

**Outline of Joint Research and Teaching Program between the
International Law Institute of the Peking University and
the *GLODIS* Institute of the Faculty of Law of the Erasmus University**

Agreement of Feb 19, 1999

Introduction

From February 15 to 19, 1999 a delegation of the International Law Institute (ILI) of Peking University consisting of Prof. Geping Rao (Director ILI), Prof. Li Zhaojie (Deputy Director. ILI), Prof. Renren Gong (Director Human Rights Center) visited the *GLODIS*-Institute and the Faculty of Law of Erasmus University Rotterdam. Other guests included Prof. Wang Tieya (Judge International Criminal Tribunal for the Former Yugoslavia) and Prof. Ronald MacDonald (Judge European Court of Human Rights). Prof. Göran Melander (Raoul Wallenberg-Institute of Human Rights and Humanitarian Law) joined the discussions on the human rights project on February 17, 1999.

The delegation was received by the Prof. Piet Akkermans, Rector Magnificus of the Erasmus University Rotterdam and Prof. Hans de Doelder, Dean of the Law School.

Discussions were held with members of the *GLODIS* staff, in particular Prof. Peter Malanczuk (Director *GLODIS*), Dr. Ellen Hey (Deputy Director *GLODIS*) and Dr. Menno Kamminga. Prof. Hans de Doelder (Criminal Law), Prof. Roger van den Berg (Law and Economics) and Prof. Willem Lammerts van Bueren (Faculty of Economics) also joined the discussions.

The object of the meeting was to further develop the Co-operation Agreement on Joint Research Projects (Co-operation Agreement), concluded on May 13, 1998, between the *GLODIS* Institute and ILI. In accordance with paragraph 5 of the Co-operation Agreement two topics were selected for the development of joint research projects:

- WTO law, and
- human rights law.

In addition, the establishment of a *GLODIS* Regional Center at Peking University was discussed.

***GLODIS* Regional Center**

It was decided that a *GLODIS* Regional Center will be established at the ILI. The Center will be co-directed by Professors Geping Rao and Peter Malanczuk. Its aims will be to facilitate the co-operative research and teaching projects outlined below and any other activities that may be undertaken within the framework of the Co-operation Agreement and the Agreement concluded between the Faculty of Law of Peking University and the Faculty of Law of the Erasmus University Rotterdam, also concluded on May 13, 1998.

Agreement of Feb 19, 1999

Human Rights Law

Research

Content

Under Cluster I (1) of the Co-operation Agreement entitled *The International Protection of Human Rights and Domestic Implementation from a Comparative Chinese and European Perspective* a three year research project entitled 'judicial remedies' was agreed.

Within the general theme of 'judicial remedies', the topics outlined below will be researched. Relevant international standards will serve as a yardstick for the research conducted within this project. The object of the project is to identify possible models of reform for China.

1. The implementation of international treaty obligations in the domestic legal systems (problem of transformation of international law) *Legal advice with the its content*
2. Review of the obligations under articles 4 and 19 of the ICCPR (including the Corresponding Provisions of the ECHR and the American Human Rights Convention) and their implications for China's legal system. *relevant* *9 art 14* *general*
3. A General analysis of the judicial system (including administrative tribunals and the legal profession) in China in a comparative perspective *relevant*
4. The independence of the judiciary in China
5. An analysis of the law of criminal procedure in China (including the presumption of innocence, role of defense attorneys, arrest and detention /habeas corpus, right of appeal, evidence and burden of proof, admissibility of evidence) in a comparative perspective
6. Transparency of criminal proceedings in China (including the role of the media) *relevant* *2000*
7. State compensation in China in a comparative perspective

Two additional topics of interest for consideration at a later stage were also identified.

8. Legal aid
9. The position of aliens in the Chinese legal system, access to justice and the protection of property rights *relevant* *perspect.*

After an initial year of research and preparation, a conference will be held at which preliminary research papers outlining each of the topics will be presented.

A second conference will be held at the end of the three year period. At this conference papers presenting the findings on each of the above topics will be presented

the papers will be compiled in a book to be published with a major publisher in the field of international law.

Participants

International Law Institute, University of Peking

Prof. Renren Gong (Dir. Human Rights Center)
Prof. Bai Guimei, Deputy (Dir. Human Rights Center)
Prof. Chen Ruihua (Law of Criminal Procedure)
Prof. Chen Duanhong (Administrative Law)
Mr. Xia Yong (Deputy Dir. Chinese Academy of Social Science)
Mr. Cai Dijian (Research Fellow, Academy of Social Science)
Mr. Tang Hongpei (Director, Supreme Court)
Mr. Zhang (Head of the Legal Aid Office)

GLODIS Institute, Faculty of Law Erasmus University Rotterdam

Prof. Peter Malanczuk (Prof. International Law, Dir. *GLODIS* Institute)
Dr. Menno Kamminga (Associate Prof. International Law)
Mr. Juan Amayo Castro
Ms. Liesbeth Zegveld
Research Assistant (to be appointed)

Raoul Wallenberg Institute

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WTO Law

Research

Content

Under Cluster II (4) of the Co-operation Agreement entitled *The New Dispute Settlement System of the World Trade Organization (WTO) from a European Perspective and Relevance for China's Accession to the WTO*, a three year research program was agreed. It covers the following topics.

Two topics with a focus on, in particular, the participation of developing and transition economy country vis-a-vis developed countries in the WTO dispute settlement system since 1995.

1. A report on the use of the dispute settlement system including the number of separate matters filed as compliant/respondent before panels (appellee/appellant before the Appellate Body) and third party interventions.
2. A legal analysis of WTO substantive and procedural issues raised, including reference to application of 'in built' measures on special and differential treatment of developing and transition economy countries in WTO Agreements (including the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)).

19-02-99

Six topics on the examination of specific subject matter disputes. The specific subject matters will include the following topics.

3. Textiles and agriculture
4. Telecommunications and Information Technology
5. SPS and TBT
6. TRIPS
7. Trade ^{and} Investment Measures
8. Financial services

Four topics of broader scope will also be researched.

9. Enforcement of WTO Rulings, with a focus ^(not) on the issues that have arisen in the wake of the ruling in the *European Communities – Regime for Importation, Sale and Distribution of Bananas* case, where the US and several Latin American countries are questioning the proper implementation of the ruling by the EC.
10. An analysis of the review process of the DSU conducted by WTO, including topics related to the status and role of non-state actors within WTO and ~~the relationship~~ between international trade law and other ^{areas} bodies of international law, such as labor law and environmental law ^{and the Law of Development}.
11. An analysis of the WTO dispute settlement system from ^{the} point of view of ^{law} ~~and economics~~ ^{and economics}.
12. A prognosis for China's eventual participation in the WTO dispute settlement system. This topic will be used to bring together the findings reached under the other topics and will provide the basis for the concluding chapter of the resulting book.

After an initial year of research and preparation, a conference will be held at which preliminary research papers outlining each of the topics will be presented.

A second conference will be held at the end of the three year period. At this conference papers presenting the findings on each of the above topics will be presented the papers will be compiled in a book to be published with a major publisher in the field of international law.

Participants

International Law Institute, University of Peking

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19-02-99

GLODIS Institute, Faculty of Law, Erasmus University Rotterdam

Prof. Peter Malanczuk (Prof. International Law, Dir. *GLODIS* Institute)

Prof. Roger van den Berg (Prof. Law and Economics)

Dr. Ellen Hey (Ass. Prof. International Law, Deputy Dir. *GLODIS* Institute)

Ms. Mary Footer (Lecturer)

Mr. Saman Zia Zarifi (Senior Research Fellow)

Research Assistant (to be appointed)

Research Assistant (to be appointed)

Teaching

A course in WTO law will be developed in cooperation between ILI and the *GLODIS* Institute, it will be taught at ILI in the spring of 2000. Lectures will be given by ILI staff, *GLODIS* staff and staff members of the Faculty of Law of Erasmus University.

Teaching materials will be prepared in close cooperation between ILI and the *GLODIS* Institute.

A first draft course outline will be prepared in cooperation between the two institutes by April 15, 1999.

Participants

International Law Institute, Peking University

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GLODIS Institute, Faculty of Law Erasmus University

Prof. Peter Malanczuk (Prof. International Law, Dir. *GLODIS* Institute)

Prof. Roger van den Berg (Prof. Law and Economics)

Dr. Ellen Hey (Associate Prof. International Law, Deputy Dir. *GLODIS* Institute)

Dr. Menno Kamminga (Associate Prof. International Law)

Ms. Mary Footer (Lecturer)

Research Team of the Peking University on WTO Project

1. Prof. Zhaojie LI, Deputy Director, International Law Institute, Peking University (in charge of WTO Project)
2. Prof. Jingchun SHAO, Director, International Economic Law Institute, Faculty of Law, Peking University
3. Mr. Yonggang CAO, LLM student, International Law Institute, Peking University
4. Ms. Ruosi ZHANG, Research Fellow, Institute of Law, China Academy of Social Sciences, Beijing
5. Ms. Xuewei FENG, Chief, Office of Foreign Affairs, Legislative Bureau of the State Council
6. Ms. Yongmin BIAN, Lecturer, School of Law, University of International Business and Economics, Beijing
7. xxx, Research Fellow, Research Institute, Ministry of Foreign Economic and Trade Cooperation
8. xxx, Head of the Treaty Department or the Department of International Affairs, Ministry of Foreign Economic and Trade Cooperation

First Draft

Joint Research Program

between

The International Law Institute, Peking University

GLODIS Institute, Faculty of Law, Erasmus University Rotterdam

and

Raoul Wallenberg Institute, Lund

1. The general theme of the program is *judicial remedies*. Within this general theme, the participating institutions will agree on appropriate issues for further study. These may include both institutional aspects, such as the organization of the judiciary and judicial reform and aspects of procedural law, such as due process and other aspects of the law of criminal procedure.
2. The program will be linked with the co-operation on the same theme which has already been established between the International Law Institute of Peking University and the Law Faculties of Hong Kong University and Taipei University.
3. The program will be carried out from a comparative Chinese and European perspective and with a view to the promotion of the rule of law and the universal adherence to human rights treaties.
4. As a first step, the parties agree to organize a conference on the judicial system and the role of judges, with particular reference to the Basic Principles on the Independence of the Judiciary adopted by the Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders. Participants will include both practitioners and academics.

Principle of citizens rights

1. Implementation of Treaty Obligations
2. Judicial System - China
2a. Indep. of the Judiciary
3. Procedural Law
4. Legal Aids

Treaties of
5. Abolition

6. ICCPR
The Role of
the Media
Cooperation

19/02/99 PM

International Law Institute Peking University
GLODIS-Institute Erasmus University Rotterdam

Checklist of specific cooperation projects:

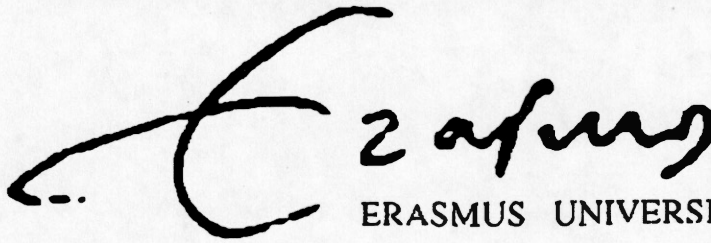
1. Joint research project WTO (including use of modern information technology)
2. Joint research project human rights (including use of modern information technology)
3. Joint curriculum development and teaching of WTO/International Economic Law course at Peking University spring 2000 (including use of modern information technology for long-distance education and sending of teachers to Beijing)
4. Establishment of GLODIS Regional Centre in May 1999 (including acquisition of hardware and software computer and communications facilities for long-distance education and joint research projects and employment of qualified support staff)
5. Capacity building in the general field of International Legal Studies at Peking University and capacity building in the field of Chinese Law at Erasmus University Rotterdam through further extension of joint research and teaching programmes, including the exchange of students, teachers and researchers and the development of joint degree programmes ("sandwich formula")
6. Extension of cooperation in the above fields through the network of contacts of both Institutes inside and outside of China.

19/02/99 PM

International Law Institute Peking University
GLODIS-Institute Erasmus University Rotterdam

Checklist of specific cooperation projects:

1. Joint research project WTO (including use of modern information technology)
2. Joint research project human rights (including use of modern information technology)
3. Joint curriculum development and teaching of WTO/International Economic Law course at Peking University spring 2000 (including use of modern information technology for long-distance education and sending of teachers to Beijing)
4. Establishment of GLODIS Regional Centre in May 1999 (including acquisition of hardware and software computer and communications facilities for long-distance education and joint research projects and employment of qualified support staff)
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6. Extension of cooperation in the above fields through the network of contacts of both Institutes inside and outside of China.



ERASMUS UNIVERSITY ROTTERDAM



Institute of Globalization,
International Economic Law and
Dispute Settlement
&
Department of International Law
Faculty of Law

Director and Head of Department:
Prof. Dr. Peter Malanczuk

TELEFAX

To : Prof. Ronald St. J. Macdonald
 Attn :
 Faxnumber : 00-1-902-494-1316
 From : Peter Malanczuk
 Date : 11-02-99
 Subject :

Pages transmitted (including this one): 4

Dear Ronald,

please find enclosed the final programme. What is your exact arrival time in Amsterdam? Please let me know if you need any assistance.

I wonder whether you would be willing to give a lecture to students together with James Li on Friday (12:00-13:00), and perhaps another speaker? Topic could be something relating to "Globalization and/or Economics/Solidarity". We very much look forward to seeing you.

Warm regards,
Peter

Visit to Rotterdam
Delegation from Peking University
13/02/99-20/02/99

Draft (4) PM
09/02/99

**Visit to GLODIS-Institute / Faculty of Law, Erasmus University Rotterdam, by
Delegation from Peking University Law Faculty / International Law Institute
13 -20 February 1999**

Programme

Delegation from Peking University:

Prof. Geping Rao, Director, International Law Institute
Prof. Zhaojie Li, Deputy Director, International Law Institute
Prof. Renren Gong, Director, Human Rights Centre

Other Guests:

Prof. Wang Tieya, Peking University, Judge, International Criminal Tribunal
for the Former Yugoslavia, The Hague
Prof. Ronald St. J. Macdonald, Canada, Judge, European Court of Human
Rights (confirmed)
Prof. Göran Melander, Director, Raoul Wallenberg-Institute of Human Rights
and Humanitarian Law, Lund, Sweden (Thursday, 18 Feb., confirmed)
Prof. Lisa Stearns, Director, Norwegian Institute of Human Rights, Oslo (to be
confirmed)

Saturday, 13/02/99

16:20 Arrival Peking University delegation at Schipol airport
Transfer to Bel Air Hotel in The Hague

Sunday, 14/02/99

Rest or sight-seeing

Monday, 15/02/99

10:15 Transfer from the Hague to Rotterdam

11:00 Courtesy meeting with Rector Magnificus Prof. P.W.C.
Akkermans, Erasmus University Rotterdam

11:30-13:00 Visit GLODIS-Institute

Preparatory meeting on Joint Research Projects and establishment of GLODIS Regional Centre in Beijing

13:00 Lunch

14:30 Harbour tour Rotterdam and further discussions

17:00 Faculty/GLODIS reception (Etage)

18:00 Return to The Hague/Hotel

Tuesday, 16/02/99

Morning: Visit International Court of Justice and Yugoslavia Tribunal
The Hague

Afternoon: Sight-seeing Amsterdam

2.00 Bot.
3.30 Allen.

Wednesday, 17/02/99

Morning Preparation Research Seminars / Peace Palace Library

14:00-16:00 Research Seminar: Joint Project Human Rights

18:30 Dinner (The Hague)

Thursday, 18/02/99

10:15 Transfer from The Hague to Rotterdam

11:00 Reception by Prof. Hans de Doelder, Dean Erasmus Law
Faculty

Visit Erasmus University

12:00 Meeting Dr. Lammerts van Bueren, Dean International Affairs,
Faculty of Economics (Introduction CHERC)

12:30 Lunch

✓ 14:00-16:00 Research Seminar: Joint Project WTO dispute settlement

✓ 17.30 To Mayor.

18:00 Dinner invitation Dean Prof. Hans de Doelder

8.00 Dr. Mour.

rapport de l'annonce!

Friday, 19/02/99

- 11:00-12:00 Finalization Human Rights and WTO Projects
- 12:00-13:00 Lunch
- 13:00 15:00 Lecture Prof. Li Zhaojie to GLODIS Students on Globalization and Its Impact on the Chinese Attitude towards International Law; Co-lecturer (be confirmed)
- 15:00 Sight-seeing Delft
- 19:00 Dinner (The Hague)

Saturday, 20/02/99

- 12:05 Departure Peking University delegation to Lund, Sweden

Peking University – International Law Institute/
GLODIS – Erasmus University Rotterdam
Joint Research Project
on
WTO Dispute Settlement

The project will be conducted as a Joint Research Project (under Cluster II:4) between the International Law Institute and GLODIS. The planned research will cover the new Dispute Settlement System of the WTO from a European perspective and China's accession to the WTO. Within this broader theme the following sub-themes and topics will be the object of further research:

- developing and transition economy country participation vis-à-vis developed countries (especially the QUAD¹ group and major OECD countries) in the WTO dispute settlement system (1995-1999):
 - report on use of the system including number of separate matters filed as complainant/respondent before panels (appellee/appellant before the Appellate Body) and third party interventions;²
 - legal analysis of WTO substantive and procedural issues raised, including reference to application of “in-built” measures on special and differential treatment of developing and transition economy countries in WTO Agreements (including the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU));
 - examination of specific subject matter disputes (to be determined in conjunction with our Chinese counterparts but for example, textiles, agriculture, SPS and TBT issues, trade in telecommunications and financial services and intellectual property protection);
- an assessment of the European Communities participation in the WTO dispute settlement to date including specialist areas involving developing country trade, such as:
 - specific issues related to enforcement (viz. *European Communities – Regime for the Importation, Sale and Distribution of Bananas* complaint by Ecuador, Guatemala, Honduras, Mexico and the US (or third *Bananas* case), challenging EC – third country trade issues and special treatment of ACP-Lomé Convention countries;
 - European Communities cases involving preferential trading arrangements (viz. third *Bananas* case and the recent *European Communities – Measures Affecting Differential and Favourable Treatment of Coffee* by Brazil, challenging the EC's GSP in favour of third countries;
- an analysis of the role of non-state actors – private enterprises, including business enterprises and interest groups, e.g. federation of textile or garment workers, and non-governmental organisations (NGO's) – in the WTO dispute settlement system (viz. *United States – Import Prohibition of Certain Shrimp and Shrimp Products* complaint by India, Malaysia, Pakistan and Thailand (or the *Shrimp-Turtle* case) which raised the issue of admissibility of evidence from environmental NGO's and interest groups in WTO proceedings).
- a prognosis for China's eventual participation in the WTO dispute settlement system.

¹ The QUAD Group comprise the US, Canada, the EU and Japan.

² This could be substituted with a political economy review of complainant respondent and third party interventions but would require more resources and the involvement of good quantitative economic analysis of an inter-disciplinary nature.

Joint Research Project
International Law Institute, Peking University
Institute of Globalization, International Economic Law and Dispute Settlement
(GLODIS), Faculty of Law, Erasmus University Rotterdam

Cluster II:
Globalization, International Economic Law and Dispute Settlement

Subtopic 4:
The New Dispute Settlement System of the World Trade Organization (WTO)
from a European Perspective and Relevance for China's Accession to the WTO

- Checklist for Preparatory Meeting 15 February 1999 in Rotterdam -

Checklist General Issues under WTO Agreements:

Subsides

WTO Agreement and annexed Multilateral Trade Agreements (MTAs) (binding on all WTO Members):

- GATT 1994
- GATS
- TRIPS
- Understanding on Dispute Settlement (DSU)
- Trade Policy Review Mechanism (TPRM)

Plurilateral Trade Agreements (Annex IV of WTO Agreement) (binding only on WTO Members who have accepted them):

- Agreement on Trade in Civil Aircraft (outside WTO framework, in force for Macau; China and Taiwan observers)
- Agreement on Government Procurement (Hong Kong member, Taiwan observer seeking accession)
- International Dairy Arrangement (scrapped 1997)
- Arrangement Regarding Bovine Meat (scrapped 1997)

Extra Agreements:

Goods (under GATT):

- Agriculture
- Health regulations for farm products (SPS Agreement)
- Textiles and clothing
- Product standards (technical barriers to trade)
- Investment measures (TRIMS)
- Anti-dumping measures
- Customs valuation methods -
- Preshipment inspection

- Rules of Origin
- Import licensing
- Subsidies and countervailing measures
- Safeguards
- Services (under GATS annexes):
 - Movement of natural persons
 - Air transport
 - Financial Services
 - Shipping
 - Telecommunications

Information Technology Agreement

"Built-in agenda" 1995-2004 issues

New issues:

- Regional economic groupings
- Trade and environment
- Trade and investment (Working Group set up 1996)
- Competition policy (Working Group set up 1996)
- Transparency in government procurement (Working Group set up 1996)
- Trade "facilitation" (simplifying trade procedures)
- Trade and labour rights
- Trade and development

Checklist Accession of China Issues:

Status of Negotiations on China's WTO Accession (1997 Draft Protocol of Accession)

Draft Schedules of Concessions and Commitments to GATT 1994 (no draft)

Draft Schedules of Specific Commitments to GATS and List of Art. II exemptions to GATT (no draft)

Draft Protocol of Accession 1997

- Rule of Law (judicial review, effective legislation, transparency)
- Treatment of Foreign Enterprises (national treatment, state enterprises, Services)
- Non-Discrimination and Non-Tariff Barriers (national treatment, prohibition of quotas, agricultural products, quantitative restrictions)
- Local Content and Technology Transfer (TRIMS, commercial aircraft, transfer of technology requirements, government procurement)
- Price Controls
- Subsidies
- Balance of Payments
- Taxes
- Standards and Technical Regulations (technical barriers to trade)
- Safeguards
- Antidumping and Price Levels

Schedules (tariffs and non-tariff barriers with respect to trade in goods)
International Information Technology Agreement
Trade in Services (GATS, banking, insurance, distribution, telecommunications, financial services, legal services)
Telecommunications (Telecom Annex)
Banking
Developing Country Status
Intellectual Property Rights
Foreign Direct Investment
Competition Law

Hong Kong

Taiwan

Macau

The APEC Framework

Checklist of European Communities Issues:

EC and Member States in WTO, EC constitutional framework

Cases brought by EC

Cases brought against EC

Relations EC-China

Bilateral Agreements of EC and of Member States

Checklist of General Issues:

The Legal Framework of the WTO Dispute Settlement Mechanism

The Review of the WTO Dispute Settlement System 1998

Economic analysis

Prof. Dr. Peter Malanczuk

Joint Research Project WTO Dispute Settlement GLODIS/ILI Peking
Project Discussion / Meeting Erasmus University Rotterdam 15-19/02/99

- List of Supporting Materials -

Selected Documents:

- book
in
4 Final Act of the GATT Uruguay Round and WTO Agreements, *ILM* 33 (1994). pp. 1-152 (especially Dispute Settlement Understanding, pp. 112-135)
- 4 WTO, *Trading into the Future, Introduction to the WTO*, 2nd ed. 1998. 69 p. (especially Chapter 3: Settling Disputes, 38-42)
- 4/ WTO *Annual Report 1998* (especially: overview of dispute settlement decisions, pp. 104-118), 172 p.
- 2/ Overview of the State-of-play of WTO Disputes as of 1 February 1999 (from WTO website) (status report of all completed and pending cases), 43 p. ✓
- 2 Working Document: "An Advisory Centre on WTO Law - Contributing to the rule of law and the enhancement of human resources in developing countries and economies of transition" (prepared by Bangladesh; Colombia; Hong Kong, China, The Netherlands; Norway; The Philippines; South Africa; Tanzania; Tunisia; Turkey; United Kingdom and Venezuela) Rev. 2, Oct. 1998. 54 p. (especially Annex 1: Participation of developing countries and economies in transition in panel proceedings, pp. 24-25)

General Bibliography on the WTO:

The World Trade Organization, Selective bibliography, prepared by H.H.R. van Hamel (Center for Studies and Research of the Hague Academy of International Law), Peace Palace Library, The Hague 1998, 178 p. ["Hamel WTO Biblio."]

Hamel WTO Biblio., Supplement 1998, 42 p.

Selected Literature on WTO Dispute Settlement:

See references in: *Hamel WTO Biblio.*, pp. 131-145; *Supplement 1998*, pp. 26-32

Ernst-Ulrich Petersmann. *The GATT/WTO Dispute Settlement System - International Law, International Organizations and Dispute Settlement*. London et al: Kluwer Law International, 1997. 344 p.

Selected Literature on China's WTO Accession:

Yuwen Li, Fade-away of Socialist Planned Economy: China's Participation in the WTO, in: Friedl Weiss/ Erik Denters/Paul de Waart (eds.), *International Economic Law with a Human Face*, The Hague et al: Kluwer Law International, 1998, pp. 453-478

Frederik M. Abbott (ed.), *China in the World Trading System*, The Hague et al.: Kluwer Law International, 1998, 222 p.

Frederik M. Abott, China's Accession to the WTO, *ASIL Insight*, 1998 (website American Society of International Law), 6 p.

Contents of Journal of International Economic Law Vol. 1 (1998) - Vol. 2 (1999)

Research and Teaching Program

between

The International Law Institute of the School of Law of Peking University

and

The *GLODIS* Institute of the Faculty of Law of the Erasmus University Rotterdam

- Agreement of February 19, 1999 -

Introduction

From February 15 to 19, 1999 a delegation of the International Law Institute (ILI) of the School of Law of Peking University visited the *GLODIS*-Institute and the Faculty of Law of Erasmus University Rotterdam. Prof. Geping Rao (Director ILI), Prof. Li Zhaojie (Deputy Director. ILI), Prof. Renren Gong (Director Human Rights Research Center) constituted the delegation. Other guests included Prof. Wang Tieya (Judge International Criminal Tribunal for the Former Yugoslavia) and Prof. Ronald Macdonald (Judge European Court of Human Rights). Prof. Göran Melander (Director Raoul Wallenberg-Institute of Human Rights and Humanitarian Law) joined the discussions on the human rights project on February 17, 1999. In addition, consultations were held with Professor Werner Meng (Director International Economic Law Institute, Martin Luther University Halle-Wittenberg) and on the WTO research project and with Ms. Lisa Stearns (Programme Officer Norwegian Institute of Human Rights) on the human rights project.

The delegation was received by the Prof. Piet Akkermans, Rector Magnificus of the Erasmus University Rotterdam and Prof. Hans de Doelder, Dean of the Law School of Erasmus University Rotterdam.

Discussions were held with members of the *GLODIS* staff, in particular Prof. Peter Malanczuk (Director *GLODIS*), Dr. Ellen Hey (Deputy Director *GLODIS*) and Dr. Menno Kamminga. Prof. Hans de Doelder (Criminal Law), Prof. Roger van den Berg (Law and Economics) and Prof. Willem Lammerts van Bueren (Faculty of Economics) also joined the discussions.

The object of the meeting was to further develop the Co-operation Agreement on Joint Research Projects (Co-operation Agreement), concluded on May 13, 1998, between the *GLODIS* Institute and ILI. In accordance with paragraph 5 of the Co-operation Agreement two topics were selected for the development of joint research projects:

- human rights law, and
- WTO law.

In addition, the establishment of a *GLODIS* Regional Center at Peking University was discussed.

GLODIS Regional Center

It was decided that a *GLODIS* Regional Center will be established at the School of Law of Peking University in May 1999. The Center will be co-directed by Professors Geping Rao and Peter Malanczuk. Its aims will be to facilitate the co-operative research and teaching projects outlined below and any other activities that may be undertaken within the framework of the Co-operation Agreement and the Agreement concluded between the Faculty of Law of Peking University and the Faculty of Law of the Erasmus University Rotterdam, also concluded on May 13, 1998.

The Center will engage in capacity building in the general field of International Legal Studies at Peking University and capacity building in the field of Chinese Law at Erasmus University Rotterdam. This through the further development of joint research and teaching programs, including the exchange of students, teachers and researchers and the development of joint degree programs ("sandwich formula"). During 1999 a joint curriculum will be developed for a course on WTO law at Peking University (see below).

The center will provide a basis for the extension of cooperation on teaching and research programs through a network of contacts of ILI and the *GLODIS* Institute, both in China and abroad.

The Center will be equipped with the necessary hard- and software to enable participation in long-distance training and research programs.

The ILI will provide a room for the Center and the *GLODIS* Institute will provide the necessary hard- and software for the Center. ILI and the *GLODIS* Institute will seek funding for the appointment of personnel.

Human Rights Law

Research

Content

Under Cluster I (1) of the Co-operation Agreement entitled *The International Protection of Human Rights and Domestic Implementation from a Comparative Chinese and European Perspective* a three-year research project entitled *Judicial Remedies* was agreed.

Within the general theme of *Judicial Remedies*, the topics outlined below will be researched. Relevant international legal obligations will serve as yardsticks for the research conducted within the project. The object of the project is to identify possible models of reform for China.

1. The implementation of international treaty obligations in domestic legal systems (the general problem of transformation of international law) in a comparative perspective.

2. Review of the relevant obligations in the International Covenant on Civil and Political Rights (including article 9, 14 and 15) and the corresponding provisions of the European Convention on Human Rights and the American Human Rights Convention and their implications for the Chinese legal system in a comparative perspective.
3. A general analysis of the judicial system (including administrative tribunals and the legal profession) in China in a comparative perspective.
4. The independence of the judiciary in China in a comparative perspective.
5. An analysis of the law of criminal procedure in China (including the presumption of innocence, role of defense attorneys, arrest and detention */habeas corpus*, right of appeal, evidence and burden of proof, admissibility of evidence) in a comparative perspective
6. Transparency of criminal proceedings in China (including the role of the media) in a comparative perspective.
7. State compensation in China in a comparative perspective.

Two additional topics of interest for consideration at a later stage were also identified.

8. Legal aid.
9. The position of aliens in the Chinese legal system, access to justice and the protection of property rights in a comparative perspective.

After an initial year of research and preparation, a conference will be held in the first half of 2000. Preliminary research papers outlining each of the above topics will be presented. During 2001 two workshops each on one or more of the above topics will be held.

A second conference will be held in 2002. At this conference papers presenting the findings on each of the above topics will be presented. Proceedings of the conference will be published in English and Chinese. The English language version will be published with a major publisher in the field of international law.

Participants

***International Law Institute and Human Rights Research Centre,
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Prof. Guimei Bai, (Deputy Dir. Human Research Rights Center)

Prof. Ruihua Chen (Law of Criminal Procedure)

Prof. Duanhong Chen (Administrative Law)

Prof. Lei Wang (Constitutional Law, School of Law)

Prof. Yong Xia (Deputy Dir. Institute of Law, Chinese Academy of Social Science)

Mr. Dingjian Cai (Research Fellow, Legal Office of the National People's Congress)

Mr. Hongpei Tang (Director, Office of National compensation, Supreme Court)
Mr. Zhang (Head of the Legal Aid Office, Ministry of Justice)
Prof. Yong Zhang (Dir. Institute of Legal Studies, Nankai University, Tianjin)

GLODIS Institute, Faculty of Law Erasmus University Rotterdam

Prof. Peter Malanczuk (Prof. International Law, Dir. *GLODIS* Institute)
Dr. Menno Kamminga (Associate Prof. International Law)
Prof. Hans de Doelder (Dean Faculty of Law and Prof. Criminal Law)
Mr. Juan Amayo Castro (Research Associate *GLODIS* Institute)
Ms. Liesbeth Zegveld (Research Associate *GLODIS* Institute)
Research Assistant (to be appointed at *GLODIS* Institute)

Raoul Wallenberg Institute

Participants to be included

Norwegian Institute of Human Rights

Participants to be included

WTO Law

Research

Content

Under Cluster II (4) of the Co-operation Agreement entitled *The New Dispute Settlement System of the World Trade Organization (WTO) from a European Perspective and Relevance for China's Accession to the WTO*, a three-year research program was agreed. It covers the following topics.

Two topics with a focus on, in particular, the participation of developing and transition economy country vis-a-vis developed countries in the WTO dispute settlement system since 1995.

1. A report on the use of the dispute settlement system including the number of separate matters filed as compliant/respondent before panels (appellee/appellant before the Appellate Body) and third party interventions.
2. A legal analysis of WTO substantive and procedural issues raised, including reference to application of 'in built' measures on special and differential treatment of developing and transition economy countries in WTO Agreements (including the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)).

Six topics on the examination of specific subject matter disputes. The specific subject matters will include the following topics.

3. Textiles and agriculture

4. Telecommunications and Information Technology
5. Sanitary and Phyto-sanitary measures (SPS) and Technical Barriers to Trade (TBT)
6. Trade Related Intellectual Property Rights (TRIPS)
7. Trade and Investment Measures
8. Financial services

Four topics of broader scope will also be researched.

9. Enforcement of WTO Rulings with a focus on, for example, the issues that have arisen in the wake of the ruling in the *European Communities – Regime for Importation, Sale and Distribution of Bananas* case, where the US and several Latin American countries are questioning the proper implementation of the ruling by the EC.
10. An analysis of the review process of the DSU conducted by WTO, including topics related to the status and role of non-state actors within WTO and the relationship between international trade law and other areas of international law, such as labor law, environmental law and the law of development.
11. An analysis of the WTO dispute settlement system from an economic point of view.
12. A prognosis for China's eventual participation in the WTO dispute settlement system. This topic will be used to bring together the findings reached under the other topics and will provide the basis for the concluding chapter of the resulting book.

After an initial year of research and preparation, a conference will be held in the first half of 2000. Preliminary research papers outlining each of the above topics will be presented. During 2001 two workshops each on one or more of the above topics will be held. A second conference will be held in 2002. At this conference papers presenting the findings on each of the above topics will be presented. Proceedings of the conference will be published in English and Chinese. The English language version will be published with a major publisher in the field of international law.

Participants

International Law Institute, University of Peking
 Prof. Zhaojie Li (Dep. Dir. ILI) In charge of WTO Project.
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 Prof. Jingchun Shao (Prof. Law, School of Law)
 Mr. Yonggang Cao (LLM student, ILI)

Ms. Ruosi Zhang (Senior Research Fellow, Institute of Law, China Academy of Social Sciences)
Ms. Xuewei Feng (Chief, Office of Foreign Affairs, Legislative Bureau of the State Council)
Ms. Yongmin Bian (Lecturer, School of Law, University of International Business and Economics)
xxx (Research Fellow, Research Institute, Ministry of Foreign Economic and Trade Cooperation)
xxx (Head of the Treaty Department or the Department of International Affairs, Ministry of Foreign Economic and Trade Cooperation)

GLODIS Institute, Faculty of Law, Erasmus University Rotterdam

Prof. Peter Malanczuk (Prof. International Law, Dir. *GLODIS* Institute)
Prof. Roger van den Berg (Prof. Law and Economics)
Dr. Ellen Hey (Ass. Prof. International Law, Deputy Dir. *GLODIS* Institute)
Ms. Mary Footer (Lecturer)
Mr. Saman Zia Zarifi (Senior Research Fellow)
Research Assistant (to be appointed)
Research Assistant (to be appointed)

International Economic Law Institute, Martin Luther University

Prof. Werner Meng (Prof. International Law, Dir. International Economic Law Institute)

Teaching

A course in WTO law will be developed in cooperation between ILI and the *GLODIS* Institute, it will be taught at the School of Law of Peking University in the spring of 2000. Lectures will be given by ILI staff, *GLODIS* staff and staff members of the Faculty of Law of Erasmus University.

The curriculum and teaching materials will be prepared in close cooperation between ILI and the *GLODIS* Institute.

A first draft course outline will be prepared in cooperation between the two ILI and the *GLODIS* Institute by April 15, 1999.

Participants

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Dr. Menno Kamminga (Associate Prof. International Law)
Ms. Mary Footer (Lecturer)

Thus done and signed in Rotterdam. 19. February 1999

Geping Rao

.....
Professor Geping Rao
Director,
International Law Institute,
School of Law,
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Malanczuk

.....
Professor Peter Malanczuk
Director, *GLODIS* Institute,
Head, Dept. of International Law,
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Erasmus University Rotterdam

Witnessed by

Wangtaya

February 19, 1999

Rol. S. MacLund

February 19, 1999