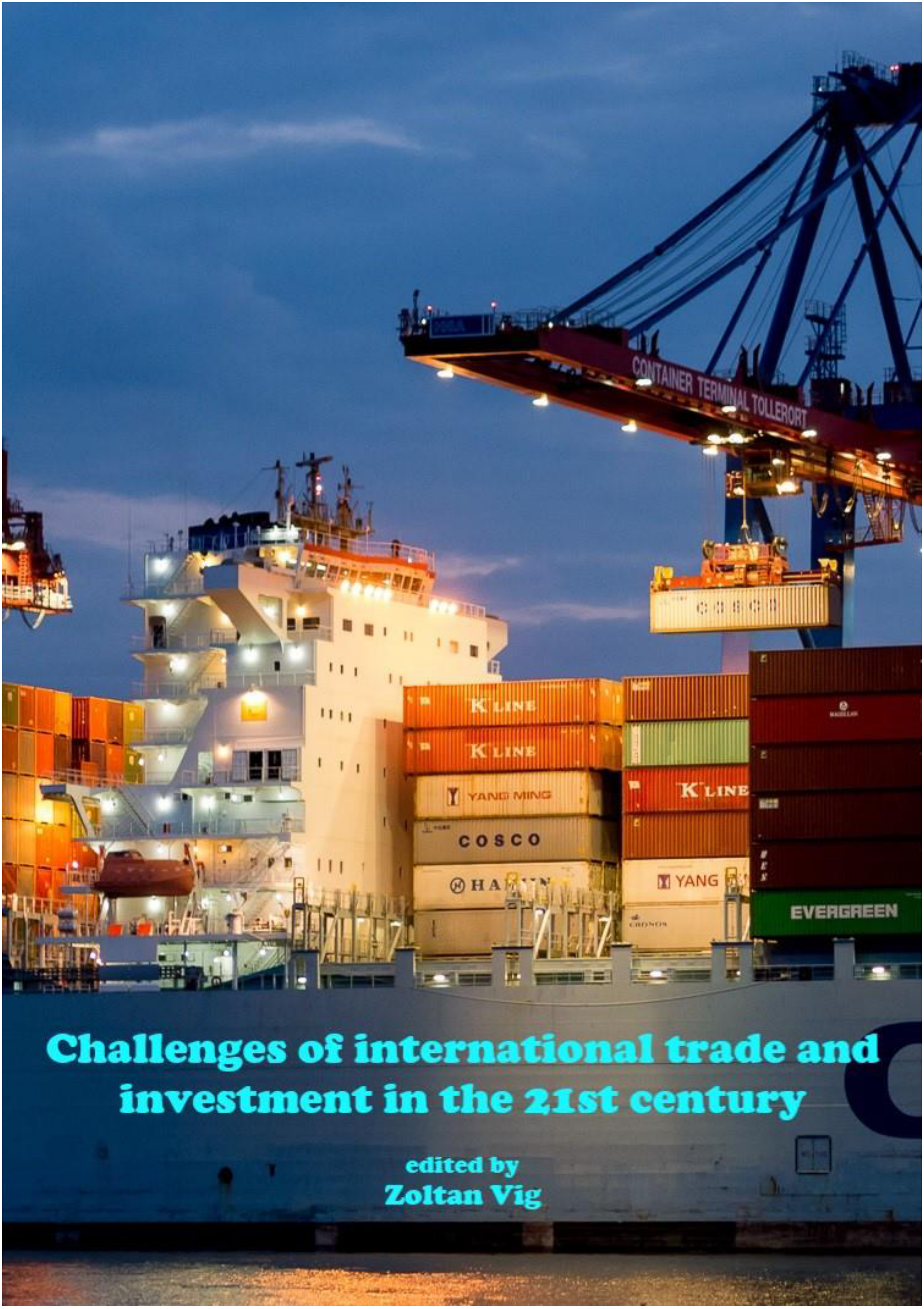

Challenges of international trade and investment in the 21st century

edited by
Zoltan Vig

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Editorial: Challenges of international trade and investment in the 21st century

The 21st century has been marked by new challenges facing the global economy in general, and international trade and investment in particular. We can see that the world economy is currently undergoing irreversible transformation. It can be said that Hungary, Moldova, and Turkey due to geographical proximity have similar issues when it comes to trade and investment, however, we should not forget that international trade and investment affect either directly or indirectly everybody on the globe. This is well illustrated by small Pacific nations which isolated themselves during the Covid pandemic, but after several months gave up for one or other reason this isolation, and joined again international trade flows.

One of the current challenges of international trade and investment is that national economies are becoming increasingly anti-globalist as well as isolationist. Earlier achievements of multilateralism and market liberalization seem to disappear bit by bit. All this has serious effects on international trade and investment. The main drive of globalization and trade liberalization worldwide was the United States of America during the twentieth century. However, at the beginning of the twenty first century it lost its leading position as main exporter of the world, and it seems that with it also lost its interest in the promotion of globalization and the idea of free trade. During the Obama administration there were already signs of this: the United States obstructed the work of the WTO

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Appellate Body. Donald Trump withdrew from free trade agreements and did a lot to isolate the United States. President Biden hasn't done too much to leave this path. So, after the bipolar and unipolar world, currently we are witnessing the fragmentation of the world into interest groups or blocks. Although China took over the place of the United States as the largest exporter of the world, economically and politically it is not dominant as the United States is or was earlier. It is simply not a global hegemon yet, not even a local one in Asia. In addition, it is incapable of leading a neo-liberal economic order, as the so-called socialist market economy (or state capitalism) is still too strong in China. A neo-liberal economic order would require it to play by the rules, but in reality, it does not play by the rules. So, China is constrained by its own autocratic approach to economic matters. Therefore, we can observe a slow process of isolation and strengthening protectionism in global trade and investment.

In addition, we have experienced historically the worst crisis of the global economy in 2008, and the next one is around the corner. National economies have been facing the problem of indebtedness for years now, which is becoming increasingly difficult to solve. In addition, high inflation and recession are looming on a global scale. It is true that economic crises in capitalism are recurrent and cyclical. However, in the 21st century, due to the enormous volume and overall presence of global trade and investments, such crises have more serious effects on economy, and specifically on these sectors of the economy. In addition, there are new inventions, modern technologies, like special financial instruments, smart contracts, cryptocurrencies, and so on, and their weak regulation. So, the impact of any economic crisis in this century might be much deeper in a globalized world.

At the same time, we have to admit, that the already mentioned innovations like blockchain, smart contracts, or Artificial Intelligence, increase efficiency in trade. For example, a huge part of international trade is financed by letter of credit. Such transactions are relatively slow and costly. With developments in information and communications technology electronic letter of credit (eL/C) has been introduced, which eliminates the need for correspondent banks, and at the same time, provides transparency and immutability to transactions.

However, we have seen during the 2008 economic crisis that these innovations might be very dangerous without adequate regulation. One only needs to remember mortgage-backed securities or collateralized debt obligations (CDO).

Another issue affecting international trade and investments is that powerful multinational companies continue to operate on an all-encompassing, global scale and sometimes ruthlessly compete for markets and resources under the new circumstances on the world stage. In some countries, this led to the so-called "business leads politics" phenomenon. At the same time, there is a strong competition among these multinational companies, and the intensification of competition at global level might in turn lead to the intensification of negative processes in international trade and investment.

Due to the presence of these factors, many experts talk about future low growth rates of the world economy and various risks, which will not only affect international trade and investment, but also create new problems in the legal relationship between the subjects of international law.

There is definitely need for an international organization which coordinates international trade, and which offers a forum for solving trade disputes among States. However, instead of global integration under the umbrella of the WTO, there are more and more initiatives for local economic integrations. Recently concluded free trade agreements by the European Union are good examples for this. This might be the sign that the WTO members do not trust that there is future for the global system under this organization.

All this might lead to serious challenges for small and mid-sized economies like that of Hungary, Moldova, or Turkey. Therefore, the primary aim of the conference was to examine the challenges of international trade and investment in the 21st century by identifying legal issues and finding potential solutions.

Gabor Hajdu's paper "Future of the EU and UK trade relations in light of the EU-UK Trade and Cooperation Agreement: contextualizing Brexit and trade" first examines the political background of Brexit and gives a short analysis of the UK's trading regime within the context of the EU system. Following this it covers the history of negotiations surrounding the UK's exit from the EU and the adoption and the content of the EU-UK Trade and Cooperation Agreement. Finally, the author assesses the most important results of this Agreement.

Irina Iacovleva's work "Problems Related to Jurisdiction in ICSID Arbitration" deals with issues related to ICSID jurisdiction when considering investment disputes, as well as how non-compliance with the conditions of jurisdiction may affect the exercise of the right to investment protection.

Muhammad Abdul Khalique in his work "The critique of reform proposals for ISDS: solutions to existing and future problems" analyses the work and proposals of the UNCITRAL Working Group III (WGIII) on the reform of the Investor-State Dispute Settlement (ISDS) system. The author, beside the constructive critic, also shares his own views on the most critical issues.

The paper of Thembi Pearl Madalane "EU DCFTAs: carrot-and-stick?" scrutinizes trade dispute resolution under the European Union's Deep and Comprehensive Free Trade Area established with Georgia, Moldova and Ukraine and its long-term effects. Besides, as the EU has pursued similar DCFTAs in North Africa under its European Neighbourhood Policy, the paper considers the EU's pursuit of the DCFTAs in North Africa in the context of dispute settlement costs of EU DCFTAs.

Shady Mawad's work which bears the title "To what extent can tax incentives be challenged under the WTO's Subsidy Agreement?" focuses on tax incentives which can be at the same time government subsidies distorting the competition in the global market. It starts by analysing the definition and categories of subsidies under the Agreement on Subsidy and Countervailing Measures, what is followed by a discussion on tax incentives, and finally the author analyses the provisions of the Agreement in the light of the current case law.

Bengi Sargin's paper "Acquisition of citizenship by investment (*ius pecuniae*): the case of Turkey" explores the acquisition methods of Turkish citizenship and examines the conditions of citizenship by investment in Turkey. The author also gives suggestions how to improve the current regulation taking into consideration practices of other countries.