



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



IEL 4 SD
Bologna - Ravenna Conference Series

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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Fondazione Flaminia - Ravenna (Fondazione per l'Università in Romagna), Cooperativa Muratori Cementisti – C.M.C. di Ravenna Società Cooperativa, EDAS Law Bureau - Moscow, Department of Legal Sciences and School of Law - *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

Ravenna, School of Law - Via Oberdan 1

Conference accredited by the Council of the Ravenna Lawyers with n. 4 credits

Participation is free for academics and students but registration is required due to space constraints. Please, send an email to register by 16 November to Dr Carla Rossi (Fondazione Flaminia) at the following email address: crossi@fondazioneflaminia.it

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. It has thus been organized by the scientific committee an ad hoc call for papers which has gathered scholars from all over the world conducting researches on this topic, together with practitioners having to face every day the ever growing demand for transparency and the still present request for confidentiality.

PROGRAMME OF THE CONFERENCE

Friday, 20 November 2015

h. 9:00

Welcome Addresses

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

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

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

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

h. 9:15

Presentation of the Conference

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

Introductory Remarks

Minister Plenipotentiary *Andrea Tiriticco*, Head of the Department for Legal Affairs, Diplomatic Disputes and International Agreements of the Italian Ministry of Foreign Affairs and International Cooperation

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

Roberto Macrì, Director General, Cooperativa Muratori Cementisti Ravenna

h. 9.45 - 11:00

I Session - Transparency v. Confidentiality in IEL International Negotiations

Chair: *Alessandra Zanobetti*, *Alma Mater Studiorum* - Università di Bologna

Transparency in the Process and Provisions of Free Trade Agreements: Finding the balance between opposing interests, *Alberto Alemanno*, HEC Paris and NYU School of Law, *Marianna Karttunen*, European University Institute

Harmonizing Trade Treaties, *Phoenix Cai*, University of Denver Sturm College of Law

Transparency in Trade in Services Agreement : one word for different concepts, *Elisa Ruozi*
Università degli Studi di Torino

The Position of the Italian Ministry of Foreign Affairs, *Paolo V. Tonini*, Italian Ministry of
Foreign Affairs

Discussant: *Giovanna Adinolfi*, Università di Milano

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: *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*, Centre for International
Governance Innovation, Waterloo Ontario

Eurasian Economic Union: Building A Wall or Opening New Prospects?, *Ilya Lifshits*,
Russian Foreign Trade Academy, *Daria Boklan*, Russian Foreign Trade Academy

Always on the Side of the Egg? - The Ambivalent Standing of Civil Society Organizations
under Preferential Trade Agreements, *Jia Xu*, Georg-August-Universität Göttingen

Discussant: *Klaus Blank*, European Commission

Discussion

h. 12:45: 14:00

Lunch Break

h. 14: - 16:15

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

Part One - The General Framework and the Problems to Face

Chair: *Peter Tobias-Stoll*, Georg-August-Universität Göttingen

Putting Transparency in Historical Perspective: From the Commercial Arbitration Paradigm to the Public Law Paradigm in Investment Treaty Arbitration, *Panayotis M. Protopsaltis*, Centre for American Legal Studies, Birmingham City University

Bocca della Verità: Between Transparency and Confidentiality and International Investment Law, *Marcin Menkes*, Warsaw School of Economics

Transparency in Investor-State Arbitration: From the UNCITRAL Rules to the Mauritius Convention, *James Fry*, University of Hong Kong

Transparency, Democracy and Power in Investment Treaty Arbitration, *Valentina Vadi*, Lancaster University Law School

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

Chair: *Marina Trunk-Fedorova*, St. Petersburg State University

The EU Agenda Towards Greater Transparency: A Model to Be Followed?, *Maria Laura Marceddu*, King's College London

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

Why Are We so Afraid of "Contractual Transparency"? The Case of International Investment Contracts, *Gabriele Ruscilla*, Counsel, ICC International Court of Arbitration

Discussion

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: *Elisa Baroncini*, Alma Mater Studiorum - Università di Bologna

Lost in Negotiation: Political Accountability and the TTIP, *Corrado Caruso, Marta Morvillo*, Alma Mater Studiorum - Università di Bologna

Influence of the National Parliament of the EU Member States on Trade Negotiations, *Magdalena Słok-Wódkowska*, Faculty of Law and Administration, University of Warsaw

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

Discussant: *Ruta Zarnauskaite*, European Commission - DG Trade

Discussion

h. 18:00 - 18:30

Conclusions

Ernst-Ulrich Petersmann, Emeritus, European University Institute