

NCCR Trade Regulation Brown Bag Series

Anne van Aaken, Professor for Law and Economics, Legal Theory, Public International Law and European Law at the University of St. Gallen

INSIDE THE ARBITRATOR'S MIND

Monday, 13 February 2017, 12.30 – 13.30

Anna Nussbaum Auditorium, World Trade Institute, University of Bern
Hallerstrasse 6, 3012 Bern, Switzerland

Abstract

Arbitrators are the most important actors in global dispute resolution. They are to global dispute resolution what judges are to domestic dispute resolution. Despite its global significance, arbitral decision making is a black box. This Article is the first to use original experimental research to explore how international arbitrators decide cases. We find that arbitrators often make intuitive and impressionistic decisions rather than fully rational and deliberative decisions. We also find evidence that casts doubt on the conventional wisdom that arbitrators render “split the baby” decisions. Although direct comparisons are difficult, we find that arbitrators generally perform at least as well as, but never demonstrably worse than national judges analysed in earlier research. There may be reasons to prefer judges to international arbitrators, but the quality of judgment and decision making, at least as measured in these experimental studies, is not one of them. Thus, normative debates about global dispute resolution should focus on using structural safeguards and legal protections to enhance quality decision-making, regardless of decision maker.

Biography of the Speaker

Prof. Dr. iur. et lic. rer.pol. Anne van Aaken is a Professor for Law and Economics, Legal Theory, Public International Law and European Law at the

University of St. Gallen, Switzerland. She holds a Master in Law from the University of Munich, a PhD in Law from the University of Frankfurt/Oder, a master degree in Economics from the University of Fribourg, Switzerland and is admitted to the bar in Germany.

She has been a guest professor at several universities in Europe, Latin America, the United States (Columbia and NYU), Africa and Asia. In 2010/11, she was a Fellow at the Institute for Advanced Study in Berlin. She is the Vice-President of the European Society in International Law (since 2014, board since 2012), was the Vice-President of the European Association of Law and Economics (2008-2013). She is a member of the Scientific Advisory Board of the European Journal of International Law, the Editorial Board of International Theory and the Journal of International Economic Law. She has been an expert consultant for the World Bank, UNCTAD, OECD and GIZ.

Her main research areas are international law with a special focus on international economic law and its interaction with other areas of international law, (international) legal theory, (behavioural) law and economics. She has published widely on those topics in peer-reviewed journals and top US law journals and is currently writing a book on “Behavioral International Law and Economics” under contract with Oxford University Press (with Tomer Broude).

**Participation is free of charge, no registration is needed.
We warmly welcome you to join our seminar at the World Trade Institute!**

NCCR Trade Regulation Brown Bag Seminars are 30-minute presentations, given by external or in-house researchers. The presentations are followed by a 30-minute Q&A session. The Brown Bag concept comes from the US; it means that people bring their own lunch and eat it during the presentation.