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Book review: TTIP: The Truth about the Transatlantic Trade and Investment Partnership, F. De Ville & G. Siles-Brugge (eds.), Chichester: Wiley 2015

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Ferdi De Ville and Gabriel Siles-Brugge, *TTIP: The Truth about the Transatlantic Trade and Investment Partnership*. Chichester: Wiley. 160 pages. ISBN: 978-1-5095-0102-1. GBP 45.

The Transatlantic Trade and Investment Partnership (TTIP) is an exceptional trade agreement – for several reasons. First, this agreement aims to integrate deeply the two largest markets in the world: the EU and the US. The economic benefits of integration should reach up to 120 billion euros per party, at least according to the proponents of the agreement. Second, the TTIP is also exceptionally ambitious in terms of its scope – it encompasses a large number of industry sectors, public procurement issues, phyto-sanitary measures and technical regulations. In addition, the TTIP has a distinctive supranational ambition – in its “regulatory cooperation” chapter it aims to set up institutions that should eliminate future “non-tariff barriers to trade”. Finally, the TTIP has raised immense public interest and debate. It is perhaps the first time that

a trade instrument has become the subject of widespread public debate, at least in Europe. And it is certainly the first time that a trade agreement has brought onto the streets hundreds of thousands of people, re-politicizing trade questions.

The debate about the TTIP has been particularly polarized: the proponents of the agreement deem it a matter of progress and internationalization, while the opponents suggest that the TTIP will erode emergent democracy in the EU. This polarization reverberates in the legal debate. The main question is whether the TTIP should be considered as “business as usual” in trade law or rather something politically novel, calling for special attention and concern. The stakes in this debate are high: the more “special” the TTIP is considered, the less deference is afforded to traditional actors (such as trade officials or diplomats) in trade negotiations.

Trade lawyers tend to see the TTIP as one among many free trade agreements (FTAs), which have proliferated in recent years. Not unlike the TTIP, these FTAs (between the EU and, for instance, South Korea or Singapore) are often broad in scope and frequently include some form of regulatory cooperation. Thus, while TTIP is perhaps more ambitious, it is not of “a different kind”. On the other side of the legal spectrum, newcomers to the TTIP debate are the European Union lawyers. These scholars raise a red flag: even if the TTIP is trade law’s “business as usual”, its legitimacy should not be taken for granted. They evaluate the TTIP from the perspective of the subjects of its potential authority, bottom-up so to speak, questioning particularly the democratic implications of the supranational structures that the agreement would create and operationalize.

The excellent contribution of two political scientists De Ville and Silles-Brugge reviewed here adds much to this conversation. The authors unpack three main assumptions from which much of the ongoing debate sets out: the economic and geopolitical justification of the TTIP, the interaction of the TTIP agenda with the EU’s internal better regulation agenda and, finally, the democratization potential of the recent public mobilization.

The first two chapters explore the question “why TTIP?”, opening up the two major justifications of the project – economic and geopolitical. In an accessible analysis, the authors first clarify the numbers behind the TTIP: how much are we going to gain economically? Are we truly going to be 120 billion euros economically better off, and 540 euro better off per family per year, as the Commission has claimed? De Ville and Silles-Brugge suggest that this will hardly be the case. The numbers are at best overly optimistic, at worst based on methodologies which have proved incorrect in previous attempts to predict the gains and losses of trade integration (as in the case of NAFTA).

More recently, even the Commission seems to have backed away from these numbers as a justification of the TTIP. In fact, it has turned to the second rationale – the geopolitical justification – which now has the upper hand in the official narrative. In the second chapter, thus, the authors ask whether the TTIP has the potential to make the contracting parties “global standard setters”, as the Commission believes, thus winning the race against rapidly rising economies such as China or India. According to the authors, however, the TTIP will not automatically deliver such an optimistic outcome. TTIP global standards are likely to emerge mainly through the technique of regulatory harmonization. Yet this seems to be the least plausible scenario, given both the previous attempts at transatlantic cooperation and the current institutional constraints. On the other hand, “mutual recognition” or “conformity testing”, which are other methods of regulatory convergence, have little or no capacity to set such global standards. In fact, the authors suggest that the agreement may even reduce such capacity, in particular of the “normative power Europe”, if mutual recognition is to gain ground.

In the third chapter the authors turn to the deeper political reasons and ideological underpinnings of the TTIP project. They focus, in particular, on the link between the TTIP regulatory cooperation, which aims to eliminate “behind the border barriers to trade”, and the EU internal better regulation agenda, which is concerned with cutting “red tape” (unnecessary or inefficient regulation). While normatively in tune, the two agendas have already taken their toll on the threshold of regulatory standards in the EU. For instance, the authors argue that a delay in the Commission’s regulatory proposal for action against endocrine disrupting

chemicals in pesticides, or the modification of the EU's Fuel Quality Directive, can be ascribed to the confluence of the TTIP and Better Regulation agenda.

While the authors express concern that the TTIP's institutions may become yet another instance of de-politicized rule-making, in the fourth chapter they explore the democratic potential of the public mobilization that arose in the wake of the TTIP negotiations. The authors suggest that trade law and policy have thus far been dominated by a specific set of neoclassical economic assumptions, which have idealized the operation of the (international) market and downplayed its drawbacks and distributional consequences. The authors suggest, however, that political mobilization may motivate the redirection of public resources, thus far invested into TTIP negotiations, into economically more robust and perhaps socially more responsible purposes – ranging from combating tax evasion to economic inequality and climate change.

What specific contribution do De Ville and Silles-Brugge make to the legal debate? Their book speaks directly to the question of “stakes” in the TTIP negotiation process. First, the authors present the epistemic weaknesses of EU trade law and policy. They show that some of the core economic and geopolitical assumptions, on which EU trade law and policy rest, do not stand up to sustained scrutiny. Second, the authors outline two main democratic challenges. A rising number of people view EU trade law and policy as undemocratic, out of touch with socio-economic reality, and as perpetuating and reinforcing injustices that it was in fact supposed to contain. At the same time, the TTIP seems to be instrumentalized to advance certain domestic agendas by moving them even further away from public scrutiny – thus “locking in” many measures that the European public would have had difficulty swallowing in the domestic legislative and regulatory process.

Ultimately, the seriousness of the problems that haunt EU trade policy require a large institutional overhaul: this field cannot be left any longer to those who have run the show so far. In fact, the whole question whether the TTIP is “business as usual” or of a “different kind” is largely beyond the point. Even if the TTIP was “business as usual”, we may have gone a step too far in market integration beyond the State - without taking seriously the democratic challenges that such integration poses. A new institutional imagination and new participants to the debate are necessary if we are to respond successfully to the recent democratic challenge. De Ville and Silles-Brugge urge us to seize that opportunity.

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