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# 16th Annual Conference on WTO Law

10 & 11 June 2016

The Graduate Institute Geneva  
Maison de la Paix, Chemin Eugène-Rigot 2, 1202 Genève  
and  
WTO Headquarters  
Rue de Lausanne 154, 1202 Genève

## Programme

### Friday, June 10 (Held at the Graduate Institute – Room A1)

08:00 onwards	Registration
08:45 - 09:00	<p><b>Welcome and Opening Remarks</b></p> <ul style="list-style-type: none"> <li>• Prof. Joost Pauwelyn, Professor of Law, Graduate Institute; Visiting Professor of Law, Georgetown Law</li> <li>• Dr. Julinda Beqiraj, Associate Senior Research Fellow, Bingham Centre for the Rule of Law, BIICL</li> <li>• Prof. Gabrielle Marceau, Professor of Law, University of Geneva; President, SIEL; Counsellor, Legal Affairs Division, WTO</li> <li>• Prof. Christopher Brummer, Professor of Law, Georgetown Law; Director, IIEL</li> </ul>
09:00 - 10:45	<p><b>Panel 1: Legal Innovation in TPP and Other “Deep” FTAs: Towards a “Common Law” of FTAs or Substantive Fragmentation on “New Issues”?</b></p> <p><b>Description:</b> the conclusion in fall 2015 of the Trans-Pacific Partnership (TPP) was a major landmark. Other “deep” FTAs such as CETA or the EU-Singapore agreement have also been concluded, and more are under negotiation (TTIP, TiSA, RCEP, etc.). What legal/rule innovation can be found in and across these 21st century trade agreements, both at the institutional and the substantive or procedural level (including dispute settlement)? Are some “new issues” (e.g. e-commerce, investment, corruption, data flows, environment, competition, labor, SOEs,</p>

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	<p>regulatory cooperation) dealt with in all of these agreements and in similar ways, making some of them possible candidates for a multilateral or at least plurilateral approach? Where, in contrast, reside the major differences, both on substantive and institutional issues and why are they there? Are some FTAs more open or “WTO friendly” than others? Is the trend one of consolidation toward something of a “common law of international trade” (the term used by J.H.H. Weiler in a 2001 edited book) or rather one of fragmentation with deepening divisions especially on “new issues”?</p> <p><b>Speakers:</b> Michael Ewing-Chow, Associate Professor, National University of Singapore, Faculty of Law (Moderator)</p> <ul style="list-style-type: none"> <li>• Rudolf Adlung, Former Counsellor, Trade in Services Division, WTO</li> <li>• Facundo Calvo**, LL.M. Student, University of Barcelona</li> <li>• Svetlana Chobanova**, Ph.D. Law Candidate, University of Maastricht; Dispute Settlement Lawyer, Appellate Body Secretariat, WTO</li> <li>• Meredith Kolsky Lewis, Professor of Law, SUNY Buffalo Law School</li> <li>• Jayashree Watal, Counsellor, Intellectual Property, Government Procurement &amp; Competition Division, WTO</li> </ul>
10:45 - 11:15	Coffee Break
11:15 - 13:00	<p><b>Panel 2: Interpreting “Old” Rules in a World of New FTAs and Other Norm Developments Outside the WTO Treaty</b></p> <p><b>Description:</b> in a recent ruling (<i>Peru – Agricultural Products</i>, DS457), the WTO Appellate Body addressed the potential impact of a bilateral free trade agreement on the interpretation of WTO rules between the disputing parties. In a context where WTO treaty updates are stalled, can or should the AB interpret 20 years-old WTO rules to accommodate new developments, be it clarifications in WTO declarations or committee decisions (outside of the formal WTO treaty), party agreements to settle disputes outside the WTO or substantive rules in FTAs or multilateral environmental agreements (such as the 2015 Paris Agreement on climate change)? If the AB sticks strictly to the “old rules” does it risk losing credibility or even becoming obsolete? Or, conversely, would reference to such “outside sources” depart from the AB’s original purpose and risk undermining its hard-fought authority? How can treaty interpretation in this evolving legal context remain objective and predictable? What is the role in this context for competing dispute settlement fora under other trade and investment agreements?</p> <p><b>Speakers:</b> Tania Voon, Professor of Law, University of Melbourne (Moderator)</p> <ul style="list-style-type: none"> <li>• Mislav Mataija, Member of the Legal Service, European Commission</li> </ul>

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	<ul style="list-style-type: none"> <li>• Brendan McGivern, Partner &amp; Head of the WTO Practice, White &amp; Case</li> <li>• Donald McRae, Professor of Law, University of Ottawa, Common Law Section</li> <li>• Marco Tulio Molina Tejada, Deputy Permanent Representative of Guatemala, Permanent Mission of Guatemala to the WTO</li> <li>• Joost Pauwelyn, Professor of Law, Graduate Institute; Visiting Professor of Law, Georgetown Law</li> </ul>
13:00-14:00	Lunch Break
14:00-15:45	<p><b>Panel 3: Global Tax Reforms &amp; Disputes at the Intersection of Trade and Direct Taxation of Multinationals</b></p> <p><b>Description:</b> in October 2015, OECD members agreed on major new tax rules to address tax avoidance and increase tax transparency (the so-called Base Erosion and Profit Shifting (BEPS) Package). At the same time, Panama filed a noted WTO complaint (DS453) against Argentina for “blacklisting” Panama as a tax haven and imposing certain trade restrictive measures against it (AB report circulated on 14 April 2016). Also the EU Commission is examining the tax treatment offered by certain EU countries to certain multinationals as potential state-aid/subsidization. These global tax reforms and disputes will likely have an important impact on multinationals and how countries divide tax revenues. How do updated tax rules interrelate with existing trade rules? Could the WTO (e.g. the traditional arms-length principle in the Subsidies Agreement) be used to stall the implementation of some of these tax reforms? Or rather is there scope to use WTO dispute settlement to enforce some of these tax reforms or to settle direct taxation disputes between WTO members in the absence of binding dispute settlement in the international tax arena?</p> <ul style="list-style-type: none"> <li>• <b>Speakers:</b> Fernando Piérola, Senior Counsel, Advisory Centre on WTO Law (Moderator)</li> <li>• Julien Chaisse*, Professor of Law, University of HK; and Chief Legal Counsel, WTI Advisors</li> <li>• Jennifer Farrell**, Assistant Professor of Law, Western University Ontario</li> <li>• Tim Keeler, Partner, Mayer Brown</li> <li>• Abdel-Hamid Mamdouh, Director, Trade in Services Division, WTO</li> <li>• Weiwei Zhang**, Ph.D. Law Candidate, Graduate Institute</li> </ul>

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### Friday, June 10 (Held at the Headquarters of the WTO Secretariat – Room CR)

<p>16:15-18:30 (CR room, Centre William Rappard)</p>	<p><b>A TRIBUTE TO PROFESSOR JOHN H. JACKSON AND AMB. JULIO LACARTE MURÓ</b> <b>Introduction – Roberto Azevêdo, Director General, WTO</b></p> <p><b>Speakers:</b> R. Michael Gadbaw, Distinguished Senior Fellow, Institute of International Economic Law; Adjunct Professor of Law, Georgetown Law (Moderator)</p> <ul style="list-style-type: none"> <li>• Luiz Olavo Baptista, Former Member and Chairman of the Appellate Body, WTO (video)</li> <li>• Jane Bradley, Former Executive Director, Institute of International Economic Law, Georgetown Law</li> <li>• Thomas Cottier, Emeritus Professor, University of Bern</li> <li>• William Davey, Guy Raymond Jones Chair in Law Emeritus, University of Illinois, College of Law</li> <li>• Dr. Dr. h.c. Claus-Dieter Ehlermann, Former Member and Chairman of the Appellate Body. WTO; Senior Counsel, WilmerHale</li> <li>• Jennifer Hillman, Former Member of the Appellate Body, WTO; Professor of Law, Georgetown Law</li> <li>• Sir Francis Jacobs, Professor of Law, King’s College London (video)</li> <li>• Mitsuo Matsushita, Former Member of the Appellate Body, WTO; Professor Emeritus, Tokyo University (video)</li> <li>• Debra Steger, Professor of Law, University of Ottawa, Faculty of Law</li> <li>• Peter Van den Bossche, Member of the Appellate Body, WTO</li> </ul>
<p>18:30-19:30</p>	<p>Reception</p>
<p>19:30 onwards</p>	<p>Conference dinner (speakers and invited participants)</p>

### Saturday, 11 June (Held at the Headquarters of the WTO Secretariat – Room W)

<p>09:00 - 10:45</p>	<p><b>Panel 4: The WTO Appellate Body: An Example to Shun or to Follow?</b></p> <p><b>Description:</b> at the 20th anniversary of the WTO, most observers are celebrating the achievements of WTO dispute settlement and the WTO Appellate Body (AB) in particular. In ongoing efforts to reform investor-state dispute settlement (ISDS) some countries have even urged to copy the AB model including AB appointment and remuneration rules. Other voices have questioned AB (re)appointment procedures or strongly criticized the AB itself for an obsessive textual approach or, conversely, expansive activism reading new obligations into the WTO treaty. Yet others have stated that rather than clarifying WTO rules and making them more predictable, the AB has complicated compliance and reduced predictability</p>
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	<p>especially in the trade remedies field. Has the AB gone out of bounds or been too conservative? Has WTO dispute settlement clarified or complicated the WTO treaty? After 20 years, does WTO dispute settlement remain an attractive option for the private sector? Is its success spread equally across agreements and WTO members, or have WTO disputes been filed selectively in some areas and against some countries leaving “black holes” elsewhere?</p> <p><b>Speakers:</b> Jacques Bourgeois, Senior Advisor, Sidley Austin (Moderator)</p> <ul style="list-style-type: none"> <li>• Colin Brown, Deputy Head of Unit, DG Trade, European Commission</li> <li>• Vicky Heideman**, Lecturer, Faculty of Law, Rhodes University</li> <li>• Robert Howse, Lloyd C. Nelson Professor of International Law, New York University</li> <li>• Celso de Tarso Pereira, Minister, Mission of Brazil to the WTO</li> <li>• Alan Yanovich, Senior Counsel, Akin Gump</li> </ul>
<p>10:45 - 11:15</p>	<p>Break</p>
<p>11:15 – 13:00</p>	<p><b>Panel 5: WTO Negotiations Post-Nairobi: What? How? When?</b></p> <p><b>Description:</b> the 10th WTO Ministerial Conference in Nairobi, Kenya, resulted in a series of discrete, substantive commitments (e.g. on export competition) but disagreement on what to discuss next and in what format, in terms of WTO negotiations post-Nairobi. How can negotiations on outstanding “old issues” (e.g. domestic farm subsidies) be completed? What “new issues” can realistically be taken on board, how and when, if at all? Should negotiations be issue-specific or continue to be “package deals” with bargains across subject matters? Given the complexity and time it takes for formal WTO amendments (e.g. the TRIPS amendment) or new treaties (e.g. the Trade Facilitation Agreement) to enter into force, how can the WTO remain relevant and engage in effective rulemaking or rule clarification? Can new commitments, for example, be taken on in mere “ministerial declarations” but are they subject then to WTO dispute settlement and sufficient domestic scrutiny and democratic support?</p> <p><b>Speakers:</b> Gabrielle Marceau, Professor of Law, University of Geneva; President, SIEL; Counsellor, Legal Affairs Division, WTO (Moderator)</p> <ul style="list-style-type: none"> <li>• Amb. Gabriel Duque, Ambassador and Permanent Representative of Colombia to the WTO</li> <li>• Aileen Kwa, Coordinator, Trade and Development Programme, South Centre</li> <li>• Amb. Wayne McCook, Ambassador and Permanent Representative of Jamaica to the WTO</li> <li>• Ricardo Meléndez-Ortiz, Chief Executive Officer, ICTSD</li> </ul>

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	<ul style="list-style-type: none"> <li>• Srikar Mysore, First Secretary (Legal), Permanent Mission of India to the WTO</li> <li>• Tatiana Lacerda Prazeres, Senior Advisor to the WTO Director-General, WTO</li> <li>• Amb. Marc Vanheukelen, Ambassador and Permanent Representative, Permanent Mission of the European Union to the WTO</li> </ul>
13:00-14:00	Lunch

\*\* "New voices", winners of an open competition; \* invited.

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

### Conference history

The *Annual WTO Conference* was originally established in 2000 through a partnership between the British Institute of International and Comparative Law (BIICL) and the Institute of International Economic Law (IIEL) at the Georgetown University Law Center. Now in its 16th year, the *Annual Conference on WTO Law* is currently organised jointly by BIICL, IIEL, the Graduate Institute's Centre for Trade and Economic Integration, and the Society of International Economic Law (SIEL). In 2016, the *16th Annual Conference on WTO Law* will be held in Geneva.

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## Organising Committee

The Organizing Committee for the 16<sup>th</sup> Annual Conference on WTO Law consists of:

### Chair:

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

### Coordinators:

Dr N. Jansen Calamita, Lecturer in International Investment Law and Dispute Settlement, Birmingham Law School, University of Birmingham, and Senior Research Fellow, BIICL

Dr Theresa Carpenter, Executive Director of the 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

### Members:

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

Dr Holger Hestermeyer, Shell Reader in International Dispute Resolution, King's College London

Dr Andrew Lang, Associate Professor (Reader), London School of Economics, Executive Committee member, SIEL

Christopher Parlin, Adjunct Professor of Law, Georgetown Law, and Deputy Director, IIEL, Georgetown Law

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

*The Organizing Committee wishes to thank Gabrielle Marceau, WTO Secretariat, Professeure Invitée, Faculty of Law, University of Geneva, and President of SIEL, for her gracious advice and assistance.*

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