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Newsletter editors

[Freya Baetens](#) and [José Caiado](#)

Should you wish to include an item in the next SIEL newsletter, please contact us.

A. SIEL ELECTIONS AND 2016 CONFERENCE SUBMISSIONS AND FUNDING

SIEL held its Annual General Meeting (AGM) last December to, among other issues, hold elections for officers and Executive Council members. The AGM elections resulted in the appointments of the following officers: President - **Gabrielle Marceau** re-elected; Treasurer - **Junji Nakagawa** elected to replace Galina Zukova; Secretary - **Markus Wagner** elected to replace Freya Baetens. In the Executive Council, the following previous/current officers and Executive Council members **Freya Baetens, Galina Zukova, Jose Caiado, Michael Ewing-Chow, Jurgen Kurtz, Andrew Lang, Shin-yi Peng** and **Colin Picker** were re-elected. In addition, the following new members were elected: **Padideh Ala'i, Gracia Marin-Duran,**

Suresh Nanwani, Jumoke Oduwole, and Susan Isiko Strba. SIEL would like to thank Lorand Bartels, Tomer Broude, Locknie Hsu and Heng Wang for their valuable work during their terms as Executive Council Members, as well as Galina Zukova and Freya Baetens for their dedication as SIEL officers. The Executive Council and the team of the SIEL 2016 Conference in South Africa are working very hard on the **review of submissions** and applicants will learn if their proposals have been accepted very shortly. Moreover, conference participants who wish to apply for funding to cover travelling expense will find a **request form** on [Sielnet](#) once acceptances have been communicated.

B. Call for Venue SIEL 2018 Global Conference

Planning for the 2018 SIEL Conference has commenced. Please see the attached Call for Venues for full details. We look forward to welcoming proposals from a broad range of hosts.

The Society of International Economic Law (SIEL) is seeking a suitable venue and institutional host for the Sixth Biennial SIEL Conference, to be held in 2018. This Call for Proposals (CfP) is open to all academic institutions active in the field of international economic law. SIEL was established in 2008 as a global organization aimed at academics and academically-minded practitioners and officials in the field of International Economic Law (IEL), in all parts of the world. More information may be found at www.sielnet.org. SIEL's first four conferences were hosted by: the Centre for Trade and Economic Integration, at the Graduate Institute of International and Development Studies in Geneva, Switzerland in July 2008; the University of Barcelona and its IELPO Programme at the premises of the University of Barcelona, Spain in July 2010; the Centre for International Law of the National University of Singapore in July 2012; and by the World Trade Institute of the University of Bern, Switzerland in July 2014. The fifth conference will be hosted by the Oliver Shreiner School of Law and its Mandela Institute, University of the Witwatersrand, Johannesburg, South Africa in July 2016. Proposals from interested institutions should be submitted by April 1, 2016 to SIEL's Executive Vice-Presidents, [Meredith Kolsky Lewis](#), and [Holger Hestermeyer](#) and to the Chair of the 2018 Venue Search Committee, [Colin Picker](#). Early expressions of interest are welcome. Should you have any questions while considering the Call for Venues, please do not hesitate to contact us. The Venue Search Committee will review all proposals received within the deadline, and will likely have additional queries before selecting the venue from among the proposals, with the goal of announcing the 2018 conference host in time for the SIEL conference in Johannesburg in July 2016. The full Call for Venue can be found [here](#).

SIEL GOVERNANCE

Officers

Gabrielle Marceau (President); Meredith Kolsky Lewis & Holger Hestermeyer (Executive Vice-Presidents); Junji Nakagawa & Federico Ortino (Treasurers); Amelia Porges & Markus Wagner (SIEL Corporate Secretaries)

Executive Council

Padideh Ala'i, José Caiado, Michael Ewing-Chow, Susan Isiko Strba, Jurgen Kurtz, Andrew Lang, Nokuhle Madolo, Gracia Marin-Duran, Junji Nakagawa, Suresh Nanwani, Jumoke Oduwole, Shin-yi Peng, Colin Picker, Krista Schefer, Lisa Toohey, Tania Voon, Markus Wagner.

C. Winner of the SIEL/CUP Essay Prize

SIEL warmly congratulates **Jason Houston McMillan** (Rhodes University, South Africa) for his winning essay 'A critical analysis of the legitimate regulatory distinction test as conceived in 'US-Clove Cigarettes, US-Tuna II and US-COOL'. We also wish to commend a runner up, **Aleksey Petrenko** (Göttingen), as High Commended, for his essay 'Economic Sanctions and their Challenge in the WTO through the Lens of the National Security Exceptions under Art. XXI:(b)(iii) of the GATT: a Dead End?'. SIEL is thankful to the Prize Committee composed by **Alan Sykes, Andrew Lang, Jürgen Kurtz, Isabelle Van Damme** and **Lorand Bartels**.

December - The Month of International Success: The Paris Agreement, the Nairobi Package and the Bali Package

Does the Solution Lie in a Rule of Law that operates with more individualized/adapted commitments?

December 2015 witnessed major outcomes for the negotiations in the areas of trade and climate change. The architecture of the negotiations on climate change and those of the WTO seem to be evolving towards a similar model (framework agreement of rules covering all, distinct Ministerial Decisions/COP decisions securing further agreement, setting new mandates and establishment of review mechanisms, and individual schedules of commitments/INDCs to give flexibility). But they are also getting closer to each other in that both negotiations seem to face a same and common challenge of how to ensure equity and flexibility. The strong notes of flexibility and equity dominated the success of the Paris Agreement and the Nairobi Package. To a great extent, the same holds true of the Bali package, agreed by WTO Members, in December 2013. These three deals chose to recognize and register flexible individual commitments, rooted in the different level of development of each participant.

The Paris Climate Change Conference (COP 21) adopted a universal, legally binding multilateral response to climate change (Paris Agreement) on 12 December 2015. The deal includes voluntarily designated commitments, the so-called Intended Nationally Determined Contributions (INDCs), which have been expressed in a dissimilar manner. Out of 195 countries, 185 countries have announced measures to limit or reduce their greenhouse gas (GHG) emissions by 2025 or 2030 (representing more than 90% of the global GHG emissions). This flexibility of "individual commitments" also extends to the way in which the principle of "common but differentiated responsibilities" (CBDR) has been reproduced in the Paris Agreement, which has struck a more nuanced differentiation, based on the specific realities and capabilities of each country to address climate change. The outcome has registered, recognized and accepted different commitments, by different developed and developing countries, without transgressing the rule of law. The agreement also introduces a five-yearly peer-review process which enables the parties to continuously review each other's targets in light of the technological advancements and new science-based evidence on the relationship

between GHG emissions and climate change. The peer-review process requires the parties to report to each other and the public regarding the progress of their voluntarily designated commitments.

The Nairobi Package adopted on 18 December 2015, is a landmark deal for global trade and development. The 10th WTO Ministerial Conference (MC10) in Nairobi marked the 20th anniversary of the WTO and was the first to be held in Africa. The Nairobi package contains six Ministerial Decisions which factored in equity and flexibility: the decision on Public Stockholding for Food Security Purposes commits WTO Members to engage constructively in finding a permanent solution by the 11th Ministerial Conference in 2017; the decision on Special Safeguard Mechanism (SSM) for Developing Countries ensures that developing members will have the right to temporarily increase tariffs in case of import surges by using an SSM; the decision on Preferential rules of origin for Least Developed Countries (LDCs) will facilitate LDCs' export of goods to both developed and developing countries; the decision on Preferential Treatment in Favour of Services and Service Suppliers of LDCs allows WTO to grant preferential treatment to LDCs' services and service suppliers until 2030, and some of the WTO Members who are major exporters of Information Technology products, including both developed and developing countries agreed on the timetable for eliminating tariffs on 201 information technology products (the Information Technology Agreement II, a deal estimated to be worth more than \$1 trillion and which will strongly reduce the cost of IT equipment for consumers). However, the centrepiece of the Nairobi Package is the commitment by WTO Members to eliminate subsidies for farm exports according to different timetables. As a general rule, developed countries committed to eliminate export-subsidy entitlements with immediate effect and developing countries to phasing out such direct support to their farmers by 2018, with delayed implementation under certain conditions to address specific situations, showing flexibilities to respond to the different needs of different groups of WTO Members.

The Bali package agreed upon in December 2013 included the Trade Facilitation Agreement (TF) which allowed for flexibility in the scheduling of

commitments and sequencing of implementation of these scheduled commitments. Developing countries and LDCs were allowed to self-define their implementation period within Category A, B, or C (three categories of implementation). Another innovative feature of the Bali Package was the Monitoring Mechanism on Special and Differential Treatment – the scope of which extends to all special and differential provisions contained in multilateral WTO Agreements, Ministerial and General Council Decisions, including the implementation of the self-designated special and differential treatment obligations under the TF. In the Bali TF, the link was made between taking commitments and the provision of technical assistance for implementation – i.e. trade facilitation facility – which many say was critical in securing the deal. It is interesting to note that similar mechanisms exist in the climate change context – i.e. the relationship between commitments and financing for developing countries.

Allowing different levels of contribution and ambition under common rules but with individualized commitments have contributed to negotiating successful deals such as the Paris Agreement, the Nairobi Package, and the Bali TF. These three successful outcomes have many lessons to offer for those negotiating in the field of international economic law. Maybe these deals are a bold attempt by countries to redefine the multilateral rule of law in a more realistic and pragmatic manner. The new international economic, legal and political realities seem to require more flexible, and sometimes even individualized, commitments from countries involved. In the WTO legal framework, the schedule of commitments of each Member can include commitments which are adapted and adjusted to its economic, legal and political realities. Other mechanisms, such as the three categories of implementation in the TF, or the INDCs in the Paris agreement may also serve as a pragmatic template for future solutions. The sophistication and innovation of new monitoring mechanisms such as the peer-review mechanism of the Paris Agreement, and the monitoring on Special and Differential Treatment mechanism of the Bali Package offer means to establish a more balanced governance based on flexibility and equity.

Gabrielle Marceau

Publications by SIEL members

IEL Activities

- A. The Age of Mega-Regionals
- B. Questionnaire on international law

Regional & Network Activities

- A. PEPA

Calls for Papers

- A. Annual WTO Conference

IEL Jobs

- A. University of Oslo
- B. WTO

Other Activities

- A. IEL Publisher Discounts
- B. New Positions/Titles
- C. SIEL Website
- D. Other

Publications by SIEL members

R. Leal-Arcas, C. Grasso and J. Alemany Rios, Energy security and trade: EU and international perspectives. Edward Elgar Publishing, 2016.

R. Leal-Arcas, A. Filis and E. Abu Gosh, [International energy governance: selected legal issues](#). Edward Elgar Publishing, 2014.

Zhou, Weihuan, "Circumvention and Anti-circumvention: Rising Protectionism in Australia." *World Trade Review* (2015): 1-28.

IEL Activities

A. The Age of Mega-Regionals: TPP and Regulatory Autonomy in IEL

Following on from the successful TPP Revealed workshop hosted by the Global Economic Law Network on 13 November 2015 showcasing Melbourne Law School researchers, Profs **Andrew Mitchell** and **Tania Voon** are holding a two day symposium at Melbourne Law School from 19-20 May 2016 on the TPP (day 2) and regulatory autonomy in the context of international trade and investment law (day 1). Confirmed international speakers include Profs M Sornarajah, David Gantz, Bryan Mercurio, Jaemin Lee and Meredith Kolsky Lewis, and Mr Simon Lester. Further details including other confirmed speakers and topics to be covered are available [here](#).

B. Questionnaire on judicial decision making in international law

Tomer Brode, former SIEL Executive Council Member, invites SIEL members to contribute to a research project by answering an online and anonymous questionnaire on judicial decision making in international law. The questionnaire should take only a few minutes and can be found [here](#).

Calls for Papers

A. Annual WTO Conference

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. The 16th edition of the Conference is organized jointly by BIICL, IIEL, the Graduate Institute, Geneva and the Society of International Economic Law (SIEL). As originally established by University Professor John H. Jackson of Georgetown, and Professor Sir Francis Jacobs, KCMG, QC, a Trustee of BIICL, the Annual WTO Conference has a longstanding affiliation with the *Journal of International Economic Law* (JIEL), published by the Oxford University Press. The Annual WTO Conference is one of the most important and prestigious conferences addressing developments in international trade law, pursuing cutting-edge issues of interest to academics and practitioners alike. The full call can be found [here](#).

Regional and Network Activities

A. PEPA/SIEL

The next PEPA/SIEL Conference is approaching (14-15 April 2016 in Luxembourg). The deadline for submission has passed, but there might be a few places left for those who wish to attend the conference as part of the audience. For more information, please, send an [email](#) to the 2016 PEPA Committee.

IEL Jobs

A. University of Oslo

[Professor](#) (or Associate Professor) and [Post-Doc](#) positions in International Economic Law

B. WTO

[Dispute Settlement Lawyer](#) positions

Other Activities

A. IEL Publisher Discounts

Since its inception, the SIEL has negotiated SIEL member discounts with a wide variety of publishers, all of whom have been very supportive of the SIEL. More information on discounts available can be found [here](#).

B. New Positions/Titles

Rafael Leal-Arcas is now Professor of European and International Economic Law at Queen Mary University of London.

Heng Wang has joined the Faculty of Law University of New South Wales Australia as part of their Chinese International Business and Economic Law Initiative (CIBEL)

If you have any upcoming changes, whether temporary or permanent, that you would like us to list, please email either [José](#) or [Freya](#) with the details.

C. SIEL Website

SIEL is happy to post IEL job advertisements, conference and journal calls, and similar material on the [News, Events and Jobs](#) section of the website. Material can be sent directly to [Lisa Toohey](#). Please send appropriate text that can be cut and pasted into our section. Please do NOT send files for uploading, but rather a hyperlink.

D. Other

SIEL seeks to **publicise IEL events** including conferences, calls for papers, IEL competitions, IEL programmes etc. Please send us such information for posting. To view a list of past SIEL posts, please visit the [SIEL website](#). As members of a member-run organization, please consider getting in touch with Meredith Lewis and Holger Hestermeyer, SIEL Executive Vice-Presidents, with specific ideas for SIEL projects and services. We are committed to expanding SIEL activities and services wherever appropriate - whether individual or in partnership with other IEL organizations around the world. Indeed, at the moment we are in the process of developing new projects and services and once they are finalized we will let you know.

Thanks for your support and interest.

Freya Baetens & José Caiado
Executive Council Members
SIEL Newsletter Editors