
REPORT ON THE
ACTIVITIES OF THE
ESIL INTEREST GROUP
ON
INTERNATIONAL
ENVIRONMENTAL LAW
(2016-2017)

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INTRODUCTION

The ESIL Interest Group on International Environmental Law was formally launched after approval of the Executive Committee on the 2nd October 2009, before the opening of the ESIL-ASI Research Forum held in Helsinki (Finland). The IG on International Environmental Law is one of the 15 Interest Groups of the ESIL and its Coordinating Committee is composed by the following Members: Jaye Ellis, Paolo Davide Farah, Perez Oren and Josephine van Zeben.

The Interest Group focuses on the application of international law, public and private, to the resolution of environmental problems. The ESIL Interest Group on International Environmental Law is an intergenerational and open forum where authoritative academics, young scholars, experienced practitioners, interested students as well as researchers concerned with the development of environmental protection at an international level can jointly discuss both its challenges and progress. The International Environmental Law Interest Group may also explore the interferences of environmental rules in the spheres of trade law and international peace and security, as well as consider them within the general debate on the fragmentation of international law. The establishment of an Interest Group on International Environmental Law is most relevant at this moment as a result of the paradox between the heightened concern of the international community on the impact of environmental change and the general assumption that legal endeavour is not being matched by either the necessary political will or industrial progress.

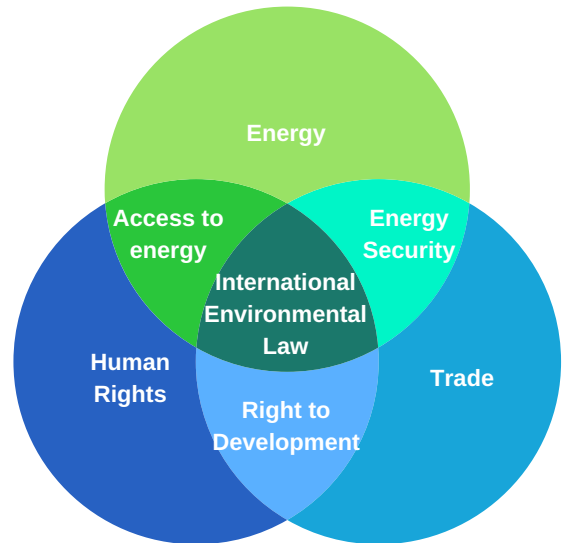
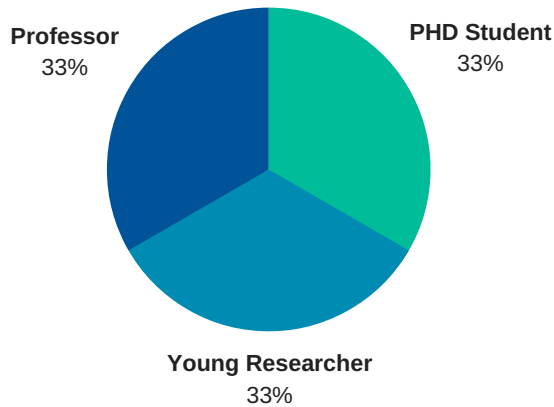
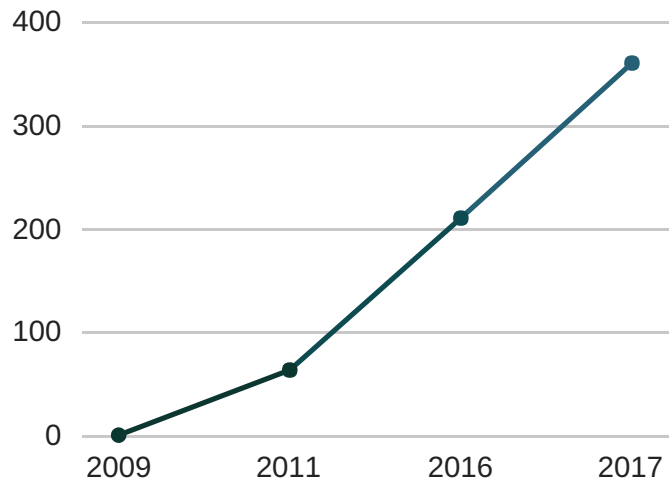
"The Interest Group focuses on the application of international law, public and private, to the resolution of environmental problems. "

Lately, the signature of the Paris Agreement, the UN SDGs and other successful outcomes at international level have given the international community the certainty that the momentum for the protection of the environment and the fight against climate change had finally come. The recent events at domestic and international level reveal a significant risk of a step-back of the objectives and goals towards sustainable development and this is making evident that the necessity to keep high attention on these very important societal values should never be underestimated. For all these reasons, the role of the ESIL IG on international environmental law can be very important to raise awareness through conferences, workshops, research, publications and policy advise on such relevant topics constantly on the spotlight. Moreover, the complexity of the world requires to shape our scholarly and academic mission beyond the borders of international law and even beyond the borders of the legal field to bring multidisciplinary responses to multilevel and multiscalar problems. The ESIL IG on international environmental law is ready to face this challenge and to move forward in the light of the principles of international law on sustainable development.

INTRODUCTION

The Interest Group on International Environmental Law have exponentially increased its membership from 210 members in 2016 to 360 members as of 7 October 2017.

Different Activities are already planned for the Period October 2017-October 2018 in the areas of International Environmental Law, Climate change, Energy and Global Governance. The following report presents the results achieved in the covered period and anticipate some of the activities foreseen for the near future.



COORDINATING COMMITTEE



Jaye Ellis
McGill University, Canada



Perez Oren
Bar-Ilan University, Israel



Paolo D. Farah
West Virginia University, USA
Global Law Initiatives for Sustainable
Development gLAWcal, UK



Josephine Van Zeben
University of Oxford, UK

PAST ACTIVITIES

The Interest Group on International Environmental Law of the European Society of International Law organized the following activities:

WATER-ENERGY-FOOD NEXUS AND ENVIRONMENTAL SUSTAINABILITY: CHOICES, COMPROMISES, AND PRIORITIES

This conference is organized on the occasion of the 13th ESIL Annual Conference on “Global Public Goods, Global Commons and Fundamental Values: The Responses of International Law” held at University of Naples Federico II, Naples, Italy, 6 September 2017

CONSUMER POLICY IN A COMPARATIVE PERSPECTIVE: NEW CHALLENGES IN CHINESE, EUROPEAN, AND INTERNATIONAL LAW

This conference is jointly organized by the Faculty of Law of the University of Macau, the European Society of International Law (ESIL) Interest Group on International Environmental Law, the American Society of International Law (ASIL) Intellectual Property Law Interest Group, and gLAWcal – Global Law Initiatives for Sustainable Development, UK. 29-30 June 2017

THE RESILIENCE OF LAW

Joint Meeting between Interest Group on International Environmental Law and Interest Group on International Legal Theory and Philosophy on the occasion of the 12th ESIL Annual Conference on “How International Law Works in Times of Crisis” held at University of Latvia, Riga, Latvia, 7 September 2016



Water-Energy-Food Nexus and Environmental Sustainability: Choices, Compromises and Priorities

on the occasion of the 13th ESIL Annual Conference on “Global Public Goods, Global Commons and Fundamental Values: The Responses of International Law” held at University of Naples Federico II, Naples, Italy, 6 September 2017

The water-energy-food nexus is a theoretical concept describing the mutual interconnections between the complex systems of these resources. Its purpose is to develop solutions mitigating and promoting synergies able to maintain and further elaborate sustainable development. Currently, there are numerous challenges this area necessary to face and policymakers all over the world struggle to balance between different priorities such as minimizing the ecological footprint of human activities, satisfying the needs of such as minimizing the ecological footprint of human activities, satisfying the needs of he constantly growing population

and in order to fulfill Sustainable Development Goals set. While water is a vulnerable and valuable resource in itself, its importance for, and connection with, energy and food security cannot be understated.

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The over-exploitation of freshwater resources by both the energy and agricultural industry is one example of competing uses. Similarly, energy is needed for water sanitation and farming. Finally, nutrition is vital for livestock breeding, biofuel production and the maintenance of labor. Despite this factual indivisibility, regulatory solutions continue to be isolated and sectorial. Although some of these can be regionally effective, without thoroughly analyzing wider impacts they are likely to be counterproductive with respect to global sustainability.

Panel Convenor:

- Paolo Davide FARAH, West Virginia University (USA) & gLAWcal – Global Law Initiatives for Sustainable Development (UK)

Chairs and Discussants:

- Jan Wouters KU Leuven (Belgium) & Leuven Centre for Global Governance Studies - Institute for International Law (Belgium)
- Alessandra ARCURI, Erasmus University (Netherlands)
- Vanessa Richard, Centre d'Etudes et de Recherches Internationales et Communautaires (CERIC), CNRS/Aix Marseille Université (France)

Panelists:

- Paolo Davide Farah, West Virginia University (USA) & gLAWcal – Global Law Initiatives for Sustainable Development (UK)
- Hitomi Kimura, Otsuma Women's University (Japan)
- Yao-Ming Hsu, National Cheng-Chi University (Taiwan)
- Wen-Wei, Taiwan Research Institute (Taiwan)
- Maria Banda, University of Toronto (Canada)
- Hyun Ju Park, University of Macau (China)
- Flavia MARISI, Ghent University (Belgium) & Chinese University of Hong Kong (China)
- Alexander SOLNTSEV, People's Friendship University of Russia (Russia)
- Martin Svec, Charles University (Czech Republic)
- Matteo Barra, Energy Charter Treaty (Belgium)
- Charlotte BLATTNER, University of Basel (Switzerland)
- Odile AMMANN, University of Fribourg (Switzerland) and University of Oxford (United Kingdom)
- Chamu KUPPUSWAMY, University of Hertfordshire (United Kingdom)
- Antonio Coletta, CREA - National Council for the Research in Agriculture and Analysis in Agricultural Economics – UTV (Italy)



- Hatice M. Tuncer, University of Cambridge (United Kingdom)
- Priscila PEREIRA DE ANDRADE, University Center of Brasília (Brazil)

Forthcoming Publications:

- Water-Energy-Food Nexus in the International Environmental Laws
- Mainstreaming the Water-Food-Energy Nexus Approach: A Driving Force Analysis
- The Food-Water Nexus and International Law :Climate Change Adaptation Across State Boundaries
- The Implications of the Conflict between the Customary Principles of Permanent Sovereignty over Natural Resources and the Equitable Use of Transboundary Aquifers
- Balancing the Human Rights to Water and to Property in Investment Law
- Legal Problems of Using the Transboundary Amur River: Issues of Environmental, Social and Economic Development
- Opportunities for Advancing the Water-Energy-Food Nexus in Development Cooperation: the Case of Africa
- Intersectionality in Food Security and Tenure Rights
- Food, Energy, Water and Their Synergy in Sustainable Agriculture
- Private Normative Instruments to Regulate the Water-Energy-Food Nexus: the Legal Effects of Private Standards and Contracts Adopted in the sustainable biofuel industry

Consumer Policy in a Comparative Perspective: New Challenges in Chinese, European, and International Law

29-30 JUNE 2017
MACAU, CHINA

On 21 November 2013 China and the European Union launched negotiations for a comprehensive EU-China Investment Agreement. China is the EU's second trading partner and the EU is China's biggest trading partner. The agreement aims at progressive liberalization of investment and the elimination of restrictions for investors to each other's market, providing a more secure legal framework to investors of both sides. The European Union is a single market economy populated by approximately 500 million high-income consumers and a qualified labor force. On the other hand, Chinese policy over the last years has shifted from an export-led growth model to one that focuses more on the domestic market, with the 18th National Congress of the Communist Party of China emphasizing the importance of moving towards an 'ecological civilization'. The construction of an ecological civilization requires a global effort to improve people's well-being while guaranteeing the future of the country.

This concept balances economic development and environmental protection, putting ecological civilization on an equal footing with the civilizations of politics, economy, society, and culture. These different dimensions relate to diverse societal aspirations and concerns and must be addressed by Chinese policymakers.

"The goal is to promote a discussion about how to strike a proper balance between economic development and consumer protection in modern-day China."

While the European Union is a well-established market economy with a high level of consumer protection, China is rapidly turning into a fully-fledged consumer society, raising new problems and challenges. In 2015 and 2016 the Faculty of Law of the University of Macau hosted two conferences on Consumer Policy in China. This third conference continues the debate on a wide range of issues that have a direct or indirect impact on consumer protection. The goal is to promote a discussion about how to strike a proper balance between economic development and consumer protection in modern-day China.



The on-going negotiations for a comprehensive EU-China Investment Agreement provide an eloquent example of how consumer policy is deeply intertwined with varied fields of Law and impacted by national and international legal frameworks. Consumer policy thus requires a holistic approach that balances trade and investment promotion policies with the protection of societal concerns such as the safeguard of consumer interests and environmental protection.

Panel Convenors:

- Fernando Dias Simões, University of Macau (China)
- Paolo Davide Farah, Convenor of the ESIL IG on International Environmental Law and Co-Chair of the ASIL IG on Intellectual Property Law; West Virginia University (United States), gLAWcal – Global Law Initiatives for Sustainable Development (United Kingdom)

Panelists:

- Io Cheng Tong, University of Macau (China)
- Fernando Dias Simões, University of Macau (China)
- Seung Wha Chang, Seoul National University (Republic of Korea)
- Augusto Teixeira Garcia, University of Macau (China)

- Samuel Becher, Victoria University of Wellington (New Zealand)
- Hugo Duarte Fonseca, STA Lawyers (Macau)
- Alexandr Svetlicinii, University of Macau (China)
- Jerry I-H Hsiao, University of Macau (China)
- Vera Lúcia Raposo, University of Macau (China)
- Li Du, University of Macau (China)
- Muruga Perumal Ramaswamy, University of Macau (China)
- Zhang Meihui, Nankai University (China)
- Alison Lu Xu, University of Leeds (UK)
- Evin Dalkilic, Leuphana University Lüneburg (Germany)
- C.H. (Remco) van Rhee, Maastricht University (Netherlands)
- Danny Friedmann, Simone Intellectual Property Services Asia (China)
- Shujie Feng, Tsinghua University (China)
- Ye Xia, Beijing Labour & Social Security College (China)
- Rostam J. Neuwirth, University of Macau (China)
- Wei Wang, University of Macau (China)
- Zhao Yun, University of Hong Kong (China)
- Flavia Marisi, Chinese University of Hong Kong (China)
- Xu Qian, Chinese University of Hong Kong (China)



Forthcoming Publications:

- Minding the Gap
- General Contractual Terms and Protection of Consumers under Macau Law
- Food for Thought: Food Safety and Legal Challenges in China
- China New and Better Drugs – Should we Change the Approval Procedure Model for Pharmaceutical Products?
- Chinese Genetic Testing: the Portrayal of Online Direct-to-consumer Talent Genetic Tests
- Internet Doesn't Forget, but is there any Right to be Forgotten in China?
- Choice-of-law Issues of E-Consumer Contracts in China
- From Patchwork to Coherence? Challenges and Opportunities for Consumer Data Protection in Cross-Border E-Commerce
- Intellectual Property, Biodiversity and Traditional Knowledge and the Implications for Food Security: A Focus on Indigenous People and Farmers' Rights
- Protection of EU Wine via GIs in China: Not Too Sparkling for Innovation, Not Too Clear for Consumers
- The Reform of the Chinese Geographical Indication System Amid the International Evolution
- Consumer Interest in International Trademark Protection
- Strengthening the Consumer Collective Action through Litigation Funding
- Domain Name Dispute Resolution and Its Implications to the Future Development of Online Dispute Resolution
- Public Interest Litigation in China: Challenges and Prospects for the Protection of Consumers in Anti Monopoly Cases
- Consumer Protection in the WTO Agreements: A Case for an Evolutionary Treaty Interpretation?
- The Protection of Intellectual Property Rights under Investment Law: from Treaties to ISDS
- The Right to Water in Investment Law: between Human Rights and Consumer Protection
- The Application of Positive-Sum Game Theory in International Investment Arbitration: New Paradigms Developed in Water Disputes

This conference is jointly organized by the Faculty of Law of the University of Macau, the European Society of International Law(ESIL) Interest Group on International Environmental Law, the American Society of International Law Intellectual Property Law Interest Group, and gLAWcal – Global Law Initiatives for Sustainable Development, United Kingdom.



THE RESILIENCE OF LAW

Joint Meeting between Interest Group on International Environmental Law and Interest Group on International Legal Theory and Philosophy on the occasion of the 12th ESIL Annual Conference on "How International Law Works in Times of Crisis" held at University of Latvia, Riga, Latvia, 7 September 2016

Crisis in international law may be understood as exogenous events that erupt at a speed and on a scale that threatens to overwhelm law's capacity to address them. In a crisis, the time required for careful investigation of the facts, posing questions about root causes, deliberating on different possible responses and considering unintended consequences is not available: decisions must be made rapidly in conditions of great uncertainty. Under such conditions, *in order to maintain and perpetuate itself*, a legal system must possess the quality of resilience – must be able to draw on a wide range of resources, reconfiguring and recombining them in novel ways, capable of learning and adaptation. Yet these very same processes of adaptation can also undermine the capacity of the system to carry out the central functions for which it was designed.

Exogenous shocks are considered in the papers that comprise this panel, including phenomena related to globalisation, the unintended consequences of regulatory strategies in international law, and environmental degradation. The focus, however, is on crises within international law more broadly as a result of attempts to adapt to changing circumstances. International law has sought, for example, to embrace a wider array of actors and sources; it has sought to build greater diversity through a range of specialised regimes that pursue problem-solving in very different ways. The result has been fragmentation, decentralisation, deformalisation – all phenomena which can be seen as promoting law's resilience or as undermining it. As legal authorities multiply and take a wide range of forms, new networks are formed, interaction and communication among them could become impossible; law could be lost in the shuffle of a multitude of competing rationalities. But diversity could also be a source of strength: law and legal authority could participate in a network logic in which different actors and sites of normativity contribute – in a synergetic way – to the pursuit of global public good.



PANEL CONVENORS

Jaye Ellis and Oren Perez

Co-convenors, International Environmental Law Interest Group

John D. Haskell and Gleider Hernández

Co-convenors, International Legal Theory Interest Group

PANELISTS:

Antonio Cardesa-Salzmann, University of Tarragona (Spain)

Transnational Environmental Crime and The Resilience of International Law: Shaping Illegality in Multilateral Environmental Agreements

Jaye Ellis, McGill University (Canada)

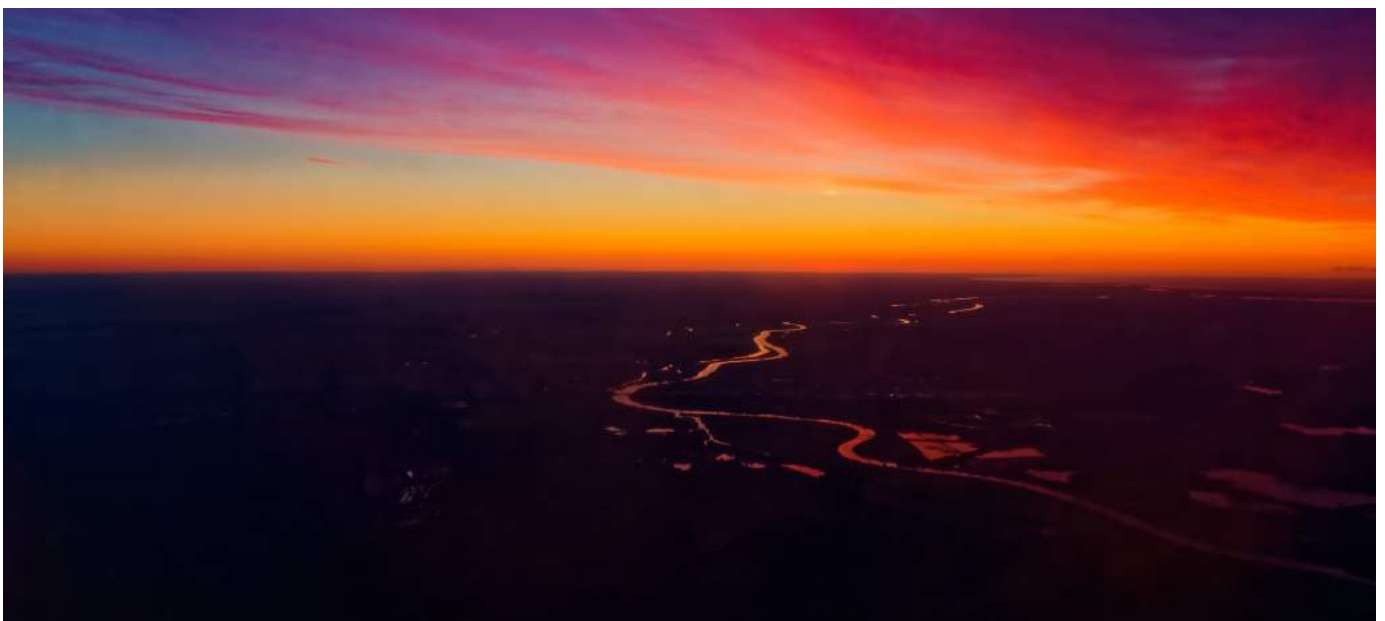
Crisis, Resilience, and the Time of Law

Jasper Finke, Bucerius University (Germany)

Crisis, Expectations and the Meaning of International Law: A Model How Law Adapts in Times of Crisis

Tomasz Widłak, University of Gdansk (Poland)

Polycentric International Law, Resilience and the Pure Theory of Law



FUTURE ACTIVITIES

FINANCING & THE RIGHT TO SCIENCE IN TECHNOLOGY TRANSFER IN THE SDGS

**UNIVERSITY OF GRONINGEN,
THE NETHERLANDS
24 NOVEMBER 2017**

Universal implementation of the SDGs will require vast amounts of economic, natural, technological and human resources and expertise. It also requires systems for the adequate mobilisation and (re)distribution thereof – at national, regional and global levels. According to SDG 17, implementation requires, inter alia, access to financing, technology, knowledge transfer, capacity building, trade and investment, policy and institutional coherence, and multistakeholder partnerships. ‘Financing’ and ‘technology and knowledge sharing’ for (sustainable) development are two key strategies and requirements for the SDGs. This has been repeatedly affirmed in the Addis Ababa Action Agenda on Financing for Development (2015), the Paris Climate Agreement (2015), the UN 2015-2030 UN Sendai Framework on Disaster Risk Reduction (2015), and the WTO’s Doha Declaration (2001). At the same time, financing and technology and knowledge sharing are (still) notoriously difficult topics in international law and policy, for burden sharing is difficult to regulate. Can international law be a vehicle for establishing and operationalising legal principles and/or standards for mobilizing, sharing/distributing and allocating adequate resources? In addition, the crucial role of non-State actors should not be underestimated.

In fact, large parts of the world’s GDP are generated by companies and their positive contributions to the SDGs are potentially a *conditio sine qua non* for their realisation. How can international law assist tapping into these resources, e.g. through tax law, investment law, labour law, obligations of cooperation and assistance, or through public-private partnerships, and new, open and collaborative models of scientific innovation? Banks, insurance companies and other financial institutions can make tremendous contributions towards leveraging sufficient resources for the SDGs.

“Financing’ and ‘technology and knowledge sharing’ for (sustainable) development are two key strategies and requirements for the SDGs.”

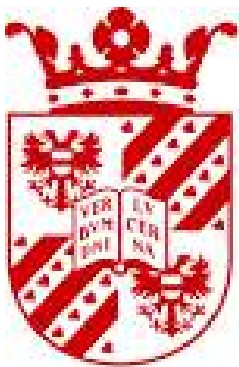
Companies and other private actors play a central role in developing, scaling up, disseminating and making available technologies and scientific knowledge (or not!). Other important stakeholders in the ‘multi-stakeholder effort’ for the SDGs include: international organisations, charities/NGOs, religious organizations, philanthropic actors, or individuals themselves (e.g. through taxes, insurance premiums, contracts for service delivery).

We are interested in:

- identifying legal regimes and institutional arrangements already in place, their gaps, challenges and shortcomings;
- exploring whether/how international law can make a positive contribution towards improving financing and technology sharing for the SDGs;
- discussing specific needs for improved leveraging and sharing of economic and technological resources in the context of the SDGs.



This conference is organized by the Department of International Law, Faculty of Law, University of Groningen, The Netherlands, and co-sponsored by the European Society of International Law (ESIL) Interest Group on International Environmental Law.



**university of
groningen**



FUTURE ACTIVITIES

HEALTH, ENVIRONMENT, FOOD AND RISK REGULATION - FOCUS ON: GOOD GOVERNANCE, INTELLECTUAL PROPERTY RIGHTS, AND CONSUMER PROTECTION

**UNIVERSITY OF PARMA, ITALY
4 DECEMBER 2017**

Non-Trade Concerns (NTCs) may conflict with international economic rules and we must find ways to protect them within international law and international economic law. Globalization without local concerns can endanger relevant issues such as good governance, human rights, intangible cultural heritage, right to water, right to food, social, economic, cultural and environmental rights, labor rights, access to knowledge, public health, social welfare, consumer interests and animal welfare, climate change, energy, environmental protection and sustainable development, product safety, food safety and security. In particular, if we take in consideration the term good governance, it can gain even more importance and be seen under a new light in a time of economic crisis. Good Governance in particular is important when we refer to the general stability of the markets, to the good faith and other key principles which are at the basis of a fair market in favor of both the governments and the citizens. Good governance is also fair use of the resources toward sustainable development.

It is interesting to understand how to integrate the good governance concepts in the context of the global governance and law, whether institutions matter or not to development, how sustainable energy, clean energy and energy security should be driven toward the good governance principles including with a better balance and rules which govern intellectual property rights.

"Emerging economies are playing more and more key roles in international negotiations on NTCs such as good governance, climate change, energy, culture, food safety and security among others. "

This conference focuses on global visions and discourses from different countries law and policy towards international standards. Emerging economies are playing more and more key roles in international negotiations on NTCs such as good governance, climate change, energy, culture, food safety and security among others.

A special track and consideration in this conference will be given to papers that will focus on different visions concerning intellectual property law and how good governance should take in serious consideration that in certain circumstances intellectual property law might affect sustainable development, non-trade concerns and other societal values such as farmer rights, traditional knowledge and intangible cultural heritage, rights of indigenous people, access to medicine, access to knowledge, biodiversity.



This conference is jointly organized by the University of Parma, Faculty of Law, gLAWcal – Global Law Initiatives for Sustainable Development (United Kingdom), European Society of International Law (ESIL) Interest Group on International Environmental Law and the American Society of International Law (ASIL) Interest Group on Intellectual Property Law.



INTERNATIONAL LAW ON SUSTAINABLE DEVELOPMENT, CLIMATE CHANGE, AND ENVIRONMENTAL PROTECTION IN TIMES OF DISORDER AND CONTESTATION

28 FEBRUARY - 1 MARCH 2018

HEBREW UNIVERSITY FACULTY OF LAW, JERUSALEM, ISRAEL

ESIL Interest Group on International Environmental Law Conference on “International Law on Sustainable Development, Climate Change and Environmental Protection in Times of Disorder and Contestation” on the occasion of the 2018 European Society of International Law Research Forum “International Law in Times of Disorder and Contestation” - 28 February - 1 March 2018, Hebrew University Faculty of Law, Jerusalem, Israel



האוניברסיטה העברית בירושלים
THE HEBREW UNIVERSITY OF JERUSALEM

THE BELT AND ROAD INITIATIVE AND GLOBAL GOVERNANCE

JUNE 2018

EUROPEAN COMMITTEE OF THE REGIONS,
BRUXELLES

The China's development strategy of the One Belt One Road could have huge geopolitical and geo-economic implications. Spanning through 65 different countries and covering 60% of the world's population and a large portion of the world economy it will be able to potentially redefine global economy and Global Governance, challenging the liberal order. In which ways the Belt and Road Initiative is impacting or is likely to impact the current international financial institutions, economic rules, human rights, sustainable development, climate change and environmental protection, security, and developmental policies? Given the current relevance of the Belt and Road Initiative (BRI) and its possible political, economic and cultural impact on the current international society, the aim of the conference is to draw on theoretical,

legal, economic and social science approaches in order to stimulate a conversation across academic disciplines to answer the bigger question about the contributions and challenges posed by the BRI to Global Governance.

"Spanning through 65 different countries and covering 60% of the world's population and a large portion of the world economy it will be able to potentially redefine global economy and Global Governance, challenging the liberal order."

The organizing committee welcomes proposals on the general theme of Belt and Road Initiative in relation to any topic relating to Global Governance. The scope of the conference is interdisciplinary and submissions from background other Law are also welcome. Subject areas may include, but are not limited to, the following:

- a) Theoretical aspects of the BRI and Global Governance
- b) Methodological questions on how to study the BRI and Global Governance
- c) Economic and financial aspects of the BRI with regard to Global Governance
- d) Security issues
- e) Human rights
- f) Intellectual property rights and Technology Transfer
- g) Labor rights
- h) Sustainable Development, Climate Change, and Environmental protection
- i) Developmental policies



The conference is jointly organized by the Leuven Centre for Global Governance (KU Leuven), gLAWcal - Global Law Initiative for Sustainable Development (United Kingdom), the European Society of International Law (ESIL) Interest group on “International Environmental Law”, the American Society of International Law (ASIL), Interest Group on Intellectual Property Law.



Belt & Road Initiative: Future outlooks and past achievements in both political and economic spheres

JULY 2018,
BEIJING, CHINA



The conference is jointly organized by gLAWcal - Global Law Initiative for Sustainable Development (United Kingdom), the European Society of International Law (ESIL) Interest group on “International Environmental Law” and the American Society of International Law (ASIL), Interest Group on Intellectual Property Law.



CONTACTS

If you have any questions regarding the Interest Group Interest Group on International Environmental Law or you would like to have more information on our events, please do not hesitate to contact us at:

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