

**GFA**  
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zur Förderung  
von  
Auslandsinvestitionen  
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# 50 Years of Bilateral Investment Treaties Conference 2009

## Taking Stock and a Look to the Future

**Date:** 1-3 December 2009  
**Location:** Hermann Josef Abs Saal, Deutsche Bank AG,  
Frankfurt am Main, Germany

### Topics include:

- Original Intent, Development and Economic Significance of BITs
- Current Substantive and Procedural Approaches in BITs around the World
- Europeanization and Regionalism: Challenges to BITs?
- The Future of Investment Treaty Protection
- What and Who are Protected: Will the Concepts of "Investment" and "Investor" be redefined?
- To Protect or not to Protect: Is there Non-protected Investment?
- The Changing Face of Investor-State Arbitration

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# Welcome to the 50 Years of BITs Conference 2009

## THEME AND OBJECTIVES

This year marks the Golden Jubilee of the first Bilateral Investment Treaty ("BIT"). Signed on 25 November 1959 by the Federal Republic of Germany and the Islamic Republic of Pakistan, it formed part of the process of reconstruction in the aftermath of the Second World War. 1959 also saw the early attempts at multilateralism in the form of the draft Convention on Investments Abroad, a combination of the 1957 draft International Convention for the Mutual Protection of Private Property Rights, drafted by the Gesellschaft zur Förderung von Auslandsinvestitionen (promoter of this conference), and the 1958 Abs Shawcross Proposed Convention to Protect Foreign Investment.

This conference is the official celebration of this anniversary in Germany.

The purpose of this conference is not just to celebrate. With significant changes in the pattern of movement of foreign capital, a deep financial crisis, a major transfer of competence in Europe and the threat of protectionism, this Golden Jubilee also provides a timely opportunity to examine the policy issues which will shape international investment law in the years to come. The conference will bring together academics, advocates, arbitrators, economists, investors, policy makers and political scientists to identify and debate these issues.

The conference has been designed to complement both in time and content the "OECD Global Forum on International Investment VIII" which will take place in Paris on 7-8 December 2009.

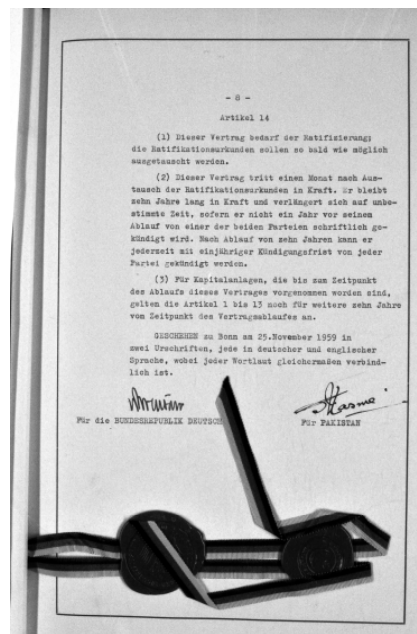
Details are available at  
[www.oecd.org/investment/gfi-8](http://www.oecd.org/investment/gfi-8)

## Hermann Josef Abs in 1960



*Hermann Josef Abs was the founder of the GFA. In this capacity he was closely involved in the development of German BITs and of the German investment guarantee programme.*

## 1959 BIT between Germany and Pakistan



*Signature page of the first bilateral investment treaty, signed in Bonn on 25 November 1959 by Dr. Heinrich von Brentano, Foreign Minister of the Federal Republic of Germany, and Mr. S.A. Hasnie, Secretary of State of the Ministry of Finance of Pakistan.*

# Keynote Speakers & Panellists

## KEYNOTE SPEAKERS

- **Syed Yousaf Raza Gilani**, Prime Minister of Pakistan
- **Roland Koch**, Prime Minister of the State of Hesse
- **Hans-Joachim Otto**, Parliamentary State Secretary, Federal Ministry of Economics and Technology, Germany
- **Dr. Ludolf v. Wartenberg**, President of the Gesellschaft zur Förderung von Auslandsinvestitionen e.V.
- **Dr. Cornel Wisskirchen**, Member of the Management Committee Germany, Deutsche Bank AG

## PANELLISTS

- *Robert Ahomka-Lindsay*, former CEO of the Ghana Investment Promotion Centre
- *Dr. Christoph G. Benedict*, ALSTOM Deutschland AG
- *Professor Karl-Heinz Böckstiegel*, Chairman of the Board, German Institution of Arbitration (DIS); former President, International Law Association
- *Dr. Karl-Ernst Brauner*, Director General, External Economic Policy Department, Federal Ministry of Economics and Technology, Germany
- *Professor Bernardo Cremades*, Cremades y Asociados
- *Professor Rudolf Dolzer*, University of Bonn
- *Zachary Douglas*, Jesus College, University of Cambridge; Matrix Chambers
- *Professor Piet Eeckhout*, King's College London
- *L. Yves Fortier QC*, Ogilvy Renault LLP
- *Omar García Bolívar*, BG Consulting
- *Dr. Richard Happ*, Luther Rechtsanwaltsgesellschaft mbH
- *Dr. Christoph Hauschka*, PricewaterhouseCoopers Legal AG
- *Professor Stephan Hobe*, University of Cologne
- *Robert Hunter*, Lovells LLP
- *Professor Emmanuel Jolivet*, General Counsel, International Court of Arbitration, International Chamber of Commerce; Professor at the University of Versailles
- *Meg Kinnear*, Secretary-General of ICSID
- *Ulrich W. Klemm*, DEG - Deutsche Investitions- und Entwicklungsgesellschaft mbH
- *The Hon. Marc Lalonde*, PC OC QC
- *Professor Maurice Mendelson*, QC, Blackstone Chambers
- *Dr. Patricia Nacimiento*, White & Case LLP
- *Daniel M. Price*, Sidley Austin LLP; former Deputy National Security Advisor for International Economic Affairs, USA
- *Lucy Reed*, Freshfields Bruckhaus Deringer LLP
- *Professor August Reinisch*, University of Vienna and Bologna Center/SAIS of Johns Hopkins University
- *Professor Giorgio Sacerdoti*, Bocconi University, Milan; WTO Appellate Body
- *Dr. Manfred Schekulin*, Federal Ministry of Economic Affairs, Austria; Chair of the OECD Investment Committee
- *Professor Christoph Schreuer*
- *Professor M. Sornarajah*, National University of Singapore
- *Joachim Steffens*, Head of Division International Investments and Finance, Federal Ministry of Economics and Technology, Germany
- *Professor Brigitte Stern*, University of Paris I - Panthéon-Sorbonne; Graduate Institute of International Studies, Geneva
- *Professor Sompong Sucharithkul*, Rangsit University
- *Professor Christian Tietje*, University of Halle
- *Professor Ulrich Wölker*, Legal Service of the European Commission
- *James Zhan*, Director, Division for Investment and Enterprise, UNCTAD
- *Professor Yuejiao Zhang*, Shantou University; WTO Appellate Body; former Director-General of Law and Treaties at the Chinese Ministry of Foreign Trade and Economic Cooperation.

# PROGRAMME

## Day 1: Tuesday, 1 December 2009

### 17.00 Registration

### 18.30 Welcome Addresses

- Dr. Ludolf v. Wartenberg, President of the Gesellschaft zur Förderung von Auslandsinvestitionen e.V.
- Roland Koch, Prime Minister of the State of Hesse
- Syed Yousaf Raza Gilani, Prime Minister of Pakistan
- Hans-Joachim Otto, Parliamentary State Secretary, Federal Ministry of Economics and Technology, Germany
- Dr. Cornel Wisskirchen, Member of the Management Committee Germany, Deutsche Bank AG

### 20.00 Welcome Reception (Jazz Buffet)

## Additional events within and around the Conference

### Coffee and Cake event

*Meg Kinnear, Secretary-General of ICSID*, is joining the Young Investment Arbitration Community for Kaffee & Kuchen on **1 December 2009**.

Time: 15:30 to 17:15

Place: Lovells LLP, Untermainanlage 1, 60329 Frankfurt. (10 minutes by foot from the Hermann Josef Abs Saal)

To register please contact: Mariel Dimsey via email at [mariel.dimsey@lovells.com](mailto:mariel.dimsey@lovells.com). Space is limited so registrations will be taken on a "first come, first served" basis.

### The EU and Model BITs - what should we expect?

A roundtable hosted by *GAR (Global Arbitration Review)* on 'The ideal new Model BIT' on **3 December 2009**.

Time: 17:00 to 18:30

Place: Hermann Josef Abs Saal

A limited number of places will be available for Conference Delegates to observe the discussion.

### Ashoka Lunch

On **3 December 2009** during the lunch break, representatives of Ashoka will be talking about their work in the community.

<http://www.ashoka.org/>

### Dinner at Ebbelwoi Tavern

After the conference on the evening of **2 December 2009**, tables have been reserved at a local Ebbelwoi Tavern where delegates will have the opportunity to meet for informal dinner and drinks.

For further information please contact Mariel Dimsey via email at [mariel.dimsey@lovells.com](mailto:mariel.dimsey@lovells.com).

### GFA Annual General Meeting (for members only)

**1 December 2009**

Time: 16:30-18:00

Place: Side Room 2, Hermann Josef Abs Saal.

For further information please contact Heiko Willems via email at [h.willems@bdi.eu](mailto:h.willems@bdi.eu)

### FIAC Info-Break

Information about the Frankfurt International Arbitration Center (FIAC)

on Wednesday, **2 December 2009**

Presented by *Professor Dr. Karl-Heinz Böckstiegel*, Chairman of the Board, DIS and founder member of the FIAC.

**Time: In the afternoon Coffee Break (15:30 to 16:00)**

Place: Left Winter Garden, Hermann Josef AbsSaal.

For further information please contact Hans-Reinhard Grünbaum, T +49 69 2197-1314 or via email at [h.gruenbaum@frankfurt-main.ihk.de](mailto:h.gruenbaum@frankfurt-main.ihk.de).

# PROGRAMME

## Day 2: Wednesday, 2 December 2009

### Part I: Taking Stock – Aims, Achievements and Paradigms

9.00 Introduction by the Organising Committee

9.15 **Session 1:** Original Intent, Development and Economic Significance of BITs

Chair: Lucy Reed, Freshfields Bruckhaus Deringer LLP

- Original Intent and Scope of Protection of BITs - Professor Sompong Sucharitkul, Rangsit University
- The Spread of BITs and their Changing Face - James Zhan, UNCTAD
- Expectations of Governments and Investors vs Practice: The Governmental View - Joachim Steffens, Head of Division International Investments and Finance, Federal Ministry of Economics and Technology, Germany
- Expectations of Governments and Investors vs Practice: A View from the Bench - Yves Fortier, Ogilvy Renault LLP

11.00 Coffee Break

11.30 **Session 2:** BITs around the World: Different Substantive and Procedural Approaches

Chair: Dr Patricia Nacimiento, White & Case LLP

- The European Approach - Professor Rudolf Dolzer, University of Bonn
- The Asian Approach - Professor Yuejiao Zhang, Shantou University; WTO Appellate Body
- The North American Approach - Daniel M. Price, Sidley Austin LLP

13.00 Lunch

14.00 **Session 3:** Europeanization and Regionalism as a Challenge to BITs

Chair: Professor Stephan Hobe, University of Cologne

- Investment Protection and Dispute Settlement in Preferential Trade Agreements: A Challenge to BITs? - Professor August Reinisch, University of Vienna and Bologna Center/SAIS of Johns Hopkins University
- The EU as a Player in the BIT Arena: Current and Future Legal Challenges - Professor Ulrich Wölker, Legal Service of the European Commission
- The EU as a New Player in the BIT Arena: Hopes and Fears of Member States - Dr. Manfred Schekulin, Federal Ministry of Economic Affairs, Austria; Chair of the OECD Investment Committee
- The EU as a new Player in the BIT Arena: Hopes and Fears of Investors - Dr. Christoph G. Benedict, ALSTOM Deutschland AG

15.30 Coffee Break

16.00 **Session 4:** The Future of Bilateral Investment Protection

Chair: Professor Christian Tietje, University of Halle and Dr. Richard Happ, Luther Rechtsanwaltsgesellschaft mbH

- Sovereignty vs Investment Protection: Back to Calvo? - Omar García-Bolívar, BG Consulting
- New Players - New BIT Concepts? Protection of Business Interests vs. Sustainable Development and CSR - Robert Ahomka-Lindsay, former CEO of the Ghana Investment Promotion Centre
- "Investment and..." BITs in Clinical Isolation? Conflicting Legal Obligations of Host States - Professor Maurice Mendelson QC, Blackstone Chambers
- The Relationship of BITs and Other International Law Obligations: An Arbitrator's Perspective - Professor Karl-Heinz Böckstiegel, Chairman of the Board, German Institution of Arbitration (DIS)

17.30 Close of Part I

# PROGRAMME

## Day 3: Thursday, 3 December 2009

### Part II: (B)ITs in Evolution – Issues Shaping Future Developments

#### Morning Sessions: What and Who are Protected?

9.30 **Session 5:** Will the Concepts of "Investment" and "Investor" be Redefined?

Chair: Robert Hunter, Lovells LLP

- From FDI to Portfolio Investment – A Step too Far? - Professor M. Sornarajah, National University of Singapore
- Nationality of Investors: Legitimate Restrictions vs Business Interests - Professor Christoph Schreuer
- Investing through Third Countries: State Practice and Needs of Investors - Ulrich W. Klemm, DEG - Deutsche Investitions- und Entwicklungsgesellschaft mbH
- The "Salini test" and the contours of the concept of protected investment in international law - Professor Brigitte Stern, University of Paris I - Panthéon-Sorbonne; Graduate Institute of International Studies, Geneva

11.00 Coffee Break

11.30 **Session 6:** To Protect or not to Protect: Is there "Non-protected" Investment?

Chair: Dr. Karl-Ernst Brauner, Director General, External Economic Policy Department, Federal Ministry of Economics and Technology, Germany

- Conformity to Local Law - Professor Bernardo Cremades, Cremades y Asociados
- Corrupt Contracts: Arbitral Practice and Policy Initiatives - Professor Giorgio Sacerdoti, Bocconi University, Milan; WTO Appellate Body and Dr. Christoph Hauschka, PricewaterhouseCoopers Legal AG

13.00 Lunch

14:15 **Session 7:** The Changing Face of Investor-State Arbitration

Chair: The Hon. Marc Lalonde, PC OC QC

- Arbitrability: Is EC law outside the Scope of International Investment Arbitration? - Professor Piet Eeckhout, King's College London
- Unmeritorious Claims as a Problem to Investment Arbitration? - Zachary Douglas, Jesus College, University of Cambridge; Matrix Chambers
- Expectations of Fora - Meg Kinnear, Secretary-General of ICSID and Professor Emmanuel Jolivet, General Counsel, International Court of Arbitration, International Chamber of Commerce; Professor at the University of Versailles

15.45 Closing Remarks

16.15 END OF CONFERENCE

# Registration Form

## REGISTRATION

To register, please complete this form and fax it to +49 69 96236 9668. Alternatively, you can register by sending an email to [registration@50yearsofbits.com](mailto:registration@50yearsofbits.com) or directly on the website [www.50yearsofbits.com](http://www.50yearsofbits.com)

The conference will be held from 1-3 December 2009 in the Hermann Josef Abs Saal, Deutsche Bank, Frankfurt am Main, Germany:

Name: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 Job title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Email: \_\_\_\_\_

How did you hear about the conference?  
 \_\_\_\_\_

### Data protection:

We shall use the registration information for responding to your enquiry, processing your booking, giving you access to further information regarding this event and preparing a list of delegates for the conference, in accordance with the applicable data protection regulations. You may expressly withhold permission for such use of your personal data.

If you do not wish to be listed on an official attendee list, please send a short message to: [info@50yearsofbits.com](mailto:info@50yearsofbits.com)

### REGISTRATION FEES:

Regular: € 590 (incl. VAT)  
 Full-time Academic/Government employee: € 230 (incl. VAT)  
 Full-time student: € 100 (incl. VAT)

### PAYMENT/CONDITIONS OF PARTICIPATION:

The attendance fee, which includes conference documentation, lunches, tea/coffee and welcome reception, is payable at the time of registration to the following account:

Account holder: Martin-Luther-Universität Halle-Wittenberg.

Account number: 800 015 24- Bank code: 810 000 00

Deutsche Bundesbank, Filiale Magdeburg

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#### PLEASE:

1. Include the Reference "**Registrant's Name + B01020200**" with your bank instructions. Without it we cannot match payments to you or to the event and your registration may fail.
2. Instruct your bank that the payer will bear the fees for international transfers.

Once your registration has been received you will be sent a confirmation slip. In the event of cancellation or failure to attend the full fee will be payable. A registered delegate may send a substitute at no additional cost. The organisers reserve the right to amend the programme if necessary.

**BOOKING DEADLINES:** The closing date for registration (with payment) was **Monday, 23 November 2009**. Late registrations will be accepted provided that payment is received by the conference, although we cannot guarantee that your name will be included in the printed list of delegates. Please note that bank transfers typically require three working days to clear. In cases of transfers made after the closing date, you will need to be able to provide proof of payment at registration; alternatively you will be able to pay in cash at the registration desk.

### Hotel Accommodation:

You will find details of local hotels on the website. Please note that the prices quoted are for preferential rates that have now expired. Nonetheless it may still be worth applying with the promotional code "[50yearsofbits](http://www.50yearsofbits.com)".

## TARGET AUDIENCE:

The conference is aimed at a global audience of all those involved in and affected by the promotion and protection of foreign investment, in particular:

- Those involved in forming and implementing investment policy in both capital importing and capital exporting countries.
- Those involved in negotiating bilateral and multilateral treaties concerning foreign investment.
- Those investing capital abroad and their financiers, insurers and advisers.
- Those advocating, adjudicating and providing institutional support for investment disputes.
- Students and academics in the field of international law and economics.

**DATE AND PLACE:** 1-3 DECEMBER 2009

**HERMANN JOSEF ABS SAAL, DEUTSCHE BANK AG,  
JUNGHOFSTRASSE 11, 60311 FRANKFURT AM MAIN, GERMANY**

**LANGUAGE:** ENGLISH

**DIRECTIONS:**



**PROMOTER:** MARTIN LUTHER UNIVERSITY HALLE-WITTENBERG, UNIVERSITÄTSPLATZ 10, 06099 HALLE

**PATRON:** FEDERAL MINISTRY OF ECONOMICS AND TECHNOLOGY

**COMMITTEE:** Professor Stephan Hobe, International Investment Law Center (IILCC), University of Cologne ; Robert Hunter, Lovells LLP; Joachim Steffens, Federal Ministry of Economics and Technology; Professor Christian Tietje, Transnational Economic Law Research Center (TELC), University of Halle; Dr. Heiko Willems, BDI/GFA.