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# HILTON TOKYO · JAPAN

OCTOBER 18-21

# FALL 2016

## MEETING



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# Dear Colleagues,

On behalf of the American Bar Association Section of International Law (the “Section”), we are pleased to invite you to the 2016 Fall Meeting taking place October 18-21, 2016, at the Tokyo Hilton, Tokyo, Japan. The Fall Meeting will feature more than 60 panels highlighting different aspects of the theme for the meeting – “The Pacific Century: Progress and Predictions.”

## ***Please note:***

**Early Bird Registration Deadline is: September 9, 2016.** Take advantage of the low registration rates for both individual and group attendees. For more information about group registration rates, please email [intlawmeetings@americanbar.org](mailto:intlawmeetings@americanbar.org).

**Pre-Registration Final Deadline is October 3, 2016.** Online registration will be closed after this date and the onsite rate will be available via hard copy form.

**Hotel Room Block at Tokyo Hilton September 16, 2016.** We have reserved a special nightly rate of 26,800¥ single/27,600¥ double per night (includes daily breakfast buffet and complimentary access to the fitness center and pool). Reservations may be made online at <http://ambar.org/ILFall2016>. The number of rooms available at this special rate is limited and subject to selling out, so early booking is recommended.

## **WHAT WILL ATTENDANCE AT THE 2016 FALL MEETING OFFER YOU?**

- Cutting edge programming on the latest international legal and ethics issues
- Networking opportunities with counterparts, decision makers and potential clients from around the world who are active in international practice areas
- An entire year's worth of general CLE credits

## **OUTSTANDING NETWORKING OPPORTUNITIES!**

- Tuesday, Joint Reception with Local Bar Associations
- Wednesday, Hospitality Night with Local Hosts
- Thursday, Reception at Happo-en
- Friday, Chair's Closing Reception at Gonpachi
- Committee Networking Breakfasts

セミナーは10月18 – 21日です。是非、ご参加ください。

Sara P. Sandford  
Chair-Elect (Garvey Schubert Barer, Seattle, WA)

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# Meeting Agenda

## Tuesday, October 18, 2016

*Programs Held in Kiku Foyer will be translated Wednesday through Friday*

### 12:00 PM–6:30 PM *Kikka & Kikuyo* MEETING REGISTRATION OPEN

### 1:00 PM–4:00 PM *Yamato Higashi* COUNCIL MEETING

The Council (理事会) is the Section of International Law's (米国法曹協会の国際法セクション) policy-making body, and the source of much of the American Bar Association's international policy initiatives. In the past few years, the Council has proposed and debated a model U.S. law on freezing orders in litigation, elements of the Hague Convention on Choice of Court Agreements, and other key international legal issues. At this meeting the Council will debate major international law policy initiatives, and will be addressed by visiting dignitaries and bar leaders. The Council Meeting is open to all Fall Meeting registrants. *A light lunch will be provided for Council members starting at 12:30 pm.*

### 4:00 PM–5:15 PM *Yamato Higashi* PATHWAYS TO EMPLOYMENT IN INTERNATIONAL LAW (NON-CLE)

Join us for this valuable 'how to' program for law students and young lawyers seeking to bring their skills to the global arena, as well as experienced practitioners who

wish to expand their practices into international law. This Pathways panel is a joint program with the ABA Young Lawyers Division and will feature young lawyers who have built or expanded successful international practices.

### 6:00 PM–7:30 PM *Kikuen, Kiku Foyer & Kiku Lobby* JOINT RECEPTION WITH LOCAL BAR ASSOCIATIONS

Start the 2016 Fall Meeting by getting to know your fellow attendees. As the Meeting progresses, you will be able to share thoughts and experiences with the new colleagues and friends you meet at this opening reception. To make certain you meet as many people as possible, this reception will use a unique icebreaker activity.

*One ticket per person is included as part of your Fall Meeting registration fee; this reception is free to meeting attendees who have registered for the entire conference.*

## Wednesday, October 19, 2016

### 6:30 AM–6:30 PM *Kikka & Kikuyo* REGISTRATION AND EXHIBIT HALL OPEN HOURS

### 6:50 AM–8:00 AM MEETING FUN RUN/WALK

Ticketed Event—\$15

Join us for a Fun 5K Run or 1 Mile Walk. The entrance fee includes t-shirt and post-run refreshments. Please gather at Registration **no later than 6:45 AM**.

### 8:00 AM–8:50 AM *Kikuen* CONTINENTAL BREAKFAST & COMMITTEE BREAKFAST MEETINGS

The Section's more than sixty (60) substantive committees are its engine, and are the easiest way to get active in the Section of International Law. Join us to learn more about the Section's committees and their activities, as well as opportunities to become more active in the committees and the Section.

### 9:00 AM–10:30 AM *Kiku Foyer* PLenary Session – GLOBALIZATION OF ATTORNEY-CLIENT PRIVILEGE — THE ASIAN PERSPECTIVE

With the role of lawyers growing in governmental investigations and civil litigation, the value of attorney-client privilege, which was originally created in common law countries, has been well-recognized globally. Asian countries are not an exception. Attorney-client privilege is one of the hottest and most controversial topics in Asia, including in Japan, Korea and beyond. In this session, speakers will discuss the value of the privilege and the challenges in introducing, using and enforcing it in civil law systems.

#### PANEL CHAIRS:

**Sara Sandford**, Garvey Schubert Barer, Seattle, WA  
**Kimitoshi Yabuki**, Yabuki Law Offices, Tokyo, Japan

#### MODERATOR:

**Kimitoshi Yabuki**, Yabuki Law Offices, Tokyo, Japan

#### SPEAKERS:

**Tatsu Katayama**, Anderson Mori & Tomotsune, Tokyo, Japan

**Sae Youn Kim**, Yulchon LLC, Seoul, Republic of Korea

**Ran Ruixue**, Covington, Beijing, China

**10:30 AM–11:00 AM**  
**NETWORKING BREAK**

**11:00 AM–12:30 PM** *Kiku Foyer*  
**MULTIJURISDICTIONAL MERGER  
CONTROL IN ASIA-PACIFIC**

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Over the last decade, obtaining merger clearances for multijurisdictional transactions has become an exercise in regional and global strategy, as regulators have increased the frequency and depth of their cooperation. Managing multijurisdictional merger reviews requires practitioners to walk a fine line between keeping a global perspective so as to keep a unified approach on the transaction (to the extent warranted by the facts), while also covering the needs and requirements of multiple national regulators. This program aims to provide guidance on maintaining this balance, covering five major Pacific Rim jurisdictions (Australia, China, Japan, Korea and the United States) and addressing:

- The current enforcement priorities in each jurisdiction and the agenda currently being pursued by the antitrust authorities.
- Sector-specific rules as well as non-competition related matters that could affect the regulators' decision-making processes, including the role of national champions and foreign investment restrictions.
- A review of each authority's approach to remedies and the competition law theories being pursued.
- The participation of third parties in the process, including their role in the negotiation of divestments.
- The type of interactions among various national agencies and the impact of such interaction on the review process.

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**Alfredo O'Farrell**, Marval, O'Farrell & Mairal, Buenos Aires, Argentina

**MODERATOR:**

**Alfredo O'Farrell**, Marval, O'Farrell & Mairal, Buenos Aires, Argentina

**SPEAKERS:**

**Elizabeth Avery**, Gilbert + Tobin, Sydney, Australia  
**Michael H. Byowitz**, Wachtell, Lipton, Rosen & Katz, New York, NY

**Cecil Saehoon Chung**, Yulchon LLC, Seoul, Republic of Korea

**Yao Feng**, Broad & Bright, Beijing, China

**Etsuko Hara**, Anderson Mori & Tomotsune, Tokyo, Japan

**11:00 AM–12:30 PM** *Yamato Higashi*  
**Too Much, Too Little: THE ART AND ETHICS OF  
THE OPINION LETTER**

This program will focus on a topic not often covered, and appeal to transactional attorneys as well as possibly litigators. Lawyers are asked to provide opinions in a variety of contexts. Issues include the limitations of such letters, whether third parties may rely on them, and the tension between what clients want and what the lawyer can provide. Particularly in international practice, where cultural differences inform expectations, the lawyer faces ethical issues in terms of balancing the client goals with limitations on the lawyer's other ethical obligations.

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**PANEL CHAIRS:**

**Robert Lutz**, Southwestern Law School, Los Angeles, CA

**Steven M. Richman**, Clark Hill PLC, Princeton, NJ

**SPEAKERS:**

**Jon Malamud**, Prudential Financial, Tokyo, Japan (*Invited*)

**Phillipe Shin**, Shin & Kim, Seoul, Republic of Korea

**Hajime Ueno**, Nishimura & Asahi, Tokyo, Japan

**11:00 AM–12:30 PM** *Asuka*  
**BANKING ON ANTI-CORRUPTION: THE MULTILATERAL  
DEVELOPMENT BANKS AND THE FIGHT AGAINST  
CORRUPTION IN DEVELOPMENT FINANCING IN ASIA**

Flagging what investors need to know about the MDB sanctions and debarment programs, and the MDBs' contractual remedies against corruption: MDB cooperation with national enforcement and prosecutions; cross-debarment; collateral consequences of debarments; contractual protections against fraud and corruption in MDB projects; anti-corruption capacity building; a look ahead at new actors in Asia including NDB and AIIB.

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**PANEL CHAIR:**

**John Regis Coogan**, Business Risk Department, International Finance Corporation, Washington, DC

**MODERATOR:**

**Michael Silverman**, Hughes Hubbard & Reed LLP; former Integrity Compliance Officer, World Bank Group, Washington, DC

**SPEAKERS:**

**John Regis Coogan**, Business Risk Department, International Finance Corporation, Washington, DC

**Emmanuel Maurice**, Nestor Advisors; former General Counsel, European Bank for Reconstruction and Development, London, United Kingdom (*Invited*)

**Clare Wee**, Office of Anticorruption and Integrity, Asian Development Bank, Manila, Philippines

**Stephen S. Zimmermann**, Integrity Vice Presidency (INT), World Bank Group, Washington, DC (*Invited*)

**11:00 AM–12:30 PM**

**CARVE OUTS – ASIA STYLE**

*Yamato Nishi*

Carving out businesses for sale or for a separate public listing is a common global economic tool – no less so in Asia. This panel will look at the various trends in carve out approaches and practices across key markets in Asia. With panelists from the U.S. and Europe we will contrast developments in Western markets with the trends and practices in Asia.

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**PANEL CHAIR:**

**Hermann J. Knott**, Luther, Cologne, Germany

**MODERATOR:**

**Hermann J. Knott**, Luther, Cologne, Germany

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**Brendon Carr**, Yulchon LLC, Seoul, Republic of Korea

**Eva Das**, Stibbe, New York, NY

**Toru Ishiguro**, Mori Hamada & Matsumoto, Tokyo, Japan

**Stephen Revell**, Freshfields Bruckhaus Deringer, Hong Kong

**David Silk**, Wachtell Lipton, Rosen & Katz, New York, NY

**Jonathan Zhou**, Fangda Partners, Beijing/Shanghai, China

**11:00 AM–12:30 PM**

*Yamato Minami*

**CRYPTOCURRENCIES: AN OVERVIEW**

Cryptocurrencies, such as Bitcoin, have been around for a number of years, but as the potential application of the technology in both the mainstream financial sectors and on the black market increases, regulators, legal authorities, and courts from around the world are addressing the challenge of how best address the complex issues they pose. This program is intended to introduce participants to cryptocurrencies and the evolving uses of non-centralized digital currencies – both legal and illegal; and to discuss some of the regulatory and law enforcement treatment of and issues arising out of such novel currencies in the U.S. and elsewhere. This panel will present the landscape of recent regulations and court decisions and will offer a discussion about what still needs to be addressed and what the future may hold for this technology.

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**Emily Christiansen**, Kessler Topaz Meltzer & Check, LLP, Radnor, PA

**Nicole Healy**, Ropers Majeski Kohn Bentley PC, Redwood City, CA

**MODERATOR:**

**Nicole Healy**, Ropers Majeski Kohn & Bentley PC, Redwood City, CA

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**Taro Awataguchi**, Anderson Mori & Tomotsune, Tokyo, Japan

**David Fragale**, PricewaterhouseCoopers, LLC, Washington, DC (*Invited*)

**Kyle Wombolt**, Herbert Smith Freehills, Hong Kong

**12:45 PM–2:15 PM**

**LUNCHEON**

*Kikuen*

**2:30 PM–4:00 PM**

**EVOLVING ANTITRUST IP GUIDELINES ACROSS ASIA – WHAT'S AHEAD FOR TECHNOLOGY AND PHARMA?**

*Katsura & Kasuga*

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In 2016, Japan revised its Guidelines for the Use of Intellectual Property under the Antimonopoly Act and Korea revised its Review Guidelines on Unfair Exercise of Intellectual Property Rights, while China's Anti-Monopoly Commission is overseeing the drafting of IP Guidelines under its Anti-Monopoly Law. A significant impetus for Japan's and Korea's revisions, and area of concern in China, is the conduct of holders of Standard Essential Patents and the fulfillment of FRAND commitments. At the same time, conduct relating to pharmaceutical patents continues to raise competition law concerns.

How are IP Antitrust Guidelines evolving in major Asian jurisdictions? How will these Guidelines be implemented? What are the Asian approaches to IP-antitrust interface issues? What do they mean for technology and pharma? What are the implications for businesses operating across Asia? This panel of legal and economics experts will explain.

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**Cecil Saehoon Chung**, Yulchon LLC, Seoul, Republic of Korea

**MODERATOR:**

**Yee Wah Chin**, Ingram Yuzek Gainem Caroll & Bertolotti LLP, New York, NY

**SPEAKERS:**

**Jing He**, AnJie Law Firm, Beijing, China

**Kyoung Yeon Kim**, Yulchon LLC, Seoul, Republic of Korea

**Anne Layne-Farrar**, Charles River Associates, Chicago, IL

**Hiroshi Yamada**, Japan Fair Trade Commission, Tokyo, Japan

**2:30 PM–4:00 PM**

*Yamato Higashi*

**BEYOND PARIS: PROSPECTS FOR THE ENVIRONMENTAL REGULATION OF THE GLOBAL TRANSPORTATION SERVICE SECTOR**

At the December 2015 COP-21 United Nations Climate Change Conference in Paris, delegates from 196 states announced a groundbreaking pledge to maintain the global average temperature at 2°C above pre-industrial levels. However, the agreement was silent on emissions reduction commitments in the area of international transportation services. International shipping and commercial aviation collectively account for approximately 5% of man-made CO2 emissions and could comprise as much as one

third by 2050. They are also industries that operate predominantly across and outside state borders. This panel will explore what steps can and should—or should not—be taken by lawmakers and industry stakeholders to mitigate the environmental impact of these industries without impeding trade and economic development. Panelists will discuss opportunities and challenges for regulatory cooperation on environmental standards for transportation service sectors, including the role of intergovernmental and nongovernmental organizations and prospects for industry self-regulation.

**COMMITTEE SPONSOR:**  
International Transportation Committee

**COMMITTEE CO-SPONSORS:**  
International Environmental Law; International Trade Committee

**PANEL CHAIR:**  
**Jessica Horwitz**, Bennett Jones LLP, Toronto, Canada

**MODERATOR:**  
**Jessica Horwitz**, Bennett Jones LLP, Toronto, Canada

**SPEAKERS:**  
**Kenji Asakawa**, Institute for Global Environmental Strategies, Tokyo, Japan  
**Martine DeSerres**, Air Canada, Montréal, Canada  
**Alejandro Piera Valdés**, Guanes Heisecke & Piera Abogados, Asunción, Paraguay  
**Peter Zaman**, Reed Smith LLP, Singapore

**2:30 PM–4:00 PM** *Yamato Minami*  
**E-COMMERCE IN ASIA-PACIFIC AND BEYOND:  
TODAY'S CHALLENGES, TOMORROW'S OPPORTUNITIES**

To succeed in international business today, investing and engaging in e-commerce is increasingly vital. States have recognized the importance of decreasing practical and regulatory trade barriers, including through agreements such as the Trans-Pacific Partnership. Do you know what to do when your client wants to expand their online sales presence or acquire an e-commerce business? Join our panel of experts to learn about the key considerations when investing in e-commerce, including the cutting edge legal issues and opportunities on the horizon. This interactive session will feature speakers that will take you through the trade regulatory, cash, delivery fulfillment, and cybersecurity considerations that you should be aware of when advising clients interested in investing in e-commerce, with a particular focus on developments in and examples from the Asia-Pacific Region.

**COMMITTEE SPONSOR:**  
International Investment and Development

**COMMITTEE CO-SPONSORS:**  
International Trade; Privacy, E-Commerce and Data Security; International M&A and Joint Venture

**PROGRAM CHAIR:**  
**Sabrina A. Bandali**, Bennett Jones LLP, Toronto, Canada

**MODERATOR:**  
**Stephen Burns**, Bennett Jones LLP, Calgary, Canada

**SPEAKERS:**  
**To be confirmed.**

**2:30 PM–4:00 PM**

*Asuka*

**REGULATION OF THE ART MARKET  
IN CHINA, INDIA & JAPAN**

The expansion of the art markets in many Asian countries over the past twenty years, especially in China and India, has moved faster than their legal systems have to regulate the excesses of these booming markets. Recently, a number of important legal regulations have been promulgated in China and India that affect the sale of fine and decorative arts. This panel of legal experts will review recent developments in the laws of China and India with regard to art sales, and will contrast these changes to Japan's more mature legal framework.

**COMMITTEE SPONSOR:**  
International Art and Cultural Heritage Law

**COMMITTEE CO-SPONSORS:**  
Asia/Pacific; China; India; International Trade

**PANEL CHAIR:**  
**Michael McCullough**, Pearlstein McCullough & Lederman LLP, New York, NY

**2:30 PM–4:00 PM** *Yamato Nishi*  
**LOOK OUT FOR FALLING BRICKS: GETTING  
YOUR REAL ESTATE DEVELOPMENT  
IN ASIA RIGHT – PART I**

What should international investors know before planning significant commercial real estate development investment in Asia, especially China, Japan and India? What kind of purchase contracts are common and can you get representations and warranties from your seller? What will your title and property insurance look like? What types of construction contracts are used and how do you get licenses and permits from the local authorities? What is the usual type of leasing arrangement with tenants? And, what special customs and requirements make each of these jurisdictions different from anywhere you may have developed in the past? The panel will use the same case-study of Part II of this program, both panels will center around the structuring and implementation of an international investment in three City Center Malls, one in each of the designated countries. Join an international panel of speakers with specific experience in developing real estate in these growing Asian markets and learn how to make your project go smoothly instead of running into unforeseen obstacles.

**COMMITTEE SPONSOR:**  
Cross Border Real Estate Practice

**COMMITTEE CO-SPONSORS:**  
China; Asia-Pacific; India; International Investment & Development

**PANEL CHAIR:**  
**Gerard F. Hernández Colet**, Cuatrecasas, Gonçalves Pereira, Shanghai, China

**MODERATOR:**  
**Terry Selzer**, Husen Advokater, Copenhagen, Denmark

**SPEAKERS:**  
**Gerard F. Hernández-Colet**, Cuatrecasas, Gonçalves Pereira, Shanghai, China  
**Gerald Manoharan**, J. Sagar Associates, Bengaluru, India  
**Eriko Ozawa**, Mori Hamada & Matsumoto, Tokyo, Japan  
**Philip Zhang**, Zhong Lun Law Firm, New York, NY

**2:30 PM–4:00 PM** *Kiku Foyer*  
**ETHICAL ISSUES FOR ARBITRATORS  
AND PARTY REPRESENTATIVES IN  
INTERNATIONAL ARBITRATIONS**

This program builds on the interest of Japanese lawyers in arbitration and provides an ethics focus that will address the Japanese arbitration scheme and ethical issues relating to arbitrator disclosures and conflicts of interest, and the competing obligations of arbitrators/ neutrals chosen by parties and their obligations to all parties.

**COMMITTEE SPONSOR:**

International Ethics

**PANEL CHAIRS:**

**Robert Lutz**, Southwestern Law School, Los Angeles, CA

**Steven M. Richman**, Clark Hill PLC, Princeton, NJ

**SPEAKERS:**

To be confirmed.

**Kalpana Srinivasan**, Susman Godfrey L.L.P., Los Angeles, CA

**4:30 PM–6:00 PM** *Yamatho Minami*  
**ETHICS AND THE 'RASHOMON' EFFECT: THE  
LAWYER'S ROLE IN WITNESS PREPARATION**

There is a fine line between lying and inadvertent recall. The legal system relies on truth in testimony, but perception clouds that truth. The lawyer is ethically bound to make no misrepresentations and to deal honestly with tribunals and third parties. The permitted level of "coaching" and witness preparation varies from jurisdiction to jurisdiction. The program will use clips from a Japanese film to highlight how different stories of the same event may be "true" to each person, and the ethical considerations in how attorneys draw out and portray stories. The program will also permit comparative law discussion.

**COMMITTEE SPONSOR:**

International Ethics

**PANEL CHAIRS:**

**Robert Lutz**, Southwestern Law School, Los Angeles, CA

**Steven M. Richman**, Clark Hill PLC, Princeton, NJ

**MODERATOR:**

**Steven M. Richman**, Clark Hill PLC, Princeton, NJ

**SPEAKERS:**

**Steven M. Richman**, Clark Hill PLC, Princeton, NJ

**Lisa Savitt**, The Axelrod Firm, P.C., Washington, DC

**Kunihiro Sumida**, Atsumi & Sakai, Tokyo, Japan

**4:00 PM–4:30 PM**  
**NETWORKING BREAK**

*Proudly Sponsored By:*



**4:30 PM–6:00 PM** *Katsura & Kasuga*  
**BID-RIGGING WITHOUT BORDERS: WHAT'S NEXT  
IN INTERNATIONAL CARTEL INVESTIGATIONS?**

*Proudly Sponsored By:*



*Competition/Antitrust Track Sponsor*

This panel examines trends in international cartel enforcement from the perspective of a plaintiffs' attorney, defense counsel and prosecutors. Although the recent auto parts investigation and related lawsuits will be starting point of the discussion, the panel will also offer insights on which industries and geographic areas may be future targets.

**COMMITTEE SPONSOR:**

International Antitrust

**COMMITTEE CO-SPONSORS:**

International Criminal Law; Asia/Pacific; China

**PANEL CHAIRS:**

**Jennifer M. Driscoll**, Washington, DC

**Kimitoshi Yabuki**, Yabuki Law Office, Tokyo, Japan

**MODERATOR:**

**Ethan Litwin**, Hughes Hubbard & Reed LLP, New York, NY

**SPEAKERS:**

**Hideo Nakajima**, Japan Fair Trade Commission, Tokyo, Japan

**Marvin Price**, Antitrust Division, U.S. Department of Justice, Washington, DC

**John Yong Ren**, T&D Associates, Beijing, China

**Madoka Shimada**, Nishimura & Asahi, Tokyo, Japan

*Asuka*

**4:30 PM–6:00 PM** *Asuka*  
**THE DARK SIDE OF PEACEKEEPING: GLOBAL  
RESPONSES TO CONFLICT-RELATED SEXUAL VIOLENCE**

Arresting incidents of rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity –perpetrated within the context of war –both against noncombatants and members of armed groups, have incessantly captured sustained global attention.

With enthused audience participation, our select panel of globally renowned discussants will bring to fore current and emerging concerns vis-à-vis the persistent gnawing issue of sexual violence as a threat to international peace and security.

In so doing, the panel will highlight actions taken and challenges faced by States in attempting to protect civilians from such violence –providing updates on efforts by United Nations peacekeeping political missions and country teams –and in conclusion, undertaking an in-depth appraisal of policy and legal responses/interventions intended to solve problems of conflict-related sexual violence globally.

**COMMITTEE SPONSOR:**

Women's Interest Network (WIN)

**COMMITTEE CO-SPONSORS:**

National Security; International Human Rights; Asia/Pacific; Transnational Legal Practice

**PANEL CHAIR:**

**Olufunmi Oluyede**, TRLPLAW, Lagos, Nigeria

**MODERATOR:**

**Lelia Mooney**, International Network to Promote the Rule of Law, United States Institute of Peace, Washington, DC

**SPEAKERS:**

**Gabrielle Buckley**, Vedder Price, Chicago, IL

**Salli Anne Swartz**, Artus Wise, Paris, France

**4:30 PM–6:00 PM**

*Yamato Nishi*

**LOOK OUT FOR FALLING BRICKS: GETTING  
YOUR REAL ESTATE DEVELOPMENT  
IN ASIA RIGHT – PART II**

The panel will address the main concerns of an international investment in Asia, specially China, Japan and India, from a tax and corporate structure point of view, including compliance with the target country's laws on foreign investment structures and tax considerations in forming a chain of subsidiary companies. Where do you form the intermediary subsidiary? Do you need a local entity or joint venture partner to develop the project? Are there restrictions in repatriating profits or the initial capital investment? The panel will use the same case-study of Part I of this program, which will center around the real estate related issues of an international investment in three City Center Malls, one in each of the designated countries. The speakers will address the legal requirements, practical concerns, and the differences and similarities among the three countries.

**COMMITTEE SPONSOR:**

China

**COMMITTEE CO-SPONSORS:**

Cross Border Real Estate Practice; Asia-Pacific; India; International Investment & Development

**PANEL CHAIR:**

**Gerard F. Hernández Colet**, Cuatrecasas, Gonçalves Pereira, Shanghai, China

**MODERATOR:**

**Albert Garrofé**, Cuatrecasas, Gonçalves Pereira, Barcelona, Spain

**SPEAKERS:**

**Richard Cant**, Dezan Shira & Associates, Boston, MA

**Hiroto Inoue**, Nagashima Ohno & Tsunematsu, Tokyo, Japan

**Malcolm S. McNeil**, Arent Fox LLP, Los Angeles, CA

**Upendra Nath Sharma**, J. Sagar Associates, Gurgaon, India

**4:30 PM–6:00 PM**

*Kiku Foyer*

**YOU HAVE WON YOUR ARBITRATION;  
NOW WHAT? – ENFORCING  
INTERNATIONAL ARBITRATION AWARDS  
IN FOREIGN JURISDICTIONS**

Victory following a full arbitration hearing under international rules is a great result, but may not be the end of the process – it may only be the beginning of the end. What happens when a prevailing party in the international arbitration context is required to enforce an arbitration award in a foreign jurisdiction? Practitioners from China, Japan, Europe, and the United States will provide instruction on specific and general considerations when enforcing arbitration awards in their jurisdictions (including application of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards), traps for the unwary, and keys to success in this context.

**COMMITTEE SPONSOR:**

International Arbitration

**COMMITTEE CO-SPONSORS:**

International Litigation; International Corporate Counsel

**PANEL CHAIR:**

**John Devlin**, Lane Powell PC, Seattle, WA

**MODERATOR:**

**John Devlin**, Lane Powell PC, Seattle, WA

**SPEAKERS:**

**Marielle Koppenol-Laforce**, Houthoff Buruma, Rotterdam, Netherlands

**Chie Nakahara**, Nishimura & Asahi, Tokyo, Japan

**JianJian Wang**, King & Wood Mallesons, Shanghai, China

**7:00 PM–9:00 PM**

**HOSPITALITY NIGHT**



**7:00 AM–6:30 PM** *Kikka & Kikuyo*  
**REGISTRATION AND EXHIBIT HALL OPEN**

**7:30 AM–8:45 AM** *Kikuen*  
**CONTINENTAL BREAKFAST &  
COMMITTEE BREAKFAST MEETINGS**

Join us to learn more about the Section's committees (the "engines of the Section"). Find out about committee activities and opportunities to become more active in the Section.

**9:00 AM–10:30 AM** *Katsura & Kasuga*  
**TRANS-PACIFIC PARTNERSHIP: PROGRESS AND  
PREDICTIONS FOR THE LARGEST INTERNATIONAL  
TRADE AGREEMENT IN HISTORY**

The Trans-Pacific Partnership (TPP) has been agreed to by most Pacific Rim countries, including the United States and Japan. It is open to debate what it is expected to achieve in facilitating international trade beyond the reduction of tariffs. The Office of the U.S. Trade Representative (USTR) describes it as the largest trading block in the world, and expects a significant increase in trade among members. For example, Japan imposes a 58% tax on American made wine, and Vietnam imposes a 70% tax on American made automobiles. There are environmental, food safety, human rights, anti-corruption, intellectual property, employment, and tax provisions as part of the TPP that affect international law practitioners. Simply put, the TPP will be the standard for international trade in the future. This program will explore how the TPP will affect progress within the participating countries and make predictions about the biggest changes participants should expect, including the ability of foreign lawyers to open offices and practice law in member countries.

**COMMITTEE SPONSOR:**  
International Trade

**COMMITTEE CO-SPONSORS:**  
China; Customs Law; Canada; International Transportation; International Intellectual Property Rights; Export Controls and Economic Sanctions; International Anti-Corruption; International Human Rights; International Environmental Law

**PANEL CHAIR:**  
**Peter A. Quinter**, GrayRobinson, P.A., Miami, FL

**MODERATOR:**  
**Peter A. Quinter**, GrayRobinson, P.A., Miami, FL

**SPEAKERS:**  
**John W. Boscariol**, McCarthy Tétrault LLP, Toronto, Canada  
**Neha S. Dagley**, Dagley Law, P.A., Coral Gables, FL  
**Matthew Kronby**, Bennett Jones, LLP, Toronto, Canada  
**David Z. Mao**, Shanghai Pioneer Law Offices, Shanghai, China  
**Hisashi Shibata**, Mori Hamada & Matsumoto, Tokyo, Japan

**9:00 AM–10:30 AM** *Yamato Higashi*  
**DIFFERENCES OF CULTURE AND FAMILY  
DYNAMICS: CONSEQUENCES FOR INTERNATIONAL  
SUCCESSION AND ESTATE PLANNING**

Cultural and social factors surrounding and influencing the ownership, structure, and control of family and business assets are important variables to consider in international estate and succession planning. Profound respect for elders and for family heritage weighs heavily in certain countries and cultures, whereas in others gender and individual control play the more prominent roles. To further complicate matters, increased global mobility has made it common for families to have members from multiple cultures, often residing outside their country of citizenship. Drawing upon their experiences, panelists will compare the ways in which these elements are pertinent to succession and inheritance planning in their home countries. Clients and the elements of the property concerned are often located around the world. Therefore, issues of international taxation and ethical questions such as the attorney's competence to address foreign law will be discussed.

**COMMITTEE SPONSOR:**  
International Private Client

**COMMITTEE CO-SPONSORS:**  
International Ethics; International Family Law; International Tax; ABA Section of Real Property, Trust and Estate Law

**PANEL CHAIR:**  
**Jean-Louis Collart**, Mentha Avocats, Geneva, Switzerland

**MODERATOR:**  
**John Strohmeyer**, Crady, Jewett & McCulley LLP, Houston, TX

**SPEAKERS:**  
**Jean-Louis Collart**, Mentha Avocats, Geneva, Switzerland  
**Timothy Langley**, Langley Esquire, Tokyo, Japan  
**Yann Mrazek**, M/Advocates of Law, Dubai, United Arab Emirates

**Tomoko Nakada**, Hokusei Law Office, PC, Tokyo, Japan  
**Michael Paretz**, Withers LLP, Zurich, Switzerland

**9:00 AM–10:30 AM** *Yamato Minami*  
**ASIA'S TWENTY-FIRST CENTURY APPROACH  
TO RESOLVING INTERNATIONAL DISPUTES**

With rare exceptions, States in Asia have historically not used international courts to adjudicate their disputes. That is changing. Asian States are increasingly willing to submit to binding, third-party dispute resolution, and are doing so for a diversity of disputes, ranging from disputes over territorial sovereignty and maritime entitlements, to the environment and seizure of fishing vessels. The participants are equally diverse, and include Japan, India, Pakistan, Bangladesh, Malaysia, Singapore, Myanmar, Indonesia, Timor Leste, Cambodia, Thailand, and the Philippines. On the other hand, China has declined to participate in an arbitration brought by the Philippines concerning the South China Sea. The panel will evaluate these developments by asking: is the use of international courts the wave of the future for Asia?

**COMMITTEE SPONSOR:**  
International Courts

**COMMITTEE CO-SPONSORS:**  
Asia/Pacific; International Arbitration; International Litigation

**PANEL CHAIR:**  
**Andrew B. Loewenstein**, Foley Hoag LLP, Boston, MA

**MODERATOR:**

**Keun-Gwan Lee**, Seoul National University, Seoul, Republic of Korea

**SPEAKERS:**

**Andrew B. Loewenstein**, Foley Hoag LLP, Boston, MA

**Lan-Anh T. Nguyen**, Institute for East Sea (South China Sea) Studies, Diplomatic Academy, Ministry of Foreign Affairs of Vietnam, Hanoi, Vietnam

**Yukiko Takashiba**, Ritsumeikan Asia Pacific University, Oita, Japan

**9:00 AM–10:30 AM**

*Asuka*

**THE ETHICAL SUPPLY CHAIN: EFFECTIVE**

**MANAGEMENT TO PREVENT HUMAN RIGHTS  
ABUSES AND MITIGATE COMPLIANCE RISK**

Modern global supply chains are often fragmented and complex, with outsourcing and specialization becoming standard practice. Companies may have little transparency into the source of labor and materials used by third party suppliers, and lax ethical standards are a weak link in the supply chain that can threaten a company's stability of production and reputation. As illustrated by recent high-profile news items, certain countries in Asia face particular challenges in this area due to regulatory gaps and reliance on low-skilled labor. This panel will discuss the scope of human rights and ethical issues that arise in supply chains including forced labor, debt bondage, child labor, human trafficking, fraud, environmental exploitation and corruption. Panelists will provide concrete steps for in-house and external counsel to help identify risk factors and red flags, and discuss how effective supply chain management can enhance competitiveness, maintain brand integrity and ensure long-term sustainability of a business.

**COMMITTEE SPONSOR:**

Corporate Social Responsibility

**COMMITTEE CO-SPONSORS:**

International Human Rights; International Environmental Law; Asia/Pacific Committee; International Employment Law; International Investment & Development; International Trade; International Corporate Counsel

**PANEL CHAIR:**

**Jessica Horwitz**, Bennett Jones LLP, Toronto, Canada

**MODERATOR:**

**Jesse Goldman**, Bennett Jones LLP, Toronto, Canada

**SPEAKERS:**

**Declan Croucher**, Verité, Amherst, MA

**Edna Udobong**, Liberty University School of Law, Lynchburg, VA

**9:00 AM–10:30 AM**

*Yamato Nishi*

**HITTING THE BRICs: THE U.S.**

**INTERNATIONAL PROCUREMENT TAX**

The U.S. international procurement tax is imposed on what the U.S. Congress has estimated to be tens of billions of dollars annually of U.S. federal government purchases of goods produced in, and services provided in, the Pacific Rim (such as China, Russia, and the Philippines) and other countries, such as India and Brazil, that are neither parties to the World Trade Organization Agreement on Government Procurement nor to a Free Trade Agreement with the U.S. Affected contractors are required to absorb these costs and must consider them when pricing goods and services. The panel will discuss the coverage of, and exemptions from, this tax, its relationship to other laws such as the U.S. Trade Agreements Act and the U.S. Buy American Act, and recent developments such as the 2015 IRS guidance and the 2015 proposed IRS regulations concerning this tax.

**COMMITTEE SPONSOR:**

International Procurement

**COMMITTEE CO-SPONSORS:**

International Tax; Aerospace and Defense Industries; Russia/Eurasia; India; China

**PANEL CHAIR:**

**Alan S. Lederman**, Gunster, Fort Lauderdale, FL

**MODERATOR:**

**Alan S. Lederman**, Gunster, Fort Lauderdale, FL

**SPEAKERS:**

**Patricia A. Brown**, University of Miami School of Law, Miami, FL

**Bobbe Hirsh**, Skarzynski Black LLC, Chicago, IL

**9:00 AM–10:30 AM**

*Kiku Foyer*

**JOINT VENTURES AND INNOVATION POLICIES**

**IN ASIA: TACTICAL AND OPERATIONAL  
CONSIDERATIONS**

Ten years ago China ignored intellectual property rights (IPR) and simply sought to be a low cost supplier to the global marketplace. Today, through government subsidies, tax incentives, and legislative changes, China's new state-planned emphasis on indigenous innovation, and accompanying IPR strategies, including inventor remuneration, have posed an unexpected new challenge to the global business community, not just companies operating in China.

Does the emerging oriental innovation and IPR "stimulus package" have something to teach to Western policy makers and economic planners? How does the international corporate counsel or transactional lawyer need to change the playbook and advise management to be pro-active and participate in the Asian growth model?

An experienced panel of attorneys from China, Japan and the U.S. will debate the changing best practices for formulating and structuring Asian-based joint-venture agreements, including provisions relating to employment, non-disclosure/non-compete clauses, and dispute resolution procedures. Panelists will also describe the practical and operational measures actually taken and proven to be effective, and report the latest guidance relating to enforcement and arbitration/litigation of such issues.

**COMMITTEE SPONSOR:**

International M&A and Joint Venture

**COMMITTEE CO-SPONSORS:**

Asia/Pacific; China; International Commercial Transactions; International Corporate Counsel

**PANEL CHAIR:**

**Michael E. Burke**, Arnall Golden Gregory LLP, Washington, DC

**MODERATOR:**

**Michael E. Burke**, Arnall Golden Gregory LLP, Washington, DC

**SPEAKERS:**

**Joon Kim**, Kim & Chang, Seoul, Republic of Korea

**Ryo Okubo**, Nagashima Ohno & Tsunematsu, Tokyo, Japan

**Kate Peng**, King & Wood Mallesons, Beijing, China

**10:30 AM–11:00 AM**  
**NETWORKING BREAK**

**11:00 AM–12:30 PM** *Katsura & Kasuga*  
**THE TRANS-PACIFIC PARTNERSHIP:**  
**PERSPECTIVES AND PREDICTIONS THROUGH**  
**THE ANTITRUST LOOKING GLASS**

*Proudly Sponsored By:*

天地和津律師事務所  
T&D Associates

*Competition/Antitrust Track Sponsor*

The panel will introduce and summarize the Trans-Pacific Partnership (TPP), comment on implementation status and challenges in key jurisdictions and then discuss key themes and practical implications through the prism of antitrust/competition law. These include (1) treaty commitments for competition policy and regulatory coherence, which will lead both to greater jurisdictional coverage and the prospect of increasing antitrust law convergence; (2) aspects of the TPP that will affect competition and merger clearance in affected jurisdictions, ranging from tariff reduction, government procurement, trade in financial services, SOEs; and (3) liberalization of cross-border trade in services, which promises increased opportunities in the practice of competition law around the Pacific.

Countries in the new Trans-Pacific Partnership (TPP) include Japan, Singapore, Australia and Canada. The proposed panel includes experts from each of those countries. The TPP is also very important for other signatory countries such as Mexico, Malaysia, Vietnam, the U.S. and Chile.

**COMMITTEE SPONSOR:**  
International Antitrust Law

**COMMITTEE CO-SPONSORS:**  
Asia-Pacific; China; International Trade; Transnational Legal Practice

**PANEL CHAIRS:**  
**Lisli Dunlop**, Manatt, Phelps & Phillips, New York, NY  
**Paul M. Schoff**, MinterEllison, Sydney, Australia

**SPEAKERS:**  
**Kala Anandarajah**, Rajah & Tann Singapore, LLP, Singapore  
**Anita Banicevic**, Davies Ward Phillips & Vineberg LLP, Toronto, Canada  
**Kaori Yamada**, Freshfields Bruckhaus Deringer, Tokyo, Japan

**11:00 AM–12:30 PM** *Yamato Minami*  
**THIRD PARTY FUNDING IN ARBITRATION—THE**  
**NEW COUNSEL GUIDEPOSTS BY THE ABA SIL**  
**INTERNATIONAL ARBITRATION COMMITTEE**

The growing presence of third party funding (a non-regulated industry) in international arbitration raises a number of novel issues for counsel: What is counsel's relationship towards the funder? How can confidentiality and privilege be protected? To what extent may the funder influence the arbitration, e.g. by approval of arbitrators and settlements? How to address security for costs and adverse cost orders?

The International Arbitration Committee of the ABA Section of International Law has established a Working Group of international experts led by Niklaus Pitkowitz to prepare recommendations assisting counsel to handle these and other challenges. The Working Group has prepared Guideposts which will for the first time be presented in public at the occasion of this session. The Guideposts also address regional aspects, including Japan, China, Hong Kong, Korea and Singapore.

The program will be staged as a moderated discussion debating the issues addressed in the Guideposts on the basis of practical examples, from various perspectives and under different (regional) scenarios. Speakers of the session are renowned international arbitration experts and members of the Working Group.

**COMMITTEE SPONSOR:**  
International Arbitration

**COMMITTEE CO-SPONSORS:**  
Asia/Pacific; China; International Ethics; International Litigation; International Financial Products and Services

**PANEL CHAIRS:**  
**Kirstin Dodge**, Homburger, Zurich, Switzerland

**Niklaus Pitkowitz**, Graf & Pitkowitz, Vienna, Austria

**MODERATORS:**

**Glenn Hendrix**, Arnall Golden Gregory LLP, Atlanta, GA  
**Niklaus Pitkowitz**, Graf & Pitkowitz, Vienna, Austria

**SPEAKERS:**

**Brenda Horrigan**, Herbert Smith Freehills, Shanghai, China

**Aoi Inoue**, Anderson Mori & Tomotsune, Tokyo, Japan

**Kenneth B. Reisenfeld**, BakerHostetler, Washington, DC

**Lawrence S. Schaner**, Jenner & Block, Chicago, IL

**Ruth Stackpool-Moore**, Harbour Litigation Funding, Hong Kong

**Robert W. Wachter**, Lee & Ko, Seoul, Republic of Korea

**11:00 AM–12:30 PM** *Asuka*  
**GENDER, SEXTORTION AND CORRUPTION:**  
**PREYING ON THE MOST VULNERABLE,**  
**AND WHAT TO DO ABOUT IT**

Corrupt bureaucrats, educators, international peacekeeping forces and others in positions of power sometimes prey on women, demanding sexual favors in exchange for public services. Women are often among the most vulnerable in society and among those targeted by bribe-seekers. On the other hand, women can be the most resilient to bribery demands; and successful anti-corruption programs can be built on empowering women. Speakers will explore the problem – and the solutions – drawing on data and experience from diverse countries.

**COMMITTEE SPONSOR:**  
Diversity

**COMMITTEE CO-SPONSORS:**  
International Anti-Corruption; Women's Interest Network (WIN)

**PANEL CHAIR:**

**Corinne Lammers**, Paul Hastings, Washington, DC

**MODERATOR:**

**John Regis Coogan**, Business Risk Department, International Finance Corporation, Washington, DC

**SPEAKERS:**

**Nancy Hendry**, International Association of Women Judges, Washington, DC

**Archana Kotecha**, Liberty Asia, Hong Kong

**Helen Sworn**, Chab Dai, Phnom Penh, Cambodia

**11:00 AM–12:30 PM**

*Yamato Nishi*

**JAPAN SIGNALS ITS NEXT MOVE INTO THE BANKING FAST LANE – A DISCUSSION OF THE LATEST STEPS BEING TAKEN TO SHAKE THE JAPANESE FINANCIAL SYSTEM OUT OF ITS 15 YEAR DEFLATIONARY MINDSET**

There is no doubt that the Japanese economy has been mired in painful deflation for over 15 years. Painful is probably a kind description. Where the economy goes... so goes the banking sector in Japan. This deflationary mindset seems to pervade a Japanese economy that should be far more vibrant but cannot seem to shake-off the financial headaches of the past even as its major trading partner, the U.S., seems to be back in good financial health. According to Bank of Japan Gov. Haruhiko Kuroda, this deflationary mindset needs to finally end and it needs to end very soon. Basically, get over it financially. Learn how various Japanese banking policy initiatives hope to lead the way out of the Japanese financial doldrums with changing directions and innovation in the regulation of derivatives, proposed amendments to the Japanese Civil Code regarding guarantees and other obligations, and trying to understand where emerging FinTech can help—or hurt—the health of Japanese banking. Also, will China's escalating financial problems somehow benefit the Japanese financial system indirectly and, if so, how?

**COMMITTEE SPONSOR:**

International Financial Products and Services

**COMMITTEE CO-SPONSORS:**

Cross Border Real Estate Practice; International Mergers and Acquisitions; International Commercial Transactions; International Corporate Counsel; International Securities and Capital Markets; Transnational Legal Practice

**PANEL CHAIR:**

**Piyasena C. Perera**, Hunton & Williams LLP, Tokyo, Japan

**MODERATOR:**

**Piyasena C. Perera**, Hunton & Williams LLP, Tokyo, Japan

**SPEAKERS:**

**Paul Hunter**, International Bankers Association of Japan, Tokyo, Japan (*Invited*)

**Shunsuke Shirakawa**, Financial Services Agency of Japan, Tokyo, Japan (*Invited*)

**Yuri Suzuki**, Atsumi & Sakai, Tokyo, Japan

**Tomoko Takezawa**, VISA Japan, Tokyo, Japan

**11:00 AM–12:30 PM**

*Yamato Higashi*

**UTILIZING PROFESSIONAL SKILLS AND EDUCATION FROM OUTSIDE THE UNITED STATES DURING THE PACIFIC CENTURY: A FOREIGN ATTORNEY'S AND LAW STUDENT'S GUIDE TO EXPANDING THEIR LEGAL CAREERS IN THE UNITED STATES, AND BEST HIRING PRACTICES FOR EMPLOYERS AND LAW FIRMS**

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NOZOMI SOGO LAW OFFICE

This program will inform attendees who are foreign attorneys and law students, (especially local attendees from Japan and other foreign countries) on potential opportunities and options to expand their legal careers in the United States and how they can leverage their experiences and education. For example, program attendees will learn about the process for being qualified

to take a bar exam in the United States, how they can pursue an LL.M. (Masters of Law Degree) or a J.D. (Juris Doctor Degree) at a United States law school. Program attendees will also learn about particular best practices for professional growth and development and how they can make the transition from their home country to a legal career in the United States, or return to their home country. This program will also provide best practices for employers and law firms.

**COMMITTEE SPONSOR:**

Diversity Committee

**COMMITTEE CO-SPONSORS:**

Immigration Law; International Commercial Transactions, Franchising and Distribution; Latin America and Caribbean; International Financial Products & Services

**PANEL CHAIR:**

**Ireneo A. Reus III**, The Law Offices of Ireneo A. Reus III, Los Angeles, CA

**MODERATOR:**

**Ireneo A. Reus III**, The Law Offices of Ireneo A. Reus III, Los Angeles, CA

**SPEAKERS:**

**M. Paula Aguila**, Rivero Mestre LLP, Miami, FL

**Cédric Chapuis**, Bär & Karrer, Genève, Switzerland

**Tzu-Kai Lo**, Fragomen, Del Rey, Bernsen & Loewy LLP, Chicago, IL

**Monika R. Oyama**, Masuda, Funai, Eifert & Mitchell Ltd., Chicago, IL

**Daisuke "Ike" Yuki**, Nozomi Sogo, Tokyo, Japan

**11:00 AM–12:30 PM**

*Kiku Foyer*

**IMPLEMENTATION OF THE 1980 HAGUE ABDUCTION CONVENTION IN JAPAN AND THE PACIFIC RIM**

The long-awaited entry into force between conference members and Japan of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction occurred on April 1, 2014. The panel will present the history of interest by Japan in the treaty and the ratification and implementation process. As of this writing, a total of 16 cases have been concluded. The panel will present and compare the similar process that the Republic of Korea has experienced in ratification and implementation and examine how the Hague process interfaces with Japan's long-standing institutionalized Chotei, or court-sponsored mediation system.

**COMMITTEE SPONSOR:**

International Family Law

**PANEL CHAIR:**

**Markus Zwicky**, Zwicky Windlin & Partner, Zug, Switzerland

**MODERATOR:**

**Bradley Lechman-Su**, Attorney at Law, Portland, OR

**SPEAKERS:**

**Hirotaka Honda**, Family Law Office at Shibuya Tokyo, Tokyo, Japan

**Anne Marie Hutchinson**, Dawson Cornwell, London, United Kingdom

**Amb. Susan Jacobs**, U.S. Department of State, Washington, DC

**Colin Jones**, Doshisha Law School, Tokyo, Japan

**Toshifumi Minami**, City-Yuwa Partners, Tokyo, Japan (*Invited*)

**Mikiko Otani**, Toranomon Law and Economic Offices, Tokyo, Japan

**12:45 PM–2:15 PM**

*Kikuen*

**LUNCHEON—**

**KEYNOTE SPEAKER: HYEONSEO LEE**

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Hyeonseo Lee is a North Korean defector living in Seoul, South Korea. Her recently published memoir, *The Girl with Seven Names – A North Korean Defector's Story*, has been published in 18 languages in 25 countries. Over 8 million people

have viewed her TED Talk (including the cross-posting on YouTube) about her life in North Korea, her escape to China and struggle to bring her family to freedom. Oprah called it, "The most riveting Ted Talk ever." Hyeonseo has given testimony about North Korean human rights in front of a special panel of the UN Security Council in 2014 and at the UN Commission on the Status of Women in 2016.

**2:30 PM–4:00 PM**

*Katsura & Kasuga*

**PROMOTING THE RULE OF LAW: TOOLS OF ENGAGEMENT IN CHALLENGING ENVIRONMENTS**

Rule of law is widely recognized as fundamental to peaceful and stable societies. Yet, the best methods for promoting and ensuring rule of law in any particular country are less clear, vary according to the political, cultural and economic context, and are constantly evolving. How do those institutions and individuals engaged in rule of law promotion, analyze operating environments and leverage interventions to effectively advance rule of law? What tools – in-country and externally – are available for advancing rule of law and how does the country context factor into the analysis of which tools are most effective? Given the changing power dynamics within the region and globally, how do practitioners develop an integrated, multi-faceted approach that will build and sustain a foundational basis for rule of law? The panelists will discuss examples of complex operating environments in Asia and what different approaches to rule of law have achieved, interventions to promote rule of law and the protection of rights, and their theories on the role the domestic and international community can have to promote and engage on rule of law promotion.

**PANEL CHAIRS:**

**Lelia Mooney**, International Network to Promote the Rule of Law, United States Institute of Peace, Washington, DC

**Jennifer Rasmussen**, American Bar Association Rule of Law Initiative, Washington, DC

**MODERATOR:**

**Lelia Mooney**, International Network to Promote the Rule of Law, United States Institute of Peace, Washington, DC

**SPEAKERS:**

**Elizabeth Andersen**, American Bar Association Rule of Law Initiative, Washington, DC

**Miha Isoi**, Japan International Cooperation Agency, Tokyo, Japan (*Invited*)

**Hon. Michael Kirby**, former Justice of the High Court of Australia and former head of the UN Commission of Inquiry on Alleged Human Rights Violations in the Democratic People's Republic of Korea, Sydney, Australia (*Invited*)

**Steven Thiru**, President of Malaysian Bar, Kuala Lumpur, Malaysia (*Invited*)

**2:30 PM–4:00 PM**

*Yamato Minami*

**LESSONS LEARNED: MEDIATION OF MASS CLAIMS IN NATURAL AND MAN-MADE DISASTERS**

In today's world of accelerating climate change and man-made disasters, there is a continuing need to handle mass claims arising from such disasters expeditiously. One mechanism for handling such claims is mediation. This program will examine some mediation programs that were established to handle mass claims arising from natural and man-made disasters. In Japan, damage claims arising from the Fukushima nuclear disaster have been mediated by a government-established entity, the Dispute Resolution Centre for Nuclear Damage Compensation. In New York, insurance claims brought by home and business owners against their insurers have been mediated in a program administered by a private ADR provider selected by the state government as well as in a court-annexed mediation program. An examination and comparison of these programs might yield "lessons learned" that could be applied going forward in using mediation for handling mass claims expeditiously.

**COMMITTEE SPONSOR:**

International Mediation

**COMMITTEE CO-SPONSORS:**

International Environmental Law; International Energy & Natural Resources Committee; Asia/Pacific

**PANEL CHAIR:**

**Michele S. Riley**, Adjunct Faculty, International Center for Cooperation and Conflict Resolution, Columbia University, New York, NY

**MODERATOR:**

**Michele S. Riley**, International Center for Cooperation and Conflict Resolution, Columbia University, New York, NY

**SPEAKERS:**

**Naoki Idei**, Kojima Law Offices, and Secretary General of the Japan Federation of Bar Associations, Tokyo, Japan

**Isomi Suzuki**, Koga & Partners, former President of LawAsia, and former member of supervising committee of the Nuclear Damage Claim Dispute Resolution Center, Tokyo, Japan

**Shinsuke Toyonaga**, Daiichi Law Office, and former staff attorney at the Nuclear Damage Compensation and Decommissioning Facilitation Corporation, Tokyo, Japan

**2:30 PM–4:00 PM**

*Asuka*

**BEPS IN ASIA: DOING BUSINESS IN A BRAND NEW TAX CLIMATE**

On October 5, 2015, the OECD published the final reports of the OECD/G20 Base Erosion and Profit Shifting ("BEPS") project. These reports consist of a package of measures for a coordinated approach to reform the international tax system. Although not all countries in Asia form part of the OECD and/or OECD community, a number of important Asian countries do.

The program discusses business motivations and tax benefits of international group structuring in the context of OECD discussions on base erosion and profit shifting and U.S. Congressional attention to the issue. The panel will review the latest trends and developments in international group structuring impacting all multinational corporations — deal structuring to R&D development to manufacturing and sales.

The panel is intended to be an introductory level discussion aimed at business attorneys and corporate officers responsible for making decisions or advising on fundamental corporate structuring issues.

The panel will review the impact the BEPS will inevitably have on doing business in the Asian countries.

**COMMITTEE SPONSOR:**  
International Tax

**COMMITTEE CO-SPONSORS:**

International Commercial Transaction, Franchising and Distribution; International Corporate Counsel Forum; International Trade; UN and International Organizations

**PANEL CHAIR:**  
**Paul D. Carman**, Chapman and Cutler LLP, Chicago, IL

**MODERATOR:**  
**Guillermo Villasenor Tadeo**, Sánchez Devanny, Mexico City, Mexico

**SPEAKERS:**  
**Carola van den Bruinhorst**, Loyens & Loeff N.V., Hong Kong

**David Liu**, FuJae Partners, Shanghai, China  
**Atsushi Oishi**, Mori Hamada & Matsumoto, Tokyo, Japan

**2:30 PM–4:00 PM** *Yamato Nishi*  
**PROSPECTS OF A CANADIAN LNG EXPORT INDUSTRY: PROGRESS AND PREDICTIONS**

The program will focus on the prospects for successful development of a Canadian LNG export industry focused on Asian markets, including an assessment of Canada's competitive strengths and weaknesses relative to competing projects in the U.S. and a discussion of interesting legal issues.

Canada's competitive strengths include proximity to market relative to the U.S. Gulf coast, an abundant low cost resource base, climatic advantages and a stable fiscal/regulatory regime. Challenges include the capital cost of greenfield facilities relative to U.S. brown fields, the need for pipeline infrastructure and the complexities of the Aboriginal engagement process.

Interesting legal issues include compliance with the Canadian environmental regulatory process for large resource projects and the Aboriginal engagement process (including Equator principles compliance); project financing structure alternatives; and the governmental measures put in place to comfort proponents as to the stability of the regulatory and fiscal regimes governing LNG liquefaction facilities.

**COMMITTEE SPONSOR:**  
Canada

**PANEL CHAIR:**  
**Al Hudec**, Farris LLP, Vancouver, Canada

**MODERATOR:**  
**Al Hudec**, Farris LLP, Vancouver, Canada

**SPEAKERS:**  
**Don Bell**, Torys LLP, New York, NY  
**Al Hudec**, Farris LLP, Vancouver, Canada  
**John MacKay**, Latham & Watkins LLP, Singapore

**2:30 PM–4:00 PM** *Yamato Higashi*  
**THE YIN AND YANG OF THE YUAN – CHINESE OUTBOUND INVESTMENTS, VIEWED GLOBALLY**

Something historic has happened very recently: China's outbound direct investments have just exceeded direct investments into China. The yuan surge out of China is veritably dramatic and seemingly unstoppable, with companies, funds and banks of varying sizes all joining the fray. Chinese executives and their advisors are seen in far-flung corners of all continents chasing deals in energy, manufacturing, real estate, healthcare and any number of other sectors. What explains this frenzy? How long will it last? How does it benefit and challenge the peoples (and the ABA members) of the seven seas? This unique panel will offer timely insights into the phenomenon, from the Chinese perspective and from the major ports of call in Asia, Europe and the Americas. Experienced practitioners from major regions of the world will examine Chinese outbound investments from multiple legal angles (foreign investment, anti-bribery, labor, CFIUS review – to name a few).

**COMMITTEE SPONSOR:**  
China

**COMMITTEE CO-SPONSORS:**  
Asia/Pacific; Europe; Latin America & Caribbean; International M&A and Joint Ventures; International Private Equity

**PANEL CHAIR:**  
**Alex Hao**, JunHe LLP, New York, NY

**MODERATOR:**  
**Paul Edelberg**, Fox Rothschild LLP, Stamford, CT

**SPEAKERS:**  
**Santiago Concha**, C&R Law, Bogotá, Colombia  
**Alex Hao**, JunHe LLP, New York, NY  
**Till Kosche**, Noerr, Frankfurt, Germany  
**Edward Lee**, Wachtell Lipton Rosen & Katz, New York, NY  
**Chen Lee Won**, Rahmat Lim & Partners, Kuala Lumpur, Malaysia

**2:30 PM–4:00 PM**

*Kiku Foyer*

**UBERISATION OF THE LEGAL PROFESSION:  
WHERE ARE WE IN ASIA?**

The U.S. – and gradually Europe – are experiencing daily the signs of a material change in the legal profession's landscape following an unprecedented combination of economic, market and technological factors. This session plans on examining how those dramatic changes are affecting the region with a particular focus on Japan, Korea and the neighbouring countries.

The panel will cover these topics:

- How innovation and technology affects the legal profession;
- The surge of new competition for traditional law firms ("web" law firms; elegal servicing); and
- Preliminary signs of uberisation of the legal profession (comparative websites; freelancing; etc.).

**COMMITTEE SPONSOR:**

International Law Practice Management Forum

**COMMITTEE CO-SPONSORS:**

Transnational Legal Practice

**PANEL CHAIR:**

**Jean-Claude Rivalland**, Allen & Overy LLP,  
Paris, France

**MODERATOR:**

**Jean-Claude Rivalland**, Allen & Overy LLP,  
Paris, France

**SPEAKERS:**

**Chunghwan Choi**, Lee & Ko, Seoul, Republic of Korea

**Masahiro Kotosaka**, Keio University, Kanagawa, Japan

**Taichiro Motoe**, Bengo4.com, Tokyo, Japan

**Koki Yamada**, Hibiya-Nakata, Tokyo, Japan

For more guidance on publishing with the Section, visit the Section website at [http://www.americanbar.org/groups/international\\_law/leadership.html](http://www.americanbar.org/groups/international_law/leadership.html).

**4:30 PM–6:00 PM**

*Katsura & Kasura*

**FIX OR THROW OUT? IS IT TIME TO GET RID OF  
INVESTOR STATE ARBITRATION IN THE TPP?**

Held as a structured discussion with audience participation, this distinguished panel will consider the TPP's groundbreaking new approach to investor-state arbitration. Does this new TPP go far enough to address ethical and fairness concerns about investor state dispute resolution? Should the investor state dispute system in TPP be replaced by an Investment Court and Appellate Body? How are values such as ethical conduct, equality and due process protected? Are there special needs for the Asia-Pacific trade zone?

**COMMITTEE SPONSOR:**

International Arbitration

**COMMITTEE CO-SPONSORS:**

Asia/Pacific; International Litigation; Canada

**PANEL CHAIR:**

**Barry Appleton**, Appleton & Associates International  
Lawyers, Toronto, Canada

**MODERATOR:**

**Barry Appleton**, Appleton & Associates International  
Lawyers, Toronto, Canada

**SPEAKERS:**

**Cristina Cardenas**, Astigarraga Davis Mullins Grossman,  
Miami, FL

**Tai-Heng Cheng**, Quinn Emanuel, Urquhart & Sullivan,  
LLP, New York, NY

**Robert Howse**, New York University School of Law,  
New York, NY

**Tania Voon**, Melbourne Law School, The University of  
Melbourne, Carlton, Australia

**4:30 PM–6:00 PM**

*Yamato Higashi*

**THE GROWING IMPORTANCE OF ALTERNATIVE  
BUSINESS STRUCTURES IN THE ASIA-PACIFIC REGION**

The emergence of Alternative Business Structures (ABS) in some major legal markets is changing the legal services landscape, creating both new opportunities and challenges for lawyers and law firms. We will explore developments in a number of jurisdictions including developments in Asia and look at what services are being provided by ABSs and what can be learned from experiences in other professions. We will discuss existing outsourcing models operating in Asia, the growth of the Global law firms within Asia (including the Big 4 "accountants") and consider the opportunities these new structures create. We will also investigate the likelihood of legal service markets in "protectionist" countries, such as India and the U.S., being opened up to these new business structures.

**COMMITTEE SPONSOR:**

Transnational Legal Practice

**COMMITTEE CO-SPONSORS:**

International Ethics; International Law Practice  
Management Forum

**PANEL CHAIR:**

**Norman K. Clark**, Walker Clark LLC, Fort Myers, FL

**MODERATOR:**

**Norman K. Clark**, Walker Clark LLC, Fort Myers, FL

**SPEAKER:**

**Sai Ree Yun**, Yulchon LLC, Seoul, Republic of Korea

**4:00 PM–4:30 PM**

**NETWORKING BREAK**

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**KIM & CHANG**

**4:00 PM–4:30 PM**

*Kotobuki*

**"How To" SERIES: SECTION PUBLISHING –  
HOW TO ACHIEVE YOUR NAME IN PRINT**

Do you consider yourself an expert within your practice area of international law? If so, world-wide recognition is at your doorstep, by becoming a published author in one of the ABA Section of International Law's several channels of publication. Whether you aspire to write or edit a book, contribute a scholarly law review article or book chapter, author a succinct news article or an informative committee newsletter essay, publishing through our Section is an effective way to demonstrate your expertise. At this informational session Publications Officer Patrick Del Duca and the editors of The International Lawyer, The International Law News and the Year-in-Review will coach you on how to start on your way as a published author of the ABA Section of International Law.

**4:30 PM–6:00 PM**

*Yamato Minami*

**THE DEBATE OVER THE EXPIRING WTO ACCESSION PROTOCOL PROVISIONS FOR NON-MARKET ECONOMY TREATMENT FOR PRODUCTS OF CHINA AND VIETNAM**

December 11, 2016, and December 31, 2018, are the respective dates set by the almost identical provisions of China's and Vietnam's World Trade Organization Protocols of Accession for importing countries to cease generalized departures from home market costs and prices as the basis for normal value for Chinese and Vietnamese imports in the context of trade remedies proceedings, unless the terms of Note 2 Ad Article VI of the GATT 1994 are applicable to those countries. With those dates, particularly the date applicable to China, fast approaching, legal and policy debates as to the proper interpretation of the provisions are heating up in the United States and the Europe Union. Will market economy treatment apply to the products of these countries that have long been presumed to be non-market economies? What are the legal and political options and implications?

**COMMITTEE SPONSOR:**

International Trade

**COMMITTEE CO-SPONSORS:**

Asia/Pacific; China; Customs Law; Foreign Legal Consultant; U.S. Lawyers Abroad

**PANEL CHAIR:**

**Brenda A. Jacobs**, Sidley Austin LLP, Washington, DC

**MODERATOR:**

**Brenda A. Jacobs**, Sidley Austin LLP, Washington, DC

**SPEAKERS:**

**Brenda A. Jacobs**, Sidley Austin LLP, Washington, DC

**John R. Magnus**, TRADEWINS LLC, Washington, DC

**Laurent Ruessmann**, Fieldfisher, Brussels, Belgium

**Jin Xiao**, King & Wood Mallesons, Beijing, China

**4:30 PM–6:00 PM**

*Asuka*

**TREASURY'S NEXT BATTLES: THE FUTURE OF SANCTIONS, TRADE, AND COMBATING ROGUE REGIMES IN THE PACIFIC CENTURY**

Economic and financial sanctions have entered their heyday, but how will they be used in the future as more countries adopt these tools and how can the private sector navigate this environment of economic warfare? Join our panel of experts as they play out a crisis simulation in the Pacific Rim beginning with cyberattacks on U.S. companies and escalating through sanctions and countermeasures, and discuss best practices for protecting clients caught in the middle.

**COMMITTEE SPONSOR:**

Export Controls and Economic Sanctions

**COMMITTEE CO-SPONSORS:**

International Trade; National Security; Aerospace & Defense; International Corporate Counsel Forum; Asia/Pacific; Russia/Eurasia; Young Lawyers Interest Network (YIN)

**PANEL CHAIR:**

**Louis Laverone**, Financial Integrity Network, Washington, DC

**4:30 PM–6:00 PM**

*Yamato Nishi*

**THE CARE AND FEEDING OF INTERNAL WHISTLEBLOWERS IN MULTI-COUNTRY INVESTIGATIONS**

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The vast majority of internal investigations are conducted in-house by corporate counsel or compliance professionals. This program addresses the cultural and legal differences in managing an internal investigation involving a company whistleblower from the perspective of in-house staff conducting the investigation. It will cover the recent 2015 SEC Office of the Whistleblower report to Congress, the implications of the Yates memo, privacy considerations, the China State Secrets Act, and cultural differences among countries in Asia.

**COMMITTEE SPONSOR:**

International Corporate Counsel

**COMMITTEE CO-SPONSORS:**

China; Asia/Pacific; International Anti-Corruption

**PANEL CHAIR:**

**Peggy Kubicz Hall**, Greene Espel PLLP, Minneapolis, MN

**MODERATOR:**

**Peggy Kubicz Hall**, Greene Espel PLLP, Minneapolis, MN

**SPEAKERS:**

**Ilona Alsters**, Ruralco Holdings Limited, Sydney, Australia

**Michael L. Martinez**, Marriott International Inc., Bethesda, MD

**Yuriko Sato**, Philip Morris Japan K.K., Tokyo, Japan

**Leanne Zheng**, JunHe LLP, Beijing, China

4:30 PM–6:00 PM

*Kiku Foyer*

**WILL PLEA BARGAINING & DEALS WORK IN JAPAN? A COMPARATIVE APPROACH BASED ON RECENT CHANGES IN THE U.S. AND EUROPE**

The fundamentals of Japanese criminal law and criminal procedure have evolved only slightly over the past 50 years. The introduction a “plea bargain” in the Japanese Criminal Procedural Law may be in force soon, and will have a huge impact on its corporate liability and compliance culture. Getting credit for a good compliance program is still very much an abstract concept at this stage, nor have U.S. Attorneys’ Manual or Federal Sentencing Guideline type of basic policies been introduced in Japan. The Germans introduced “Kronzeuge” in 2009 and French also introduced it recently. The UK Bribery Act is now in full motion and certain compliance programs are mandatory. The panelists will discuss the processes in their respective jurisdictions, determine the pros and cons of each system, whether or not forum shopping is an option and if there is a new universal way of getting to a deal/agreement.

**COMMITTEE SPONSOR:**

International Criminal Law

**COMMITTEE CO-SPONSORS:**

International Anti-Corruption; International Antitrust Law; Foreign Legal Consultant; Asia/Pacific; International Corporate Counsel; International Ethics

**PANEL CHAIRS:**

**Stéphane de Navacelle**, Navacelle Avocats, Paris, France

**Yoshiki Uchida**, MDP Business Advisory, Co., Ltd., Tokyo, Japan

**MODERATOR:**

**Yoshiki Uchida**, MDP Business Advisory, Co., Ltd., Tokyo, Japan

**SPEAKERS:**

**Kaku Hirao**, Nishimura & Asahi, Tokyo, Japan

**Rosa Lima**, former prosecutor for the State of New Mexico, Santa Fe, NM

**Yasutomo Sugiura**, Nippon University, Tokyo, Japan

7:00 PM–9:00 PM

**RECEPTION AT HAPPO-EN**

Once the residence of a vassal of the Edo shogunate, Hapo-en (八芳園, “garden of eight views”) is a traditional, elegant Japanese garden that maintains the natural beauty of Edo Japan in present-day Tokyo. The garden includes a waterfall and a small stream arranged around a pond, and is interspersed with historical buildings. The large windows in the garden’s restaurant will provide stunning views of the garden’s fall foliage; attendees may also walk around the gardens during the reception. When visiting Hapo-en, attendees will see that the garden’s name doesn’t even begin to describe its beauty.

*One ticket per person is included as part of your Fall Meeting inclusive registration fee; additional tickets may be purchased online.*

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# Friday, October 21, 2016

**7:00 AM–6:30 PM** *Kikka & Kasuga*  
**REGISTRATION AND EXHIBIT AREA OPEN**

**8:00 AM–8:50 AM** *Kikuen*  
**CONTINENTAL BREAKFAST**

**8:00 AM–9:00 AM** *Kotobuki*  
**BOOKS BOARD MEETING**

Our Section's Books Board meets periodically to assess book proposals, formulate feedback to aspiring authors and editors, guide the progress of book marketing, and propose recommendations regarding publication initiatives. Our Section's Publications Officer, Patrick Del Duca, extends an open invitation for you to attend this meeting. If you already are a published Section author, if you would like to become a Section author, if you would like to advance the work of your Committee by involving it in Section Publications, or if you simply are curious about the publication process, please join us.

**9:00 AM–10:30 AM** *Katsura & Kasuga*  
**OPPORTUNITY OR BARRIER: THE EFFECTS  
OF TRANS-PACIFIC PARTNERSHIP ON  
ENERGY TRADE AND INVESTMENT**

The Trans-Pacific Partnership (TPP), the first major multilateral trade agreement in two decades, is not yet a reality, but governments, energy sector and investors need to consider its effects on energy trade and investment. The TPP will impact the energy sector in many ways, including the elimination of tariffs, the opening up of new countries for investment, and the implementation of transparent environmental regulations. The 12 participating countries will be impacted in varying degrees: will it be a boon to LNG exports from Canada and Australia or a revival of the economy of Japan? Will it affect investment in Mexico? What about the non-participating countries, like Korea and China, might they ultimately join the "club"? This panel, comprising speakers from Australia, Canada, Japan, Mexico and the United States, will uncover the provisions of the TPP that facilitate/inhibit trade and investment in energy products and sector-related services, including exploration, extraction, engineering, power generation, environmental management and training within participating countries and lead to the prognosis: opportunity or barrier.

**COMMITTEE SPONSOR:**  
International Energy and Natural Resources

**COMMITTEE CO-SPONSORS:**  
Asia/Pacific; Canada; Customs Law; International Environmental Law; International Investment and Development; International Procurement; International Trade; International Transportation

**PANEL CHAIRS:**  
**Jeffrey Read**, Borden Ladner Gervais LLP,  
Vancouver, Canada

**Greg Tereposky**, Borden Ladner Gervais LLP,  
Ottawa, Canada

**MODERATOR:**

**Greg Tereposky**, Borden Ladner Gervais LLP,  
Ottawa, Canada

**SPEAKERS:**

**Max Bonnell**, King & Wood Mallesons, Sydney, Australia

**Marney Cheek**, Covington & Burling LLP, Washington, DC

**Eduardo Diaz Gavito**, Chevez Ruiz Zamarripa,  
Mexico City, Mexico

**Osamu Umejima**, White & Case LLP, Tokyo, Japan

**9:00 AM–10:30 AM** *Yamato Minami*  
**TRENDS IN GLOBAL MIGRATION: WILL WE SEE  
ASIA SURMOUNT THE USA IN THIS CENTURY AS  
THE TOP DESTINATION FOR FOREIGN TALENT?**

As the region with the majority of the world's population, Asia provides the largest number of skilled workers to the United States, Canada, and Europe. As the economies of Asian countries grow and integrate into the global economy, they will need to compete with other regions for highly skilled workers. The United States has historically been the top destination for skilled workers; will it be able to continue attracting the world's top talent, or will we see a major shift to Asia becoming the top destination? What immigration policies have Asian countries already implemented to attract highly skilled workers and retain their own local talent? Which Asian countries have taken an isolationist position and have taken steps to stem immigration of foreign professionals?

**PANEL CHAIR:**

**Michelle Jacobson**, Fragomen, Del Rey, Bernsen & Loewy LLP, Chicago, IL

**MODERATOR:**

**Alex Sodini**, Berry Appleman & Leiden LLP, Dallas, TX

**SPEAKERS:**

**Mark Buchanan**, Fragomen Global, LLP, Singapore

**Tetsuya Iida**, ILS Shimoda Office K.K., Tokyo, Japan

**Raj Mann**, Berry Appleman & Leiden Asia Pacific Pte Ltd, Singapore

**Jung UN**, Kim, Chang & Lee, Seoul, Republic of Korea

**9:00 AM–10:30 AM** *Yamato Higashi*  
**BE AN ALLY: THE LGBT ALLY TOOLKIT**

In much of the world, great progress has been made in civil rights and other legal areas for lesbian, gay, bisexual, and transgender (LGBT) people. To build upon this progress, the ABA Commission on Sexual Orientation and Gender Identity (SOGI) has developed an "LGBT Ally Toolkit" as a resource to help legal employers and human resources professionals support LGBT attorneys in their workforces and to provide education and training for attorneys and other members of these workforces to help support their LGBT colleagues. Panelists will present scenarios developed by SOGI to illustrate situations that may arise in the workplace and discuss ways to address such situations. They will also review vocabulary, resources and best practices developed by SOGI for the elimination of bias in the legal profession against LGBT individuals.

**COMMITTEE SPONSOR:**

Sexual Orientation and Gender Identity Network (GIN)

**COMMITTEE CO-SPONSORS:**

Corporate Social Responsibility; International Employment Law; International Human Rights; Women's Interest Network (WIN); Young Lawyers Interest Network (GIN)

**PANEL CHAIR:**

**Audrey Kucia**, Internal Revenue Service, Office of Associate Chief Counsel, Washington, DC

**MODERATOR:**

**Audrey Kucia**, Internal Revenue Service, Office of Associate Chief Counsel, Washington, DC

**SPEAKERS:**

**Naosuke Fujita**, Goldman Sachs Japan, Co., Ltd., Tokyo, Japan

**Hiroki Inaba**, Goldman Sachs Japan, Co., Ltd., Tokyo, Japan

**Joseph Smallhoover**, Bryan Cave LLP, Paris, France (*Invited*)

**Taro Tanaka**, Freshfields Bruckhaus Deringer, Tokyo, Japan

**9:00 AM–10:30 AM** *Asuka*

**“ONE PERSON – ONE VOTE: WHEN IT COMES TO VOTING: WHO ARE THE “PEOPLE,” AND HOW ARE THEIR VOTES TO BE VALUED?**

The United States Supreme Court recently decided two cases on redistricting: *Harris v. Arizona Independent Redistricting Comm'n* and *Everwel v. Abbott*. Each case continues the Court's construction of the meaning of "one person, one vote" considered in *Reynolds v. Sims* (1964) and *Wesberry v. Sanders* (1964). In *Harris*, the issue was whether the Commission violated one person, one vote principles in drawing legislative districts that were not equal in population, and thus, in turn, diminished the value of votes in overpopulated districts. The Supreme Court, in an opinion by Justice Breyer found that deviations of up to ten percent were permissible. In *Everwel*, the issue was whether the Equal Protection Clause of the Fourteenth Amendment required that redistricting be based on total population or the number of eligible voters. The Court, in an opinion by Justice Ginsburg, held that the state of Texas may draw districts on the basis of total population (but did hold that Texas must use total population).

For fifty years, the Supreme Court of Japan has grappled with the issue of vote disparity. The first challenges came in the early 1960s, at the same time that the United States was developing its "one person, one vote" jurisprudence. On November 26, 2015, Japan's Supreme Court ruled that a 4.77:1 disparity in voting power in different districts for the July 2013 upper house election constituted a "marked case of inequality," creating "a state of unconstitutionality." <http://www.nippon.com/en/currents/d00150>.

In both Japan and the United States, the requirements of one person, one vote have resulted in over four decades of litigation. Yet, a fundamental condition of democracy is the will of the people. Both preambles to the Constitutions of Japan and the United States declare that all sovereignty resides in the people. When it comes to voting then: who are the people, and how are their votes to be valued? The resolution affects democracy and may affect the outcome of elections and the ability to create governing majorities.

This panel will explore the legal and political issues involved in redistricting and vote valuation. It will also draw upon experiences of other democratic countries in Asia.

**COMMITTEE SPONSOR:**

Task Force on International Election Law

**CO-SPONSOR:**

American Bar Association Standing Committee on Election Law

**PANEL CHAIRS:**

**Benjamin Griffith**, Griffith Law Firm, Oxford, MS

**Chad Vickery**, Center for Applied Research and Learning at The International Foundation for Electoral Systems, Washington, DC

**John Hardin Young**, Sandler Reiff Lamb Rosenstein & Birkenstock, P.C., Washington, DC

**MODERATOR:**

**Elizabeth M. Yang**, American Bar Association, Washington, DC

**SPEAKERS:**

**Andrew J. Sutter**, College of Law and Politics, Rikkyo University, Tokyo, Japan

**John Hardin Young**, Sandler Reiff Lamb Rosenstein & Birkenstock, P.C., Washington, DC

**9:00 AM–10:30 AM**

*Yamato Nishi*

**Moot Court: CHILDREN IN INTERNATIONAL DIVORCES BETWEEN JAPAN, THE USA, AND THE REST OF THE WORLD**

Although the first Hague Convention panel is designed largely to be an analytical and operational overview of the implementation of the 1980 Convention in Japan, this session will be presented in a Moot Court format comparing and contrasting two return cases in "removed-to" jurisdictions, Japan and the U.S. The presentation will include the Convention *prima facie* case as well as established defenses and portray what would happen in the two courts. The presenters will include a jurist, litigants, witnesses, and attorneys who, while presenting an actual hearing, will show the audience how practitioners from different jurisdictions deal with the application of the Convention legal principles through local law and procedure.

**COMMITTEE SPONSOR:**

International Family Law

**PANEL CHAIR:**

**Markus Zwicky**, Zwicky Windlin & Partner, Zug, Switzerland

**MODERATOR:**

**Bradley Lechman-Su**, Attorney at Law, Portland, OR

**SPEAKERS:**

**Mikiko Atami**, Toranomon Law and Economic Offices, Tokyo, Japan

**Hirotaka Honda**, Family Law Office at Shibuya Tokyo, Tokyo, Japan

**Amb. Susan Jacobs**, U.S. Department of State, Washington, DC

**Anne Marie Hutchinson**, Dawson Cornwell, London, United Kingdom

**Bradley Lechman-Su**, Attorney at Law, Portland, OR

**Anselmo Reyes**, Hague Conference on Private International Law, Asia Pacific Regional Office, Hong Kong

**9:00 AM–10:30 AM**

*Kiku Foyer*

**A NEW WAVE: RENEWABLE ENERGY TECHNOLOGIES IN JAPAN**

After the devastating crisis at Fukushima in 2011, Japan reduced its nuclear energy targets to 20% of generation and turned to renewable energy technologies to meet its growing energy needs. Japan is now a leader in solar and wind power, including offshore wind power. Japan is also empowering its cities to take the lead in this initiative by aiming to have 1,000 city-operated renewable energy development corporations by 2021. Deregulation of Japan's electricity markets is expected to begin in 2016. Furthermore, Japan is world renowned as a technological leader, including in the field of environmental and energy technologies. There have been demonstration projects involving the integration of electric vehicles, renewable energy, and heat pumps to manage energy supply and demand in Malaga, Spain, in Lyon, France, in Manchester in the United Kingdom, in Java, Indonesia, and in Hawaii and New Mexico, in the United States. This panel will provide an overview of Japanese energy policy and opportunities for international investment. This panel will also explore recent innovations in energy management developed in Japan and the legal challenges associated with exporting these technologies around the world.

**COMMITTEE SPONSOR:**

International Environmental Law

**COMMITTEE CO-SPONSORS:**

International Energy & Natural Resources; China; Canada; Europe

**PANEL CHAIRS:**

**Alicia Cate**, Oceana, Washington, DC

**Roya Vasseghi**, Wilson Elser Moskowitz Edelman & Dicker LLP, McLean, VA

**COMMITTEE SPONSOR:**

Customs Law

**COMMITTEE CO-SPONSOR:**

International Trade

**PANEL CHAIRS:**

**Les Glick**, Porter Wright, Morris & Arthur LLP, Washington, DC

**Greg Kanargelidis**, Blake, Cassels & Graydon LLP, Toronto, Canada

**MODERATOR:**

**Daniel Kiselbach**, Deloitte Tax Law, Vancouver, Canada

**SPEAKERS:**

**Les Glick**, Porter Wright, Morris & Arthur LLP, Washington, DC

**Yoshimi Ohara**, Nagashima Ohno & Tsunematsu, Tokyo, Japan

**Tuan A. Phung**, VCI Legal, Ho Chi Min City, Vietnam

**Setsuko Yufu**, Atsumi & Sakai, Tokyo, Japan

**11:00 AM–12:30 PM**

*Yamato Higashi*

**LADIES, GAMBATTE KUDASAI: THE GRIT TOOLKIT**

Women attorneys have made a great deal of progress in the legal workplaces around the world. But what are employers, leaders, and managers doing to track and address inequities in distribution of assignments, credit for business, succession planning, and the general climate towards women in their organizations? And how may we predict and ensure the greater participation of women attorneys in all levels of the law, including leadership? Both Japanese culture and the ABA's Commission on Women in the Profession (CWP) GRIT Toolkit value tenacity and perseverance. Using the resources in the GRIT toolkit as a guide, women attorneys in Japan, USA, and other countries will share advice about eliminating bias in the legal profession and sustaining long term legal careers. Panelists will also examine laws and policies that seek to eliminate discrimination, as well as the ABA Model Rules of Professional Conduct, particularly regarding maintaining the integrity of the legal profession. Gambaremasu!

**COMMITTEE SPONSOR:**

Women's Interest Network (WIN)

**COMMITTEE CO-SPONSORS:**

International Human Rights; International Law Practice Management; International Employment Law; Asia/Pacific

**PANEL CHAIRS:**

**Sharon James**, Women's Interest Network (WIN), Tacoma, WA

**Audrey Kucia**, Internal Revenue Service, Office of Chief Counsel, Washington, DC

**MODERATOR:**

**Sharon James**, Women's Interest Network (WIN), Tacoma, WA

**SPEAKERS:**

**Philip Berkowitz**, Littler Mendelson P.C., New York, NY

**Robin Kaptzan**, Duan & Duan Law Firm, Shanghai, China

**Akiko Yamakawa**, Freshfields Bruckhaus Deringer, Tokyo, Japan

**10:30 AM–11:00 AM**

**NETWORKING BREAK**

**11:00 AM–12:30 PM**

*Kotsura & Kasuga*

**TRANS-PACIFIC PARTNERSHIP (TPP): PROGRESS MADE AND EXPECTED IMPACT ON TRADE WITH ASIA-PACIFIC REGION WITH A FOCUS ON CUSTOMS, RULES OF ORIGIN AND MARKET ACCESS**

The Trans-Pacific Partnership (TPP) is considered as one of the most ambitious and modern free trade agreements, including 12 parties and representing 40% of global GDP. Concluded on October 5, 2015, it is in the process of being implemented by the various parties. The TPP is made up of some 1,200 pages of text. This program seeks to revisit, after one year, where we have come, and where we are going. By the date of this program, many of the 12 countries will have ratified and began to implement the TPP and this will be a valuable supplement to the Section's highly successful December 3, 2015 TPP webinar and our committee sponsored program in Montréal that could only focus on the text before it had been ratified by any country. Our focus will be on hotly negotiated customs, rules of origin and market access issues which almost derailed the negotiations with a focus on the expected impact on trade with and among the Asia-Pacific region. Japan was a key player in all of these issues.

11:00 AM–12:30 PM

*Yamato Nishi*

**RECENT TRENDS IN M&A IN ASIA**

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Positive economic growth in the Asian region in the last few years has been a key driver for active M&A activities in Asia, and it is expected that trends of economic growth in the region will continue. This panel will address trends in M&A transactions seen in the Asian region during 2015-2016 by the panelists consisting of leading M&A lawyers from the major jurisdictions in the region, and an in-house counsel or investment banker having significant experience in M&A transactions. Panelists will discuss (a) difficulties Asian companies may face when making acquisitions in the U.S. and other countries, (b) challenges and difficulties investors from the U.S. and other countries may face when making acquisitions in the Asian region, and (c) some of the recent trends of M&A transactions within Asia.

**COMMITTEE SPONSOR:**

International M&A and Joint Venture

**COMMITTEE CO-SPONSORS:**

Asia/Pacific; International Commercial Transactions

**PANEL CHAIR:**

**Takashi Toichi**, Anderson Mori & Tomotsune, Tokyo, Japan

**MODERATOR:**

**Takashi Toichi**, Anderson Mori & Tomotsune, Tokyo, Japan

**SPEAKERS:**

**Mitsuru Claire Chino**, ITOCHU Corporation, Tokyo, Japan

**Tao Guo**, JunHe LLP, Beijing, China

**Ng Eng Leng**, Dentons Rodyk & Davidson LLP, Singapore

**Kaye Yoshino**, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Tokyo, Japan

11:00 AM–12:30 PM

*Yamato Minami*

**THE DIVERGENT INVESTMENT TREATY POLICIES OF INDIA AND CHINA – WHAT ARE THE IMPLICATIONS FOR ASIA AND THE REST OF THE WORLD?**

The investment treaty policies of China and India have taken different paths, each reflecting the state of its respective economy. Recently, China has liberalized its approach to investment treaties and has entered into more investor-friendly BITs with many of its large trading partners. This is a function of China becoming a capital exporting economy and Chinese investors becoming increasingly sophisticated users of investment disputes mechanisms. Meanwhile, India is in some respects undergoing an opposite process, sparked in large part by the decision it received in the White Industries case and the recent rise in investment disputes against the State. These events underpin India's recent adoption of a new model BIT that heralds a marked departure from previous, more investor-friendly models. The panel will discuss the causes and effects of this divergence, what steps these countries are likely to take in the future, and what this means for Asia and the rest of the world.

**COMMITTEE SPONSOR:**

International Investment and Development

**COMMITTEE CO-SPONSORS:**

China; India; International Arbitration; International Trade

**PANEL CHAIRS:**

**Mark McNeill**, Shearman & Sterling LLP, London, United Kingdom

**Wesley Pang**, Shearman & Sterling LLP, London, United Kingdom

**MODERATOR:**

**Mark S. McNeill**, Shearman & Sterling LLP, London, United Kingdom

**SPEAKERS:**

**Won Kidane**, Seattle University School of Law; Addis Law Group LLP, Washington, DC

**Promod Nair**, Arista Chambers, Bangalore, India

**Hi-Taek Shin**, Seoul National University School of Law, Seoul, Republic of Korea

11:00 AM–12:30 PM

*Asuka*

**THE STATE OF THE TELEVISION INDUSTRY**

The disruption of "International TV": Netflix and OTTs.

Will OTTs always avoid national regulations? How will OTT technology and services evolve? Are OTT a threat to traditional broadcasting and cable TV? Is there a need for international action to regulate the business? What is the view from ITU, the United Nations specialized agency for information and communication technologies? What will be the impact on satellite TV subscription services? The panel will answer these questions and analyze the ongoing tension between carriers and OTT on infrastructure, taxation and the sharing of profits.

**COMMITTEE SPONSOR:**

UN and International Institutions

**COMMITTEE CO-SPONSORS:**

Asia/Pacific; Canada; New Media & Content Innovation; Privacy, E-Commerce & Data Security

**PANEL CHAIR:**

**Javier Etcheverry**, Boneo, Marval, O'Farrell & Mairal, Buenos Aires, Argentina

**MODERATOR:**

**Javier Etcheverry**, Boneo, Marval, O'Farrell & Mairal, Buenos Aires, Argentina

**SPEAKERS:**

**Jim Foster**, International Center for the Internet & Society, KEIO University, Tokyo, Japan

**David Ginsburg**, Entertainment, Media, and Intellectual Property Law Program, University of California, Los Angeles, CA

**Janet Hernández**, Telecommunications Management Group, Inc., Washington, DC

**Paul Mitchell**, Microsoft TV Division, Seattle, WA

**11:00 AM–12:30 PM** *Kiku Foyer*  
**ON THE CORRUPTION BORDERLINE: LOCAL BUSINESS PRACTICES, INTERNATIONAL ANTI-CORRUPTION ENFORCEMENT AND THE PERILS OF LIFE ON THE BORDERLINE**

A mock negotiation taking through the audience several “incidences” of borderline acts undertaken by companies (through their sales team) in different Asian locations such as China, India, Indonesia, Japan, Vietnam.

The negotiation will be of a JV in China by U.S. and Chinese (or Korean) companies to manufacture widgets in China with resources sourced under government concession in Indonesia, with distribution channels for the products be sold in India, Japan, U.S., Canada. Rival bid for manufacturing site offered by Vietnamese partner.

Each actor/panelist will offer something to another party which is acceptable in his/her home country but unacceptable in the other country or under some extraterritorial regimes (FCPA, UK Bribery Act, Brazil Clean Company Act).

**COMMITTEE SPONSOR:**

International Anti-Corruption

**COMMITTEE CO-SPONSORS:**

International Investment and Development; Asia/Pacific; China; India; International Criminal Law; International M&A and Joint Ventures

**PANEL CHAIR:**

**Salli Anne Swartz**, Artus Wise, Paris, France

**MODERATOR:**

**Salli Anne Swartz**, Artus Wise, Paris, France

**SPEAKERS:**

**Randell A. Hanson**, Womble Carlyle Sandridge & Rice, LLP, Greensboro, NC

**Leanne Zheng**, JunHe LLP, Beijing, China

**2:30 PM–4:00 PM** *Kotsura & Kasuga*  
**SECURITIES LITIGATION UNDER THE JAPANESE FINANCIAL INSTRUMENTS AND EXCHANGE ACT AND IN OTHER ASIAN COUNTRIES: PROGRESS AND PREDICTIONS**

Historically, shareholder litigation for securities violations was virtually unheard of in Japan. A 2006 amendment to Japan's Financial Instruments and Exchange Act (FIEA), however, led to a dramatic increase in the number of private shareholder litigation actions. In the beginning international investors paid little attention to the FIEA and most actions were pursued by Japanese investors but in 2012, an admission by the Olympus Corporation to a JPY 135 billion (\$1.8 billion) accounting scandal thrust the Japanese FIEA onto the international stage. Now with litigation against Olympus recently settled and the Japanese company Toshiba currently embroiled in a \$1.9 billion accounting scandal, Japanese securities litigation is once again in the spotlight. Like Japan, within the past decade other Asian countries (for example Korea) have also adopted class action mechanisms or modified their securities laws. This panel will discuss the legal developments in securities litigation in Japan and other Asian countries over the past ten years and attempt to make some predictions for the future. While Japan and other Asian countries are the primary focus of this panel, the panel will compare and contrast the securities laws in the U.S. and other countries around the world.

**COMMITTEE SPONSOR:**

International Litigation

**COMMITTEE CO-SPONSORS:**

International Securities and Capital Markets; Corporate Social Responsibility; Asia/Pacific; International Corporate Counsel; Young Lawyers Interest Network (YIN)

**PANEL CHAIR:**

**Emily Christiansen**, Kessler Topaz Meltzer & Check, LLP, Radnor, PA

**MODERATOR:**

**Emily Christiansen**, Kessler Topaz Meltzer & Check, LLP, Radnor, PA

**SPEAKERS:**

**Darren J. Check**, Kessler Topaz Meltzer & Check, LLP, Radnor, PA

**Joo Young Kim**, Hannuri Law, Seoul, Republic of Korea

**Yoko Maeda**, City-Yuwa Partners, Tokyo, Japan

**Jo Verbiesen**, Harneys, Hong Kong

**2:30 PM–4:00 PM** *Yamato Higashi*  
**MOVING FORWARD – EXPANSION STRATEGIES FOR LAW FIRMS IN ASIA UNDER THE EXISTING REGULATORY FRAMEWORKS**

Many Asian economies remain the source of substantial growth. This creates opportunities for law firms to expand. This panel will look at successful models of both Asian and international firms strengthening their presence in key jurisdictions across Asia. Panelists will analyze recently implemented expansion strategies and will discuss the regulatory framework applicable in such context in major jurisdictions in Asia, including the impact of free trade agreements. The results of the panel discussion will enable attendants to better prepare the growth strategy of their own firms.

**COMMITTEE SPONSOR:**

Transnational Legal Practice

**COMMITTEE CO-SPONSORS:**

Latin America & Caribbean; International Law Practice Management Forum; U.S. Lawyers Abroad; International Ethics; Young Lawyers Interest Network (YIN); Foreign Legal Consultant; International Legal Education & Specialist Certification

**PANEL CHAIR:**

**Hermann J. Knott**, Luther, Cologne, Germany

**MODERATOR:**

**Hermann J. Knott**, Luther, Cologne, Germany

**SPEAKERS:**

**Stephen Denyer**, The Law Society of England & Wales, London, United Kingdom

**Eric J. Jiang**, Jurisino Law Group, Beijing, China

**Tatsu Katayama**, Anderson Mori & Tomotsune, Tokyo, Japan

**Albert Tan**, Haynes and Boone, LLP, Dallas, TX

**Stefanie Yuen Thio**, TSMP Law Corporation, Singapore

**2:30 PM–4:00 PM**

*Yamato, Minami*

**PREPARING YOUR ASIAN CLIENT FOR LITIGATION  
IN THE U.S.: EAST MEETS WEST**

Asian countries are heavily influenced by Buddhism, Daoism, Confucius ideas, etc. The U.S. is heavily influenced by European culture. The cultural differences affect the ways we prepare our clients for litigation or arbitration in the U.S. The cultural differences also affect the civil litigation procedure. This panel will address different aspects of a litigation in the U.S., such as admission of evidence, authentication of a document, notarization of a document, discovery process, depositions (video or non-video), ability to request/subpoena documents or people (representative of a company) to the U.S., motions, trials, etc. compensation.

**COMMITTEE SPONSOR:**

Asia/Pacific

**COMMITTEE CO-SPONSORS:**

China; International Litigation; International Mediation; International Courts; Immigration & Naturalization; Aerospace & Defense Industries; Canada; Customs Law; International Anti-Corruption

**PANEL CHAIRS:**

**Qiang Bjornbak**, Law Offices of Qiang Bjornbak, Los Angeles, CA

**Robin Kaptzan**, Duan & Duan Law Firm, Shanghai, China

**MODERATOR:**

**Robert Lutz**, Southwestern Law School, Los Angeles, CA

**SPEAKERS:**

**James Berger**, King & Spalding LLP, New York, NY

**Qiang Bjornbak**, Law Offices of Qiang Bjornbak, Los Angeles, CA

**Yoshihiro Takatori**, Orrick Tokyo Law Offices, Gaikokuho Joint Enterprise, Tokyo, Japan

**Jian William Wu**, Duan & Duan Law Firm, Shanghai, China

**2:30 PM–4:00 PM**

*Asuka*

**ANTI-CORRUPTION PROSECUTIONS IN CHINA:  
WHAT DOES IT MEAN AND WHO IS NEXT?**

Chinese President Xi Jinping launched a broad and deep anti-corruption program in 2012, which has thus far netted over 100,000 indictments. China is also undertaking serious efforts to repatriate overseas fugitives and their assets. Domestically, Chinese officials and state-owned enterprises are taking urgent efforts to improve compliance programs to mitigate new enforcement risks. Internationally, China is seeking unprecedented law enforcement cooperation with the United States and other nations.

Is the campaign serving multiple purposes? Is it being administered even-handedly? And who is next up for the prosecutors?

**COMMITTEE SPONSOR:**

International Anti-Corruption

**PANEL CHAIR:**

**Weining Zou**, JunHe LLP, Shanghai, China

**MODERATOR:**

**Weining Zou**, JunHe LLP, Shanghai, China

**SPEAKERS:**

**Michael Silverman**, Hughes Hubbard & Reed LLP, Washington, DC

**Aili Zhao**, Siemens LTD., Shanghai, China



**2:30 PM–4:00 PM**

*Kiku Foyer*

**STORMS IN THE SOUTH CHINA SEA: LAW OF THE SEA ARBITRATION AND 'ISLANDS' OF DISPUTE**

One third of the world's maritime traffic passes through the South China Sea, including one half of the world's merchant fleet tonnage as well as military air and naval assets of more than a dozen countries with a presence in the Pacific and Indian Oceans. Moreover, 66 percent of Korea's energy supplies, 60 percent of Japan's and Taiwan's and 80 percent of China's crude oil imports transit the South China Sea. In recent years, China has built up its physical presence around a number of small islands, generating protests by other nations in the region. Some say China is merely protecting its historic claims (and its flow of energy). Others say it is seeking to control transit through the area.

The United Nations Convention on Law of the Sea (UNCLOS) purports to cover disputes regarding freedom of navigation, including a dispute between China and the Philippines over some islands in the Eastern part of the Sea. An Arbitral Panel set up under UNCLOS accepted jurisdiction and issued a decision affirming jurisdiction in December 2015. A decision on the merits is expected before the end of 2016. What effect will a decision, one way or the other, have on world trade? On world business? On channels of diplomacy? On regional security? On the welfare of the many countries throughout the world that depend on free transport of goods and energy through this region?

A panel of experts from countries bordering the area and other countries—non-bordering but very much affected and involved—will struggle to answer those questions, which may be the pivotal questions of international law in this decade.

**COMMITTEE SPONSOR:**

Asia/Pacific

**PANEL CHAIRS:**

**Chunghwan Choi**, Lee & Ko, Seoul, Republic of Korea  
**Deanne Wilson**, Resolutions LLC, Mendham, NJ

**MODERATOR:**

**Jai Lee**, Yulchon LLC, Seoul, Republic of Korea

**SPEAKERS:**

**Hon. Henry Bensurto**, Consul General to the United States, Philippine Consulate, San Francisco, CA

**Bingbing Jia**, Tsinghua University School of Law, Beijing, China

**Larry Martin**, Foley Hoag LLP, Washington DC

**Susan McGarvey**, U.S. Navy, Seventh Fleet, Yokosuka, Japan

**Yann-Huei Song**, Institute of European and American Studies, Academia Sinica, Taiwan

**4:00 PM–4:30 PM**

**NETWORKING BREAK**

**4:30 PM–6:00 PM**

*Katsura & Kasuga*

**THE BALLAD OF EAST AND WEST: WILL**

**LOCAL APPROACHES TO LITIGATION**

**AFFECT TPP INVESTMENT CASES?**

International litigation techniques have long been used to augment international investment arbitration. The Trans-Pacific Partnership expands the reach of investor state arbitration to new countries, further connecting the east and the west. New procedural elements in this "21st Century" treaty which will shape the international arbitration and litigation environment in the TPP's 12 member states. This panel will consider if local approaches to litigation, including disclosure requirements, witness preparation, and culture differences will impact how TPP arbitration panels decide cases.

**COMMITTEE SPONSOR:**

International Litigation

**COMMITTEE CO-SPONSORS:**

Asia/Pacific; International Arbitration; Latin America & Caribbean; Canada; Mexico; International Mediation

**PANEL CHAIR:**

**Edward Mullins**, Astigarraga Davis Mullins Grossman PA, Miami, FL

**MODERATOR:**

**Edward Mullins**, Astigarraga Davis Mullins Grossman PA, Miami, FL

**SPEAKERS:**

**Barton Legum**, Dentons, Paris, France

**Mélida Hodgson**, Foley Hoag LLP, New York, NY

**Floriane Lavaud**, Debevoise & Plimpton LLP, New York, NY

**Sean Stephenson**, Appleton & Associates International Lawyers, Toronto, Canada

**4:30 PM–6:00 PM**

*Yamato Nishi*

**OOPS. I DID IT AGAIN: HOW TO USE**

**CULTURAL DIFFERENCES TO YOUR ADVANTAGE**

**IN GLOBAL FINANCIAL DEAL MAKING AND**

**HOW TO AVOID THOSE DEAL TRAGEDIES**

You've seen them. Wrong gestures. Wrong colloquial expressions. Blunders, gaffes and indiscretion. Poor choice of contract wording. Hugging in a "no hug" zone. You know, the faux pas. It can quickly ruin an evolving deal. Learn how to research, prepare, implement and feel good about global deal making with an emphasis on financial deals. Laugh, cry and, oh yes, wince at the war stories about deals gone very, very bad. Hey, if you do not attend this program the next laugh may be, well, on you!

**COMMITTEE SPONSOR:**

International Financial Products

**COMMITTEE CO-SPONSORS:**

Cross Border Real Estate Practice; International M&A Joint Venture; International Commercial Transactions, Franchising and Distribution; International Corporate Counsel Forum; International Securities and Capital Markets; Transnational Legal Practice

**PANEL CHAIR:**

**Cagatay Yilmaz**, Yilmaz Law Office, Istanbul, Turkey

**MODERATOR:**

**Cagatay Yilmaz**, Yilmaz Law Offices, Istanbul, Turkey

**SPEAKERS:**

**Albert Garrof  **, Cuatrecasas, Gon  alves Pereira, Barcelona, Spain

**Taro Tsunoda**, Anderson Mori & Tomotsune, Tokyo, Japan

**4:30 PM–6:00 PM** *Yamato Minami*  
**“SOMETHING THERE IS THAT DOESN’T  
LOVE A WALL:” MAKING THE MOST  
OF NEW EXPORT CONTROLS**

The Export Control Reform Initiative (ECRI), which the U.S. Government (USG) launched in 2009, has resulted in far-reaching changes in defense trade and “dual-use” export controls. The succession of new regulations, issued during the ECRI era, has forced firms to grapple with the risks of misinterpreting the meaning and impact of an array of new key terms, definitions riddled with ambiguities, and the replacement of familiar control-categories by multi-step “catch and release” analyses. In short, the reforms have forced everyone – U.S. and non-U.S. firms, in-house and outside counsel – into a discomfort zone. Companies, particularly those engaged in aerospace and defense, knew they would have to adjust and make fundamental changes in their pursuit of their international business objectives. But the discomfort zone continues to be where companies and counsel find themselves, because the reforms did not have a unified effective date, but have been phased in, with some rules taking effect, even as other rules are under review with public comment, and some rules have yet to be released. In short, the ECRI has turned compliance into a difficult to track, hard to hit, convoy of moving targets.

Our panel of experts in cross-border transactions and export compliance will identify opportunities and challenges that companies and their counsel have faced and some slippery stones in the regulations that can cause costly missteps. They also will discuss effective strategies that companies have used to work within the uncertainties of the new regulations while still successfully seizing business opportunities in the Pacific Rim and Eurasia.

The panelists will use illustrative scenarios to engage in interactive dialogue with attendees, and they will share their insights on best practices for complying with the new, still emerging regime of U.S. export controls.

**COMMITTEE SPONSOR:**  
Export Controls and Economic Sanctions

**CO-SPONSORS:**  
Aerospace & Defense Committee; Asia/Pacific;  
International Trade; National Security; Russia/Eurasia;  
International Corporate Counsel Forum

**PANEL CHAIR:**  
**Roland L. Trope**, Trope and Schramm LLP, New York, NY

**MODERATOR:**  
**Geoffrey M. Goodale**, FisherBroyles LLP, Washington, DC

**SPEAKERS:**  
**Geoffrey M. Goodale**, FisherBroyles LLP, Washington, DC  
**David Laufman**, Counterintelligence and Export Control Section, National Security Division, U.S. Department of Justice, Washington, DC (*Invited*)  
**Ada L. Loo**, The Boeing Company, Arlington, VA  
**Roland L. Trope**, Trope and Schramm LLP, New York, NY

**4:30 PM–6:00 PM** *Asuka*  
**WHALE WARS: WHAT HAPPENS NOW?**

In 2014, the International Court of Justice issued a judgment in the Whaling in the Antarctic dispute between Australia and Japan. Australia had alleged that Japan’s continued pursuit of a large-scale program of whaling in the Antarctic constituted a breach of its responsibilities under the International Convention for the Regulation of Whaling. Japan maintained its whaling program satisfied the scientific exemption to a global whaling moratorium.

The Court ruled in favor of Australia. This panel will provide a history of whaling in Japan, an overview of the dispute between Japan and Australia and a summary of the ICJ’s decision. The panel will also discuss Japan’s whaling activity today, Australia’s efforts to enforce the ICJ decision, and how Japan and other countries can reconcile long standing traditions with modern international law principles.

**COMMITTEE SPONSOR:**  
International Environmental Law

**COMMITTEE CO-SPONSOR:**  
International Courts

**PANEL CHAIRS:**  
**Alicia Cate**, Oceana, Washington, DC

**Roya Vasseghi**, Wilson Elser Moskowitz Edelman & Dicker LLP, McLean, Virginia

**SPEAKERS:**  
To be determined.

**4:30 PM–6:00 PM** *Kiku Foyer*  
**CYBER SECURITY & DATA PROTECTION IN  
ASIA: NAVIGATING THE MINEFIELD**

In the past 2 years, most Asian countries introduced and/or proposed to introduce new laws and regulations on cyber security and data protection. Although most of these laws and regulations share similar features, each has unique aspects that can easily trap the unwary. In addition, the final enacted versions of proposed legislation will likely vary from the drafts currently in circulation making compliance a moving target. This program will explore the new and proposed legislation in several Asian jurisdictions focusing on developments, potential pitfalls and penalties, and steps for compliance that businesses should be aware of when designing data protection policies and addressing data breaches. The program will also compare and contrast the Asian approach with the U.S. Cybersecurity Act of 2015. Recent issues will be examined to help illustrate the regulatory issues and concerns.

**COMMITTEE SPONSORS:**  
Asia/Pacific; China

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**PANEL CHAIRS:**  
**Robin Kaptzan**, Duan & Duan Law Firm, Shanghai, China  
**Fabiola Suwanto**, Perkins Coie LLP, Shanghai, China

**MODERATOR:**  
**Elizabeth Cole**, Jones Day, Singapore and Shanghai, China

**SPEAKERS:**  
**Kwang Bae Park**, Partner, Lee & Ko, Seoul, Republic of Korea  
**Mark D. Barth**, International Operations & Safety Law, United States Air Force, Republic of Korea  
**Erik Laykin**, Managing Director, Duff & Phelps, Los Angeles, CA  
**Doug Mancill**, Price Sanond Prabhas & Wynne, Bangkok, Thailand

**7:00 PM–9:00 PM**

**CHAIR'S CLOSING RECEPTION, GONPACHI**

Gonpachi (権八) is a modern izakaya and one of the great movie destinations of Tokyo (Quentin Tarantino filmed a famous scene from in "Kill Bill" in the restaurant). Meet, socialize, and dine one last time with colleagues and friends, old and new, and celebrate the success of the 2016 Fall Meeting in Tokyo.

*One ticket per person is included as part of your Fall Meeting inclusive registration fee; additional tickets may be purchased online.*

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# General Information

## REGISTRATIONS/EARLY BIRD DISCOUNTS

Registrations must be postmarked no later than **September 9, 2016**, to receive the early bird discount. Registrations must be received by the Section office by **October 17, 2016**, for registrants to be included in the List of Attendees on the meeting app prior to the meeting.

## REFUND POLICY

- Cancellations must be made in writing and received by the Section office by **October 3, 2016**, for a full refund of fees, less a \$100.00 administrative fee.
- Cancellations made in writing and received by the Section office between **October 3-10, 2016**, will receive a full refund less a \$250 administrative fee. No refund of registration or fee for a ticketed event will be granted after that date except in the case of medical emergency or similarly extenuating circumstances approved by the Section in its sole discretion. At this point the Section has had to guarantee guest number and total fees to the caterer/event venue. Individuals are, however, afforded the opportunity to re-sell their purchased tickets/registration to other meeting attendees.
- When a completed registration form and payment have been submitted to the Section office either by mail, fax, e-mail or through our online registration system, the registration is considered to be a firm commitment and you will be expected to pay the registration and any ticketed event fees, unless a written cancellation is received as set forth above.
- Individuals may re-sell their purchased lunch & guest tickets to other meeting attendees unless the ticket is indicated to be “non-transferable.”
- Any refunds issued will be processed to the credit card on file for individuals who made the payment via credit card.

## EVENT TICKETS

All evening receptions are included with your registration fee. Tickets for guests/spouses and luncheons may be purchased in advance on the registration form or on-site up until **the day before the event is scheduled to take place**. We regret that because we must guarantee our final numbers with the hotel and venues in advance of the event, **we cannot sell same-day tickets**. However, there will be a board in the Registration Area and Exhibition Hall where meeting attendees may exchange and gift tickets.

## HOTEL ACCOMMODATIONS

The host hotel for the 2016 Fall Meeting is the **Hilton Tokyo**. The Hilton Tokyo has reserved a limited block of rooms for the group at the special nightly rate of **\$240.00 single/\$255.00 double USD** plus applicable taxes (rates include complimentary breakfast buffet each morning of your stay and complimentary access to the fitness center and pool). Reservations may be made online at <http://www.hilton.com/en/hi/groups/personalized/T/TYOHITW-GSECA-20161016/index.jhtml>. The number of rooms available at this special rate is limited, so early booking is recommended. Hotel guests must cancel their reservation 14 calendar days in advance to avoid a fee equal to a first and last night's deposit charge to the individual's credit card. Also please be aware that if you check out prior to the reserved check-out date, the hotel will charge one-night early check-out fee of JPY one night charge.

## TRAVEL INFORMATION

You are encouraged to make your airline reservations online via the American Bar Association (ABA) travel site where you automatically receive specially negotiated ABA airfare and car rental discounts from a variety of carriers. Simply visit [http://www.americanbar.org/membership/benefits\\_of\\_membership/travel\\_services.html](http://www.americanbar.org/membership/benefits_of_membership/travel_services.html) to make your travel arrangements. If you have not used this site before, it only takes a few moments to establish a username and password allowing you to immediately book your reservations.

## General Information (continued)

### DRESS CODE

For the 2016 Fall Meeting, business attire is appropriate for programs and meetings as well as the planned social networking events, except casual attire is acceptable for the Chair's Closing Reception on Friday.

### MANDATORY CONTINUING LEGAL EDUCATION CREDIT (MCLE)

Accreditation has been requested for the 2016 Fall Meeting programs by the ABA MCLE Division from most states with general mandatory continuing legal education requirements for all lawyers admitted in that state.

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, PR, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. The expected number of credit hours will be posted to the 2016 Spring Meeting website <http://ambar.org/ILspring2016> under the CLE Events and Information tab approximately six weeks before the meeting. This transitional program is approved for both newly admitted and experienced attorneys in NY. For more information about CLE accreditation in your state, visit [http://www.americanbar.org/cle/mandatory\\_cle.html](http://www.americanbar.org/cle/mandatory_cle.html).

Scholarships are available for this program. For more information please contact [intlawmeetings@americanbar.org](mailto:intlawmeetings@americanbar.org).

### EXHIBITION AREA

The Exhibitors and Sponsors exhibition area will be open from Wednesday, October 19 through Friday, October 21 at the Hilton Tokyo. Representatives from a variety of service providers catering to the legal community will showcase their latest products and services to aid you in your practice. All meeting attendees are encouraged to visit the displays of the Section's partners throughout the meeting and in particular during the twice daily networking breaks.

If you are interested in partnering with the Section to be an exhibitor or sponsor, please contact Samantha Feinstein ([Samantha.Feinstein@americanbar.org](mailto:Samantha.Feinstein@americanbar.org)) for additional details and information.

### 20% MEETING DISCOUNT ON SECTION PUBLICATIONS

Stop by the Section Membership and Publications Booth to preview the most popular Section titles and receive a 20% discount on all publication orders.



# Program by Tracks

## Anti-Corruption

- On the Corruption Borderline: Local Business, Practices, International Anti-Corruption Enforcement and the Perils of Life on the Borderline
- Banking on Anti-Corruption: The Multilateral Development Banks and the Fight Against Corruption in Development Financing in Asia
- Anti-Corruption Prosecutions in China: That Does it Mean and Who is Next?
- Gender Sextortion and Corruption: Preying on the Most Vulnerable, and What to Do About It
- The Care and Feeding of Internal Whistleblowers in Multi-Country Investigations

## Business-Corporate/Transactional

- The Yin and Yang of the Yuan – Chinese Outbound Investments Viewed Globally
- Look Out for Falling Bricks: Getting Your Real Estate Development in Asia Right – Part I
- Look Out for Falling Bricks: Getting Your Real Estate Development in Asia Right – Part II
- Carve Outs – Asia Style
- Recent Trends in M&A in Asia
- Joint Ventures and Innovation Policies in Asia: Tactical and Operational Considerations
- OOPS I DID IT AGAIN: How to Use Cultural Differences to Your Advantage in Global Financial Deal-Making and How to Avoid Those Deal Tragedies
- Japan Signals Its Next Move Into the Banking Fast Lane – A Discussion of the Latest Steps Being Taken to Shake the Japanese Financial System Out Of Its 15 Year Deflationary Mindset
- Proposed Protocol on Cape Town Convention on International Interests in Mobile Equipment
- The Care and Feeding of Internal Whistleblowers in Multi-Country Investigations

## Competition/Antitrust

- Multijurisdictional Merger Control in Asia-Pacific
- The Trans-Pacific Partnership: Perspectives and Predictions through the Antitrust Looking Glass
- Evolving Antitrust IP Guidelines Across Asia – What's Ahead for Technology and Pharma?
- Bid-Rigging without Borders: What's Next in International Cartel Investigations?

## Intellectual Property/Technology

- Cyber Security & Data Protection in Asia: A New Frontier
- E-Commerce in Asia-Pacific and Beyond: Today's Challenges, Tomorrow's Opportunities
- Evolving Antitrust IP Guidelines Across Asia – What's Ahead for Technology and Pharma?
- A New Wave: Renewable Energy Technologies in Japan
- The State of the Television Industry
- Cryptocurrencies: An Overview

## Law Practice

- Too Much, Too Little: The Art and Ethics of the Opinion Letter
- Ethics and the 'Rashomon' Effect: The Lawyer's Role in Witness Preparation
- Be an Ally: The LGBT Ally Toolkit
- Uberisation of the Legal Profession: What's the Situation in Asia?
- Moving Forward – Expansion Strategies for Law Firms in Asia under the Existing Regulatory Frameworks
- The Growing Importance of Alternative Business Structures in the Asia-Pacific Region
- Differences of Culture and Family Dynamics: Consequences for International Succession and Estate Planning
- Ladies, Gambatte Kudaskai: The GRIT Toolkit
- Utilizing Professional Skills and Education from Outside the United States During the Pacific Century: A Foreign Attorney's and Law Student's Guide to Expanding their Legal Careers in the United States, and Best Hiring Practices for Employers and Law Firms

## Programs by Tracks (continued)

### Dispute Resolution

- Preparing Your Asian Client for Litigation in the US: East Meets West
- Ethical Issues for Arbitrators and Party Representatives in International Arbitrations
- Third Party Funding in Arbitration – The New Counsel Guideposts by the ABA SIL International Arbitration Committee
- You Have Won Your Arbitration: Now What? – Enforcing International Arbitration Awards in Foreign Jurisdictions
- Securities Litigation under the Japanese Financial Instruments and Exchange Act and in Other Asian Countries: Progress and Predictions
- The Ballad of East and West: Will Local Approaches to Litigation Affect TPP Investment Cases?
- Will Plea Bargaining & Deals Work in Japan? A Comparative Approach Based on Recent Changes in U.S. and Europe
- The Divergent Investment Treaty Policies of India and China – What Are the Implications for Asia and the Rest of the World?
- Lessons Learned: Mediation of Mass Claims in Natural and Man Made Disasters

### Public International Law

- Asia's Twenty-First Century Approach to Resolving International Disputes
- Storms in the South China Sea: Law of the Sea Arbitration and 'Islands' of Dispute
- Whale Wars: What Happens Now?
- The Dark Side of Peacekeeping: Global Responses to Conflict-Related Sexual Violence
- Regulation of the Art Market in China, India & Japan
- Implementation of The 1980 Hague Abduction Convention in Japan and the Pacific Rim
- Moot Court: Children in International Divorces between Japan, the USA, and the Rest of the World
- When It Comes to Voting: Who are the People, and How are Their Votes to be Valued?
- Treasury's Next Battles: the Future of Sanctions, Trade, and Combating Rogue Regimes in the Pacific Century
- Promoting the Rule of Law: Tools of Engagement in Challenging Environments
- Trends in Global Migration: Will We See Asia Surmount the USA in this Century as the Top Destination for Foreign Talent?

### Trade

- The Debate Over the Expiring WTO Accession Protocol Provisions for Non-Market Economy Treatment for Products of China and Vietnam
- The Ethical Supply Chain: Effective Management to Prevent Human Rights Abuses and Mitigate Compliance Risk
- Prospects of a Canadian LNG Export Industry: Progress and Predictions
- Beyond Paris: Prospects for the Environmental Regulation of the Global Transportation Service Sector
- "Something There Is That Doesn't Love a Wall": Making the Most of New Export Controls
- Hitting the BRICs: The US International Procurement Tax

### Trans-Pacific Partnership

- Trans-Pacific Partnership: Progress Made and Expected Impact on Trade with the Asia-Pacific Region with a Focus on Customs, Rules of Origin and Market Access
- Trans-Pacific Partnership: Progress and Predictions for the Largest International Trade Agreement in History
- The Ballad of East and West: Will Local Approaches to Litigation Affect TPP Investment Cases?
- Opportunity or Barrier: The Effects of Trans-Pacific Partnership on Energy, Trade and Investment
- The Trans-Pacific Partnership: Perspectives and Predictions through the Antitrust Looking Glass
- Fix or Throw Out? Is it Time to Get Rid of Investor State Arbitration in the TPP?



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<b>Business, Human Rights, and Sustainability Sourcebook</b> 2016, Paperback, 1,230 pages	5170022	<b>\$79.96</b>	<b>\$63.96</b>
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## 2016

**August 3-5** **Section Leadership Retreat, Ritz Carlton Half Moon Bay**  
Half Moon Bay, California

**August 5-7** **ABA Annual Meeting, St. Regis Hotel**  
San Francisco, California

**September 30** **The 8th Annual Conference on the Resolution of CIS-Related Business Disputes**  
Moscow, Russia

**October 18-21** **Section Fall Meeting, Hilton Tokyo**  
Tokyo, Japan

**November, 14-16** **Americas Forum**  
Bogotá, Colombia

## 2017

**February 3-5** **ABA Midyear Meeting**  
Miami, FL

**April 25-29** **Section Spring Meeting, Capital Hilton**  
Washington, DC

**June** **Europe Forum**  
Barcelona, Spain

**June** **Africa Forum**

**August 11-13** **ABA Annual Meeting**  
New York, NY

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