

# Squaring TTIP Negotiations with the Idea of Federalism: the Case of Public Procurement

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# TTIP NEGOTIATIONS AND FEDERALISM?

- *Multilevel Concerns on the Democratic Legitimacy* -

## 1. Intergovernmental Negotiations:

- Lack of Parliamentary Control;

## 2. Treaty Ratification:

- Approval of the Text by National Parliaments as 'Mixed Agreement';
- Competences in the Field of Foreign Investment

## 3. Implementation and Judicial Remedies:

- Exclusion of Right – Lack of Direct Effect;

→ *Reading the Transformative Transatlantic Free Trade Agreements (CETA and the TTIP) with a Different Methodological Approach:*

## The Multilevel Governance of Public Goods and the Idea of Federalism

# The Framework of the TTIP Procurement Negotiations

## PTAS WITH SIGNIFICANT PROCUREMENT CHAPTERS:

- KORUS and KOREU Increased Coverage: thresholds and central/sub national authorities;
- EU Negotiating position on CETA: Inclusion of Canadian Provinces in the coverage.



## TTIP PROCUREMENT NEGOTIATING AGENDA:

1. Elimination of the US domestic preferences and “Buy National” policies;
2. Expansion of the US coverage at federal and sub- federal level;
3. Facilitation of the access for SMEs;
4. Discrepancy with GPA in the inclusion of environmental and social considerations.

## PROCUREMENT IN THE TTIP NEGOTIATIONS: MULTILEVEL REGULATORY ASYMMETRY

- Regulatory Imbalance:
  - EU most advanced PTA procurement regulation, fully implemented in all Member States;
  - US States with their own independent procurement regulations;
- Involvement of EU and US Parliamentary Bodies:
  - US Congress's approval of the elimination of Buy National provisions?;
- Involvement of sub-federal levels of procurement government:
  - Strong role played by the Canadian Provinces in the agreement on the final text of CETA.

## PRELIMINARY CONCLUSIONS :

- TTIP negotiations started in a coherent international regulatory framework:
  - *PTAs diffusing GPA regulatory standards outside its limited membership;*
- TTIP negotiations brought an innovative regulatory potential:
  - *Diverging from the GPA and the UNCITRAL Model Law;*
  - *Widening the distance with the rest of the world, particularly developing countries;*
  - *Risks of Regulatory Fragmentation;*
- TTIP negotiations focus on the lack of multilevel and internal coherence
  - *Federalist tensions in the multilevel governance of public procurement.*