



## ESIL International Economic Law Interest Group - Call for Papers 2014 Vienna ESIL Conference

### Full Day Workshop of the IEL IG – 3 September 2013

At the 10th Anniversary Conference of the European Society of International Law taking place in Vienna, Austria, the ESIL International Economic Law Interest Group will convene a Full Day Workshop, which will take place on 3 September 2014.

Four panels will be organized, which will deal with

1. Non-commercial values in WTO and investment law
2. Transparency and participation in international economic law
3. Preferential trade agreements and global trade
4. The EU draft investment treaty model and recent developments.

For each of the four panels of the workshop the ESIL IELIG invites papers, which should be unpublished, in an advanced stage of completion, and ready to be included in the ESIL SSRN Conference Paper Series and in the ESIL Conference Proceedings. The working languages of the ESIL IELIG are English and French, and thus the proposals may be submitted in English or French (see below for the paper submission procedure and timeline).

#### Call for papers 1: Non-Commercial Values in WTO and Investment Law

The International community is confronted with an ever growing set of topics concerning the relation between trade and investment protection at one side and public policy objectives such as sustainable development, social standards and human rights on the other hand. In regard to green energy goods, equipment and services and more generally, environmental protection and the fight to global warming, International Economic Law scholars debate on how to reconcile global policies and instruments aimed at avoiding protectionism and unjustified and/or arbitrary trade distortions with sustainable development as enshrined in the Marrakech WTO Agreement. Likewise, also within currently ongoing negotiations and deliberations regarding bilateral investment agreements, such as the discussions on a draft Model EU BIT, the US/China negotiations and the soon-to-be-launched Sino-European consultations for a Brussels/Beijing standalone investment treaty, the academic and stakeholders' legal communities are on their way to study and propose a set of universal standards capable of representing the core principles of a multilateral law for international investments where investment promotion and protection is combined with the right to regulate of the involved States, *inter alia*, in the areas of protection of national security, the environment, public health, workers' and consumers' rights, industrial policy and cultural diversity.

This section of the ESIL IELIG Full Day Workshop intends to address the above mentioned topics, also in the light of the most relevant international case-law recently developed, in particular, by the

WTO panels and the Appellate Body, as well as by investment arbitration tribunals concerning the balance between, on one side, free trade and investment protection, and, on the other side, human rights, environmental and consumer protection, social progress, and the right to regulate of the host countries. In particular, the panel will seek to encourage scholars and stakeholders to assess as well whether such recent case-law is always fully respecting the rules on interpretation codified in the Vienna Convention on the Law of Treaties.

## **Call for papers 2: Transparency and Participation in International Economic Law**

Together with the ever growing awareness that International Economic Law touches on nearly every aspect of our everyday lives, dealing with key policies going far beyond the traditional commercial or investment barriers, a constantly raising demand for greater transparency and participation characterizes both the global economic policy fora and the relevant international dispute settlement proceedings. Nowadays, the discussions on trade and on investment promotion and protection inevitably involve very sensitive issues concerning the environment and social progress, jointly with policies on public services and natural resources which were traditionally considered as being of exclusive domestic jurisdiction. In this situation, both scholars and stakeholders claim that the treaty-systems and practices concerning free trade and investments should be more transparent and inclusive. The existing rules on transparency in trade and investment law are considered insufficient in this regard, as they mainly address the transparency of Member's policies and regulations and thus fail to adequately guarantee the openness that should characterize fora and dispute settlement proceedings dealing with very sensitive and interconnected trade, investment and public policy issues. Such a weak scenario of positive international law concerning transparency and participation has been, in part, strengthened and widened through the case-law of the WTO Appellate Body and of the investment arbitrators. In both cases, *amicus curiae* submissions from civil society have been welcomed and *ad hoc* procedural measures have been adopted to overcome the rules on confidentiality in international dispute settlement proceedings in order to allow the public to take part in panel, Appellate Body or arbitration hearings – hearings usually exclusively reserved to the disputants. Also new sets of provisions –like the very recent UNCITRAL *Rules on Transparency in Treaty-based Investor-State Arbitration*, adopted in July 2013- are approved by international specialized bodies in order to provide for greater openness in the conduct of disputes in the field of International Economic Law.

This section of the ESIL IELIG Full Day Workshop will focus on the above listed topics, addressing the legal framework of positive rules on transparency and participation both in the WTO system and in investment law, the principles of transparency and participation as they are interpreted and developed, through their decisions, by WTO and investment adjudicative bodies, as well as the practice of the ministries and legal services of the main international actors of global economic governance. The section also intends to assess the contribution that civil society has made and/or may make to the articulation and development of International Economic Law through enhanced openness in free trade and investment treaty-systems.

## **Call for papers 3: Preferential Trade Agreements and Global Trade**

In recent years, a huge number of trade agreements have been concluded or are under negotiation between various partners around the world. This includes some "mega" deals like the Transatlantic Trade and Investment Partnership (TTIP) and the Transpacific Partnership (TPP). In part, this trend is due to initiatives by the European Union, who had given up its earlier reluctance to conclude such agreements in 2006. Such bilateral or regional initiatives are expected to result in important economic benefits for the economies involved. They are aimed at providing for a "deep integration" and provide

numerous innovative elements such as special procedures to deal with NTBs, new provisions on investment protection and provisions accommodating the protection of human rights, social standards, the environment and culture. Also, they come along with their own proper mechanisms for implementation, compliance and dispute settlement. Beyond the many noteworthy details of these agreements, which are each worth of analysis and discussion, the more general question arises, what this new trend means in view of the multilateral trade order and the WTO in general. While some of the elements of preferential trade agreements may well be understood to pioneer future developments in the multilateral system, they may at the same time been also viewed as a formidable challenge to multilateralism and the most favoured nations principle as cornerstones of the world trading system.

#### **Call for papers 4: The EU Draft Investment Treaty Model and Recent Developments: A Change in Paradigm of International Investment Law?**

When the European Union had been furnished with a competence for international investment law by the Lisbon Treaty taking effect in December 2009, many observers expected a turnaround and a new approach. Meanwhile drafts have been circulated on such EU model treaty and the issues have been discussed on different occasions. Moreover, recent developments such as the US/China negotiations on a new BIT seem to indicate that we actually witness a change of the landscape of international investment law and the way we look at it, which goes far beyond the actual European activities. The panel will discuss the European activities together with other recent developments, including BITs as well as investment chapters of preferential trade agreements with a view to ascertaining whether we indeed are facing a change of paradigm in international investment law.

#### **PAPER SUBMISSION PROCEDURE**

Senior and junior scholars (including PhD students) are invited to participate to the ESIL IELIG calls for papers. Papers will be selected on the basis of the submitted abstracts. Only one abstract per author in each call for papers will be considered.

Abstracts must not exceed 800 words, and have to be submitted to the following mail addresses: [elisa.baroncini@unibo.it](mailto:elisa.baroncini@unibo.it); [marion.panizzon@wti.org](mailto:marion.panizzon@wti.org); [pstoll@gwdg.de](mailto:pstoll@gwdg.de).

In addition to the abstract, each submission should contain a separate file containing information on:

- The topic of the call for papers for which the abstract is submitted
- The author's name and affiliation
- A short (one page) author's CV, including a list of relevant publications
- The author's contact details, including email address and phone number
- Whether the author is an ESIL member and, if so, the date of affiliation

#### **TIMELINE**

- The deadline for the submission of abstracts is 1 March 2014
- Successful applicants will be informed by 15 April 2014
- The deadline for the submission of the papers of accepted abstracts is 1 July 2014
- The Workshop will take place on Wednesday, 3 September 2014 from 9:00 am to 1 6:00 pm.
- The deadline for the submission of final papers for publication is 1 October 2014.