h25-14h50 **Observations on the merits phase and on the role of substantive standards of protection in tax-related disputes and discussion with the floor**

- *Dr. Claudia Annacker*
- *Prof. Dr. Ursula Kriebaum*
- *Mark Luz*
- *Samantha Rowe*

14h50-15h15 **Coffee break**

15h15-15h40 **Navigating Tax-Related Disputes in Investment Contracts: Current Trends and Future Perspectives (Chapter 16 of the volume)**

- *Philippe Cavalieros*, Partner, Simmons & Simmons, Paris

15h40-16h00 **Full Compensation: Jurisprudence in Relation to Tax Gross-Up Arguments**

- *Robin Rylander*, Partner, Mannheimer Swartling, Stockholm

16h00-16h20 **Closing comments**

- *Prof. Dr. Christoph Schreuer*

16h20-16h30 **Closing remarks of conference**

- *Prof. Dr. Robert J. Danon*
- *Sebastian Wuschka*

16h30-17h15 **Cocktail reception**



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Registration fee:

CHF. 800.- (This includes the book "Tax Matters in International Investment Arbitration: General Questions, Jurisdiction, Merits and Remedies", documentation, lunch & refreshments)

Please click here to register for the event

Or copy this link into your browser

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General information:

Please contact us at taxpolicy@unil.ch

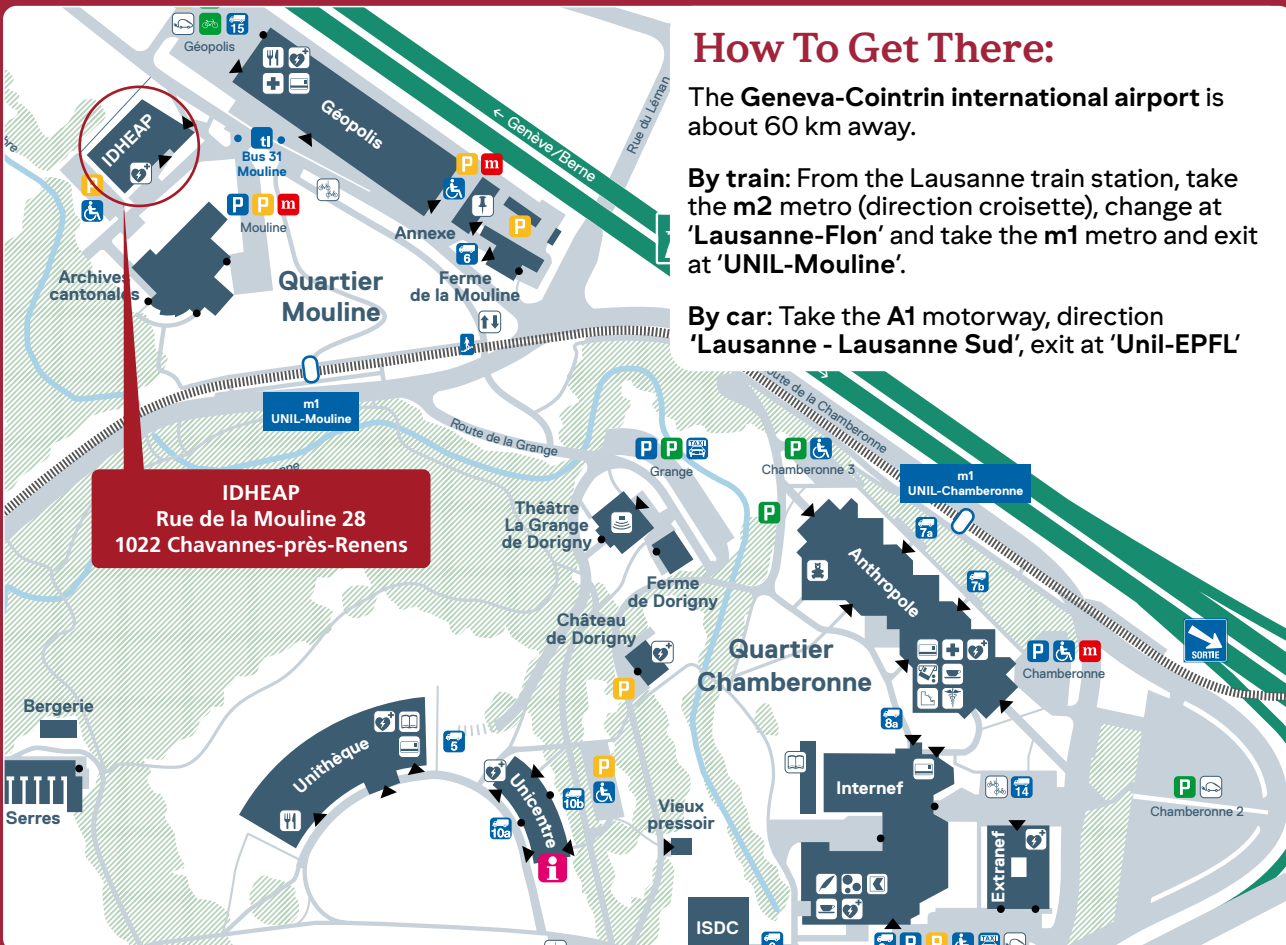
Venue:

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