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

SIEL NEWS FROM THE VPs

SIEL 2018 Conference

SIEL held its Sixth Biennial Conference "[International Economic Law in Unsettling Times](#)" on July 12-14, 2018, in Washington D.C. The event consisted of 8 plenary sessions ([videos available here](#)), 28 panels of paper presentations, 20 poster presentations and about 20 networking meetings/side events. We are grateful to the over 300 participants who contributed to a successful SIEL 2018 – this marks the largest SIEL Biennial Conference to date. Special thanks are also due to our sponsors and our colleagues at the AUWCL for their wonderful organization and all-around great job as a host!

The event featured three keynote sessions: the Keynote Opening Lecture, given by Hélène Ruiz Fabri (Director Max Planck Institute Luxembourg), on "Understanding International Economic Law in Unsettling Times: A Feminist Approach?"; the Robert Hudec Lecture, delivered by Joel Trachtman (Professor of International Law, The Fletcher School of Law and Diplomacy), on "The Robert Hudec Legacy: Trade, Domestic Regulation, and Globalization"; and the Closing Keynote by Teresa Cheng (Secretary for Justice, Government of the Hong Kong Special Administrative Region) on "Special Economic Zone – A Catalyst for International Trade and Investment in Unsettling Times?".

This year we received more than 300 paper proposals and about 20 panel proposals – the highest record in our history. Every proposal was subject to a double-blind peer review. The conference program, which was organized in five concurrent panels, emerged from a highly competitive selection process. We thank the members of the organizing committee for their efforts reviewing the proposals and ensuring the academic richness and rigor of the program. Importantly, SIEL offered more than 20 scholarships to speakers coming from developing and least-developed countries, which covered registration fees, travel expenses and local accommodations. As a global organization, SIEL encourages participation from all parts of the world. Every two years, the SIEL global conference brings together scholars, practitioners, government officials, NGOs and business community representatives from all over the world.

AGM 2018

Our Annual General Meeting (AGM) was also held at the Conference. SIEL has seen a change in a number of officer and Executive Council membership positions this July.

SIEL GOVERNANCE

Officers

Peter Van den Bossche (President); Shinyi Peng & Markus Wagner (Executive Vice-Presidents); Maria Laura Marceddu & Franziska Sucker (Treasurers); Krista Nadakavukaren Schefer & Amelia Porges (SIEL Corporate Secretaries)

Executive Council

Padideh Ala'i, Freya Baetens, Ilaria Espa, Holger Hestermeyer, Pasha L. Hsieh, Susan Isiko Štrba, Johanna Jacobsson, David Kleimann, Meredith Kolsky Lewis, Gracia Marin-Duran, Suresh Nanwani, Federico Ortino, Colin B. Picker, Maria J. Pereyra, Lisa Toohey, Weihuan Zhou.

The elections were held in accordance with the procedures set out in our Society's bylaws and subsequent to the report of SIEL's Nominating Committee, which had been circulated to SIEL members in advance. The results were as follows:

Officers: Peter Van den Bossche was elected as President, Markus Wagner was elected as Executive Vice President (a position shared with Shin-yi Peng), Maria Laura Marceddu and Franziska Sucker were elected as Treasurers, and Amy Porges was elected as Secretary (a position that will be shared with Krista Nadakavukaren Schefer).

Executive Council: Padideh Ala'i, Freya Baetens, Gracia Marin Duran, Suresh Nanwani and Susan Isiko Strba were re-elected as Executive Council Members; and Ilaria Espa, Pasha Hsieh, Johanna Jacobsson, David Kleimann, Maria J. Pereyra, Weihuan Zhou were elected as new Executive Council Members. Together with our continuing Executive Council Members Holger

Hestermeyer, Meredith Kolsky Lewis, Federico Ortino, Colin Picker and Lisa Toohey, the new executive team of the SIEL is now complete to serve the Society.

Nominating Committee: Henri Culot, Bryan Mercurio, Fabio Morosini, Engela C Schlemmer and Stephan W. Schill were elected to serve as external members of the Nominating Committee.

Our heartfelt thanks are due to the outgoing officers, including President Gabrielle Marceau, Co-Vice President Holger Hestermeyer, Treasurers Junji Nakagawa and Jose Caiado, and Executive Council Members Andrew Lang, Michael Ewing-Chow, Jurgen Kurtz, Galina Zukova and Jumoke Oduwole for their service to the SIEL. The AGM closed with a *laudatio* for Gabrielle Marceau, delivered by Colin Picker, for her dedication and leadership during her six-year Presidency.

SIEL 2020

Earlier this year, the venue search committee, headed by Lisa Toohey and Markus Wagner, was established to solicit and consider bids to hold our next biennial meeting in 2020. We would like to thank the committee members for their hard work in examining the many high-quality venue proposals we have received. Prior to SIEL 2018, the venue search committee reported to the Executive Council with a preliminary analysis for the ultimate decision on the venue. After considerable debate, the Executive Council decided that the SIEL 2020 conference will be hosted by Bocconi University in Milan. The exact dates will be determined in the near future. Please keep an eye out on the SIEL website for further updates.

Shin-yi Peng & Markus Wagner

President's Corner

The modernization and strengthening of the WTO: let the debate start!

The news from the trade front has been bad for some time but in recent weeks it seems to get worse by the day. The multilateral trading system is in its deepest crisis ever. While there is a fragile truce in place between the United States (US) and the European Union (EU), the trade war between the US and China is raging. The US now imposes punitive tariffs on US\$ 250bn of Chinese goods (or roughly half of the goods imported from China). In retaliation, China has increased its tariffs on US\$ 110bn of US goods (which is almost all of the goods imported from the US). This trade war is likely to escalate further and may soon go beyond the 'mere' imposition of higher tariffs. In parallel, and this is of course no coincidence, the assault on the rules-based multilateral trading system continues unabated. Explicit threats to withdraw from the WTO (lest it 'shapes up') are headline news, and the deadlock on the appointment of new Appellate Body (AB) members remains complete. The AB is 'bleeding out' and, if the current deadlock persists, it will by the end of next year not be able anymore

to hear and decide new appeals. With the demise of the Appellate Body, the WTO dispute settlement system as a whole – once the jewel in the crown of the WTO – will, for all practical purposes, no longer be operational. Are we returning to a world in which economic might is legal right and in which discrimination against all things foreign is at the heart of national trade policies?

A feeling of looming disaster is spreading in Geneva as well as in many capitals. Eager to avoid the collapse of the WTO and in particular its dispute settlement system, some WTO Members are exploring whether there is room for reform. On 18 September 2018, the European Commission (EC) published a so-called '[Concept Paper](#)', in which it sets out initial ideas on how to adapt the WTO and its rule-book to the realities of the 21st century. My involvement as an 'outgoing' Appellate Body member in disputes currently still pending before the Appellate Body makes it inappropriate for me to voice either support for or criticism of the ideas articulated in the Concept Paper. However, nothing prevents me from drawing your attention to those ideas.

In introducing the Concept Paper, Trade Commissioner Cecilia Malmström argued that despite its success in the past two decades, the WTO 'has not been able to adapt sufficiently to the rapidly changing global economy'. As Commissioner Malmström pointed out, the world has changed but the WTO has not. As a strong supporter of the rules-based multilateral trading system, the European Union must, according to the Trade Commissioner, 'take a lead role' in the discussions on the modernization of the WTO and the strengthening of its effectiveness. The Concept Paper contains initial ideas relating to three key areas: WTO negotiations and rulemaking activities; the monitoring role of the WTO; and WTO dispute settlement. With regard to WTO negotiations and rulemaking activities, the EC starts off with an observation nobody will disagree with, namely that 'the WTO's negotiating function has largely been blocked and is now effectively paralyzed'. To overcome this paralysis, the WTO should, according to the EC, focus future negotiations on 'issues that are key to global trade as it evolves'. Hence, future negotiations should, 'as a matter of urgency', aim at reaching agreement on how to deal

with the gaps and ambiguities in the SCM Agreement regarding market-distorting government support channeled through state-owned enterprises. Future negotiations should also focus on new rules to address barriers to trade in services, barriers to digital trade, and barriers to investment, including forced technology transfers. In addition, the EC argues that future negotiations within the WTO should cover trade policy issues that could contribute to the achievement of the UN Sustainable Development Goals. However, to overcome the paralysis in WTO negotiations, the EC submits that the WTO also needs a new and flexible approach to special and differential treatment (SDT) of developing country Members, reflecting the significant differences among these Members. Lastly, the EC insists on the need for flexibility in negotiating methods. On issues which are not ready for multilateral negotiations, interested Members should be able to proceed through plurilateral negotiations and reach an agreement 'if its benefits are made available to all other Members on a MFN basis'. Other approaches are, however, not to be excluded.

With regard to the monitoring role of the WTO and to ensure transparency about Members' trade measures, the EC makes proposals regarding: (1) more effective monitoring by WTO committees; (2) incentives for improving notification compliance; (3) sanctions for willful and

repeated non-compliance with notification requirements; (4) counter-notification; and (5) the strengthening of the Trade Policy Review Mechanism. According to the EC, improvements in the monitoring role of the WTO should allow Members to address specific 'trade irritants' before they escalate into trade disputes. They should also allow for an incremental adjustment and clarification of WTO rules outside negotiations.

With regard to WTO dispute settlement, the EC explicitly refers in its Concept Paper to the multiple and far-reaching concerns of the US, as summarized in the US President's 2018 Trade Policy Agenda. Without taking a position on whether these US concerns are well founded, the EC sets out in its Concept Paper a number of ideas to address these concerns as well as some concerns of the European Union and other Members. By doing so, the EC aims at 'the improvement of the system, while preserving and further strengthening its main features and principles'. The EC suggests a number of amendments to existing DSU provisions, such as Article 17.2 (on the term in office of Appellate Body Members and the possibility of reappointment), Article 17.5 (on the 90-day timeframe for appellate review), Article 17.6 (on the scope of 'issues of law' and whether the meaning of municipal law is included), or Article 17.12 (on the extent to which the issues raised on appeal should be

addressed). The EC also suggests a number of new DSU provisions, such as a provision on transitional rules for outgoing Appellate Body members, and a provision on annual meetings of the Appellate Body with the WTO Members to allow the latter to express their concerns on systemic issues and trends in the jurisprudence. Finally, the EC submits that increasing the number of Appellate Body members from 7 to 9, making Appellate Body membership *de jure* a full-time job and giving more resources to the Appellate Body Secretariat would have a positive impact on the time taken by appellate review.

It is important to note that the EC explicitly states that the many ideas launched in its Concept Paper are without prejudice to its final position on the matters addressed. The EC has indicated that it has started to engage in discussions with the US and China, as well as a number of other key WTO Members. In October 2018, Canada will host a meeting of the trade ministers of a select number of WTO Members (not including the US and China) to discuss how to save the multilateral trading system. Let the debate on how to improve and strengthen the WTO begin. And let us all actively participate in this debate. The stakes could not be higher!

Peter Van den Bossche

AGM 2018, Washington D.C.

Publications by SIEL members

Conferences and other events

- A. World Investment Forum 2018
- B. AfIELN Biennial Conference 2019
- C. 2019 ILA-Asia-Pacific Research Forum
- D. SIEL International Investment Law Network
- E. Colloquium on Restoring Trust in Trade in honour of Peter Van den Bossche
- F. Red DEI Biennial Conference 2019

Calls for Papers

Other Activities

- A. The SIEL/JIEL/OUP Prize
- B. John H. Jackson Moot Court Competition

Publications by SIEL members

Susan Isiko Štrba, '[The Marrakesh Treaty, Public-Private Partnerships, and Access to Copyrighted Works by Visually Impaired Persons](#)', in M. Chon, P. Roffe, & A. Abdel-Latif (Eds.) *The Cambridge Handbook of Public-Private Partnerships, Intellectual Property Governance, and Sustainable Development*, (pp. 176-198).

Maria Laura Marceddu '[Implementing Transparency and Public Participation in FTA Negotiations: Are the Times a-Changin?](#)' *Journal of International Economic Law*, Volume 21, Issue 3

Neuwirth, Rostam J., '[Law in Times of Oxymora: A Synaesthesia of Language, Logic and Law](#)' (New York: Routledge, 2018).

Weihuan Zhou and Delei Peng, '[EU - Price Comparison Methodologies \(DS516\): Challenging the Non-Market Economy Methodology in Light of the Negotiating](#)

[History of Article 15 of China's WTO Accession Protocol](#)' (2018)52(3) *Journal of World Trade* 505-534

I. Espa and G. Marín Durán, '[Renewable Energy Subsidies and WTO Law: Time to Rethink the Case for Reform Beyond Canada - Renewable Energy/FIT Program](#)', 21 *Journal of International Economic Law* 3 (2018), pp. 1-33

Asif H Qureshi, '[Contextualising International Law in Northeast Asia](#)' Hart Publishing, September 2018. Discount Price: £40. Order [online](#), use the code CV7 at the checkout to get 20% off your order.

Freya Baetens, '["No deal is better than a bad deal"? The fallacy of the WTO fallback option as a post-Brexit safety net](#)' (2018) 55 *Common Market Law Review*, Issue 2/3, pp. 133-17

Conferences and other events

A. World Investment Forum 2018

The Society of International Economic Law is privileged to be one of the organizers of the 2018 World Investment Forum Academic Conference, which will take place on 26 October 2018. The conference convenes scholars of international business, economics, law and other relevant fields for a day-long multi-disciplinary academic conference in the context of the UNCTAD World Investment Forum 2018, which is scheduled to take place on 22 to 26 October 2018. For more information on and registration for the Academic Conference, please click [here](#).

B. AfIELN Biennial Conference 2019

The African International Economic Law Network will hold its Fourth Biennial Conference, from July 18-20, 2019, at Strathmore University, Nairobi, under the theme "Africa's Participation in International Economic Law in the 21st Century." The call for paper and panel proposals is available [here](#).

C. 2019 ILA-ASIL Asia-Pacific Research Forum (May 17-18, 2019; Taipei, Taiwan)

The Chinese (Taiwan) Society of International Law will hold the ILA-ASIL Asia-Pacific Research Forum on May 17-18, 2019 at Howard Civil Service International House in Taipei, Taiwan, ROC. The theme of the Research Forum is "International Law and Emerging Powers: New Policy Challenges in the Asia-Pacific." Paper proposals must be submitted to ila@nccu.edu.tw by December 10, 2018. The call for paper is available at the Research Forum [website](#).

D. SIEL International Investment Law Network

The SIEL International Investment Law network is back, and committed to expanding its activities and developing new projects! As its name suggests, the main purpose of this network is to facilitate people networking and to help members to be put in touch with each other. The final aim is to set up an online database in the SIEL website, including information about members' research interests and areas of expertise. For any further information and if you would like to express your interest to join this network please contact [Dr Maria Laura Marceddu](#).

E. Colloquium on Restoring Trust in Trade in honour of Peter Van den Bossche

An international colloquium on Restoring Trust in Trade in honour of Peter Van den Bossche will be held at Maastricht University on 17 December 2018. You are warmly invited to attend. For more information, the programme and the link for registration, please visit [here](#).

F. Red DEI Biennial Conference 2019

The Red Latinoamericana de Derecho Económico Internacional will hold its fifth biennial conference in 2019. The call for venue is available [here](#).

Calls for Papers

Call for papers for Yearbook on International Investment Law & Policy

To be edited by Lisa Sachs and Lise Johnson. The Call is available [here](#). More information about the Yearbook is available [here](#).

Macau Journal of Brazilian Studies Special Issue 2019

The Macau Journal of Brazilian Studies invites submissions for a special issue on Chinese Economic Approaches to Brazil and Latin America to be published in 2019. The issue will be edited by guest editors Professors Michelle Rattón Sanchez Badin (Fundação Getúlio Vargas, São Paulo) and Fabio Morosini (Universidade Federal do Rio Grande do Sul, Porto Alegre). Further information is available [here](#).

Other Activities

A. 2018-2019 SIEL/JIEL/OUP Essay Prize Competition Now Open

The Society of International Economic Law, the Journal of International Economic Law, and Oxford University Press have jointly established the SIEL/JIEL/OUP Essay Prize to award the best essay submitted on any topic in any field of international economic law. The 2018-2019 competition is now open and the deadline for submissions is Friday 15 February 2019. Further information is available [here](#). Any queries should be addressed by email to [Dr Gracia Marin Duran](#) (UCL).

B. John H. Jackson Moot Court Competition

The 17th edition of the John H. Jackson Moot Competition (formerly known as the ELSA Moot Competition or EMC2) has officially been launched. Details are available [here](#).

Next Newsletter

Please note that the next SIEL newsletter is scheduled for January 2019. Should you wish to include an item in the next issue, please contact us by the beginning of January.

Thanks for your support and interest.
Susan Isiko Strba, Johanna Jacobsson & Victor Saco.