



INSTITUTE OF INTERNATIONAL
ECONOMIC LAW
GEORGETOWN UNIVERSITY LAW CENTER

Georgetown Law and the Graduate Institute, Geneva

Annual Conference on WTO Law

9 & 10 June 2017

Programme

The Graduate Institute, Geneva
Maison de la Paix, Chemin Eugène-Rigot 2, 1202 Genève

and

World Trade Organization
Rue de Lausanne 154, 1202 Genève

This conference is generously sponsored by:

Akin Gump
STRAUSS HAUER & FELD LLP

KING & SPALDING

MAYER • BROWN

Steptoe
STEPTOE & JOHNSON LLP

VAN BAEL & BELLIS

WHITE & CASE

This conference benefits from academic input and guidance from the Society of International Economic Law, which nominates individuals for the Academic Committee and whose President, Gabrielle Marceau, graciously provides advice and assistance.



Friday, 9th June 2017 (Held at the Graduate Institute – Room A1)

Registration	08:00 ONWARDS
Welcome and Opening Remarks Christopher Brummer , Professor of Law and Faculty Director, IIEL, Georgetown Law Joost Pauwelyn , Professor of International Law, Graduate Institute, Co-Director CTEI and Murase Visiting Professor of Law, Georgetown Law	08:45 – 09:00
Session 1. ROUNDTABLE: The Globalization Backlash: Where Have Trade Agreements Failed and What Will or Should Next-Generation Trade Policy Look Like? This interactive roundtable will address a series of related and interdependent topics that international economic law may need to address in the wake of recent referenda (on e.g. Brexit), national parliamentary votes (on e.g. CETA) and nation-wide elections (in the US and elsewhere) that seem to reflect a broader globalization “backlash” and may herald the return of economic nationalism and/or a rethink of traditional approaches to free movement of goods, services and people. Starting from basic economic facts: What have been the gains and losses related to trade and the process of globalization? What about trade and inequality, trade and jobs? Where, and for whom, may trade policies and trade agreements have failed: Do they sufficiently address questions of inequality, the middle class, SMEs? Have trade agreements failed by not sufficiently addressing topics such as exchange rates, state capitalism and privatization or, depending on one’s perspective, agriculture and domestic support? In this context, roundtable participants will address recent developments concerning domestic trade policy, the TPP, NAFTA and the TTIP, the potential turn towards less ambitious/incremental, and mainly bilateral, trade deals and its implications for the WTO. Does the “backlash” against trade liberalization mean that the era of (certain types of) trade agreements has come to an end? Is the future characterized by increased protectionism or attempts at making trade fairer? Do avenues exist to address past failures and the – concomitant – rise of economic nationalism? What exact provisions could trade deals include to address past failures and to respond to today’s “backlash”? Moderator: Gary Horlick , Partner, Law Offices of Gary N. Horlick <ul style="list-style-type: none"> • Paul Blustein, Award-Winning Journalist & Senior Fellow at the Centre for International Governance Innovation • Marco Bronckers, Professor of WTO and EU Law, Leiden University • Thea Lee, Deputy Chief of Staff, AFL-CIO • Oisín Suttle**, Lecturer, School of Law, University of Sheffield • Jan Wouters, Jean Monnet Chair and Full Professor of International Law and International Organizations at the University of Leuven 	09:00 – 10:45
COFFEE BREAK – POSTER PRESENTATIONS SESSIONS 1, 2 & 3	10:45 – 11:15

** ‘Fresh Voice’ selected by the Academic Committee following a call for papers restricted to junior scholars.

Sponsors of this conference include:

<p>Session 2. ROUNDTABLE: Brexit and The Legal Consequences for Global Trade Relations: Considerations under UK & EU Law and WTO & FTA Agreements</p> <p>Brexit has thrown into sharp relief questions that have so far been neglected: How can a country extract itself from the EU given domestic/constitutional law and EU treaty rules? What does that mean for the UK's membership to the WTO and party status to existing and future FTAs and GSP schemes? How should not only the UK but also other countries including non-EU members and especially developing countries engage in this difficult exercise? What does it mean for UK-related existing and future trade remedies, FTAs and GSP schemes? This panel will focus on legal questions and aims to go beyond WTO-related questions of schedules and UK apportionment of EU global commitments (TRQs, AMS, etc.) to address also issues under domestic/constitutional and EU law and, especially, challenges under other international law commitments, in particular FTAs and EPAs.</p> <p>Moderator: Gabrielle Marceau, President of SIEL; Professeure Associée, Faculty of Law, University of Geneva; and Senior Counsellor, Legal Affairs Division, WTO</p> <ul style="list-style-type: none"> • Mattia Costa**, Teaching Assistant, Political Science Department, Genoa University • Holger Hestermeyer, Shell Reader in International Dispute Resolution at King's College London and Former Specialist Adviser, House of Lords EU Foreign Affairs Sub-Committee on Brexit and the Options for Trade as well as Brexit: Trade in Goods • Gary Horlick, Partner, Law Offices of Gary N. Horlick • Amos Saurombe**, Professor of International Economic Law, Head of Graduate Studies, Research & Innovation College of Law, University of South Africa • Fiona Smith, Professor of International Economic Law, University of Warwick & Special Adviser for Report on Brexit and Agriculture, House of Lords • Isabelle Van Damme, Associate, Van Bael & Bellis; and formerly Référéndaire at the European Court of Justice, Chambers of Advocate General Sharpston 	11:15 – 13:00
LUNCH BREAK – POSTER PRESENTATIONS SESSIONS 1, 2 & 3	13:00 – 14:00
<p>Session 3. PANEL: Making Trade Dispute Settlement More Effective and Inclusive: Informal Reforms at the WTO and Alternative Hard and Soft Law Systems in and outside of the WTO</p> <p>With formal DSU reform in gridlock, this panel will focus on renewed informal efforts to update the WTO dispute settlement process. It will discuss DDG Brauner's Informal "DS Efficiency Process" and Canada's DSB Proposal for an Informal Framework for Procedural DSU Innovation. Discussions on possibly reviewing Appellate Body appointment proceedings and conditions are also topical. There has also been renewed interest in concluding soft law instruments at the WTO as well as using softer mechanisms to address trade concerns (e.g. the special trade concern discussions in SPS/TBT committees and the new good offices procedure under the SPS agreement). In addition, dispute settlement mechanisms under certain FTAs have been recently tested (e.g. Costa Rica v. El Salvador dispute under CAFTA; US-Guatemala labour dispute also under CAFTA). Does dispute settlement under FTAs have a future? Why has it until now not often been resorted to (see NAFTA Chapter 20; ASEAN dispute settlement), and could this change in the future? Is there a broader trend in WTO/international trade law toward softer or informal international lawmaking and dispute settlement mechanisms, in some ways more akin to the old GATT or what is happening in other fields of international economic law, such as finance?</p>	14:00 – 15:45

Sponsors of this conference include:

<p>Moderator: Amy Porges, Principal, Law Offices of Amelia Porges PLLC</p> <ul style="list-style-type: none"> • Pablo Bentes, Steptoe & Johnson, Washington DC • Karl Brauner, Deputy Director General, WTO • Tracey Epps, International Trade Consultant, Chapman Tripp, New Zealand • Ian Medcalf, Legal Advisor, Permanent Mission of Canada to the WTO • Claudia Orozco, Director, Trade Law Advice • Ted Posner, Partner, Weil, Gotshal & Manges • Seung Wha Chang, former Appellate Body Member, WTO & Professor of Law at Seoul National University 	
<p>COFFEE BREAK – POSTER PRESENTATIONS SESSIONS 1, 2 & 3</p>	<p>15:45 – 16:15</p>
<p>Session 4. PANEL: US Trade Policy under President Trump: Matters of WTO/FTA Compliance and What Does It Mean for the Rest of the World?</p> <p>Trade and trade policy played an important role in the 2016 US elections and first months of the Trump Presidency. Several trade-related proposals have been put on the table. Rather than the general backlash against globalisation (to be discussed in session 1) or new ideas on how to re-think trade agreements (session 5), this panel will discuss concrete proposals floated or actually enacted by the Trump administration that are likely to have a major impact on trade, ranging from US corporate tax reforms (which may or may not include border adjustments) and the US Commerce Department Section 232 investigation into the national security implications of steel imports, to (not) labelling China as a "currency manipulator" and pulling out of, or re-negotiating, NAFTA, TPP, TTIP and the Paris Agreement. This panel will discuss matters of WTO and FTA compliance as well as legal questions under US law and broader implications for the WTO and world trading system.</p> <p>Moderator: Jennifer Hillman, Visiting Professor of Law, Georgetown University, former member of the WTO Appellate Body & US International Trade Commission</p> <ul style="list-style-type: none"> • Grant Aldonas, Principal Managing Director, Split Rock International • Daniel Crosby, Partner, King & Spalding, Geneva • Yang Guohua, Professor of Law, Tsinghua University • Scott Lincicome, Counsel, White & Case, Washington • Carlos Vejar, Senior counsel at Holland & Knight, Mexico City; and former General Counsel for International Trade, Mexican Ministry of Economy 	<p>16:15 – 18:00</p>

Sponsors of this conference include:

Poster Sessions Day 1: (Foyer of Petal 2 and Room S5)**Poster Topics related to Session 1 (“Globalization Backlash”) – from call for papers junior scholars**

1. *Towards a Convergence between Strong Trade Agreements and Weak Trade Policies in Sub-Saharan Africa*, **Ayo Aribidara**, Legislative Aide, National Assembly Complex, Nigeria
2. *India’s Proposal for Trade Facilitation in Services: A Breath of Fresh Air for Global Trade*, **Aveek Chakravarty**, LL.M, University of Turin
3. *The Flowering of Latin American Globalism with the Pacific Alliance Initiative*, **Carolina Palma**, Trade and Customs Professor, University of Costa Rica and International Trade Lawyer, Pacheco Coto, Costa Rica

Poster Topics related to Session 2 (“Brexit”) – call for papers junior scholars

4. *Preserving the UK’s Relationship with the African, Caribbean, and Pacific Countries: The Legal Implications of Brexit*, **Clair Gammage**, Lecturer in Law, University of Bristol Law School
5. *The Legal Consequences of Brexit on Investment Protection: Disentangling a Complex Web and Spinning a New One*, **Matthieu Grégoire**, Barrister, 4 New Square, UK

Poster Topics related to Session 3 (“Dispute Settlement”) – call for papers junior scholars

6. *FSAP Peer Review Mechanisms in International Financial Law: A Template for Reform of DSU of the WTO*, **Veer Mayank**, Department of Law, Sikkim University, India
7. *Specific Trade Concerns in Action: Geneva’s Influence on Chile’s Food Labeling Policy*, **Paul Mertenskötter**, PhD Candidate, Humbolt-Universität Berlin
8. *Why is there so little litigation under preferential trade agreements? Retaliation and adjudication in international dispute settlement*, **Geraldo Vidigal**, Visiting Fellow, Graduate Institute, Geneva

Sponsors of this conference include:

Saturday, 10th June 2017 (Held at the WTO, Rue de Lausanne 154)

<p>Session 5. PANEL: Free Trade Under Attack: Is a Radical Rethink of Trade and Investment Agreements Needed?^{††}</p> <p>This panel, building on the broader globalization backlash roundtable of the first session, will discuss what the current political trend against openness and free trade means for trade and investment agreements: Do they need a radical rethink, or are domestic adjustment policies to blame? The organizers have invited, in particular, papers that present cutting edge, new ideas on how trade/investment agreements could be adjusted to address current critiques. Now that, for example, NAFTA is to be re-negotiated, what should a NAFTA 2.0 look like? With the UK regaining the freedom to set its own trade policy, what innovations should, for example, a UK-US trade agreement include? In the wake of European criticism against CETA, what changes to the current CETA texts are needed, if any, to alleviate concerns in, for example, national or regional parliaments in Germany and Belgium? Must trade/investment agreements be more “evidence based” and adjust where they fail to reach their objective of, for example, increasing trade or growth, creating jobs or attracting FDI? Or should we stop calling second generation FTAs “free trade” agreements as they are about regulation and broader economic disciplines as much as they are about (liberalizing) trade? Are trade agreements solely about economic growth or can they increasingly be seen as imposing a form of regulatory discipline, nudging states to adopt “good policies”, to be implemented in an “even-handed” manner which, at times, may require more (rather than less) restrictions or flanking policies?</p> <p>Moderator: Markus Wagner, Associate Professor of Law, Warwick University</p> <ul style="list-style-type: none"> • <i>The Great Asymmetry and The Rule of Law in Trade and Investment Agreements</i>, Alessandra Arcuri, Associate Professor, Erasmus School of Law, Erasmus University Rotterdam • <i>A Framework for Rethinking NAFTA for the 21st Century: Policies, Institutions, and Regionalism</i>, Inu Manak (with Simon Lester), Georgetown University & Cato Institute • <i>Saving the Political Consensus in Favour of Free Trade</i>, Tim Meyer, Professor of Law, Vanderbilt University Law School • <i>International Trade, Economic Exclusion and Racialized Harm: The Cotton Story</i>, Chantal Thomas, Cornell University School of Law 	09:00 – 10:45
COFFEE BREAK – POSTER PRESENTATIONS SESSIONS 5 & 6	10:45 – 11:15

<p>Session 6. PANEL: Developments in Trade Remedies Legislation & Jurisprudence: (China) Market Economy Status, Alternative Flexibilities & The Bigger Question Of How To Marry Trade Liberalization With Varying Degrees of “State Capitalism”</p> <p>In 2017, 15 years after China’s accession to the WTO, the question arises how WTO members, including the EU and the US, will treat Chinese imports under trade remedy legislation: Will they grant China market economy status? In what other ways can certain types of government influence in the economy be accommodated under WTO agreements? How much flexibility is there, for example,</p>	11:15 – 13:00
---	---------------

^{††} Presenters on Session 5 (as well as Poster Session 5) were selected by the Academic Committee following a call for papers open to both junior & senior scholars.

Sponsors of this conference include:

<p>to use surrogate values to determine dumping or subsidy rates? How to react to SOEs or state trading? If market economy status is granted, what does that mean for existing trade remedies (legacy measures)? What light does recent WTO jurisprudence on trade remedies (EU – Biodiesel, US – AD Methodologies, etc.) shed on this broader debate? Are more advanced or detailed responses included in FTAs, for example, by addressing questions such as SOEs or competition policy? What to make of recently proposed reforms to EU trade defence instruments and the finding by some WTO members (including, most recently, the US Department of Commerce) of a “particular market situation” to increase anti-dumping margins?</p> <p>Moderator: Jan Bohanes, Senior Counsel, ACWL & Visiting Lecturer, Graduate Institute, Geneva</p> <ul style="list-style-type: none"> • Elizabeth J. Drake, Partner, Stewart & Stewart • Stephen Kho, Partner, Akin & Gump • Daniel Moulis, Principal Partner, Moulis Legal • Paulette Vander Schueren, Partner, Mayer Brown, Brussels • Mark Wu, Assistant Professor of Law, Harvard University • Weihuan Zhou^{††}, Lecturer, UNSW Law, Australia 	
LUNCH – POSTER PRESENTATIONS SESSIONS 5 & 6	13:00 – 14:00

Followed by the Grand Final of the ELSA Moot Court Competition (EMC2) on WTO Law at 14:00

Poster Sessions Day 2: (Salle des Pas Perdus)

Poster Topics related to Session 5 (“Free Trade Under Attack”) – call for papers junior & senior scholars

1. *Rethinking International Trade Law in an Era of Trump and Brexit*, **Frank Garcia**, Professor of Law, Boston College of Law
2. *How Should We Think About Winners and Losers? Redesigning International Economic Agreements in an Era of Globalization Backlash*, **Nicolas Lamp**, Assistant Professor, Queen’s University, Canada

Poster Topics related to Session 6 (“Trade Remedies”) – call for papers junior scholars

3. *Back to the Lawless Jungle? The Vulnerability of EU Anti-Dumping Measures against China*, **David Kleimann**, Doctoral Researcher, European University Institute, Florence
4. *State Capitalism, State-Owned Banks, and the WTO’s Subsidy Regime*, **Alex Yueh-Ping Yang & Pin-Hsien Lee**, SJD Candidate, Harvard Law & LLM Columbia Law

^{††} ‘Fresh Voice’ selected by the Academic Committee following a call for papers restricted to junior scholars.

Sponsors of this conference include:



INSTITUTE OF INTERNATIONAL
ECONOMIC LAW
GEORGETOWN UNIVERSITY LAW CENTER

The 2017 Conference Committee

The Conference Committee is comprised of people from the two host institutions plus a number of individuals appointed by SIEL to provide academic guidance for the conference.

Conference Chairs:

Christopher Brummer, Professor of Law and Faculty Director, IIEL, Georgetown Law; Co-Editor-in-Chief, Journal of International Economic Law

Joost Pauwelyn, Professor of International Law, Graduate Institute of International and Development Studies, Geneva, Visiting Professor of Law, Georgetown Law; Co-Editor-in-Chief, Journal of International Economic Law

Academic Committee:

Freya Baetens, Professor of Public International Law, PluriCourts Centre, Faculty of Law, Oslo University; and Member of the Executive Council of SIEL

Jan Bohanes, Senior Counsel, Advisory Centre on WTO Law; and Visiting Lecturer at the Graduate Institute of International and Development Studies, Geneva

Michael Ewing-Chow, Associate Professor of Law, National University of Singapore; and Member of the Executive Council of SIEL

Jennifer Hillman, Visiting Professor of Law, Georgetown University Law Center

Gary Horlick, Law Offices of Gary N. Horlick; Adjunct Professor of Law, Georgetown University Law Center

Gabrielle Marceau, President of SIEL; Professeure Invitée, Faculty of Law, University of Geneva; and Senior Counsellor, Legal Affairs Division, WTO

Amelia Porges, Principal at Law Offices of Amelia Porges PLLC; and Member of the Executive Council of SIEL

Markus Wagner, Associate Professor of Law, University of Warwick; and Secretary of SIEL

Organising Committee:

Theresa Carpenter, Executive Director, Centre for Trade and Economic Integration, Graduate Institute of International and Development Studies

Manuel Sánchez, PhD Law Candidate, Graduate Institute of International and Development Studies; Editorial Assistant, Journal of International Economic Law

Christine Washington, Director, Programs & External Affairs, IIEL, Georgetown Law

Angelica Zanninelli, Events Coordinator, Centre for Trade and Economic Integration, Graduate Institute of International and Development Studies

This conference is generously sponsored by:

Akin Gump
STRAUSS HAUER & FELD LLP

KING & SPALDING

MAYER • BROWN

Steptoe
STEPTOE & JOHNSON LLP

VAN BAEL & BELLIS

WHITE & CASE