



ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA
SCUOLA DI GIURISPRUDENZA
DIPARTIMENTO DI SCIENZE GIURIDICHE



*Ministero degli Affari Esteri
e della Cooperazione Internazionale*



FONDAZIONE FLAMINIA
PER L'UNIVERSITÀ
IN ROMAGNA

International Conference

With the Special Support of the Italian Ministry of Foreign Affairs

TRANSPARENCY VS CONFIDENTIALITY IN INTERNATIONAL ECONOMIC LAW: LOOKING FOR AN APPROPRIATE BALANCE

**Friday 20 November 2015
Ravenna, School of Law - Via Oberdan 1**

With the sponsorship



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WITH THE COLLABORATION OF

Fondazione Flaminia - Ravenna (Fondazione per l'Università in Romagna), and the School of Law and Department of Legal Sciences - *Alma Mater Studiorum* Università di Bologna

SCIENTIFIC COMMITTEE:

Peter-Tobias Stoll, Elisa Baroncini, Marina Trunk-Fedorova, Francesca Curi, Michele Angelo Lupoi, Alberto Malatesta, Pietro Manzini, Marion Panizzon, Attila Tanzi, Gabriella Venturini, Alessandra Zanobetti

PROGRAMME OF THE CONFERENCE

Friday 20 November 2015

h. 9:00

Welcome Addresses

Professor Giovanni Luchetti, Director, Department of Legal Sciences, Alma Mater Studiorum - Università di Bologna

Professor Nicoletta Sarti, President, School of Law, Alma Mater Studiorum - Università di Bologna

Professor Francesca Curi, Responsible for the Legal Studies, Ravenna Campus Alma Mater Studiorum - Università di Bologna

Professor Michele Lupoi, Coordinator, Law Studies Degree, School of Law, Ravenna Campus, Alma Mater Studiorum - Università di Bologna

h. 9:15

Presentation of the Conference

Professors Peter Tobias-Stoll (University of Göttingen), Elisa Baroncini (*Alma Mater Studiorum* - Università di Bologna), Marina Trunk-Fedorova (St. Petersburg State University)

Introductory Remarks

Professor Attila Tanzi, Department of Legal Sciences and School of Law, *Alma Mater Studiorum* - Università di Bologna

h. 9.45 - 11:00

I Session - Transparency v. Confidentiality in IEL International Negotiations

Chair:

Transparency in the Process and Provisions of Free Trade Agreements: Finding the balance between opposing interests, *Alberto Alemanno, Marianna Karttunen* (15 min.)

The Trans-Pacific Partnership: The Most Secretive Trade Negotiation Ever? *Meredith Kolsky Lewis* (15 min.)

Transparency in Trade in Services Agreement : one word for different concepts, *Elisa Ruozzi* (15 min.)

Discussant: Professor Giovanna Adinolfi, University of Milano

Discussion (10 min.)

h. 11:00 - 11:30

Coffee Break

h. 11:30 - 12:45

II Session - Transparency v. Confidentiality in the Activities of IEL International Organizations

Chair: Professor Pietro Manzini, Alma Mater Studiorum - Università di Bologna

Internal Transparency Deficits and the WTO's Old-Boy's Club: Discussing Developing Countries' Meaningful Participation in the WTO, *Maria Panezi* (15 min.)

Eurasian Economic Union: building a wall or opening new prospects?, *Ilya Lifshits, Daria Boklan* (15 min.)

Always on the Side of the Egg? The standing of the civil society organizations under PTAs, *Jia Xu* (15 min.)

Discussant: Mr Klaus Blank, European Commission

Discussion (10 min.)

h. 12:45: 14:00

Lunch Break

h. 14: – 16:15

III Session - Transparency v. Confidentiality in IEL Arbitration and Judicial Proceedings

Chair:

Part One - The General Framework and the Problems to Face

Putting Transparency in Historical Perspective: Why Now?, *Panayotis M. Protopsaltis* (15 min.)

Bocca della Verità: Between Transparency and Confidentiality and International Investment Law, *Marcin Menkes* (15 min.)

Transparency, Democracy and Power in Investment Treaty Arbitration, *Valentina Vadi* (15 min.)

Discussant: Petros Mavroidis, European University Institute (tbc)

Part Two - Regional Approaches to the Issue and Some Specific Situations

The EU Agenda Towards Greater Transparency: A Model to Be Followed?, *Maria Laura Marceddu*

The Puzzle of Legitimacy for International Investment Disputes: The Principle of Transparency in South America, *Jose Gustavo Prieto Muñoz*

Why Are We so Afraid of "Contractual Transparency"? The Case of International Investment Contracts, *Gabriele Ruscalla*

Discussant: Professor Alberto Malatesta (15 min.)

Discussion: 10 min.

h. 16:15 – 16:40

Coffee Break

h. 16:40 – 18:00

IV Session - Transparency v. Confidentiality in Parliamentary Discussions concerning IEL Negotiations on Treaty Law and Soft Law

Chair: Dr Mercedes Rodrigues Sarro, Official of the International Trade (INTA Committee) of the European Parliament

Lost in negotiation: political accountability and the TTIP, *Corrado Caruso, Marta Morvillo*

Influence of the National Parliament of the EU Member States on Trade Negotiations, *Magdalena Śtok-Wódkowska*

The Penny-Wise and Pound-foolish Deal? How the Issue of Transparency Tainted the Cross-Strait Service Trade Pack, *Wendy Wan-Chun HO*

Discussant:

discussion: 10 min

h. 18:00 - 18:40

Conclusions

Professor Paolo Mengozzi, Advocate General of the EU Court of Justice, Emeritus of the University of Bologna

Professor Ernst-Ulrich Petersmann, Emeritus, European University Institute (tbc)

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CONCEPT NOTE

Transparency has firmly acquired a role of key concept and *in statu nascendi* principle in international relations and for the international community. It is clearly perceived and considered as a positive value, more and more relevant for the appropriate administration of the public good, and the definition, interpretation and application of international law, deeply associated with legitimacy, accountability, participatory democracy and good governance.

The debate on the importance of transparency has been constantly gaining a prominent place in international economic law (IEL), as WTO law, investment law and regional trade agreements are more and more relevant for non-trade values, that are inextricably linked with free trade and investments' protection within the model of sustainable development nowadays universally promoted by States, International Organizations, NGOs, the business community and, more generally, civil society.

However, the need for confidentiality keeps being raised and considered by governmental and intergovernmental actors and, in particular, the business community. Governmental actors argue they try to keep a room for maneuver; business actors have concerns that a full disclosure of information can have negative impact and even completely ruin their business and plead therefore for limiting transparency and keeping confidential certain proceedings.

The Conference on "Transparency vs Confidentiality in International Economic Law: Looking for an Appropriate Balance" aims at presenting the state of the art of the transparency v. confidentiality debate with specific reference to IEL, organizing an ad hoc call for papers to gather scholars conducting research on this topic, and practitioners (from governmental and intergovernmental institutions, the business community, the NGOs' world) having to face every day the ever growing demand for transparency and the still present request for confidentiality.