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Prateek Bhattacharya & Jayant Raghu Ram,  
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*Anniversary Editorial*

SETTLING TRADE DISPUTES: BUTTER, NOT GUNS

**PRATEEK BHATTACHARYA\* AND JAYANT RAGHU RAM\*\***

Toby Ziegler: You want to know the benefits of free trade? Food is cheaper.

Officer Rhonda Sachs: Yes.

Toby Ziegler: Food is cheaper! Clothes are cheaper. Steel is cheaper. Cars are cheaper. Phone service is cheaper...It lowers prices, it raises income. You see what I did with 'lowers' and 'raises' there?

Officer Rhonda Sachs: Yes.

Toby Ziegler: It's called the science of listener attention. We did repetition, we did floating opposites, and now you end with the one that's not like the others. Ready? *Free trade stops wars... Free trade stops wars! ...One world, one peace* – I'm sure I've seen that on a sign somewhere.<sup>1</sup>

Toby Zeigler was dot on the point. Free trade *does* stop wars. In more ways than one, the era of globalization has seen an exponential increase in various instruments which, in effect, reduce the chances of war. These vary from mild mechanisms such as investor-state arbitration to grave ones like economic sanctions. People today don't *want* to fights wars. After all, wars are expensive, frightening, demoralizing, and, most of all, they completely offset the day-to-day business of all people who are even remotely involved. Of course, there always the exceptions where the situation is so dire that war is the only option that remains (although this may itself be a debatable point). However, there is a general

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This Editorial is dedicated to all the persons who have been associated with TL&D presently, in the past, or in the future. We thank you for your assistance and contribution.

<sup>1</sup> The West Wing, Season 2, Episode 16, *Somebody's Going to Emergency, Somebody's Going to Jail* (Created by Aaron Sorkin, 2001).

consensus in the people of the world today that every attempt shall be made to *avoid* a war or any form of armed conflict. That is why the United Nations [UN] has specialized peace-keeping forces. In fact, that is why an institution such as the UN exists at all. And that is the very same reason that the World Trade Organization [WTO] came into being and institutionalized formal rules on trading of goods, services and even intellectual property rights.

Among the various roles of the WTO, is its function of resolving any troubles and disagreements between Members. Legally speaking, the WTO settles any disputes over the alleged violation of any of the laws codified by the WTO, and the rights and obligations which they confer upon the Member nations. This function is known as Dispute Settlement, and the Dispute Settlement Body [DSB] has been entrusted with the responsibility of managing this particular role of the WTO. The legal text which the DSB obtains its authority from is the Understanding on the Rules and Procedures Governing the Settlement of Disputes [DSU]. The DSB's functions can be delineated into the following essential roles: (1) to establish dispute settlement panels, (2) to adopt such panel and (in case of an appeal) Appellate Body reports, (3) to maintain surveillance of the implementation of the rulings and recommendations which the DSB adopts, and (4) to authorize the suspension of concessions and other obligations under the covered WTO agreements.<sup>2</sup> In many ways, the DSB's performance of these functions and its obligation to do so, as prescribed under the DSU is what makes it the "crown jewel" of the WTO system.<sup>3</sup>

This editorial, however, does not aim at elaborating upon the virtues and vices of the WTO, or the success and deficiencies of the WTO Dispute Settlement Mechanism [DSM]. That has been discussed at length within the contents of this Special Issue, as well as in multiple books and articles. Rather, we aim to explain the reasons behind choosing *Dispute Settlement at the World Trade Organization* as the theme of this Issue. Along the way, we shall discuss *Trade, Law and Development* [TL&D] as not merely a journal, but also as an inspiration amongst us students, and as an avenue for knowledge management and for broadening our outlook and experiences. We will also give due recognition to those persons who have been instrumental in ensuring that TL&D made it so far, as well as those who shall carry the baton from here onwards. Finally, having discussed the road so far, this Editorial shall throw light upon what lies ahead.

#### WHY DISPUTE SETTLEMENT AT THE WTO?: A VARIETY OF REASONS

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<sup>2</sup> DAVID PALMETER & PETROS C. MAVROIDIS, *DISPUTE SETTLEMENT IN THE WORLD TRADE ORGANIZATION: PRACTICE AND PROCEDURE* 15 (2<sup>nd</sup> ed., Cambridge Univ. Press, 2004) [hereinafter PALMETER & MAVROIDIS].

<sup>3</sup> RAJ BHALA, *MODERN GATT LAW* 1149 (Sweet & Maxwell, 2005) [hereinafter BHALA].

There are many factors which can be said to have contributed towards deciding in favour of *Dispute Settlement at the WTO* as a suitable theme for our Special Issue. This Special Issue inaugurates TL&D's fourth volume (Vol. 4, No. 1) and marks its three year anniversary since its inception in 2009. Our first anniversary issue was a special one themed upon "*International Investment Law*" (Vol. 2, No. 1 (2010)), with the topic being of considerable relevance at that point of time as has been previously mentioned in TL&D's first Anniversary Editorial.<sup>4</sup> Following the success and positive feedback which the Special Issue received, and since the idea of the TWAAIL Special Issue was already in the pipeline, the Editors (past and present) consciously established a tradition of having an annual special issue – i.e., every Spring/Summer issue of the journal would concentrate on one particular area of international law or international economic law.

As has already been mentioned, the idea for a Special Issue on "*Third World Approaches to International Law*" [TWAAIL] was already in the pipeline in early 2010, even before the first anniversary issue was published. The contributory factors for the same were plentiful, and have been discussed at length elsewhere.<sup>5</sup> As Meghana Sharafudeen aptly titled it, the TWAAIL Special Issue was representative of the road less travelled – a journey which served as an eye-opener for us and which gave us a more nuanced understanding of International Law. In the wake of such a niche subject, we felt it appropriate to steer the journal towards a more mainstream topic which is the bread and butter of international trade law – Dispute Settlement.

*Dispute Settlement at the WTO* was not our first choice, nor was it the only one. It was after seriously deliberating upon several topics such as International IP Law, Government Procurement, *inter alia*, that WTO Dispute Settlement prevailed as this year's theme for the Special Issue. Though we were initially somewhat circumspect on selecting a topic on which an exhaustive amount of scholarship had already been written, we nonetheless came to realize the benefits of selecting *Dispute Settlement at the WTO* as the theme for the Special Issue – partly in the course of editing the issue, and partly in the course of our academic studies and research. We shall now discuss those factors which make WTO Dispute Settlement an ideal and excellent theme for scholarly debate and deliberation.

Our first and foremost reason for selecting WTO dispute settlement as this year's theme is the very significance of the WTO DSM in the multilateral trading order. A unique contribution of the Uruguay Round Negotiations in 1995,<sup>6</sup> the

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<sup>4</sup> Shashank P. Kumar, *A Yearful of Thoughts*, 2(1) TRADE, L. & DEV. 1 (2010).

<sup>5</sup> Meghana Sharafudeen, *Taking the Road Less Travelled*, 3(1) TRADE, L. & DEV. 6 (2011).

<sup>6</sup> World Trade Organization, Understanding the WTO: Settling Disputes, *A Unique Contribution*, available at:

dispute settlement mechanism of the WTO has come to be recognized as one of its cornerstones, aptly described as the WTO's "crown jewel".<sup>7</sup> WTO dispute settlement, in many ways, defines the nature and stature of the WTO as an international organization, and this is extremely relevant at a time when international institutions are beginning to play a crucial role in world economics and policy-making. The WTO DSM is what makes the WTO *work*, hence its description as the backbone of the multilateral trading regime.<sup>8</sup> Characteristics like compulsory jurisdiction of the DSB, and the practice of negative or reverse consensus (as opposed to that of positive consensus during the GATT era) guarantee a meaningful and effective enforcement mechanism.<sup>9</sup> Furthermore, as has been discussed by Bhala, there is a certain degree of "automacy", and there are "teeth" built into the DSU with a system of tight deadlines and a set time frame for resolving disputes.<sup>10</sup> Therefore the Austinian positivist postulate that international law is not law at all, since law can only be a command issued by a sovereign that is habitually obeyed under threat of punishment, does not apply to international trade law.<sup>11</sup>

Another reason which makes WTO dispute settlement apposite as a theme is its relation to TL&D's philosophy. As many of our readers may be aware, the purpose of TL&D is to *generate and sustain a democratic debate on issues of world trade and law of relevance to the developing world*. While the WTO dispute settlement system does not *exclusively* concern the developing world, it does *significantly* concern the developing world.<sup>12</sup> The profound implications that several issues such as transparency in WTO dispute settlement, capacity to effectively participate in WTO litigation, special and differential treatment provisions in the DSU – all of which concern the developing world and indeed touch upon the interests of the developing world, justifies our selection of the theme.

Having said that, there were other ancillary factors which played a role in choosing *Dispute Settlement at the WTO* as the theme for this Issue. One was the Editors' own increased interest in, and understanding of, International Dispute Settlement Mechanisms in general, and the WTO Dispute Settlement Mechanism in particular. Another reason was the greater possibility of attracting good scholarship for the Special Issue, given the popularity of WTO Dispute Settlement,

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[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/disp1\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/disp1_e.htm).

<sup>7</sup> BHALA, *supra* note 3.

<sup>8</sup> World Trade Organization, Dispute Settlement Training Module, *Preface*, available at: [http://www.wto.org/english/tratop\\_e/dispu\\_e/disp\\_settlement\\_cbt\\_e/intro1\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/intro1_e.htm).

<sup>9</sup> PALMETER & MAVROIDIS, *supra* note 2, at 15-16.

<sup>10</sup> BHALA, *supra* note 3.

<sup>11</sup> *Id.* at 1149-1150.

<sup>12</sup> We would like to thank Mr. Jan Bohanes, Counsel, ACWL for mentioning this point in our discussions during our initial correspondence with him.

and the vast number of topics which it offers for discussion. All in all, this theme has proven to be a most appropriate topic for the Special Issue, and provided us with unparalleled amounts of knowledge and experience.

#### CONTENTS OF THE SPECIAL ISSUE

This Special Issue comprises ideas and arguments on a wide range of subjects, and promises to serve its readers with some very interesting insights into WTO Dispute Settlement. We shall briefly discuss here, the contents of the Special Issue.

Prof. Joel Trachtman, a world-renowned scholar in international economic law, has graciously consented to being this issue's Guest Editor. His Guest Editorial is a well written and refreshing insight into legitimacy of the WTO DSM and Special and Differential Treatment provided to developing nations.<sup>13</sup>

Transparency and public participation in international dispute settlement mechanisms has always been a subject of great interest. In their article, Gabrielle Marceau and Mikella Hurley succinctly present a report card comparing the transparency practices at the WTO DSM with other equally important dispute settlement fora such as investor-state arbitration.<sup>14</sup> They also provide valuable insights as to how the WTO DSM can be made more transparent.

The participation of developing countries in the WTO DSM has always been a subject of scholarly inquiry and research. Jan Bohanes and Fernanda Garza present a very well-referenced discussion on what hinders the effective participation of developing countries in the WTO DSM. In their article, they incisively argue how developing countries should overcome their capacity constraints so as to effectively participate in the DSM.<sup>15</sup>

The subject of standard of review has always been of much debate in both national and international fora. Simon Lester proceeds to recount the position of the Appellate Body [AB] on the question of standards of review followed in WTO disputes. He explains the concepts of factual, legal and law application questions in the context of the WTO appellate procedure, and ponders on the implication of

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<sup>13</sup> Joel P. Trachtman, *The WTO, Legitimacy and Development*, 4(1) TRADE L. & DEV. 12 (2012).

<sup>14</sup> Gabrielle Marceau & Mikella Hurley, *Transparency and Public Participation in the WTO: A Report Card on WTO Transparency Mechanisms*, 4(1) TRADE L. & DEV. 19 (2012).

<sup>15</sup> Jan Bohanes & Fernanda Garza, *Going Beyond Stereotypes: Participation of Developing Countries in WTO Dispute Settlement*, 4(1) TRADE L. & DEV. 45 (2012).

reading Article 17.6 of the DSU broadly so as to include questions of law application.<sup>16</sup>

Sonia Rolland explores the existing law and practice of WTO dispute settlement beyond the stage of adoption of Panel and AB reports. She assesses the developmental considerations which factor into a subsequent implementation or arbitration proceeding, and conducts a thorough analysis of attempts to reform such developmental considerations through negotiations beginning in the Uruguay Round all the way through to the Doha Round.<sup>17</sup>

Arthur Daemrlich provides a refreshing perspective on the WTO's legitimacy. With particular focus on the celebrated *US-Upland Cotton* dispute, he explains how the WTO's dispute settlement mechanism has contributed to its institutional legitimacy. His discussion largely centres on epistemic questions pertaining to the value of scientific and economic evidence at the WTO DSM.<sup>18</sup>

At the beginning of the "Notes & Comments" section, we have a very succinct note by Ambassador Yvonne Frederick Agah who recounts his views on the developments in the DSB up to 2010.<sup>19</sup> He notes that the DSB is among the most active and productive bodies of the WTO. He goes on to observe that WTO Members, including developing countries, repose their confidence in the dispute settlement system due to its remarkable efficiency and due to its ability to mitigate the imbalances between strong and weak member governments by following the rule-based system.<sup>20</sup>

Claus D. Zimmermann, who had previously provided us with an excellent article on efficient breach at the WTO,<sup>21</sup> has written a thought-provoking note on retrospective remedies. He analyses the pros and cons of the absence of

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<sup>16</sup> Simon Lester, *The Development of Standards of Appellate Review for Factual, Legal and Law Application Questions in WTO Dispute Settlement*, 4(1) TRADE L. & DEV. 125 (2012).

<sup>17</sup> Sonia E. Rolland, *Considering Development in the Implementation of Panel and Appellate Body Reports*, 4(1) TRADE L. & DEV. 150 (2012).

<sup>18</sup> Arthur Daemrlich, *Epistemic Contests and Legitimacy of the World Trade Organization: The Brazil – USA Cotton Dispute and Incremental Balancing of Global Interests*, 4(1) TRADE L. & DEV. 200 (2012).

<sup>19</sup> The Editors would like to thank Valerie Hughes, Director, Legal Affairs Division and Gabrielle Marceau, Counsellor, Legal Affairs Division at the WTO for suggesting the publication of Ambassador Agah's speech, and also for putting us in touch with Ambassador Agah.

<sup>20</sup> H.E. Mr. Yvonne Frederick Agah, *WTO Dispute Settlement Body Developments in 2010: An Analysis*, 4(1) TRADE L. & DEV. 241 (2012).

<sup>21</sup> Claus D. Zimmermann, *Tolerance of Temporary Non-Compliance: The Systematic Safety Valve of WTO Dispute Settlement Revisited*, 3(2) TRADE L. & DEV. 382 (2011).



retrospective remedies and concludes that a “switch to retrospective remedies may do more harm than good”.<sup>22</sup>

The last in the series of contributions for this Special Issue is Sagnik Sinha’s articulate review of Kati Kulovesi’s book *“The WTO Dispute Settlement System: Challenges of the Environment, Legitimacy and Fragmentation”*, published by Kluwer International. The recent *US–Tuna* and *US–Clove Cigarettes* disputes have sparked a fresh debate on the WTO’s infringement of state sovereignty. One cannot but agree with Sinha’s observation that the “book could not have come at a better time”. In his review, he draws attention to the practical utility of the discourse generated by Kulovesi’s book.<sup>23</sup>

### RECENT DEVELOPMENTS

The last academic year (2011-2012) was a fruitful and exciting one for international economic law students and faculty at National Law University, Jodhpur [NLU Jodhpur]. It was marked by visits from scholars such as Prof. Mitsuo Matsushita,<sup>24</sup> and Prof. Gregory C. Shaffer<sup>25</sup> under the aegis of the Distinguished Guest Lecture Series facilitated by the Research and Advisory Centre on International Economic Law (RACIEL).<sup>26</sup> The Board of Editors was particularly enthusiastic about these visits, as Prof. Matsushita had recently contributed to TL&D’s Fall 2011 Issue,<sup>27</sup> and on account of the valuable insights that Prof. Shaffer provided us with on the topic of WTO Dispute Settlement. In

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<sup>22</sup> Claus D. Zimmermann, *The Neglected Link Between the Legal Nature of WTO Rules, the Political Filtering of WTO Disputes, and the Absence of Retrospective WTO Remedies*, 4(1) TRADE L. & DEV. 251 (2012).

<sup>23</sup> Sagnik Sinha, *A Review of Kati Kulovesi, The WTO Dispute Settlement System: Challenges of the Environment, Legitimacy and Fragmentation (Kluwer Int’l 2011)*, 4(1) Trade L. & Dev. 268 (2012).

<sup>24</sup> Professor Emeritus of the Tokyo University and former Member of the WTO Appellate Body. Prof. Matsushita’s lecture was on the linkages between competition law and trade law and the scope of competition law before the WTO.

<sup>25</sup> Prof. Shaffer’s had made a presentation on his recent article, Gregory C. Shaffer et al., 41(2) CORNELL INT’L L.J. (2008), and on his book *Dispute Settlement at the WTO: The Developing Country Experience* (Cambridge Univ. Press 2010) which he co-edited with Ricardo Melendez-Ortiz.

<sup>26</sup> Chaired by Mr. Yogesh Pai, the Research and Advisory Centre on International Economic Law is one of the many research centres established in the National Law University, Jodhpur. Founded in 2011, the RACIEL’s objective is “to promote excellence in research, education and training in the area of International Economic Law (IEL)”. See <http://www.nlujodhpur.ac.in/raciell.php> (last visited June 8, 2012).

<sup>27</sup> Mitsuo Matsushita, *Export Control of Natural Resources - WTO Panel Ruling on the Chinese Export Restrictions of Natural Resources*, 3(2) TRADE L. & DEV. 267 (2011).

addition, as part of the MHRD IPR<sup>28</sup> Lecture Series, Dr. Jayashree Watal also visited the University. A Counsellor, with the IPR Division at the World Trade Organization, Dr. Watal provided us with practical knowledge from her experiences at the WTO Secretariat.

The new Board of Editors of *Trade, Law and Development* for the academic year 2012-2013 was appointed in April 2012. The selection procedure for the same was revised to make it more holistic. In keeping with our previous practice, two Editors-in-Chief have been appointed in order to divide responsibilities, thereby ensuring a smooth functioning of the Journal. These roles shall be filled by Shreya Munoth and Meghana Chandra, two final year students specialising in International Trade and Investment Law, who have proven their skill and dedication over the past two years. In order to better facilitate them in their responsibilities, the post of Managing Editor has been split into Senior and Junior Managing Editor. Lakshmi Neelakantan, another diligent final year student specialising in International Trade and Investment Law shall don the mantle of Senior Managing Editor, while Nakul Nayak, a third year student shall serve as Junior Managing Editor. Prianka Mohan and Neha Reddy shall serve as Content Editors. As for the authors, we, the outgoing Editors-in-Chief, shall continue to support the Journal in our roles as Consulting Editors alongside Aman Bhattacharya,<sup>29</sup> Shashank Kumar, Meghana Sharafudeen and Gopalakrishnan R.

In keeping with tradition, we are pleased to announce the theme for the next Special Issue of TL&D, due for publication in *Summer* 2013. Rather than selecting a topic from among the international economic law roster, the Board of Editors decided to select a country-specific theme. Since TL&D is a journal based in India, it was only good logic and common sense which dictated that we dedicate our next Special Issue on India-centric topics in the world economic system. Thus, we proudly announce the theme for the Summer 2013 Special Issue: *India and the World Economic System* (Vol. 5, No.1). Ever since India's era of liberalisation, privatisation and globalisation was kick-started in the early 90's, India's engagement with the world economic system has become ever so dynamic, and it is in this spirit that TL&D hopes to generate a diverse and exciting range of scholarship. In addition, *Summer* 2013 shall mark the Journal's Five Year Anniversary, and a better theme

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<sup>28</sup> The Union Ministry of Human Resources and Development [MHRD] has established IPR Chairs in certain law schools in India, one of which is in the National Law University, Jodhpur. Established in 2011, the Chair's objective is "to promote teaching and research in Intellectual Property (IP) considering the potential for IP education, research and training at the National Law University, Jodhpur." See [http://www.nljodhpur.ac.in/mhrd\\_ipr\\_chair.php](http://www.nljodhpur.ac.in/mhrd_ipr_chair.php) (last visited June 8, 2012).

<sup>29</sup> We would like to take this opportunity to specially thank Aman, our Senior Content Editor. An excellent student of international law and international economic law, Aman has remained a close friend and a steady source of advice for the two of us.

could not have commemorated the occasion than *India and the World Economic System*.

In March 2011, the Board of Editors received a pleasant surprise when we were informed that TL&D had been ranked 1<sup>st</sup> in India as per the Washington and Lee Law Review rankings.<sup>30</sup> In addition, TL&D had also been ranked 8<sup>th</sup> among student-edited International Trade journals worldwide, and 15<sup>th</sup> among *all* International Trade journals worldwide. Needless to say, this was quite an honour for us, and a cause for much celebration for the Board.

Among other developments, we have recently concluded a contract with EBSCO Publishing. As per this contract, TL&D shall license, on a non-exclusive basis, its rights to EBSCO for reproduction and distribution.. We look forward to a beneficial association with EBSCO Publishing in the coming future.

An important and conspicuous change which the Board of Editors has brought about pertains to the categorisation of our Issues in accordance with the natural seasons. We have changed the erstwhile system of categorising our Issues as *Spring* and *Fall* Issues, and have decided to henceforth categorise our Issues as *Summer* and *Winter* respectively instead. Being an India-based journal, the Editorial Board saw sense in doing away with the *Fall/Spring* system since much of India (and many other developing countries as well) do not experience this set of seasons.

#### ACKNOWLEDGMENTS

Since our inception in 2009, we have continuously and doggedly strived to achieve excellence and establish ourselves as a Journal of high quality and reputation. In this regard, our recent recognition by the Washington and Lee Law Review Rankings stands testimony to our efforts. However, it would be unfair if we did not thank all those who have been an integral part of our success story.

At the outset, we would like to thank the Hon'ble Vice-Chancellor of NLU Jodhpur, Justice N.N. Mathur. As the Journal's Patron, we are grateful to Justice Mathur for reposing his faith in us – a group of young undergraduate students – in handling a project which entails major responsibilities. We are also grateful to Mr. Ratan Lahoti, Registrar, NLU Jodhpur for all the administrative help and support which he has provided over the years. We also recognise the assistance of the administrative staff of NLU Jodhpur.

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<sup>30</sup> The Washington & Lee Law School maintains a comprehensive database which records and ranks law journals worldwide on the basis of criteria such as Impact Factor, Cost, and the frequency in which the journal is cited.

Mr. Yogesh Pai, the Journal's Faculty-in-Charge, has been a constant source of encouragement and immense support to the Editorial Board in all its endeavours. Having joined the Editorial Board in 2010, Mr. Pai has played an important role in guiding and assisting the Editorial Board in our day-to-day functioning as well as in providing vital inputs towards our decision-making process. In fact, Mr. Pai's own knowledge on the prevailing climate of WTO law played a significant role in our decision for *Dispute Settlement at the WTO* as the theme for this Issue. We are very grateful to him for his time despite his other research and academic commitments at the University.

Acknowledgements are due to our Consulting Editors – Shashank P. Kumar, Meghana Sharafudeen and Gopalakrishnan R. for their support. Credit is especially due to Shashank since the idea of WTO Dispute Settlement as this year's theme was Shashank's suggestion. Having played a key role in founding the Journal in 2009, Shashank continues to support the Board of Editors in our various endeavours with his timely inputs.

We would also like to thank all our authors, past and present, for honouring us with their contributions to our Journal. For a young journal like TL&D which still has a long way to go in achieving a higher level of academic consciousness,<sup>31</sup> we are indeed grateful to all our authors for taking time out of their busy professional schedules, reposing their faith in our capabilities, and providing us the opportunity to publish their scholarly works. We would also like to thank our readers, our patrons, and our Board of Advisors for their best wishes, and their constant support and encouragement, which increases with every Issue we publish, and every step we take forward.

Last but not the least, we sincerely thank and appreciate the Board of Editors 2011-12 for their diligence, and their extended co-operation in the midst of their many other personal and professional commitments, as well as for their interest in taking the Journal forward.

#### PARTING WORDS FROM THE EDITORS

As previously mentioned, TL&D has served as more than a law review, but an avenue towards better academic learning. As the Editors-in-Chief, we have undergone many trials and tribulations, both internal and external. In the process, we have gained valuable experience and exposure, which is sure to help us in our professional endeavours in the future. From being involved in groundwork processes and keeping tabs on our Editors' progress, to staying in constant touch

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<sup>31</sup> We acknowledge Meghana Sharafudeen for introducing us to this phrase.

with prospective authors, publishing houses, and even our own University administration, the practice of knowledge management is imbued into the Journal. In many ways, TL&D has come to define the person that each of us has individually become, both as academicians and as professionals. Whether it be late-night discussions on WTO law, or formal meetings with prospective authors, the common fabric was always the desire to ensure the success of TL&D as an endeavour.

In his Anniversary Editorial for the Special Issue on *International Investment Law*, Shashank had identified the lack of continuity as a problem plaguing many Indian law journals. Notwithstanding our many hurdles, we are glad to buck this trend by marking the fourth year of our establishment with the publication of this Special Issue. If there is anything that these years have taught us, it is that with the right amount of will and determination, we are sure to succeed in our aims and objectives. It would be apt to quote Lt. General Roméo Dallaire here: *peux ce que veut* (where there is a will, there is a way).<sup>32</sup>

Without further ado, we bid our readers to indulge themselves in the eight stellar contributions that feature in this Special Issue spearheaded by Prof. Joel Trachtman, who has honoured us by penning the Guest Editorial.

*Warmest Regards and Best Wishes from the Sun City.*

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<sup>32</sup> ROMÉO DALLAIRE, *SHAKE HANDS WITH THE DEVIL: THE FAILURE OF HUMANITY IN RWANDA* (De Capo Press 2004). This quote was part of a letter from General Dallaire (then the force commander of the UN Assistance Mission for Rwanda) to the office of Kofi Annan (then the Chairperson of the Dept. of Peacekeeping Operations) in an attempt to avert mass murder in Rwanda in 1994.