

**STL Alumni Reunion
Peking University STL
Shenzhen, China
13 April 2019**

Generation STL

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Campus leaders, Deans, STL colleagues and STL alumni: it is an honor to represent STL's JD faculty today.

This gathering of STL alumni today reflects, in concrete terms, how the vision for STL is being achieved and implemented in reality.

As STL alumni, you are working in the public as well as the private sector, in government, at leading Chinese law firms, leading international law firms, private companies, state-owned enterprises, non-governmental organizations.

Some of you have launched your own businesses. A few dozen of you have gone on to complete further graduate work at some of the most competitive LLM programs in the world.

And all of this has happened in this decade. STL is celebrating its 10th Anniversary. We are still a young institution.

With respect to STL's age, and youth, I would like to share a few thoughts on how generational differences can inform our understanding of this first generation of STL alumni.

As you know, for many years the younger generation in the United States has been known as the "Millennial" generation, or occasionally as "Generation Y," given that the Millennials followed my generation, which is known as "Generation X".

We now have a new generation in the United States, which is known, not surprisingly, as “Generation Z.” There appears to be an emerging consensus that the dividing line between the Millennials and Generation Z is somewhere around 1996 or 1997, with people born after that time being members of Generation Z or “Gen Z”.

I think the mid-to-late 1990’s is a significant, and accurate, point in time for dividing the generations. This is because of what happened during a six-year span from 2004 to 2010.

I don’t think it is an overstatement to say that the six-year period from 2004 to 2010 was transformational. During that time, we were introduced to smart phones, tablets, social media, video-sharing platforms, and the Marvel Cinematic Universe.

For people born around 1996, this transformation occurred mostly during their pre-teen years. Thus, for people born around 1996, this is the only world they know.

The 2004 to 2010 period also saw the introduction of another significant innovation: STL.

STL reflects larger trends in legal education, which have developed alongside greater global connectivity. Just as we no longer use landlines or compact discs, we no longer accept a legal education that fails to look beyond one's own borders.

Learning from other legal systems, and from interactions between legal systems, is not simply a matter of intellectual curiosity; it is also about survival in an intensely competitive, global marketplace.

Competition among international arbitration institutions provides one powerful example. The pace of rulemaking by arbitral institutions has greatly accelerated, particularly in Asia, as institutions based in Hong Kong, Singapore, Seoul, Kuala Lumpur, Shenzhen, Shanghai, and Beijing constantly borrow from, and seek to improve upon, rulemaking innovations introduced at other institutions.

These innovations range from issues of third-party funding to emergency arbitrator procedures to early dismissal of claims.

Just as arbitral institutions learn from and build upon each other's work, governments actively look to the recent treaty practice of other governments for inspiration. One example would be recent investment treaty drafting with respect to the expropriation obligation.

Several years ago the United States began including in its investment treaties certain factors that had been borrowed from a U.S. Supreme Court decision called *Penn Central Transportation v. New York City*.

The case involved a decision, by New York City's Landmark Preservation Commission, to deny a proposal to construct a 55-story office building on top of Grand Central Terminal in New York City.

The factors developed by the Supreme Court in the case for analyzing a so-called “regulatory taking” became known as the “*Penn Central* factors”; the United States later incorporated those *Penn Central* factors into the expropriation provisions of its investment treaties.

Now, through treaty propagation, those same *Penn Central* factors have found their way into many investment treaties that do not even include the United States as a Party.

Thus, a domestic court decision in the United States has influenced U.S. investment treaty practice, which in turn has influenced the investment treaty practice of many governments around the world.

Similar transnational interactions have led to significant changes in China’s foreign investment law. In September 2013, the launch of the Shanghai Free Trade Zone was accompanied by the launch of a so-called “negative list” approach to foreign investment. Under a “negative list” approach, an economy is generally open to foreign investment,

subject to certain exceptions, specifically particular sectors that are set out on a government's "negative list".

The overall orientation of a negative list approach to foreign investment is openness; by contrast, under a so-called "positive list" approach, an economy is generally not open to foreign investment, with the exception of particular sectors that are set out on a government's "positive list".

China's transition from a positive list to a negative list approach has been gradual, with the initial introduction in the Shanghai FTZ, followed by an expansion to four pilot programs in Tianjin, Shanghai, Guangdong, and Fujian, and more recently the further expansion to a nationwide negative list.

But the timing of China's initial transition in September 2013 in the Shanghai FTZ is noteworthy: two months earlier, in July 2013, China and the United States jointly announced, in connection with their ongoing bilateral investment treaty negotiations, that a US-

China BIT would be negotiated under a negative list approach.

That announcement was significant, because China had not followed a negative list approach in its prior investment treaties.

Thus, in 2013, an important shift in rulemaking by China on the international level was soon followed by a parallel shift on the domestic level.

Rulemaking and legal practice today – whether in the context of arbitration rules, regulatory takings jurisprudence, or foreign investment law - are unavoidably transnational.

As STL alumni, the thought of choosing a legal education that is limited to one legal system must seem a bit like choosing to use the postal service to communicate with others. Education in only one legal system is simply no longer adequate for today's global marketplace.

Just as Generation Z can try to understand, in the abstract, how, in the past, communications were not instantaneous, STL alumni can try to understand how, in the past, legal education had borders.

Also like Gen Z, the one world that STL Alumni actually know is this world: interconnected, interactive, international.

Alumni, you are Generation STL.

The STL faculty are proud of you and we follow your accomplishments and innovations with great interest.