Adjudicating International Trade and Investment Disputes: Between Isolation and Interaction

PluriCourts Conference
Professorboligen, Faculty of Law

Oslo, 25 and 26 August 2016

Thursday, August 25

9:00 – 9:15 Welcome and introduction to the conference
The Organizing Committee, PluriCourts

9:15 – 10:30 The new mega-regionals
The mega-regionals: innovation versus imitation?
Manfred Elsig, World Trade Institute
Envisioning a model role for mega-regionals in international economic law
Tania Voon, University of Melbourne

10:30 – 10:45 Coffee break

10:45 – 12:30 The new mega-regionals – paper presentations
Chair and discussant: Jose Alvarez, New York University

International trade law in China: from paternalism to partnership (paper 1)
Greg Shaffer, University of California – Irvine

Investment protection and dispute resolution under newly negotiated free trade agreements: piecemeal reaction or serious reassessment? (paper 2)
Kate Parlett, 20 Essex Street

Participatory aspects of investor-state dispute settlement in the EU ‘new wave’ trade agreements (paper 3)
Joanna Jemielniak and Gunes Ünüvar, University of Copenhagen

The creeping multilateralization of investment dispute resolution under EU trade and investment agreements (paper 4)
Hannes Lenk, University of Gothenburg

12:30 – 1:15 Lunch

1:15 – 3:00 The new investment court proposal – panel debate and discussion
Moderator: Daniel Behn, PluriCourts

Completion of the legal analysis by the WTO appellate body – lessons for an appeal tribunal of an international investment court (paper 5)
Nicholas Lamp, Queens University

The Appellate Body of the WTO: obiter dicta, judicial economy, interpretation and the ban on adding obligations or diminishing rights (paper 6)
Lothar Ehring, DG Trade

Debate: Debating the pros and cons of the new EU investment court proposal
Julie Maupin, Max Planck Institute
Nikos Lavranos, EFILA

3:00 – 3:15 Coffee Break
3:15 – 4:00  
**Cross-fertilization and learning**

Converging divergences: a common law of international economic relations

*Sunjoon Cho, Chicago-Kent College of Law*  
*Jurgen Kurtz, University of Melbourne*

4:00 – 4:15  
**Coffee break**

4:15 – 6:00  
**Cross-fertilization and learning – paper presentations**

**Chair and discussant:** *Laurence Boisson de Chazournes, University of Geneva*

Cross-fertilization between the international trade and investment regimes (paper 7)  
*Markus Wagner, University of Warwick*

Judicial engagement of international trade and investment adjudication (paper 8)  
*Michele Zang, PluriCourts*

Entry rights and investment in services: convergence between regimes? (paper 9)  
*Murilo Otavio Lubambo de Melo, University College London*

The driving forces of the convergence of WTO dispute settlement mechanism and international investment arbitration (paper 10)  
*Fenghua Li, Renmin University of China*

7:00  
**Dinner for speakers**

**Dinner lecture**

Introduction: *Geir Ulfstein, PluriCourts*

The multiplicity of international courts and tribunals: factors of convergence and divergence  
*Georges Abi-Saab, Graduate Institute*

**Friday, August 26**

9:15 – 10:45  
**Comparisons and practices**

The judicial trilemma: judicial accountability, transparency and independence in the WTO appellate body and international investment arbitration  
*Jeff Dunoff and Mark Pollack, Temple University*

Towards a synthetic theory of arbitrator behavior: evidence from legitimacy crisis research  
*Daniel Behn and Malcolm Langford, PluriCourts and University of Oslo*

10:45 – 11:00  
**Coffee break**

11:00 – 12:45  
**Comparisons and practices – paper presentations**

**Chair and discussant:** *J. Christopher Thomas, National University of Singapore*

Do different treaty purposes matter for the interpretation of WTO agreements and investment agreements (paper 11)  
*Graham Cook, World Trade Organization*

The use of public international law sources in WTO dispute settlement (with a side glance to the approach taken by investment tribunals) (paper 12)  
*Vitaliy Pogoretskyy, Advisory Centre on WTO law*

Approaches to external precedent: invocation of international decisions in investment arbitration and WTO dispute settlement (paper 13)  
*Niccolo Ridi, King’s College London*
12:45 – 1:30  Lunch

1:30 – 2:45  Roundtable discussion – between isolation and interaction?
Moderator: Ole Kristian Fauchald, PluriCourts

Georges Abi-Saab, Graduate Institute
Jose Alvarez, New York University
Laurence Boisson de Chazournes, University of Geneva
Giorgio Sacerdoti, Bocconi University
J. Christopher Thomas, National University of Singapore

2:45 – 3:00  Coffee break

3:00 – 4:30  Comparisons and practices – paper presentations
Chair and discussant: Giorgio Sacerdoti, Bocconi University

Regime shifting of IPR law-making and enforcement to international investment law (paper 14)
James Gathii and Cynthia Ho, Loyola University Chicago

Sharing interpretive functions between states and tribunals (paper 15)
Yuliya Chernykh, University of Oslo

Can a court’s function adequately explain the exercise of inherent powers: a comparison of the powers of the WTO Appellate Body and ICSID tribunals (paper 16)
Ridhi Kabra, University of Cambridge

4:30 – 5:00  Wrapping-up

Organizing Committee for the Conference

Daniel Behn
Ole Kristian Fauchald
Malcolm Langford
Theresa Squatrito
Geir Ulfstein
Michelle Zang