

Research Policy 2021-22

Background

International investment law and institutions are undergoing a moment of (possible) reformation. Currently, UNCITRAL Working Group III (WGIII) represents the main multilateral forum considering reforms to investor-state dispute settlement (ISDS). The WGIII has progressed to a discussion of concrete reform options. Although WG III's mandate is largely limited to procedural reform, the negotiations have been accompanied by increasing demands by civil society organisations and scholars for states to address other issues as part of the overall reform package.

Mission of the Academic Forum

The Academic Forum (AF) seeks to play an important role in bringing together scholars to research a theme, connecting them to the reform process, and supporting the development of their analysis. Substantively, the AF seeks to continue to play an internal, external and empirical role in the reform process – particularly given its strong connections to the work of UNCITRAL WGIII.¹ An *internal* role involves ‘tracking’ and ‘anticipating’ the UNCITRAL process by providing relevant research-based analysis. In the 2019 New York session, this role became partly institutionalised with a formal request from the WGIII to the AF to provide research on “selection and appointment of adjudicators”. An external role comprises ‘analysing’ and ‘challenging’ the UNCITRAL process from the perspective of interests or values not (fully) reflected within the process, such as by critically engaging with its approach to potential reforms. An empirical role involves elucidating the empirical basis of reforms and providing relevant quantitative, qualitative and comparative evidence, based on internally or externally driven research. Building on the lessons from the past three years, the forum seeks to further promote diversity and inclusion in all aspects of its cooperative research activities.

Given that the UNCITRAL process will be highly dynamic, it is proposed that the AF focus on current concrete reform proposals and issues as well as ideas which members wish to pursue that are relevant to the reform process. The AF works primarily through Working Groups which speak in their own authorial voice when generating AF papers. The AF seeks to act as a platform for enabling collaboration and ensuring diversity, academic rigour, relevance and impact of output by its Working Groups. The Steering Committee will seek to ensure a balance in the themes such that they represent the interests of the broader academic community.

The AF seeks to foreground inclusivity and diversity in its mission to bring together, connect and support scholars. At a time when ISDS mechanisms, processes and publication channels are being increasingly challenged for the lack of pluralism and representation, in terms of gender, race, geographical locations and methodologies, the AF seeks to play a pivotal role in mitigating such concerns through embedding diversity, plurality and inclusivity in its research strategy. Principal avenues for doing so are (1) proactively seeking diverse representation and epistemological inclusiveness at the stage of initiating and reviewing AF output (both concept papers and academic articles);² (2) sustained dialogue with convenors of Working Groups; (3) regular stock-taking by

¹ See also the Statement of Purpose for the Academic Forum: “The academic nature reflects the intention to pursue objective research and analysis of the issues that are likely to arise in the context of reform initiatives. It is also *neutral*, meaning that it will work in a spirit of independence, without pre-conceived ideas on possible outcomes of the reform process.”

² While both concept papers and academic articles must be grounded in robust research and analysis and supported with evidence, concept papers are generally drafted in terms accessible to a non-academic audience. To

the Research Committee and the Steering Committee; and (4) engaging with the Membership Committee and outreach to external stakeholders and wider academic community.

Writing, review and publication of Academic Forum papers

The normal research output of the AF occurs through Working Groups on approved topics. To publish an AF paper, the following criteria must be met:

- 1) The paper is drafted by a Working Group comprising two or more authors. At least one author should be a member of the AF, ideally more. Authors should seek to ensure diversity and inclusivity in representation.
- 2) All expressions of interest in establishing a Working Group to draft a paper on a chosen topic are to be addressed to the Deputy Chair for Research, Dr Jean Ho: lawjeanho@nus.edu.sg. To avoid duplication of work, the Research Committee will review and approve all proposed topics.
- 3) To ensure consistent and robust peer review, the task of coordinating peer review of draft papers falls on the Research Committee. All papers should be submitted to the Deputy Chair for Research, Dr Jean Ho: lawjeanho@nus.edu.sg. Once received, the Deputy Chair will assign the paper to a member of the Research Committee to launch the peer review process. Depending on the topic of the paper, two peer reviewers will be drawn from the Steering Committee and/or the wider AF membership. The paper will then be distributed to the entire AF membership for comment.
- 4) Review will be concerned with rigour, comprehensiveness, novelty, and engagement with evidence and wider scholarship, and not the normative thrust of the piece.
- 5) The authors are to make it clear that they do not speak substantively for the AF. The published version is to be accompanied by a disclaimer to the effect that “The Academic Forum does not endorse the substance of the paper”.
- 6) To be published as an AF paper, the final draft paper must be formally approved by the Steering Committee in line with the recommendations of peer reviewers. However, the Steering Committee takes no stand on the content of the paper.
- 7) Authors and peer reviewers should be mindful of the different formats, styles and clarity of expressions standards expected of concept papers and academic articles. Examples of published AF papers, which typically take the form of 20-page concept papers written in a manner accessible to a non-academic, policy-oriented readership, can be perused at <https://www.jus.uio.no/pluricourts/english/projects/leginvest/academic-forum/papers/>.

Other types of research output

The AF will also seek to promote and highlight other academic work that is not formally a product of the AF to the extent such work meets the criteria set by the AF. The AF will seek to engage with external stakeholders through events, joint publications and other forms of outreach.

maximise their impact and reach, it is expected that AF papers take the form of 20-page concept papers, and adopt the language, style and format appropriate for a non-academic, policy-orientated readership.