



**Prof. Dr. Nicolas Lamp**

**THE RISE AND FALL OF THE MARKET METAPHOR OF INTERNATIONAL TRADE LAWMAKING**

**MPIL Agora**

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The market metaphor of international trade lawmaking analogizes the assumption of legal commitments in trade negotiations to commercial transactions in a marketplace. It appeals to the self-interest of the negotiating countries and allows them to construct exchanges of concessions even in the absence of agreement on substantive policy goals. These features of the metaphor made the trading system into the most productive site of multilateral lawmaking of the post-World War II decades. However, the market metaphor also provides a key to understanding the decline of the trade regime as a lawmaking forum since the turn of the millennium. The Doha Round of trade negotiations (2001-2015) failed in large part because the metaphor makes it difficult for trade negotiators to address perceived imbalances in legal commitments, which were at the heart of the disagreement between the developed countries and the emerging economies in the Doha Round. Moreover, the backlash against globalization in recent years has further eroded the foundations for conducting negotiations based on the market metaphor. The market metaphor presupposes that negotiators are willing to “commodify” their public policies, i.e., to treat policies themselves as tradeable commodities that they can then “sell” in exchange for changes in other countries’ policies. As governments have become more concerned about the security implications of interdependence, the resilience of supply chains, and the impact of the climate crisis, they are increasingly unwilling to adopt this conceit and instead treat their trade-related public policies as non-negotiable, which has significantly narrowed the scope of the trade policy market. The future of trade cooperation therefore lies in the few areas where governments can agree on substantive policy goals. The era in which they were willing to trade off those policy goals for the diffuse economic gains from trade liberalization is ending.



**About the Speaker**

Nicolas Lamp is Associate Professor at the Faculty of Law at Queen’s University. Prior to joining Queen’s, Professor Lamp worked as a Dispute Settlement Lawyer at the Appellate Body Secretariat of the World Trade Organization. Professor Lamp received his PhD in Law from the London School of Economics and Political Science in 2013. His current research focuses on the implications of the backlash against globalization for international trade law and policy. His co-authored book (with Anthea Roberts) titled *Six Faces of Globalization: Who Wins, Who Loses, and Why It Matters* was published by Harvard University Press in 2021.

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