Preface

The failure of the trade negotiations at Seattle and the almost collapse of the negotiations at Doha has brought increased attention to the issue of development, aid, and the implementation of special and differential rights in favour of developing countries. This book looks to examine one aspect of the many issues facing developed and developing countries in the negotiations that lie ahead, specifically how international economic law can be used in the application of technological processes to help address the Digital Divide.

At present, there is an emphasis on development and the needs of developing countries, and that such development needs to be *sustainable*. There is also greater attention to the role that Information Communications Technologies (ICTs) can play in helping to enforce basic human rights. It is widely recognised now that ICTs can help support the achievement of several of the *Millennium Development Goals* (MDGs), such as reducing poverty, improving literacy and healthcare. The eradication of poverty will be dependent on sustainable growth. Research reviewed in Chapter 2 indicates that growing information technology levels leads to growth of gross domestic product (GDP). Also, by broadening the availability and quality of educational material and improving educational administration and policy, ICTs can help support the development of primary education. ICTs can also help improve healthcare provision by providing channels for the provision of treatment, consultation and diagnosis. By making positive attempts to reduce the Digital Divide, Developing Countries (DCs) and Least Developing Countries (LDCs) will be in a better position to access the technology required to address the MDGs. The book poses three questions. The first asks what are the sectors in International Economic Law (IEL) that relate to the Digital Divide? Part I of the book covering Chapters 1 and 2 sets out the context of IEL and the Digital Divide. The second question asks how the sectors identified in Part I are regulated and whether current regulation can be improved to help address the Digital Divide. The international regulation of technology processes is covered in Part II of the book (Chapters 3–6). Chapter 5 in particular, sets out a new *Layering Theory* that could help address the Digital Divide. By applying the Layering Theory at the multilateral level, amending the World Trade Organisation's (WTO's) regulatory Reference Paper, the author argues that operators in the developing world will be able to gain access to international backbone internet networks at cost price, one of the main impediments to

reducing the Digital Divide. Part III on developing countries (Chapters 7–10) discusses in detail how rules of IEL (telecommunications, IP, trade, competition, and development) regulating technological processes impact DCs and LDCs. Chapter 7 discusses the regulation of telecommunications from the perspective of DCs and LDCs. Chapter 8 discusses how DCs and LDCs can maximise their access to technology through technology transfer and Foreign Direct Investment in order to innovate so as to export to markets overseas (mainly OECD markets), and Chapter 9 describes the legislative web and hierarchical restrictions that DCs and LDCs face in the context of bilateral investment agreements, RTAs and FTAs.

However, the eradication of poverty and the improvement of basic living standards in some of the least developed countries of the world cannot happen without such states also giving greater effect to the enforcement of civil and political rights, and economic, social and cultural rights (ESCR) ‘at home’. Chapter 10 attempts to address the last of the three questions posed by the book, specifically whether it is possible to define a relationship in IEL between civil and political rights and ESCR as a collective for example in the form of the much debated and somewhat controversial *Right to Development* (the ‘RTD’ as defined in this book) on the one hand, with the Digital Divide on the other? And if such a link does exist, how can the RTD be enforced to help address the Digital Divide?

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