

42nd Annual Conference

Contemporary Actors and their Actions: A New Look at the Formation of International Law November 14-16, 2013 OTTAWA, CANADA

FINAL PROGRAM

42nd Annual Conference Contemporary Actors and their Actions: A New Look at the Formation of International Law

President's Welcome

Greetings CCIL Friends and Members,

Welcome to this year's CCIL Conference. As you can see, we have a huge offering of international law topics to educate and interest you over the three full days of our conference. Thanks to all of you: sponsors, speakers, volunteers and participants. You have made this conference possible, and you will, I am sure, make it a success. A special thanks to our co-chairs Raphaëlle and Annie and the CCIL office manager, Marianne (and the rest of the Intertask team), as they did the majority of the substantive and logistical organization.

I hope you have an enjoyable time at the sessions and in the halls and meals catching up with old friends and colleagues and making new ones. I also hope you will think of ways to improve the conference and share those ideas in the survey we will circulate electronically afterwards.

I also take this opportunity to emphasize that the CCIL is not just about our great annual conference. We award scholarships: the long-standing Humphries and the more recent Leslie Green (first awarded this year, and still looking for donations to allow it to continue). We organize alone or in cooperation with other organizations conferences, workshops, and speeches, including this past year about half a dozen events, mostly outside Ottawa. We have launched a regular publication and our website and social media presence is more active than ever with announcements, pod casts, and more. With your support and involvement we hope to build on what we have done to date. If you have ideas you are interested in pursuing or just want to get involved, please contact me, our office (manager@ccil-ccdi.ca), or a Board Member.

I look forward to meeting and hearing from you at this conference and in the years to come.

Robert Brookfield
President
Canadian Council on International Law

42nd Annual Conference Contemporary Actors and their Actions: A New Look at the Formation of International Law

Co-Chairs' Welcome

While Article 38 of the *Statute of the International Court of Justice* has codified the traditional sources of international law, new actors on the global stage, their activities and resulting norms today appear to be redefining, at least in part, international law. Indeed, actors such as international organizations whose membership is not limited to States, or instruments such as voluntary codes of corporate conduct by corporations or human rights guidance developed by non-governmental organizations, now benefit from legal recognition. This year's conference therefore aims to examine the evolution of international law sources and their conception by scholars and legal practitioners in 2013 in various fields of international law, including the law of the sea, human rights law, humanitarian law, environmental law and business law.

We are very pleased to welcome all of the distinguished speakers who have accepted to participate in this year's Conference and share their knowledge and insight over the course of the next few days. We trust that participants to the conference will also contribute to the dialogue that will certainly be generated by panel discussions. We thank you again for participating in the 2013 edition of the CCIL Annual Conference.

Raphaëlle Lapierre-Houssian Annie Lespérance Conference Co-chairs

Continuing Professional Development Credits:

- The Annual Conference is accredited by the Law Society of British Columbia for up to 20 hours and therefore automatically recognized by the Barreau du Québec up to the same amount of hours for the purposes of mandatory continuing professional education requirements, under section Formation reconnue automatiquement.
- Thursday's workshop entitled **The Role of Counsel in International Governmental and Non-governmental Organizations** has been accredited by the Law Society of Upper Canada for 3.25 Professionalism Hours.

We are happy to assist you to obtain credit in other jurisdictions.

Thursday, November 14, 2013

Lester B. Pearson Building 125 Sussex Drive

Parking

Public parking is available at 111 Sussex Drive

Limited guest parking is available after 15:45 behind the Pearson Building (125 Sussex Drive)

Convenient taxi or bus transportation is also available

09:30-18:00

Registration

Skelton Lobby

10:00-11:00

Opening Session

Cadieux Auditorium (



International Law and Development: Justice in Transition in Syria

Chair

Adrian Di Giovanni

Senior Program Officer, International Development Research Centre

Speaker

Dr. Radwan Ziadeh

Syrian Center for Political and Strategic Studies

Discussant

Awn Shawkat Al-Khasawneh

Former Prime Minister of Jordan and Former Judge of the International Court of Justice

Sponsored by:







11:00-12:30

Panel 1A

Cadieux Auditorium 🔼



Technical Barriers to Trade and Domestic Regulatory Autonomy: Do Recent WTO Cases Cut the **Regulators Some Slack?**

Matthew Kronby

Partner

Bennett Jones LLP

Speakers

Joanna Langille Visiting Researcher Yale Law School

Jennifer Hillman

Partner

Cassidy Levy Kent

Former WTO Appellate Body

Member

Eric Solovy

Partner

Sidley Austin

Panel 1B

Robertson Room



The Role of Multinational Forces in **Applying and Developing International Humanitarian Law**

Chair

Catherine Gribbin Senior Legal Advisor Canadian Red Cross

Speakers

Dr. Tristan Ferraro Legal Adviser

ICRC Legal Division, Geneva

Chris Penny Associate Professor Norman Patterson School of

International Affairs

Sponsored by:





Panel 1C

Rendez-Vous Room

Networking Event Charting Your Own Course in International Law: Lessons Learned from Recent Calls and Articling Students

Heather Squires Trade Law Bureau Government of Canada

Justin Mohamed Canadian Center for Internal Justice

Jonathan O'Hara McMillan

Hugh Lee

Cassidy Levy Kent LLP

Marcus Davies Legal Branch **DFATD**

Drew Tyler Associate Conlin Bedard LLP

Thursday, November 14, 2013

		Lester B. Pearson Building	
		125 Sussex Drive	
12:30-13:00	Lunch Served in the Skelton Lobby		
13:00-14:00	The Role of Civil Society in Enforce Cadieux Auditorium Introduction Jayne Stoyles, Executive Director,		king at the United States Post 9/11 nal Justice
	Speaker		
	Professor David Cole, Georgetowi	າ Law	
14:00-15:30	LSUC Professional Practice Works	shop and Panel Sessions	
	LSUC Professional Practice	Panel 2B	Panel 2C
	Workshop* Cadieux Auditorium	Robertson ()	Rendez-Vous
		KODERTSON •	Rendez-Vous

Part I

The Role of Counsel in **International Government Organizations**

Chair

Elaine Feldman Former Deputy Permanent Representative of Canada World Trade Organization

Speakers

Avard Bishop **Chief Ethics Officer** World Intellectual Property Organization

Benoît Verhagen Legal Affairs and External Relations Bureau **ICAO**

Rambod Behboodi **General Counsel** Finance Canada

This program has been accredited by the Law Society of Upper Canada for 3.25 professionalism hours



*Advance registration required; additional fees apply.

The United Nations Convention on **Contracts for the International Sale** of Goods (CISG) - Testing the **Practice of International Commercial Law**

Chair

Karl Dhaene Consul General of Belgium in Montreal

Speakers

Xavier van Overmeire Partner **Dentons LLP**

Guy Lefebvre Dean Faculty of Law University of Montreal

Marie-Claude Rigaud Professor University of Montreal

Sophie Verville Professor **Laval University** Law and War

Chair and Speaker

Mark Drumbl

Alumni Professor of Law & Director Transnational Law Institute Washington and Lee University

Speakers

Rebecca Sutton JD Candidate **University of Toronto**

Marie-Noël Collin PhD Candidate **Laval University**

Alberto Alvarez-Jimenez **Adjunct Professor** Faculty of Law Sciences University of Ottawa

15:30-15:45

Break Skelton Lobby

Thursday, November 14, 2013

Lester B. Pearson Building 125 Sussex Drive

LSUC Professional Practice 15:45-17:15

Workshop*

Cadieux Auditorium



Part II

The Role of Counsel in Non-**Governmental International Organizations**

Chair

Joelle Martin

formerly of various organizations including the ICRC, European Roma Rights Centre, and various different UN agencies

Speakers

David Matas Senior Legal Counsel B'Nai Brith Canada

Jayne Stoyles **Executive Director** Canadian Centre for International Justice

Robert Young Senior Delegate International Committee of the Red Cross (ICRC)

This program has been accredited by the Law Society of Upper Canada for 3.25 professionalism hours



*Advance registration required; additional fees apply.

Panel 3B

Robertson (



International Actions of Entities with State-like Characteristics

Held in association with the Canadian Retired Heads of Mission Association

Chair

Robert Hage Former Director General Legal Bureau, DFAIT

Speakers

Steve Hibbard Former Head of Mission to the Palestinian Authority

Ron McIntosh

Former Canadian Head of Mission to Taiwan

Don Smith

Former Canadian Head of Mission to the Vatican

Christopher Waters Professor University of Windsor

Panel 3C

Rendez-Vous

Actors and Norms in International Finance and Regulation

Chair

Rambod Behboodi **General Counsel** Finance Canada

Speakers

Brian Hunt

Founder and Co-Rapporteur Sovereign Bankruptcy Group of the International Law Association

Monique Egli Costi **Visiting Scholar Law School Visitors Program** Victoria University of Wellington

Alberto Costi Associate Professor of Law Victoria University of Wellington

Robin Hansen **Assistant Professor** College of Law, University of Saskatchewan

Brett House Senior Fellow, The Centre for International Governance Innovation (CIGI)

17:30-18:30

Keynote Address

Cadieux Auditorium (



The Role of Non State Actors in the Development of International Law in the Middle East

Introduction by

William Crosbie, Assistant Deputy Minister, DFATD

Awn Shawkat Al-Khasawneh

Former Prime Minister of Jordan and Former Judge of the International Court of Justice

18:30

Legal Adviser's Reception

Skelton Lobby

20:00

International Law Students Association (ILSA) Pub Night

Earl of Sussex Pub, 15 Clarence Street

Friday, November 15, 2013

John G. Diefenbaker Building

		111 Sussex Dri	ve	
	g is available at 111 Sussex Dri axi or bus transportation is als			
07:30-16:00	Registration Victoria Hall Foyer			
08:00-16:15	Exhibition Victoria Hall Foyer			
08:00-09:10	Breakfast Sessions	e Ottawa Room Foyer from 0 Session B Bytown Evidence Before International Tribunals Chair Payam Akhavan Associate Professor McGill University Speakers Victoria Clark Articling Student DFATD Benjamin Perryman Lawyer, JSD Candidate Yale Law School	7:30 to 09:00 Session C Freiman/Guigues Transplant Ethics Chair Gordon Duval Professor University of Ottawa Speaker David Matas Senior Legal Counsel B'Nai Brith Canada	Session D Poliquin-Greene Celebrating 50 Years of the Canadian Yearbook of International Law Chair John H. Currie Professor University of Ottawa Speaker Joanna Harrington Professor University of Alberta Discussants René Provost Associate Professor McGill University Donat Pharand Professor Emeritus University of Ottawa
				Sponsored by: UBCPress

Friday, November 15, 2013

John G. Diefenbaker Building 111 Sussex Drive

09:10-10:40

Concurrent Panel Sessions

Panel 4A Victoria Hall

International **Humanitarian Law**

Chair

Ilario Maiolo Senior Legal Advisor **Canadian Red Cross**

Speakers

Sophie Rondeau Director of Administration Comité pour le Concours Jean-Pictet

Marco Sassòli Professor Faculty of Law, University of Geneva

Julia Grignon **Associate Professor Laval University**

Sponsored by:



Panel 4B Bytown

The Role of Provinces in **International Trade Affairs**

Chair

Debra Steger Professor, Faculty of Law **University of Ottawa**

Speakers

Scott Fairley Partner WeirFoulds

Don Stephenson Chief Trade Negotiator, Canada-India Comprehensive Economic Partnership Agreement

Anthony Vanduzer Professor University of Ottawa

Victor Severino **Assistant Deputy Minister** of Policy Ontario Ministry of Economic Development, trade and Employment

Sponsored by:



Under Chatham House Rules, closed to the media

Panel 4C

Freiman/Guiques

Food Rights and Wrongs

Speakers

Katie Sykes **Assistant Professor** Thompson Rivers University

Christophe Golay Research Fellow Geneva Academy of International Law and **Human Rights**

Panel 4D

Poliquin-Greene

Responsibility in War

Chair

Noemi Gal-Or Professor of Law Kwantlen Polytechnic University

Speakers

Kimberly Trapp UCL, Faculty of Laws Bentham House

Christopher Waters Professor, Faculty of Law University of Windsor

Carolyn H. Filteau PhD Candidate Osgoode Law School

10:45-11:00

Refreshment Break and Exhibitors

Ottawa Foyer

Sponsored by:



	Friday, November 15, 2013
	John G. Diefenbaker Building
	111 Sussex Drive
11:00-12:30	New Dynamics of Contemporary Actors: Case of the CETA
	Victoria Hall
	Speaker
	Raymond Bachand
	Former Minister of Finance and former Minister of Economic Development of Innovation and Export Trade of Quebec
12:30-13:45	Lunch
	Served in Ottawa Rooms A-E
12:45-13:45	Workshop with the Department of Foreign Affairs, Trade and Development
	Bytown
	Upon request of participants in advance regarding topics, officials from the Department will make themselves
	available to discuss specific topics of interest – to be announced and posted at the conference.
	Co -Chairs
	Adrienne Jarabek Marion, Associate, Gerami Law PC
	Rodney Neufeld, Council, Investment and Services Law Division, DFATD
	Investment & Services Law Division
	Under Chatham House Rules, closed to the media
13:15-14:00	Plenary Speech
	Victoria Hall
	Looking at the Roots of International Law: Aspects of the Use of National Jurisprudence by International Courts
	Speaker
	The Honorable Mr. Justice Louis LeBel, Supreme Court of Canada
	Sponsored by:
	UNIVERSITÉ LAVAL
	Faculté de droit

Friday, November 15, 2013

John G. Diefenbaker Building 111 Sussex Drive

14:00-15:30

Concurrent Panel Sessions

Panel 5A

Victoria Hall



Duty to Consult Aboriginal Groups when Entering International Obligations (Mining Projects)

Chair

Scott Fairley Partner WeirFoulds

Speakers

Elizabeth Patterson Partner Dionne Schultz

Bernd Christmas Lawver

Bernd Christmas Law Group

Shane Spelliscy Lawyer Trade Law Bureau, DFATD

Robinson Tchapmegni Judge in Cameroon and PhD Candidate **Laval University**

Panel 5B

Bytown

Environmental Law: New Norms from Non-State Actors

Chair and Speaker

Jave Ellis Associate Professor/Associate Dean Faculty of Law and School of Environment McGill University

Speakers

Jeffrey Smith PhD Fellow McGill University

Natasha Affolder **Associate Professor** Faculty of Law, University of British Columbia

Panel 5C

Freiman/Guigues

Between Precedent and Analogy in International Litigation

Chair

Patrick Dumberry Associate Professor University of Ottawa

Speakers

Larissa van den Herik Professor Leiden University, Grotius Center for International **Legal Studies**

Eric De Brabandere Associate Professor Leiden University, Grotius Center for International **Legal Studies**

Yannick Radi **Assistant Professor** Leiden University, Grotius Center for International **Legal Studies**

Sponsored by:



Panel 5D

Poliquin-Greene

International and Domestic law on **Corruption of Foreign** Officials: Implementation of the **OECD** and UN **Conventions and Beyond**

Chair and Speaker

Milos Barutciski Lawver **Bennett Jones**

Speakers

Marcus Davies Counsel **DFATD**

Michael Osborne Partner Affleck Green McMurtry

Sponsored by:



15:30-15:45

Refreshment Break and Exhibitors

Ottawa Room Foyer

Friday November 15, 2013

		Friday, November 1 John G. Diefenbaker E 111 Sussex Driv	Building	
15:45-17:15	Concurrent Panel Sessions			
	Panel 6A Victoria Hall	Panel 6B Bytown	Panel 6C Freiman/Guigues	Panel 6D Poliquin-Greene
	SQDI Panel Plural Creation of Contemporary	Further Challenging the EU Seal Ban: Ensuring the Respect of the Right to	New Approaches to International law – Perspective of	International Arbitration: A Forum to Develop International Law
	International Law Chair	Culture, Self-Governance and Self-Determination	Developing Countries Chair	Chair Martin Valasek
	François Roch Law Professor, UQÀM	Chair and Speaker Cynthia Westaway Lawyer	Saeid Mirzaei-Yengejeh Part-time Professor and PhD candidate	Partner Norton Rose Fulbright LLP
	Speakers Louise Otis	Borden Ladner Gervais	University of Ottawa	Speakers Judith Levine
	Arbitrator and Mediator, Former Justice of the Quebec Court of Appeal Gib van Ert	Speakers Terry Audla President Inuit Tapiriit Kanatami	Speakers Ibironke Odumosu-Ayanu Assistant Professor College of Law, University of Saskatchewan	Senior Legal Counsel Permanent Court of Arbitration Jonathan Hamilton
	Lauren			Partner

Lawyer **Hunter Litigation** Chambers

Renée-Claude Drouin Professor of Law University of Montreal Myriam Dumont-Robillard Researcher University of Montreal

Nelson Ovalle Diaz PhD Candidate, University of Ottawa Recipient of the 2013 Ronald St. John MacDonald Young **Scholars Award**

John Cheechoo **Director of Environment** and Wildlife **Inuit Tapirlit** Kanatami

Daniel Hohnstein Associate **Borden Ladner Gervais** Siobhan Airey PhD candidate University of Ottawa

Anna Dolidze Professor Western University

lton White & Case LLP

Rahim Moloo Associate Freshfields Bruckhaus Deringer LLP

18:30-19:30 Reception

Grand Hall, Canadian Museum of Civilization Cash Bar

19:30 **Banquet**

Grand Hall, Canadian Museum of Civilization (Ticket Required)

The Tide of International Adjudication and Arbitration

Keynote Speaker

Judge Stephen M. Schwebel, Arbitrator and Former President of the International Court of Justice

Sponsored by:



John G. Diefenbaker Building 111 Sussex Drive

		111 Sussex Drive		
	g is available at 111 Sussex Drive axi or bus transportation is also			
08:00-13:30	Registration Victoria Hall Foyer			
08:00-16:15	Exhibition Victoria Hall Foyer			
08:30-09:40	Breakfast Sessions Breakfast Served in the Ottav	va Room Foyer from 07:30 to 09	:00	
	Session A	Session B	Session C	
	Victoria Hall ∩	Freiman-Guigues	Poliquin-Greene	
	Business: The Role of Gender in International	Who Cares: the Formation of International Law related	State Boundaries	
	Trade	to Decent Work for	Speakers	
	Chair	Domestic Workers	Ryan Liss JSD Candidate	
	Janice McDonald	Chair	Yale Law School	
	President of OWIT – Ottawa	Sara Seck	Tale Law Sellool	
	Founder/CEO of My Music	Professor	William Concklin	
	Smankava	Western University	Law Professor	
	Speakers Jessica Tomlin	Speakers	University of Windsor	
	Executive Director	Adelle Blackett		
	Match International	Professor		
		McGill Faculty of Law		
	Wendy Swan	·		
	CEO	Anna Dolidze		
	Neotelis	Professor		
	Virginia K. Schweitzer	Western University		
	Partner	Organized in association with		
	Fasken Martineau	the Women and		
	In cooperation with the Organization of Women in	International Law Interest Group (WILIG)		
	International Trade (OWIT)			

		John G. Diefenbaker Bu	-	
		111 Sussex Drive	nung	
09:45-11:15	Concurrent Panel Sessions			
	Panel 7A	Panel 7B	Panel 7C	Panel 7D
	Victoria Hall	Bytown	Freiman/Guigues	Poliquin-Greene
	Privatization of International Law in the	Domestic Implementation of International Law	International Investment Law Actors	International Law Fundamentals
	Workplace: Who Are the Players? What Are the Stakes? Chair and Speaker Patrice-Martin Dumas Professor of Law Laval University Speakers Renée-Claude Drouin Professor of Law University of Montreal Marie-Claude Desjardins Professor of Law University of Sherbrooke	Chair John Terry Partner Torys LLP Speakers Gib van Ert Lawyer Hunter Litigation Chambers Timothy Radcliffe Counsel Public Prosecution Service of Canada Matt Eisenbrandt Legal Director Canadian center for International Justice Sponsored by: Hunter Litigation Chambers	Chair Andrea Bjorklund Professor, L. Yves Fortier Chair in International Arbitration and International Commercial Law McGill University Speakers Elizabeth Whitsitt Assistant Professor University of Calgary Juliette McIntyre Law Professor Thompson Rivers University Euloge Anicet Nkounkou Senior Consultant and Expert Gareth Consulting Firm	Chair Gary Luton Director Treaty Law Division DFATD Speakers John M. Gillroy Professor International Relations Lehigh University Daniel Peat PhD Candidate International Law University of Cambridge Dwight Newman Professor of Law University of Saskatchewan
11:15-11:30	Refreshment Break and Exhi Ottawa Room Foyer	bitors		
11:30-12:30	Plenary Victoria Hall			
	Perspectives from the World	Energy Council		
	Introduction by Nikiforos latrou Partner WeirFoulds			
	Keynote Speaker Marie-José Nadeau, Chair, W	orld Energy Council		
	Sponsored by: WeirFouldsLLP			
12:30-13:30	Lunch Served in Ottawa Rooms A-E			

John G. Diefenbaker Building 111 Sussex Drive

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Presentation

Victoria Hall 🔼

International Law and Regulation of Credit-Rating Agencies: One Step Closer to Universal Regulation?

Claudia Maheu, Recipient of the 2013 Ronald St. John Macdonald Young Scholars Award Law Student, Université du Québec à Montréal

13:30-15:00

Concurrent Panel Sessions

Panel 8A

Victoria Hall

International Human Rights Law

Chair

Carmen Cheung **Acting Director** International Human Rights Program, University of

Speakers

Toronto

Dilton Ribeiro PhD Candidate Queen's University

Mike Madden PhD Candidate Dalhousie University's Schulich School of Law

Jennifer Orange SJD student Faculty of Law, University of Toronto

Panel 8B Bytown

After 30 Years, Why **UNCLOS Still Matters**

Chair

Catherine Boucher Deputy Director, Oceans and Environmental Law Division **DFATD**

Speakers

Sari Graben Assistant Professor Department of Law Ryerson University, Ted Rogers School of Management

Jeffrey Smith PhD Candidate McGill University

Declan Smyth Deputy Legal Adviser Irish Department of Foreign Affairs and Trade

Panel 8C

Freiman/Guigues Room

Business and Human Rights

Chair and Speaker

Sara Seck Professor

Western University

Speakers

Stephen Pitel Professor Western University

Penelope Simons Associate Professor Faculty of Law University of Ottawa

Zakaria Traore PhD Candidate **Laval University**

Panel 8D

Poliquin-Greene

Law Making by International **Organizations**

Speakers

Seval Arzu Iz PhD Student **Bucerius Law School**

Saeid Mirzaei-Yengejeh Part-time Professor and PhD candidate University of Ottawa

Karounga Diawara Law Professor **Laval University**

15:00-15:15

Refreshment Break and Exhibitors

Ottawa Room Foyer

John G. Diefenbaker Building 111 Sussex Drive

15:15-16:30

Closing Plenary

Non-State Actors and International Law: Methodological Challenges - Special ILA-Canada Round-Table Discussion

Victoria Hall

Chair and Speaker

Noemi Gal-Or

Professor of Law, Kwantlen Polythechnic University

Speakers

Robin Hansen, Assistant Professor, College of Law, University of Saskatchewan Jean D'Asprémont, Professor of Law, Manchester University and Amsterdam Centre for International Law Jordan Paust, Professor of Law, University of Houston

16:30-17:30

CCIL Annual General Meeting

Victoria Hall

The CCIL gratefully acknowledges the following sponsors for their generous support of the 2013 Conference

Platinum Level







Gold Level







Silver Level









Faculté de droit

Bronze Level



Donations







NOTES