

***Global Administrative Law:
National and International Accountability Mechanisms for Global Regulatory
Governance***

**Convened by the IILJ and the
NYU Center on Environmental and Land Use Law
April 22-23, 2005**

Co-sponsored by the ABA Section of Administrative Law, and the International Environmental Law Committees of the ABA Sections of International Law and Section of Environment, Energy & Resource (SEER). This is a Centennial Regional Meeting of the American Society of International Law and is made possible in part by a grant from Carnegie Corporation of New York.

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Global governance increasingly takes the form of regulatory administration by intergovernmental agencies, by national agencies whose policies are coordinated in international institutions or informal networks, and by hybrid public-private bodies. Serious unmet problems of participation, accountability, and fairness already limit the legitimacy and effectiveness of these vast fields of regulatory governance. In national democracies, administrative law has developed to ensure that agencies making regulations and specific decisions consult with those affected, and can be challenged and reviewed. There is so far no general administrative law for transnational governance. Accountability mechanisms are emerging in specialist areas, but these are often isolated from each other. This conference brings together leading specialists on different regulatory problems - from the UN Security Council to the World Bank, from food safety to labor standards to timber certification - to consider the big picture of how the administration of global governance does work and should work. The aim is to help map and shape the emerging new field of global administrative law. It includes mechanisms for participation and review in transnational agencies, industry bodies, and private-public partnerships and the roles of national courts in reviewing transnational rules and decisions. The conference will be an active dialogue among academics, government and international officials, NGOs, and the private bar, and is by no means limited to lawyers!

Friday April 22, 2005

8am Continental Breakfast and Check-In

8.30am Welcome: Dean Richard Revesz, NYU School of Law

PART I: THE GLOBAL ADMINISTRATIVE LAW APPROACH

8.40am

Introduction:

Institutional Structures of Global Governance and Mechanisms of Global Administrative Law: Mapping the Field

- ♦ **Benedict Kingsbury**, NYU
- ♦ **Nico Krisch**, Oxford University

9am-10.45am

1. Concepts and Tools of Global Administrative Law

*Overview of structures and administrative law tools in global regulatory regimes to secure accountability for regulatory decision making. Distributional implications of global administrative law, including for the South. Moderated by **Richard Pildes**, NYU*

Speakers:

- ♦ Accountability and Abuses of Power in World Politics: **Robert Keohane**, Princeton University and Center for Advanced Study in the Behavioral Sciences
- ♦ Principles of Global Administrative Law: **Carol Harlow**, London School of Economics
- ♦ Who Benefits From Administrative Remedies? - Mobilization and Access to Justice in Impoverished Areas: **Martín Böhmer**, Universidad de San Andres, Argentina

Commentator:

- ♦ **John Ferejohn**, Stanford/NYU

PART II: ACCOUNTABILITY GAPS IN INTERNATIONAL AND NATIONAL ADMINISTRATION OF GLOBAL GOVERNANCE

11.15am-1pm

2. Global Rules for National Administrative Law

*WTO requirements, investment treaty obligations, and World Bank and IMF 'good governance' requirements, for administrative law in member states; human rights, environmental rights, and aid agency practice as sources; diffusion and borrowing of administrative law techniques between states and in hybrid or private governance; use of national law to control administrative actions of other states or of intergovernmental or private organizations. Moderated by **Rachel Barkow**, NYU*

Speakers:

- ♦ Global Impacts on US Administrative Law: **Richard Stewart**, NYU
- ♦ Global Impacts on European Administrative Law: **Sabino Cassese**, University of Rome

Additional background paper by **Sabino Cassese**: The Globalization of Law

- ♦ Development Partners and Governance of Public Procurements in Kenya: **Migai Akech**, University of Nairobi
- ♦ International Investment Agreements: Their Impacts on Administrative Law in Developing Countries: **Rudolf Dolzer**, University of Bonn

Commentators:

- ♦ **Joanne Scott**, Cambridge University
- ♦ **Michael Byowitz**, Antitrust Department, Wachtell, Lipton, Rosen & Katz

1pm-2pm Lunch in Greenberg Lounge

2pm-4pm

3. Accountability of Public International Economic Governance Institutions

Administrative law procedures and controls governing international economic organizations, including the WTO, the IMF, the World Bank and other *papers in a roundtable format. Papers will contribute to the multilateral development banks, and the European Central Bank. Moderated by **Simon Chesterman, NYU***

Speakers:

- ♦ Inspection Panels: **Charles DiLeva**, Lead Counsel, LEGEN, World Bank
- ♦ The European Central Bank: Accountability towards Citizens, Independence and Governance Ethics: **Chiara Zilioli**, Deputy General Counsel, European Central Bank
- ♦ Accountability of the IFIs - An NGO Perspective: **David Hunter**, American University Washington College of Law

Commentator:

- ♦ **Chantal Thomas**, Fordham University

4.30pm-6.30pm

4. Accountability in the Operational Activities of the United Nations

*Security Council antiterrorism; UN peacekeeping; international administration in Kosovo and East Timor; NGOs and other Private Contractors with international agencies or UN-Authorized State Actors. Moderated by **Thomas M. Franck, NYU***

Speakers:

- ♦ Accountability in UN Operations: **Richard Goldstone**, UN Oil-for-Food panel, former Justice of the South African Constitutional Court and ICTY Prosecutor
- ♦ Accountability in UN Operations: **Prince Zeid**, Ambassador of Jordan to the UN

Commentators:

- ♦ **Thomas M Franck**, NYU
- ♦ **Bruce Rashkow**, Director, General Legal Division, UN

6.30pm-7.30pm Reception, Greenberg Lounge

Saturday April 23, 2005

PART III: REGULATING REGULATION: CAN ADMINISTRATIVE LAW SHAPE STANDARD-SETTING AND REGULATORY SUPERVISION IN GLOBAL GOVERNANCE?

8.30am Continental Breakfast Available

9am-11am

5. Global Administrative Law in Public Regulation of Products and Services

*Harmonization and cooperation in regulation of products and services through treaty-based international organizations, transnational regulatory networks, national mutual recognition and regulatory equivalence arrangements. Moderated by **Eleanor Fox**, NYU*

Speakers:

- ♦ Regulation and Accountability in the WTO Technical Barriers to Trade Standards System: **Robert Howse**
- ♦ The Limited (and Sometimes Perverse) Contribution of the WTO to Global Administrative Law: **Donald Regan**, University of Michigan
- ♦ Transnational Mutual Recognition Regimes: Governance without Global Government: **Gregory Shaffer**, University of Wisconsin
- ♦ Assessing Private Sector Activities - The World Bank/IMF as Regulators: **Vijay Tata**, Chief Counsel of the Finance, Private Sector and Infrastructure Practice Group in the Legal Vice Presidency at World Bank
- ♦ The Governance of Global Banking Regulation: **Geoff Miller**, NYU

Commentators:

- ♦ **Steve Suppan**, Director of Research at the Institute for Agriculture and Trade Policy (IATP)
- ♦ **Grainne de Búrca**, European University Institute
- ♦ **Kevin Davis**, NYU

11.15am-12.30pm

6. Standard-Setting and Regulatory Administration by Private Bodies and Groups

*Development of administrative law procedures and mechanisms for private and hybrid regulatory governance. Moderated by **Rochelle Dreyfuss**, NYU*

Speakers:

- ♦ Centralized and Private Standard-Setting and Rights Protection: **Harm Schepel**, University of Kent at Canterbury
- ♦ The Administrative Law of Private/Public Global Forestry Regulation: **Errol Meidinger**, SUNY Buffalo
- ♦ Accountability of Nongovernmental Organizations (NGOs) in Global Governance: **Steve Charnovitz**, George Washington University

Commentator:

- ♦ **Katrina Wyman**, NYU

12.30pm-1.15pm Lunch in Greenberg Lounge

1.15pm-3pm

7. Global Administrative Law Approaches to Labor and Environmental Issues

*Administrative law techniques governing labor, environmental and other social regulation. Corporate social responsibility - Global Compact, public-private partnerships. Moderated by **Richard Stewart**, NYU*

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Speakers:

- ♦ Global Administrative Law at the International Labour Organisation: The Problem of Softer Standards: **Anne Davies**, Oxford University
- ♦ Legitimizing Supranational Governance: The Role of Global Administrative Law: **Dan Esty**, Yale University
- ♦ Regulating Global Corporate Activity: **Olivier De Schutter**, University of Louvain

Commentators:

- ♦ **Jonathan Wiener**, Duke University
- ♦ **Philip Alston**, NYU

PART IV: NORMATIVE ISSUES

3.30pm-5pm

8. Normative and Conceptual Issues

*Issues of democracy, power inequalities, and justice in the development of global administrative law. Moderated by **Mattias Kumm**, NYU*

Speakers:

- ♦ Rethinking Law and Democracy in an Age of Global Rulemaking: **Charles Sabel**, Columbia University
- ♦ Winners and Losers in Global Administrative Law: **Bhupinder S. Chimni**, Vice-Chancellor, West Bengal National University of Juridical Sciences, Kolkata

Commentator:

- ♦ **Susan Marks**, Cambridge University