



Joshua Meltzer

Brookings Institution

Governing digital trade: the role and limits of international trade law

The ability to move data globally is transforming international trade. Small businesses can use platforms to reach customers globally, services can be increasingly exported online and using sensor and data analytics, business can provide services to add value to traditional goods exports. In addition, new technologies such as AI rely on access to data globally. The WTO includes rules that are relevant for digital trade. Yet the WTO was negotiated in the early 1990s, when the internet barely existed with the result that there are gaps in WTO law that recent free trade agreements have sought to fill. Yet, allowing data to flow freely across borders often can undermine the capacity of domestic regulators to achieve domestic regulatory goals such as the protection of privacy and consumer protection. Developing a regime to govern digital trade will also require increased international regulatory cooperation.

Dr. Meltzer will outline how cross-border data flows and new digital technologies such as cloud computing and AI are transforming international trade and discuss the role and limits to international trade law in governing digital trade.

Joshua Meltzer is a senior fellow in the Global Economy and Development program at the Brookings Institution. At Brookings, Meltzer works on international trade law and policy issues with a focus on the World Trade Organization and large free trade agreements such as the Trans-Pacific Partnership Agreement. Specific areas of focus include digital trade where he leads the Digital Economy and Trade Project. Meltzer also works on financing for sustainable infrastructure.

Meltzer has testified on trade issues before the U.S. Congress, the U.S. International Trade Commission and the European Parliament. Meltzer teaches digital trade law at Melbourne University Law School and has taught international trade law as an adjunct professor at Georgetown University Law School and Johns Hopkins School for Advanced International Studies. Meltzer is a member of CUTS International Advisory Board and Australia's National Data Advisory Council, and a reviewer for the Journal of Politics and Law, World Trade Review, and International Studies Review.

Prior to joining Brookings, Meltzer was posted as a diplomat at the Australian Embassy in Washington D.C. where he was responsible for trade, climate and energy issues and prior to that he was a trade negotiator in Australia's Department of Foreign Affairs and Trade. Meltzer has appeared in print and news media, including the New York Times, Washington Post, CNN, Bloomberg, The Asahi Shimbun, The Economist, and China Daily. Meltzer holds an S.J.D. and LL.M. from the University of Michigan Law School in Ann Arbor and law and commerce degrees from Monash University in Melbourne, Australia.



ANZSIL's President's panel

Tim Stephens, University of Sydney (Chair)

Christina Voigt, University of Oslo

Joshua Meltzer, Brookings Institute

Sue Robertson, Attorney-General's Department

Konstantina Tzouvala, University of Melbourne

Tim Stephens is Professor of International Law and ARC Future Fellow at the University of Sydney Law School, Deputy Director of the University of Sydney Marine Studies Institute, and President of the Australian and New Zealand Society of International Law. Stephens teaches and researches in public international law, with his published work addressing the international law of the sea, the polar regions, international environmental law and international dispute settlement.

Christina Voigt is Professor at the Department of Public and International Law, University of Oslo, Norway, and an expert in international environmental law. She is also works at the Center of Excellence for the Study of the Legitimate Roles of the Global Judiciary – Pluricourts - at the University of Oslo where she coordinates the research on “International Law and Global Commons”.

She works in particular on legal issues of climate change, environmental multilateralism and sustainability. Professor Voigt is the author of “Sustainable Development as a Principle of International Law” (Brill, 2009), numerous academic articles and several edited volumes. Her latest edited book is “International Judicial Practice on the Environment – Questions of Legitimacy” (CUP, 2019). In 2018, she co-drafted the UN Secretary General’s report on “Gaps in International Environmental Law and environment related instrument”.

Since 2008, she has been Norway’s lead legal negotiator in the UN climate negotiations, as well as REDD+ negotiator. She participated in the negotiations of the 2015 Paris Agreement and its Rulebook, adopted in December 2018. In 2018, she was co-chair of the negotiations on the rules for Agreement’s compliance committee.

Professor Voigt is the chair of the Climate Change Specialist Group of the IUCN World Commission on Environmental Law and a member of the IUCN Climate Change Task Force.

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Sue Robertson is the First Assistant Secretary of the Attorney-General's Department's International Division. In her current role she is the head of the Office of International Law, and as well being responsible for international crime cooperation and Pacific rule of law engagement.

Sue has previously worked for the Department of Foreign Affairs and Trade including as the international legal adviser at the Australian Permanent Mission to the United Nations in New York. Prior to that she occupied various international legal and policy roles in the United Nations. She has worked in Egypt (UN High Commissioner for Refugees), Bhutan (UN Development Programme) and Sudan (Department of Peacekeeping Operations).

Sue holds a Bachelor of Arts (Hons) and a Bachelor of Laws (Hons) from the University of Melbourne and a Masters of International Law (Deans Prize) (Australian National University).

Ntina Tzouvala is an ARC Laureate Postdoctoral Fellow in International Law, at Melbourne Law School. Prior to this, Ntina was a lecturer in law at Durham Law School (UK), where she also completed her PhD thesis. Her research interests include the theory and history of international law, and particularly international law and the history of capitalism, feminist approaches to international law, and law and neoliberalism. Her work has been appeared in the *European Journal of International Law*, the *London Review of International Law* and *AJIL Unbound*. Her first monograph, *Capitalism as Civilisation: A History of International Law*, is forthcoming with Cambridge University Press.



Year in Review panel

Henry Burmester (Chair)

Sue Robertson, Attorney-General's Department

James Larsen, Department of Foreign Affairs and Trade

Gabrielle Rush, Ministry of Foreign Affairs and Trade

Bronagh McKenna, Crown Law

Henry Burmester AO QC is an Honorary Professor at ANU College of Law. He was formerly Chief General Counsel in the Australian Government Solicitor and before that head of the Office of International Law in the Attorney-General's Department. He is a graduate of ANU and the University of Virginia.

Sue Robertson is the First Assistant Secretary of the Attorney-General's Department's International Division. In her current role she is the head of the Office of International Law, and as well being responsible for international crime cooperation and Pacific rule of law engagement.

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Sue holds a Bachelor of Arts (Hons) and a Bachelor of Laws (Hons) from the University of Melbourne and a Masters of International Law (Deans Prize) (Australian National University).

James Larsen is currently the DFAT Chief Legal Officer and head of the Legal Division. He commenced in this role in July 2017. Immediately beforehand, James was Australia's Ambassador to Turkey from 2014 to 2017 (with non-resident accreditation to Georgia and Azerbaijan). James has previously served as Australia's Ambassador to Israel (2006-2010), Australia's Ambassador for People Smuggling Issues (2010-11) and Chief of Staff to then Minister for Foreign Affairs, Bob Carr (2012-14). Other assignments have included diplomatic appointments in the Australian embassies in Brussels and Bangkok and periods in the DFAT Legal Office. James began his working career as a commercial solicitor in the Melbourne office of Minter Ellison.

Bronagh McKenna is a Crown Counsel in New Zealand's Crown Law Office. She is part of Crown Law's Constitutional and Human Rights Team. Before joining Crown Law, Bronagh spent over seven years as a prosecutor at the International Criminal Tribunal for the former Yugoslavia (ICTY), working at the pre-trial, trial and appellate levels. She prosecuted cases



involving war crimes, crimes against humanity and genocide, including the case against Radovan Karadzic. She has taught international criminal law at postgraduate level at the University of Auckland. Prior to joining the ICTY, Bronagh worked for leading London law firm Slaughter and May, specialising in competition law.