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China International Business & Economic Law (CIBEL) 法

AWRN ASIA WTO RESEARCH NETWORK

2018 AWRN-CIBEL JOINT CONFERENCE

17-18 August 2018

"WTO, International Economic Law and Emerging Challenges – Asia Pacific Perspective"

TRADE LAWGUIDE
innovative tools for researching WTO law

China International Business
& Economic Law (CIBEL) 法

This conference is proudly hosted by:
China International Business and Economic Law (CIBEL) Initiative, UNSW Law.

TRADE LAW GUIDE
innovative tools for researching WTO law

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About CIBEL

Global Experts on Chinese IEL

UNSW Law's CIBEL (China International Business and Economic Law) Initiative is a university-funded long term and strategic initiative to create research strength in the areas of international business and economic law of relevance to China in the twenty-first century. It is the largest centre in this field outside China.

The initiative has recruited a core group of Chinese international economic law (IEL) scholars, each among the top in their fields. Through their and other CIBEL participants' work, the CIBEL initiative seeks to advance understanding and debate on Chinese IEL through wide-ranging research programs, publications and ongoing education initiatives. CIBEL's events include workshops and seminars roundtables and keynote addresses. CIBEL is also a leader in teaching, offering many courses on various aspects of Chinese international business law. Most recently CIBEL signed a Memorandum of Understanding with Tsinghua University.

People

(L-R) rofessor Deborah Healey, Associate Professor Heng Wang, Professor Ross Buckley, Associate Professor Xiao-chuan (Charlie) Weng, Dr Weihuan Zhou, Dr Alexandra George and Dr Lu Wang.

Fellows: Professor Wenhua Shan (Assistant President, Xi'an Jiaotong University), Professor Colin Picker (Dean of Law, University of Wollongong), Professor Lisa Toohey (The University of Newcastle Law School), Dr Shu Zhang (Deakin University).

Examples of Recent Research:

- DA Zetzsche, RP Buckley, DW Arner & L Fohr, "The ICO Gold Rush: It's a Scam, It's a Bubble, It's a Super Challenge for Regulators", forthcoming Harvard International Law Journal, accepted April 18, 2018, in press.
- Alexandra George, "Transcending Territoriality: International Cooperation and Harmonization in Intellectual Property Enforcement & Dispute Resolution" (2018) 10 *Tsinghua China Law Review*, pp.225-273.
- Deborah Healey, "Bank Mergers in China: What Role for Competition?" Asian Journal of Comparative Law (April 2017) (with Zhang Chenying).
- Heng Wang, "How May China Respond to the U.S. Trade Approach? Retaliatory, Inclusive and Regulatory Responses", Columbia Journal of Asian Law, Volume 31, Number 2 (forthcoming).
- Wenhua Shan and Lu Wang, 'The Definition of "Investment": Recent Developments and Lingering Issues' in Jean Kalicki and Mohamed Abdel Raouf (eds), Evolution and Adaptation: The Future of International Arbitration (ICCA Congress Series No. 20, Wolters Kluwer 2019).
- Charlie Xiaochuan Weng, "Do Auctions Matter? Assessing the Chinese Auction Promotion Institution of Takeover Law" (2017), Article | 10 Tsinghua China L. Rev. 49 (2017).
- James Nedumpara and Weihuan Zhou (eds), "Non-Market Economies in the Global Trading System: The Special Case of China" (Springer, 2018) in print.

See more at: www.cibel.unsw.edu.au/content/recent-publications

China International Business & Economic Law (CIBEL)
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Research Strengths and Expertise

Chinese, Australian and Global Perspectives of and Approaches to:

- International Economic Law
- International and Comparative Law
- International Investment law
- International Trade Law
- International Dispute Settlement
- International Financial and Monetary Law
- International Commercial Arbitration
- Private International Law
- Comparative Competition Law
- Chinese International Business Law
- Chinese Corporate and Securities Law

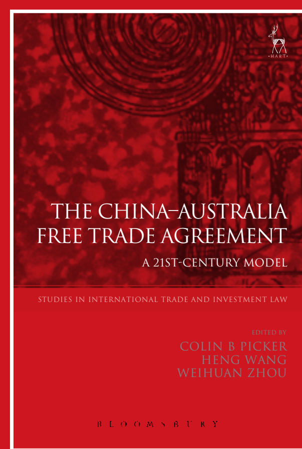
Highlights from 2017-2018

2017 saw CIBEL travel to Beijing to further drive collaboration in research and education in the region. The trip saw the delivery of an inaugural annual keynote address, organised in conjunction with King & Wood Mallesons (KWM) and Tsinghua University. The event was a great success with close to 200 attendees. The visit also saw CIBEL solidify existing relationships with leading Chinese law schools by signing a Memorandum of Understanding (MOU) with Tsinghua University. This MOU has already seen new experiential learning opportunities for students delivered with over 40 UNSW students travelling to Beijing in July 2018 to attend a Summer School program. CIBEL also sponsored major international conferences in Africa and Asia (China and India).

Showcasing its expertise in the areas of IEL, CIBEL members were pleased to present at the UNSW Future of Asia Hong Kong Summit and HKU-UNSW Symposium in 2018. March saw the launch of the *The China-Australia Free Trade Agreement (ChAFTA): A 21st Century Model* (Hart, 2017). This book explores the ChAFTA, considered at the forefront of regional trade agreements, and was launched by former Australian Trade Minister the Hon. Andrew Robb AO.

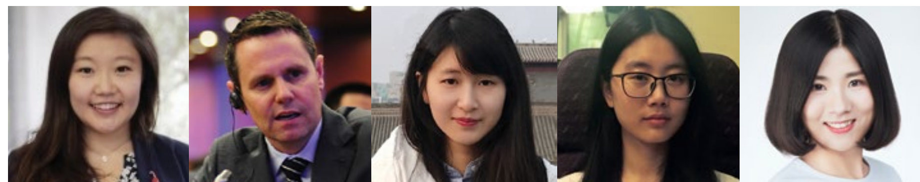
CIBEL continued to support the development of IEL perspectives proudly sponsoring the joint Asia World Trade Organisation Research Network (AWRN)-CIBEL Conference in August 2018. This conference was hosted at UNSW Law and focussed on "WTO, International Economic Law and Emerging Challenges – Asia Pacific Perspective".

Key publications



Colin B. Picker, Heng Wang and Weihuan Zhou (eds) *The China-Australia Free Trade Agreement: A 21st Century Model* (Hart, 2017)

Some of Our CIBEL PhD Students



(L-R) Xue Bai (Sophia), Simon Lacey, Xiaomeng Qu, Zhenyu Xiao and Dan Xie.

Xue Bai (Sophia)
Topic: Reform of Chinese State-owned Enterprises: What China can Learn from the Practice of Competitive Neutrality in Australia

Simon Lacey
Topic: International Trade Rules for the Digital Economy: Can We Discern an Emerging Consensus?

Xiaomeng Qu
Topic: A Comparative Analysis of Compulsory Acquisition Law

Zhenyu Xiao
Topic: The Evolution of the Settlement of Investor-State Disputes of China: A Coherent and Conscious Approach?

Dan Xie
Topic: Due Process Defence to Recognition and Enforcement of Foreign Arbitral Awards under the New York Convention: A Global Perspective in Theory and Practice

Events

Visit the CIBEL website for details about forthcoming events and to find out which speakers have been invited to the faculty to share their knowledge as a part of the regular CIBEL lunch series.

cibel.unsw.edu.au

Contact us

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cibel-blog

UNSW-CIBEL

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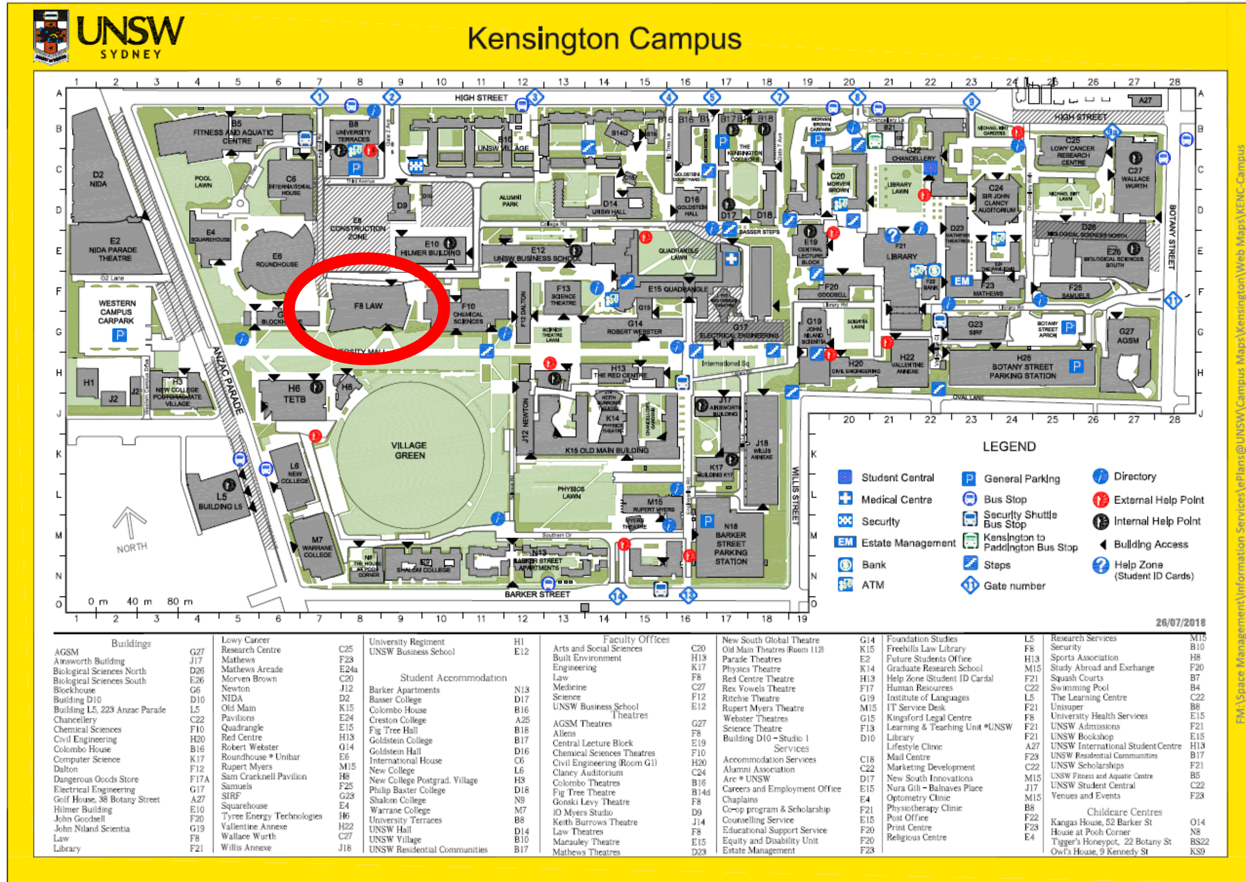
CRICOS Provider Code: 00098G ABN: 57 195 873 179

General Information

Venue

The conference is being held in the Faculty of Law Building, circled in red, on the UNSW Kensington Campus.



Refreshments

Refreshments and lunch will be provided at the Conference as noted in the program.

Conference dinner and harbour cruise

Event dinners have been arranged for the Friday and Saturday night of the conference. Please note, due to budget constraints, these events are by invitation only. If you have any questions regarding your attendance please contact CIBEL's Administrator, Diane Bowen by email at d.bowen@unsw.edu.au.

Program

DAY ONE – FRIDAY 17 AUGUST 2018

Registration and light breakfast (8.30am -9.00am)

Opening and Welcome Remarks (9:00am-9:15am)
Venue: Staff Common Room, Level 2, Law Building (F2)

Chair: Weihuan Zhou, Senior Lecturer, CIBEL, UNSW Law

George Williams AO, Dean UNSW Law, Anthony Mason Professor, Scientia Professor, UNSW Law

Chang-fa Lo, Chairperson, AWRN

Keynote Speech (9:15am-10:15am, including Q&A)

Venue: Staff Common Room, Level 2, Law Building (F2)
Chair: Chang-fa Lo, Chairperson, AWRN

Patricia Holmes, Assistant Secretary, Department of Foreign Affairs and Trade, Australia
Emerging Challenges of International Economic Law in the Context of (De)Globalisation

Coffee Break (10:15am-10:30am, including taking group photos)

Parallel Sessions 1 & 2 (10:30am-12:50pm)

Session 1: Overall/Systemic Issues of IEL
Venue: Staff Common Room, Level 2, Law Building (F2)

Chair: Colin Picker (AWRN member; Professor, Pro Vice Chancellor (South Western Sydney) and Dean of Law, University of Wollongong)

1. Junji Nakagawa (AWRN member; Professor, Institute of Social Science, the University of Tokyo)
   Rethinking the Multilateral Trading System
2. Ichiro Araki (Professor and Dean, Department of Law, Yokohama National University)
   Japan's Aggressive Legalism Revisited
3. Shin-yi Peng (AWRN member; Professor, Institute of Law for Science and Technology, National Tsing Hua University)

Session 2: Overall/Systemic Issues in Relation to Specific Fields of IEL
Venue: Boardroom, Level 2, Law Building (F2)

Chair: Lawan Thanadsillapakul (AWRN member; Retired Professor, School of Law Sukhothai Thammathirat Open University)

6. Tsai-yu Lin (AWRN Executive Secretary; Professor & Director, ACWH)
   Concurrent Use of Anti-dumping/Countervailing Duties and Safeguards under the WTO: A New Systemic Issue Is Arising?
7. Tomohiko Kobayashi (AWRN member; Professor, Department of Law, Otaru University of Commerce)
   You Can Check Out But You Can Never Leave: Use of the Rules of Origin to Combat Circumvention of the Anti-dumping Duties and its WTO Compatibility

Innovation and Regulation: Further Disciplines on Services Trade? 4. Qingjiang Kong (Dean, School of International Law, China University of Political Science and Law) *Towards a Mega-Plurilateral Framework for the WTO?* 5. Luke Nottage, Professor of Comparative and Transnational Business Law, University of Sydney *Costs, Outcomes and Transparency in ISDS Arbitrations: Evidence for an Investment Treaty Parliamentary Inquiry*	8. Haifeng Deng (Associate Professor, Associate Dean of Tsinghua University School of Law) and Jie (Jeanne) Huang (Associate Professor, the University of Sydney Law School) *What should China Learn from the CPTPP Environmental Provisions?* 9. Haniff Ahamat (AWRN member; Associate Professor, Faculty of Law, National University of Malaysia) and Nasarudin Abdul Rahman (Assistant Professor, International Islamic University Malaysia) *WTO and the Halal Issue: What is at stake for Microenterprises?*
Lunch Break (12:50pm-1:50pm)	
Training Session (1:50pm-2:20pm) – TradeLawGuide Demonstration Venue: Staff Common Room, Level 2, Law Building (F2) By: Greg Tereposky, Founder and Editor-in-Chief of TradeLawGuide; Founding partner of Tereposky & DeRose LLP	
10 minutes short break (Participants can grab tea or coffee to come to the next sessions)	
Parallel Sessions 3 & 4 (2:30pm-4:40pm)	
Session 3: Rethinking Exceptions under IEL Venue: Staff Common Room, Level 2, Law Building (F2) Chair: Datuk M. Supperamaniam (AWRN member; Former Ambassador of Malaysia to WTO) 10. Lawan Thanadsillapakul (AWRN member; Retired Professor, School of Law Sukhothai Thammathirat Open University) *Standardization of Goods and Services and the Application of the General Exception under WTO*	**Session 4: Investment, IP, TBT and Related IEL Issues** Venue: Boardroom, Level 2, Law Building (F2) Chair: Meredith Kolsky Lewis (AWRN member; Professor and Vice Dean for International and Graduate Programs, University at Buffalo School of Law, State University of New York) 15. Jonathan Bonnitcha (Senior Lecturer in Law at UNSW) *The Political Economy of Investment Liberalisation: What can the Investment Regime Learn from Trade Liberalisation*

11. Ma. Joy Abrenica (AWRN member; Professor, School of Economics, University of the Philippines)
Public Interest Exception in International Economic Law
12. R. Rajesh Babu (AWRN member; Professor of Law, Indian Institute of Management Calcutta)
WTO and the Protection of Public Morals in the Asian Context
13. R.V. Anuradha (AWRN member; Partner at the law firm of Clarus Law Associates, New Delhi)
Fluidity of the National Security Exception: The Invisible Cover for Arbitrary Action?
14. Jaemin Lee (AWRN member; Professor, Seoul National University School of Law)
Commercializing National Security?-- National Security Exception's Outer Parameter in Article XXI
16. Yuka Fukunaga (AWRN member; Professor, School of Social Sciences, Waseda University)
Comparative Analysis of Interpretative Methods in WTO Dispute Settlement and Investment Arbitration
17. Karsten Nowrot (Professor of Public Law, European Law and International Economic Law; Department of Socio-Economics, Faculty of Business, Economics and Social Sciences, University of Hamburg)
Corporate Responsibility as an Issue of Investment Agreements: Lessons for the WTO?
18. Peter Yu (Professor of Law, Professor of Communication and Director, Center for Law and Intellectual Property, Texas A&M University)
The U.S.-China TRIPS Dispute: Episode II
19. Andrew Mitchell (AWRN member; Professor, Melbourne Law School; Australian Research Council Future Fellow; Director, the Global Economic Law Network)
Australia – Tobacco Plain Packaging – Complex Victory?

10 minutes short break for AWRN members (They can grab tea or coffee to come to the Business Meeting.)

The 2018 AWRN Business Meeting (5:00pm-6:00pm)
To be participated by AWRN members only.
Venue: Boardroom, Level 2, Law Building (F2)

Conference dinner to be held at *Barzura* (7.00pm)
Restaurant address: 62 Carr Street, Coogee

DAY TWO – 18 AUGUST 2018

Light Breakfast (8.30am-9.00am)

Session 5 (9:00am-11:50am) (The chairperson will decide when to have a 10-minute break during the session.)

China and International Economic Law

Venue: Gonski Levy (G02) Lecture Theatre, Ground floor, Law Building (F2)

Chair: Deborah Healey (Professor; Co-director, CIBEL, UNSW Law)

20. Xinquan Tu (AWRN Member; Dean, China Institute for WTO Studies, University of International Business and Economics) and Nianli Zhou (Professor, China Institute for WTO Studies, University of International Business and Economics)
    US-China Competition on the Construction of International Regulation on Digital Trade
21. Weihuan Zhou (Senior Lecturer, CIBEL, UNSW Law), Henry Gao (AWRN member, Associate Professor, Singapore Management University) and Xue Bai (UNSW Sydney)
    China's SOE Reform: Using WTO Rules to Build a Market Economy
22. Chang-fa Lo (AWRN Chairperson; Justice, Constitutional Court)
    The Belt and Road Project and the Potential Implications for International Economic Law
23. Lu Wang (Lecturer, CIBEL, UNSW Law)
    Assessing the Status of State-Owned Enterprises in Investment Arbitration: From Identity to Conduct
24. Heng Wang (AWRN member, Associate Professor & Co-director, CIBEL, UNSW Law) and Simin Gao (Associate Professor and Assistant Dean, Tsinghua University School of Law)
    China and Currency Competition in Digital Age: A Perspective of Central Bank Digital Currency (CBDC)

Lunch Break (11:50pm-1:20pm)

Session 6 (1:20pm-3:20pm)

Asia-Pacific Perspectives on the Current Challenges to the Multilateral Trading System

Venue: Gonski Levy (G02) Lecture Theatre, Ground floor, Law Building (F2)

Chair: Junji Nakagawa (AWRN member; Professor, Institute of Social Science, the University of Tokyo)

25. Datuk M. Supperamaniam (AWRN member; Former Ambassador of Malaysia to the WTO)
    The Functioning of the Multilateral Trading System Issues and Challenges: A Developing Country Perspective
26. Bryan Mercurio (AWRN member; Professor and Vice Chancellor's Outstanding Fellow of the Faculty of Law, CUHK)
    Middle Powers in a G-Zero World: Caught in the Middle or Opportunity Knocking

27. Meredith Kolsky Lewis (AWRN member; Professor and Vice Dean for International and Graduate Programs, University at Buffalo School of Law, State University of New York)
    Implications of US Trade Policy under Trump for the Asia-Pacific
28. Lisa Toohey (AWRN member; Professor, Newcastle Law School, University of Newcastle)
    Trade Dispute Settlement under Pressure: Challenges and Possibilities
29. Xuewei Feng (Senior Counsel at AllBright Law Offices in Beijing)
    Market Economy, SOE Reform, Unilateral Actions and Future Balancing of WTO Disciplines

10 Minute Short Break (Participants will grab tea, coffee or snack to come back for the Special Session)

Special Session on the Initiative of the Asia-Pacific Regional Mediation Organization (ARMO) (3:30pm-4:30pm)

Venue: Gonski Levy (G02) Lecture Theatre, Ground floor, Law Building (F2)

30. Presentation of the initiative and the progress by ARMO Working Group members, followed by discussions

Closing Remarks (4:30pm-4:40pm)

Venue: Gonski Levy (G02) Lecture Theatre, Ground floor, Law Building (F2)

Heng Wang (AWRN member, Associate Professor & Co-director, China International Business and Economic Law (CIBEL) Initiative, UNSW Law)

Harbour Cruise Dinner (6.00pm to 10.00pm)

Coach will pick attendees up from UNSW at 6.00pm.

Cruise boards at 7.00pm and departs at 7.30pm from King Street Wharf.

Cruise concludes at 10.00pm.

Coach will pick attendees up from King Street Wharf and will make two stops to drop guests off at either the *Veriu* at Randwick or the *Adina* at Coogee

Abstracts

Day one -- Friday 17 August 2018

Parallel Session 1 &2

(10:30am-12:50pm)

Session 1: Overall/Systemic Issues of IEL

Ichiro Araki

Department of Law, Yokohama National University

Japan's Aggressive Legalism Revisited

In 2006, I wrote a comment on Saadia Pekkanen's arguments about Japan's aggressive legalism (which was later published as a book in 2008). More than a decade after those exchanges, the world is facing new reality in trade politics. The "trade friction" between Japan and the United States is still there, as seen in the recent "Free, Fair and Reciprocal" trade talks between the two countries, but much of trade agenda is dominated by the "trade war" between China and the United States. Against this background, I will review Japan's trade policy, particularly the use of the WTO dispute settlement mechanism in recent years and argue that the mildly aggressive policy of Japan is still observable.

Shin-yi Peng

Institute of Law for Science and Technology, National Tsing Hua University

Innovation and Regulation: Further Disciplines on Services Trade?

The primary inquiry of this study is to explore the approaches to regulating innovation sectors. Through advocacy surrounding the "technology industry," policymakers around the world are gradually making a momentous shift away from the rules-based approach toward principles-based regulatory regimes. According to advocates of a principles-based approach, such a shift should reduce barriers to entry, enhance competition, increase flexibility related to compliance, and result in a more efficient and effective regulatory environment. However, opponents are worried about the uncertainty it could create and the cost of that uncertainty to market actors. Should technological uncertainly justify suspending the rule of law and allow government discretion to address necessary innovation? On the one hand, sufficient administrative discretion is necessary to give governments the power to act for the benefit of advancing technology. On the other hand, unleashing discretion, to some extent, may mean that regulators will be able to use their discretion to pick economic winners. How, then, should we think about the issue of discretion from the IEL perspective? This paper will focus on whether Article VI:1 of the GATS is an effective tool in limiting administrative discretion to prevent abuse.

Luke Nottage

University of Sydney

Costs, Outcomes and Transparency in ISDS Arbitrations: Evidence for an Investment Treaty Parliamentary Inquiry

This article draws on evidence presented at an Australian parliamentary inquiry into ratification of a major Asia-Pacific free trade agreement, focusing on the investment chapter and especially the vexed issue of investor-state dispute settlement (ISDS) arbitration. It outlines some rationales for ISDS-backed investment treaty commitments, and sets out empirical evidence about the usual costs, award amounts and transparency associated with ISDS, to contribute to more informed public debate in Australia and world-wide.

Session 2: Overall/Systemic Issues in Relation to Specific Fields of IEL

Tsai-yu Lin
ACWH

Concurrent Use of Anti-dumping/Countervailing Duties and Safeguards under the WTO: A New Systemic Issue Is Arising?

Anti-dumping duties (ADs), Countervailing duties (CVDs) and safeguards are generally applied, individually, in response to distinct injury problems facing a domestic industry. In the past couple of years, however, concurrent initiation of AD/CVD investigations, which resulted in simultaneous imposition of ADs/CVDs on the same imported products, has been on the rise. This dual model is primarily applied to imports from non-market economies (NME), particularly China. In practice, the controversial "double remedy" issue arises.

Recently, the Trump administration of the United States has imposed a global safeguard on imports of solar cells and modules since February 7, 2018. For solar cells, the relief includes a safeguard duty of 30% in the first year, which will be reduced gradually every year. Prior to the application of these safeguard measures, the United States imposed two rounds of ADs and CVDs on imports from China in December 2012 and February 2015. It also imposed an AD on imports from Taiwan in February 2015. In the context of safeguards, the United States simply imposes safeguard duties to the solar imports covered by existing ADs/CVDs, resulting in concurrent imposition. Consequently, a total amount of CVDs/ADs and safeguard duties is added together for the same products already imposed ADs/CVDs, without regard to any adjustment. This approach results in a high aggregate remedial duty.

The imposition of additional safeguard duties to the imported products subject to existing ADs/CVDs will lead to exporting producers being subject to undesirable onerous burdens and denied access to the market of the importing country. This paper argues that the combination of already imposed CVDs/ADs with safeguard duties on the same imports, without any adjustment, will be likely to create a "double remedy" problem. Such combined measures would not be appropriate and would exceed the extent necessary to redress serious injury as required by the Agreement on Safeguards. From the perspective of the WTO, there is a need to soften the negative effects arising from the combined measures. In this regard, the EU imposes a definitive duty up to "the highest level of the safeguard or anti-dumping/countervailing duties" as the cap for the combined measures in its recent provisional safeguard measures concerning steel imports, providing a good reference.

Haifeng Deng
Tsinghua University School of Law and
Jie (Jeanne) Huang
The University of Sydney Law School

What Should China Learn from the CPTPP Environmental Provisions?

The Comprehensive and Progressive Agreement for the Trans-Pacific Partnership ("CPTPP") provides a close link between environmental protection and trade, forms a source of international environmental law, improves the implementation mechanisms of Multilateral Environmental Agreements, enhances public participation and information disclosure, and triggers new green trade barriers. China should grapple with the international community's tendency, as demonstrated in the CPTPP, to balance trade liberalization with environmental protection. China should learn from the CPTPP's environmental provisions to improve its domestic law through four aspects: increasing opportunity for meaningful public participation, regulating the procurement and use of wild fauna and flora in Traditional Chinese Medicine drugs and pharmacology, enhancing

access to and benefit-sharing of biological genetic resources, and improving consistency between China's domestic environmental legislation and international trade legislation. The CPTPP's environmental provisions may also encourage China's foreign trade law and policy to become more environmentally friendly.

Haniff Ahamat

Faculty of Law, National University of Malaysia and
Nasarudin Abdul Rahman

International Islamic University Malaysia

WTO and the Halal Issue: What is at stake for Microenterprises?

Halal is the dietary law for Muslims. Complying with its rules which are based on Islamic religious texts is required for practicing Muslims all over the world in the context of consuming not only food but also other consumer products. Halal measures can have effect on trade. Importation of certain food products for example has been banned for halal-related concerns. Halal certification is required as a condition for importation of certain food products into some countries. These measures can be inconsistent with the WTO as shown in *Indonesia-Chicken Cuts*. However, it needs to be seen that to what extent WTO Member States are given leeway in implementing their halal measures. Based on these premises, this paper seeks to discuss the legal issues that arise from the halal measures. These issues are encapsulated into these: the issue of classifying halal measures, and the dilemma between decentralised regulation and centralisation regulation vis-à-vis the halal measures. This will be followed by a discussion on how WTO law applies to the halal measures. This discussion will draw upon the analysis of the decision of the WTO Panel in the Indonesia-Chicken Products case. Then this paper will relate the WTO analysis of halal measures with the interest of small and medium enterprises (SMEs).

Training Session (1:40pm-2:15pm) – TradeLawGuide Demonstration

Parallel Sessions 3 & 4 (2:30pm-4:40pm)

Session 3: Rethinking Exceptions under International Economic Law

Lawan Thanadsillapakul

School of Law Sukhothai Thammathirat Open University

Standardization of Goods and Services and the Application of the General Exception under WTO

This paper has the objective to urge the revision of the WTO rules and regulation regarding the application of the general exception under section XX of WTO to the standardization of goods and services. It will discuss the various definitions of standardization and the function of goods and services standard to facilitate the market liberalization, the possibility of the classification of goods and services that can be directly applied the general exception of WTO for the purpose of life, health, and environment protection. This paper raises some case studies that the application of general exception to goods and services when crossed the border of the countries implementing some measures to monitor the importation of such goods, such as goods standard, environment – related standard, and health – related product has encountered or envisaged difficulties to apply such exception even though those measures are directly related to life and health protection.

Liberalization of trade, investment, and services will facilitate the free movement or free flow of goods, services and capital. The increment of trade volume and value results in the increase of trade transactions, wealth

creation, prosperity of entrepreneurs which are the engine propelling the economy, and economic development as a whole. However, we need to bear in mind that the ultimate goal of trade liberalization is the wealth of the nation arising from the free trade, benefit to the consumers, and to enhance the global economy. Focusing on the consumers, the benefit of free trade to consumers is the availability of a wide variety of goods and services, high quality goods, and competitive reasonable price of goods, and services. On the one hand, consumers will have various good choices with low price and high quality of goods, on the other hand, once the market is open not only good and high quality of products that come in but also the low quality and unsafety goods will flood into the market as well. Standardization of goods and services is the mechanism to protect consumers from the consumption of low quality and unsafe goods and services caused by asymmetric information between buyer and seller. And also standardization can enhance the improvement of production process to reach a higher technological level at the state of the art. Competitiveness will be strengthen to maintain the market to be free and fair.

The problematic issue is that standardization has very different meanings ranging from the classification of its function, its objective, and its legal status. Standardization might be compulsory or voluntary, it might be a private requirement or public regulations. It might be a common standard for universal "Compatibility and Interface standard" or it might be a strictly compliance with standard law that relating to life, health, and well-being of human, animal and plant protection. Furthermore, there are different standards that have to be applicable to goods and services that cause disputes among countries when the different standard goods cross border which have to be applied with different standards. Moreover, there might be different standard level; regional standard and domestic standard, especially the domestic standard is higher than the regional one. Standardization can be regarded as general exception that individual country can apply their standard law to the imported goods and services or not?

The application of the WTO general exception to the standard goods also face critical issue whether the standard could be applicable to the like products but have a different production method/process, or it has to apply to the goods per se. Whether the application of standardization will breach the rules and regulations of WTO or not? Could standardization be applied to only the goods which is the finished product or could it be applied to the production process of such goods too? The general exception can be applied to services or only to goods? Moreover, to what extent the application of the general exception under Section XX be covered; the different types of standardization. It's time to review the application of the WTO general exception to goods and services. Currently, for example, the doubtful of the selling of alcoholic drink and cigarette could be monitored under Section XX or not, since the product itself can be regarded as the substances which is harmful to human health, and also alcoholic drink has a major impacts to the cause of the accidents around the world. It is the time to re-think of the application of the general exception under WTO to the trading goods and services provision.

R. Rajesh Babu

Indian Institute of Management Calcutta

WTO and the Protection of Public Morals in the Asian Context

The right of the WTO members to adopt measures for nontrade purposes is well entrenched in the WTO legal system. The general exceptions provisions under Article XX of the GATT 1994 and Article XIV of the GATS, attempts to secure the WTO members' right to adopt measures to achieve certain objectives, notwithstanding any other provisions of WTO agreements. These objectives listed as general exceptions include, most importantly, the protection of public morals, the maintenance of public order, the protection of human, animal, or plant life or health, the enforcement of certain

domestic laws, and the conservation of exhaustible natural resources. Such measures, however, must be justified under one of the heads of the exception, and second, satisfy the requirements of the Chapeau of Article XX (*US- Gasoline*). In other words, to justify the invocation of Article XX, the Chapeau obligates the WTO members not to apply the exceptions in an arbitrarily or unjustifiably resulting in discrimination between those countries where same conditions prevail and that the measures do not amount to "disguised restrictions on the international trade".

This paper deals with the scope and nature of one such general exceptions specified in Article XX (a) of the GATT 1994 and Article XIV (a) of the GATS – "the protection of public morals". Specifically, this provision allows Member States to justify trade restricts that are "necessary to protect public morals or to maintain public order". While guidance on the scope and meaning of this provision is considered in few WTO cases, the provision remains largely undefined as the meaning is country specific. The observation of the panel in *EC – Seal Products*, that "WTO Members are afforded a certain degree of discretion in defining the scope of 'public morals' with respect to various values prevailing in their societies at a given time" has enhance the country specific subjectivity that could be brought in the interpretation of this provision. The paper attempts to analyse the scope of the moral exception in the Asian context with specific attention to India. The paper shall first look in to the existing jurisprudence on the meaning and scope of the provision and the regulatory discretion as interpret by the WTO DSB. It shall then look at the specific context of Asian and Indian definition of 'morality' in the constitutional and statutory context, and its compatibility with the prevailing understanding of the "moral" exception.

R.V. Anuradha

Clarus Law Associates, New Delhi

Fluidity of the National Security Exception: The Invisible Cover for Arbitrary Action?

The 'national security' exception is a preserve for sovereign power which finds a place in the GATT 1947 and practically all subsequent trade agreements, but has never been tested in a trade dispute. The reason is simple: while it has been invoked a few times, matters have never escalated sufficiently for it to be tested.

However, there are currently several disputes (including 3 against the U.S.) pending at the WTO where the 'national security exception' has been invoked as a defence for WTO-inconsistent policies. The timing of these disputes in view of the rising protectionism by various countries, in itself raises interesting questions about the intent and purpose of such an exception, i.e., whether it is a genuine exercise of security exception, or a cover for protectionist action.

This article will make an assessment of the wording used in the Security exception under the GATT and contrast it with the text for general exceptions in trade agreements. It will also make an assessment of how FTAs are addressing this issue, and the extent to which they are deviating from the language of the GATT and WTO Agreements. The article will also assess the extent to which new emerging aspects of security such as critical public infrastructure or critical information or cyber security are being addressed.

The article will conclude with a broad framework of principles that need to be considered with a view to ensuring that the shroud of 'security' does not become a carte blanche for any form of protectionism.

Jaemin Lee

Seoul National University School of Law

Commercializing National Security? National Security Exception's Outer Parameter in Article XXI

National security exceptions in GATT Article XXI sets forth an important carve-out for WTO Members in terms of fulfilling their legal obligations under the WTO Agreements.

Compared to other (exceptions) provisions, its coverage is arguably broad and apparently open-ended. The provision also provides an invoking Member with a high level of leeway in making a determination, as underscored by the 'self-judging' element of the provision. Based on the textual analysis of the provision, the exception also applies to other non-military sectors and non-military interests. Thus, it arguably extends to commercial sectors and commercial activities as well.

That said, the provision also sets forth specific requirements to be fulfilled before it is invoked even with respect to commercial sectors or commercial interests. In particular, the terms "for the purpose of supplying a military establishment" and "other emergency situation" included in the article suggest an important outer parameter for the application of the provision. Negotiating history and ordinary meaning interpretation of these two terms indicate that the provision stands to cover only a specifically defined, limited set of commercial activities under this exception.

In other words, the article's coverage would not extend to situations where there is some mere relationship between a product at issue and military activities. In other words, it does not cover situations where an import restriction may help domestic industries that may in turn help a military establishment. In interpreting and applying Article XXI, these outer parameters should receive adequate attention and deserve careful scrutiny.

As such, irrespective of and without prejudice to the self-judging nature of the article, proper invocation of Article XXI would mandate showing of the satisfaction of these two requirements of the article. An invoking Member, therefore, needs to show how these two elements are satisfied beyond making references to a self-judging nature of the provision and mere relationship between the measure at issue and military interest being protected.

This interpretation should provide useful guidance for Members who consider the invocation of the national security exceptions, which seems to be increasingly the case. The analysis of Article XXI should also apply to similar security exceptions in Article XIV bis of the GATS and Article 73 of the TRIPs, as well as comparable exceptions in respective FTAs.

Session 4: Investment, IP, TBT and Related IEL Issues

Yuka Fukunaga

School of Social Sciences, Waseda University

Comparative Analysis of Interpretative Methods in WTO Dispute Settlement and Investment Arbitration

World Trade Organization (WTO) dispute settlement (panels and the Appellate Body) and investment treaty arbitration adopt similar interpretative methods. Both interpret applicable agreements in accordance with the interpretative rules under the Vienna Convention on the Law of Treaties. Both often refer to rules and principles of public international law in search for interpretative guidance, though to different degrees. At the same time, there are also differences in their interpretative approaches, which are partly attributable to their differences in procedural and substantive law. These similarities and differences stimulate a discussion on the possible cross-fertilization of interpretative methods between the two dispute settlement procedures.

Against this background, my presentation addresses three interrelated questions concerning interpretative methods of WTO dispute settlement and investment arbitration.

The first question concerns precedent. In WTO dispute settlement, precedent forms a key part of the so-called WTO *acquis*, which panels and the Appellate Body are expected to follow. Precedent plays an indispensable role in providing security and predictability to the world trading order. Conversely, investment arbitration is often criticized for the lack of consistency in jurisprudence. It is

occasionally suggested that the lack of an institutional framework, particularly an appeal mechanism, hampers the formation of precedent in investment arbitration, thereby resulting in inconsistent jurisprudence. My presentation examines whether the creation of an institutionalized investment court system with an appeal mechanism that is modeled after the Appellate Body will bring more consistency to jurisprudence in investment arbitration.

The second question addresses the allocation of interpretative authority between tribunals and States. The Appellate Body's contribution to the formation of consistent precedent gives it *de facto* authoritative interpretative power, which has raised a concern among some WTO Members that the Appellate Body is going beyond its mandate and making law that does not reflect the intent of Members. As the right to adopt an authoritative interpretation under the WTO Agreement turns out dysfunctional, other methods to correct "wrong" interpretations by the Appellate Body need to be explored. A similar concern is also present in relation to investment arbitration, as arbitral tribunals are criticized for interpreting applicable investment agreements in a way which does not reflect the intent of contracting parties. While the contracting parties of an investment agreement have much fewer obstacles in the adoption of an authoritative interpretation than WTO Members, only a few such interpretations have ever been adopted. Investment arbitration may also require alternative methods to reflect the intent of contracting parties in the interpretation of agreements.

The third and final question discusses the relevance of margin of appreciation. Margin of appreciation is a term that has been used in the particular context of the European Court of Human Rights. Recently, its relevance to investment arbitration has become an issue, as some investment arbitral tribunals, most notably, one in *Philip Morris v. Uruguay*, used the term to support their view that deference should be accorded to governmental judgments regarding public policy matters such as public health. Considering that interpretations by investment arbitral tribunals are occasionally criticized for overprotecting the right of investors, margin of appreciation may be useful in ensuring more balanced interpretations. In WTO dispute settlement, while it is generally accepted that a certain degree of deference shall be accorded to factual determinations by Members, the relevance of margin of appreciation has hardly been discussed. As many WTO disputes involve public policies of Members, margin of appreciation may also be relevant to WTO dispute settlement. My presentation discusses whether and how margin of appreciation can be used in investment arbitration and WTO dispute settlement.

Karsten Nowrot

University of Hamburg

Corporate Responsibility as an Issue of Investment Agreements: Lessons for the WTO?

The presentation intends to present some thoughts on the current state and future potential of public interest obligations of foreign investors as a normative ordering idea and comparatively new regulatory experiment in the realm of international investment law, thereby particularly drawing attention on the one hand to recent investment policy and treaty-making practice as well as, on the other hand, to the consequences potentially to be drawn from these rather novel developments for the future evolution of another principal branch of international economic law, namely international trade law, and in this regard especially for its central multilateral regime in the form of the WTO legal order.

For these purposes, an attempt will be made to approach this research subject in three main steps and by way of adopting three different perspectives. The first part adopts a substantive law perspective and identifies the different manifestations of investors' obligations in current international investment agreements, among them direct obligations of conduct, indirect obligations of conduct as well as provisions signaling a commitment to corporate social responsibility by the

contracting parties. In a subsequent second step the approaches to this comparatively new regulatory experiment in, as well as its implications for, the realm of international investment dispute settlement are briefly. Finally, in the third part, adopting an international trade law perspective, an attempt will be made to identify the lessons for the progressive development of the WTO legal order potentially to be learned from the current reformation taking place in the realm of international investment agreements.

Peter Yu

Center for Law and Intellectual Property, Texas A&M University

The U.S.-China TRIPS Dispute: Episode II

In March 2018, the US Trade Representative filed a second WTO complaint against China over the violation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Focusing on articles 3 and 28 of the TRIPS Agreement, this complaint alleged that "China deprive[d] foreign intellectual property rights holders of the ability to protect their intellectual property rights in China as well as freely negotiate market-based terms in licensing and other technology-related contracts." How does this recent dispute compare with the previous dispute in *China – Measures Affecting the Protection and Enforcement of Intellectual Property Rights*? Who will prevail? Will the resolution of the latest dispute lead to more meaningful protection to intellectual property rights holders?

Andrew Mitchell

Melbourne Law School;
Australian Research Council Future Fellow;
the Global Economic Law Network

Australia – Tobacco Plain Packaging – Complex Victory?

Australia's victory was absolute in the recent Panel report in *Australia-Tobacco Plain Packaging*. The Panel rejected all the complainants' claims that Australia's measure is inconsistent with WTO rules. The Panel confirmed Australia's tobacco plain packaging measure is making a meaningful contribution to improving public health. Although Australia won the case how absolute a victory this is for public health is more complex. Closer analysis of the Panel's reasoning regarding specific provisions may cause some concern for policy-makers given how much the Panel's conclusions relied on its assessment of the facts and evidence before it. In this presentation I will examine some of the key findings and themes from the decision.

Day two – 18 August 2018

Session 5 (9:00am-11:50am):

China and International Economic Law

Weihuan Zhou

CIBEL, UNSW Law,
Henry Gao

Singapore Management University and
Xue Bai

UNSW

China's SOE Reform: Using WTO Rules to Build a Market Economy

This paper explores one of the most significant and pressing challenges for the multilateral trading system, that is, how the WTO rules may be utilized to deal with China's state capitalism. The paper observes that the recent rounds (including the current round) of state-owned enterprise (SOE) reform in China have strengthened rather than weakened state capitalism and have created increasing sophistications in China's market-oriented transformation. It argues that while the general GATT rules are limited in terms of the types of policy instruments and the scope of obligations, the WTO rules on subsidies and countervailing measures, coupled with China's WTO-plus commitments, have provided sufficient defense against the encroachment of Chinese SOEs beyond its own shores. In this context, the paper submits that anti-dumping, which is designed to tackle activities of businesses or firms, has been over-used and even abused by WTO Members in dealing with state intervention and market distortions in China. Thus, WTO Members should now shift their focus to exploring the utility of the subsidy and China-specific rules to overcome the challenges arising from China's state capitalism.

Chang-fa Lo

Justice, Constitutional Court

The Belt and Road Initiative and the Potential Implications for International Economic Law

China's "Silk Road Economic Belt and 21st-Century Maritime Silk Road" initiative (OBOR) covers a very large portion of the whole Asia and Europe. It has five major areas: policy coordination, facilities connectivity, trade and investment, financial integration, and cultural exchange. The subject matters being covered by this mega initiative are wide and extensive. Many aspects of the OBOR are within the core scope of the international economic law or have close connection with it. Potentially there are the following implications for international economic law. First, from positive side, if the OBOR is properly implemented, the developing partner countries could become economically more capable in engaging and participating in international trade (including being more able to import and export) so as to get benefits from international trade regime. Second, there seems to be a "China-centric approach" that can be identified from the initiative. Due to its economic strength, China is going to be very influential in setting up agendas in economic cooperation with its partner countries and in "law-making" or "norm-setting" for the bilateral or regional trade and investment activities. Third, the distinction between different sub-fields of international law can be getting blur. In order to promote the OBOR with a specific partner country, the parties could decide to have a single agreement or package to address not only investment and trade matters, but also other cooperation (such as those in cultural, science and technology, and public health). The can be considered as a reverse trend against diversification of international economic law. Such trend is desirable because there will be a need for treaty interpreters to consider and to coordinate different fields of international economic law matters (which are covered by a single instrument) in a consistent manner. Fourth, certain fields of international economic law could become much more important under the

OBOR. An apparent example is the corruption area. The issue of corruption is related with international trade and investment. The Government Procurement Agreement under the WTO has anti-corruption provisions. Since the OBOR involves many large scale investment projects, the anticorruption rules to be established under specific OBOR projects with China's cooperating countries should be a very important element to ensure the implementation of the project. Fifth, the OBOR basically focuses on bilateral and regional cooperation. This is deviating from the multilateral cooperation. The multilateral framework could become less important to China. The potential impact to the multilateral regime is losing the authoritativeness in addressing the economic relations between the OBOR countries. Six, there could be tied-in effects for developing partner countries, because the investment and financing project could make the partner countries bound by their debts to China and hence to be influenced by it.

Lu Wang

CIBEL, UNSW Law

Assessing the Status of State-Owned Enterprises in Investment Arbitration: From Identity to Conduct

Reflecting the rapid growth of international investments by State-owned enterprises (SOEs), a few treaty-based claims have been submitted by SOEs to investor-State arbitration. Such claims raise an intricate question regarding the role of SOEs in investment arbitration: whether an SOE qualifies as a "claimant" or a "State". In principle, an SOE must be qualified as an "investor" under the applicable investment treaty to access international investment arbitration, and the SOE also must meet the jurisdictional criterion of "national of anther Contracting State" under the ICSID Convention in the case of ICSID arbitration. It is indisputable that SOEs are entitled to bring claims against host States before international tribunals if the underlying treaty explicitly includes SOEs in the definition of "investors". Under the vast majority of treaties which do not contain such definition, however, a responding State may contend that an SOE is not an "investor" but a "State" on the basis of State ownership. Investment arbitration tribunals will therefore have to assess the role of SOEs to ascertain its jurisdiction.

This article evaluates the different approaches and proposes a conduct-based approach in determining the role of SOEs in investment arbitration. The identity of SOEs has blurred the borderline between "public" and "private" under international investment law, especially considering that SOEs may be very close to the State and can perform both commercial and governmental functions. A rational approach in deciding whether an SOE qualifies as an investor or a State should focus on the specific conduct in dispute - whether the SOE actually exercises governmental or commercial functions - rather than the identity of SOEs. Indeed such an approach has been adopted in ICSID arbitral practice, as both the *CSOB* and the recent *BUCG* tribunals adopted the so called Broches' test, i.e., SOEs should not be disqualified as a "national of another Contracting State" unless it is "acting as an agent for the government" or "is discharging an essentially governmental function".

Heng Wang
CIBEL, UNSW Law and
Simin Gao

Tsinghua University School of Law

China and Currency Competition in Digital Age: A Perspective of Central Bank Digital Currency (CBDC)

As a novel form of central bank money widely used in cross-border context, central bank digital currency (CBDC) represents a major strategic move of China in international economic law. It is denominated in an unit of account, serving as a medium of exchange

and a store of value. As China's central bank, the People's Bank of China (PBoC) intends to lead the development of CBDC. A PwC expert predicted that China "will be the first major country" to launch CBDC. CBDC involves payment, monetary system and financial stability, and concerns broader areas including trade. CBDC, as the cornerstone of the digital economy, is the key to "competition among powers". This paper will explore China's approach to CBDC and its profound implications.

Session 6 (1:20pm-3:20pm)

Asia-Pacific Perspectives on the Current Challenges to the Multilateral Trading System

Datuk M. Supperamaniam

Former Ambassador of Malaysia to the WTO

The Functioning of the Multilateral Trading System Issues and Challenges: A Developing Country Perspective

The paper highlights mainly the key issues and challenges that the WTO must address in order to sustain its credibility and relevance to the changing international trading environment.

The changing political and the rapidly evolving economic environment have led to new trends and trade policy shifts and emergence of range of issues including the way business has evolved with supply chain spanning the world as well as proliferation of mega trade deals.

These factors have collectively transformed the WTO dynamics. Questions have been raised in terms of the substance of the WTO agenda, the required format and approach to deal with the varied interests of the diversified membership as well as terms of engagement.

There is increasing concern especially among developing countries that the gains from past decades of trade liberalization have not been distributed equitably. Further there is wide perception that the rules embodied in the WTO system are not as balanced as they should be nor focused adequately on those areas that matter most to developing countries.

A major challenge facing the WTO is how the current rules-based trading system can be reshaped to make it more fair and equitable and more responsive to the development concerns and interest of developing countries. This has raised questions on how the WTO system can reconcile the competing objectives of the organization.

The proliferation of FTAs / RTAs is also posing a challenge. Given their disparate membership and varying coverage raised concerns as to how stable is this mutually supportive accommodation between multilateralism and regionalism.

There is also growing pressure for the WTO to also include new issues in the WTO agenda such as climate change, currency fluctuations and labour standards. Although these have implications on trade, achieving consensus to include this in the WTO's work program will be difficult.

Moving forward, the rules-based multilateral trading system must be development friendly to help countries to use international trade as an engine for inclusive growth and sustainable development. WTO membership must work collectively and systematically to build a more just multilateral system that strikes a good balance between the competing demands of efficiency, fairness, and legitimacy.

Bryan Mercurio

The Faculty of Law, CUHK

Middle Powers in a G-Zero World: Caught in the Middle or Opportunity Knocking

The era of multilateral cooperation in the World Trade Organization (WTO) has effectively ended, but so has the more recent trend towards larger and more comprehensive bilateral and regional trade agreements (BRTAs). A G-Zero World - one without the guidance of a hegemon - affects trade relations in that the leadership once expected (and desired) of the US, EU and a select few others has collapsed and the void has not been filled by leading developing countries such as China, Brazil and India. This is unfortunate, as the multilateral system facilitated and added security and predictability to the widespread and complex networks of trading relationships– stimulating growth and increasing wealth (and health) across the globe. At the same time, while perhaps not the economically most efficient tool to stimulate trade and growth, BRTAs allowed countries to add depth and breadth to their liberalization commitments with one or more like-minded partner country in ways not possible in the multilateral system. The G-Zero world threatens both, and with a confluence of political factors around the globe, trade negotiations in the near to mid-term will not seek to increase liberalisation but more so to claw back and add protections to domestic industry and economy via smaller and more niche agreements. The world economy, and the people, will suffer as a consequence. The question then becomes what middle powers caught in the middle can do to secure their own economic prospects as well as to re-shape the future direction of trade relations.

Meredith Kolsky Lewis

University at Buffalo School of Law, State University of New York

Implications of Trump's Trade Policy for the Asia-Pacific

This presentation will consider implications of President Trump's trade policy for the Asia-Pacific. It will discuss several elements of Trump's trade policy that diverge from those pursued by the Obama administration, and will also note an area of some consistency with the previous administration. In particular, among other issues that represent a different approach from the Obama Administration, I will address the U.S.'s withdrawal from the TPP; President Trump's more general retreat from multilateralism and preference for bilateral negotiations and domestic protectionism; the imposition of tariffs pursuant to Section 232 of the Trade Expansion Act of 1962; and the decision to grant US farmers $12 billion in subsidies to offset the retaliatory tariffs other nations are imposing on the US in response to the Section 232 tariffs. The aspect of Trump's trade policy that may appear somewhat consistent with that of the Obama Administration is the approach towards the WTO in general and its dispute settlement system and the Appellate Body in particular. After highlighting major features of Trump's trade policy, I will assess the implications of these policies for the Asia-Pacific. This portion of the presentation will, among other things, address the regional strategic implications of: the US withdrawal from the TPP, including the opportunities this provides to China and the shifting dynamics it causes vis-à-vis RCEP and the WTO; challenging the US's Section 232 tariffs in the WTO; and the Trump-supported ongoing trend towards populism.

Lisa Toohey

University of Newcastle

Trade Dispute Settlement under Pressure: Challenges and Possibilities

This paper examines the notion that the WTO is 'under pressure' or on the edge of a precipice, focussing in particular on claims about the precarious position of the dispute settlement system. Long considered the 'jewel in the crown' of the WTO, the dispute settlement system has been described in some media reports (and by some academics and policy pundits) as being 'in crisis'. Other commentators consider that the United States that is 'holding the Appellate Body hostage' and thus

precipitating a crisis. This paper considers the genesis and strength of those claims, and argues that, as a whole, fears of a system in crisis are overblown. It also considers the possibilities that the current political environment might hold for the positive development of trade dispute settlement - including the possibility of greater use of alternative dispute settlement methods and fora.

Special Session on the Initiative of the Asia-Pacific Regional Mediation Organization (ARMO) (3:30pm-4:30pm)

Presentation of the initiative and the progress by ARMO Working Group members, followed by discussions.

Speaker Bios

Ma. Joy Abrencia

Ma. Joy V. Abrenica, Ph.D. is Professor at the School of Economics, University of the Philippines Diliman. She specializes in industrial organization and international trade. Her research interests are in the fields of competition policy, energy, services trade and Customs. She is currently the Department Chair of the School of Economics, BSP-UP Professorial Chair in Foreign Trade and a Research Fellow at the Centre for the Advancement of Trade Integration and Facilitation.

Haniff Ahamat

Dr. Haniff Ahamat is an associate professor at the Faculty of Law, the National University of Malaysia (UKM). He is also currently holds the position of Deputy Legal Adviser of the same university. He has been with UKM since June 2016. Prior to that, he had been an academic staff member at the Faculty of Law, the International Islamic University Malaysia (IIUM) for 15 years. He holds an LLB (Hons) from IIUM, an LLM from UKM and a PhD from University of Essex, United Kingdom. He wrote his PhD thesis on the consumer perspectives of Malaysian and EC anti-dumping regimes. He chambered under the supervision of Dato' Azmi Mohd Ali from Azmi & Associates, Kuala Lumpur, concentrating on general corporate practice and competition law. He is a non-practising member of the Malaysian Bar. Haniff teaches public international law, competition law and law for SME exports at the undergraduate level. He also teaches Competition Law and International Economic Law at the masters level. Haniff has researched and published on public international law, law of WTO, competition law and law of economic regulation. His key publications include journal articles on the interface between competition law and affirmative action in Malaysia, the position of Islamic international law on free trade, and the interface between EC competition and anti-dumping laws. He also co-authored a textbook entitled Competition Law in Malaysia published by Sweet & Maxwell (2016).

R.V. Anuradha

Anuradha is Partner at Clarus Law Associates, a boutique law firm in New Delhi, India. She heads her Firm's practice in International Trade and Investment Law and Policy. She has been recognized by Chambers and Partners and International Who's Who of Trade and Customs Lawyers as a leading practitioner in her field. She is a member of the Asia WTO Research Network-a network of academics and practitioners working on WTO law and policy in the Asian region.

She regularly advices governments and the private sector on various matters arising under the WTO and Free Trade Agreements, including disputes arising under such agreements. She has also undertaken studies on trade law and policy for Centre for WTO Studies- IIFT, Indian Council for International Economic Relations (ICRIER), The World Bank, UNCTAD-India and export promotion associations in India.

She also teaches at various international training sessions and capacity building programs on trade law and policy for government officials organized by the Centre for WTO Studies-IIFT, and at law schools in India. She writes regularly on trade related issues. Her recent series of writings can be accessed at: https://www.cnbctv18.com/author/rv-anuradha-163/.

Ichiro Araki

Professor Araki teaches international economic law and trade policy at Yokohama National University in Japan. He joined the faculty in July 2003 as an associate professor and was promoted to full professor in April 2005. Before joining academia, he served as a Japanese government official for nearly 20 years mostly dealing with international trade issues including the Uruguay Round and China's accession negotiations. From 1995 to 1998, he was a legal affairs officer at the Legal Affairs Division of the World Trade Organization. Currently, he is a panelist in Russia — Measures Concerning Traffic in Transit (WT/DS512).

Rajesh Babu

Dr. Ravindran Rajesh Babu is Professor of Law at the Indian Institute of Management Calcutta (IIMC), India. His research and teaching interests include international economic law, international dispute resolution, property rights, and corporate liability. He has several books, book chapters and articles in international and national journals to his credit. His books include "Remedies under the WTO Legal System" Martinus Nijhoff Publishers, (2012) and the co-edited books: "Management Education in India: Perspectives and Practices" (2017) and “Locating India in the Contemporary International Legal Order” (2018)”. He received his PhD from Jawaharlal Nehru University in International Law and was a Global Scholar-in-Residence (post-doctoral) at the Graduate Institute Geneva.

Sophia Bai

Xue Bai (Sophia) commenced her PhD at the Faculty of Law, UNSW Sydney in 2014, where she is conducting doctrinal research on 'Reform of Chinese State-Owned Enterprises: What China Can Learn from The Practice of Competitive Neutrality in Australia'.

Prior to commencing her PhD, she was awarded her LLB and LLM degrees in Law at Beijing Jiaotong University. Bai’s current research is in the area of competition law and policy. Her recent co-authored article is published in the Competition & Consumer Law Journal on “Competitive neutrality and the challenge of social enterprise”.

Jonanthan Bonnitcha

Dr Jonathan Bonnitcha is a Senior Lecturer in Law at UNSW. His primary area of research interest is international economic governance, with a particular interest in investment treaties. Much of his research is inter-disciplinary, drawing on perspectives from the disciplines of economics and political science. His most recent book is *The Political Economy of the Investment Treaty Regime*.

Jonathan previously worked as an advisor to the Myanmar Government on investment governance. For several years he also worked for the Australian Attorney General's Department defending the investment treaty claim relating to tobacco plain packaging.

Haifeng Deng

Vice dean and Associate professor of Law School, Tsinghua University, China; Vice director of the Center for Environmental, Natural Resources & Energy Law of Tsinghua University; Senior research fellow of the CDM Development and Research Center of Tsinghua University. He services as the standing director of China environmental law research society, the director of environmental law research society of Beijing law science society, the standing director and vice general secretary of environmental law research society of China environmental science society and the formal expert of the official version of the legislation on Chinese Climate Change Arrangement Law.

XueWei Feng

Xuewei Feng is a Senior Counsel at AllBright Law Offices in Beijing and specializes in WTO law and dispute settlement. She was formally a legal affairs officer and then a counsellor at the Legal Affairs Division of the WTO Secretariat during 2002-2011 and in that capacity, has assisted WTO panels in a number of disputes. She participated in China's WTO accession negotiations during 1999-2001, and worked as a Chinese government official for the State Council Legislative Affairs Office during1990-2002. She assisted in the drafting and researching activities and in a number of visits to the legal experts and practitioners in the U.S. and European countries for drafting a number of Chinese laws relating to China’s economic reform. She also worked for revising domestic laws and regulations to achieve compliance with WTO agreements before China's accession to the WTO.

Yuka Fukunaga

Yuka Fukunaga is Professor of International Economic Law at Waseda University. She is an Executive Council Member of the Japan Chapter of the Asian Society of International Law and a Council Member of the Japan Association of International Economic Law. She was an assistant legal counsel at the Permanent Court of Arbitration (PCA) (2012-2013) and an intern at the Appellate Body Secretariat, World Trade Organization (WTO) (2002). She holds an LL.D. (2013) and an LL.M. (1999) from the Graduate Schools for Law and Politics, University of Tokyo, and an LL.M. (2000) from the School of Law, University of California, Berkeley.

Henry Gao

Prof. Henry Gao is Associate Professor of law at Singapore Management University and Dongfang Scholar Chair Professor at Shanghai Institute of Foreign Trade. With law degrees from three continents, he started his career as the first Chinese lawyer at the WTO Secretariat. Before moving to Singapore in late 2007, he taught law at University of Hong Kong, where he was also the Deputy Director of the East Asian International Economic Law and Policy Program. He has taught at the IELPO program in Barcelona and the Academy of International Trade Law in Macau, and was the Academic Coordinator to the first Asia-Pacific Regional Trade Policy Course officially sponsored by the WTO. Widely published on issues relating to China and WTO, Prof. Gao's research has been featured in CNN, BBC, The Economist, Wall Street Journal and Financial Times. He has advised many national governments as well as the WTO, World Bank, Asian Development Bank, APEC and ASEAN on trade issues. He sits on the Advisory Board of the WTO Chairs Program, which was established by the WTO Secretariat in 2009 to promote research and teaching on WTO issues in leading universities around the world. He is also a member of editorial board of Journal of Financial Regulation, which was launched by Oxford University Press in 2014. He's currently working on issues relating to digital trade, TPP, and the Belt and Road Initiative.

Deborah Healey

Deborah Healey is a Professor in the Law School at UNSW, Sydney, and a Director of the China International Business and Economic Law Centre (CIBEL).

Her research and teaching focus on competition law and policy in Australia and the developing competition law and policy of China, Hong Kong and the ASEAN nations. She is a regular visitor to those jurisdictions to teach and research. Within the area of competition law, she is particularly interested in the role of government in the market, merger regulation, and competition in banking and finance.

Patricia Holmes

Patricia Holmes is a career Diplomat with the Australian Department of Foreign Affairs and Trade. She is currently Assistant Secretary, Trade and Investment Law Branch in the Office of Trade Negotiations, a position she has held since February 2015. Ms Holmes was Australia's Ambassador to Argentina, with concurrent non-resident accreditation to Paraguay and Uruguay, from November 2011 to December 2014. Prior to her appointment to Argentina, Ms Holmes was Assistant Secretary, FTA Legal Counsel Branch, a position she held from April 2010. Ms Holmes has served previously in Geneva WTO (Counsellor 2006-2009), Papua New Guinea (First Secretary 1998-2000) and Vanuatu (Third, later Second, Secretary 1994-1996). She has also served as a WTO Panellist. Ms Holmes holds a Bachelor of Science with a Bachelor of Law (Hons) degree from Macquarie University; a Graduate Diploma in Legal Studies from the University of Technology, Sydney; a Masters of Arts in Foreign Affairs and Trade and a Masters of Laws in Environmental Law from the Australian National University. Ms Holmes was admitted to the Bar of New South Wales and the Australian Capital Territory in 1992.

Jie (Jeanne) Huang

Dr. Jie (Jeanne) Huang is Associate Professor at University of Sydney Law School. She teaches and researches in the fields of private international law, international investment law and dispute resolution. She has published four books and also authored more than thirty articles in law journals, such as Journal of International Economic Law and Journal of Private International Law. Ten of her articles are indexed by SSCI. She has received funding from China National Social Science Fund (equivalent to ARC) and won the First Prize of Excellent Scholarship awarded by the China Society of Private International Law. She is an arbitrator at the Shanghai International Arbitration Centre and Hong Kong International Arbitration Centre.

Tomohiko Kobayashi

Tomohiko Kobayashi is professor of international economic law at the Department of Law, Otaru University of Commerce, Japan. His current research interests extend to institutional arrangement to accommodate overlapping FTAs, role of ROO to combat circumvention of AD duties, and international labor standards on seafarers. He has served as visiting professor/researcher in Taiwan (NCHU, 2016-17), Russia (FEFU, 2014) and the US (Fletcher School, 2008-09). Before coming back to academia, he was deputy director at the trade ministry (METI) of Japan (2005-07), engaged in the WTO rules negotiations and dispute settlement. He holds two LL.M. degrees from Kyoto and UC Berkeley. Email: kobayashi@otaru-uc.ac.jp.

Qingjiang Kong

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