

**REPORT TO THE BOARD OF THE EUROPEAN SOCIETY OF
INTERNATIONAL LAW
INTEREST GROUP ON INTERNATIONAL ECONOMIC LAW (IEL IG)
2020 - 2021**

1. ACTIVITIES

A) ESIL IEL IG ANNUAL WORKSHOP OF 9 SEPTEMBER 2020 ON “INTERNATIONAL ECONOMIC LAW BETWEEN EMERGENCIES AND REFORMS” (ONLINE FORMAT)

On 9 September 2020, the Annual workshop of the ESIL IEL IG on the topic “International Economic Law between Emergencies and Reforms” took place in virtual form. The workshop, organized on the basis of an international call for papers, was originally conceived as the traditional side event of the main annual ESIL Conference. Because of the pandemic, the 2020 ESIL Stockholm Conference was postponed to 2021.

The ESIL IEL IG decided to nevertheless go ahead and had the Workshop in remote. The online Workshop had four panels, on “Investment Law and COVID-19”, “Screening of Foreign Direct Investment”, “Trade Law and COVID-19”, “Reforming the Appellate Mechanism of the WTO System”. The selected speakers were scholars from all over the world, who analyzed the most relevant current topics of international economic law.

The programme of the workshop is attached to this Report as *Annex 1*.

B) CATANIA ESIL IEL IG SIDE EVENT OF 15 APRIL 2021 ON “THE VALUE OF SOLIDARITY IN INTERNATIONAL ECONOMIC LAW” (ONLINE FORMAT)

The ESIL IEL IG launched a call for papers, selected the proposals and organized a workshop on “The Value of Solidarity in International Economic Law” that should have taken place on 23 April 2020 in Catania, as a side event of the 2020 ESIL Research Forum. Due to the pandemic the 2020 ESIL Research Forum was postponed to 15-16 April 2021 as a full online event, and the ESIL IEL IG side event took place on 15 April 2021 in virtual form.

The workshop programme covered both issues of investment law and European law in respect of investment screening and included a first Panel on “Solidarity and Adjudicators in International Economic Law” – with two Sections, one on “International Investment Law” and one on “International Trade Law” – and a second Panel on “Solidarity and International Financial Law”. The selected speakers were scholars from all over the world.

The programme of the workshop is attached to this Report as *Annex 2*.

C) STOCKHOLM ESIL IEL IG SIDE EVENT OF 8 SEPTEMBER 2021 ON “INTERNATIONAL ECONOMIC LAW ‘IN THE MAKING’: NEW ACTORS AND POLICIES” (HYBRID FORMAT)

The ESIL IEL IG launched a call for papers, selected the proposals and organized a pre-conference workshop on “International Economic Law ‘In The Making’: New Actors and Policies” on 8 September 2021, held as a hybrid side event of the 2021 ESIL Annual Conference in Stockholm (a full online coverage of the event was guaranteed via Zoom, with a number of speakers and attendees present on-site at the premises of the Stockholm University).

The workshop programme covered a wide range of topics on European and international trade and investment law, with a focus also on digital economic issues and on methodological aspects of international economic law. The programme included the following four Panels: (1) “An Open, Sustainable and Assertive Trade Policy: the 2021 EU

Trade Policy Review”; (2) “New Actors in the Regulation of Foreign Investment”; (3) “Governance of the Digital Economy and International Economic Law”; and (4) “Methodological Pluralism and the Future of International Economic Law”.

The selected speakers were both scholars and practitioners from all over the world.

The programme of the workshop is attached to this Report as *Annex 3*.

D) INTERNATIONAL CONFERENCE "GROUPS AND SPACES IN INTERNATIONAL ECONOMIC LAW: FOCUS ON THE BRICS COUNTRIES"

The ESIL IEL IG launched a call for papers, selected proposals and started preparation of the International Conference “Groups and Spaces in International Economic Law: Focus on the BRICS Countries” organized in cooperation with St. Petersburg State University, Russia. The Conference was initially planned to be held on 5-6 June 2020 but had to be postponed to 2022 due to the COVID-19 crisis. The ESIL IEL IG hopes that it will be possible to hold a conference where speakers can be physically present. The final programme and new dates of the Conference will be available at the end of 2021, after confirmation of participation by the speakers.

2. MEMBERSHIP

The current list of members is held by the ESIL Secretariat, and it counts 375 active members (as of 20 September 2021).

3. GOVERNANCE

The International Economic Law Interest Group is governed by six Co-Chairs, Elisa Baroncini (University of Bologna), Federica Cristani (Centre for International Law of the Institute of International Relations, Prague), Anna Marhold (Leiden University), Gustavo Prieto (Ghent University), Peter-Tobias Stoll (University of Göttingen), Marina Trunk-Fedorova (St. Petersburg State University).

They run the Interest Group’s day-to-day business, administer its web page and organise its regular events. The six Co-Chairs have also managed to meet during Conferences and Seminars of common interest.

Federica Cristani, Anna Marhold and Gustavo Prieto have been appointed as new Co-Chairs on 9 December 2020.

4. FUTURE ACTIVITIES

The ESIL IEL IG is exploring the possibility to organize workshops as side events (ideally in hybrid format) at both the 2022 ESIL Research Forum hosted by the Glasgow Centre for International Law and Security at the University of Glasgow and at the 2022 ESIL Annual Conference to be hosted by the Utrecht University School of Law.

The ESIL IEL IG is organizing also a book launch (in virtual format) of the book “The Function of Equity in International Law” by Catharine Titi – the confirmation of the date and the full programme and details of participation will be available in October-November 2021.

The ESIL IEL IG is also planning further events, including book launches, webinar series on WTO-related issues (with a special focus on the forthcoming WTO Ministerial conference), as well as on the European Parliament’s Committee on International Trade (INTA).

More detailed information on forthcoming activities will be communicated as soon as the relevant details are finalized.

ANNEXES

Annex 1. Programme of the workshop of 9 September 2020 (“International Economic Law Between Emergencies and Reforms”)

Annex 2. Programme of the workshop of 15 April 2021 (“The Value of Solidarity in International Economic Law”)

Annex 3. Programme of the workshop of 8 September 2021 (“International Economic Law ‘in the Making’: New Actors and Policies”)



ESIL International Economic Law Interest Group

**Online Workshop of the ESIL International Economic Law
Interest Group – 9 September 2020**

**International Economic Law between
Emergencies and Reforms**

9 September 2020 h. 09:30 - 17:00 CEST

Information on how to join the Online Workshop is available at the end of this programme

h. 09.30 – 9.45 Greetings

Opening Speech

Peter-Tobias Stoll, University of Göttingen

h. 9.45 – 11.15

Panel 1: Investment Law and COVID-19

Chair: Holger Hestermeyer, King's College London

State Positive Obligations under International Investment Law in Time of Health
Emergencies

Gian Maria Farnelli, University of Bologna

Investors' Rights in Times of Crisis: Justifying Anti-Pandemic Expropriatory Measures and the Frustration of Legitimate Expectations under International Investment Law

Giuliana Lampo, University Federico II Naples

International Investment Law after the Covid-19 Emergency: What Role for the Foreign Investment Contract?

Sondra Faccio, University of Trento

Covid-19 and Foreign Investment Policies: Stricter Control on Foreign Investment and China's Response

E-nuo Gu, Xi'an Jiaotong University & Lauterpacht Centre for International Law

COVID-19 Crisis and Screening of Foreign Direct Investments in EU Privatized Companies

Thomas Papadopoulos, University of Cyprus

Discussion

h. 11.15-11.30 Break

h. 11.30-13.00

Panel 2: Screening of Foreign Direct Investment

Chair: Catharine Titi, CNRS-CERSA, University Paris II Panthéon-Assas

COVID-19 and the Protection of Critical Assets: The Screening of Investment in Developing Countries

Gustavo Prieto, University of Turin

State-Owned Enterprises as Targets of the EU FDI Screening Regulation

Alexandr Svetlicinii, University of Macau

Missing Due Process in The EU FDI Screening Framework: A Purposeful Policy Choice or Cost of Compromise?

Wojtek Maciejewski, Squire Patton Boggs

FDI Screening in the European Union

Miguel Ceballos Baron, European Commission

Investment Screening and the Right to be Heard – The Role of Counter-Evidence Presented by Investors

Steffen Hindelang, University of Southern Denmark and Jens Hillebrand Pohl, Maastricht University

Discussion

h. 13.00 – 14.00 Break

h. 14.00-15.30

Panel 3: Trade Law and COVID-19

Chair: Marina Trunk-Fedorova, St. Petersburg State University

Kick-off Speech: Safeguard measures in WTO Law - Article XIX of the GATT and Coronavirus

Marc Bungenberg, Saarland University

Preparing for the Covid-19 Patent Lawfare: Compulsory Licensing and the Production and Trade of Novel Treatments and Vaccines

Geraldo Vidigal, University of Amsterdam

Local Working Requirements after Covid-19: Time to Clarify?

Gabriele Gagliani, Bocconi University & Case Western Reserve University

Pandemics and the Redefinition of Essential Security Interests in Trade Law

Regis Simo, University of the Witwatersrand

Food security as an essential security interest in time of pandemic: towards rethinking the concept of national security?

Viktoriia Lapa, Bocconi University

COVID-19 disinformation as a trade barrier

Kelly Shang, World Trade Institute, University of Bern

Export restrictions to face critical shortages in times of Pandemics: the need for a new international governance framework in the WHO and WTO

Laura Puccio, Robert Schuman Centre for Advanced Studies (EUI) and *André Sapir*, Free University of Brussels

Discussion

h. 15:30 – 15:45 Break

h. 15.45 – 17.00

Panel 4: Reforming the Appellate Mechanism of the WTO System

Chair: Elisa Baroncini, *Alma Mater Studiorum* - Università di Bologna

Improving a necessary WTO Appellate Body as a complement to reforming an indispensable WTO dispute settlement system

Ravindra Pratap, South Asian University, New Delhi

The Appellate Body of the WTO: Inherent judicial spirit and necessary dynamic view – The case of the ‘measure’ in WTO law

Dr. Malorie Schaus, Centre for European Policy Studies (CEPS, Brussels)

Inherent and Implied Powers of WTO MPIA Arbitrators

Dr. Brian McGarry, Leiden University

Please, Reboot – Small Economies and the WTO Appellate Mechanism in Times of Trade War and COVID-19

Dr. Charlotte Sieber-Gasser, University of Luzern, Departement of Public Law (10 min)

The Future of State to State Dispute Settlement Mechanisms in Trade Agreements: More Legalized or rather Diplomatic

Cornelia Furculita, German University of Administrative Sciences Speyer

Discussion

Closing Remarks

Conveners

Prof. Elisa Baroncini, *Alma Mater Studiorum* - Università di Bologna

Prof. Holger Hestermeyer, King's College

Prof. Catharine Titi, CNRS-CERSA, University Paris II Panthéon-Assas

Prof. Marina Trunk-Fedorova, St. Petersburg State University

Prof. Peter-Tobias Stoll, University of Göttingen

TO JOIN THE ONLINE WORKSHOP

No registration is necessary. To attend, please use the Zoom link below:

<https://unibo.zoom.us/j/92409429015?pwd=WjRCQmwvNmZpSHRBRUg0YjRtSjJjdz09>

Meeting ID: 924 0942 9015

Passcode: 318672



**ESIL International Economic Law Interest Group
Workshop of the ESIL IEL IG at the 2020 ESIL Catania
Research Forum**

Thursday 15 April 2021

**The Value of Solidarity in International
Economic Law**

Online Workshop

h. 09:15 – 11:00

Opening remarks Peter-Tobias Stoll (Georg-August-Universität Göttingen)

PANEL ONE - SOLIDARITY AND ADJUDICATORS IN INTERNATIONAL ECONOMIC LAW

Chair Marina Trunk Fedorova (St. Petersburg University)

Section A – International Investment Law

Solidarity in ICSID: An Exploration - Anuj Kumar Vaksha (Guru Gobind Singh Indraprastha University)

A Dose of Solidarity for the Cause of Investor Accountability under International Law - Martin Jarrett (Max Planck Institute for Comparative Public Law and International Law, Heidelberg)

Solidarity and Environmental Concerns in International Investment Law: Opportunities and Challenges - Hui Pang (UNSW Sydney)

Discussion

h. 11:30 – 13:00

Section B – International Trade Law

Chair Klaus Blank (European Commission, Brussels)

Environmental Activism through Extraterritorial Trade Measures – 30 years after US – Tuna - Vinitika Vij (Jindal Global Law School)

The Solidarity of Contextual Interpretation of World Trade Organization Appellate Body (WTO-AB): Renewable Energy as Case Study - Tikumporn Rodkhunmuang (Guanghua Law School, Zhejiang University)

PANEL TWO - SOLIDARITY AND INTERNATIONAL FINANCIAL LAW

Non-Trade Values in Financial Services: the WTO Legal Framework and Jurisprudence. The Case Argentina – Financial Services - Ludovica Mulas (*Alma Mater Studiorum* – Università di Bologna, Georg-August-Universität Göttingen)

New Sources of Normativity and the Financial Markets: Is China Shifting from a Norm-Importer to a Norm-Exporter in the Global Initiatives on Sustainable Finance? - Kelly Chen (Stockholm University)

Discussion

Closing Remarks Elisa Baroncini (*Alma Mater Studiorum* – Università di Bologna)

Convenors

Prof. Elisa Baroncini, *Alma Mater Studiorum* - Università di Bologna

Dr. Federica Cristani, Institute of International Relations, Prague

Dr. Anna Marhold, Leiden University

Dr. Gustavo Prieto, Ghent University

Prof. Peter-Tobias Stoll, Georg-August-Universität Göttingen

Prof. Marina Trunk Fedorova, St. Petersburg University



ESIL International Economic Law Interest Group
Workshop of the ESIL IEL IG
Side-event to the ESIL 2021 Annual Conference in Stockholm

Wednesday 8 September 2021

International Economic Law
‘In the Making’: New Actors and Policies

Online Event

This workshop will be held as an online event via Zoom.

If you are interested in attending our workshop, please send an email to cristani@iir.cz (Dr Federica Cristani) in order to receive the Zoom link

Onsite connection and gathering: for those present in Stockholm, a meeting room would be available, so that to connect and gather in person. For the relevant information, please visit the 2021 ESIL Conference website: <https://esil2021.se/pre-conference-workshops/>

Programme

h. 11:00 – 12:00

Opening remarks: Professor Peter-Tobias Stoll, Georg-August-Universität Göttingen

PANEL ONE – AN OPEN, SUSTAINABLE AND ASSERTIVE TRADE POLICY: THE 2021 EU TRADE POLICY REVIEW

Chair: Dr. Anna-Alexandra Marhold (Leiden University)

WTO Law: Pre-Existing Legal Framework and Normative Underpinnings for EU FTAs - Cédric Henet (UCLouvain)

Sustainable trade to the core: Towards a targeted approach in the EU’s GSP scheme and TSD Chapters - Alessandra Arcuri, Sophia Paulini and Federica Violi (Erasmus University Rotterdam)

Informal Negotiating Practices in the WTO Decision-Making System and the Joint Statement Initiatives: The Case of an Investment Facilitation Agreement - Ana Peres (King's College London)

Discussion

h. 12:00 – 13:00: lunch break

h. 13:00 – 14:30

PANEL TWO - NEW ACTORS IN THE REGULATION OF FOREIGN INVESTMENT

Chair: Professor Dr. Marina Trunk-Fedorova (St. Petersburg State University)

Private Actors' Push for International Legal Status: How Should Investment Courts Respond? - Caroline E. Foster (University of Auckland)

Overcoming the Assumption of Inevitable Bias of Judges on the Multilateral Investment Court: Time for a Doctrine of Precedent? - Martin Jarrett (Max Planck Institute for Comparative Public Law and International Law)

Particularism and Universalism in ISDS: Limitations and Prospects of Recent Developments in the Methodology of Systemic Integration in Arbitral Practice - Diego Mejía-Lemos (Xi'an Jiaotong University)

The Meaning of Silence in Investment Treaties - Andrew Larkin and Simon Batifort (Curtis, Mallet-Prevost, Colt & Mosle LLP)

Discussion

h. 14:30 – 15:00: coffee break

h. 15:00 – 18:00

PANEL THREE - GOVERNANCE OF THE DIGITAL ECONOMY AND INTERNATIONAL ECONOMIC LAW

Chair: Dr. Federica Cristani (Institute of International Relations, Prague)

Electronic Commerce or Digital Economy – Who and How is Shaping New Regulatory Frameworks? - Magdalena Slok-Wódkowska and Łukasz Nawaro (University of Warsaw)

Liberalizing Blockchain: What Role for International Rules on Trade in Services? - Leonardo Borlini and Marta Soprana (Bocconi University)

May a Cryptocurrency be a Protected Investment under Investment Treaties? - Zdeněk Nový (Masaryk University)

The Digital State Capitalism: A Game-Theoretic Perspective on Global Data Governance in Flux - Qingxiu Bu (Sussex University)

Cybersecurity Through Data Protection: Three Regulatory Approaches - Jens Hillebrand-Pohl (Maastricht University)

Discussion

PANEL FOUR - METHODOLOGICAL PLURALISM AND THE FUTURE OF INTERNATIONAL ECONOMIC LAW

Chair: Professor Elisa Baroncini (Alma Mater Studiorum - Università di Bologna)

Consent and the System of International Law: Challenges for the WTO and Investor-State Dispute Settlement Mechanisms - Nicola Strain (Pluricourts, University of Oslo)

On the Fragmentation that Never Happened - Patrick Wasilczyk (Westfälische Wilhelms-Universität Münster)

A Feminist Approach to the Interpretation of the WTO Agreements: Systemic Integration as a Gender issue - Anna Ventouratou (University of Oxford)

Why Corporate Social Responsibility is Problematic as a Model of Governance: The Case of International Investment Law - Ksenia Polonskaya (Carleton University)

Discussion

Closing Remarks: Dr. Gustavo Prieto (Ghent University)

Convenors

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