



**British Institute of
International and
Comparative Law**

THIRTEENTH ANNUAL WTO CONFERENCE

Wednesday 15 – Thursday 16 May 2013

Organized by the **British Institute of International and Comparative Law** in association with the **Institute of International Economic Law at Georgetown Law**, the **Journal of International Economic Law**, **Queen Mary, University of London** and the **Society of International Economic Law**

This event is kindly sponsored by:

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Location: BMA House, Tavistock Square, London, WC1H 9JP

Wednesday 15 May

08.15 – 08.45 Registration with Tea & Coffee

08.45 – 09.00 Welcome and Opening Remarks

N. Jansen Calamita, British Institute of International and Comparative Law; University of Birmingham

Sir Francis Jacobs, KCMG, QC, King's College London

09.00 – 10.45 Panel 1.1: Energy and Trade

Government policies designed to promote the development of clean energy are not immune from the requirements of trade laws. The question is, however, whether trade laws – which were designed more than twenty years ago – are up to the job. The very recent Canada - Feed-in Tariff Panel reports, which have been appealed before the Appellate Body, are an excellent reminder of this. This panel discusses the various issues raised by these reports. Topics include (a) the dividing line between 'public procurement' and 'normal trade'; (b) the debate on local content policies; (c) the continuing quest for defining subsidies; (d) the assessment of the more general scenario of WTO law vis-à-vis green trade.

Chair: Luca Rubini, University of Birmingham

Speaker 1: Erwan Berthelot, White & Case

Speaker 2: Laura Nielsen, University of Copenhagen

Speaker 3: Ronald Steenblik, OECD

Speaker 4: Pierre Tardieu, European Wind Energy Association

10.45 – 11.15 Tea & Coffee Break

11.15 – 13.00 Panel 1.2: Economic Analysis in WTO Law

WTO provisions relying upon economic theory, or economic evidence of trade effects, range from measures that invoke economic issues (e.g., subsidies in Airbus/Boeing) to those that require the assessment of de facto trade effects, such as compliance of technical measures. There does not seem to be much consistency among panels or on the part of the AB regarding the persuasiveness of mainstream economic theory as a framework for understanding various aspects of the WTO covered agreements, or regarding the quantum of proof needed in varying contexts to carry the burden of persuasion. These issues can be loosely grouped in terms of "causation" (especially when economic theory provides the framework for the understanding of how a certain economic effect is brought about), and "problems of proof" (especially when an alleged effect needs to be quantified, or requires

the assembly of empirical data, in order to prove its existence). This panel will explore this complex, emerging area of concern.

Chair: Marco Bronckers, VVGB; University of Leiden
Speaker 1: Tomer Broude, Hebrew University of Jerusalem
Speaker 2: James Flett, European Commission
Speaker 3: Gregory Messenger, University of Oxford
Speaker 4: Roberta Piermartini, World Trade Organization

13.00 – 14.15 Lunch

14.15 – 16.00 Panel 1.3: Dispute Settlement Procedure

Renewed attention is being paid to the structural and procedural aspects of the WTO dispute settlement process. This panel will be devoted to exploring such issues, including proposed reforms to the process by which panels are composed, the proliferation of preliminary ruling requests under Article 6.2 of the DSU, and other currently contested procedural aspects of the dispute resolution process.

Chair: Kerry Allbeury, World Trade Organization
Speaker 1: Philippe De Baere, Van Bael & Bellis
Speaker 2: Shandana Gulzar Khan, Pakistan WTO Mission
Speaker 3: Gabrielle Marceau, World Trade Organization
Speaker 4: Luiz Eduardo Salles, Barretto Ferreira e Brancher (BKBG)

16.00 – 16.30 Tea & Coffee Break

16.30 – 18.00 Panel 1.4: Digital Trade

The Internet in less than 20 years of common use has radically changed how people communicate, store and find information, entertain themselves, and – among many other things – do business. Huge amounts of global business are now internet based, from the invention of products to their purchase to their transmission. Trade in knowledge may already exceed conventional cross border trade in goods or services – if we could measure it accurately. International trade law ‘must’ apply at least in good part to the Internet Economy, since it relates to trade in goods or services, but it is not always clear how. The panel will discuss what rules apply now to the internet, including various aspects of regulation of cross-border information flows, electronic financial flows, the regulation of data storage and access, the integrity of commercial data held in the “cloud” or in off-shore storage, and issues not yet invented, and whether and how they can be improved to help attain those goals.

Chair: Gary Horlick, Institute of International Economic Law, Georgetown Law
Speaker 1: Gary Horlick
Speaker 2: Mira Burri, World Trade Institute
Speaker 3: Hamid Mamdouh, World Trade Organization
Speaker 4: Usman Ahmed, eBay Inc.

Thursday 16 May

08.15 – 08.30 Tea & Coffee

08.30 – 10.30 Panel 2.1: Financial Crises and Sovereign Debt Crises, What Next for International Financial Regulation?

The systemic problems triggered by the global financial crisis have yet to be resolved. In the Eurozone, the financial crisis mutated into a sovereign debt crisis in some Member States. In order to break the vicious link between bank debt and sovereign debt, the EU has embarked in a ‘banking union’ project and adopted other measures. A distinguished panel of experts will discuss the problems posed by the twin financial and sovereign debt crises, the difficulties of managing global systemic risk in the financial sector and the emerging architecture nationally and internationally. The future of international financial regulation and of the cross-border resolution of systemically important financial institutions are some of the major issues the international community must face to set the foundations for global growth and stability.

Chair: Simon Gleeson, Clifford Chance
Speaker 1: Charles Randell, Slaughter & May
Speaker 2: Lee Buchheit, Cleary Gottlieb Steen & Hamilton
Speaker 3: Graham Nicholson, Bank of England
Speaker 4: Rosa Lastra, Queen Mary, University of London and
Emilios Avgouleas, University of Edinburgh

10.30 – 10.45 Tea & Coffee Break

10.45 – 12.30 Panel 2.2: International Finance and International Trade

International Economic Law provides an intellectual umbrella to understand the fundamental relationship between global money and finance and world trade. The prevention of systemic failure is a unifying principle in the rule-oriented schemes that should govern trade and finance. Under the GATS agreement, WTO is involved in cross-border financial services issues, and the interplay between the potential liberalization of such services and the stability of the financial system requires examination. This entails a careful analysis of the institutional links between WTO and international financial institutions and a reassessment of the architecture of the international monetary system in the XXIst century.

Chair: Iain MacNeil, University of Glasgow

Speaker 1: Thomas Cottier, World Trade Institute, University of Bern

Speaker 2: Gregory Shaffer, University of Minnesota

Speaker 3: Kern Alexander, University of Zurich

Speaker 4: Chris Brummer, Georgetown Law

12.30 – 13.30 Lunch

13.30 – 15.15 Panel 2.3: The Emergence of the TBT Agreement

The TBT Agreement seems destined to play an important role in the trade disputes of the future. The recent WTO disputes that have been resolved under that Agreement, (Tuna II, Clove Cigarettes, and COOL), and further on-going TBT disputes, raise difficult and complex issues that will need to be resolved, including a) the proper interpretation and application of the Annex 1.1 definition of a "technical regulation"; b) clarification of the factors relevant to making a "like product" analysis under Article 2.1; c) the role of a "legitimate regulatory distinction" in assessing whether the detrimental effect of the measure in question on the conditions of competition faced by the imported product is discriminatory; and d) the complexities of the core requirement of Article 2.2 that "technical regulations shall not be more trade-restrictive than necessary to fulfill a legitimate objective, taking account of the risks non-fulfillment would create." This panel will explore these key issues.

Chair: Lothar Ehring, European Commission

Speaker 1: Robert Howse, New York University

Speaker 2: Duane W. Layton, Mayer Brown

Speaker 3: Joanna Langille, University of Toronto

Speaker 4: Jessica Lawrence, Vrije Universiteit Amsterdam

15.15 – 15.30 Tea & Coffee Break

15.30 – 17.15 Panel 2.4: Post-Doha: Where Do We Go Now?

Can the Doha agenda be reset? Does the WTO risk being left behind? This panel will discuss the variety of new initiatives of plurilateral/regional character, including: a) the Trans-Pacific Partnership negotiations, the overlapping APEC-sponsored Free Trade Area of the Asian Pacific (FTAAP) negotiations, and the recently launched Regional Comprehensive Economic Partnership initiative; b) the push to create a large-scale US-EU bilateral agreement; c) the on-going negotiations regarding a plurilateral International Services Agreement; and d) trade facilitation negotiations. A key question will be whether the potential for success in such negotiations may spur WTO members to reexamine what might be accomplished in Doha.

Chair: Amy Porges, Law Offices of Amy Porges

Speaker 1: David Hartridge, White & Case

Speaker 2: Ambassador Jonathan T. Fried, Permanent Mission of Canada to the WTO

Speaker 3: Simon Lester, Cato Institute

Speaker 4: Meredith Kolsky Lewis, SUNY Buffalo Law School/Victoria University of Wellington Law School

17.15 – 17.30 Closing Remarks