

LA REVUE DE L'INSTITUT | THE GRADUATE INSTITUTE REVIEW

# GLOBE

| GLOBAL GOVERNANCE  
OF THE WORLD  
TRADING SYSTEM  
| CAMPUS DE LA PAIX

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GRADUATE INSTITUTE OF INTERNATIONAL  
AND DEVELOPMENT STUDIES

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# DES CONDITIONS-CADRE FAVORABLES FAVOURABLE FRAMEWORK CONDITIONS

Philippe Burrin, directeur | Director



Philippe Burrin.

Nous entrons dans une période où les conditions-cadre de notre activité viennent d'être redéfinies avec nos proches partenaires, les autorités publiques et l'Université de Genève. Le résultat est tout à fait satisfaisant et favorisera la continuation de notre essor.

Le financement public pour les années 2013-2016 est inscrit dans une nouvelle convention d'objectifs qui doit être signée prochainement par l'Institut, la Confédération helvétique et l'Etat de Genève. Les montants alloués sont ceux de 2012 et représentent une assurance de stabilité.

Parallèlement, une loi soumise par le gouvernement de Genève à l'approbation du parlement reconnaît l'Institut, à côté de l'Université, comme l'une des hautes écoles soutenues par le canton et souligne au passage le rôle particulier qu'il joue à l'égard de la Genève internationale. Cette reconnaissance est bienvenue et fournit une base juridique solide à une institution née il y a cinq ans de la double volonté politique de Berne et de Genève et dont la réussite est incontestée.

Enfin, une convention a été signée récemment avec l'Université de Genève. Elle reprend l'essentiel de la convention précédente, qui date de 2006, en formalisant et en renforçant la coopération entre les deux partenaires. Il en sortira une attractivité accrue de la place académique de Genève dans le domaine des études internationales.

Ces conditions-cadre, auxquelles il faut ajouter l'achèvement prochain de la Maison de la paix, donnent à l'Institut une forte assise pour la poursuite de sa stratégie d'excellence dans ses missions principales – l'enseignement, la recherche et la formation continue – et le développement de sa réputation en Suisse et dans le monde.

We are now entering a phase where the framework conditions that govern our activities have recently been redefined with our close partners, the public authorities and the University of Geneva. The results are most satisfactory and will help promote our continued growth.

Public funding for the 2013–2016 period is enshrined in the new "Convention d'objectifs" to be signed shortly between the Institute, the Swiss Confederation and the State of Geneva. The level of subsidies is the same as that granted in 2012 and provides assurances of stability.

At the same time, under a new law submitted for approval by the Government of Geneva to the Parliament, the Institute will now be recognised alongside the University of Geneva as one of the institutions of higher education supported by the canton. The new law also underlines its special role with regard to International Geneva. This recognition is most welcome as it provides a legal basis for an institution born five years ago from the combined political will of Bern and Geneva and whose success has been proven.

Finally, the Institute recently signed an agreement with the University of Geneva which builds on the one concluded in 2006 by formalising and strengthening cooperation between the two partners. This will add to the attractiveness of Geneva as an academic centre in the field of international studies.

These framework conditions, to which must be added the forthcoming completion of the Maison de la paix, will provide the Institute with a strong foundation from which to continue to pursue its strategy of excellence in its primary missions – teaching, research and executive education – and the continued development of its appeal in Switzerland and in the world.

# NOUVELLE COMPOSITION DU CONSEIL DE FONDATION

Jacques Forster, président du Conseil de fondation de l'Institut

Trois membres ont quitté le Conseil de fondation après plusieurs années d'engagement au service de l'Institut. M<sup>me</sup> Iris Bohnet a dû renoncer à poursuivre son mandat au sein du Conseil en raison de la lourde charge de son poste de doyenne académique de la Kennedy School of Government à Harvard, de même que M<sup>me</sup> Andrea Schenker-Wicki, qui a été nommée prorectrice de l'Université de Zurich. M<sup>me</sup> Anne-Christine Clottu Vogel, qui présidait jusqu'en 2007 le Conseil de fondation de l'IUED, a exprimé le désir de se retirer du Conseil à la fin de la période couverte par la première convention d'objectifs de l'Institut, marquée notamment par le succès de la fusion de l'IUHEI et de l'IUED. Le président du Conseil et le directeur de l'Institut les remercient chaleureusement pour leur engagement et leur contribution au développement de l'Institut depuis 2007.

Par ailleurs, trois personnalités ont rejoint le Conseil de fondation de l'Institut en janvier 2013 : M<sup>me</sup> Annemarie Huber-Hotz, M<sup>me</sup> Beth Krasna et M. Carlos Lopes. Deux d'entre elles, M<sup>me</sup> Huber-Hotz et M. Lopes, connaissent déjà bien l'Institut en tant qu'anciens. Le Conseil de fondation ainsi que le directeur de l'Institut se réjouissent de pouvoir compter sur leur expérience, leurs compétences et leur soutien.



**Annemarie Huber-Hotz** est présidente de la Croix-Rouge suisse depuis 2011. Elle a été chancelière de la Confédération entre 2000 et 2007. De 1992 à 1999, elle a été secrétaire générale de l'Assemblée fédérale, dont elle a auparavant dirigé le service scientifique et été secrétaire du Conseil des Etats. Elle a fait des études de psychologie, de sociologie, d'ethnologie et de philosophie à l'Université d'Uppsala, en Suède, et de sciences politiques à l'Institut.

M<sup>me</sup> Huber-Hotz a également suivi des études post-grade en aménagement du territoire à l'Ecole polytechnique fédérale de Zurich (EPFZ).



**Beth Krasna** est membre du Conseil des écoles polytechniques fédérales depuis 2003 et présidente du comité d'audit depuis 2008. Elle siège aux conseils d'administration de la Banque Cantonale Vaudoise, de Bonnard & Gardel Holding SA, de Coop et de Raymond Weil SA. M<sup>me</sup> Krasna est également membre de l'Académie suisse des sciences techniques. Depuis mars 2010, elle préside la Fondation en faveur de l'art chorégraphique, qui organise le Prix de Lausanne. Elle a un diplôme en génie chimique de l'Ecole polytechnique fédérale de Zurich (EPFZ) et un MBA de la Sloan School du Massachusetts Institute of Technology (MIT).



**Carlos Lopes** est secrétaire général adjoint des Nations unies et secrétaire exécutif de la Commission économique pour l'Afrique. Il a occupé plusieurs postes aux Nations unies, dont ceux de coordonnateur résident au Brésil et au Zimbabwe, et de directeur pour les politiques de développement au PNUD. Il a aussi été directeur des affaires politiques pour le secrétaire général Kofi Annan, directeur général de l'UNITAR et directeur de l'Ecole des cadres des Nations unies. Il a enseigné dans plusieurs universités comme professeur invité et fait partie d'une douzaine de conseils d'institutions académiques. M. Lopes a un doctorat en histoire de l'Université de Paris 1 Panthéon-Sorbonne et un doctorat *honoris causa* en sciences sociales de l'Université de Candido Mendes, à Rio de Janeiro.



# CAMPUS DE LA PAIX



Le pétale 4 de la Maison de la paix (premier plan), relié à la Maison des étudiants Edgar et Danièle de Picciotto (arrière-plan) par la passerelle piétonne Sécheron-Nations. Janvier 2012. Photo Gérald SCIBOZ.

Les principaux éléments du Campus de la paix s'inscrivent aujourd'hui dans l'espace et modifient en profondeur la physionomie du quartier situé entre Sécheron et la place des Nations.

Après l'inauguration de la Maison des étudiants Edgar et Danièle de Picciotto en septembre 2012, la réalisation de la Maison de la paix aborde la dernière ligne droite dans une enveloppe architecturale cette fois définitive.

En effet, il a été décidé d'adjoindre aux quatre pétales prévus initialement un cinquième et un sixième pétale. Ce choix, approuvé par le Conseil de fondation en octobre, a l'avantage, d'un point de vue architectural, d'utiliser pleinement le terrain dont l'Institut a la disposition grâce à la générosité de la Fondation Hans Wilsdorf. Il permettra d'accroître la partie locative de l'immeuble et apportera

des moyens supplémentaires ainsi qu'une réserve de surface pour l'avenir.

La maçonnerie des quatre premiers pétales est aujourd'hui terminée et met en valeur la courbure et l'entrelacement des formes que nous devons à la créativité de notre architecte, Eric Ott, du bureau IPAS de Neuchâtel. La façade double peau posée sur les deux premiers pétales ainsi que sur les deux niveaux inférieurs qui forment le socle destiné à accueillir la bibliothèque Kathryn et Shelby Cullom Davis donne déjà une idée de la transparence et de l'élégance du bâtiment une fois terminé.

Les collaborateurs et les étudiants de l'Institut s'installeront dans les deux premiers pétales et utiliseront la bibliothèque dès cet automne. Les pétales 3 et 4 seront achevés à la fin de l'année, les deux derniers pétales au milieu de 2014.

## INAUGURATION

### MAISON DES ÉTUDIANTS EDGAR ET DANIELÈ DE PICCIOTTO



La Maison des étudiants Edgar et Danièle de Picciotto a été inaugurée le 11 septembre 2012 en présence de M. Edgar de Picciotto et de sa famille ainsi que de M. Charles Beer, conseiller d'Etat en charge de l'Instruction publique. Conçue par le bureau Lacroix / Chessex, elle a été réalisée par l'Institut grâce à un don extrêmement généreux de M. Edgar de Picciotto, d'une contribution substantielle de la Loterie romande et d'un emprunt bancaire auprès du Credit Suisse, le partenaire de l'Institut en matière de financement de ses projets immobiliers.

D'une surface de 13000 m<sup>2</sup> sur 10 niveaux, la Maison des étudiants offre :

- 72 studios
- 21 colocations de 2 ou 3 chambres
- 18 colocations de 4 chambres
- 23 appartements de 3 ou 4 pièces entièrement meublés et équipés.



De gauche à droite, Jacques Forster, Daniel de Picciotto, Danièle et Edgar de Picciotto, Philippe Burrin.



Charles Beer, conseiller d'Etat en charge de l'Instruction publique. Photos Eddy MOTTAZ.

## MAISON DE LA PAIX



Escalier hélicoïdal dans le pétale 1.  
Janvier 2012.  
Photo Gérald SCIBOZ.

Vue générale du bâtiment.  
Image Eric OTT,  
IPAS Architectes SA.



### Un nouveau don

Un don de 1,6 million CHF de la Loterie romande servira à équiper la bibliothèque de l'Institut de postes informatiques pour la consultation du catalogue, ainsi que du système RFID (Radio Frequency Identification) qui permet un emprunt automatique des ouvrages. Il permettra également de terminer le catalogage de fonds non encore numérisés. Ce don augmentera le confort d'utilisation pour les usagers et facilitera l'accès à des collections importantes dans le champ des relations internationales et des études du développement. Il porte à près de 35 millions CHF le total des dons de mécènes (Fondation Hans Wilsdorf, M<sup>me</sup> Kathryn W. Davis, Fondation Goehner) reçus pour la Maison de la paix.

<http://campusdelapaix.ch>



# GLOBAL GOVERNANCE OF THE WORLD TRADING SYSTEM



CHINA, Huaibei: A Chinese poultry seller waits for customers at her stall in a market in Huaibei, on 30 September 2010. China won a rare victory at the WTO against the USA after a panel ruled that US restrictions on Chinese poultry imports are illegal. AFP/CHINAXTRA.



## INTRODUCTION

Richard Baldwin, Professor of International Economics;  
Co-Director, Centre for Trade and Economic Integration



CAMBODIA, Phnom Penh: US Secretary of State Hillary Clinton joins hands with other foreign ministers during the opening of the East Asia Summit held on the sidelines of the 45th Annual Ministerial Meeting of the Association of Southeast Asian Nations (ASEAN) on 12 July 2012. AFP/HOANG DINH Nam.

World trade governance is at an historical crossroads. The world's most important trade talks – the WTO's Doha Round – have slipped into a coma while key nations play a waiting game. Traditional approaches – practices that worked wonders in the 20th century – have failed in the new century. Nevertheless, trade liberalisation is as popular as ever. While some crisis-linked barriers have been erected, these are not of first-order importance – or at least not yet. The

new century has seen massive liberalisation of trade in goods and services – much of it by nations that disparaged trade liberalisation for decades. But unlike last century, almost none of this has occurred under the WTO's aegis. By default, the world is pursuing the regional and bilateral road.

It is increasingly obvious that the bilateral/regional road and the multilateral roads are not parallel. They are

diverging leading world trade governance towards a fragmented and exclusionary system dominated by something akin to the 19th century Great Powers arrangement.

To date, these changes seem more like challenges than threats. The key players believe the world trade system will continue to be anchored by the WTO's shared values, such as reciprocity, transparency, non-discrimination, and

# “World trade governance is at an historical crossroads... Traditional approaches – practices that worked wonders in the 20th century – have failed in the new century.”

the rule of law. WTO-anchorage allows each member to view its own policies as minor derogations. Yet, at some point, derogations become the new norm. The steady erosion of the WTO's centrality will sooner or later bring the world to a tipping point – a point beyond which expectations become unmoored and nations feel justified in ignoring WTO norms since everyone else does.

This special issue of *Globe* gathers a range of insights into the challenges facing global trade governance in the 21st century. It leads with an interview with WTO Director General Pascal Lamy in which he highlights, *inter alia*, the risk of a proliferation of different standards or regulations that may, inadvertently or otherwise, “lead to trade slowing down and/or rising trade tensions”. He points out that regional deals are politically cheaper, but economically lower quality.

Most of the other contributions focus on aspects of the regional road. My own essay stresses the point that the WTO is doing just fine when it comes to traditional trade – trade where things are made in one nation and sold in another. But when it comes to supply-chain trade – cross-border flows of goods, investment, services, know-how and people associated with international production networks – WTO

disciplines are being supplanted by regional rules. Joost Pauwelyn takes a different tack by noting that the WTO's lack of progress on big, formal deals is part of a general trend, what he calls informal international lawmaking – non-traditional actors (national regulators, central banks, cities or private actors) engaged in non-traditional processes (networks or schemes rather than formal international organisations) and non-traditional outputs (guidelines, standards or arrangements rather than treaties). Noting that new technologies have reduced costs of networked co-operation, broader groups of stakeholders can now get involved in international cooperation efforts. At the same time, our complex, diverse and rapidly evolving society makes formal treaty-based solutions often too difficult to achieve and too rigid. Traditional international law – organisations such as the WTO – may simply not be adapted to the new realities. In this world view, the WTO travails are not a passing issue; it is the writing on the wall telling us what future global governance will look like.

Taking a slightly more traditional approach, Cédric Dupont examines how regional multi-nation organisations are playing a role in the regional road the world seems to be on. Focusing on the

example of ASEAN, he notes they may help sort out complexity and contribute to convergence, but they also raise a series of questions about the feasibility of such solutions and interleaving of regional and global organisations.

The contribution by former WTO Ambassador, Manuel A.J. Teehanke, who is now a visiting fellow at the Graduate Institute Centre for Trade and Economic Integration, focuses on a narrower but more novel issue – export controls. Taking the example of rare earths, he points out that the WTO is struggling with the balance between competing national norms and prerogatives, and the quest to foster and preserve a global commons of prosperity and opportunity for all.

Following the narrower focus, the essay by Andres Lendle points out that the “spaghetti bowl” of tariff preferences is much less pernicious than it might at first appear. While there are hundreds of preferential trade agreements on the books, most are not very preferential. On most goods and in most nations, the baseline tariffs are very low (so little preference is gained from duty-free access), and most of the high-tariff items are excluded from the preferential deals. •

## INTERVIEW OF PASCAL LAMY DIRECTOR GENERAL OF THE WORLD TRADE ORGANIZATION

### **Looking back on your 8 years at the helm of the WTO, what are your views on progress?**

Well, it depends on how you define progress. In many ways, our organisation has progressed a great distance.

We have strengthened our capacity to monitor developments in the trading system and this has been vital during the economic crisis as it has enabled us to keep tabs on governments' implementation of trade restrictions. Issuing our bi-annual report card on these developments has had an important deterrent effect on the application of these restrictions.

We have moved closer to our goal of universal membership by adding new members including Russia, Saudi Arabia, Vietnam and Ukraine, and smaller countries like Montenegro, Samoa and Vanuatu.

Our work with international organisations has been greatly enhanced through a variety of programmes like Aid for Trade, but also through less formal interactions including joint research, seminars and frequent contacts between WTO officials and those in other organisations.

We have launched ground-breaking work on the functioning of value chains

and on measuring trade in value added which we are developing in collaboration with other organisations like the OECD and UNCTAD.

We have implemented a variety of important measures to improve the efficiency and functioning of the Secretariat and we have renovated and expanded our headquarters, making it both a more friendly environment and more environmentally friendly.

We have also enhanced our relations within the Lake Geneva community. Our Public Forums and Open Day events have been very successful at introducing to the public our organisation and its objectives. We have worked closely with important institutions like the Graduate Institute and IMD, with local business leaders, media, civil society and, of course, the city and cantonal governments.

An area where we have been frustrated by lack of progress has been the Doha Development Round negotiations. We have achieved some important negotiating results in the areas of government procurement and issues of importance to our poorest members. But the challenging economic and geopolitical environment since 2008 has not been conducive to brokering agreement on the Doha Round.

### **What role do you think independent organisations like the Graduate Institute should play in the development of the world trade system in general and the work of the WTO in particular?**

Raising awareness of the organisation and what it does. In the past, there was so much misinformation about the WTO and about trade that we became something of a mythical creation in the minds of some. Over time, thanks in part to institutions like yours, these sentiments have changed. We have become far better known and this has helped to shift opinion more in our favour. This is particularly true in developing countries where many have now come to see the WTO as a place where they can stand up for their commercial rights, win disputes against great powers and work with other developing countries to advance an agenda that is meaningful for them.

This does not happen in too many other international fora. This is not to say that we do not have problems and imperfections. We certainly do. What is important is that scholars, non-governmental organisations, journalists and businesses correctly identify where the problems lie so that we can set about fixing them.





Pascal Lamy at the Opening of the Academic Year of the Graduate Institute at the World Trade Organization on 3 October 2012. Photo Eric ROSET.

**Do you view the “mega-regionals”, like TPP and TAP, as posing a different challenge to the WTO than the many bilateral RTAs since 1990s?**

At one level no and at another level yes. We have had mega-regionals before. The joining of Europe into a Single Market created the largest trading power in the world. NAFTA is an enormous trading area. ASEAN, APEC, all of these trading entities are big. The WTO, and the GATT before it, continued to operate successfully. In fact, many of these preferential trading arrangements affect trade far less than you might imagine. We at the WTO have studied this situation closely and we have determined that around 85% of trade today takes place under MFN or WTO tariffs. Only about one-third

of peak tariffs (15% or higher) are eligible for reduction under preferential trade arrangements. Moreover, businesses often are confused about the multitude of rules of origin, tariff structures, customs requirements that are part and parcel of such bilateral agreements. This is why only around one-quarter of businesses surveyed in Latin America and Asia actually trade under the terms of bilateral agreements. The risk is a proliferation of different standards or regulations, which are less transparent than duties. While such measures are normally drafted to address real problems, they can inadvertently or otherwise, lead to trade slowing down and/or rising trade tensions. These kinds of agreements are politically cheaper, but economically lower quality.

And we should not underestimate the danger of competing – or even conflicting – trading blocks. When such trading arrangements are superimposed over a paradigm of rising geopolitical tension and rivalry, the danger grows.

How this situation evolves depends on a number of factors including the true objectives behind entering into these relationships. If the objective is opening trade, there can be benefits, but this depends on how such an opening takes place and what strings are attached. If we are to avert this, we need to “multilateralise” regionalism through enhanced global rules and market opening. •

# 21st CENTURY TRADE AND GLOBAL TRADE GOVERNANCE

## WHAT FUTURE FOR THE WTO?

Richard Baldwin, Professor of International Economics;  
Co-Director, Centre for Trade and Economic Integration



China, Shanghai: A visitor walks by auto parts during an exhibition in Shanghai on 22 August 2007. The WTO on 18 July ruled against China over its auto parts dispute with the United States, the European Union and Canada. IMAGINE CHINA/JING WEI.

The world has changed; the WTO has not. The cross-border flows of goods, investment, services, know-how and people associated with international production networks – “supply-chain trade” for short – has transformed the world. The WTO has not kept pace.

Instead, it seems trapped in a deep malaise. Unable to conclude the Doha Round due to 20th century conflicts

over tariffs and agricultural barriers, the WTO seems unable to move forward on anything. Stalwart WTO members are looking elsewhere for the new disciplines needed to underpin 21st century trade.

This failure is paradoxical. The malaise does not reflect anti-liberalisation sentiments. Quite the contrary; the new century has seen massive liberalisation

of trade, investment, and services by WTO members – including nations like India, Brazil, and China that disparaged liberalisation for decades. In fact, WTO members are advancing the WTO’s liberalisation goals unilaterally, bilaterally or regionally – indeed almost everywhere except inside the WTO.

Interestingly too, the malaise does not reflect WTO unpopularity. The organisation continues to attract new members – even powerful nations like Russia – despite the high political price of membership. Finally, it does not reflect WTO irrelevance: WTO dispute settlement procedures are increasingly popular, with an ever wider range of members using them. In short, when it comes to 20th century trade and trade issues, the WTO is in excellent health.

The WTO’s woes stem rather from the emergence of a new type of trade, which is intimately tied to the unbundling of production (global value chains). It has reshaped the geography of global production. And – since joining a supply chain is the fast route to industrialisation – unbundling is also at the heart of emerging market growth, which has in turn reshaped the geography of global demand. In this new configuration, protectionism has no place. Indeed, countries that establish

**“The real threat, [...] is not failure of the WTO, but rather the erosion of its centrality in the world trade system.”**

protective barriers will find themselves looking on as manufacturers take their custom elsewhere, thereby excluding them from global supply chains. Protectionism has become destructionism.

The new trade needs new rules – disciplines that go far beyond the WTO’s. To date, virtually all of the necessary governance has emerged spontaneously in regional trade agreements or via unilateral “pro-business” policy reforms by developing nations. The real threat, therefore, is not failure of the WTO, but rather the erosion of its centrality in the world trade system.

This suggests that the WTO’s future will take one of two forms. In the first, the WTO will remain relevant for 20th century trade and the basic rules of the road, but irrelevant for 21st century trade; all “next generation” issues will be addressed elsewhere.

In the optimistic version of this scenario, which seems to be where the current trajectory is leading us, the WTO will remain one of several pillars of world trade governance. This sort of outcome is familiar from the EU’s three-pillar structure, where the first pillar (basically the disciplines agreed in treaties up the 1992 Maastricht Treaty) was supplemented by two new pillars

to cover new areas of cooperation. In the pessimistic version of this scenario, lack of progress will undermine political support and WTO disciplines will start to be widely flouted; the bicycle, so to speak, will fall over when forward motion halts.

Under the second scenario, the WTO’s centrality is reinvigorated. In this scenario, the organisation engages in 21st century trade issues both by crafting new multilateral disciplines – or at least general guidelines – on matters such as investment assurances and by multilateralising some of the new disciplines that have arisen in regional trade agreements.

There are many variants of this future outlook. The engagement could take the form of plurilaterals where only a subset of WTO members sign up to the disciplines. Examples of this are found in the Information Technology Agreement and the Government Procurement Agreement. It could also take the form of an expansion of the Doha Round agenda to include some of the new issues that are now routinely considered in regional trade agreements.

Of course, 20th century trade is still with us, and is important in some goods (e.g. primary goods) and for some

nations (international supply chains are still rare in Latin America and Africa), but the most dynamic aspect of trade today is the development of international value chains.

Where the WTO’s future seems cloudy is on the 21st century trade front. The demands for new rules and disciplines governing the nexus of trade, investment, services, intellectual property, and business mobility are being formulated outside the WTO. Developing nations are rushing to unilaterally lower their tariffs (especially on intermediate goods) and unilaterally reduce behind-the-border barriers to the trade-investment-services-IP nexus. Most nations are rushing to sign bilateral investment treaties, and “deep” regional trade agreements that provide the 21st century disciplines. All of this has markedly eroded the WTO centrality in the system of global trade governance.

The implication of this is clear. The WTO’s future will either be to stay on the 20th century side-track on to which it has been shunted, or to engage constructively and creatively in the new range of disciplines necessary to underpin 21st century trade. •



# THE RISE OF INFORMAL INTERNAL LAWMAKING AND TRADE GOVERNANCE

Joost Pauwelyn, Professor of International Law;  
Co-Director, Centre for Trade and Economic Integration

“Informal international lawmaking [...] represents a complementary model to the existing formal WTO structure.”

Historically, the world trading system evolved from a power-based to a rules-based regime. Yet, legalisation of world politics may have passed its high-water mark. While the 1990s saw the creation of the WTO, the International Criminal Court and Kyoto Protocol, the number of formal treaties concluded

especially in the field of finance, health, food safety and the environment, but more recently also in trade (e.g. Kimberley Scheme on Conflict Diamonds, APEC list of environmental goods, Wassenaar Arrangement on export controls of arms, WTO committee guidelines on international standards, aid for trade platforms). New technologies have reduced costs of networked cooperation and made it accessible to a broader group of stakeholders. At the same time, our complex, diverse and rapidly evolving society makes formal treaty-based solutions often too difficult to achieve and too rigid. Traditional international law is, in many cases, simply not adapted.

To adequately regulate 21st century trade, negotiators need to more actively engage with other actors. Both the WTO and its members must establish better and more direct lines of communication with the private sector, consumer organisations and sector-specific regulators, agencies and administrators to tap into their expertise and resources and facilitate adoption and implementation of trade deals. This type of outreach should not make deals more difficult (these non-state actors should not have a veto). It should rather make deals easier and more effective, by collecting relevant information, sharing tested and failed

responses, designing adequate, country-specific solutions and interactive adoption and continuous monitoring of results.

In terms of non-traditional outputs and processes, countries should consider creating some agreements that are not subject to formal dispute settlement or even mere guidelines with flexibility for domestic implementation and future adaptation subject to peer review and less adversarial monitoring mechanisms. At times, the incentive structure to comply with soft or informal law has proven to be more effective than that of hard law. Although some trade issues will continue to be addressed in traditional WTO and preferential trade agreements, many problems in today's networked knowledge society are increasingly difficult to address through the rigidity of treaties and adjudication. Informal lawmaking is, in this sense, no longer a second-best option but increasingly the first-best, optimal solution.

Remains the question of how accountable or democratic such informal lawmaking processes and outputs are. And here is the surprising thing. Traditional international law is based on what one could call “thin state consent”: simple agreement by central state representatives is enough to

in the 2000s is down dramatically. This stagnation of formal international law has come hand in hand with a considerable rise in “informal international lawmaking” involving non-traditional actors (regulators, central banks, cities or private actors), non-traditional processes (networks or schemes rather than formal international organisations) and non-traditional outputs (guidelines, standards or arrangements rather than treaties). Examples abound



PAKISTAN, Karachi: This picture taken on 7 February 2012 shows a Pakistani employee working at a textile factory in Karachi. The European Union is Pakistan's largest trading partner, receiving nearly 30 percent of its exports – worth almost 3 billion euros (USD 3.9 billion). AFP/Asif HASSAN.

make law and justify its legitimacy. No questions are asked about how representative these state actors are, how workable or coherent the proposed solution is or whether domestic parliaments had effective oversight. Contrast this to the way most informal international lawmaking occurs. Here, a set of best practices are emerging which amount to what one could call “thick stakeholder consensus”. In other words, guidelines, standards or other restrictions on freedom only occur when they emanate from a recognised authority or rule-maker (e.g. based on representativeness, expertise or a history of effective coordination), are supported by all relevant stakeholders (not just central state representatives), are based on consensus (with no veto for individual actors) and were developed through open, inclusive and transparent procedures which

continuously test and adjust the relevant standard to evolving realities and demands. Not all informal international law meets this benchmark, but an increasing amount of it does; where it does not, adjustment to align to best practices is much easier than reforming the WTO or UN. In this sense, informal international lawmaking can be more effective, legitimate and accountable.

In a recent WTO dispute, the Appellate Body imposed something akin to “thick stakeholder consensus” before the WTO would accept an outside standard as an “international standard” that WTO members must use as a basis for their domestic technical regulations pursuant to the Agreement on Technical Barriers to Trade. This is a welcome development that should exercise quality control over an important part of

informal international lawmaking. This begs the obvious question of whether formal international law should be held against the benchmark of “thick stakeholder consensus”. For one thing, the WTO is not an “open” organisation as it requires consent of all existing WTO members before a new member can join. More importantly, one could question whether today rule-development in the WTO sufficiently involves all stakeholders and meets standards of transparency, coherence and adaptability.

Informal international lawmaking is on the rise. It represents a complementary model to the existing formal WTO structure. These new methods of governance are not always second-best to a formal treaty. Increasingly, they are the best way forward both in terms of effectiveness and accountability. •

# REGIONAL ECONOMIC ORGANISATIONS AS INTEGRATIVE CENTRES? THE CASE OF ASEAN

Cédric Dupont, Professor of International Relations/Political Science

In a world marked by a proliferation of bilateral trade (and investment) agreements, more “traditional” regional economic organisations have been battling what several analysts have called “the risk of irrelevance”. This risk has been particularly salient for the Association of South East Asian Nations (ASEAN),

active collaboration and mutual assistance on matters of common interest. Despite several expansions in the 1990s to include liberalising “socialist” economies in the region and various high-level initiatives to advance collective liberalisation commitments, ASEAN has largely failed to achieve significant trade liberalisation among its members; further, it has a mixed record as a forum for nurturing peace and “caring societies”. As a result, it has gradually lost visibility and now sits in the middle of a thick “noodle bowl” of bilateral preferential trade agreements in the region.

a regional financing arrangement with China, Japan and South Korea. This initiative comprises an expanded ASEAN swap arrangement (ASA) and a network of bilateral swap arrangements (BSAs) among participating countries. If the prospect of an East Asia Free Trade Area (EAFTA) is added to this, the effect would be to multilateralise free trade from the current sets of ASEAN + 1 agreements with China, Japan and South Korea; ASEAN+3 stands out as the most natural focal point or “integrative centre” in Asia. Yet, it is unclear what it would mean for the future of ASEAN.

“The case of ASEAN [...] brings contrasting lessons as to the role of regional economic organisations in the current governance of the world trading system.”

established in August 1967 by five countries – Indonesia, Malaysia, Philippines, Singapore, and Thailand – with the triple aims to accelerate economic growth, promote regional peace and stability, and encourage

To regain momentum, ASEAN has sought to carve out a new regional role for itself through a series of initiatives intended to develop relationships with major states in the broader region and even beyond with the “global community of nations”. As a group, it has been at the centre of a “widening complex” of regional initiatives that started in the aftermath of the Asian financial crisis in the late 1990s and has continued since then. In addition to signing free trade agreements with individual non-member countries, such as China, India, Japan or South Korea (ASEAN + 1 agreements), ASEAN took the initiative to launch broader and deeper schemes, beginning with the establishment in May 2000 of ASEAN + 3,

Another regional initiative launched by ASEAN has been the East Asia Summit, an ASEAN + 6 (ASEAN + 3 + India, Australia and New Zealand) structure created in 2005. The idea here has been to build upon all the existing ASEAN + 1 agreements to develop a regional comprehensive economic partnership (RCEP). In 2011, ASEAN leaders adopted the guiding principles and objectives of the partnership and recently refined them with the addition of a specific timetable for negotiations (with a 2015 deadline for completion). A key principle is that negotiations “will recognise ASEAN centrality in the emerging regional economic architecture”. There is, however, still high uncertainty about what this





INDONESIA, Malang: A worker walks in a market warehouse in Malang in East Java province full of freshly harvested cabbages for export to neighboring Association of Southeast Asian Nations (ASEAN) countries Malaysia and Brunei on 12 December 2012. AFP/Aman ROCHMAN.

will mean in practice and what the end result could be. On the one hand, there is willingness to address the problem of the noodle bowl of preferential trade agreements through some sort of multi-lateralisation of benefits, but on the other hand, the guidelines for RCEP state that “the ASEAN + 1 FTAs and the bilateral/plurilateral FTAs between and among participating countries will continue to exist and no provision in the RCEP agreement will detract from the terms and conditions in these bilateral/plurilateral FTAs between and among the participating countries”.

What seems to be certain is ASEAN’s willingness to prove its relevance as a force for integration in the most economically dynamic region of the world at a time when further efforts at the global level are deadlocked. Yet, it faces

competition for its regional centrality, in particular from the Trans-Pacific Strategic Economic Partnership (TPP) launched in 2006 by four small economies (P4 group), including two ASEAN members, Singapore and Brunei. This initiative has since attracted the interest of bigger economies, in particular the USA and Australia, but also of two additional ASEAN members, Malaysia and Vietnam. Negotiations for a high-standard agreement (traditional and “new” trade issues, with efforts toward regulatory convergence, trade and investment in innovative industries) started in 2010 and led to a broad outline of an agreement in November 2012. Another competitor has been the Asia Pacific Economic Cooperation forum (APEC) that has also been fighting irrelevance in the 2000s and whose 21 member countries (including ASEAN

members) in 2010 came up with the goal to create a Free Trade Area of the Asia-Pacific (FTAAP).

The case of ASEAN thus brings contrasting lessons as to the role of regional economic organisations in the current governance of the world trading system. While it highlights their potential relevance for sorting out complexity and contributing to convergence and fewer international distortions in economic competition, it also raises a series of questions about the feasibility and implementation of stated solutions as well as ultimately about the destiny of regional organisations if the wider pan-regional schemes do see the light of day. From this perspective, regional economic organisations may face a choice between irrelevance and disappearance. •

# RARE EARTHS

## EVOLVING TRADE AND RESOURCE POLICY ISSUES

Ambassador **Manuel A.J. Teehankee**, PhD Candidate in International Law;  
Researcher, Centre for Trade and Economic Integration



AUSTRALIA, Olympic Dam: An aerial view of WMC Resources' Olympic Dam uranium mine – the world's largest uranium deposit – in the remote outback of South Australia, 22 November 2004. AFP/Colin MURTY.

Global trade governance faces new challenges. One of these is export barriers, especially for raw materials. Problems have arisen because the WTO is much less specific about export barriers than it is about import barriers.

An issue that typifies new concerns is trade in so-called "rare earth elements." This has become highly contentious. Trade and investment in rare

earths have been the subject of dispute hearings at the WTO. But there is also much action at the bilateral level. In November 2012, Japan and India signed a joint venture memorandum between state-owned Indian Rare Earths Limited and the Toyota Tsusho Corporation for the export of Indian rare earths.

At the multilateral level, there are concerns that the Chinese supply of these strategic minerals has reached near-monopoly levels – over 90% of world output comes from China – with Japan, the US and the EU questioning Chinese export restrictions. These involve imposition of export duties, export quotas, minimum export prices, and other procedures. The WTO will be examining these measures against the framework of the "General Exceptions" (Article XX) of the GATT.

Article XX has often helped prevent conflict or offered balance between open multilateral trade and national resource conservation policies – helping to foster good resource management practices, while avoiding protectionist conduct. This requires considering economic justifications of natural resource management policies that counter well-known development problems. These include the so-called *Dutch Disease* whereby success in

natural resource exporting raises the nation's exchange rate to a level that makes its manufacturing exports uncompetitive, or the so-called *Resource Curse* in which economic and political mechanisms produce low growth outcomes in nations with abundant natural resources.

At a more general international-law level, multilateral conflicts over rare earths will test the apparent conflict between *open access* trade rules and the *principle of permanent sovereignty over natural resources*.

Rare earths also appeared on the broader Asian security agenda when China considered using trade restrictions as a sanction against Japan in the tension over the Senkaku/Diaoyu islands. This has prompted Japanese hybrid car producers to search for technological alternatives and significantly reduce demand. In turn, Chinese mines have had to reduce production, a testimony to the complex links between trade and international politics.

Policy alternatives for strategic minerals will be an interesting area for research and should prompt healthy debate on how competing norms can be reconciled with efforts to foster and preserve global prosperity and opportunity for all. •



# HOW PREFERENTIAL IS WORLD TRADE?

Andreas Lendle, PhD Candidate in International Economics;  
Researcher, Centre for Trade and Economic Integration

The debate about how the global trading system will be governed in the future is very much alive. The Doha Round is unlikely to be concluded any time soon, and despite the fact that most scholars and policy-makers agree that a multilaterally governed trading system is far preferable to one governed by regional or bilateral agreements, such preferential agreements are proliferating at high speed. Not only is their number increasing, but such agreements are now also envisaged between very large trading partners, such as the EU and Japan, or Japan and China.

One reason why countries seem to be willing to engage actively in more and more preferential agreements, while on the other hand show little willingness to conclude the Doha Round, is arguably that the agendas are different. The Doha Round tackles issues such as agricultural subsidies and significant tariff cuts for industrial products, which are highly controversial. In contrast, preferential agreements often exclude the most contentious issues. By doing so, the level of real liberalisation achieved through such agreements is likely to be lower. However, preferential agreements also increasingly include issues that go beyond what is negotiated in the WTO.



CHINA, Geely vehicles park in Shanghai harbour, ready to be exported to foreign markets. 2011. AFP/Xinhua/Han CHUANHAO.

Despite this very active debate about the pros and cons of preferential trade agreements, one quite central aspect of this had so far not been analysed: how much of today's global trade in goods is actually "preferential"? Preferential trade should be understood as trade flows for which applicable customs duties are below MFN rates (i.e. those that a WTO member grants to any other country).

The result is somewhat surprising. Only around 16% of global trade flows are actually preferential. The tariff advantage for most preferential trade flows is also fairly small. Less than 2% of trade flows are eligible for preferences with a margin of more than 10% of the import value.

Around half of current global trade is subject to zero MFN rates, for which a

preference could not be given in any case. The remainder is dutiable trade not eligible for any preferences, and a large share of that trade faces duties below 5%.

These numbers show that despite the hundreds of FTAs currently existing, tariffs for the wide majority of global trade flows are still essentially non-discriminatory. With new FTAs being signed, the share of preferential trade is likely to increase over the next years. While this is not good news for supporters of a multilateral, non-discriminatory global trading system, the relatively small shares of current preferential trade show that multilateralism is still very much alive. •

<http://voxeu.org/article/how-preferential-world-trade> ↗

# LA VIE DE L'INSTITUT

## INSTITUTE NEWS

### WHAT IS THE USE OF ECONOMICS?

Amartya Sen, Professor, Harvard University; 1998 Nobel Memorial Prize in Economic Sciences



Amartya Sen. Photo Eric ROSET.

**Distinguished Economist Amartya Sen was invited to the Institute on 3 October 2012 to deliver the Opening Lecture of the Academic Year and to receive the first Edgar de Picciotto International Prize. Attributed every two years, the prize rewards internationally renowned academics, whose research has contributed to the better understanding of global challenges and has inspired policy-makers. The prize was created to pay homage to Mr de Picciotto and his family whose exceptionally generous support contributed in large part to the financing of the Institute's Student House.**

Webcast of the Opening Lecture

<http://graduateinstitute.ch/video-sen>

Video interview of Professor Amartya Sen by Professor Jean-Louis Arcand

<http://graduateinstitute.ch/interview-sen>

During the Opening Lecture, Professor Amartya Sen explained why economics is an inexact science – and why this is a good thing – and how drawing on economic history can help inform policy-making to address contemporary global challenges.

#### On economics as a science

“Economics has been called the dismal science. It's certainly not a rose garden. It could not be. Many dismal things happen in the economic world: unemployment and poverty, terrible deprivations and gross inequality, hunger and famines, and so on. The subject of economics can hardly stay clear of these grim realities. The real difficulty that arises in trying to understand economics as a dismal science is not its dismal nature, but its epistemological status. Is this allegedly dismal science a science at all? [...] One apparent concern relates to the lack of precision in social analysis. Precision is often taken to be a defining characteristic of science. [...] But appropriate specification of inescapable imprecision is part of the discipline of science in this case. ”

“Does economics yield some legitimate views about the nature of the practical world around us? I'd like to argue that it does. [...] This is relevant for reasoned policy-making. Economics may not [offer] a single, definitive view of what should be done. And even when there is an agreement on underlying values, it can still produce divergent views of exactly what should be done. But nevertheless, despite the existence of some differences within an acceptable reading, there could be a solid basis there for questioning policies that are accepted with inadequate or bad reasoning. ”





Jacques Forster, Chairman of the Institute's Foundation Board. Photo Eric ROSET.

### On the economics of famine

“It's easy for economic policy and corresponding politics to be imprisoned in an unquestioned belief that food supply, and not people's incomes and entitlements in the market economy, is the central causal factor behind the occurrence of famine. [...] Many of the major famines have, in fact, occurred without any reduction at all of food availability per head [...]. Some famines have occurred in years of peak food availability as was the case in the Bangladesh Famine of 1974.”

“It also becomes clear that starvation in famine is typically associated with the selective decline in the economic means and entitlement of particular occupation groups, often even a small occupation group, resulting from several possible causal economic factors such as severe unemployment [...] Or a collapse of the relative price of commodities on the sale of which many people's livelihoods depend.”

### On the problems in Europe

“There's nothing particularly surprising about the problems of balance of payment and other economic adversities that many of the European countries, Greece, Spain, Portugal, have faced given the inflexibility of the Euro zone's insistence on no exchange rate adjustment and no independent monetary policies. [...] I do believe that every country can be competitive at some set of prices. [...] But you have to get the prices right.”

“Austerity is an odd way of cutting deficits because as [John Maynard] Keynes noted, a reduction in someone's expenditure tends also to reduce other people's income, which may be a good thing to do in a situation of inflation, but it's not really cut out for the present situation of continued recession, little inflation, and massive unemployment.

[...] There is in fact plenty of evidence in the history of the world that indicates that the most effective way of cutting deficits is through resisting recession, combining deficit reduction with rapid economic growth. The huge deficits after the Second World War largely disappeared with fast economic growth in the post-war years.”

“I would argue that one of the worst aspects of the policy of austerity being comprehensively imposed along with reform has been the undermining of the feasibility of real reform, by the confounding of two distinct agendas. One agenda involves the reform of bad administrative arrangements and practice, such as people evading taxes, or government using favouritism, or for that matter, preserving unviable conventions about retiring age. [...] Another agenda is austerity in the form of ruthless cuts in public services and basic social security. A serious economic analysis would tend to bring out sharply the distinction between those two. [...] Bundling the two distinct issues together, reform and austerity, is not only intellectually confused. It can also lead to a policy disaster, as it seems to have in Europe.”

### On the importance of reasoned economic understanding

“So I end this lecture by emphasising the need for learning from reasoned economic understanding, which is important today and will remain so in the future. Unfortunately, there may have been some loss both in the quality of theoretical reasoning and in sound empirical analysis in the alleged economics underlying policy thinking in Europe in recent years and the associated features of contemporary European politics.”

## INAUGURATION DE LA CHAIRE YVES OLTRAMARE « RELIGION ET POLITIQUE DANS LE MONDE CONTEMPORAIN »



Yves Oltramare.

La chaire « Religion et politique dans le monde contemporain » porte le nom de M. Yves Oltramare, qui a décidé de la financer pendant dix ans et à qui l'Institut renouvelle l'expression de sa gratitude (voir *Globe* n° 8). L'objectif de la chaire est d'apporter un éclairage utile aux acteurs internationaux sur les rapports de la religion et de la politique et leur impact sur l'évolution des sociétés et du système international. Elle vise également à contribuer à la recherche de réponses aux problèmes qui résultent de ces rapports, notamment à travers une interaction forte avec les milieux d'experts et les organisations actives dans ce domaine.

L'Institut est heureux d'annoncer la nomination de M. Martin Riesebrodt au poste de professeur associé, titulaire de la chaire Yves Oltramare. Sociologue de formation, le professeur Riesebrodt est l'auteur de nombreuses publications, dont *The Promise of Salvation: A Theory of Religion* (University of Chicago Press, 2010) et *Die Rückkehr der Religionen: Fundamentalismus und der « Kampf der Kulturen »* (C.H. Beck, 2000). Il enseignera au semestre de printemps, tandis que durant le semestre d'automne la thématique « religion et politique » sera traitée dans le cadre d'un enseignement donné par un professeur invité (*Yves Oltramare Visiting Professor*).

## INTERVIEW

### MARTIN RIESEBRODT

Adjunct Professor, Yves Oltramare Chair

#### **Could you describe your path from the Max Weber Archives in Munich to the University of Chicago Sociology Department and Divinity School?**

After my appointment at the new Max Weber Edition had ended in 1981, I received a John F. Kennedy Fellowship at Harvard. Instead of doing what I was supposed to do, I analysed Protestant fundamentalist programmes on TV. Since hardly any academic at Harvard or in Germany took the emerging fundamentalism seriously, I became an instant expert and later wrote my habilitation on a comparison between Protestant fundamentalism in the US and Shiite fundamentalism in Iran. Based on this study, I received an offer from Chicago in 1990, which I happily accepted.

#### **What attracted you to the Graduate Institute and motivated you to take up the Oltramare Chair?**

After meetings with Yves Oltramare, Philippe Burrin, Director of the Institute, faculty and students, I was convinced that this is an excellent institution. I like the cosmopolitan profile of the Institute, its programmes, faculty, and students, which will be beautifully captured by the new campus with its splendid architecture. Last but not least, I am committed to the ideas informing the Anthropology and Sociology of Development Department (ANSO). I always regarded the separation of anthropology and sociology as an awkward heritage of colonial thinking. And in my view, pluralistic theorising is the best training for students. It protects them from naïve technocratic thinking by enabling them to better understand that “problems” and “solutions” can be defined from various social locations and perspectives.

#### **What courses and conferences do you plan to organise here in the coming years?**

This spring, I will offer a class on secularisation theories and the need to revise them. For the conferences, I plan to address issues like the freedom of speech, intentional provocation of religious sensibilities, and the organisation of outrage; tensions between the freedom of religion and human rights, or between religious pluralism and social integration.

#### **How do you explain the current dynamics towards an increasing intertwining of religion and politics, for example, in the USA, in the Middle East and in South-East Asia?**

The re-politicisation of religions seems to be at least partially provoked by the deficiencies of nation states in an age of globalisation. If the state is no longer adequately responding to expectations of solidarity and social justice, other principles of association will substitute.

#### **Could you share with us some of your insights into the competing fundamentalisms that seem to characterise the world today?**

Of course, there are the fundamentalisms in various religious traditions we all like to hate. But we should not forget that many of them emerged in opposition to occasionally rather aggressive forms of secularism or extreme forms of economic liberalism. In order to find pragmatic solutions people can accept, we all have to overcome rigid ideological positions, be they religious or secular.



Martin Riesebradt.

Professor Martin Riesebradt will deliver the Inaugural Lecture of the Yves Oltramare Chair

**“Religion and Politics in the Contemporary World”** on Thursday 28 February, 6:30 p.m., Auditorium Jacques-Freymond



## NEW PROFESSOR

### ADITYA BHARADWAJ

Research Professor, Anthropology and Sociology of Development



Aditya Bharadwaj.

Aditya Bharadwaj, who joins the Graduate Institute from the University of Edinburgh, is a true inter-disciplinarian. His background, which he describes as lying “on the cusp of medical sociology and medical anthropology”, is a legacy of his early academic life at the Delhi School of Economics in India where he says the curriculum is interdisciplinary and makes no distinction between sociology and social anthropology. After leaving Delhi, he earned his PhD in sociology at Bristol University. He subsequently completed a post-doctoral fellowship at Cardiff University in Wales, before going on to Edinburgh where he spent 7 years as a lecturer and researcher.

His research, for which he recently secured a European Research Council grant, focuses on the emergence of stem cell biotechnologies in India, and in particular an analysis of the interplay between the state, citizens/consumers and emerging markets in stem cell technologies. This research will be used as a springboard from which to explore the links between biotechnology and public health at the global level. He is especially interested in how the advance of biotechnologies is underscoring development; how state-sponsored technologies and research have filtered out to the private sector, taking on a life of their own; and the way these technologies have developed and globalised around the world, which he says “tells us something about the force of globalisation”.

Through his research he hopes to show how the development and globalisation of these new technologies are beginning to collapse previously assumed distinctions between the developed and the developing world – an idea firmly rooted in the 20th century discourse of North and South – distinctions that could disappear with the democratisation of biotechnologies. Part of the challenge of the research will also be to explore how these new

technologies can be democratised. He has written extensively addressing the theme of global challenges in biotechnological development and proliferation. In particular his research monograph *Local Cells, Global Science* interrogates the burgeoning rise of stem cell technologies in India as a recent example of local and global forces shaping new health technologies in developing and increasingly transitional contexts. His forthcoming book *Conceptions* maps the rise and spread of assisted reproductive technologies and its implications for reproductive health care within the larger public and private sector interplay in India.

Aditya Bharadwaj’s research demonstrates that the division between sociology and anthropology, which was a product of an imperial disciplinary division of labour between the West and the rest, needs to be seriously questioned. He notes, “in the realm of biomedicine it was always the case. It was very hard to tell students where anthropology of medicine ended and where sociology of medicine began. I am really proactively looking to collapse binaries; and therefore the move to the Department of Anthropology and Sociology seems timely from my point of view. I do think that the Graduate Institute has rather taken the lead on this; it is extremely imaginative to create a fusion of departments, which normally across Europe and beyond have separate identities. I hope that this agenda will translate into real-life changes.”



## LAUNCH OF THE LL.M. IN INTERNATIONAL LAW BUILDING ON A DISTINGUISHED TRADITION

The Institute's new LL.M. in International Law could not be more timely. Today, the nature of international legal practice is such that it requires lawyers to be fluent both in public international law as well as to possess the tools necessary to traverse its many disciplinary boundaries. As such, the LL.M. will offer courses that provide a firm grounding in public international law while allowing participants to follow one of three specialty streams:

- Environment, Energy and Natural Resources
- International Economic Law
- International Protection of Vulnerable Groups

There is also an increasingly acute need to harness and develop the international legal tools that exist to meet a variety of global challenges. To this end – and placing a special emphasis on participants from Global South countries – the LL.M. will equip students with the knowledge and skills to further sustainable development and human rights in their home countries. Similarly, the LL.M.'s law clinics, tutorials and intensive courses will serve as a forum for research, progressive thinking and discussion.

Given the broad spectrum of legal traditions that will be represented on the Programme, participants from both developing and developed countries will benefit from a variety of perspectives on any given international legal problem, making them well qualified to further the rule of law in international relations and to acquire a more comprehensive understanding of how to craft multilateral legal solutions.



United Nations headquarters in Geneva.

Designed to bridge the gap between the theory and practice of international law, the Programme is committed to cultivating professional legal skills. In this respect, workshops on legal writing, presentation skills and career development, as well as a variety of network-building events, will provide the best possible springboard from which to launch or advance a career in international law.

As well as attracting the most promising international lawyers of tomorrow, the LL.M. will also engage some of the most distinguished international lawyers of today, with former judges, prominent legal practitioners and internationally-renowned scholars all forming part of the LL.M. faculty. As a consequence, the LL.M. in International Law presents an important opportunity to consolidate the Institute's position at the forefront of international legal research, education and practice.

<http://graduateinstitute.ch/executive>

## IN MEMORIAM

### CARLOS FUENTES ET LE DROIT INTERNATIONAL

Marcelo Kohen, professeur de droit international

Carlos Fuentes a toujours estimé avoir eu le privilège d'étudier à Genève en 1950, à l'Institut universitaire de hautes études internationales. Aujourd'hui, nous savons que c'est l'Institut qui a le privilège de compter parmi ses anciens étudiants l'une des plus grandes plumes de la littérature latino-américaine.

Ce séjour à Genève a profondément marqué Carlos Fuentes. Pour le futur écrivain et observateur de la politique internationale, Genève a été le lieu de passage de l'adolescence à l'âge adulte, un passage important auquel il reviendra dans son œuvre. Lorsque Juan Luis, le jeune Mexicain d'*Une âme pure*, découvre Genève, il ressemble comme deux gouttes d'eau au personnage autobiographique de Fuentes dans *Ce que je crois*.

Une autre influence a marqué Carlos Fuentes tout au long de sa vie : celle du droit international. Il évoque dans *Ce que je crois* l'ambiance « de discipline et d'Ancien Régime intellectuel » de l'Institut et les enseignements « d'une pléiade d'internationalistes-vedettes, comme Brierly, Bourquin, Röpke et Scelle ». Ses écrits relatifs aux affaires du monde sont traversés par la vision du droit international comme un élément de base pour la démocratisation des relations internationales, par la défense passionnée des droits humains et du principe de non-intervention. Carlos Fuentes était un Latino-Américain fidèle aux traditions qui sont les nôtres et qui a combattu ce qui furent deux des grands maux endémiques de la politique régionale durant des décennies : les régimes dictatoriaux et l'ingérence états-unienne. Il était ancré à gauche et l'était resté, contrairement à Vargas Llosa. Mais il était d'une gauche de principes, non « institutionnelle », n'épousant pas des régimes non respectueux des droits humains.

Carlos Fuentes luttait pour le respect absolu des droits humains, peu importe où et par qui ils étaient bafoués. En témoignent son voyage en Tchécoslovaquie avec Gabriel García Márquez et Julio Cortázar, et sa rébellion contre le soutien états-unien aux dictatures latino-américaines. Il était devenu un champion de la défense de deux principes qui ont révolutionné le droit pénal : l'universalité et l'imprescriptibilité des crimes contre la paix et contre l'humanité. Il a vibré lorsque le juge Garzón a demandé l'extradition de Pinochet à Londres et lorsque le vieux rêve d'une Cour pénale internationale est devenu réalité avec le Statut de Rome. Et il s'est insurgé à nouveau lorsque la politique du président George W. Bush a menacé la nouvelle CPI : « Ma mémoire retourne à Genève, à la Commission du droit international, à la période immédiate de l'après-guerre et à l'image des Etats-Unis d'Amérique comme étant les promoteurs actifs du droit international et de l'organisation internationale, y compris le droit pénal. Les Etats-Unis sont ainsi devenus leurs propres bourreaux lorsqu'ils tournèrent le dos à la meilleure défense contre la terreur, le droit » (« Tribunal penal internacional », *Reforma*, 16 juillet 2002).

Carlos Fuentes a aussi défendu avec vigueur le principe de non-intervention, même à l'heure de la mondialisation. Il ne s'agissait pas bien entendu de l'invocation du principe par les dictateurs, mais de son existence comme sauvegarde de l'indépendance des peuples : « Le principe de non-intervention, déclarait-il, continue d'être essentiel à la sécurité des nations. Il ne s'agit pas pour autant d'un principe absolu. Il permet les exceptions définies par les instruments internationaux. Toutefois, il ne peut pas être substitué par son antithèse, le droit d'ingérence. » Il considérait, à l'instar de Bernardo Sepúlveda, juge à la Cour



MEXICO : Un homme porte le portrait de l'écrivain décédé Carlos Fuentes au Fine Art Palace à Mexico, le 16 mai 2012. AFP/Alfredo ESTRELLA.

internationale de Justice, que ce prétendu droit ouvre la voie à la fin de l'ordre juridique et introduit un élément d'arbitraire, puisque c'est la puissance interventionniste qui juge et décide de son ingérence (« Kosovo y el nuevo orden internacional », *Reforma*, 15 avril 1999).

Les changements intervenus dans le monde après la chute du Mur de Berlin et que l'on réunit sous l'étiquette de la « mondialisation » le préoccupaient. Lorsque la mondialisation sera jugée, écrivait-il dans *Ce que je crois*, le jugement lui sera défavorable si par mondialisation, on entend la croissance du chômage, la réduction du service public, la perte de la souveraineté, la désintégration du droit international, doublée d'un cynisme politique grâce auquel, les étendards démocratiques agités contre le communisme durant la Guerre froide par le soi-disant monde libre étant désormais disparus, celui-ci se félicite de l'établissement de régimes capitalistes autoritaires mais efficaces. Il rappelait que la première mondialisation a été celle des grandes découvertes et du développement

du droit international, comme réponse aux procès mondiaux de la conquête, du colonialisme et des rivalités commerciales. Pour Carlos Fuentes, la société internationale n'a pas été capable de promouvoir une nouvelle légalité face à une nouvelle réalité, et il formulait en ces termes le grand défi qui nous attend : « Parviendrons-nous à établir un ordre international qui prévale sur les espaces sans loi – comme ceux du marché, du narcotrafic, des migrations ? Y aura-t-il des instances internationales capables de réguler ces processus ? »

C'est en poursuivant son plaidoyer pour une société internationale démocratique fondée sur le droit international que nous rendrons le meilleur hommage à Carlos Fuentes.

*Ce texte a été écrit à l'occasion de la table ronde en hommage à Carlos Fuentes organisée le 24 septembre 2012 par l'Institut et la Mission permanente du Mexique auprès des Nations unies.*

## THOMAS HELBLING

### PhD 2000



Thomas Helbling. Photo IMF Staff, Stephen JAFFE.

I have now enjoyed a fulfilling nearly twenty-year stint as an economist at the International Monetary Fund. My decision to study at the Graduate Institute and my years there have profoundly influenced my career but also my life and I continue to have many fond memories of my time in Geneva. During these tumultuous economic times, I am reminded why I chose this path.

I arrived in Geneva in the fall of 1989, a year and a half after obtaining an undergraduate degree in economics and business at the University of Basel. In the meantime, I had worked for a small consulting company. I was attracted to the Institute by its specialisation in international relations. Coming from a university where undergraduate classes were large, I appreciated the more personal atmosphere in the small classes and seminars. The Institute also offered opportunities. In my second year, I became a research assistant for a research project on competitiveness in banking that was led by Professors Genberg and Swoboda.

After my second year, I spent my summer as an intern at the International Monetary Fund. Switzerland was not an IMF member then, but the IMF was ready to accept Swiss interns in anticipation that Switzerland would soon become a member.

This experience turned out to be helpful when my time at the Institute came to an end. I was engaged after having met my future wife, Catherine Kuchta, at the Institute where she was a doctorate student in the political science department. She is American, and we were considering living for some time in the United States.

I was accepted into the IMF's *Economist Program* and started in the fall of 1994. I have been at the IMF since. The work on a wide variety of global economic policy issues continues to be fascinating, and I enjoy the international work environment with great colleagues. All my assignments have involved some real life experiences with policy issues that we had discussed in the classes and seminars at the Institute. In my first country desk assignment, for example, the exchange rate regime choice was an important part of the policy discussions with Lebanon. In recent years, I have been in the Research Department. There I led the work on monitoring international commodity market developments, a fascinating experience against the backdrop of the commodity boom of the past decade. About a year ago, I became chief of the World Economic Studies Division, the division that produces the World Economic Outlook. At a time when many economies still face deep macroeconomic problems, this work could not be more interesting.



## MACHA LEVINSON

### PhD 1974

Entering the Graduate Institute, then still the HEI, in 1968 was as daunting as it is today. The standards were high. American academic achievement did not impress Geneva's professors and it was only because I already had a Master's degree from New York's Columbia University and its Russian (later Harriman) Institute and had served as a US Foreign Service Officer on the disarmament delegation in Geneva, that I was admitted to the doctoral programme. Still, two years of courses were required before I was allowed to write a thesis and get my degree.

It was a stimulating and challenging period. The Institute was buzzing with intellectual discourse. Although, with three little children at home, I had to forego most extracurricular activities, it was easy to run down the avenue de la Paix to hear the outstanding guest lecturers that the Institute attracted.

Armed with a new doctorate, I became a consultant to Iran's disarmament delegation and to the Stockholm International Peace Research Institute. Then I jumped over the wall and became strategic affairs editor for the Geneva based *International Defense Review*, writing on armaments and military strategy. My big break came when I joined the World Economic Forum in 1987. The Berlin wall came down two years later, splintering the communist camp and opening up Eastern Europe. The secret world we, students of the Soviet Union, had tried to study and penetrate suddenly became accessible. We invited the new leaders of Russia and Eastern Europe to Davos and heard of the historic events they had witnessed. We were all caught up in the fervor and excitement of the moment.

As director for Eastern and Central Europe, I organised innumerable conferences and round tables bringing heads of Western business and government together with the



Macha Levinson.

political and new business leaders of the region. We held meetings in Moscow (almost annually), St Petersburg, the Baltics, Kazakhstan, Warsaw, Budapest, Prague and for seven years we held an annual Central and Eastern European Economic Summit which brought up to 800 politicians and executives from all these countries together in Salzburg, Austria. Over the 20 years spent at the Forum, I also headed the Energy sector and coordinated the *Global Competitiveness Report*.

The years at the Institute had given me the international orientation which made all this possible and there can be no better preparation for a career in a global world than that offered by the Graduate Institute.

# LES NOUVELLES THÈSES NEW THESES

## THÈSES SOUTENUES (janvier – décembre 2012) DEFENDED THESES (January – December 2012)

### ÉTUDES DU DÉVELOPPEMENT

—  
**Édoé Djimitri AGBODJAN** (Togo)

Déterminants monétaires de la performance sociale des institutions de microfinance: une analyse à partir du cas de la région de l'Ogou (Togo)

*Directeur: Jean-Michel Servet*

—  
**Sandra Paola ALVAREZ TINAJERO**

(Mexique)

Milking, Minding, Moving: Comparing Agricultural and Domestic Migrant Labor in Ragusa (Sicily)

*Directrice: Isabelle Schulte-Tenckhoff*

—  
**Cécile BIDAUD RAKOTOARIVONY** (France)

Le carbone qui cache la forêt: la construction scientifique et la mise en politique du service de stockage du carbone des forêts malgaches

*Directeur: Marc Hufty*

—  
**Mihaela BÜSCHI** (Suisse)

Urbanisation, Law and SEZ (Special Economic Zones) in India

*Directrice: Isabelle Milbert*

—  
**Mohammad Aftab Udin KHAN** (Bangladesh)

Disaster-Induced Business Vulnerability: From Emergency Relief to Sustainable Economic Recovery

*Directeur: Philippe Régnier*

—  
**Peter Bille LARSEN** (Danemark)

Frontier Governance: Rights, Environmental Conservation and Resource Extraction among the Yánesha in the Peruvian Amazon

*Directeurs: Marc Hufty et Jonathan Friedman*

—  
**Thu Huong LE** (Vietnam)

Debt, Labour and Migration in a Process of Indenturing Labour: Mechanism of Vietnamese Contract Workers Migration to Malaysia

*Directeur: Jean-Luc Maurer*

—  
**Nora NAGELS** (Belgique)

Genre et politiques de lutte contre la pauvreté au Pérou et en Bolivie: quels enjeux de citoyenneté?

*Directrice: Isabelle Milbert*

—  
**Lucas OESCH** (Suisse)

Gouverner le provisoire: le dispositif d'aménagement urbain des camps de réfugiés palestiniens et des quartiers informels à Amman

*Directeur: Riccardo Bocca*

### DROIT INTERNATIONAL

—  
**Ioana CISMAS** (Roumanie)

Rights and Obligations of Religious Actors under International Law

*Directeur: Andrew Clapham*

—  
**Cristiano D'ORSI** (Italie)

Specific Characteristics and Challenges of Refugee and Asylum Seeker Protection in Sub-Saharan Africa: Lessons Learnt in Search of a Better Future

*Co-directeurs: Vera Gowlland-Debbas et Vincent Chetail*

—  
**Delphine Olivia HAYIM** (Suisse)

Le concept d'indérogeabilité en droit international: une analyse fonctionnelle

*Co-directeurs: Andrea Bianchi et Vincent Chetail*

—  
**Mamadou HEBIE** (Burkina Faso)

Les accords conclus entre les puissances coloniales et les entités politiques locales comme moyens d'acquisition de la souveraineté territoriale

*Directeur: Marcelo Kohen*

—  
**Octavian ICHIM** (Roumanie)

Just Satisfaction under the European Convention on Human Rights

*Directeur: Andrea Bianchi*

—  
**Sandra KRÄHENMANN** (Suisse)

Positive Obligations in Human Rights Treaties

*Directeur: Andrea Bianchi*

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**Thiago LUCHESI** (Brésil)

The Right to Health under the United Nations Convention on the Rights of the Child: Myth or Reality?

*Directeur: Andrea Bianchi*

—  
**Andrès OLLETA** (Argentine)

The Permeability of the Sources of International Law to Power: Insights into Contemporary International Lawmaking from the Disciplines of International Relations and International Law

*Directeur: Marcelo Kohen*

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**Benedikt Harald PIRKER** (Autriche)

Proportionality Analysis and Judicial Review: A Comparative Study in Domestic Constitutional, European and International Economic Law

*Directeur: Joost Pauwelyn*

—  
**María Fernanda SALINA** (Italie, Argentine)

The Role of International Mediation in the Settlement of International Disputes

*Directeur: Marcelo Kohen*

—  
**Pablo SANDONATO DE LEON** (Uruguay)

Les présomptions judiciaires en droit international public

*Directeur: Marcelo Kohen*

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**Evelyne SCHMID** (Suisse)

Violations of Economic, Social and Cultural Rights in International and Transnational Criminal Law

*Directeur: Andrew Clapham*

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**Jean TSCHOPP** (Suisse)

Statut et droits collectifs des peuples autochtones

*Directeur: Marcelo Kohen*

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## ÉCONOMIE INTERNATIONALE

---

**Yose Rizal DAMURI** (Indonésie)

Regional Integration and Political Economy of Regional Trade Agreement

*Directeurs: Richard Baldwin et Marcelo Olarreaga*

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**Salvatore DELL'ERBA** (Italie)

Three Essays on the Determinants of Sovereign Risk

*Directeur: Charles Wyplosz*

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**Dick Nuwamanya KAMUGANGA** (Ouganda)

Three Essays on African Participation in International Trade

*Directeur: Patrick Low*

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**Pierre KOHLER** (Suisse)

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**Sergio SOLA** (Italie)

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**Rolf TRAEGER** (Brésil)

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*Directeur: Patrick Low*

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**Tommaso TRANI** (Italie)

Borrowing Constraints in International Portfolios and Macroprudential Policy

*Directeur: Cédric Tille*

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**Natascha WAGNER** (Allemagne)

Three Essays on the Fetters to Development

*Directeur: Jean-Louis Arcand*

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**Veronika ZAVACKA** (Slovaquie)

Response of International Trade to Financial Crises and Uncertainty Shocks

*Directeur: Richard Baldwin*

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## HISTOIRE ET POLITIQUE INTERNATIONALES

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**Bernhard BLUMENAU** (Allemagne)

Forging the International Pact against Terrorism: West Germany's Multilateral Efforts against International Terrorism in the 1970's

*Directeur: Jussi Hanhimäki*

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**Pierre-Etienne BOURNEUF** (France)

"The Bombing War": les bombardements stratégiques alliés contre les villes allemandes pendant la Seconde Guerre mondiale

*Directeur: Bruno Arcidiacono*

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**Romain ESMENJAUD** (France)

L'africanisation et l'appropriation africaine des opérations de paix: étude politique et historique à travers les missions africaines au Tchad (1979-1982), en République centrafricaine (1997 à nos jours) et au Darfour (2004 à nos jours)

*Co-directeurs: Gopalan Balachandran et Keith Krause*

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**Jerzy KRYKOWSKI** (Pologne)

Nomine ecclesiastiche e atteggiamento del clero come oggetto delle relazioni tra la Santa Sede e il Regno d'Italia sotto il pontificato di Pio XI (1922-1939)

*Directeur: Bruno Arcidiacono*

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**Vesna MARINKOVIC** (France)

« OTAN de l'énergie » vs « Club de l'énergie de l'OCS »: le rôle des organisations régionales de sécurité dans la sécurisation des sources et des voies

d'approvisionnement en gaz et en pétrole  
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**Anna MKHOYAN** (Arménie)

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**Francesca PIANA** (Italie)

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**Seamus TAGGART** (Irlande)

Italian Relations with the People's Republic of China during the Cold War: Institutional Constraints on Foreign Policy in a Bipolar World

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## SCIENCE POLITIQUE

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**Cécilia CANNON** (Australie)

Campaigning for Universal Norms: Measuring Non-state Actor Influence on Processes of Normative Change

*Directeur: David Sylvan*

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**Stephanie DORNSCHNEIDER** (Allemagne)

(Not) Killing in the Name of Islam: A Computational Analysis of the Reasoning Processes Underlying Political Violence and Nonviolent Activity in Egypt and Germany

*Directeur: David Sylvan*

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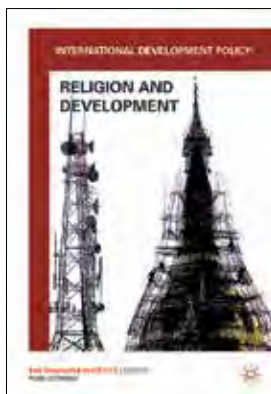
**Michael FLYNN** (Etats-Unis)

Concealing and Revealing: On the Schizophrenic Evolution of Immigration Detention

*Directeur: David Sylvan*

# LES PUBLICATIONS

## NEW PUBLICATIONS



—  
*International Development Policy*,  
No. 4: *Religion and Development*.  
Basingstoke: Palgrave Macmillan;  
Geneva: Graduate Institute  
Publications. 2013. 232 p.

### INTERNATIONAL DEVELOPMENT POLICY, NO. 4 RELIGION AND DEVELOPMENT

With the resurgence of religion in many parts of the world and the rise of fundamentalism within major religions, both scholars and development agencies are increasingly concerned with the role of religion and faith-based organisations in development policy and practice. In this special issue of *International Development Policy*, sixteen scholars and practitioners examine these issues, questioning the secular-religious dichotomy in development discourse and practice. The book sheds light on the reluctance of mainstream economic development approaches to incorporate religion into policy debate and practice. It analyses recent initiatives by international development agencies and donors to address this gap, including the establishment of partnerships with faith-based organisations. Looking at religious movements in Brazil, China, Sri Lanka, South Africa, Turkey and the states of the “Arab Spring”, the authors discuss how far faith and religion provide an alternative to the (neo)liberal democratic development agenda.

### REVUE INTERNATIONALE DE POLITIQUE DE DÉVELOPPEMENT, NO. 4 RELIGION ET DÉVELOPPEMENT



La revue est aussi disponible en français, en ligne et sur papier :

<http://poldev.revues.org>



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*Revue internationale de politique  
de développement*, no. 4: *Religion  
et développement*. Genève:  
Graduate Institute Publications.  
2013.



# EUROPE TWENTY YEARS AFTER THE END OF THE COLD WAR: THE NEW EUROPE, NEW EUROPE? L'EUROPE VINGT ANS APRÈS LA FIN DE LA GUERRE FROIDE : NOUVELLE EUROPE, NOUVELLES EUROPE?

Edited by / sous la direction de Bruno Arcidiacono, Katrin Milzow, Axel Marion,  
and Pierre-Etienne Bourneuf

Published in 2012 when the Nobel Committee awarded the European Union its Peace Prize, the book *Europe Twenty Years after the End of the Cold War* asks how Europe has evolved over the two decades after the fall of the Soviet Union. It looks at whether this has led to the emergence of a new political space, how the EU has changed with the integration of new members from Central and Eastern Europe, and how the perception of the continent has changed in the eyes of its inhabitants. The work was edited by Bruno Arcidiacono, Professor of International History, Katrin Milzow, Axel Marion, and Pierre-Etienne Bourneuf, Graduate Institute PhD graduates. The book compiles nearly 20 articles from distinguished scholars and young researchers, including Katrin Milzow, Axel Marion, and Institute Assistant Professor Annabelle Littoz-Monnet. Published by Peter Lang Academic Publishers, it is the result of a conference entitled *Europe Twenty Years after the end of the Cold War* organised in October 2010 by the Institute and the Pierre du Bois Foundation for Current History.



Euroclio 65. Bruxelles, New York:  
P.I.E. Peter Lang. 2012. 330 p.

# PRIVATIZING WAR PRIVATE MILITARY AND SECURITY COMPANIES UNDER PUBLIC INTERNATIONAL LAW

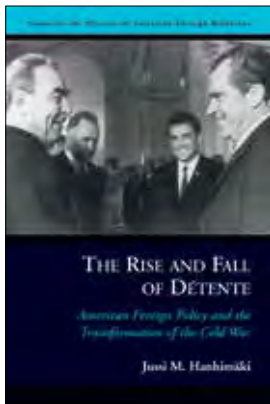
Vincent Chetail and Lindsey Cameron

A growing number of states use private military and security companies (PMSCs) for a variety of tasks, which were traditionally fulfilled by soldiers. This book provides a comprehensive analysis of the law that applies to PMSCs active in situations of armed conflict, focusing on international humanitarian law. It examines the limits in international law on how states may use private actors, taking the debate beyond the question of whether PMSCs are mercenaries. The authors delve into issues such as how PMSCs are bound by humanitarian law, whether their staff are civilians or combatants, and how the use of force in self-defence relates to direct participation in hostilities, a key issue for an industry that operates by exploiting the right to use force in self-defence. Throughout, the authors identify how existing legal obligations, including under state and individual criminal responsibility, should play a role in the regulation of the industry.



Cambridge: Cambridge University  
Press. March 2013. 768 p.

This book is the result of a research project supervised by Professor Vincent Chetail (Graduate Institute) and Professor Marco Sassöli (University of Geneva). The project was financed by the Swiss National Science Foundation and carried out within the Geneva Academy of International Humanitarian Law and Human Rights.

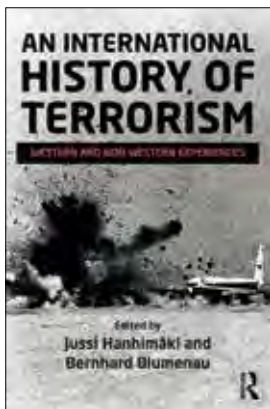


Washington, D.C.: Potomac Books. 2012. 276 p.

## THE RISE AND FALL OF DÉTENTE AMERICAN FOREIGN POLICY AND THE TRANSFORMATION OF THE COLD WAR

Jussi Hanhimäki

This book offers a highly readable survey of the evolution of American foreign policy in the 1960s and 1970s, an era of superpower détente and global transformation. It surveys the reasons that led to the rise of détente, explores the highlights of this era of reduced East-West tensions, and explains the causes for its demise. A key theme running throughout the book is that détente was a conservative policy, aimed at stabilising a highly charged international situation. Some of détente's immediate results were spectacular (Opening to China, SALT agreement with the Soviets) but the policy itself lacked domestic support and international respect. These two factors brought about its end by the early 1980s. However, while détente as conceived in the early 1970s did not last, it did introduce such issues as the idea of human security that ultimately worked to undermine the validity of the Cold War international system itself. The book concludes that détente ironically and unintentionally discredited the Cold War international system it was meant to stabilise.



London: Routledge. 2013. 328 p.

## AN INTERNATIONAL HISTORY OF TERRORISM: WESTERN AND NON-WESTERN EXPERIENCES

Edited by Jussi Hanhimäki and Bernhard Blumenau

The aim of this book is to provide readers with the necessary tools to understand the historical evolution of terrorism and anti-terrorism over the past 150 years. In order to appreciate the contemporary challenges posed by terrorism, it is necessary to look at the transformations it has experienced. The same applies to the solutions that states have designed to combat terrorism: the nature of terrorism changes but still it is possible to learn from past experiences even though they are not directly applicable to the present.

This book provides a fresh look at the history of terrorism through in-depth analysis of several important terrorist crises and the reactions to them in the West and beyond. Its content stretches from the late 19th century to the present. The general framework is laid out in four parts: experiences with terrorism prior to the Cold War, the Western encounter with terrorism, non-Western experiences with terrorism, and contemporary terrorism and anti-terrorism. The issues covered offer a broad range of historical and current themes, many of which have been neglected in existing scholarship so far. The book also features a chapter on the "waves phenomenon" of terrorism against its international background.

## EUROPEAN SECURITY IN NATO'S SHADOW PARTY IDEOLOGIES AND INSTITUTION BUILDING

Stephanie Hofmann

NATO has been a successful forum for managing European security policy. Yet European governments have repeatedly tried to build a new security institution in NATO's shadow. In this innovative book, Stephanie Hofmann asks why governments attempted to create an additional institution despite no obvious functional necessity, and why some attempts failed while others succeeded. *European Security in NATO's Shadow* considers security cooperation through the lens of party ideologies to shed new light on these questions. The author observes that political parties are motivated to propose new institutions by their multi-dimensional ideologies. Moreover, the success of efforts to create such institutions depends on the degree of ideological congruence among parties in power. In particular, the relationship between the values of multilateralism, sovereignty and Europe informed the impetus and success rate of the attempts made during negotiations for the Maastricht, Amsterdam and Nice treaties to create a European security institution.



Cambridge: Cambridge University Press. 2013. 280 p.

## GLOBAL HEALTH DIPLOMACY CONCEPTS, ISSUES, ACTORS, INSTRUMENTS, FORA AND CASES

Edited by Ilona Kickbusch, Graham Lister, Michaela Told, and Nick Drager

Social and environmental crises, global trade and politics, and major epidemics are making public health a pressing global concern. From this constantly changing scenario, global health diplomacy has evolved at the intersection of public health, international relations, law, economics, and management. It is a new discipline with transformative potential.

Global health diplomacy relates to health issues that cross national boundaries, are global in nature and require collective action to address them. It has become a complex undertaking demanding new skills from diplomats and health officials. This textbook is a response to these new needs: it attempts to share the knowledge and experience of practicing officials and academics working in this evolving field to develop the art and science of global health diplomacy.

*Global Health Diplomacy* serves as a guidebook for in depth learning on key issues, such as

- The legal basis of global health agreements and negotiations
- Global public goods as a foundation for global health diplomacy
- Global health: a human security perspective
- Health issues and foreign policy at the UN
- National strategies for global health
- South-South cooperation and other new models of development



New York: Springer. 2012. 363 p.

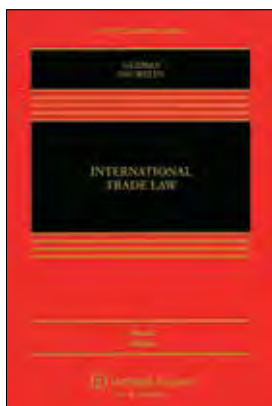


Berlin, London: Gerlach Press.  
March 2013. 319 p.

## RESOURCES BLESSED DIVERSIFICATION AND THE GULF DEVELOPMENT MODEL

Edited by Giacomo Luciani

Are natural resources an asset or a curse for the countries that discover them? This debate has been raging for the past twenty years, yet most of the entries either ignored completely or only marginally covered the case of the countries of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates). This book aims at redressing the misperception about the negative impact of resources on development (oil curse), at least in the case of the six countries of the GCC. These have succeeded in turning oil into a blessing and are achieving economic diversification. The GCC countries have pragmatically defined a “Gulf consensus” that has served them well so far. If oil were to be exhausted tomorrow, it is debatable whether the GCC economies might survive. But oil is not going to be exhausted any time soon, nor lose its economic value. A realistic assessment tells us that the GCC countries have at least half a century of resource blessing ahead of them, and there is plenty that can be accomplished in such a time frame.



New York: Wolters Kluwer Law  
and Business. 2012. 720 p.

## INTERNATIONAL TRADE LAW

Joost Pauwelyn and Andrew Guzman

In 2012, the second edition of the popular case book on international trade law by Institute Professor Joost Pauwelyn and Andrew Guzman (Professor at UC Berkeley) was released. The book covers all areas of the law of the World Trade Organization (WTO) and incorporates core disputes, thoughtful questioning, and hypothetical case studies. *International Trade Law* examines the economics and politics of trade, the history and structure of the GATT/WTO system, and WTO dispute settlement. It also addresses a wide variety of substantive issues of trade law.

This edition updates the first in several respects. It now examines the impact of the financial crisis, the deadlock in the Doha trade negotiations, and the rise of emerging countries like China. Numerous new disputes are also covered. Another new feature is that it is now available in softcover for students outside of the United States at a fraction of the price, bringing it within reach of law schools and trade law students in most parts of the world. The book also comes with a documents supplement, listing all major WTO legal texts, a Teacher’s Manual and a companion website to keep the book up to date.

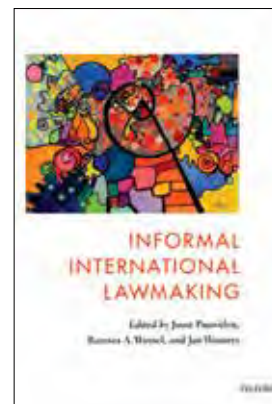


## INFORMAL INTERNATIONAL LAWMAKING

Edited by Joost Pauwelyn, Ramses Wessel, and Jan Wouters

This book critically assesses the concept of informal international lawmaking, its legal nature, and impact at the national and international level. It examines whether it is on the rise, as is often claimed, and if so, what the implications of this are. It addresses what actors are involved in its creation, the processes utilised, and the informal output produced.

The book frames informal international lawmaking around three axes: output informality (novel types of norms other than treaties), process informality (norm-making in networks outside international organisations), and actor informality (the involvement of public agencies and regulators, private actors, and international organisations). Fundamentally, the book is concerned with whether this informality causes problems in terms of keeping transnational lawmaking accountable. By empirically analysing domestic processes of norm elaboration and implementation, the book addresses the key question of how to benefit from the effectiveness of informal international lawmaking without jeopardising the accountability necessary in the process of making law.



Oxford: Oxford University Press.  
2012. 584 p.

## GENRE, CHANGEMENTS AGRAIRES ET ALIMENTATION

Sous la direction de Christine Verschuur

Près d'un milliard de personnes ont faim dans le monde et, paradoxalement, 70 % d'entre elles font partie de familles paysannes. Cet ouvrage veut attirer l'attention sur les processus d'appauvrissement des paysannes et paysans. La contribution des paysannes à la production agricole est maintenant mieux reconnue, tout comme le sont les contraintes liées à leur accès inégal à la terre, aux outils, à l'eau, au crédit, au travail et au marché. Mais les études de développement agricole s'intéressent encore peu aux savoirs et stratégies des paysannes, aux systèmes de production vivrière et à la place que les paysannes y occupent, aux rapports de pouvoir entre producteurs et productrices agricoles, au travail des ouvrières agricoles. Le dernier titre de la collection « Cahiers Genre et Développement » vient ainsi combler un manque en abordant plusieurs champs de réflexion : les silences dans l'économie politique des changements agraires ; la libéralisation agricole et les questions que pose l'articulation du travail reproductif et productif ; les rapports de pouvoir dans les systèmes de production vivrière, ainsi que les transformations du travail en milieu rural ; la question de l'accès à la terre ; les luttes et les enjeux liés au droit à l'alimentation. Cet éclairage nouveau sur les inégalités de genre dans le développement rural permet de mieux comprendre l'appauvrissement des familles paysannes.



Cahiers Genre et Développement  
8. Paris: L'Harmattan. 2012.  
480 p.

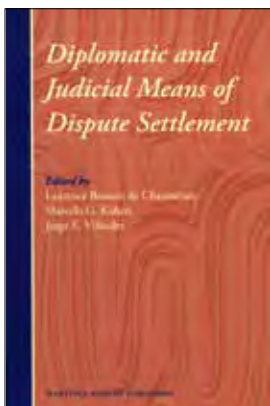


Cambridge Studies in International and Comparative Law 94. Cambridge: Cambridge University Press. 2012. 478 p.

## FOREIGN INVESTMENT AND THE ENVIRONMENT IN INTERNATIONAL LAW

Jorge Viñuales

This book provides the first comprehensive analysis of the relationship between foreign investment and environmental law both from a policy and a practical perspective. It identifies the major challenges facing States, foreign investors and their legal advisers as a result of the potential friction between investment law and environmental law and provides a detailed evaluation of all the major legal issues on the basis of a comprehensive study of the international jurisprudence. This publication meets an increasingly pressing need in academic and practitioner circles. As noted by Prof. Edith Brown Weiss, from Georgetown, "the book fills an important gap in the literature". Advance praise for the book includes comments from Meg Kinnear, Secretary-General of ICSID "an invaluable resource for both practitioners and scholars of international law"; Prof. M. Sornarajah, from NUS "[it] will guide the future interactions of [investment law and environmental law] for years to come"; J. Paulsson, from Freshfields "a sophisticated and probing examination of ways we mobilise and husband the defensive juridical weapons with which we hope to preserve a planet that our species seems perfectly capable of destroying"; and Prof. P.-M. Dupuy, from the Graduate Institute "what is striking is not only the scope of the study but the mastery with which the author is able to cover and integrate a diversity of interconnected but distinct issues".



Leiden, Boston: Martinus Nijhoff. 2012. 356 p.

## DIPLOMATIC AND JUDICIAL MEANS OF DISPUTE SETTLEMENT

Edited by Laurence Boisson de Chazournes, Marcelo Kohen, and Jorge Viñuales

The settlement of international disputes has been one of the most researched fields of international law since the adoption of the Charter of the United Nations. Yet, little attention has been devoted specifically to the interaction between diplomatic and judicial means of international dispute settlement. In a new volume co-edited by professors L. Boisson de Chazournes, M. Kohen and J. Viñuales, this interaction is examined in detail. The volume, which is the result of a joint project undertaken by the American, European, and Latin American Societies of International Law, with support from the Swiss Directorate of Public International Law, the Graduate Institute, and the Geneva Law School, brings together a distinguished cohort of academics and practitioners to address this complex issue. Contributors include former UN Secretary-General Kofi Annan, International Court of Justice Vice-President Bernardo Sepúlveda Amor, and many other prominent international lawyers from different countries, such as Georges Abi-Saab, Pierre-Marie Dupuy, Lucy Reed or Hélène Ruiz Fabri.

# THE EXTRATERRITORIAL APPLICATION OF SELECTED HUMAN RIGHTS TREATIES

Karen da Costa

In recent years, the question of whether and to what extent states are bound by human rights treaty obligations when they act abroad has given rise to considerable debate in academic circles, court-rooms and military operations. Karen da Costa's book, drawn from a thesis of the same title supervised at the Graduate Institute by Professor Andrew Clapham, focuses on treaties considerably jeopardised during the "war on terror": the International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the Convention against Torture.

Together with the wording of these treaties, critical analysis is made of the ensuing interpretation of their provisions by monitoring bodies and states parties, suggesting a way to accommodate conflicting interests while preserving the effective protection of basic rights.

Dr. Karen da Costa is currently University Fellow in Human Rights at the Irish Centre for Human Rights (Galway), and Honorary Research Fellow at the Department of Social Sciences of the University of Roehampton (London).



GIIS 11. Geneva: Graduate Institute Publications; Leiden, Boston: Martinus Nijhoff. 2012. 434 p.

# GROTIUS ET LA DOCTRINE DE LA GUERRE JUSTE

Peter Haggenmacher

Pour le lancement de la collection «eHeritage de l'Institut», le droit international est mis en valeur avec l'ouvrage *Grotius et la doctrine de la guerre juste*, originellement publié en 1983 dans la collection coéditée avec les Presses Universitaires de France. «eHeritage de l'Institut» est une collection électronique placée sur «Revues.org», portail d'édition en ligne spécialisé en sciences sociales. Son but est de rendre accessibles d'anciens textes académiques qui ont contribué à la renommée de l'Institut universitaire de hautes études internationales (HEI) et de l'Institut universitaire d'études du développement (IUED), et ce depuis le début du XX<sup>e</sup> siècle.

La place de Grotius dans l'histoire du droit international a toujours été controversée. Pour autant, tous les débats percevaient l'humaniste néerlandais en fonction de la discipline actuelle du droit international. Peter Haggenmacher, professeur honoraire à l'Institut, montre au contraire comment la pensée de Grotius ne se situe pas par rapport au droit international, discipline alors inexistante, mais dans le cadre de référence du droit à la guerre, qui était à l'époque de Grotius une branche individualisée de la pensée juridique, aboutissement d'une réflexion de plus en plus étendue sur le problème de la guerre juste.



eHeritage de l'Institut 1. Genève: Graduate Institute Publications. 2013.

<http://iheid.revues.org/605>





Graduate Institute ePaper 16.  
Geneva: Graduate Institute  
Publications. 2012.

## PASHTUN TRADITIONS VERSUS WESTERN PERCEPTIONS CROSS-CULTURAL NEGOTIATIONS IN AFGHANISTAN

Leo Karrer

Cross-cultural interactions take place every day in contemporary Afghanistan between locals and the thousands of foreigners working in the country as diplomats, officials from international organisations and humanitarian aid workers. As their work requires them to interact with Afghans in manifold ways, all foreigners must, at least indirectly, negotiate. Leo Karrer's ePaper sheds light on the cross-cultural issues likely to contribute to the difficulties encountered by the international community in negotiating with Afghanistan as well as for Afghans negotiating with foreigners. It attempts to highlight the complexity of Afghan negotiation behaviour against the binary indexing predominant in preconceived cluster of Western cross-cultural negotiation and communication theories. Largely, Leo Karrer finds that the current cross-cultural theories fail to provide a solid basis upon which to interpret the reality that exists on the ground in Afghanistan.

<http://iheid.revues.org/536>



Graduate Institute ePaper 17.  
Geneva: Graduate Institute  
Publications. 2013.

## TIRED OF BEING A REFUGEE YOUNG PALESTINIANS IN LEBANON

Fiorella Larissa Erni

After six decades of protracted refugeehood, patterns of social identification are changing among the young people of the fourth refugee generation in the Palestinian refugee camp Burj al-Shamali in Southern Lebanon. Though their identity as *Palestinian refugees* remains the same compared to older refugee generations, there is an important shift in the young refugees' relationship towards the homeland, their status as refugees, Islam, the camp society, as well as in their relationship towards religious or ethnic "others" in and outside Lebanon. This ePaper examines how technology, globalisation and outside influences have impacted the young Palestinians' interpretation of their identity and their understanding of *Palestinianness*. The author concludes with reflections on the young refugees' attitudes towards their Palestinian identity in the diaspora which, as she argues, can only survive when the young refugees see their identity as a virtue rather than as a hindrance.



# COUNTERPIRACY UNDER INTERNATIONAL LAW

Stuart Casey-Maslen and Alice Priddy

The Geneva Academy launched its first Academy Briefing, *Counterpiracy under International Law*, at the Villa Moynier in September 2012. A rapid growth of piratical attacks over the past ten years, especially off the coast of Somalia, but increasingly also in the Gulf of Guinea, has led to an international effort to address the problem.

Existing international law, notably in the Law of the Sea Convention, is generally adequate to counter piracy. What is lacking is political will and funding to prosecute and incarcerate pirates while addressing the root causes of piracy.

There is, however, an urgent need to clarify the lawful use of force by private maritime security contractors. When and in what circumstances they may open fire on another vessel on grounds of self-defence remains underdeveloped. Detailed guidance for the use of force (including warning shots) by contractors would be a valuable next step. The Briefing seeks to indicate how this could be elaborated.

# THE DRAFT ARMS TRADE TREATY

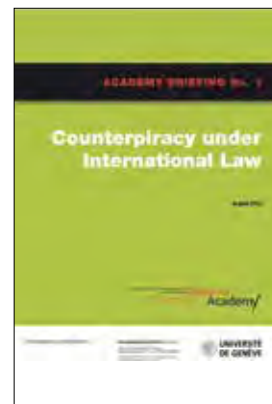
Stuart Casey-Maslen, with Sarah Parker

Millions of people around the world suffer as a result of poor regulation of the arms trade and illicit trafficking of arms, while hundreds of thousands are killed or injured by conventional arms. A global Arms Trade Treaty needs to be adopted to set out the parameters of responsible and licit transfer of weapons. A UN conference in New York in July 2012 failed to achieve consensus on the text of a treaty, but did produce a draft text. In October 2012, the Geneva Academy launched an Academy Briefing at the Institute to assess the adequacy of this draft.

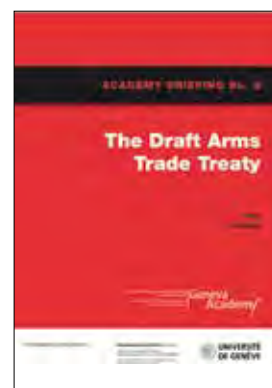
Many challenges must be overcome in order to secure the adoption of an effective ATT. Among the core issues to be addressed is the need to prohibit transfers of weapons that will likely be used to commit genocide, crimes against humanity, or war crimes. Where other serious violations of international human rights or humanitarian law are probable, transfers of weapons should not be authorised. There should be no loophole for transfers through defence cooperation agreements, and ammunition and munitions should be brought within the scope of the Treaty.

Academy Briefings are available in PDF format at

<http://geneva-academy.ch>



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Academy Briefing 2. Geneva: Geneva Academy of International Humanitarian Law and Human Rights. 2012. 39 p.



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Vue intérieure du pétale 1 de la Maison de la paix. Janvier 2013. Photo Gérald SCIBOZ.  
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