



INTERDISZIPLINÄRES  
ZENTRUM FÜR  
OSTASIENSTUDIEN



Das Interdisziplinäre Zentrum für Ostasienstudien und  
das Weiterbildungsprogramm „German and International Arbitration“ der Goethe-Universität  
in Kooperation mit der Deutsch-Japanischen Juristenvereinigung (DJJV)

laden ein zu einem öffentlichen Vortrag in englischer Sprache:

**Prof. Luke Nottage**

The University of Sydney

## **Foreign Investment, Treaties, Arbitration and Corruption: Japan, Thailand and Asia**

Montag, den 03. Juli 2023, 18 Uhr c.t.

Goethe-Universität Frankfurt, Hörsaalzentrum Westend - HZ 9

**Abstract:** What do or should arbitral tribunals do when foreign investors bring claims for violations of substantive commitments made by host states, especially under international investment treaties, but the state raises the possibility that its officials were bribed when the investment was originally made? Should tribunals decline jurisdiction, meaning investors lose all treaty protections, even though this could encourage host state actors to solicit bribes (without getting prosecuted)? Or should tribunals make some claims inadmissible, or rule against investors on some merits, or reduce damages awarded? How is or should corruption be proven? What is the relationship to drafting used in treaties, and what sort of provisions are or could be emerging? This presentation draws on my forthcoming co-edited interdisciplinary book examining such issues, particularly in the Asian region where corruption remains quite common and investment treaty claims are growing, including several raising defences of misconduct by foreign investors. The presentation focusing on co-authored chapters on Japan (with large net outbound foreign investment) and Thailand (with large net inbound investment).

**Luke Nottage** (PhD *VUW*, LL.D. *Kyoto*) is Professor of Comparative and Transnational Business Law at Sydney Law School, specialising in arbitration, contract and consumer law, and corporate governance, with a particular interest in Japan and the Asia-Pacific. He is founding Co-Director of the Australian Network for Japanese Law (ANJeL), Associate Director of the Centre for Asian and Pacific Law at the University of Sydney, and Special Counsel with Williams Trade Law. Luke has consulted for law firms world-wide as well as ASEAN, the European Commission, OECD, UNCTAD, UNDP and the Governments of Japan and Saudi Arabia. Luke is also a Rules committee member of ACICA and on the Panel of Arbitrators for the AIAC (KLRCA), BIAC, CAAI, JCAA, KCAB, NZIAC, SCIA and TAI. His 19 other books include *New Frontiers in Asia-Pacific International Arbitration and Dispute Resolution* (eds, Kluwer, 2021), *International Commercial and Investor-State Arbitration: Australia and Japan in Regional and Global Contexts* (Elgar, 2021) and *Comparing Online Legal Education* (Intersentia, 2023).

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