

REPORT TO THE BOARD OF THE EUROPEAN SOCIETY OF INTERNATIONAL LAW INTEREST GROUP ON INTERNATIONAL ECONOMIC LAW (IEL IG) 2022 - 2023

ESIL IG Co-convenors:

Dr. Federica Cristani, Institute of International Relations, Prague
Dr. Anna Marhold, Leiden University
Dr. Gustavo Prieto, Ghent University
Dr. Marina Trunk-Fedorova, Kiel University

1. ACTIVITIES

A) WORKSHOP ESIL ANNUAL CONFERENCE IN AIX-EN-PROVENCE “PURSUING FAIRNESS IN TIMES OF CRISIS: REFLECTIONS ON THE FUTURE OF INTERNATIONAL ECONOMIC LAW” (HYBRID FORMAT), WEDNESDAY 30 AUGUST (13.00-19.00 CEST) AND THURSDAY 31 AUGUST 2023 (09.30-12.30 CEST)

On 30 and 31 August 2023, the Annual workshop of the ESIL IEL IG on the topic “Pursuing Fairness in Times of Crisis: Reflections on the Future of International Economic Law” took place in virtual form. The workshop, organized on the basis of an international call for papers.

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

B) SIDE-EVENT TO THE 2023 ESIL RESEARCH FORUM IN TARTU ON “REGIONAL DEVELOPMENTS OF INTERNATIONAL ECONOMIC LAW IN THE EURASIAN REGION IN TIMES OF GEO-ECONOMIC FRAGMENTATION” (HYBRID FORMAT)

On 25 April 2023, the ESIL IEL IG launched a call for papers, selected the proposals and organized a workshop on “Regional Developments Of International Economic Law In The Eurasian Region In Times Of Geo-Economic Fragmentation” that took place online.

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

C) WORKSHOP MISSING HISTORIES OF INTERNATIONAL ECONOMIC LAW ADJUDICATION: EXTRATERRITORIAL QUARTERS OF THE PAST AND THE PRESENT

On 31 January 2023, the ESIL IEL IG together with the History of International Law ESIL IG, Ghent University, UC Louvain and KU Leuven, organized the online roundtable discussion “Missing Histories of International Economic Law Adjudication: Extraterritorial Quarters of the Past and the Present”.

The online event reflected on ‘extraterritorial quarters’ of the past where international economic disputes were adjudicated.

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

D) PUBLICATION: Special Section - International Economic Law and New Frontiers of Global Security, Cambridge International Law Journal 12(1)

Selected contributions from the Workshop on International Economic Law and New Frontiers of Global Security were published by the Cambridge International Law Journal in 2023. The workshop was organised by the Interest Group on International Economic Law of the European Society of International Law (ESIL) as a side event to the 2022 ESIL Research Forum, which was hosted by the Glasgow Centre for International Law and Security at the University of Glasgow on 30 March 2022.

The introductory article of the special section that contain more details of the published papers is attached to this Report as Annex 4

2. MEMBERSHIP

The current list of members is held by the ESIL Secretariat, and it counts 418 active members (as of 8 September 2023).

3. GOVERNANCE

During the period of 2022 until 2023, the International Economic Law Interest Group was governed by four Co-Chairs, Federica Cristani (Centre for International Law of the Institute of International Relations, Prague), Anna Marhold (Leiden University), José Gustavo Prieto Muñoz (Ghent University), Marina Trunk-Fedorova (Kiel University).

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

4. FUTURE ACTIVITIES

The ESIL IEL IG is exploring the possibility to organize workshops as side events at both the 2024 ESIL Research Forum organized by the Department of Law of the University of Cyprus, and at the 19th ESIL Annual Conference that will take place in Vilnius, Lithuania.

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

ANNEXES

Annex 1. Programme ESIL Annual Conference In Aix-En-Provence

Annex 2. Programme of the Workshop 2023 ESIL Research Forum In Tartu side event.

Annex 3. Programme of the event "Missing Histories Of International Economic Law Adjudication: Extraterritorial Quarters Of The Past And The Present".

Annex 4. Introductory article "Special Section - International Economic Law and New Frontiers of Global Security, Cambridge International Law Journal 12(1)"

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Introduction to the special section

Elisa Baroncini, Federica Cristani, Anna-Alexandra Marhold, Jose Gustavo Prieto Muñoz, Peter-Tobias Stoll, and Marina Trunk-Fedorova

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Cambridge International Law Journal, Vol. 12 No. 1, pp. 77–81

Introduction to the special section

International economic law and new frontiers of global security

Elisa Baroncini

Full Professor of International Law, Alma Mater Studiorum – University of Bologna, Italy

Federica Cristani

Senior Researcher and Head of the Centre for International Law, Institute of International Relations, Prague, Czechia

Visiting Senior Researcher, Arctic Centre, University of Lapland, Finland

Anna-Alexandra Marhold

Assistant Professor, Leiden Law School, the Netherlands

Jose Gustavo Prieto Muñoz

FWO Senior Researcher, Ghent University, Belgium

Peter-Tobias Stoll

Professor, University of Göttingen, Germany

Marina Trunk-Fedorova

Associate Professor, St Petersburg State University, Russia

Research Fellow, Kiel University, Germany

The following contributions are based on presentations made at the Workshop on International Economic Law and New Frontiers of Global Security, organised by the Interest Group on International Economic Law of the European Society of International Law (ESIL) as a side event to the 2022 ESIL Research Forum, which was hosted by the Glasgow Centre for International Law and Security at the University of Glasgow on 30 March 2022.¹ The workshop theme reflected the general topic of the ESIL Research Forum, ‘International Law and Global Security: Regulating an Illusion?’, which was aimed at covering different aspects of global security, including both traditional problems, such as armed conflicts and the risk of nuclear confrontation, and new issues viewed through the security lens, such as social inequality, climate change and pandemics.

The Interest Group on International Economic Law focused on security issues in international economic law, and addressed the topics of international trade law and global security challenges, and foreign investments and security concerns. The workshop was inspired by the report requested by the European Parliament’s Committee on International Trade, and authored by Tobias Stoll, Steven Blockmans, Jan Hagemeyer, Christopher A. Hartwell, Henner Götts, Katerina Karunika and Andreas Maurer, on

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ESIL International Economic Law Interest Group

Workshop of the ESIL IEL IG

Side-event to the 2023 ESIL Research Forum in Tartu

Tuesday 25 April 2023

(14:00 – 17.00, CEST time)

Regional Developments of International Economic Law in the Eurasian Region in Times of Geo-Economic Fragmentation

Online Event – Registration required (by 25 April 2023)

If you are interested in attending our workshop, please register using the following link by Tuesday, 25 April 2023, 13:00 CEST time:

<https://universiteitleidn.zoom.us/meeting/register/u5AsdOuupjwEtROhK8jh5n3MjPcaOCUvEvY>

The workshop will be held fully online via Zoom. After registering, you will receive a confirmation email containing information about joining the meeting.

Please note that all workshop participants are expected to be **ESIL members**. Please find information about ESIL membership here: <https://esil-sedi.eu/individual-members/>

For any further information, please contact us at: esilintecolawig@gmail.com

Programme

h. 14.00-15.30

Opening remarks: Dr. Anna Marhold (Leiden University)

SESSION 1

Chair: Dr. Marina Trunk-Fedorova (Kiel University)

Agreement within the Framework of Economic Integration as an important component of international legal regulation of International Transport Corridors. What is Missing for the CIS? - Umidkhon Azamkhujayev (University of World Economy and Diplomacy, Tashkent)

Russian national security narrative, clean hands doctrine and security exceptions in the WTO: is there hope in the madness? – Viktoriia Lapa (Bocconi University, Milan)

International Legal Implications of Western Economic Sanctions against Russia towards Fragmented Global Supply Chains - Peiran Wang (Vrije Universiteit Brussel)

Confiscation of Frozen Russian Assets – A Path to International Law Fragmentation? - Petr Stejskal (Palacky University Olomouc)

Discussion

h. 15:30 – 15:45 coffee break

h. 15.45-17.00

SESSION 2

Chair: Dr. Gustavo Prieto (Ghent University)

The impact of Russia's invasion of Ukraine on trade and investment in the Eurasian region and India - Sajal Jain (Symbiosis School Noida)

Legislative Approximation in the EU's Eastern Neighbourhood: The External Dimension of the EU's Internal Energy Market - Natasha A. Georgiou (University of the Witwatersrand)

Encouraging and curtailing unilateral action in the EU: Evaluating investment screening in view of recent case law – Bálint Kovács (American University Washington College of Law)

Discussion

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

Convenors

Dr. Federica Cristani, Institute of International Relations, Prague

Dr. Anna Marhold, Leiden University

Dr. Gustavo Prieto, Ghent University

Dr. Marina Trunk-Fedorova, Kiel University



Missing Histories of International Economic Law Adjudication: Extraterritorial Quarters of the Past and the Present

31 January 2023, 15h30–17h00 CET (online)

Opening Remarks



Gustavo Prieto
FWO - UGent
International Economic Law IG



Florenz Volkaert
FWO - UGent
History of International Law IG

Speakers



Pamela Bookman
Fordham University



Willem Theus
KU Leuven - UCLouvain



Alyssa King
Queen's University
(Canada)



Georgios Dimitropoulos,
Hamad Bin Khalifa University



Michel Erpelding
University of Luxembourg



Georgia Antonopoulou
University of Birmingham



Filip Batselé
Ghent University &
Université Libre de Bruxelles

Convenors: Gustavo Prieto, Willem Theus.

Registration: <https://event.ugent.be/registration/ExtraterritorialQuarters>





International Economic Law Interest Group

ESIL International Economic Law Interest Group

Workshop of the ESIL IEL IG

Side-event to the 2023 ESIL Annual Conference in Aix-en-Provence

Wednesday 30 August (13.00-19.00 CEST)

and

Thursday 31 August 2023 (09.30-12.30 CEST)

Pursuing Fairness in Times of Crisis: Reflections on the Future of International Economic Law

Hybrid Event – Registration required

The event is foreseen to take place as a hybrid event.

Registration is required through the 2023 ESIL Annual Conference website:
<https://www.esilaix2023.fr/register>

Further details are available on the conference website: <https://www.esilaix2023.fr/>

For any questions regarding the registration and the logistical details, please contact the local organizers at contact@esilaix2023.fr

Please note that all workshop participants are expected to be **ESIL members**. Please find information about ESIL membership here: <https://esil-sedi.eu/individual-members/>

For any further information regarding the programme, please contact the IG IEL Co-Convenors at: esilintecolawig@gmail.com

Programme

Wednesday, 30 August 2023 (h. 13.00-19.00)

h. 13.00-14.00

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

PART 1 FAIRNESS IN INTERNATIONAL TRADE LAW

SESSION 1 SECURITY ISSUES IN INTERNATIONAL TRADE LAW

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

Toward Best Practices for Trade-Security Measures – Harlan Cohen (University of Georgia)

Pandora Box of the WTO Security Exceptions has been Opened – Daria Boklan (National Research University Higher School of Economics)

Reversing Unfairness Resulting from the Use of Unilateral Economic Sanctions in the Light of the International Rule of Law Principles - Hazar Kaan Ozkonak (Utrecht University)

Foreign Investments and Energy Transition in the Netherlands: Balancing Economic and Security Interests - Olga Hrynkiv and Saskia Lavrijssen (Tilburg University)

Discussion

h. 14.00-15.30

SESSION 2 DIFFERENT FACETS OF FAIRNESS IN INTERNATIONAL TRADE LAW

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

Understanding (Un)Fairness in International Economic Law through a Law and Literature Lens – Emily Sipiorski (Tilburg University)

Coping with Today's Global Challenges: When "Unfair" Trade Becomes a Necessity – Richard Ouellet (Laval University)

When remedies for unfair trade become unfair: towards an abuse of anti-dumping and countervailing measures in the WTO – Antoine Comont (Laval University, University of Bordeaux)

Agricultural Domestic Support under the WTO Agreement on Agriculture. Possible Prospects for a Fair Deal - Klaus Günter Blank (European Commission, Directorate-General Agriculture and Rural development, Global issues Unit)

Fairness in International Trade Law: The Status of the South Asian Countries in the WTO – Ravindra Pratap (South Asian University)

The Development Discourse in and beyond the WTO: Rethinking the Status and Capacity of Developing Countries – Wei Yin (Southwest University of Political Science and Law)

Discussion

h. 15.30-16.00 – coffee break

h. 16.0-17.30

PART 2 FAIRNESS IN INTERNATIONAL INVESTMENT LAW AND ARBITRATION

SESSION 1 INTERNATIONAL INVESTMENT LAW TREATIES AND FAIRNESS ISSUES

Chair: Dr. Gustavo Prieto (Ghent University)

Ghosts of the Past: The Dominance of Older Treaty Language in International Investment Arbitration - Runar Lie (University of Oslo)

International Investment Law from an Adaptive Law Perspective - Laura Létourneau Tremblay (PluriCourts, University of Oslo)

The Disorder in International Investment Law Regime: A Fairness Challenge – Prabhash Ranjan (South Asian University)

'Legitimate Expectations' Beyond Fair and Equitable - Hui Pang (University of New South Wales)

Fairness as Balance: Investor Obligations and the Investment Treaty Reform - Klara Polackova Van der Ploeg (University of Nottingham)

EU Values Into Investment Law: Balancing Legal Certainty with Regulatory Stability - Maria Laura Marceddu (European University Institute)

Discussion

h. 17.30-19.00

SESSION 2 INTERNATIONAL INVESTMENT LAW PROCEDURAL ISSUES

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

Remedies in International Investment Law beyond the ILC Articles on State Responsibility: Lessons from Domestic Laws – Xuan Shao (New York University)

A Fair Quantification of Damages in Investment Arbitration: What Role for Broader Contextual Elements? – Erik Brouwer (Université Catholique de Louvain)

Can Valuation ever be Fair? A Comparative Analysis of Valuation Practices under International Investment, Trade and Tax Law Regimes – Toni Marzal (University of Glasgow)

Enforcers of Fairness? The Use (or Abuse) of Annulment Proceedings – Nicola Strain (PluriCourts, University of Oslo)

Impartiality (?) of Party-Appointed Arbitrators – Marina Konstantinidi (Independent Researcher)

Down the Rabbit Hole of Investment Arbitration and Ethics: An Inquiry into Fairness amongst the Duties of Arbitrators – Paolo Vargiu (University of Leicester)

Discussion

Thursday 31 August 2023 (h 09.30-12.30)

h. 9.30-10.45

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

PART 3 FAIRNESS IN THE GLOBAL FINANCIAL ARCHITECTURE

Chair: Professor Peter-Tobias Stoll (Georg-August-Universität Göttingen)

Financial Crisis Response and Regime Complexity: an Uneasy Compromise – Panagiotis Kyriakou (Archipel law firm)

Taking Global Tax Justice Seriously - Tsilly Dagan (University of Oxford) and Alice Pirlot (Geneva Graduate Institute)

Economic Crisis Resolution & Monetary Power. Sovereign Immunity Rules Concerning Central Banks and Sovereign Debt – Astrid Iversen (Inland Norway University of Applied Sciences)

Between Authority and Principle: on the Role of Supranational Financial Institutions in Assessing the Fairness of Challenged Measures in International Investment Law – Alina Papanastasiou (University of Cambridge)

Discussion

h. 10.45-11.15 – coffee break

h. 11.15-12.30

PART 4 FAIRNESS QUESTIONS IN CURRENT PRESSING ISSUES IN INTERNATIONAL ECONOMIC LAW

Chair: Dr Marina Trunk-Fedorova (Kiel University)

Environment-Led 'WTO-Minus' Provisions of EU External Trade Agreements – Cédric Henet (Catholic University of Louvain)

Addressing the Unfairness Regarding Climate vis a vis Geopolitical Security Responses in Investment Regulation – Zaker Ahmad (University of Göttingen, University of Chittagong)

Regulating Digital Economy through Trade Agreements. A Path for Fairness or a Way to Preserve Unfairness? - Magdalena Słok-Wódkowska and Joanna Mazur (University of Warsaw)

Yesterday and Today for State Contracts-Explicationibus on the Routes of Administrative Law and Public International Law - Cristina Elena Popa Tache (Bucharest University of Economic Studies)

Discussion

Concluding Remarks: Dr Marina Trunk-Fedorova (Kiel University)

Convenors

Dr. Federica Cristani, Institute of International Relations, Prague

Dr. Anna Marhold, Leiden University

Dr. Gustavo Prieto, Ghent University

Dr. Marina Trunk-Fedorova, Kiel University