



Workshop:

From Rule-takers to Rule-makers: Emerging Powers in the Regulation of International Trade

University of Geneva, February 9th and 10th 2016,

Unimail, 40 boulevard du Pont d'Arve, Room M1130 (1st floor)

For directions see: <http://www.unige.ch/presse/static/plan/mail.html>

Brief description

This workshop closes two 3-year projects funded by the Swiss Network of International Studies (SNIS) and the Swiss National Science Foundation (SNF). The projects addressed the question of power shifts in the international system with a particular focus on trade regulation. While the SNF project investigated the potential decline in EU/US regulatory influence on emerging economies the SNIS project asked under which conditions emerging markets turn from rule-takers to rule-makers in international trade regulation.

The starting point is the observation that Brazil, China, India and Mexico as well as other countries have become influential players within an international trade regime whose core principles, rules and procedures have been shaped earlier and by others, notably the United States of America and the European Union. Multilateral and EU/US bilateral economic policies promote regulated liberal markets in line with the principles associated with the Post Washington Consensus (PWC) – a system of rules that involves, in addition to the opening-up of markets, also a particular type of "regulatory state". This type of governance differs from alternative paradigms that have a strong tradition in several of these emerging countries – usually summarized under the label "Developmentalism" (Wade 1992; Woo-Comings 1999). Defined as a specific form of governance that operates at arm's length from government, the regulatory state focuses on the production of rules (rather than directly producing products or services) and privileges the role of experts and technocrats over that of politicians (Levi-Faur 2011). The question of power shifts thus has profound domestic implications in emerging economies that underpin not only transition towards market economies but also towards a specific model of regulatory politics.

Whereas the shifts in economic power are by now well documented, we know relatively little about what large emerging economies seek from the global system, how their insertion into international rules affects the domestic organisation of state and society, and how these countries pursue their interests in particular in the global trade regime. While a large literature exists on conditionality and other mechanisms of diffusion that have to do with the supply of international norms associated with the PWC, we identify two lacunae in the literature. On the one hand, the extent to which the "old" hegemon, the EU and the US, have retained the capacity to wield regulatory power in their relations with emerging countries has not been systematically studied. On the other hand, little is known about the factors affecting the domestic demand for regulatory reforms in the emerging countries. This demand aspect is associated with the transition of emerging countries towards the regulatory state, and with contestation, both in terms of (economic) interests and (political/regulatory) ideas. We expect trade-offs to exist in policy fields with significant social implications (e.g. the pharmaceutical sector and access to medicines in intellectual property rights or state owned enterprises and employment in competition policy). We suggest that these trade-offs mirror more profound conflicts between the more statist approach of the Developmental state or governed markets

and the regulatory state. This implies that, in addition to pressure by influential industry groups (Bach and Newman 2014), the transition also hinges upon the support from ruling political elites and on the activism of pertinent regulatory bodies and associated experts.

The project features a comparative research design examining the foreign economic policy behaviour of the EU, US, Brazil, China, India and Mexico in four contested trade-related regulatory fields: competition law, intellectual property rights, public procurement and services-related labour mobility. These regulatory fields touch so-called “behind-the-border” issues and have far reaching implications for the role of the state in economic development. Three of these fields flow directly from the regulatory agenda of the EU and the US – competition law, IPR and public procurement – partly evoking vivid resistance and alternative approaches from countries such as Brazil and India in particular, whereas the promotion of labour mobility is a priority of the emerging countries meeting the resistance of Western powers.

Bringing together some well-known scholars working on these issues as well as practitioners, the workshop seeks to widen our understanding of the role of emerging countries next to the EU and US in trade regulation and of the areas and degree to which these countries are becoming rule-makers rather than rule-takers. In doing so, the workshop looks at two main issues: i) the interactions between emerging countries and established trade hegemony and ii) the challenges faced by the regulatory transition taking place in emerging economies and how this affects whether these countries may become rule-makers. It seeks to answer questions such as:

- How do the EU and US react to the growing assertiveness of emerging countries in trade regulation and which mechanisms of influence do they try to maintain?
 - Power-based conditionality and bargaining vs
 - Technocratic networking, capacity-building and socialization
- Which are the relevant venues sustaining rule-making and rule diffusion nowadays in these fields and why do regulators chose these venues over others?
 - Multilateralism versus plurilateralism (TPP, TTIP, ISA etc.) and bilateralism
 - Formal versus informal transgovernmental venues
 - Role of epistemic communities
- What explains emerging powers’ decision to embrace or challenge EU and US approaches or to become proactive in proposing new rules? What is the respective impact of, inter alia:
 - Domestic economic differences in the sectors under study
 - Historical legacies and political culture
 - Learning processes and the development of regulatory capacity?
- How do these transition processes play out at the domestic level of the emerging powers?
 - Which shifts do we observe in the organization of state-society relations within the sectors under study?
 - How does the development of new regulatory institutions to deal with competition enforcement or intellectual property protection fit into the overall administrative structure in the country?
 - To what extent is the transition towards "regulatory states" a precondition for both regulatory alignment and the development of a genuine international influence?

Programme

Tuesday, 9 February 2016 University of Geneva (UniMail room M1130)		
	Session I: The EU and US facing emerging countries: limits of regulatory power?	
9.15 – 9.30	Welcome	
9.30 – 10. 15	Sandra Lavenex/ Ivo Krizic and Omar Serrano (Unige)	EU and US regulatory power under strain? Emerging countries and the limits of external governance
<i>General discussion</i>		
10.15 – 11.00	Eugénia da Conceicao-Heldt (TU Dresden)	Power Shift in International Organizations? Emerging Nations as Constructive and Obstructive Powers
<i>Comments</i>	<i>Thomas Biersteker (IHEID)</i>	
11.15 – 12.00	Ivo Krizic (Unige)	Exporting best and bad practices – the limits of EU and US approaches to liberalize public procurement in Brazil, China and India
<i>Comments</i>	<i>Tim Büthe (Duke University)</i>	
Lunch		
13.30-14.15	Lei Wang (Unilu)	Tug, Hug or Both? A comparative analysis of EU and US competition policy permeation to Brazil, China and South Korea
<i>Comments</i>	<i>Juan Luis Crucelegui, (UNCTAD), Yane Svetiev (Bocconi)</i>	
14.15-15.00	Tim Büthe (Duke)	Regulatory Conflict and Cooperation in Competition Policy: An Analysis of Bilateral and Minilateral Cooperation Agreement on Competition Law and Policy
<i>Comments</i>	<i>Lei Wang (Unilu), Yane Svetiev (Bocconi)</i>	
15.00-15.45	Myriam Oehri (Unige)	Labour rights promotion from the West to the East? Comparing US and EU Approaches in China and India
<i>Comments</i>	<i>Rafael Peels (ILO)</i>	
Coffee break		
16.15-17.00	Manfred Elsig/ Omar Serrano (WTI/Unige)	Learning to play hardball? Emerging Powers and Trade Remedy Laws design and application
<i>Comments</i>	<i>Shuaihua Cheng (ICTSD)</i>	
17.00-17.45	Simon Evenett (UniSG)	Who abides by the rules? Evidence from Crisis-Era Protectionism
<i>Comments</i>	<i>Omar Serrano, Ivo Krizic (Unige)</i>	
17.45 – 18.15	General Discussion	

Wednesday, 10 February 2016 University of Geneva (UniMail room M1130)		
	Session II: Emerging powers and their regulatory transition towards rule-making	
9.00 – 10.15	Sandra Lavenex /Tim Büthe/ Omar Serrano (Unige, Duke)	The Regulatory State and Power Transitions / Discussion of Special Issue Project
	<i>General discussion</i>	
10.15 – 11.00	Omar Serrano / Mira Burri (Unige, WTI)	Rule-Making: Transnational Policy Networks and the South-South Diffusion of Novel Approaches to Intellectual Property Rights in India and Brazil
<i>Comments</i>	<i>Jayashree Watal, (WTO)</i>	
11.00 – 11.45	Andrew Cooper (U Waterloo)	Shifting the BRICS from a club-oriented project: societal pressure and state-centric resistance
<i>Comments</i>	<i>Sandra Lavenex (Unige)</i>	
Lunch		
13.15-14.00	Kristen Hopewell (U Edinburgh)	Global Power Shifts and the Changing Dynamics of Export Credit
<i>Comments</i>	<i>Omar Serrano (Unige)</i>	
14.00-14.45	Lei Wang (Unilu)	China's regulatory transition in competition policy
<i>Comments</i>	<i>Shuaihua Cheng (ICTSD)</i>	
14.45-15.30	Ivo Krizic (Unige)	Towards sound regulation, not market access – Explaining government procurement policy in Brazil, India and China
<i>Comments</i>	<i>Tim Büthe (Duke)</i>	
Coffee break		
16.00-16.45	Flavia Jurje and Sandra Lavenex (Unige)	Rule-making beyond the status quo. Rising powers and trade-related international mobility
<i>Comments</i>	<i>Antonia Carzaniga (WTO)</i>	
16.45-17.30	Christian Knebel (UNCTAD)	Non-tariff measures and sustainable development: The increasing importance of NTMs for emerging markets
<i>Comments</i>	<i>Ivo Krizic (Unige)</i>	
17.30 – 18.00	General Discussion	

Participants

Thomas Biersteker (Graduate Institute IHEID)

Thomas Biersteker is the Gasteyer Professor of International Security and Conflict Studies and Director of the Programme for the Study of International Governance. He served as Director of the Watson Institute for International Studies at Brown University from 1994 to 2006 and has also taught at Yale University and the University of Southern California. He is the author/editor/co-editor of nine books, including *State Sovereignty as Social Construct* (1996), *The Emergence of Private Authority in Global Governance* (2002), and *Countering the Financing of Terrorism* (2007). He is currently completing an edited volume on *UN Targeted Sanctions as Instruments of Global Governance*. His current research focuses on UN targeted sanctions, the emergence of transnational policy networks in global security governance, and the dialectics of world orders. He was the principal developer of SanctionsApp, a tool for iPhone and Android mobile devices created in 2013 to increase access to information and improve the quality of discourse about targeted sanctions at the UN Security Council.

Tim Büthe (Duke University)

Tim Büthe is Associate Professor of Political Science and Public Policy, as well as Senior Fellow for Rethinking Regulation at the Kenan Institute for Ethics at Duke University. He holds a PhD in Political Science from Columbia University and has held research fellowships at Harvard, Stanford, and the University of California, Berkeley. His research on transnational rule-making and global private governance of product and financial markets, as well as food safety, focuses on the interplay between international and domestic institutions and on how institutions empower and constrain actors. He is co-PI of *The Law and Politics of Antitrust in Open Economies*, an interdisciplinary project, to advance our understanding of the international and comparative dimension of what in the United States is known as "antitrust" law and enforcement and in most of the rest of the world is known as "competition policy."

Mira Burri (WTI)

Mira Burri is a Senior Research Fellow at the Swiss National Centre of Competence in Research (NCCR): Trade Regulation and lecturer in international media law at the University of Bern. Presently, she leads a NCCR research cluster on new technologies and trade governance. She is also the principal investigator of a project on digital public service media, financed by the Swiss National Science Foundation. Mira has published in leading legal and interdisciplinary journals on the interaction between digital technologies and the law, in particular in shaping new media, cultural and intellectual property policies.

Antonia Carzaniga (WTO)

Ms Antonia Carzaniga is Counsellor in the Trade in Services Division at the World Trade Organization (WTO) in Geneva. Ms Carzaniga holds an honours Degree in International Economics from Bocconi University in Milan, Italy, a Masters degree in European Economic Studies from the College of Europe in Bruges, Belgium, and a Masters degree in Regulation from the London School of Economics and Political Science, United Kingdom. Before joining the WTO Secretariat in 1998, Ms Carzaniga worked for a trade policy consultancy in London and, prior to that, for the Centre for European Policy Studies, an economic think-tank in Brussels, and the College of Europe in Bruges. Ms Carzaniga has published several papers on matters relating to trade in services, including various aspects of mode 4 (presence of natural persons) of the General Agreement on Trade in Services, health services and MFN exemptions.

Shuaihua Cheng (ICTSD)

Dr. Shuaihua Wallace CHENG is Founder and Managing Director of ICTSD China, Member of ICTSD Operation, Programme and Strategy Board. Currently, he co-manages WTO Post-Bali Programme and China, G20 and Global Economic Governance, New Industrial Policy Group, the E15 Initiative in partnership with the World Economic Forum. Dr Cheng is also Adjunct Professor at the University of International Business and Economics (Beijing), Associate Editor of *Advances in Climate Change Research Journal* of China National Climate Change Centre (Beijing), Board Member Foundation for Democracy and Sustainable Development (London), and Member of the Evian Group Working Group on Trade @ IMD (Lausanne). Before joining ICTSD, Dr. Cheng was an economist at the Shanghai Municipal Government Development Research Centre and Board Secretary of Shanghai WTO Affairs Consultation Center.

Dr Cheng is Yale World Fellow (2015), Asia 21 Young Leader (2006), British Chevening Scholar (2005), Salzburg Seminar Fellow (2000). He has written widely on issues related to trade, environment, development and the role of emerging countries in global economic governance for both policy and academic audiences.

Andrew Cooper (University of Waterloo)

Andrew F. Cooper is a Professor at the Balsillie School of International Affairs and the Department of Political Science at the University of Waterloo where he teaches in the areas of International Organization, Global Governance, Comparative Foreign Policy and International Diplomacy. He holds a DPhil in International Relations from Oxford University. He currently is the Director of The Centre for the Study on Rapid Global Change, University of Waterloo, Canada and an Associate Research Fellow-UNU CRIS as well as an Associate Senior Fellow at the Centre for Global Cooperation Research in Duisburg, Germany. From January to May 2009, he served as Visiting Fulbright Chair at the Center on Public Diplomacy, University of Southern California, and has previously been a visiting professor at Australian National University, SAIS Johns Hopkins, Stellenbosch University and Harvard University. He has attended numerous G8 summits and all of the G20s either presenting at pre-summit academic conferences or providing commenting from media centres. He has been active in major research projects on the global economic governance in partnership with Chatham House and other leading research institutes, and has given major addresses in conferences sponsored by such bodies as the Chicago Council on Global Affairs, the German Development Institute, the Centre for New Global Governance at Renmin University, the ASAN Institute for Policy Studies in Seoul, the Asian Development Bank Institute, Shanghai Institutes of International Studies, The Matías Romero Institute, the Clingendael Institute, Oxfam International, and The Woodrow Wilson Center for International Studies. He has also served on the Advisory Board of both the GARNET Network of Excellence and the Hague Journal of Diplomacy, and has been a member of the first Warwick Commission on The Multilateral Trading System.

Eugénia da Conceição Heldt (University of Dresden)

Eugénia da Conceição Heldt is a Professor of International Relations at the Dresden University of Technology. She has also held appointments at Harvard University in Cambridge, Humboldt University Berlin, European University Institute in Florence, Free University Berlin, and Social Science Research Center Berlin (WZB). Her work focusses on the delegation of power to international organizations, EU trade politics, negotiation analysis, emerging powers, and global economic governance. She has published articles on these topics in journals such as the *Journal of Common Market Studies*, the *Journal of European Public Policy*, *Negotiation Journal*, and *International Politics*. Her awards include a Fulbright fellowship (2015), a Consolidator Grant from the European Research Council (2012), a Heisenberg fellowship from the German Science Foundation (2010), and a Jean Monnet fellowship from the European University Institute (2007).

Juan Luis Crucelegui (UNCTAD)

Senior Legal Officer, Competition and Consumer Policies Branch, UNCTAD.

Manfred Elsig (WTI)

Manfred Elsig is Associate Professor of International Relations at the University of Bern. He is the Director of the Swiss Science Foundation's NCCR Trade (www.nccr-trade.org) and Deputy Managing Director of the interdisciplinary World Trade Institute. He holds a PhD from the University of Zurich. His research focuses on international institutions and international political economy. He co-directs the DESTA project (www.designoftradeagreements.org) which systematically codes the design of preferential trade agreements. He is also the co-editor of "Trade Cooperation: The Purpose, Design of Effects of Preferential Trade Agreements (CUP, 2015).

Simon Evenett (University of St. Gallen)

Simon J. Evenett is Professor of International Trade and Economic Development at the University of St. Gallen, Switzerland. He is also the coordinator of the watchdog Global Trade Alert and co-director of the most established group of international trade researchers in Europe, organised by the Centre for Economic Policy Research. Professor Evenett's interests include protectionism, trade disputes, WTO and regional trade negotiations, emerging markets, and the manner in which firms actually compete internationally. He was educated at Cambridge and Yale universities, taking economics degrees at both. Previously Professor Evenett has taught at Oxford and Rutgers universities and has been a Visiting Professor of Corporate Strategy at the Ross School of Business, University of Michigan, a non-resident Senior Fellow of the Brookings Institution in Washington DC, and a World Bank official, twice. Professor Evenett comments frequently on leading international economic developments to the media and to corporate audiences. He has over 125 publications.

Kristen Hopewell (University of Edinburgh)

Kristen Hopewell is a Lecturer in International Political Economy at the University of Edinburgh. She was previously an Assistant Professor at the University of British Columbia, a Post-Doctoral Fellow at the Max Planck Institute for the Study of Societies in Cologne, Germany, and completed her PhD at the University of Michigan. Dr. Hopewell's research and teaching interests are in international political economy, global governance and development, with a focus on emerging powers. Her current research analyzes the rising power of Brazil, India and China at the World Trade Organization (WTO) and their impact on the multilateral trading system. The project draws on 15 months of field research conducted at the WTO in Geneva, as well as in Beijing, New Delhi, Sao Paulo, Brasilia, and Washington, involving 157 interviews with trade negotiators and other senior officials, industry representatives, and NGOs; over 300 hours of ethnographic observation; and extensive documentary research.

Flavia Jurje (University of Geneva)

Flavia Jurje is a Senior Researcher at the University of Geneva. She was visiting scholar at the LSE, Center for International Studies. Flavia has completed her PhD at ETH Zurich in 2010. Her recent work focuses on global trade regulations and mobility of service providers at the multilateral, plurilateral, and bilateral level in emerging markets (i.e. Brazil, India, China, Mexico) and within regional integration frameworks (e.g. NAFTA, MERCOSUR, ASEAN, ECOWAS, CARICOM, SADC, etc.). She has conducted extensive field research in the respective countries and regional organisations, gaining solid empirical knowledge of the trade-migration interlink through numerous expert interviews with key governmental actors and diplomats, private stakeholders, and members of academia.

Christian Knebel

Christian Knebel is an economist in the Trade Analysis Branch at UNCTAD since 2012. He specializes on research and capacity building regarding trade policy, particularly non-tariff measures (NTMs). In technical cooperation projects he is supporting "deep" integration efforts in several regional trade agreements. Previously, he worked at the Market Analysis and Research section of the International Trade Centre (ITC). He authored reports about obstacles to trade faced by companies in Malawi, Peru, Sri Lanka, Paraguay and Uruguay, and assisted their governments in addressing such barriers. He studied International Economics at the University of Tübingen, Germany, and in Buenos Aires, Argentina. In his Master thesis he estimated the effects of non-tariff measures on consumer prices.

Ivo Krzic (University of Geneva)

Ivo Krzic is Doctoral Researcher and Lecturer at the University of Geneva, Switzerland. He holds Masters degrees in International Relations from Sciences Po Paris and in Development Economics from the University Paris I (Panthéon-Sorbonne). His research focus is on the dynamics of international trade regulation. Currently, he investigates EU and US policies vis-à-vis emerging markets regarding trade-related aspects of government procurement and competition policy as well as emerging countries' positioning in these policy areas. He has been conducting field research in Brazil, China, India, the EU and the US for this purpose.

Sandra Lavenex (University of Geneva)

Sandra Lavenex is Professor of European and International Politics at the University of Geneva and regular Visiting Professor at the College of Europe. She holds a PhD from the European University Institute in Florence and has had positions at the Universities of Zurich (Centre for Comparative and International Studies), Bern and Lucerne. She has worked extensively on rule transfer and external governance on the part of the European Union and, more recently, the US, and is an expert on international migration politics at the nexus between trade, development, human rights and security. She is co-leader, together with Dr. Omar Serrano, of the research projects underpinning the workshop.

Myriam Oehri (University of Geneva)

Myriam Oehri is a Post-doctoral researcher and lecturer at the Global Studies Institute at the University of Geneva. She defended her dissertation on the US and the EU external promotion of labour standards at the University of Lucerne in 2015. She has a longstanding interest in international trade and global governance of labour rights and conducted extensive fieldwork in this context. During her doctoral studies she was a visiting fellow at the Labor and Worklife Program at Harvard Law School, Harvard University, and worked as external collaborator for the International Labour Organization.

Rafael Peels (ILO)

International Labour Organization, Research Department

Omar Serrano (University of Geneva)

Omar is a Senior Researcher and Lecturer at the Universities of Geneva and Lucerne in Switzerland. His current research looks at the transformation of international governance by emerging countries such as China, India, Brazil and Mexico. He holds a PhD in Political Science from the Graduate Institute, Geneva and has recently held research fellowships at RCCPB/UIBE (Beijing), JNU (New Delhi), ITAM (Mexico City), and the FGV (Rio de Janeiro and Sao Paulo).

Yane Svetiev (Bocconi University)

Yane Svetiev is a member of the Department of Legal Studies at Bocconi University as well as of the Law Department at the European University Institute. His research focuses on implementation mechanisms for competition law and economic regulation, the relationship of economic regulation and private law, as well as experimentalist governance. He collaborates with the ERC-funded research project on European Regulatory Private Law at the EUI. He obtained his masters and doctoral graduate degrees at Columbia University.

Lei Wang (University of Lucerne)

Lei Wang is a Doctoral Researcher at the University of Lucerne, Switzerland. Before joining the academia, he had extensive experiences on international relations, global and bilateral trade issues in his previous career with job locations in both developed and developing economies. Currently, his research focuses on development and global competition governance, international trade regulations vis-à-vis emerging and newly industrialised markets with a research portfolio covering Brazil, China, South Korea, the US and the EU. He holds a master degree on environmental change and management from the University of Oxford.

Jayashree Watal (WTO)

Jayashree Watal has been Counsellor in the Intellectual Property Division of the World Trade Organization since February 2001. She also holds the part-time position of Adjunct Professor of Law at the Georgetown University Law Center (since 2009) and of Senior Fellow at Melbourne Law, University of Melbourne (2011–2012) and teaches intellectual property law and economics on the IELPO programme at the University of Barcelona (since 2011) and at the World Trade Institute, University of Bern (since 2012).