

47th Annual Conference of the
**CANADIAN COUNCIL ON
INTERNATIONAL LAW**

PROGRAM

International Law at the Boundaries



Canadian Council
on International Law

Conseil canadien
de droit international

November 1 – 2, 2018
111 Sussex Drive, Ottawa
www.ccil-ccdi.ca

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Welcome from the CCIL President and Conference Co-Chairs

Welcome to this 47th edition of the annual conference of the Canadian Council on International Law. Our theme, International Law at the Boundaries, alludes to the pressures under which the international legal order now seems to operate. New actors and ideas seek to push international law to its limits, sometimes creatively and sometimes destructively. Both our keynote speakers, Profs. Jutta Brunnée and Harold Hongju Koh, will explore these pressures and give us the benefit of their considerable experience and wisdom. Other presentations, featuring panellists from across Canada, the United States and Europe, will explore international law's boundaries in areas such as foreign relations, trade and investment, legal history, criminal law, armed conflict, extradition, outer space and more.

This annual conference is the highlight of CCIL's calendar. But it is not all CCIL does. Every year, CCIL awards up to three **John Peters Humphrey Student Fellowships** in International Human Rights Law or International Organization to outstanding students pursuing full-time graduate studies at leading institutions in Canada and abroad. There are also two major awards given by CCIL, in alternating years. The **John E. Read Medal** commemorates Professor Read's distinguished career as an international jurist and scholar. Since the early 1970s, the Read Medal has been awarded to some of Canada's most remarkable international lawyers. The CCIL also recognizes significant contributions in the field of public international law by public servants with the **Public Sector Lawyer** award, given this year to Canada's current Judge Advocate General, Commodore Geneviève Bernatchez, CD. Finally, CCIL encourages international law research and publications through the **Four Societies initiative** in association with the American Society of International Law (ASIL), the Australian and New Zealand Society of International Law (ANZSIL) and the Japanese Society of International Law (JSIL).

We would like to thank everyone who has supported this year's conference: our sponsors, speakers, attendees and volunteers. In particular, we would like to thank the Legal Advisor at Global Affairs Canada for once again welcoming us on Thursday evening. And we wish to acknowledge the dedication of Julie Begbie at Intertask Conferences for her crucial logistical and organizational support.

This year's closing reception will take place at a spectacular new Ottawa venue, 50 Sussex, the home of the Royal Canadian Geographical Society. Come enjoy sweeping views of the Ottawa River, Gatineau Hills and Rideau Falls while we celebrate Commodore Bernatchez, the 25th anniversary of the Trade Law Bureau at Global Affairs Canada, and the end of what is bound to be a successful conference!

Marie-Claude Boisvert, CCIL President
Dan Moore & Gib van Ert, conference co-chairs

In this Program...

General Information	.....	Page 2
Keynote Biographies	.....	Page 3
Public Sector Award	.....	Page 4
Thursday Program	.....	Pages 5-11
Friday Program	.....	Pages 12-17
Program-at-a-glance	.....	Centerfold

Speaker biographies are available at www.ccil-ccdi.ca



General Information

Complimentary Wi-Fi is available in all meeting rooms. The code is available at the Registration Desk.

Simultaneous interpretation is available in Victoria Hall. Headsets are located at the back of the room.

Main language of presentation is indicated next to each title with an (E) or (F)

Summaries of sessions prepared by law student volunteers will be posted to the CCIL website.

Continuing Professional Development Credits

- Law Society of Ontario: Eligible for up to 13 hours, 20 minutes of substantive content.
- The Barreau du Québec automatically recognizes the hours accredited by other Canadian or foreign law societies.

Photos and/or videos may be taken by CCIL staff or affiliates during the conference and subsequently used by CCIL to promote the conference and/or activities on its website. It is possible that media may be in attendance.

Conference Locations

Ottawa River

Sussex Drive

Rideau River

King Edward Drive

50

111

125

Main Conference: 111 Sussex
Reception Thursday: 125 Sussex
Reception Friday: 50 Sussex

The Canadian Yearbook of International Law

John H. Currie, *Editor-in-Chief*
 René Provost, *Associate Editor*

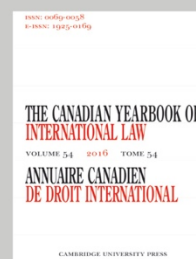
Since 1961, the *Canadian Yearbook of International Law* has promoted the development and dissemination of the best Canadian and international research on issues of public and private international law, while publishing documents and commentaries that reveal the practice of Canadian institutions in matters of international law.

Submissions: Authors are invited to submit articles, notes and comments, in English or in French, that advance critical thinking in all areas of international law.

Submission deadline for volume 56: 31 January 2019.
 Full submission instructions: www.cambridge.org/cyil.

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Harold Hongju Koh

Yale Law School

Harold Hongju Koh is Sterling Professor of International Law at Yale Law School. He returned to Yale Law School in January 2013 after serving for nearly four years as the 22nd Legal Adviser of the U.S. Department of State.

Professor Koh is one of the United States' leading experts in public and private international law, national security law, and human rights. He first began teaching at Yale Law School in 1985 and served as its fifteenth Dean from 2004 until 2009. From 2009 to 2013, he took leave as the Martin R. Flug '55 Professor of International Law to join the State Department as Legal Adviser, service for which he received the Secretary of State's Distinguished Service Award. From 1993 to 2009, he was the Gerard C. & Bernice Latrobe Smith Professor of International Law at Yale Law School, and from 1998 to 2001, he served as U.S. Assistant Secretary of State for Democracy, Human Rights and Labor.

Professor Koh has received seventeen honorary degrees and more than thirty awards for his human rights work, including awards from Columbia Law School and the American Bar Association for his lifetime achievements in international law. He has authored or co-authored eight books, published more than 200 articles, testified regularly before Congress, and litigated numerous cases involving international law issues in both U.S. and international tribunals. He is a Fellow of the American Philosophical Society and the American Academy of Arts and Sciences, an Honorary Fellow of Magdalen College, Oxford, and a member of the Council of the American Law Institute.



Jutta Brunnée

University of Toronto, Faculty of Law

Jutta Brunnée is Professor of Law and Metcalf Chair in Environmental Law, University of Toronto, where she previously served as Associate Dean of Law, Graduate (2010-2014) and Interim Dean (2014).

She has published widely in the areas of Public International Law and International Environmental Law. She is co-author of *International Climate Change Law* (OUP 2017), which was awarded the American Society of International Law's 2018 Certificate of Merit "in a specialized area of international law," and of *Legitimacy and Legality in International Law: An Interactional Account* (CUP 2010), which was awarded the American Society of International Law's 2011 Certificate of Merit "for preeminent contribution to creative scholarship."

Professor Brunnée served on the Board of Editors of the *American Journal of International Law* (2006-2016) and was elected Fellow of the Royal Society of Canada in 2013, and Associate of the Institut de Droit International in 2017. She will deliver a course on "Procedure and Substance in International Environmental Law" at the Hague Academy of International Law in 2019.



All other speaker biographies can be found at www.ccil-ccdi.ca



CCIL Public Sector Award

This award recognizes significant contribution or service in the field of public international law by a public sector lawyer and is presented to a lawyer who has significantly enhanced the understanding of and respect for public international law in the public sector.

2018 Recipient: Commodore Geneviève Bernatchez, CD

Commodore Bernatchez was appointed as the fifteenth Judge Advocate General on June 27th, 2017. She acts as legal adviser to the Governor General, the Minister of National Defence, the Department of National Defence and the Canadian Armed Forces in matters relating to military law. Her responsibilities also include the superintendence of the administration of military justice in the Canadian Armed Forces. She has the privilege to lead the members of the Office of the Judge Advocate General, a dedicated team of Regular and Reserve Force legal officers, senior non-commissioned officers and civilian personnel who deliver legal services across the full spectrum of military law, in Canada and abroad.

A native of Gaspé (Québec), Commodore Bernatchez enrolled in the Canadian Naval Reserve in 1987 at Her Majesty's Canadian Ship DONNACONA (Montréal). In 1997, Commodore Bernatchez transferred to the Regular Force and joined the Office of the Judge Advocate General. Her career with the Office reflects diverse appointments and responsibilities involving the provision of legal advice and services in the areas of operational, military justice and administrative law.

Commodore Bernatchez deployed with the Canadian Forces Air Component during the Kosovo conflict in 1999, and was involved in the oversight, coordination and provision of legal services to Canadian Armed Forces expeditionary and domestic operations from 2000 to 2005. Upon promotion to the rank of Captain (Navy) in 2010, she was the Deputy Judge Advocate



General for Operations. As such, she was the senior legal officer responsible for the provision of operational and international legal advice and services to the Department of National Defence and the Canadian Armed Forces. It is also during that time that she co-authored the Tallinn Manual on the International Law Applicable to Cyber Warfare (the "Tallinn Manual", Cambridge University Press, 2013), the first published manual on the legal framework supporting cyber conflicts.

Commodore Bernatchez holds a Masters of International Legal Studies degree, with a specialization in National Security Law, from Georgetown University (Washington D.C.), a Bachelor of Laws from the Université de Montréal and a Diplôme d'Études Collégiales in Administration from the Collège Jean-de-Brébeuf (Montréal). She has been a member of the Barreau du Québec since 1993.

We congratulate Commodore Bernatchez for her distinguished career in the Canadian Armed Forces and her significant contributions to development of, and respect for, international law.

**The Public Sector Award will be presented at the
Closing Reception on Friday, November 2, 2018**

4:30 – 6:30 pm | 50 Sussex

08:00 – 09:00	Coffee Service	Ottawa Lounge
09:00 – 09:05	Opening Remarks	Victoria Hall
09:05 – 10:40	Opening Plenary	Victoria Hall

The Emerging Field of Comparative Foreign Relations Law (E,F)

This plenary panel will address comparative foreign relations law, in order to map the field and address areas of convergence and divergence in national approaches. Panelists are contributors to a forthcoming publication by Oxford University Press entitled the Oxford Handbook of Comparative Foreign Relations Law, edited by Curtis Bradley.

Chair

Kristen Boon, Seton Hall Law

Speakers

Curtis Bradley, Duke University

Charles-Emmanuel Côté, Université Laval, Faculté de droit

Joris Larik, Leiden University

Hannah Woolaver, University of Cape Town

10:40 - 11:00	Health Break	Ottawa Lounge
11:00 – 12:30	Concurrent Sessions: A	

A1 International Indigenous Law at the Boundaries - Plurinationalism in Theory and Practice: The Example of R. v. DeSautel (E)

Victoria Hall

In his speech to the United Nations General Assembly in September of 2017, on the 150th anniversary of the Canadian constitution, Prime Minister Justin Trudeau sketched a vision of a plurinational state brought about through truth and reconciliation. He portrayed the Canadian nation as “a work in progress”, founded upon many grave mistakes and injustices in the treatment of Indigenous peoples. Will the UN Declaration on Rights of Indigenous Peoples and Bill C-262 provide “a way forward” to undo the legacy of colonialism and achieve self-determination, dignity and respect for Indigenous peoples in Canada?

Chair

Oonagh Fitzgerald, Centre for International Governance Innovation

Speakers

Heather Cochran, Office of the Attorney General of British Columbia

Kerry Sloan, Faculty of Law, McGill University

John Hopkins, University of Arizona

Laurie Sargent, Justice Canada

**Centre for International
Governance Innovation**



A2 The Utility of Boundaries? Recent Issues and Developments in Private International Law (E)

Freiman–Guigues

This panel features four presentations on recent issues and developments in Canadian private international law. The Supreme Court of Canada has recently decided two important cases: *Douez v Facebook, Inc.*, 2017 SCC 33 and *Google Inc. v Equustek Solutions Inc.*, 2017 SCC 34. In the lower courts, several recent decisions such as *Choc v Hudbay Minerals Inc.*, 2013 ONSC 1414 have started to grapple with claims against multinational entities for wrongful conduct in foreign jurisdictions. Courts continue to implement, in a wide range of contexts, the new approach to assumed jurisdiction adopted in *Club Resorts Ltd v Van Breda*, 2012 SCC 17.

Chair

Stephen G.A. Pitel, Western University

Speakers

Stephen G.A. Pitel, Western University

Roxana Banu, Western University

Joanna Langille, Western University

Sophie Stoyan, Western University

A3 Legal Grey Zones? Evolving Areas of Military Operations: Space, Cyber, and Evolving Technologies (E)

Session conducted under the Chatham House rule

Poliquin–Greene

State and non-state actors have long recognized the military and political value of operating in the “grey zone”, which might also be referred to as conducting “hybrid warfare”, engaging in “lawfare”, or possibly “fighting at the legal boundaries”. This can involve exploiting uncertainty in the choice of legal regime(s) applicable to their operations, leveraging conflicting interpretations of clearly applicable law, or potentially providing support to other states or groups conducting operations without directly engaging themselves, in an effort to limit legal responsibility or in certain cases to conceal their involvement altogether. In the rapidly evolving modern battlespace, from the cyber realm, to space, and beyond, it is more important than ever to develop a clear understanding of how existing international law applies to a range of novel military operations and methods (and to the actors that employ them), and to identify where vulnerabilities might arise in both interpretation and application.

This panel will discuss how international law applies to modern military operations like cyber and space operations, explore some current issues of note, consider how the application of multiple / overlapping legal regimes can be reconciled, and address how support provided to other state or non-state actors engaged in military operations (such as armed conflict) could be legally attributed back to the supporting entity – or even see that entity become a party to the conflict.

Chair

Brigadier-General (ret'd) Kenneth Watkin

Speakers

Ian Brasure, International Committee of the Red Cross

Lieutenant-Commander Heather Fogo, Directorate of International Law, Office of the Judge Advocate General

Robert Young, Criminal, Security and Diplomatic Law Directorate, Global Affairs Canada

12:30 - 13:40

Buffet Lunch and Networking

Ottawa ABC

12:30 - 13:40

Career Chat

Algonquin

An opportunity to learn from and ask questions of individuals who have pursued different careers in the practice of international law.

13:40 – 15:10

Concurrent Sessions: B

B1 The porousness of the normative boundaries of international law: the example of international economic law (F)

Victoria Hall

International economic law is divided into various branches, at the heart of current events and recent upheavals, thus illustrating the porosity of the normative boundaries of international law. The SQDI panel provides an overview of the pressing issues. The usefulness of developing and including environmental and human rights protection standards in trade agreements will be first examined by Professor Dufour. Professor Lévesque will then discuss the interpretation of the general exceptions in investment treaties in light of the recent arbitration decision in *Bear Creek Mining Corporation v. Republic of Peru*. This will be followed by a discussion of recent developments in electronic commerce in international trade agreements by Professor Oulai, before closing the panel with a discussion of the issues and perspectives raised by international economic law in the era of sustainable development by Professor Roch.

Chair

Geneviève Dufour, Université de Sherbrooke, President SQDI



Speakers

Geneviève Dufour, Université de Sherbrooke, President SQDI

Segment: The inclusion of environmental protection and human rights standards in international trade agreements

Céline Lévesque, University of Ottawa

Segment: The interpretation of general exceptions in investment treaties in the light of the arbitral award in *Bear Creek Mining Corporation v. Republic of Peru*

Arthur Oulai, Université de Sherbrooke

Segment: Overview of the content free trade agreements related to e-commerce

François Roch, Université du Québec à Montréal

Segment: International trade law in an era of sustainable development: challenges and perspectives

Thursday, November 1, 2018



B2 New Scholarship in International Legal History (E)

Poliquin-Greene

This panel showcases new scholarship in International Legal History. It will begin with an examination of the Great Law of Peace – the constitution of the Haudenosaunee Confederacy – as International Law. It will then turn to a survey of Canadian International Treaty Diplomacy from 1937-2016, as well as consider a contemporary episode in Canadian international legal history – namely the Ebola Outbreak of 2014-2016. The panel will be rounded out with a look at how museums have challenged notions of state sovereignty, specifically in the area of human rights.

Chair

Christopher Waters, University of Windsor



Speakers

Bev Jacobs, University of Windsor

Segment: The Great Law of Peace is international law

Gary Luton, Global Affairs Canada

Segment: Canadian international treaty diplomacy 1937-2016

Jennifer Orange, University of Toronto Faculty of Law

Segment: Museums working at the boundaries of international human rights law

Ali Tejpar, Norton Rose Fulbright

Segment: Canada's violation of international law during the 2014-16 Ebola Outbreak

B3 Granting States a Margin of Appreciation: Deference in International Law (E)

Freiman Guigues

In recent years, a number of respondent states have argued that international courts and tribunals must accord a “margin of appreciation” when determining the legality of governmental measures under international law. Many international courts and tribunals have rejected this argument outright. Others have granted a “margin of appreciation” when assessing whether a state’s conduct has violated its international treaty obligations, or have mechanically transposed formulations of the margin of appreciation doctrine as applied by the European Court of Human Rights (ECtHR). When this human rights doctrine is applied, it generally calls for deference to the measures imposed by a state, which precludes the adjudicator, to a greater or lesser extent, from reviewing the decisions of national authorities. Is this an appropriate standard of review? Does the ECtHR’s margin of appreciation doctrine clearly define the scope of deference that should be afforded to governmental measures?

The panel will address these issues and discuss the applicability of the margin of appreciation doctrine in a number of areas of international law, including European human rights law, international investment law and WTO law. The speakers will consider the history and origins of the margin of appreciation doctrine, the basis (or lack thereof) for the doctrine under different international treaties, and the alternative standards of review that international courts and tribunals may apply.

Chair

Elizabeth Whitsitt, University of Calgary

Speakers

Stephanie Forrest, Wilmer Cutler Pickering Hale and Dorr LLP, London

Andrew Legg, Essex Court Chambers, London

Danielle Morris, Wilmer Cutler Pickering Hale and Dorr LLP, Washington D.C.

Martins Paparinskis, University College London

Naboth van den Broek, Wilmer Cutler Pickering Hale and Dorr LLP, Washington D.C.

15:10 – 15:20

Transit Break

15:20 – 16:10

Keynote

Victoria Hall

The Trump Administration and International Law (E)

Speaker:

Professor Harold Hongju Koh, Yale University

Introduced by Alan Kessel, Assistant Deputy Minister Legal Affairs & Legal Adviser, Global Affairs Canada

Since November 2016, one question has haunted U.S. foreign policy: will Donald Trump international law? And if not, why not? In this keynote lecture, the Sterling Professor of International Law and former Dean of Yale Law School, previously Legal Adviser and Assistant Secretary of State for Human Rights of the U.S. State Department, tours the horizon of international law--from immigration to human rights to climate change to North Korea to Iran to use of force. He offers his assessment, explains the counter strategy being deployed against Trump, and suggests reasons for hope, even in these dark times.

16:10 – 16:30

Health Break

Ottawa Lounge



16:30 – 18:00

Concurrent Sessions: C

C1 Transnational fight against money laundering (F)

Victoria Hall

This panel presents and analyzes the mechanisms established by the rules of international law and their application in the legislation of States to fight against transnational crime, in this case, money laundering. In fact, as the Financial Transactions and Reports Analysis Center of Canada (FINTRAC) has revealed, \$ 590 billion to \$ 1.5 trillion will be laundered annually in the world. For their part, specialized civil society organizations report that some countries, such as the United States, the United Kingdom, Australia and Canada occupy an important place on the list of places targeted by corrupt officials or transcontinental criminals to launder the fruits of their packages by acquiring high-value goods and investing large sums of money. From these observations, it appears that money-laundering practices challenge the economic systems of states and have negative consequences for the future of the population. Money laundering remains a disruptive element of the international financial system, as the injection of illegally accumulated capital imbalances the security of the world's finances and economy.

Chair

Michelle Sahou, Transcontinental Anti-Corruption Watch

Speakers

Sage-Fidèle Gayala, Transcontinental Anti-Corruption Watch

Segment: Money laundering in Canada by foreign authorities as underlying crime in front of the inanity of the law

Bahati Mujinya, Transcontinental Anti-Corruption Watch

Segment: Some pitfalls of the fight against money laundering in the light of the case *Immunities and Criminal Proceedings* (Equatorial Guinea v. France)

Annika Weikinnis, Transcontinental Anti-Corruption Watch

Segment: An international and cross-border strategy against money laundering by the United Kingdom, the United States and Australia

C2 Mind the Gender Gap: Achieving Women's Economic Empowerment through Inclusive Trade Laws, Policies and Agreements (E)

Poliquin-Greene

Although governments have become increasingly aware that women and men are affected differently by the trade rules they adopt, there is still much to be done before we eliminate the gender gap in international trade. Students from the University of Ottawa/Queen's University Joint International Trade and Investment Law Practicum will discuss research they conducted for the International Trade Centre in Geneva as part of TradeLab, a network of pro bono law clinics located in universities across the globe, into approaches adopted by several countries with a view to achieving women's economic empowerment. Speakers will address what has worked, what has not, and where we go from here.

Co-Chairs

Valerie Hughes, Queen's University, Faculty of Law

Debra Steger, University of Ottawa, Faculty of Law



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This session contains 1 hour and
30 minutes of EDI
Professionalism Content.

Speakers

Katrina Crocker, Bennett Jones LLP

Segment: Trade and Gender in Public Procurement

Dora Konomi, Charney Lawyers PC

Segment: Best Practices for Gender Equality in Trade Laws, Policies and Agreements

Lisa Page, McMillan LLP

Segment: Best Practices for Gender Equality in Trade Laws, Policies and Agreements

Laura Rowe, Queen's University, Faculty of Law

Segment: Trade and Gender in Public Procurement

C3 The Role of International Criminal Law and the ICC in Responding to the Alleged Crimes Perpetrated against the Rohingya (E)

Freiman Guigues

This panel will consider the role of international criminal law and the International Criminal Court in dealing with the alleged crimes perpetrated against the Rohingya by the government of Myanmar. The panel is an initiative of, and will be sponsored by, the Canadian Partnership for International Justice (CPIJ).

Chair

Fannie LaFontaine, Université Laval, Faculté de droit



Speakers

Payam Akhavan, McGill University, Faculty of Law

Segment: ICC Jurisdiction and the Rohingya Atrocities

Kyle Matthews, Montreal Institute for Genocide and Human Rights Studies (MIGS) at Concordia University

Segment: Digital Hate: How Social Media Was Used to Dehumanize the Rohingya

Valerie Oosterveld, Western University, Faculty of Law

Segment: Accountability for Sexual and Gender-based Violence against the Rohingya

18:15 – 20:00

Reception

125 Sussex Drive, A9

The Legal Adviser of Global Affairs Canada

John P. Humphrey Fellowship

The Canadian Council on International Law awards annually up to three John Peters Humphrey Student Fellowships in International Human Rights Law or International Organization.

The Fellowships are awarded to outstanding students in order to permit them to pursue full-time graduate studies at leading graduate institutions in Canada or world-wide. Students in Canadian law and political science (or the equivalent) faculties are eligible to apply for the Fellowship.

Deadline: December 1, 2018. Additional information and the application are available at www.ccil-ccdi.ca



07:30 – 09:00

Coffee Service

Ottawa Lounge

08:00 – 08:55

Morning Plenary

Victoria Hall

Highlights of 2018 from the Canadian Yearbook of International Law (E,F)

Established in 1961, The Canadian Yearbook of International Law is a leading international academic journal covering both public and private international law issues. It is published by Cambridge University Press. This session serves to draw attention to the digests in the Yearbook on current developments, with each member of the panel having authored a digest for the past year. Topics will include recent developments in international trade law and the inter-American human rights system, as well as key Canadian court cases invoking public and private international law.

Chair

Joanna Harrington, University of Alberta, Faculty of Law

Speakers

Charles-Emmanuel Côté, Université Laval, Faculté de droit

Segment: International Investment Law in 2018

Bernard Duhaime, Université du Québec à Montréal, Département of legal sciences

Segment: Developments in Inter-American Law in 2018

Gib van Ert, Miller Thomson LLP

Segment: Canadian Cases in Public International Law in 2018

08:55 – 09:05

Transit Break

09:05 – 10:35

Concurrent Sessions: D

D1 Is there a future for the rules-based trading system? (E)

Victoria Hall

This round table discussion will canvass views on the challenges facing the rules-based international trading system. Speakers will examine problems at the WTO, imposition of trade restrictions by certain countries outside the usual understanding of what is acceptable, and issues in trade agreements such as NAFTA.

Chair

Robert Brookfield, Trade Law Bureau, Government of Canada

Speakers

Rambod Behboodi, King & Spalding, Geneva

Jennifer Hillman, Georgetown Law Center

Matthew Yeo, Steptoe & Johnson LLP, Washington DC

D2 Extradition After Diab (E)

Poliquin-Greene

The extradition of individuals sought for criminal proceedings is both an ancient form of inter-state cooperation and one of the main underpinnings of the modern transnational criminal law regime. While it is usually governed by treaty at the international level, it is implemented and executed via domestic laws and processes, and given the variety of the latter it has become increasingly common for human rights issues to be raised. Canada's extradition statute and process have come under scrutiny of late, due to intense public interest in the troubling extradition of Dr. Hassan Diab to France to face prosecution for terrorism -- which resulted in him being released without charge after three years' imprisonment, in a case which ultimately appears to have been groundless. Both the low threshold to be met by the requesting state in order to secure extradition and the ways in which Canadian government officials cooperate with their foreign counterparts have come under fire. The federal government has indicated that it is reviewing the case on a "lessons learned" basis, but there is also an independent extradition law reform project under way and calls for a public inquiry.

This panel will examine Canada's place in the international landscape of extradition, querying: the nature and scope of the legal obligations involved; the colliding roles of the government of Canada as both extradition partner and protector of the rights of Canadian citizens; and whether the Diab case (and others like it) suggest that reforms are needed.

Chair

Craig Forcese, University of Ottawa Faculty of Law

Speakers

Don Bayne, Bayne Sellar Ertel Carter

Rob Currie, Schulich School of Law, Dalhousie University

Joanna Harrington, Faculty of Law, University of Alberta

Join CCIL

Your conference registration includes CCIL membership and is valid until the next year's conference.

Know someone else who should be a member?

Encourage them to join through CCIL's website. A regular one-year membership is \$85 while a student membership is only \$25.



D3 International Environmental Law Beyond the Boundaries of Multilateral Environmental Agreements (E)

Freiman Guigues

Since their inception multilateral environmental agreements (MEAs) have played a central role in international environmental law. Dedicated treaty-based regimes appeared as the preferred approach to address many global environmental issues. New MEAs are still being negotiated today, as the recent adoption of the Mercury Convention shows. Yet it has become clear that MEAs, as traditionally conceived, have their limits for addressing global environmental degradation. Recent trends to complement MEAs have emerged in international environmental law in the past years, including the increased use of regional approaches to environment and the development of sectoral initiatives (i.e. IMO, ICAO), and the development of trans-sectoral initiatives. In addition, increasing attention is being focused on the need for other international law regimes, such as trade agreements and the law of the seas to be consistent with and supportive of climate action. Against this backdrop, the goal of the panel is to explore the nature and the scope of international environmental law that is shaped outside of the boundaries of MEAs and to discuss the potential tensions that may arise in the future from the interaction among MEAs and between MEAs and non-MEAs initiatives.

Chair

Silvia Maciunas, Centre for International Governance Innovation

Centre for International
Governance Innovation

Speakers

Geraud de Lassus Saint-Genies, Centre for International Governance Innovation

Meinhard Doelle, Schulich School of Law, Dalhousie

Patricia Galvao Ferreira, University of Windsor

Maria Panezi, Centre for International Governance Innovation

Alain Tellier, Global Affairs Canada

10:35 – 10:50

Health Break

Ottawa Lounge

10:50 – 12:20 Concurrent Sessions: E

E1 New Research: Public International Law at the Boundaries (E,F)

Victoria Hall

This panel will highlight emerging public international legal issues that challenge the classical conception of the monolithic, territorially bounded state as the pre-eminent actor in the international legal arena. Of what relevance are state boundaries in the face of climate change-induced rising sea levels, or mass human migration? How can international law be adapted to a world where state boundaries are ubiquitously transcended, for example (outwardly) through increased space activity or (inwardly) through agreements between states and foreign sub-national entities? Join us as we test the bounds of boundaries.

Chair

John Currie, University of Ottawa

Speakers

Jean-Sylvestre Bergé, Université de Lyon

Segment: Le franchissement des frontières, l'illusion du contrôle et le droit international

Alberto Costi, Victoria University of Wellington

Segment: Climate change impact on international legal personality: Testing the boundaries of international law

Bruno Gelinas-Faucher, University of Cambridge

Segment: International responsibility arising from provincial agreements with foreign governments

Julia Selman Ayetey, McGill University

Segment: Fortifying the boundaries of international space law

E2 NAFTA Chapter 11: Why the Change of Heart? (E)

Poliquin-Greene

When NAFTA Parties agreed to the USMCA on September 30, 2018, they agreed to drastically scale back investor-state dispute settlement or to remove it altogether. Was Chapter 11 a victim of its own success? Looking back at the decades of arbitral practice, what were its successes and failures? Why did the US and Mexico decide to scale it back so significantly and why did Canada and the US drop it altogether?

Chair

Jean-François Hébert, Trade Law Bureau, Government of Canada

Speakers

Andrea Bjorklund, Faculty of Law, McGill University

Luis Gonzalez, Matrix Chambers

Alison FitzGerald, Norton Rose Fulbright

E3 Is the Security Council in Crisis? (E)

Freiman Guigues

The failure of the Security Council to come to consensus on the crisis in Syria and Ukraine, the stalemate over limits use of the veto, and failed attempts at reform raise an important question: Is the Security Council in Crisis? In a number of recent cases member states have operated outside of the Security Council to, for example, intervene in Syria. More generally, the apparent consensus on the Council in the immediate post-Cold War era on the importance of human rights, democratic governance and preventative diplomacy appears to be unraveling.

This panel will address the contemporary legal role of the UN Security Council, focusing in particular on the use of force, its involvement in post-conflict situations, the scope of its sanctions powers, and the extent to which the Council can and should engage with contemporary threats, such as climate change. Panelists will ask whether claims of a "crisis" are warranted or whether deadlocks over a few high-profile conflicts have obscured the Council's work in other areas where consensus is actually the norm.

Chair

Hannah Woolaver, University of Cape Town

Speakers

Kristen Boon, Seton Hall Law

Segment: The Security Council's Contributions to Customary International Law

Greg Fox, Wayne State Law

Segment: The Security Council and Intervention by Invitation

Mohamed Helal, Moritz College of Law & Merishon Center for International Security Studies – The Ohio State University

Segment: The Myths and Realities of the UN Security Council

Eran Sthoeger, Security Council Report

Segment: The Security Council, international law and the use of force



12:20 – 13:30	Buffet Lunch and Networking	Ottawa ABC
12:45 – 13:30	CCIL Annual General Meeting	Ottawa DE
13:30 – 14:30	Keynote	Victoria Hall

Challenging International Law: What's New? (E)

Keynote Speaker:

Professor Jutta Brunnée, University of Toronto, Faculty of Law

Introduced by Joanna Harrington, University of Alberta, Faculty of Law

International law has always been challenged, for different reasons, in different ways, by different actors. Is what we are witnessing today new and more corrosive than what we have seen in the past? To answer this question, Jutta Brunnée will place the current challenges to the international legal order in a larger historical, social and political context.

14:30 – 14:50	Health Break	Ottawa Lounge
14:50 – 16:20	Concurrent Sessions: F	

F1 Canadian, UK and European Perspectives on Rebuilding Trade and Investment Relationships After Brexit (E)

Victoria Hall

How does the United Kingdom exit the European Union but keep an open border between Northern Ireland and the Republic of Ireland? This panel will update and review the continuing challenges and complex international law implications of Brexit, focusing on how to rebuild a new trading relationship between Canada and the United Kingdom after Brexit. The panel will focus mainly on trade and investment but may touch on other aspects of the complex process of disentangling and creating new international relations and legal obligations.

Chair

Valerie Hughes, Queen's University, Faculty of Law, Senior Fellow CIGI



Speakers

Armand de Mestral, Faculty of Law, McGill University, Senior Fellow CIGI

Segment: Post-Brexit Trade between the UK and Canada from a Canadian perspective

Lorand Bartels (via video), University of Cambridge

Segment: Post-Brexit trade between the UK and Canada from a UK perspective

Joris Larik, Leiden University

Segment: Brexit and the Law of Treaties: Continuity, Rupture and New Deals for 'Global Britain' from a European perspective

Andrea Bjorklund, Faculty of Law, McGill University, Senior Fellow CIGI

Segment: Post-Brexit Investment arrangements

F2 Outer Space: International Law on the Final Frontier (E)

Poliquin-Greene

International space law is grounded in the 1960s and 1970s when four multilateral treaties were adopted, notably including the Outer Space Treaty. This panel addresses the growing tension between these half-century-old treaties and new practices resulting from new scientific, technological and economic developments. These developments include the miniaturization of satellites, the development of re-useable rockets, new applications such as satellite broadband, and the rise of new spacefaring actors, both public and private. They also include a growing concern about space debris, and the very real prospect of asteroid mining.

Chair

Michael Byers, University of British Columbia

Speakers

Timiebi Aganaba-Jeanty, Arizona State University

Brian Israel, Planetary Resources Inc.

David Kendall, United Nations Committee on the Peaceful Uses of Outer Space

Hema Nadarajah, University of British Columbia

F3 Challenges and Opportunities: How States Can Promote Respect for the Law Governing Armed Conflict in the Age of Partnered Warfare (E)

Session conducted under the Chatham House rule

Freiman Guigues

While most contemporary armed conflicts take place within national borders, many are influenced by external actors. Assistance to State and non-State partners engaged in armed conflict comes from States who share borders as well as those who are oceans apart. At a time when many question how to improve respect for the law, this panel will discuss measures that, either have been put in place by States or that States should adopt to ensure that they, by virtue of their influence over their partners, improve compliance with IHL and therefore diminish human suffering.

Chair

Hossam Elsharkawi, Canadian Red Cross



Speakers

Alexandra Boivin, International Committee of the Red Cross (ICRC)

Melissa Dalton, Center for Strategic and International Studies

Mark Gwozdecky, Global Affairs Canada

16:30 – 18:30 pm Reception

50 Sussex Drive

Closing Reception and 25th Anniversary Celebration of the Trade Law Bureau

This year's closing reception will celebrate the 25th anniversary of the Trade Law Bureau at Global Affairs Canada. It will also feature the presentation of the 2018 Public Sector Award to Commodore Geneviève Bernatchez. The reception will be held at one of Ottawa's newest and most unique venues, 50 Sussex. It is a stunning location with exceptional views of the Ottawa River, only steps from our main conference location.






Thursday, November 1 | *jeudi 1 novembre*


Registraton open from 08:00 | *Inscription ouvert commençant à 8 h* (Salle Victora Hall, Lobby, 111 promenade Sussex Drive)

08:00 – 09:00	Coffee Service | <i>Service de café</i> (Salon Ottawa Lounge)		
09:00 – 09:05	Opening Remarks | <i>Allocution d’ouverture</i> (Salle Victoria Hall)		
09:05 – 10:40	Opening Plenary: The Emerging Field of Comparative Foreign Relations Law | <i>Séance plénière : Le domaine émergent du droit comparé des relations étrangères</i> (Salle Victoria Hall)		
10:40 – 11:00	Health Break | <i>Pause café</i> (Salon Ottawa Lounge)		
11:00 – 12:30 Concurrent: A <i>Simultanée : A</i>	International Indigenous Law at the Boundaries – Plurinationalism in Theory and Practice: The Example of R. v. DeSautel <i>Le droit international relatif aux peuples indigènes aux frontières – plurinationalité en théorie et pratique: Le cas de R. c. DeSautel</i>  Victoria	The Utility of Boundaries? Recent Issues and Developments in Private International Law <i>L'utilité des frontières? Nouveaux enjeux et développements en droit international privé</i>  Poliquin–Greene	Legal Grey Zones? Evolving Areas of Military Operations: Space, Cyber, and Evolving Technologies* <i>Zones grises légales? Aspects en émergence des opérations militaires: opérations spatiales, cyber et technologies en évolution*</i> Freiman–Guigues
12:30 – 13:40	Buffet Lunch and Networking | <i>Dîner buffet et réseautage</i> (Salle Ottawa ABC)		Career Chat | <i>Parlons carrières</i> (Salle Algonquin)
13:40 – 15:10 Concurrent: B <i>Simultanée : B</i>	The porousness of the normative boundaries of international law: the example of international economic law <i>De la porosité des frontières normatives du droit international : l'exemple du droit international économique</i>  Victoria	New Scholarship in International Legal History <i>Nouvelle bourse d'études pour le domaine de l'histoire juridique internationale</i>  Poliquin–Greene	Granting States a Margin of Appreciation: Deference in International Law <i>Octroyer une marge d'appréciation aux États: Déférence à l'égard du droit international</i> Freiman–Guigues
15:20 – 16:10	Keynote by Harold Hongju Koh: The Trump Administration and International Law | <i>Discours par le conférencier d’honneur : Harold Hongju Koh « L’Administration Trump et le Droit international»</i> (Salle Victoria Hall)		
16:10 – 16:30	Health Break | <i>Pause café</i> (Salon Ottawa Lounge)		
16:30 – 18:00 Concurrent: C <i>Simultanée : C</i>	Transnational fight against money laundering <i>La lutte transnationale contre le blanchiment d’argent</i> Victoria	Mind the Gender Gap: Achieving Women’s Economic Empowerment through Inclusive Trade Laws, Policies and Agreements <i>Attention aux disparités entre les sexes: Atteindre l'autonomisation économique des femmes à travers des lois, des politiques, des pratiques et des accords internationaux inclusifs</i>  Poliquin–Greene	The Role of International Criminal Law and the ICC in Responding to the Alleged Crimes Perpetrated against the Rohingya <i>Le rôle du droit pénal international et de la Cour pénale internationale dans la réponse aux crimes allégués commis contre les Rohingya</i>  Freiman–Guigues
18:15 – 20:00	Reception: The Legal Adviser of Global Affairs Canada | <i>Réception du jurisconsulte d’Affaires mondiales Canada</i> (125 promenade Sussex Drive)		

Friday, November 2 | *vendredi 2 novembre*

Registraton open from 7:30 am | *Inscription ouvert commençant à 7 h 30* (Salle Victora Hall, Lobby, 111 promenade Sussex Drive)

07:30 – 09:00	Coffee Service | <i>Service de café</i> (Salon Ottawa Lounge)		
08:00 – 08:55	Morning Plenary: Highlights of 2018 from the Canadian Yearbook of International Law| <i>Séance plénière du matin : Actualités de 2018 de l'Annuaire canadien de droit international</i> (Salle Victoria Hall)		
09:05 – 10:35 Concurrent: D <i>Simultanée : D</i>	Is there a future for the rules-based trading system? <i>Est-ce qu’il y a un futur pour un système commercial basé sur des règles?</i> Victoria	Extradition After Diab <i>Extradition après Diab</i> Poliquin–Greene	International Environmental Law Beyond the Boundaries of Multilateral Environmental Agreements <i>Droit international de l'environnement au-delà des limites des accords multilatéraux sur l'environnement</i>  Freiman–Guigues
10:35 – 10:50	Health Break | <i>Pause café</i> (Salon Ottawa Lounge)		
10:50 – 12:20 Concurrent: E <i>Simultanée : E</i>	New Research: Public International Law at the Boundaries <i>Nouvelle recherche : le droit international public aux frontières</i> Victoria	NAFTA Chapter 11: Why the Change of Heart? <i>Chapitre 11 de l'ALENA : pourquoi le changement d'avis?</i> Poliquin–Greene	Is the Security Council in Crisis? <i>Est-ce que le Conseil de Sécurité est en crise?</i> Freiman–Guigues
12:20 – 13:30	Buffet Lunch and Networking | <i>Dîner buffet et réseautage</i> (Salle Ottawa ABC)		CCIL Annual General Meeting| <i>Assemblée générale annuelle du CCDI</i> (12:45, Salle Ottawa DE)
13:30 – 14:30	Keynote by Jutta Brunnée: Challenging International Law: What's New? | <i>Discours par le conférencier d'honneur : Jutta Brunnée « Le droit international: Quoi de neuf?»</i> (Salle Victoria Hall)		
14:30 – 14:50	Health Break | <i>Pause café</i> (Salon Ottawa Lounge)		
14:50 – 16:20 Concurrent: F <i>Simultanée : F</i>	Canadian, UK and European Perspectives on Rebuilding Trade and Investment Relationships After Brexit <i>Perspectives canadiennes, britanniques et européennes sur la reconstruction des relations commerciales et d'investissement après Brexit</i>  Victoria	Outer Space: International Law on the Final Frontier <i>L'espace extra-atmosphérique: le droit international à la frontière finale</i> Poliquin–Greene	Challenges and Opportunities: How States can Promote Respect for the Law Governing Armed Conflict in the Age of Partnered Warfare * <i>Défis et opportunités: Comment les États peuvent-ils promouvoir le respect du droit des conflits armés dans une ère de guerre en partenariat («Partnered Warfare»)*</i>  Freiman–Guigues
16:30 – 18:30	Closing Reception and 25th Anniversary Celebration of the Trade Law Bureau | <i>Réception de clôture et célébration des 25 ans de la Direction du droit commercial international</i> (50 promenade Sussex Drive)		

 Simultaneous interpretation is available in Victoria Hall. | *L’interprétation simultanée est disponible à la salle Victoria.*

*Chatham House Rule | *Règle de Chatham House*

Program–at–a–glance | *Programme en bref*