

HYMAN SOLOWAY CHAIR IN BUSINESS AND TRADE LAW

2019–2020 Annual Report

Faculty of Law, Common Law Section
Fauteux Hall
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Ottawa, Ontario K1N 6N5

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uOttawa

Overview

The **Hyman Soloway Chair in Business and Trade Law** is an endowed chair at the Faculty of Law named for the principal donor, the late Mr. Hyman Soloway, Q.C., formerly the long time senior partner in the law firm of Soloway Wright and a recognized leader in community and public affairs.

The Hyman Soloway Chair has a broad mandate to promote teaching and research in business and international economic law at the University of Ottawa. Working in collaboration with the Faculty of Law's International Law Group, the chair seeks to provide opportunities for students, professors, alumni and the international law community to engage, learn and be inspired by leading experts in the field by supporting and organizing clerkships, memberships in and sponsorship of international law organizations (such as the Canadian Council on International Law and the American Society of International Law), conferences, workshops, speakers, communications and other activities.

About the current chairholder

Professor **J. Anthony VanDuzer** is one of the pillars of the Common Law Section's international law community and the co-chair of the Faculty's International Law Group. His main area of interest is international trade and investment law.

He has been a member of the Academic Advisory Council to the deputy minister for international trade and participated in technical assistance projects relating to business and trade law in developing economies, including Armenia, Bangladesh, China, El Salvador, Georgia, Kyrgyzstan, Pakistan, Russia, Thailand, Ukraine and Vietnam. Professor VanDuzer's publications include *The Law of Partnerships and Corporations* (now in its fourth edition) and *Integrating Sustainable Development into International Investment Agreements: A Guide for Developing Country Negotiators*, written with colleagues Penelope Simons and Graham Mayeda, as well as more than 80 articles on business, trade and investment law issues.

He is also an adjunct research professor at the Norman Paterson School of International Affairs at Carleton University. Professor VanDuzer is very involved in mooting at the law school and coaches the Foreign Direct Investment Moot team with professor Anthony Daimsis and the Canadian Corporate/Securities Moot team with professor P.M. Vasudev.



J. Anthony VanDuzer

Hyman Soloway Chair in Business and Trade Law
and full professor, Faculty of Law, Common Law Section

Courses taught in 2019–2020:

- Business Organizations (CML 2302A)
- International Investment Law (CML 3143)
- International Trade and Investment Law Practicum (CML 3385)
- Foreign Direct Investment Moot (CML 3120FA)
- Canadian Corporate/Securities Moot (CML 3140J)

Highlights

Hyman Soloway Chair Annual Lecture – January 15, 2020

Speaker: Howard Mann

Lecture: “International Arbitration and Globalization: The Battle between Private ‘Justice’ and Public Law”

Hyman Soloway Chair Visiting Professor – January 2020

Lecturer: Howard Mann

Course: “International Economic Law in the 21st Century: Assessing Success and Failure in a Complicated World”



Howard Mann (left) and Tony VanDuzer (right)

Hyman Soloway Student Summer Fellowships – Summer 2020

Organized and funded eight Hyman Soloway Student Summer Fellowships at the Columbia Center for Sustainable Investment (New York), Gowlings WLG, the Trade Law Bureau at Global Affairs, Conlin Bedard and the International Institute for Sustainable Development.

Visiting professor

Each year, the law school presents the Hyman Soloway Lecture by a leading academic in business or international economic law. In 2019, for the first time, the chair supported the inaugural Hyman Soloway Chair visiting professor, professor Michael Ewing-Chow, who taught a course at the law school in the January term. Howard Mann, senior international law adviser for the International Institute for Sustainable Development (IISD) is the Hyman Soloway Chair Visiting Professor for 2020.

Biography - Howard Mann

Howard Mann is the senior international law adviser for IISD, where he specializes in international economic law relating to sustainable development. He is also a senior adviser to the Intergovernmental Forum on Mining, Minerals, and Sustainable Development (IGF). From 1999 to 2009, Howard founded and managed IISD’s Investment and Sustainable Development Program.

Howard has worked with colleagues to advise government officials from over 80 developing countries and multiple regional organizations on international investment law issues, investment treaty negotiations, investment contract negotiations in mining and agriculture, and the development of sound domestic investment laws and policies from a sustainable development perspective. He was a leading participant in the development and drafting of the Model Mining Development Agreement (MMDA) with the International Bar Association, the first internationally recognized model contract on mining from a sustainable development perspective. He has relevant human rights experience, including serving as an adviser to the United Nations on the work of professor John Ruggie,

which led to the UN Guiding Principles on Business and Human Rights as well as the International Commission of Jurists.

Howard is a recognized leader in training for developing countries on international economic law, as well as mining law and contracts, having participated and led regional and national-level training programs in Africa, Latin America and Asia. In 2017, Howard was appointed as an international arbitrator in an investor–state arbitration for the International Centre for Settlement of Investment Disputes.

Before joining IISD, he was a specialist in international and constitutional law relating to the environment as counsel with Canada’s federal Department of Justice. In that capacity, he was part of Canadian negotiation delegations on climate change, biodiversity, hazardous waste and other international conventions. He also led the constitutional work on the development of Canadian implementation legislation for these agreements and the Canadian Environmental Assessment Act.

Highlights (cont.)

Sponsorships and memberships

Canadian Council on International Law, annual conference (November 2019)

Benefits included sponsor recognition at the conference, participation of uOttawa students in the panel on “Using Technology to Make Trade Agreements Accessible to Diverse Actors” and discounted registration for students.

Faculty of Law academic partnership with the American Society of International Law (ASIL)

Benefits included recognition as a sponsor at ASIL events, four advertisements in the *American Journal of International Law*, discounted ASIL memberships for faculty and students, discounted conference registration for faculty and students, and access to ASIL job placement resources for students.

TradeLab uOttawa/Queen’s Joint International Economic Law Clinic (Winter 2020)

TradeLab is an international organization headquartered at the Graduate Institute of International and Development Studies in Geneva, Switzerland that aims to empower developing countries, international organizations and smaller stakeholders to reap the full benefits of global trade and investment rules (www.tradelab.org).

The Common Law Section, together with the Faculty of Law at Queen’s University, operates a Joint International Economic Law Clinic as part of TradeLab. The chair is the TradeLab academic supervisor. The chair supported the Common Law Section’s participation in TradeLab in various ways, including funding visits by uOttawa students to Queen’s and by Queen’s students to uOttawa and the participation of TradeLab students in a panel at the CCIL.



Tony VanDuzer (centre) Queen’s professors Nicolas Lamp (left) and Valerie Hughes (right) with TradeLab Clinic students from Queen’s and uOttawa (March 2020)

Events

Event	Term
Retirement reception for former Hyman Soloway chair Debra Steger	October 2019
International Law Group – International Law Speaker Series Professor Jarrold Hepburn , senior lecturer, Melbourne Law School, Australia “Some Questions about Denial of (International) Justice” Julia Webster and Jacob Mantle , associates at Borden, Ladner Gervais “Playing by the Rules? Safeguards and Steel Wars” *Lectures in 2020 cancelled due to the COVID-19 pandemic: <ul style="list-style-type: none"> Leah West, professor, Carleton University Justice Chile Eboe-Osuji, president, International Criminal Court 	Fall 2019 Spring 2020*
International Law Group socials, in partnership with the Canadian Council on International Law, International Law Students Association and International and Commercial Trade Law Students Association The socials provided an informal opportunity for lawyers, students, and professors working in international law in Ottawa to meet and network.	Fall 2019 Spring 2020

Research and other knowledge mobilization/outreach activities

Publications

J. Anthony VanDuzer and Patrick Leblond, eds. *Promoting and Managing International Investment: Toward an Integrated Policy Approach* (Routledge, 2020)(282 pages).

“Introduction and Rationale for an Inter-disciplinary Approach to Investment Policy” (co-authors Patrick Leblond and Stephen Gelb) (at 1-28) (chair’s contribution 75%, primary author).

“Investor-State Dispute Settlement” (co-author Patrick Dumberry) (at 223-246) (chair’s contribution 60%)

“Moving Beyond Disciplinary Silos: Toward an Integrated Approach to International Investment Policy” (co-authors Patrick Leblond and Stephen Gelb) (at 271-282) (chair’s contribution 75%, primary author).

Penelope Simons and J. Anthony VanDuzer. “Using International Investment Agreements to Address Corporate Impunity for Human Rights Violations in Extractive Industries.” In *The Corporation in International, Transnational and Domestic Law and Governance – Canadian Perspectives on Globalized Rule of Law* (CIGI, 2020) 31-59 (chair’s contribution 50%). Refereed.

J. Anthony VanDuzer. “State-to-State Dispute Settlement under the USMCA: Better than NAFTA?” In *Festschrift in Honor of Professor Stephen T. Zamora* (Houston: Arte Publico, submitted and forthcoming 2020).

Presentations

- Presenter, “The exception for State actions to fulfil legal obligations to Indigenous peoples in the United States-Mexico-Canada Agreement.” Canadian Council on International Law Annual Conference, October 2019 (Ottawa).
- “Using International Investment Agreements to Address Corporate Impunity for Human Rights Violations in Extractive Industries” (Schulich School of Law, Dalhousie University 2019). To be published in *The Corporation in International, Transnational and Domestic Law and Governance – Canadian Perspectives on Globalized Rule of Law*, Oonagh Fitzgerald, ed. (CIGI forthcoming 2020). The actual presentation was made by Penelope Simons on the chair’s behalf.
- Presenter, “Indigenous Rights and Trade Obligations: Understanding the new exception for measures to fulfil legal obligations to Indigenous peoples in the United States-Mexico-Canada Agreement.” Presented at American Society of International Law, Biennial Meeting of International Economic Law Interest Group, February 2020 (Miami).
- Invited participant and commentator, 9th Conference of the Postgraduate and Early Professionals/Academics Network of the Society of International Economic Law (PEPA/SIEL) 2020, Hebrew University of Jerusalem, May 17-19, 2020 (held virtually).

The chair was to present “State-to-state dispute settlement under the new US-Mexico-Canada Agreement: Is it Better than NAFTA?” in Milan at the Biennial Meeting of the Society of International Economic Law to be held in July 2020, but the conference was cancelled due to the COVID-19 pandemic. The chair had a paper accepted for the CETA Implications Conference on September 27-28, 2019 at Dalhousie University in Halifax, Canada: “European Court of Justice upholds the compatibility of CETA with EU Law: What it means for CETA ratification and beyond.” However, he was unable to attend due to medical reasons.

Other conferences attended

- TradeLab 2020 Annual Meeting (Geneva by Zoom).
- TradeLab Student Showcase (Geneva by Zoom).

Guest lectures in classes

“Corporate Opinions and Searches.” Dean’s Research and Writing Fellowship class, professor Mallet.

“International Investment Agreements.” Transnational Corporations, Human Rights and International Economic Law, professor Simons.

“International Investment Agreements and Environmental Protection.” Sustainability and Law, professor Chalifour.

Research work in progress

“International Investment Agreements: Compatibility with Sustainable Development Goals 8 (Work), 9 (Infrastructure), and 11 (Cities).” To be published by Edward Elgar as part of its research handbook series, titled *Research Handbook on Investment Law and Sustainable Development*, edited by Sean Stephenson of CISDL and professor Marie-Claire Cordonier Segger of CISDL, the University of Cambridge LCIL and UWaterloo SEED.

“The exception for State actions to fulfill obligations to Indigenous peoples in the United States-Mexico-Canada Agreement.” Co-authored with Melanie Mallet. Presented at the Canadian Council on International Law Annual Conference in October 2019 and American Society of International Law, International Economic Law Interest Group Biennial Meeting, Miami, February 2020.

Other

- Conference organizing committee, “Foreign Direct Investment in Canada - Can we afford to say no? Understanding and Debating the Boundaries of FDI and National Security in a post-crisis climate” (was to be held September 2020 but has been postponed to April 2021).
- uOttawa Anti-Corruption Knowledge Hub. The chair met several times with Noah Arshinoff (along with colleagues John Packer, Penelope Simons, Jennifer Quaid and Errol Mendes) and Susan Côté-Freeman (Transparency International), Marc Tassé (Canadian Centre of Excellence on Anti-Corruption) and Salvador Herencia (PhD student) to discuss issues related to international corruption, including the development of a law school course, the establishment of a uOttawa Anti-Corruption Knowledge Hub at the Faculty and a future conference.
- Built institutional linkages with the Columbia Center for Sustainable Investment (CCSI) at Columbia University in New York to support research collaboration and access for uOttawa students to CCSI opportunities.



Tony VanDuzer (far right) chairing an international economic law panel featuring **Nadine Valenti**, **Pierre-Olivier Savoie** and Queen’s graduate students **Azeem Manghat**, **Brendan Robertson** and **Scott Falls** (May 2019)

Other (cont.)

- Instructor for two three-hour web-based sessions in English on international investment law as part of the Global Affairs-funded project for Ukraine being implemented by the Conference Board of Canada and under the Canada-Ukraine Trade and Investment Support program.
- Referee for the *Ottawa Law Review*, the *Osgoode Hall Law Journal*, *Sustainability* and the *Leiden Journal of International Law*.

Student training

International law assistant

Meryam Miftah-Idrissi (Fall 2019 and Winter 2020) – worked with the chair in support of TradeLab, and activities of the International Law Group, including the speaker series and the socials.

Directed research supervision

Brendan Wu (JD student)

Milan Tepic (JD student)

Mohiminol Khandaker (LLM student)

Graduate student supervision (completed)

Ernest Adjei (PhD) 2018 (committee member) (withdrawn, degree not completed 2019)

Alexander Kohlmeier (LLM) 2018 *Autonomy of the EU Legal System – Implications of the CJEU’s Opinion 1/17 on the Compatibility of the CETA ISDS Mechanism with the EU Legal Framework* (supervisor)

Sriyan Pinnawala (LLM) 2015 *The EU proposed multilateral investment court to improve investor-state dispute resolution system* (supervisor)

Timileyin Oyeo (LLM) 2018 *The Scope and Justiciability of the National Security Exception in Light of Contemporary WTO Jurisprudence* (supervisor)

Graduate student supervision (current)

Michael Piok (LLM) registered September 2019 (supervisor)

Ebo Dadzie (LLM) registered September 2019 (supervisor)

Kun Hui (PhD) registered September 2015 (supervisor)

Loai Eyadat (PhD) registered 2018 (committee member)

Bin Cheng (PhD) registered 2018 (committee member)

Second evaluator for LLM research papers

Abishek Sharma (twice)

PhD examination

Loai Eyadat (PhD) registered 2018 (committee member) (oral and written exam)
(University of Ottawa)

Moots

Coach (with Anthony Daimsis), Foreign Direct Investment International Arbitration Moot team – Highest ranked team in the general rounds (Ashes Prize), Winner Best Oralist (Thomas Walde Prize), Best Claimant Memorial (published in TDM), 3rd Best Respondent Memorial, Best Combined Memorials, 5th place overall in Global Orals.

Coach (with P.M. Vasudev), Davies Canadian Corporate Securities Moot team.

Practice judge for John Jackson WTO Moot and Jessup Cup International Law Moot teams.

Faculty organizer and judge, Negotiation Competition in Ottawa (sponsored by Dentons) and Faculty liaison for the national competition (Moncton).



uOttawa Foreign Direct Investment International Arbitration Moot Team at the University of Miami (November 2019)