

CFRED's 14th Trade and Investment Law Seminar:

**METHODOLOGICAL PROBLEMS OF INTERNATIONAL ECONOMIC
LAW AND ADJUDICATION: THE EXAMPLE OF HUMAN RIGHTS IN
INVESTMENT ARBITRATION AND WTO DISPUTE SETTLEMENT**

by

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Chaired by: **Prof. Julien Chaisse**, *Faculty of Law, CUHK*

7 July 2015, Tuesday, 12:30 – 1:30p.m.
The CUHK Faculty of Law Boardroom, 6/F Lee Shau Kee Building, Shatin, N.T.

International economic law (IEL) is composed of diverse and dynamically interacting layers of private commercial law, national economic and 'conflicts law', transnational law (e.g. investor-state concession contracts), international treaties, institutions and 'secondary law' by international organizations that remain embedded into multilevel constitutional law and 'global administrative law' systems. Due to this inevitable legal, institutional and jurisdictional 'fragmentation of IEL', national and international courts of justice often apply diverse legal methodologies for interpreting the applicable law and the 'limitation clauses' in 'horizontal treaties' among states as well as in multilevel 'hierarchical regulation' of civil, political, economic, social and cultural rights of citizens and non-governmental actors competing in markets and participating in the global division of labor. This seminar focuses on 'methodological problems' (e.g. regarding interpretation, 'rules of recognition', adjudication, judicial comity among overlapping jurisdictions) in trade and investment adjudication and the customary law requirement of interpreting treaties and settling related disputes 'in conformity with the principles of justice and international law', including 'human rights and fundamental freedoms for all' and other 'relevant rules of international law applicable in the relations among the parties' (Preamble and Article 31 VCLT). How should trade and investment arbitrators react if the complainant, defendant, third parties or judges invoke human rights arguments as applicable law or relevant context for settling economic disputes? How should they construe the relationships between customary law, treaty provisions and general principles of law on the 'necessity' of governmental restrictions and judicial 'administration of justice'? Should competing jurisdictions avoid that 'rule shopping' and 'forum shopping' by complainants (e.g. tobacco producers challenging tobacco control measures in national courts, investment arbitration and WTO panels) lead to mutually conflicting 'judicial balancing' of economic rights and health protection measures? What are the inherent powers of courts of justice to clarify 'principles of justice' in IEL?

All are welcome!
Admission is free of charge!

Please join us by registering your interest [here](#) by 6 July 2015.

ABOUT THE SPEAKER:



Prof. Dr. Ernst-Ulrich Petersmann is Emeritus Professor of International and European Law and former head of the European University Institute Law Department (Florence) and former professor at the University of Geneva and its Graduate Institute of International Studies. For more than 35 years, he practised international economic law as former legal adviser in the German Ministry of Economic Affairs, German representative in European and UN institutions, legal advisor in GATT and the WTO, and former secretary, member or chairman of numerous GATT/WTO dispute settlement panels.