



**WCP Workshop on
Methodological issues in International Economic Law: Integrating South Asian
Perspectives**

*organised by
Centre for Trade and Investment Law and Centre for WTO Studies
with the support of
National University of Advanced Legal Studies*

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National University of Advanced Legal Studies, Kochi

The WTO Chairs Programme, launched in 2010 by the World Trade Organization, aims to support, promote and enhance knowledge and understanding of International Trade Law and policy among academicians and policy makers in developing and least developed countries by encouraging and supporting trade-related academic activities undertaken by research institutions and universities.

Academic institutions which are awarded WTO Chairs receive support in the areas of research, curriculum development, and outreach activities. The Indian Institute of Foreign Trade has been selected as the India Chair in Phase 3 of the WTO's Chairs Programme on the basis of a joint application by two of its centres – the Centre for Trade and Investment Law (CTIL) and the Centre for WTO Studies (CWS).

As part of the activities which would be conducted by the India Chair under the WCP, CTIL and CWS will host a workshop for academicians from the South Asian region on the topic ***Methodological issues in International Economic Law: Integrating South Asian Perspectives***. The workshop is scheduled to be conducted on **21st and 22nd December 2022 at National University of Advanced Legal Studies, Kochi, Kerala, India.**

Although International Economic Law has acquired considerable salience over the past decades, South Asia's contributions to this rapidly evolving area has been marginal. While referring to methodological issues, we focus on the rule making and identification of sources as well as methods and perspectives on legal interpretation of relevant materials of International Economic Law. Methodological challenges mainly arise from understudied and inadequately examined notions of justice and principles of governance that find reflections in International Economic Law treaty texts. South Asian countries have rich and unique histories and cultural practices that can add new facets to the evolving areas of International Economic Law. In addition, the concerns of South Asian countries with respect to human right issues such as food security, energy security, indigenous rights, etc., find limited attention in International Economic Law discussions. The workshop will focus on how methodology serves as an effective means of understanding the recent developments in International Economic Law and how research should account for the changes in rules and governance structures. The methodological issues associated with International Economic Law can be divided into five broad areas:



(a) **Non-trade areas** - Expansion of International Economic Law to govern topics traditionally perceived as non-trade areas. These include anti-corruption, gender, labour, competition, MSMEs, innovation, state owned enterprises, digital trade, environment, etc.¹ While many countries continue discussions on these at the multilateral level, the prominence of such non-trade issues is particularly seen in preferential trade agreements (PTAs). The obligations could be either cooperation-based or substantial, with substantial obligations being subject to dispute settlement.

(b) **Non-state actors** - While the participation of non-state actors is traditionally seen in investor-state disputes, it has been largely limited to the involvement of private entities as investors. In other areas of International Economic Law, civil society organizations, think tanks and non-governmental organizations have gained significance in various capacities.² The workshop will examine in particular the evolving role of civil society organizations and the concerns South Asian countries have in providing enhanced participation.

(c) **Critical approaches** - Critical approaches seek to challenge liberal legal theory and the neutrality of International Economic Law. One such critical approach is post-colonial approach, which has been particularly useful in discussing the decolonization of International Economic Law.³ Post-colonial approach highlight the experiences of the Global South and adopts a critical lens towards western hegemony in International Economic Law. Likewise, other facets of critical approaches can create a nuanced understanding of developments in International Economic Law.

(d) **Multilevel constitutionalism** - Multilevel constitutionalism refers to the promotion of national-level constitutional principles at the regional or global level. Harmonization of national-level constitutionalism with international governance could help in creating a global economic order sensitive to the ideals of developing countries. The purpose of multilevel constitutionalism is to ensure enforcement and predictability for private and state actors when entering legal obligations.⁴

(e) **Multilateralism and PTAs** - While the WTO Appellate Body crisis has impacted the appellate mechanism at the WTO, the 12th Ministerial Conference has highlighted the ability of WTO Members to agree on key outcomes. However, at the same time there has been a simultaneous rise in bilateral PTAs and mega-regional agreements.⁵ Academicians can play an

¹ Aditya Mattoo, Nadia Rocha and Michele Ruta, *Handbook of Deep Trade Agreements*, WORLD BANK GROUP (2020).

² Markus Wagner, *Non-State Actors*, MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW, RÜDIGER WOLFRUM, ED., OUP (2009).

³ James J Nedumpara & Leila Choukroune, *International Economic Law: Texts, Cases and Materials*, CUP (2022), pg. 17- 18.

⁴ Ernst-Ulrich Petersmann, *Methodology Problems in International Economic Law and Adjudication*, 7 JINDAL GLOBAL LAW REVIEW (2016), pg 297-332; Ernst-Ulrich Petersmann, *International Economic Law in the 21st Century: need for Stronger “Democratic Ownership” and Cosmopolitan Reforms*, 31 POLISH YEARBOOK OF INTERNATIONAL LAW (2012), pg 9-47.

⁵ James J Nedumpara & Leila Choukroune, *International Economic Law: Texts, Cases and Materials*, CUP (2022), pg. 2.



important role in reconciling the rise of PTAs along with a renewed faith in the multilateral trading system.

The workshop will be attended by 15 participants—ten from academic institutions in India and 5 participants from South Asian countries such as Nepal, Bangladesh, Sri Lanka, Maldives, and Pakistan. These 15 participants will be assisted by prominent experts in International Economic Law who would aid the participants in identifying the methodological issues as well as finding possible solutions to enhance the quality and output of publications in International Economic Law.