

# Sean Stephenson

## Senior Associate



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## Overview

Sean Stephenson is a senior associate focusing on international trade, investment, arbitration, government contracts, anti-corruption, and public international law.

Throughout his practice, Sean has gained extensive experience in investment treaty arbitration, including acting in multiple cases under the UNCITRAL Arbitration Rules with respect to all phases of proceedings in complex disputes throughout the Americas and Europe. He has acted in and advised on cases under the NAFTA, CAFTA-DR, CPTPP and bilateral investment treaties in a large number of sectors. He has also acted in commercial arbitrations under the ICDR Arbitration Rules.

In international trade matters, Sean maintains a significant practice, including WTO law, free trade agreements, antidumping and countervailing duties, import and export controls, sanctions, and customs. He regularly advises and acts for private parties and governments on the full panoply of international and domestic trade law and policy. This frequently involves a multi-jurisdictional approach including the incorporation of ESG and business and human rights supply chain considerations. He has served as counsel in trade and investment matters before arbitral tribunals, federal boards, departments, ministries, the Canadian International Trade Tribunal, the Federal Court of Canada and the Federal Court of Appeal. In all matters, he is known to use the full range of legal tools to create leverage for clients in discussions with regulators, disputes, investigations, and in enforcement.

In addition, Sean frequently advises on government contracting law. This includes advising on the process and substance of government contracting in Canada as well as procurement challenges under Canada's free trade agreements. He has acted for both complainants and interveners in bid challenges in various arbitration and tribunal proceedings and has an exceptional track record in this area.

Sean leads the firm's global Trade Notes video series. He is a vice chair of the American Bar Association's International Arbitration Committee and the Judicial Affairs and International Courts Committee. He is the former co-chair of the ABA's Investment Treaty Working Group, and current member-at-large of the Ontario Bar Association International Law Committee. Since 2010, he has been an associate fellow with the Center for International Sustainable Development Law, where he has engaged in research relating to international environmental, trade and investment, and sustainable development law. He frequently publishes articles and commentary on a range of international and domestic law topics, and has presented throughout North America, Europe and Asia.

Sean's experience builds on his training in common law, civil law and international law. He holds an LLM from

University College London, and holds common law and civil law degrees from the University of Ottawa. He is currently pursuing a PhD in International Investment Law at the University of Amsterdam. Prior to joining Dentons, Sean's practice focused on international arbitration and litigation of trade and investment disputes.

## Experience

- **West-Can Seal Coating Inc.:** Counsel to West-Can in an arbitration under the New West Partnership Trade Agreement (NWPTA) Bid Protest Mechanism and the Canada Free Trade Agreement against the Ministry of Highways and Infrastructure resulting in a declaration of multiple breaches of the CFTA, adjusted scoring, recommendations that the Ministry remove performance requirements from all public tenders, and a complete review of the Ministry's procurement practices to ensure transparency and fairness in accordance with trade obligations.
- **Confidential client:** Advised various clients on ESG supply chain issues, including most notably on modern slavery and forced labor.
- **Tosyali Iron Steel Industry Algeria SPA:** Acting as counsel for Tosyali in the Canada Border Services Agency and Canadian International Trade Tribunal investigation into dumping of certain concrete reinforcing bars.
- **Atakas Celik Sanayi ve Ticaret A.S.:** Acting as counsel for Atakas in the Canada Border Service Agency and Canadian International Trade Tribunal investigation into dumping and countervailing duties.
- **Confidential Cloud Service Provider:** Advising on data localization requirements in Canada for cloud computing.
- **Confidential Technology Company:** Advisory on multiple procurement engagements for Canadian cities and public institutions.
- **Suncor Energy Inc.:** Acting as counsel to Suncor in the Canadian International Trade Tribunal ("CITT") recommencement inquiry into Fabricated Industrial Steel Components vis-à-vis product exclusions requested by Suncor. This follows Suncor's successful judicial review at the Federal Court of Appeal of the CITT's initial decision in this matter that was remanded back to the CITT.
- **FTI Professional Grade Inc.:** Advising the prime contractor on the multi-million dollar V4C (Ventilators for Canadians) project, including the main assembly subcontract for the manufacture of 10,000 ventilators purchased on an emergency basis by the Government of Canada as part of its measures in response to the COVID-19.
- **Angang Steel Company Ltd. and Angang International Trade Corporation:** Counsel to Angang in their judicial review of an antidumping determination by the President of the Canada Border Service Agency at Federal Court of Appeal and the Federal Court of Canada.
- **Confidential client:** Advising a government on international trade agreement matters through a comparative study on two major trade agreements.
- **Confidential client:** Advised on cross border disputes and protections afforded to Canadians under the Foreign Extraterritorial Measures Act.
- **Confidential clients:** Advised various clients on the applicability of the Canadian sanctions regime.
- **Confidential clients:** Advised private parties and government on procurement obligations stemming from various international trade agreements, and the Canada Free Trade Agreements, including sole sourced procurement contracts.
- **Confidential client:** Advised on Arms Trade Treaty obligations and Canadian export controls.
- **Confidential clients:** Advised on export controls and controlled goods program.
- **TPG v. Her Majesty the Queen:** Counsel to TPG challenging a federal procurement contract relating to IT

services at the Federal Court of Canada.

- **Confidential client:** Counsel to a firm in a contract dispute in a Canadian domestic arbitration under the ICDR Canada Arbitration Rules.
- **ELA USA, Inc.:** Counsel to the Claimant, the owner of a port and trading company, in an investment treaty arbitration against an Eastern European State under the UNCITRAL Rules.
- **Tennant Energy, LLC:** Counsel to the Claimant in a NAFTA arbitration relating to a renewable energy program under the UNCITRAL Rules.
- **Various individuals and companies:** Counsel to various individuals and entities who had their property expropriated without compensation in an investment treaty arbitration against a Latin American State under the UNCITRAL Rules.
- **Confidential client:** Counsel in a two export control reviews for high value art work.
- **Mesa Power:** Foreign Counsel to Mesa Power in a vacatur action in Washington D.C.
- **Mesa Power:** Counsel to Mesa Power in a NAFTA Arbitration relating to a renewable energy program under the UNCITRAL Rules.

## Recognition

- *Inter-Pacific Bar Association* 2020: Young Scholar Award.
- *CISDL* 2019: Legal Specialist of the Year in Trade & Investment.

## Honors and Awards

- Henri Hijams Scholarship, University of Amsterdam, 2018
- Council of Europe Scholarship, 2013
- Rotary Ambassadorial Scholar, 2012
- Federal Provincial Scholarship, Government of Saskatchewan, 2009
- Millennium Scholarship, 2009

## In the Media

- Co-author, "Hot Topics in International Finance: Sanctions," *The Private Investor*, Fall/Winter 2020 issue
- Co-author, "The Liberals' surprise CETA rewrite gave the EU an investor court plagued by controversy and questions," *Financial Post*, October 31, 2016

## Insights

- Co-author, "Reasoning in International Arbitration: The Emergent Approach in Canada," *The Canadian Journal of Commercial Arbitration*
- Co-author, "Modern slavery and supply chains - a significant ESG consideration," *Dentons Insights*, April 5, 2021
- Co-author, "Trade trends to watch in 2021: The continued impact of COVID, CUSMA implementation and other significant developments in international trade relating to Canada," *Dentons Insights*, January 22, 2021
- Author, "Canada opens consultation on a new policy for Responsible Business Conduct strategy for

Canadian companies abroad," *Mining Law Canada Blog*, September 25, 2020

- Co-author, "United States re-imposes aluminum tariffs on certain Canadian aluminum products," *Dentons Insights*, August 13, 2020
- Co-author, "Structuring mining transactions for investment treaty protections," *Mining Law Canada Blog*, July 23, 2020
- Co-author, "The USMCA/CUSMA/T-MEC's Entry into Force: An Obituary for NAFTA's Investment Chapter," *Kluwer Arbitration Blog*, June 23, 2020
- Co-author, "North American trade in the time of COVID-19," *Dentons Insights*, June 5, 2020
- Co-author, "Mexican state takes drastic action against renewables projects," *Dentons Insights*, May 19, 2020
- Co-author, "Sanctions law implications for virtual and digital currencies," *Dentons Client Alert*, September 10, 2019
- Co-author, "The Limits of Data Localization Laws: Trade, Investment, and Data," *Dentons Data*, August 9, 2019
- Author, "Recent changes in Canada's trade remedy regime ," *Dentons Client Alert*, August 6, 2019
- Co-author, "Investment court clears key legal hurdle with Court of Justice of the European Union (CJEU) Opinion 1/17," *Dentons Client Alert*, May 13, 2019
- Co-author, "UK releases "No-Deal" Brexit tariffs ," *Dentons Client Alert*, March 29, 2019
- Author, ICSID- Promissory Notes Not Investments under NAFTA (Lion Mexico Consolidated v. Mexican United States, Lexis PSL, 18/09/1028
- Co-author, "Sustainability Impact Assessments as inputs and as Interpretive Aids in International Investment Law," *Journal of World Investment and Trade* 17(2017) 155-191
- Co-author, "Supreme Court of Canada Enhances Canada as a Venue for Global Enforcement," *Case Comment on Chevron Corp v. Yaiguaje et al*, *Canadian International Lawyer*, Vol 11(1), 2016
- Co-author, Rejoinder to "Size Matters, Although it Shouldn't: The ICRW and Small Cetaceans," *Transnational Environmental Law*, 3:2 (2014) pp. 279-283 (Cambridge University Press) [Reply to Ed Couzens Response to our earlier article]
- Co-author, "Does Size Matter? The ICRW and the Inclusion of Small Cetaceans," *Transnational Environmental Law*, 3:2 (2014)pp. 241-263 (Cambridge University Press)
- Co-author, "The Canada-Europe Comprehensive Free Trade Agreement and the Mining Sector: Key Issues and Opportunities," vol 9(6) *Global Trade and Customs Journal*, 2014, *Kluwer Law International*
- Co-author, "Introduction: Understanding Legal Empowerment of the Poor in the Context of Sustainable Development," *Canadian Journal of Poverty Law Special Issue: Legal Empowerment of the Poor in the Context of Sustainable Development* Vol. 2 No. 1 August 2013
- Author, "Does ODA Grow on Trees? A Legal Analysis of REDD-ODA Finance," *European Journal of Legal Studies* Vol. 4 Issue 1 Summer 2011
- Author, "Justice, Climate: Conflicting State Obligations in the International Human Rights and Climate Change Regimes," *Ottawa Law Review* Vol. 42 no.1 2010-2011
- Co-author, "International Courts," *Year in Review 2016*, American Bar Association Section of International Law
- Co-author, "Perspectives from the Field," *International Law News*, American Bar Association, Winter 2017
- Co-author, "Sustainable Development Goal 7: Energy," *International Law Brief*, CISDL & UNEP, SDG Working

Paper Series (2016).

- Co-author, "Increased Russia Sanctions and Enforcement of Iran Sanctions," May 2014, WorldECR, Issue 31
- Co-author, "Canada's Sanctions on Russia and the Ukraine," April 2014, WorldECR, Issue 30
- Co-author, "2014 Canadian Budget: Impact on International Traders," March 2014 WorldECR, Issue 29
- Co-author, "Services, Investment and CETA: What We Know and Don't Know," The Canadian Bar Association National Section on International Law Newsletter, February 26, 2014
- Co-author, "CETA: What Will the Agreement Mean for Canadians?" International Trade & Customs Law Bulletin, Fasken Martineau DuMoulin LLP, October 21, 2013
- Contributing author in Sebastien Jodoin & Katherine Lofts (eds.), "Economic, Social, and Cultural Rights and Climate Change: A Legal Reference Guide," (New Haven, Ct.: CISDL, GEM & ASAP, 2013)
- Author, "Fostering Green and Decent Jobs in Sebastien Jodoin and Yolanda Saito, eds., Human Rights and the Environment: Key Challenges & Best Practices," CISDL report submitted to the Office of the High Commissioner for Human Rights, June 2011
- Author, "Making Jobs Work: The Right to Work, Jobs, and Green Structural Change," Commissioned by the Centre for International Sustainable Development Law and the International Development Law Organization, Working Paper Series December 2010
- Editor, International Arbitration Insights: CAS & Lex Sportiva, American Bar Association, Section of International Law, International Arbitration Committee, March 2017
- Co-editor and author, "ABA Investment Treaty Working Group: Task Force on the Investment Court System Proposal: Initial Task Force Discussion Paper," October 14, 2016
- Co-editor, "Special Issue: Legal Empowerment for Sustainable Development," 2013 2(1) Canadian Journal of Poverty Law
- Co-editor, "Legal Working Paper Series on Legal Empowerment," CISDL Legal Working Paper Series 2012

## Activities and Affiliations

- Program Manager & Fellow (Trade, Investment, Finance) Center for International Sustainable Development Law
- Treaties Editor, Canadian Bar Association's Canadian International Law Journal
- Vice-Chair of Projects, ABA, SIL, International Arbitration Committee
- Former Co-Chair, ABA Investment Treaty Working Group
- Editor, International Dispute Resolution News, American Bar Association
- Member Canadian Bar Association
- Member American Bar Association
- American Society for International Law

## Areas of focus

### Practices

- Global Anti-Corruption
- Corporate Governance
- International Commercial Arbitration
- Investment Treaty Arbitration
- Trade, WTO and Customs
- Public International Law

## Industry sectors

- Energy
- Government
- Financial Institutions
- Infrastructure and PPP
- Mining
- Procurement

## Education

- University of Amsterdam, 2017 - Present, PhD, International Law
- University College London, 2013, LL.M.
- University of Ottawa, 2011, LLL, JD

## Admissions and qualifications

- Ontario, 2014

## Languages

- English
- French