

## Guest Editorial

In recent European history, there has been no treaty which created so much public controversy as the Transatlantic Trade and Investment Partnership (TTIP) which is currently being negotiated between the European Union (EU) and the United States (US). This agreement would include, in addition to the establishment of a 'classic' free trade area ensuring increased market access, enhanced regulatory cooperation and elaborate new rules concerning, for example, investment protection. The TTIP forms a central part of the European Commission's comprehensive external economic strategy which is aimed at concluding a global network of free trade agreements in an effort to create more jobs and boost economic growth, while protecting fundamental values. Other planned agreements have also caused heated political debate. The Comprehensive Economic and Trade Agreement (CETA) with Canada for instance, will be subject to approval by national parliaments, possibly triggering new referenda. Only last April the Dutch voters came out against the free trade deal with Ukraine. The TTIP negotiations may be affected by the British referendum vote to exit the EU since the UK might opt to conclude a separate treaty with the United States.

Despite all controversy and uncertainty about its eventual adoption, a thorough analysis of TTIP from an EU perspective is highly relevant as it offers an insight into the core of European economic governance and its position within the wider international legal framework. This special issue of *Legal Issues of Economic Integration* presents a selection of the papers presented at the Conference on 'The Transatlantic Trade and Investment Partnership: an EU Perspective on Global Economic Governance' jointly organized by the Europa Institute of Leiden Law School and the LUC Research Centre at the Faculty of Governance and Global Affairs, with the support of the Leiden University Fund. The conference gathered prominent experts in international trade, investment and EU law around different themes – as maintained in the structure of this special issue: situating the TTIP in EU external relations, investor protection and enforcement, data protection, sustainable development, and the TTIP's regional contribution to global economic governance.

*Situating TTIP in the external relations of the EU* – The TTIP presents a major legal and political challenge for the EU, as its legal nature might transcend EU exclusive competences. Many questions emerge from the negotiations' institutional design or the Court of Justice of the EU's role in shaping the treaty. Elaine

Fahey scrutinizes the negotiations concerning contentious issues such as consumer protection or food safety where the EU finds itself in the difficult position of having to balance its internal *acquis* with its external commercial objectives. The contribution by Tamara Takacs also looks at the impact of the TTIP negotiations for the EU legal order but she does so from the angle of the EU attitude towards multilateralism and its posture with regard to emerging economies.

*Investor protection and enforcement* – This sub-theme touches upon one of the most controversial aspects of the TTIP, namely the inclusion of investment protection standards as well as a dispute settlement mechanism allowing foreign investors to sue the Contracting Parties for alleged violations of such standards. Federico Ortino analyses the draft provisions on indirect expropriation into the context of the existing international investment treaties. Freya Baetens provides a comprehensive examination of how the proposed Investment Court System aims to address some of the most common critiques to the existing ad hoc arbitration system.

*Data protection* – The third sub-theme delves into the interplay between the TTIP and fundamental rights. The right to privacy has been at the centre of an intense transatlantic debate since the outbreak of the Snowden scandal and many fear that the TTIP would foster close integration of government services which handle sensitive data – whereby EU privacy protection rules would be lowered to accommodate more interventionist US policies. Hielke Hijmans explains the case for entirely excluding the topic of data protection from the TTIP.

*Sustainable development* – To what extent would the TTIP be able to support and promote environmental and labour standards together with the liberalisation of international trade and the protection of foreign investors? The EU Commission attempts to ensure this parallel development through the inclusion of a sustainable development chapter referring to several multilateral environmental agreements, human rights conventions as well as instruments of the International Labour Organisation. Giovanni Gruni focuses on the labour dimension of the TTIP in order to highlight several weaknesses of the Commission proposal.

*TTIP's regional contribution to global economic governance* – This sub-theme looks at the ultimate effects which the TTIP may have on international and regional economic integration as well as its relation to the World Trade Organization (WTO). Jacques Bourgeois provides an in-depth analysis of the potential conflicts between the TTIP rules and WTO law. Joris Larik offers a broad overview of the interplay between the TTIP and public international law discussing its capacity to support the rule of law and its function within the landscape of global governance.

The editors of this special issue would like to thank all authors as well as the Members of the LIEI Editorial Board and hope that these articles will provide a thought-provoking contribution to the ongoing debate. To be continued!

*Freya Baetens*  
*Giovanni Gruni*  
*Jorrit Rijpma*  
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