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ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA
DIPARTIMENTO DI SCIENZE GIURIDICHE

LEGS' LECTURE SERIES

Welcome Greetings:

Federico Casolari is Full professor of European Union Law at the Alma Mater Studiorum – University of Bologna, where he teaches EU law and EU Constitutional Law. He currently serves as member of the Joint Managerial Committee of the China-EU School of Law (CESL), member of the National Biodiversity Future Centre and member of the Interuniversity Centre on the Law of Economic International Organizations. He is also member of the Centre for Digital Ethics (CedE) and of the International Research Centre on European Law (CIRDE) of the University of Bologna and tutor at the Collegio Superiore of the same university (2016-2025). He is Director of the Master Programme in European Funds and Funding Projects Expert (MEFFE). Casolari is Deputy Head of the Department of Legal Studies of the University of Bologna (2018-) and member of the University Senate (2021-2024) as representative of the Social Area. Casolari's current research agenda includes: EU institutional and constitutional law; EU external relations law; Law of International Organizations; International and EU migration law; International and EU environmental law; and International and EU disaster law.

Daniele Senzani is Full professor in Public Law (First Cycle Degree in "Economics and Finance" - CLEF), Administrative Law (Second Cycle/Two Year LLM in Legal Studies, Law of New Media (Second Cycle Degree/Two Year Master in Innovation and Organization of Culture and the Art / Double Degree Università di Bologna - Carnegie Mellon University, Pittsburgh, PA), Telecommunications Law (First Cycle Degree in "Ingegneria Elettronica e delle Telecomunicazioni") and Coordinator of the Master in Legal Studies at the Alma Mater Studiorum – University of Bologna. Senzani is also Member of the Consejo Asesor Académico de la Escuela de Auditores del Estado - Fed. Rep.Argentina – (2017-onwards) where he presented the topic about Transparency and Information Access (Acceso a la Información y Transparencia) in many Institutions since 2018. Senzani has a vast list of scientific publications in the area of EU Regulatory and Competition Law and has been awarded by prestigous Universities, including the Université Paris 1 Pantheon-Sorbonne, where he received the 1st prize GRALE (Groupement de recherche sur l'administration locale en Europe) awarded to the Ph.D. research program: "Collectivités territoriales et systèmes de régulation en matière de communications électroniques".

Introduction:

Elisa Baroncini is PhD in EU Law and Full Professor of International Law at the University of Bologna. Co-Chair of the ESIL IG on International Economic Law, and Coordinator of the IEL Interest Group of the Italian Society (DIEcon), Elisa teaches International Law, International Economic Law, and International Law on Sustainable Development at the Bologna School of Law. She has been Visiting Professor at the China-EU School of Law, speaker and organizer of many international conferences, Visiting Researcher at the European University Institute. Elisa manages and participates in international and national research projects. She has been recently awarded the Jean Monnet Module "Re-Globe - Reforming the Global Economic Governance: The EU for SDGs in International Economic Law" and she is the Coordinator of the UNA Europa Seeds Research Project "WHC@50 - Forever Young: Celebrating 50 Years of the World Heritage Convention". Member of the "Centro Interuniversitario sul Diritto delle Organizzazioni Internazionali Economiche" (CIDOIE), Elisa is also part of the Promoting Committee of the University of Bologna to honour the 1972 UNESCO Convention, and Member of the Scientific Committee of the Institute of Advances Studies (ISA) of the University of Bologna. In June 2022 she has been appointed by the European Commission TSD Expert for the dispute settlement mechanisms of the new generation of EU free trade agreements. She published extensively in Italian and English, and her main fields of research include: the reform process of the WTO dispute settlement mechanism; the relation between free trade and non-trade values; transparency in IEL; the new generation of EU FTAs and their enforcement; the participation of the European Parliament and the Commission in the EU treaty-making power; economic sanctions and IEL.

Session One: The Multilateral Scenario

***Chair* Mauro Gatti** is Assistant Professor of EU Law at the University of Bologna - Department of Legal Studies, having a PhD in European Union Law at the University of Bologna and University of Strasbourg. Gatti previously worked at The Hague University of Applied Sciences in EU Competition Law (2019), EU Company Law (2019) and EU Criminal Law (2019, 2020); at the University of Luxembourg in EU External Relations Law (2017-2021), EU Fundamental Rights (2018), International Human Rights Law (2017). In the Topic of Transparency, Gatti recently published the Article T*he Right to Transparency in the External Dimension of the EU Migration Policy: Past and Future Secrets* in The Informalisation of the EU's External Action in the Field of Migration and Asylum (Springer, 2022).

Transparency in Treaty-Making

Abstract: Are the negotiations of Free Trade Agreements (FTAs) changing? As the recent negotiations of mega-regionals display, much has changed over the last decade. While people still perceive these agreements, and the trade and investment chapters in particular, as an intrusion in a wide range of domestic policies and sovereignty sensitivities, the 'public' is now allowed to have an actual standing in the processes underpinning the formulation of investment policies. This participation of non-state actors has been particularly facilitated by the 'transparency campaign' that has urged states to introduce various mechanisms to implement the transparency of FTA negotiations and gather the public input, thus paving the way for new direct forms of public involvement. Canada and the USA have long been familiar with this approach. The European Union joined the club fairly recently but has pushed for a radical rethinking of treaty-making, especially in the realm of international economic law. This path, however, needs constant refinements to be meaningfully implemented.

Maria Laura Marceddu is specialised in international investment law. She is Max Weber visiting fellow at the EUI. She earned her PhD in international economic law from King's College London, where she has also been appointed as a visiting lecturer in international investment law, and as a fellow at the Centre of European Law. She worked as a teaching fellow at the University of Edinburgh's Law School and is a fellow at the Edinburgh Centre for International and Global Law (ECIGL). She has been serving as the executive treasurer of the Society of International Economic Law since 2018, where she also chairs the SIEL Online Conversations.

Transparency as a Tool for Private Interests' Protection in Economic Dispute Settlement Systems

Abstract: The transparency obligations imposed on States by different regimes of international law applicable to trade, such as, for instance the multilateral trading system and the field of investments, play a peculiar role when applied to dispute settlement mechanisms. In this case, in fact, they allow, through various mechanisms, to acquire and, albeit indirectly, to protect the legal positions of individuals who, as well known, have a locus standi of lesser importance, or do not have one. none at all, in such contexts. This speech aims to address, also from a diachronic point of view, the development of such tools and in particular to highlight, through them, some of the ways in which domestic legal orders are influencing some international mechanisms and the protection of individuals contemplated therein.

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Gianpaolo Maria Ruotolo is full professor of international law in the Department of Law of the University of Foggia, Italy, where he teaches international law, private international law an EU Law. He holds a PhD in international law from University of Naples "Federico II". He is a lawyer enrolled in the special register of full-time university law professors and he's authorized to practice before the higher courts and was Visiting professor at King's College London and Institute for advanced legal study (IALS) University of London. He's a Member of the PhD teaching college in General doctrines of law the University of Siena. He's lectured on many issues in Universities, PhD and postgraduate courses held by the Universities of Udine, Siena, Venezia, Roma "Sapienza", Milano Bocconi Perugia, Bari, Pisa, King's College London, for UNESCO and UNICRI (United Nations Interregional Crime and Justice Research Institute) and in projects funded by the European Union and has acted as a private arbitrator and as a legal consultant for private entities and governmental administrations. He's a member of the scientific committees and editorial staffs of many scientific journals and has published extensively (more than 80 articles and 3 books) on international law, EU law, international organizations law, conflict of laws, international trade law, IT law. Many of his works can be found at gianpaolomariaruotolo.academia.edu.

The SPS/TBT Transparency Framework: ePing as a Stakeholders Support in the Evolving Regulatory Landscape

Abstract: Transparency is the founding pillar of global trade. Businesses, governments and traders want early alerts and better information on changing product requirements". The ePing SPS&TBT Platform set up by the WTO Secretariat provides for an important answer to the indispensable and irreplaceable need of private and public actors so well expressed by the WTO Deputy Director-General Jean-Marie Paugam. The presentation of the WTO Counsellor Serra Ayral aims at providing for a full overview of the highly relevant transparency and information service delivered by the WTO in collaboration with the two partner agencies, the UN Department of Economic and Social Affairs (UNDESA) and the International Trade Center (ITC), also underling the important role the ePing SPS&TBT Platform has to strengthen the capacity of developing countries to significantly participate to and benefit from the multilateral trading system.

Serra Ayral is Counsellor in the Trade and Environment Division of the WTO. Her work focuses on the relationship between standards, regulations and trade. She advises WTO member governments with respect to their engagement in the Technical Barriers to Trade (TBT) Committee. She is currently spearheading several initiatives focusing on transparency, including the digital ePing SPS&TBT platform and the transparency champions programme. Her earlier assignments in the WTO have focused on sanitary and phytosanitary (SPS) measures, regional trade agreements and capacity building. Originally from Turkey, Serra has a Bachelor's degree in Economics from Mount Holyoke College and a Master's Degree in International Relations from Johns Hopkins University (SAIS). Prior to joining the WTO, she worked at the World Bank, UNCTAD and the World Economic Forum.

Transparency in Trade Agreements: The Discipline on Subsidies and SOEs

Abstract: The presentation addresses the topic of transparency focussing on three aspects. First, it introduces a fully-rounded concept of transparency, based on insights from current political economy and institutional debate, which includes access to information, assessment and deliberation. Secondly, it explores the specific transparency issues raised by the regulation of subsidies and State-Owned Enterprises ("SOEs") at the international level and compare them with other notable areas. Thirdly, it briefly outlines the EU's input to the debate in the World Trade Organization and highlight the lessons that could be drawn from the experience of the EU in regulating subsidies and SOEs internally and in trade agreements. This three-fold analysis will pave the way to few broad tentative conclusions to frame the future discussion in the field.

Luca Rubini is Senior Research Fellow in International Law at the Law Department of the University of Turin, Italy. Previously he held positions at the Law Schools of the University of Birmingham (where he was Reader in International Economic Law) and Leicester. He is visiting professor to the World Trade Institute (Switzerland) and the Freie Universität Berlin and visiting fellow to the Centre of European Law of King's College London. Sometime in the past he served as legal secretary in the cabinet of Advocate General Francis Jacobs at the European Court of Justice. Luca has a special interest in the governance and regulation of the State intervention in the market, at both the international and European levels. He has published extensively on these (and other) topics. His 2010 monograph The Definition of Subsidy and State Aid: WTO law and EC law in comparative perspective (OUP) was recently translated into Chinese (more details on his publications can be found here). Luca has law degrees from the Catholic University in Milan (laurea in giurisprudenza) and King's College London (MA in Advanced European Legal Studies; PhD).
Session Two: The EU Approach

Chair Gian Maria Farnelli is Ph.D and Associate Professor of International Law at the Department of Legal Studies, University of Bologna (2022-ongoing); Senior Assistant Professor at the Department of Legal Studies, University of Bologna (2019-2022); visiting scholar at the Max Planck Institute for Comparative Public Law and International Law (2012). He has been a member of the Italian Legal team in the M/V Norstar case (ITLOS Case No. 25) and research assistant in inter-state and investor-state disputes. He has been Editorial Assistant of the online journal Questions of International Law (2014-ongoing) and a member of the Editorial board of the Osservatorio sulle Attività delle Organizzazioni Internazionali e Sovranazionali, Universali e Regionali, sui Temi di Interesse della Politica Estera Italiana. His publications, in Italian and English, address issues of Law of the Sea, Environmental Law, State Immunity, Investment Law and the Law of International Adjudication.

The Approach of the European Commission on Transparency in the EU Trade Policy

Abstract: Also following the pressure from the civil society and the European Parliament, in recent years the European Commission has undertaken a significant transparency policy in the management of its bilateral, plurilateral and multilateral activities for the implementation of the trade policy of the European Union. The turning point took place at the end of 2014: the concerns and protests that emerged in the public opinion during the negotiations with the United States on the Transatlantic Trade and Investment Partnership (TTIP) led the Commission to adopt a decision on how to conduct consultations and make public the documents considered and discussed during the negotiations. This approach was subsequently extended to the management of all the trade bilateral agreements as well as the activities of the European Union at multilateral level, in primis those undertaken at the WTO. The presentation of Ignacio Garcia Bercero, Director in charge of Multilateral Affairs at DG Trade in the European Commission, aims at providing a full overview of the approach to transparency in the EU trade policy, also considering the most recent developments in this field.

Ignacio Garcia Bercero is Director in charge of Multilateral Affairs, Strategy and economic Analysis at DG Trade in the European Commission. Active at the European Commission since 1987, from 2012 he was Director responsible for overseeing EC activities in the fields of Neighboring Countries, US and Canada. He was Chief Negotiator for the TTIP negotiations. Between 2005-2011 he was director in the areas of Sustainable Development, Bilateral Trade Relations (South Asia, South-East Asia, Korea, EuroMed and the Middle East). Mr Garcia Becero was also the Chief Negotiator for the EU-Korea and EU-India Free Trade Agreements. Before that, he was head of unit for WTO Dispute Settlement. He has written several papers and publications on WTO matters, Safeguard Measures, Trade and Competition, Dispute Settlement and Regulatory Cooperation. In 2020, he completed a fellowship at Saint Anthony's College (Oxford), where his research focused on WTO reform. Mr Garcia Bercero holds a Law Degree from the Law Faculty of Universidad Complutense, Madrid and a Master of Laws Degree (with Distinction) from University College, London.

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The Increasing Role of Civil Society and Transparency in Investment Treaty Negotiations

Abstract: Investment treaty negotiations have taken place behind the scenes, unnoticed by the public for a long time. This has significantly changed since the 1990s, which besides the rise of liberal market objectives also led to a broad countermovement against globalization. While civil society never had a seat at the negotiation table, it has since then closely observed negotiations, explored new information instruments, and expressed its dissent via varying means. This contribution aims to reflect the role of civil society and the degree of transparency in major treaty negotiations of the past decades and its potential impact on the investment law regime. Aspirations for a Multilateral Agreement on Investment (MAI) in the mid-1990s have faced a broad global opposition for the first time. While not the sole reason for the eventual failure, civil society has significantly shaped the perception of the treaty. Despite a shift towards more transparency throughout the negotiations, the CETA and the TTIP likewise generated widespread protest and evidence the strong role of civil society. Arguably, new forms of participatory mechanism applied may have impacted the investment law regime and its ongoing reform. Taking stock of the role of civil society, the level of transparency and actions taken by negotiators shall consider what lessons can be learned for present and future negotiations. This will be evaluated in light of the currently ongoing modernization process of the Energy Charter Treaty (ECT). While the negotiations have not yet been broadly discussed in the media, these are closely observed by NGOs with protest gaining momentum addressing a sore point amid states' efforts for climate protection. Considerations over transparency and the role of civil society may not only shape the fate of treaty negotiations but also the investment law regime in general and increase democratic legitimacy in a globalized world.

Kilian Wagner works as a Researcher and Assistant Lecturer (PhD Candidate) at the University of Vienna, Section for International Law and International Relations. His research focus is on International Economic Law and Comparative Public Law (Preliminary working title of the PhD thesis: 'The Protection of Public Security Interests in International Investment Law in a Conflation of the Pre- and Post-Establishment Phase'). Other ongoing research projects concern the current modernization of the Energy Charter Treaty (ECT), exception clauses in investment agreements and the role of civil society and transparency in investment treaty negotiations. He teaches courses in International Law and is coaching a team of the University of Vienna for the participation in the Frankfurt Investment Arbitration Moot Court. Prior to the current position, he worked as a student assistant at the Section for Constitutional and Administrative Law at the University of Vienna. Furthermore, he completed the judicial clerkship and worked in international law firms in Vienna. He graduated in Law at the University of Vienna and holds an undergraduate degree in Political Science from the University of Vienna.

Civil Society and Transparency in EUFTAs Dispute Settlement Mechanisms

Abstract: Transparency and the role of civil society in settlement of international economic disputes is a highly debated topic, both in respect of the World Trade Organization and within the context of free trade agreements. It includes, e.g., the discussions on the attitude towards amicus curiae briefs or the accessibility of hearings to the general public.In recent years, we have been witnessing the appearance of new features of dispute settlement mechanisms in free trade agreements all over the world, and this is also true for the EU. A closer look at the free trade agreements of the European Union shows that it used the WTO dispute settlement system as a model for EU FTA dispute settlement mechanisms, and at the same time included additional or modified dispute settlement rules, a number of which relate to the enhancement of transparency and civil society participation. The presentation will be devoted to the assessment of transparency provisions in the dispute settlement chapters of EU free trade agreements. Further, it will address the recent trade disputes of the EU, which were resolved within the framework of its regional trade agreements, e.g. the dispute regarding restrictions applied by Ukraine on exports of certain wood products to the European Union, from the perspective of transparency and civil society participation.

Marina Trunk Fedorova is Associate Professor at the Law Faculty of St. Petersburg State University, where she has been teaching courses on International Law and International Economic Law. She is also senior research fellow at Kiel University, Germany. She has a number of publications on different issues of international economic law. Marina Trunk-Fedorova holds an LL.M. degree from the University of Barcelona (IELPO) and a Ph.D. degree from St. Petersburg State University. She is a Co-Chair of the International Economic Law Interest Group of the European Society of International Law (ESIL). She is also a member of the editorial board of the law journal "International Justice".

Enforcing EUFTAs and Sustainability Issues through Civil Society: from TBR to SEP

Abstract: One of the main features currently characterizing the approach of the European Union when shaping and implementing the EU trade policy is the constantly more significant and expanding role of the stakeholders, and more generally the civil society, in the enforcement of free trade agreements and multilateral obligations. As the new generation of EUFTAs is distinguished by the very important chapters on trade and sustainable development (TSD Chapters), the role of private parties, as single persons or organized in associations, may now concern also the enforcement of the non-trade values of core labour standards and environmental protection enshrined in the innovative bilateral tools promoted by the EU. The presentation of Elisa Baroncini, Re-Globe Coordinator and Co-Chair of DIEcon, aims at providing a full overview of the EU instruments and practices according to which private parties may ask the European Commission to start investigating on, and subsequently challenge, controversial issues characterizing laws and practices of the EU trade partners.

Elisa Baroncini is PhD in EU Law and Full Professor of International Law at the University of Bologna. Co-Chair of the ESIL IG on International Economic Law, and Coordinator of the IEL Interest Group of the Italian Society (DIEcon), Elisa teaches International Law, International Economic Law, and International Law on Sustainable Development at the Bologna School of Law. She has been Visiting Professor at the China-EU School of Law, speaker and organizer of many international conferences, Visiting Researcher at the European University Institute. Elisa manages and participates in international and national research projects. She has been recently awarded the Jean Monnet Module "Re-Globe - Reforming the Global Economic Governance: The EU for SDGs in International Economic Law" and she is the Coordinator of the UNA Europa Seeds Research Project "WHC@50 - Forever Young: Celebrating 50 Years of the World Heritage Convention". Member of the "Centro Interuniversitario sul Diritto delle Organizzazioni Internazionali Economiche" (CIDOIE), Elisa is also part of the Promoting Committee of the University of Bologna to honour the 1972 UNESCO Convention, and Member of the Scientific Committee of the Institute of Advances Studies (ISA) of the University of Bologna. In June 2022 she has been appointed by the European Commission TSD Expert for the dispute settlement mechanisms of the new generation of EU free trade agreements. She published extensively in Italian and English, and her main fields of research include: the reform process of the WTO dispute settlement mechanism; the relation between free trade and non-trade values; transparency in IEL; the new generation of EU FTAs and their enforcement; the participation of the European Parliament and the Commission in the EU treaty-making power; economic sanctions and IEL.

Klarissa Martins Sckayer Abicalam is full lawyer in Brazil graduated at the Pontifícia Universidade Católica de São Paulo with full marks where she also worked as Professor Assistant in the course Fundaments of Public Law with Prof. Helga Klug. She is currently a Master Student in the Second Cycle/Two Year LLM in Legal Studies at the University of Bologna where she has been awarded as the best international student of Alma Mater in the academic year 2020/2021. She is currently researching on International Economic Law, focusing on the Mega Regional Trade Agreements.