

The London School of Economics and Political Science

**Imagined Commodities: 'Trade And' Policies
in the European Union and United States**

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Abstract

The international trade agenda has expanded in recent years to incorporate a wide range of non-trade issues, under pressure from the world's two largest traders, the United States and the European Union. Incorporating policies on issues such as labour standards, the environment and health into trade agreements effectively turns them into 'imagined commodities'. The EU and US are exporting their values with the aim of harmonizing standards in other countries with their own. Like commodities, these standards would not vary in quality between producers. They have value to negotiators as bargaining tools, as policy models, and as instruments for compliance. Although the actual impact of these policies on developing countries is debatable, policymakers and interest groups imagine them to be very important, sometimes important enough to derail trade negotiations.

Mixing elite interviews with textual analysis of press releases and key government documents, I examine the use of non-trade policies by US and EU trade negotiators to achieve their secondary goals - whether this is legitimating the policy process, distracting critics, or projecting the image of a benign foreign power. Examining interactions between interest groups and policy officials I find that while US officials use these new issues to benefit domestic constituencies, EU policymakers use them to enhance the EU's international standing in foreign policy. Behind this story are fundamental differences in the way that trade policymakers interact with key diffuse and specific interest groups. The consequences of this expanding trade agenda are a need for better coordination between government departments and agencies, increasing pressure on negotiators to address unfamiliar issues, and uncomfortable questions about the nature of policymaking in a globalized world.

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List of Acronyms

ACP	Group of African, Caribbean and Pacific Countries
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
CAFTA	Central American Free Trade Agreement
CAFTA-DR	Central American Free Trade Agreement-Dominican Republic
EBA	Everything But Arms
EPA	Economic Partnership Agreement
EC	European Communities
EEC	European Economic Community
EU	European Union
EPA	Environmental Protection Agency
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GSP	Generalized System of Preferences
ILO	International Labour Organisation
ITUC	International Trade Union Confederation
MFN	Most Favoured Nation
NAFTA	North American Free Trade Agreement
NGO	Non-governmental Organisation
ODA	Overseas Development Assistance
PNTR	Permanent Normal Trade Relations
RTA	Regional Trade Agreement
SEA	Single European Act
SIA	Sustainability Impact Assessment
SPS	Sanitary and Phytosanitary Standards
TBT	Technical Barriers to Trade
TRIPS	Trade Related Intellectual Property Rights
US	United States
USTR	United States Trade Representative
WIPO	World Intellectual Property Organisation
WTO	World Trade Organisation

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Appendix 2 Correspondence Analysis Data Tables

1 The Expanding Trade Agenda

'The catch is it takes two to tango and 149 to reach a consensus'
– United States Trade Representative Susan Schwab, 2006¹

The World Trade Organization (WTO) has passed its tenth birthday. It stands at the tip of an international trading system designed to harmonise trading practices across the globe. Its unique dispute mechanism has brought a greater degree of order to international trade agreements and provided developing countries with at least some means of combating the hegemony of developed states. The number of WTO member countries has grown rapidly to (a perhaps unmanageable) 150-plus, and still more countries are clamouring to join.

But the WTO's childhood has not been entirely happy. In the last ten years, trade agreements have come to symbolize the tensions at the core of the globalization debate: 'the hope of some for global prosperity and the fears of many that their way of life will be lost to international forces beyond the control even of their own government' (Hall 2001:55). Trade policy has once again become the subject of much wider non-trade concerns. Renato Ruggiero, who served as Director-General of the WTO from 1995 to 1999, saw the situation like this:

'...as the WTO becomes more important to the world economy, it also becomes a growing focal point for public hopes and concerns: How should the world protect endangered species and promote sustainable development? Should trade be linked to labor standards and human rights?...And what about eradicating poverty, reducing inequalities, and promoting the rights of women?...We cannot – and should not – ask the WTO to become a development agency, an environmental policeman, or a watchdog for labor and human rights' (Ruggiero 2000).

Yet expanding the WTO's agenda in this way is exactly what some proponents of 'fair trade'² demand (Schott 2000:467-8). Observing that the GATT (General Agreement on Tariffs and Trade) regime and WTO rules bestow substantial benefits on

¹ As reported by Steven Weisman and Alexei Barrionuevo, 'Failure of Global Trade Talks Is Traced to the Power of Farmers', *New York Times*, 27th July 2006.

² Definitions of 'free trade' and 'fair trade' can be confusing. A 'free trade' advocate supports trade liberalisation, where growth is achieved via markets that become progressively more open. Its focus is therefore upon the elimination of tariff and non-tariff barriers. 'Fair trade' in the context of industrialised states often refers to the elimination of 'unfair' trade practices abroad and the creation of a 'level playing field'. 'Fair trade' has a different meaning in terms of development policy, where it often refers to eliminating unfair practices that are biased against developing countries (as outlined in COM/99/0619). In Europe especially, 'fair trade' is often referred to by advocates as 'trade justice', which does not oppose trade per se, but the rules by which trade is governed.

large multinational corporations in a policy arena that is relatively closed to other interests, many non-governmental organisations (NGOs) and trade unions have taken an ‘if you can’t beat ‘em, join ‘em’ approach, lobbying for their own access and agendas.

The reason for this lies with contemporary conceptions of trade barriers. Formal barriers based on very visible tariffs have decreased, and firms and governments now pay more attention to ‘non-tariff barriers’, import restrictions which do not take the form of tariffs, but which may include restrictions on how a good is produced. Unfortunately, the international trading system conceptualises trade barriers in very broad terms, making it difficult to distinguish between domestic social policy measures enacted by a state to benefit its citizens, and trade barriers erected as deliberate protectionism (Wolfe 2005:349). This makes the WTO vulnerable to pressures from several directions. Actors who argue that trade should be as ‘free’ as possible believe that the WTO and its members are being distracted from their main objective (the progressive opening of markets) by new issues, and that these new areas are being used as distractions by developed nations that wish to avoid dismantling remaining protections. Radical opponents of trade also believe the world trading system has encroached too far upon national policy autonomy, and wish to see it dismantled. In contrast, both trade justice advocates and business interests who support the multilateral clarification of trade issues are pushing for new areas to be included in the WTO agenda (see Sally 2002; Shiva 2003).

Both proponents and opponents of expanding the WTO’s agenda have seen successes. The ancillary agreements to NAFTA (North American Free Trade Agreement) covering environmental and labour standards were a concession to American pressure groups, whose success depended on the formation of a broad cross-issue coalition (Wallach & Woodall 2004). Similarly, the TRIPS Agreement (Agreement on Trade Related Intellectual Property Rights) was the result of a particularly cohesive pan-industry alliance, the Intellectual Property Committee (McGuire 1999).

The New Trade Politics

Examined in isolation, no aspect of the current global trade environment is new. The association of trade and non-trade issues is not new. Some bilateral trade and environment measures can be traced back to the beginning of the 20th century (Vogel 1995). The current extent of economic globalisation and free marketeering is not new

(Braudel 1979; Irwin 1996; Schonhardt-Bailey 1997). Public dissent against trade is certainly not new: the Boston tea party and campaigns against the slave trade are just two well-known examples (Aaronson 2001). What is new is the juxtaposition of these factors with the extensive domestic regulatory systems that exist in modern democracies.

Young and Peterson (2006) highlight three major trends that constitute what they call the 'new trade politics': first, challenges to European and American hegemony in international trade from several developing countries with rapidly expanding economies such as China and India; second, the concerns of trade actors shifting from lowering tariffs to tackling non-tariff barriers to trade; and third, new actors such as non-governmental organisations (NGOs) becoming more engaged with trade policy. Thus changes in the global balance of power encourage developed countries to expand the trade agenda, pushing trade policy to the top of the agenda for many NGOs that were previously not involved.

First, the balance of power among trading nations is changing. In 2007, 26% of WTO member states were from the lowest income group, while 52% were low or lower middle income countries (see figure 1.1). While the smallest and poorest countries continue to have little say over trade negotiations, rapidly growing lower and middle income countries have asserted their authority in recent years. They are make use of sophisticated bargaining coalitions and are more experienced at conducting negotiations than ever before (Narlikar 2003; Odell and Sell 2006). After playing an increasingly activist role in the Seattle and Doha WTO ministerial meetings, the G20 group of developing countries -led by China, India, Brazil and South Africa- asserted their authority at the 2003 ministerial meeting in Cancun, Mexico. Their strong opposition to agricultural subsidies in developed countries helped to derail the talks. The current indications are that this is a long-term trend, and large industrial countries such as the United States and European Union will increasingly have to become accustomed to sharing the global stage.

The second major change concerns the expansion of the trade agenda. Multilateral trade negotiations are often likened to riding a bicycle. Stop pedalling, so the story goes, and you risk falling off the bicycle completely. Successive rounds of trade talks are supposed to maintain the momentum for liberalisation and ease negotiation by keeping open the possibility for future deals. But even for staunch trade liberalisers, this creates a problem. The global trade agenda has been damaged by its own success. The eight rounds of trade negotiations since the creation of the GATT in

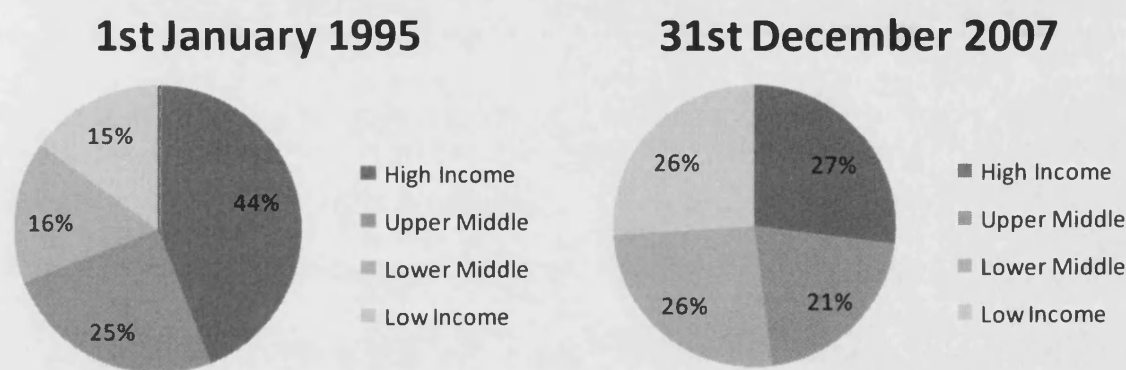
1947 have seen bound tariff rates in industrial countries fall to 6.5% on average (WTO 2001b). Instead of tariffs and duties, modern trade barriers are instead more likely to be of the non-tariff variety – such as technical standards, government subsidies, or even regulations ostensibly designed to protect consumers, the environment, public health or workers. The use of highly visible tariffs has been reduced, leaving forms of trade protection which are much less transparent and therefore harder to eliminate (Kono 2006). In the last two decades, the global trade agenda has expanded to include first agricultural products and trade in services during the Uruguay round (1986-1994), intellectual property (1994), the environment (1995), then investment, competition policy, government procurement and trade facilitation (1996), and finally development goals during the Doha round (2001-present). These trade related policies are collectively known as ‘trade and...’ issues.

Bringing domestic policy and regulation within the remit of the WTO brings it in reach of the unique WTO dispute mechanism. This mechanism allows WTO member governments to bring disputes against each other through a multilateral institution rather than in a two-way fight, where there is a much higher risk of retaliatory measures and the escalation of a minor dispute into a trade war. This tool gives the WTO the edge over the GATT regime, bestowing the ability to mediate and (eventually) resolve disputes according to a body of legal rules. But it is in the context of policies seen normally as domestic, the ‘trade and’ policies, where the consequences of this mechanism could be far reaching. Given that the ‘trade barrier’ status of much regulation is disputed, there is a greater chance that policy made by a set of democratic institutions to protect citizens could be overruled by an international legal precedent. It is very difficult to predict *ex ante* the effects of a WTO case, and few governments would sign up to having their authority eroded in this way. This is one reason trade policy experts are discussing subsidiarity for the global trading system, in an attempt to retain policy jurisdiction at the national level (for example, Howse and Nicolaidis 2003; Jackson 2002).

Third, the expanding trade agenda has caused new actors to pay attention to trade policy. Although some activists and policy entrepreneurs were paying fresh attention to trade politics as early as the 1980s, the anti-globalisation movement began to grab global attention in 1999, in what became known as the ‘Battle of Seattle’. The WTO ministerial meeting was intended to be the first in the ‘Millennium Round’ of trade talks. However, disagreements among participants, and shocking scenes in the streets of the city as protests escalated into riots and violent clashes with police, derailed

not just the meeting, but the whole round, which was only relaunched in 2001 in the wake of the 9/11 terrorist attacks. Protests outside the summit highlighted what many protesters saw as the elitist and secretive dealings of the WTO and the unjust balance of power within the world trading system.

Figure 1.1: WTO Member Countries by Income Group, 1995 and 2007



Source: Author's calculations from www.wto.org, accessed 12th January 2008

	EU	US
MFN Tariffs		
Average ad valorem duties ³	4.2	3.7
Agricultural Goods	5.9	-
Non-Agricultural Goods	4.0	3.3
Average non ad valorem duties	5.9	10.7
Contingency Measures		
Anti-dumping	167	280
Countervailing Duties	16	55
Safeguards	1	0
Dispute Rulings (Complainant-Defendant)	26-21	26-47

Source: *WTO Trade Profiles (2005)* www.wto.org, accessed 26th June 2006

This was the most visible part of a more widespread change. NGOs became more professionalised (Grant 2004; Jordan and Maloney 1997), and better and cheaper communications allowed more comprehensive international coalitions to form, coordinate activities and mobilise supporters (della Porta et al. 2006). Several developed countries experimented with new forms of governance, providing NGOs with new opportunity structures to exploit. Organisations in the Americas, spurred into action by the US-Canada trade agreement and the North American Free Trade Agreement

³ Ad valorem tariffs are a percentage of an asset's value and are therefore the most predictable. Non ad valorem tariffs (NAV Tariffs) alter the initial percentage, usually based on the weight, size or currency value of the good. NAV Tariffs are prevalent in both the EU and US, particularly for agricultural imports. NAVs can translate of national policies into tariffs, determined by factors such as the alcohol or sugar content of a product, and thus are very opaque.

(NAFTA) were making their voices heard (Ayres 1998; Johnston 1998). In Europe, the Commission's trade Directorate General had created a new forum for consultation specifically with non-profit groups. The WTO responded to the Seattle protests by attempting to make its procedures more transparent and accessible to NGO observers.

The launch of a new round of trade talks in Doha, Qatar saw a renewed promise to give the concerns of developing countries more consideration. This coincided with an increased emphasis on aid for trade facilitation and debt relief (see Chapter 5). The manifestos of new NGO coalitions, such as Make Poverty History and the One Campaign began to reflect the increased importance of trade as a development issue, outlining a three-fold prescription of increased aid, debt cancellation, and fairer trade—much broader requests, and much more difficult to orchestrate (Jarman 2006).

The modern global trading system is therefore increasingly complex. More actors are making a greater number of demands on the system, leaving the WTO's decisionmaking process in deadlock. We have moved from highly visible to nearly invisible forms of trade policy. Tariffs are comparatively simple to administer and easy to enforce; if the trader fails to comply, they are prevented from distributing any goods. In comparison, even defining non-tariff barriers to satisfy all parties is a difficult task.

This complex, multilevel process, with its new actors and agendas, raises questions of accountability. Perhaps unsurprisingly in the wake of anti-WTO protests among NGOs, WTO staff are keen to emphasise that the organisation is 'member driven'; many of its member governments are democratically elected representatives, acting on their own authority (Barton et al. 2006:212). In practice, however, the administrative details of the increasingly complex multilateral trading system give considerable power to individual bureaucrats. Compared to the World Bank and IMF, the WTO has a small staff and budget, and a much smaller cadre of experts. Trade Ministers meet at least once every two years, but a great deal of the real work is done by their delegates and their subordinates from Permanent Missions in Geneva. As studies of middle ranking bureaucrats have shown, such officials can have a big influence on policy by working out the details of more general positions (Page 2003; Page and Jenkins 2005).

'Trade And...' Issues as Imagined Commodities

How can states address the negative aspects of economic globalization? How can policy be made in a globalized world? The leaders of the old world order, including the United States and European Union, have reacted to these sweeping changes with varying

degrees of success. This study focuses on one consequence of the new trade politics in particular: how and why the EU and US have used non-trade issues to further their trade policy goals.

In an influential essay, Habermas (2001) discusses the ‘postnational constellation’, exploring emerging economic and political patterns beyond the nation state, and ‘the question of whether politics can and should “catch up” with global markets’ (62). He asks:

'what would a political response to the challenges of the postnational constellation look like?...the transformed constellation we are currently witnessing touches on the most basic functions and legitimacy considerations of democratic nation-states' (61).

The new trade politics –changing patterns of state power and interdependence, the incorporation of ‘trade and’ issues into negotiations, and the increased involvement of non-governmental actors in trade politics- is one answer to this question. Countries have reacted politically to economic globalization, bringing new issues onto the trade agenda in order to influence the domestic policies of other states and minimise negative impacts on their home nations.

This section takes a closer look at ‘trade and’ issues in this new policy environment, examining how they have been used by governments as bargaining tools in negotiations, as normative policy ‘models’, and as mechanisms for enforcing trade rules. In the same way that Karl Polanyi (1944) documents the transformation of money and labour into commodities, as well as resistance to this process, I document the commodification of ‘trade and’ policies as a response to the negative externalities created by economic globalization.

Benedict Anderson famously described a nation as an ‘imagined political community...imagined as both inherently limited and sovereign’ (Anderson 1983:6). It is imagined because ‘members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion’ (6). The nation, therefore, is built around shared ideas and collective identity, ‘conceived as a deep horizontal comradeship’, regardless of the actual inequalities that exist between individuals (7). The US and the EU are both products of experiments in forming collective identity and shared values. The developing US once struggled to unite its states within a federal structure. The EU continues to evolve and develop integrated policies despite persistent debates over its membership, legitimacy and constitution.

Just as nationalism may be a response to an external threat, governments in developed countries have responded to the negative externalities of transnational markets by attempting to export their values: their environmental and labour standards, their ideas about democracy and development, and potentially, their health and social policies. In the context of global trade negotiations, these values are imagined commodities: domestic policies exported beyond the borders of the state.

'Trade and' issues are commodities because they have value to governments in formulating trade policy. They have no cash value as such (although they do have economic effects) yet they can be used to decrease transaction costs in negotiations. True commodities are tradable goods which do not vary in quality between producers: copper or corn rather than watches or stereos. This is the ultimate goal of developed governments in exporting their values: harmonising international norms in line with their own and incorporating them uniformly across trade agreements. In theory this would minimize the cost disadvantages to developed countries of regulation supporting those norms. Although the actual level of impact these policies have on developing countries is a matter for debate, interest groups and policymakers imagine them to be very important, sometimes important enough to derail trade negotiations.

Imagined commodities are valuable to governments in three ways: as bargaining tools, as policy models, and as instruments of enforcement. As bargaining tools, they counterbalance or provide justification for other policies which may otherwise be considered protectionist. Thus, agricultural subsidies may be justified on the grounds that they protect rural ways of life or promote animal welfare. The market liberalising effects of a bilateral trade agreement may be counterbalanced by efforts to consolidate democracy in the partner country via capacity building aid and policy initiatives. These arguments can be used equally to justify trade policies to foreign officials or to domestic groups who object to a particular policy initiative.

As policy models, imagined commodities assist officials in exerting soft power, attracting the attention of other countries who wish to emulate them and fostering communication and cooperation. This 'attraction' formed the heart of America's 'competitive liberalisation' strategy under United States Trade Representative (USTR) Robert Zoellick. By engaging in multiple bilateral and regional negotiations simultaneously, he argued that the US could create new champions for liberalisation and create deals that would serve as models for future trade deals within the WTO – US standards were integral to these deals. The European Union's growing body of policy is a key element of its expansion agenda. By signing association agreements with the EU,

new member states must agree to adopt the body of EU law which outlines European policies. Eastern European countries have been keen to do this, with the EU expanding to 27 members in January 2007.

Attached to enforcement mechanisms, imagined commodities expand the tools available to officials to coerce other states while protecting their own interests. Developed countries dedicate substantial resources to 'trade defence' activities. These include the identification of unfair practices identified under WTO rules, such as dumping. If a firm exports a product at a lower price than it normally charges in its home market, it is said to be 'dumping' the product. Anti-dumping measures are allowed under WTO rules (GATT Art. 6), as long as genuine injury to the industry can be established. Anti-dumping measures are therefore an indicator of the extent to which an industry feels threatened by foreign imports, and the Government's sensitivity to those industry requests for protection. Both the US and EU raise large numbers of anti-dumping cases with India and China, and the US in addition initiates cases in the Western Hemisphere: with Brazil, Mexico, Canada and Argentina in particular (WTO 2007a). In the same way, other interest groups have argued for the inclusion of enforceable chapters protecting labour rights or the environment in trade agreements. 'Trade and' policies have an added value for negotiators here: they can be used to demonstrate to domestic groups that human rights offenders will be punished, or to legitimate enforcement actions that might otherwise be deemed illegal.

The European and American Context

'Europe still hasn't worked out how to be political about globalisation – except, in most cases, by opposing it. That's our problem'
– EU Trade Commissioner Peter Mandelson, *The Hague*, 3rd September 2007.

'Trade agreements are trade agreements. They are essentially deregulatory tools, or tools for deregulation, and should be seen as such'
– Deputy USTR Peter Veroneau, *Washington DC*, 27th June 2007.

As much as the EU and US have both made use of 'trade and' policies as imagined commodities, there are also some important differences between their approaches. The US and EU are exporting their values through their trade agreements, yet they neither achieve this in the same way nor emphasise the same values. This section explores the different responses of these two major trading powers to the new trade politics: the dependent variable in this study.

The European Union⁴ and the United States are the world's two largest traders (table 1.4). The US share of world trade in goods stands at 17.7% compared with the EU at 18.4%, with shares of trade in services at 19.4% and 26.9% respectively. They each account for just under a third of world GDP and are highly economically integrated: 20% of their external exchanges are with each other (see Paemen 2005; Meunier 2005). The standards and regulations adopted by these two large markets matter a great deal for the economic prospects of other countries, and attempts to export American and European standards in trade agreements should be closely studied. As economic powers with large and complex (although very different) regulatory systems, European and American reactions to the new trade politics have large implications for the future global trading system.

The history of American trade policy is as long as the history of America itself. When the first instance of delegation from the US Congress to the administration occurred on July 31st 1789, one of the powers granted by Congress was the power to 'estimate the dues payable on imports' (Bertelli and Lynn 2006:75). In the days when the United States had less administrative capacity and was developing industrially, there were strong incentives to rely upon tariffs to raise revenue. Now, as dominant traders in the global system, with other sources of funds, the benefits gained from open trade generally outweigh those from maintaining tariffs. Trade has diversified greatly since that point – both the EU and US have large and expanding service sectors, dealing in finance, travel and telecommunications in addition to more traditional goods markets.

The US model for the global economy has been the dominant international paradigm since the days of the Marshall Plan, the Truman Doctrine, and the creation of the Bretton Woods institutions. The US model of economic management which was incorporated into these international economic institutions advocated open markets, minimised transaction costs, and provided substantial opportunities for lobbyists (Cowhey and Aronson 1993). In recent years, the US has been successful at getting core political and legal values (such as priority for market access, reciprocity, rules-based agreements, and delineated jurisdictions) incorporated into the WTO framework and prolific in negotiating bilateral deals that reflect its views.

Given its origins as a customs union, we should not be surprised that much of EU policy can be interpreted as trade policy, as it affects the exchange of goods and services across borders. Trade policy is one of the oldest competencies of the European

⁴ The EU is represented within the WTO by the European Communities (EC). This distinction does little here except add complexity, so it is omitted.

Commission⁵, as specified in the 1957 EEC (European Economic Community) treaty, Article 113⁶. Signed a decade earlier, Article XXIV of the GATT (1947) set out the rules governing customs unions, and thus shaped the form of the early EEC. Although the European customs union broadly conformed to the rules, it is interesting to note that strong American support for the EEC meant that GATT members waved through the agreement without giving it their formal approval, despite concerns about its ‘discriminatory’ nature (Finlayson and Zacher 1981:568).

Dire predictions that the EU would become an ultra-protectionist bloc have not come true, however. Hanson (1998) sees trade liberalization in the EU as an integral part of the integration process between member state policies, accounting for the fact that external trade in the European Union has liberalized against economists’ expectations of a ‘fortress Europe’. It is therefore increasingly difficult to delineate EU trade policy in terms of internal/external (Holland 2002) or as distinct from other policy issues. The EU response to the new trade politics has been to take what has worked at the supranational level and transfer this practice to global institutions. This means an emphasis on cooperation between governments, coordination between policy areas, and consultation with relevant interests.

Table 1.3: The Basics	EU	US
Population (thousands, 2004)	455 297	293 507
GDP (million current PPP US\$, 2004)	12 001 030	11 628 080
Current account balance (million US\$, 2004)	(27 205)	(668 080)
Trade per capita (US\$, 2002-2004)	6 013	8 979
Trade to GDP ratio (2002-2004)	25.0	23.7
Rank in World Exports		
Merchandise	1	2
Services	1	2
Rank in World Imports		
Merchandise	2	1
Services	1	2

Source: WTO Trade Profiles (2005) www.wto.org, accessed 26th June 2006

I argue that studies of EU-US differences conflate two dimensions: the way that a policy agenda is pursued is confused with the policy agenda itself. In this research I

⁵ While trade in goods is an exclusive competence of the EU, legal competence in services trade and on intellectual property rights is divided between the EU institutions and EU member states. This is discussed in detail in chapter 3.

⁶ Just to confuse us all, Art. 133 of the Composite Treaty is equivalent to Art. 113 in the 1957 EEC Treaty. The Committee that bears its name can be referred to as both the Art. 113 Committee and the Art. 133 Committee.

use these two dimensions to characterise the different responses of the EU and US to the new trade politics. The first dimension, the means by which a polity seeks to harmonise the policies of other states with its own, relates closely to Nye's (Nye 2004b) continuum of hard and soft power. At one end of the spectrum, a hard power approach to trade policy is concerned with using existing WTO rules and domestic instruments to enforce compliance among third parties. A soft power approach to compliance is less about enforcing rules and more about winning hearts and minds.

Joseph Nye coined the term 'soft power' to highlight the importance of non-military aspects of American foreign policy in convincing other states to cooperate with the US or emulate its behaviour (Nye 1990, 2004b). Soft power works as a kind of social capital for states, enabling them to achieve their objectives without the need to threaten other countries with sticks or pay them in carrots. He argues that by focussing on the use of force, the Bush administration has allowed America's soft power to ebb away by eroding the value of US culture and democracy abroad (Nye 2004a; Barbé 2005). Nye envisions soft and hard power not as a dichotomy, but as a continuum. Coercion via force or sanctions is the hardest form of power, followed by inducement through payments or bribes. Agenda setting via institutions is a softer form of power, and attempts to co-opt or attract states using values, culture and policies is the softest (Nye 2004b:8). Force may not be a standard component of modern trade policy, but the other actions in Nye's continuum can be easily transposed from a general analysis of foreign policy to the more specific case of trade.

Findings

The evidence in this volume shows that both the EU and US use harder and softer forms of power to pursue their trade interests: on some issues they are equally concerned with trade defence activities, identifying when other countries are breaking the rules and initiating countermeasures. They both take part in trade diplomacy: ministerial visits with key foreign officials and building relationships with other countries that result in new trade agreements. The EU and US use 'trade and' issues as tools of both 'hard' and 'soft' power: as normative policy 'models', designed to attract potential trading partners and allies; as bargaining tools to shape agendas in negotiations; and at the other end of the spectrum, as mechanisms for enforcing trade rules.

But along the second dimension, the EU emphasises a broad 'trade and' agenda, encompassing multiple issues, while the model that the US presents to the world is much narrower, focussing on spreading competition and the rule of law, or increasing

security. On signing separate bilateral free trade agreements (FTAs) with Chile, EU and US approaches to 'trade and' issues differed. A press release by the USTR emphasised the economic benefits to Americans:

'The U.S.-Chile FTA will increase U.S. market access for goods and services and provide strong protections for U.S. investors in Chile. American workers, consumers, businesses, and farmers will enjoy preferential access to one of the world's fastest growing economies, enabling products and services to flow back and forth from the United States and Chile with no tariffs and under streamlined customs procedures' (USTR 2003b).

The EU also issued a press release on signing their FTA with Chile, but took a different stance:

'Respect for democratic principles, human rights and the rule of law are essential elements of the agreement. The promotion of sustainable economic and social development, and the equitable distribution of the benefits of the Association Agreement are guiding principles for its implementation' (DG Trade 2002).

The EU goes to great lengths to state its commitment to traditionally 'non-trade' issues in free trade agreements. The list of related issues is a long one. An EU negotiating proposal on agriculture submitted in 2000 emphasizes the role that supposedly 'trade distorting' measures can play in promoting non-trade related issues, discussing food security, health and safety standards, the contribution of agriculture to sustainable development, and poverty reduction (European Communities 2000). The US, in contrast, takes pains to emphasise the specific gains to its manufacturers and business. The USTR often acts as a broker for powerful national interests, seeking increased access in foreign markets on their behalf. The US trade agenda is consequently much narrower, focussing on the benefits of free trade and competition or the spread of the rule of law.

So variation along the first dimension, 'approach to compliance', is not systematic, while the second, 'policy agenda', shows distinct differences. Why have the EU and US adopted these different approaches to 'trade and' issues? To examine linkages between trade and non-trade policies it is important to examine the internal constraints on policymakers: the institutional structures of the EU and US, the opportunities these present for interest groups, and the requisite effects of these on policymakers' decisions. Understanding exactly which mechanisms are at work allows us to further explore why US and EU approaches have been different.

Explaining the Differences

At a time when domestic policy issues –as non-tariff barriers- are increasingly the stumbling blocks in international trade negotiations (Paemen 2005), domestic institutional differences matter. This section summarises my explanation of why EU and US policy responses differ.

I follow on from an important body of recent research in political science by taking an institutional approach to explaining trade policy outcomes. This research argues that the strategies adopted by states in multilateral trade negotiations differ according to varying domestic institutional factors. Where the US tends to be more active and proposes maximum change, the EU tends to be more pragmatic and incremental (Meunier 2005; Narlikar 2003; Searight 2005; Young 2002; Zeng 2004). The fragmentation of the European Union and the lesser autonomy of the EU Trade Commissioner when compared to the USTR are thought to cause the EU to ‘play it safe’ – proposing small cuts and taking fewer risks. Breaking each political system down into smaller institutional components, these studies explore the delegation mechanisms and decisionmaking rules, demonstrating that they can radically alter a state’s behaviour in trade negotiations.

But understanding the use of ‘trade and’ policies as imagined commodities means exploring not only the means of policymaking but also the content of policy. Although understanding the formal mechanisms of delegation and how they work in practice is vital, it is also important to determine why a particular ‘trade and’ policy came to be. Combining trade and non-trade policies is not inevitable, nor does it happen by accident. It is usually a considered response to a specific problem rather than a spontaneous decision by policymakers.

This study therefore uses two important explanatory variables: delegation, the transfer of negotiating authority from governments to trade negotiators, and representation, how interests (whether organised interest groups or the broader public) are represented in the policymaking process -their opportunities for accessing decisionmakers. Understanding delegation is important if we are to establish who has authority to negotiate trade agreements and make day to day policy decisions, how much autonomy they have from politicians and other bureaucratic units, and how their authority is determined –is there a constant power struggle between negotiators and other government actors or is the relationship governed by stable rules? These are particularly important questions when discussing ‘trade and’ issues, which often cross

policy jurisdictions and require a considerable amount of coordination between the interested parties.

Understanding which groups are represented in the policymaking process is also important. In developed democracies such as the EU and US, whoever has the authority to make trade policy needs legitimacy in order to maintain it. Policy decisions themselves and the mechanisms by which they are derived must be seen as legitimate. One important way of maintaining perceptions of legitimacy is to give sections of society limited input into the decisionmaking process, whether this is via elected representatives or directly between interest groups and officials. The mechanisms that decisionmakers use to consult outsiders create different opportunity structures for interest groups. Depending on how these opportunities are structured, different groups will be able to gain meaningful access to decisionmakers and influence the content of trade policy.

Interest groups, whether constituted broadly or more specifically, play an important role in defining policy alternatives and packaging solutions. There is a very large and distinguished body of literature (explored in chapter 3) examining interest groups in both the US and EU, among which several studies of trade policy play a seminal role. Paying attention to theories of interest group representation enriches our understanding of institutions, actors and of their strategies and interactions. What interest groups do, their strategies and preferred policies, reflects their collective best judgment about where power is, how it can be influenced, and which policy solutions are practical. Groups aim to identify the levers of power that they can pull given their unique membership. In turn, understanding which groups gain access to decisionmakers tells us something about the preferences and goals of policymakers themselves.

This study attempts to answer two key questions. First, how have the EU and US engaged in the new trade politics? I conclude that the two polities both use harder and softer forms of power but emphasise different issues, with the US consistently adopting a narrower 'trade and' agenda than the EU. Second, I ask why the EU and US have responded differently. I conclude that institutional differences, differences in delegation and representation, answer this question. While institutions may determine whether a state is protectionist or liberal, active or reactive, they also play an important role in determining the content of policy by controlling who can access decisionmakers.

The EU and US have responded to economic globalization by seeking to export their values and get them incorporated in key institutions. By doing this, they seek to reduce the impact of negative externalities on their home populations. These policies act

as 'imagined commodities' in trade negotiations; they have a value to negotiators as bargaining tools and a value to officials in forming relationships with other countries and when justifying and enforcing systems of trade preferences and subsidies.

I argue that the European Union and United States use 'trade and' issues differently based on the set up of their domestic institutions. How these two polities use non-trade policies in negotiations can be explained by 'delegation' and 'representation': how trade negotiating authority is delegated from government institutions to negotiators and the relationship between them, and how societal interests and the public are represented in the trade policymaking process.

In order to gain enough domestic support for new trade measures, both US and EU officials have a need for their policy to be seen as legitimate. An institution or policy is legitimate if it is perceived as such, in other words, if it is popularly accepted. But where the US looks inwards -to Congress and a popularly elected President- to legitimate its policies, the EU is keen to legitimate its trade policy in the eyes of the European people and the rest of the world. US policy is more legalized, formal, and policymakers are more constrained by precedent, so policy is more likely to follow a stable trajectory. Lobbying is certainly dominated by business interests, and committees of interest group representatives convened to advise policymakers are politically biased. But it is much easier to find out who lobbyists are, what they are doing, and how much they have spent. The Congressional process for approving agreements is a blunt instrument, but it is an instrument backed up by the legitimacy of an elected body. In contrast, the EU has long debated its structural legitimacy (Moravcsik 2002; Majone 1998; Follesdal and Hix 2006).

Although the European Parliament has consistently gained more influence with each Treaty signed, this influence does not touch trade policy. Likewise, discussions between member state governments are secretive, with trade policy itself largely decided not in the General Affairs Council but a subcommittee. The EU Commission has attempted to bring in more civil society groups to justify its policy at home and to construct arguments which make its domestic policies seem legitimate to foreign governments within the WTO.

In the EU, policy initiatives are an attempt to justify decisions that are not necessarily in the control of negotiators themselves – to legitimate them in the eyes of the people back home. At the same time, the EU needs to justify its domestic policies (particularly its agricultural policy) to other WTO members, or risk them being unravelled by international trade agreements. To achieve these two objectives, the EU

Commission has sought to find a greater role for civil society groups in the process of formulating mandates, and to link policies together to present a more united front to the world –where agricultural support is justified by sustainable development initiatives and the disadvantage to developing countries counterbalanced by tariff concessions to LDCs. The EU is trying to close the gap between the realities of EU policies and WTO rules, searching for intellectual coherence.

In the US, officials spell out what is gained for their domestic groups, and partisan politics plays a larger role. The Clinton administration paid attention to a coalition of labour and environmental groups (in addition to those of business) calling for the inclusion of their issues in trade agreements because the support of those groups was fundamental to its electoral success in both Presidential and Congressional contests, providing funding and organisational support. During the Bush administration, the labour and environmental portions of trade agreements persisted, largely due to the stable and highly legalised nature of US trade policy. Despite this, the Bush administration had no need to satisfy labour or environmental groups, and attempted to minimise their impact on trade policy by filling trade advisory committees with friendly representatives. The administration has been keen to satisfy the demands of business and agribusiness, acting as a broker to seek out new markets. US officials have framed trade policy in terms of compliance and economic growth.

The following chapters add substance to this framework using evidence from ‘trade and’ policies in the EU and US between 1999 and 2007. To a review of relevant literature and primary sources, I add information about substantive trade policy preferences from an analysis of government documents, substantiated through elite interviews with interest group representatives and trade policy officials. The interviews were semi-structured, enabling greater coverage of groups despite limited time and resources and allowing for some unstructured input. The study focuses on the major interest groups involved in demanding ‘trade and’ policies: trade unions and peak associations; agricultural groups; environmental, public health and development NGOs. Where access to an actor was unavailable, every attempt was made to substitute a similar actor. Efforts were made to inform interview participants of the aims of the research and the uses to which the data will be put. A statement of intent, covering issues of anonymity, was provided to participants. An interview schedule can be found in Appendix 1.

The rest of this volume proceeds as follows: Chapter 2 provides a firmer evidence base on which to assess the different positions of the EU and US on ‘trade

and' issues, examining the development of the 'trade and' agenda from 1996 to 2007. It incorporates automated textual analysis of over 1800 press releases. I find that the EU and US *both* use harder and softer forms of power in pursuing their trade goals.

Contrary to what we might expect, the US often engages in trade diplomacy, promoting its agenda through new trade negotiations, and the EU often prioritises 'trade defence', compliance to existing legal rules. The main difference is that the EU employs a broad set of non-trade issues to justify its actions, while the US trade agenda is narrowly focussed.

Chapter 3 lays out the institutional structures –the mechanisms of delegation and representation- that shape and legitimate EU and US trade policies. Delegation, the extent to which trade officials can make policy independently, and representation, the representation of organised interests and citizens in this process have a strong influence on the final policy outcome. Differing institutional structures shape the ability of interest groups to get their views across to policymakers, resulting in different patterns of trade policy.

The second section of the book introduces the three policy studies, (labour and environmental standards before the Doha round, linking agricultural reform and development during the Doha round, and ongoing debates on access to medicines and health services) which look in much more detail at the key non-trade issues which have caused disruption in multilateral trade negotiations. Each chapter explores how and why these issues came to be associated with the trade agendas of the EU and US, and explores the differences between the two polities in each case.

The case selection deliberately cuts across national and supranational levels of analysis and concepts of the EU as *sui generis*. The European Union is not 'SuperNAFTA': a regional trade agreement with extra appendages. The EU has its own elections, makes its own policy and passes its own laws, and has developed a great deal beyond policy coordination in the last 50 years. While in everyday life most Europeans would still be uncomfortable with calling it a 'state', for research purposes, the appropriate comparison is with the United States itself. Focussing on trade policy, which is highly centralised in both the EU and US and subject to common uses of terminology, increases comparability. The three case study chapters provide more detail about the dependent variable, show the mechanisms which cause that variable to alter and show variation that fits with my argument.

Chapter 4 analyses labour and the environment in the context of trade agreements, examining two of the first explicit non-trade policies to be used by Europe

and America as protection against changing power structures in the global trading system. This provides a straightforward illustration of my argument. In the US, these two policy communities formed an alliance during the NAFTA debates of the 1990s, asking for the inclusion of labour and environmental standards in trade agreements. Although the two communities both lobbied the European Union for inclusion of these standards in trade agreements, they did so separately. These different patterns of representation have very different treatment of labour and environmental issues in each polity.

Chapter 5 contrasts the growing emphasis on trade as a development tool with continuing demands to protect domestic agriculture, analysing EU and US attempts to justify their trade policies within the development framework of the Doha round. This study tests my argument on the highly controversial question of who should be allowed to produce the world's food. While the EU and US have a comparable level of protection for their farmers and strong agricultural lobbies, the EU has additionally attempted to promote the interests of development groups, and the reasons for this are explored.

Chapter 6 compares NGO campaigns for greater access to generic medicines with those surrounding the expansion of the trade in services agenda into health policy. This is a much newer issue, with the consequences of trade in health services in particular still to be played out. In the mid-1990s, business interests succeeded in getting their intellectual property agenda incorporated into world trade rules. The NGO community did not begin to effectively oppose this agenda until a group of organisations launched an 'access to medicines' campaign in the mid-1990s. The campaign was great success in the EU, cited as one of the most successful results of the civil society dialogue, and, surprisingly, an equal success in the US. In contrast, the trade in health services agenda has received little NGO attention on either side of the Atlantic, and yet the EU announced a moratorium on health in the services negotiations while the US has actively pursued a health services agenda. This case study, therefore, represents a harder test for my main argument.

In the concluding chapter, I summarise the evidence from the three policy studies and draw some broader lessons for the regulation of policies that cross the national/global divide. I discuss the future for 'trade and' policies, including the options for limiting the WTO's expanding agenda through membership reform or subsidiarity, and for better scrutiny of these complex issues in domestic institutions. The global economy stands on the verge of a slowdown or perhaps a depression. The links between

trade and non-trade policies, created in times of prosperity and open markets, may well be the source of bitter trade disputes in leaner times.

2 EU Against US: ‘Trade and’ Policies in the Doha Round

In the last two decades, the interaction between trade and non-trade policy has taken on a new intensity, driven in large part by the actions of the EU and US. The Uruguay round expanded the global trade agenda to an unprecedented degree, placing agricultural goods, trade in services, investment and intellectual property on the negotiating table. It was ‘quite simply the largest trade negotiation ever, and most probably the largest negotiation of any kind in history’, according to the WTO (2003). When the round was finally concluded in 1994, the appetite for further negotiations amongst business and policymakers alike was small. However, below the international level, the US and EU continued to develop their own trade agendas, and began to push for these policies to be included in a ‘millennium round’ of talks.

This would not be an easy task. Defining an agenda for the new round took nearly seven years and threatened to rip the newly constructed WTO apart. The US failed to get labour standards included in the negotiations, and the EU bid to recognise the precautionary principle (a longstanding EU environmental principle which states that a course of action should not be followed until there is reasonable certainty that it will not cause harm) gained no support. Developing countries opposed these new issues, arguing that developed countries had not yet lived up to the promises they made during the last round. Outside WTO summits, protesters shouted their opposition to the global trading system.

But just one month after the terrorist attacks of September 2001, WTO members signed the Doha Declaration at the 4th Ministerial Conference in Doha, Qatar. This event was a watershed for trade policy, launching a new and very ambitious round of trade negotiations. The declaration states that

‘International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration’ (WTO 2001a).

This was a formal recognition of the ‘new trade politics’ – changes in power relations, the expanding trade agenda, and the mobilisation of an anti-globalisation movement (see Chapter 1). America and Europe seemed to have restrained their

efforts to push for new issues in acknowledgement of the new bargaining power of developing countries. The Doha meeting seemed to have saved the global trading system from self-destruction.

By 2005, however, this apparent goodwill had largely dissipated. The EU and US had come increasingly under pressure to make larger concessions on agriculture, and developing countries had proved that they were willing to assert their authority at the Cancun and Hong Kong WTO Ministerial meetings. Businesses in Europe and America were likewise frustrated at the lack of progress on the services agenda. Negotiations eventually continued later that year, but have since been intermittent and disappointing. At the time of writing it seems likely that a final deal will be reached, but that it will be far less ambitious than originally intended and deliver very little for developing countries.

This chapter establishes that the EU and US have approached this new era in significantly different ways. It examines the period 1996-2007, comparing the development of 'trade and' issues in EU and US trade policy from the establishment of the WTO through to the breakdown of the Doha round negotiations. A analysis of press releases by DG Trade and the USTR from 2001 to 2007 tracks the efforts of EU and US trade negotiators to justify policy decisions during that time.

The history and content analysis shows that trade policy, rather than being a simple dichotomy of "hard" and "soft" or "liberal" and "protectionist", instead falls on two axes: officials' approach to compliance, and the breadth of the trade agenda they put forward (figure 2.1). The first axis is very similar to Nye's (Nye 2004b:8) concept of a hard-soft power continuum, with the difference being that the use or threat of military force is highly unlikely in the modern era. At one end of the continuum, a hard power approach to trade policy is concerned with using existing WTO rules and domestic instruments to enforce compliance among third parties, a practice commonly referred to among policymakers as 'trade defence'. Such an approach would make heavy use of antidumping measures and countervailing duties allowed under the WTO in retaliation against a breach of the rules, or involve public threats to do so. A hard power approach could involve the unilateral imposition of tariffs against a trading partner, including restrictive rules in trade agreement that are stricter than the equivalent multilateral standard, but also aid payments made to developing countries, as the threat of withdrawing aid confers power on the donor. A soft power approach to compliance is less about enforcing rules and more about winning hearts and minds. These activities would include sending trade ministers abroad to promote new trade agreements or

regional blocs, setting policy agendas by building certain preferences into trade agreements, offering incentives to cooperate on policy in the form of support for capacity building programmes, and giving special concessions such as lower tariffs or slacker reciprocity rules to developing countries to encourage them to participate in the WTO regime. While a tough approach to compliance is about a state getting what it wants, outside the scope of WTO rules if necessary, a softer approach is about agreeing rules that a wider range of countries see as legitimate.

Figure 2.1: Framework for Interpreting EU and US Statements on Trade Scope of Trade Agenda

		Narrow	Broad
Approach to Compliance	Hard (Trade Defence)	Fights hard to defend domestic interests using trade defence mechanisms e.g. use or threat of antidumping, cvds, safeguards, TRIPS	Fights hard to defend domestic interests using diffuse issues as justification e.g. multifunctionality in agriculture, sanctions over labour standards
	Soft (Trade Diplomacy)	Promotes new agreements/measures using free trade justifications e.g. FTAs, RTAs	Promotes new agreements/measures using diffuse issues as justification e.g. EPAs, AGOA, Access to Medicines, cooperation agreements

Hard and soft approaches are not, however, the only dimension. The content of the policy that is being pursued in a hard or soft way also matters. On the second dimension, each polity has a choice about which issues or ideas to invoke to justify its trade policy. At one end, the trade agenda can be narrowly defined, focussing perhaps on the economic imperative of reducing barriers to trade or maintaining food security. At the other, more diffuse issues such as environmental, social, or development concerns are used to justify and legitimate a policy action, whether this is participation in a new agreement or the use of a measure that restricts trade. Heavily influenced by the demands of interest groups, filtered through its internal bureaucratic structure, a state adopts a strategy that either prioritises a few narrow policy goals or promotes a broader agenda that incorporates many more ‘trade and’ issues. At one extreme, a

narrow agenda focuses on the benefits of free trade and sees its economic consequences as key, viewing the other effects of trade agreements as of marginal importance. At the other, a broad agenda attempts to use these secondary effects to the benefit of the trading state. One good example of this is the EU's support for 'multifunctionality' in agriculture; the EU argues that agricultural subsidies not only support farmers, but maintain a quality of life in rural communities that would otherwise be lost. The EU's complex and fragmented bureaucracy is visible in the numerous 'trade and' issues that the Commission continues to promote throughout the round. The EU trade agenda gradually becomes more complex as the round moves on, pushing issues together and blurring the boundaries between them. At the same time, the American trade agenda narrows, focussing down on key priorities: market access and security issues.

Figure 2.2 summarises EU and US movements along these two dimensions between 2001 and 2007. It is an important but basic point that both the EU and US do move over time; even in this relatively short period their positions are not static. Until 2005, the EU shows a very clear tendency to justify its trade policy using diffuse issues. The US, in contrast, sticks to a fairly narrow trade agenda, focussing on increasing global competition, with lesser themes of spreading freedom and the rule of law. The US moves further into the bottom left quadrant as it emphasises this agenda and spends more time trying to sign new agreements. The US is more consistent in its policy stance when compared to the EU. In other words, the systematic difference between the US and EU is in the breadth of their agendas rather than their approaches (table 2.2).

This chapter uses several types of evidence to track the EU and US along these dimensions, establishing a clearer evidence base for perceived differences between American and European approaches to 'trade and' policies. Historical analysis of the years leading up to the beginning of the Doha Round of trade negotiations in 2001 gives context to the analysis which follows, explaining how 'trade and' issues came to be an important part of the Doha agenda. This is accompanied by a textual analysis of 1800 press releases issued by the USTR and DG Trade between 2001 –the year of the Doha declaration and the start of the round- and 2007. The results for the years 2001, 2003, 2005 and 2007 are displayed here, chosen in order to show the progression of EU and US positions during the round. This captures what the EU and US were saying about trade around important ministerial meetings: Doha in 2001, Cancun in 2003, and Hong Kong in 2005 and contrasts these with statements after the break down of the talks. Each year is divided into two six month periods. Splitting the analysis up in this way allows us to see two things more clearly. First, any differences between administrations

as one trade minister hands over to another, and second, as the ministerial meetings always occur in the second half of the year, the effect of WTO ministerials on what the EU and US say.

Table 2.2: EU and US Statements on Trade, 2001-2007

		EU		US	
		Approach to Compliance	Scope of Agenda	Approach to Compliance	Scope of Agenda
2001	Jan-June	Softer	Broad	Harder	Narrow
	July-Dec	Harder	Broad	Softer	Narrow
2002	Jan-June	Softer	Broad	Harder	Narrow
	July-Dec	Softer	Broad	Harder	Narrow
2003	Jan-June	Softer	Broad	Softer	Narrow
	July-Dec	Harder	Broad	Softer	Narrow
2004	Jan-June	Harder	Broad	Softer	Narrow
	July-Dec	Harder	Broad	Softer	Narrow
2005	Jan-June	Neither	Broad	Softer	Narrow
	July-Dec	Harder	Broad	Harder	Narrow
2006	Jan-June	Softer	Broad	Harder	Narrow
	July-Dec	Harder	Narrow	Softer	Broad
2007	Jan-June	Softer	Broad	Harder	Narrow
	July-Dec	Softer	Broad	Harder	Narrow

Correspondence analysis of this text allows the researcher to explore complex patterns in the data. Using the text analysis programme *Alceste*, I draw out the key themes in each six month period, and analyse the proximity of officials' policy positions to these themes over time. The purpose of this analysis is to explore further what many authors have anecdotally observed: that the EU and US emphasise different trade policy problems at any one time, and to link this to their different bargaining styles.

It is important to stress that this is an exploratory method that allows me to create a framework for the more detailed policy studies in the next three chapters. It is not a measure of causal relationships but rather a way to simplify and portray a large amount of complex data and show the movements in EU and US positions over a period of time. It is still essential for the researcher to be thoroughly familiar with the data (I read every single press release and referred back to the original text throughout).

Using press releases as a way for the US and EU to 'self-report' is key: we can assume that both the USTR and the European Commission want to portray themselves in the best light. This builds up a picture of the arguments that trade officials think are important, and who these arguments are directed at. Press releases are fairly short and

use common everyday language, minimising the very technical jargon that occurs in other trade policy documents and increasing the comparability between US and EU texts. The texts of trade agreements are not suitable for this kind of analysis. They share a good deal of the same language simply by being international legal agreements, and their formality does not capture the informal aspects of policymaking that lead to 'trade and' linkages, much as a written constitution tells us little about everyday policymaking.

Method

1800 press releases from the USTR and the European Commission's DG Trade dating between January 2001 and December 2007 were analysed using the text analysis programme Alceste. US press releases were downloaded from the USTR's online document library⁷, while EU press releases were downloaded from DG Trade's ICentre in English⁸. These were then consolidated into plain text files for analysis, edited lightly to remove extraneous text (such as tables), and ensure consistent spelling. Each file comprised EU and US press releases for a six month period.

Alceste is an automated textual analysis program which takes large amounts of text and subjects it to hierarchical classification analysis- splitting it up to discover the key 'themes' at the heart of a body of text. Alceste was developed in 1974 by Max Reinert, based on the ideas of Jean Paul Benzécri on correspondence analysis in linguistics (Reinert 1983; Benzecri 1981). As described meticulously in Schonhardt-Bailey (2006), it has been used extensively in the humanities and the social sciences (Greenacre and Underhill 1982; Weller and Romney 1990; Blasius and Thiessen 2001; Lahlou 1996; Allum 1998) and in the last decade has been utilised as a method in political science (Brougidou 2000; Bailey and Schonhardt-Bailey 2005; Schonhardt-Bailey 2006).

Alceste is very different from standard content analysis in that the initial analysis is 'automated', meaning that the programme determines themes in the text statistically, without input from the researcher. The benefits of content analysis are retained in that it is easy to relate individual words, sentences and themes back to the original text, and to ask multiple questions of a rich form of data, but some of the common problems associated with traditional content analysis can be minimised. Alceste allows us to start

⁷ Available at http://www.ustr.gov/Document_Library/Section_Index.html, accessed between February 2006 and June 2008.

⁸ Available at http://trade.ec.europa.eu/doclib/cfm/doclib_search.cfm?action=search. As the ICentre is a relatively new database containing press releases added retroactively, press releases from the ICentre were compared with those held on the central EU RAPID database at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1142> to ensure a complete list.

with the notion that EU and US approaches to ‘trade and’ policies are different, without the need to establish a set of concrete hypotheses and coding structures before exploring the data. Automated analysis therefore reduces the temptation to impose a structure on the data from the outside, avoiding bias introduced by the researcher. It allows a researcher to gain an overall picture of a large amount of data in a relatively short time. It also addresses problems of reliability in the coding by minimising researcher input. Increasing the statistical component of the analysis has a price, however, and it is possible for automated analysis to miss nuances that might have been captured by traditional content analysis (Schonhardt-Bailey 2005). Overall, this method is highly suited to my purpose –translating ‘hunches’ about how EU and US policy approaches are different into a more concrete dependent variable. The analysis has allowed a more systematic comparison of differences between EU and US statements, uncovering two dimensions (breadth of agenda and approach to compliance) which are obscured in the literature.

Alceste codes the data using hierarchical classification analysis. First, the programme splits up the text into ‘Elementary Context Units’ (ECUs). ECUs are ‘gauged sentences’, which are constructed by Alceste based on word length and punctuation in the text (Schonhardt-Bailey 2002:8). Alceste slices up the text into ECUs, slicing thickly or more thinly based upon punctuation and word length to maximise the number of ECUs it can analyse. Alceste then looks for words that are present in multiple ECUs. It notes the distribution of these words among ECUs, recording the presence or absence of words in a matrix. All ECUs in the corpus are divided into two groups or ‘classes’ (here I have called them themes) with the least number of overlapping words, using a chi-squared criterion to compare their distribution with the average distribution of words among ECUs. This process – hierarchical classification analysis- is repeated until repetition fails to create any new and distinct themes. The chi-squared criterion reads as follows, as laid out by Schonhardt-Bailey (2006):

$$\chi^2 = k_2 k_3 \sum_{j \in J} \left[\left(\frac{k_{2j}}{k_2} - \frac{k_{3j}}{k_3} \right)^2 \div k_j \right],$$

Where

$$k_{j2} = \sum_{i \in I_2} k_{ij} ; \quad k_2 = \sum_{i \in I_1} k_{2j} ; \quad k_j = k_{2j} + k_{3j}$$

Where k_{2j} is the frequency of contextual units in class 2 containing a specific word (j).

Validation of Alceste results is determined by the proportion of ECUs that the programme can classify. A result is considered to be valid if 60% of ECUs are successfully classified. Table 8.1 (in the appendix below) details these figures for the analyses performed in this study. As the analysis seeks to explore data rather than establish causal relationships, this measure should not be compared to an R-squared statistic: it is not a measure of statistical significance.

The final output is presented in a number of different ways. Two of these are particularly useful for our purposes. For each theme, characteristic words are identified using their chi-squared values. A high chi-squared value means that a word is closely associated with that theme. For example, in the first half of 2001, the words develop+ ($\chi^2=95.0$), medicine+ ($\chi^2=85.1$), disease+ ($\chi^2=73.0$) and drug+ ($\chi^2=66.9$) are closely associated with theme 6. A '+' symbol indicates a lemmatised word, so 'develop+' will include the words develop, developed, developing, and so on. By examining the whole list of characteristic words and referring back to the sentences and paragraphs which give them context, the researcher can give each theme a descriptive label, 'Access to Medicines', in this case.

Alceste then uses these figures to produce a correspondence analysis chart which maps the relationship between the themes in two dimensions. Correspondence analysis is a type of factor analysis which uses categorical (non-continuous or discrete) variables. Alceste attempts to explain as much variance as possible along these two dimensions. The greatest amount of variance is always displayed on the horizontal axis, making it the most important for interpretation. Alceste then attempts to display as much of the remaining variance as possible along the vertical axis, and so on.

Distance between the numbered themes on the chart therefore represents the strength of association between them; themes shown as close together on a particular axis are more closely associated. The charts also show the relationship between the themes and any descriptive variables 'tagged' to each press release. Here I have tagged each press release with the name of the EU trade Commissioner or US Trade Representative in office at that time.

Finally, by looking at the analysis overall, the researcher can interpret the meaning of each axis and give it a name. In this case, I have interpreted the axes as showing the approach to compliance of each political system (harder or softer) along the x axis, and the trade policy agenda (broad or narrow) along the y axis. It is important to stress that these are interpretive axes, identified based on patterns in the data. They were incorporated into the theoretical framework of this study after the analysis and

were not imposed on the charts according to theoretical assumptions made before the analysis was carried out.

Going back to our example then, Pascal Lamy is situated in the upper right quadrant, indicating a softer approach to compliance and a broader policy agenda, Robert Portman is placed in the bottom left quadrant, indicating that the USTR's statements take a harder approach to compliance and mention fewer issues. Lamy is most strongly associated with discussions of trade diplomacy, a softer theme which concerns the EU's bilateral relations with countries attempting to join the union and other neighbouring states (theme 2, $\chi^2=194.65$). He is also closely associated with discussions of corporate responsibility, a broad theme which links economic arguments to both environmental and social policy (theme 7, $\chi^2=89.23$). Both the EU and the US talk about a possible increase in aid designed to assist developing countries in building up their capacity to trade (trade assistance, theme 6). While the US narrowly discusses an increase in trade assistance, the EU opts for a broader agenda which advocates not only increased trade assistance but also better access to generic AIDS drugs and humanitarian assistance.

In contrast, Zoellick discusses three narrow themes (1, 3, and 5, $\chi^2=73.28$, $\chi^2=49.97$ and $\chi^2=59.37$ respectively). After stepping into office, he recruits staff for the USTR's trade advisory committees and makes statements about trade to Congress in terms of freedom, leadership and security (theme 1). Trade defence is another important concern (theme 3), discussing import restrictions and anti-dumping initiatives in dispassionate legal language. Intellectual property rights are discussed in terms of enforcement and measures to 'combat piracy' (theme 5). Theme 4 represents a very small proportion of the data and is thus discounted.

The next section sets out the results of the analysis. By creating a timeline that follows the evolution of 'trade and' policies from key documents, correspondence charts which map the key concerns of EU and US negotiators at six month intervals, and interviewing officials and interest group representatives to test the integrity of these frameworks, this chapter and the three detailed policy chapters that follow show why links between trade and non-trade policies were formed, and how the EU and US use them to their own ends.

The Road to Doha

Trade conflicts emerging during the current round have their roots in previous negotiations. We must not fall into the trap of thinking that the trade debates during the Doha round appeared from nowhere. This section provides context to the analysis which follows in this chapter and the next three case study chapters. It covers four important events which cast a long shadow over the use of 'trade and' issues in the current round: the creation of the North American Free Trade Agreement (NAFTA) in 1992, the conclusion of the Uruguay round in 1994, the introduction of new issues at the Singapore WTO ministerial meeting in 1996, and the failure to set the agenda for the new round at Seattle in 1999.

The North American Free Trade Agreement was a milestone in the use of 'trade and' issues. In 1990, the H. W. Bush administration needed extra time to continue the NAFTA negotiations. The legislation (known as 'fast track') which gave the administration the ability to negotiate trade deals with minimal Congressional approval was due to expire in 1991. In order to secure its renewal, the administration had to listen to NAFTA critics who raised labour and environmental issues with the Democratic chairs of the committees of jurisdiction. The administration agreed to provide adjustment assistance for displaced workers, support labour standard enforcement in Mexico and environmental standards in both the US and Mexico (Destler 2005). These promises split the opposition, and in May 1991, the administration won the fast track authority it needed.

The NAFTA negotiations were completed in August 1992, in time for Bush to use the agreement as political capital in his Presidential election campaign. His opponent, Democratic nominee Bill Clinton, struggled to contain splits within his party over the deal, coming under pressure from opponents to increase its labour and environmental components (Shoch 2000). Clinton eventually endorsed the agreement, in October, but proposed a compromise. In a perfect example of 'triangulation', Clinton went for a third option, negotiating side agreements on labour standards and the environment with Canada and Mexico. Facing the prospect of years of obstructive trade policy from the US, and a tight deadline, the other NAFTA participants agreed (Gabriel and Macdonald 2006:82). Clinton often triangulated between outlying policy positions, creating a 'third way' that lay between them and appealed to the hypothetical median voter. On very salient issues, it was essential for Clinton to build electoral coalitions of core party groups and swing voters in order to shore up his support (Rockman 1996). Clinton's triangulation approach was very visible in his trade policy: he simultaneously pursued trade liberalisation through negotiation of NAFTA and the new GATT

agreement, market opening in Japan to appeal to beleaguered manufacturers, and showed varied degrees of support for labour and environmental standards as necessary to appease domestic trade unions and environmental NGOs (Shoch 2001:166). The coalition of trade unions and environmentalists which formed during debates over NAFTA would persist in the US for the next decade and a half.

Table 2.3: Trade Representatives by Year, 1995-2008

Year	USTR	President	Commissioner	Presidency	
1995-1996	Mickey Kantor	Clinton	Leon Brittan (Santer)	Spain	Italy
1996-1997				Ireland	Netherlands
1997-1998	Luxembourg			UK	
1998-1999	Charlene Barshefsky		Pascal Lamy (Prodi)	Austria	Germany
1999-2000				Finland	Portugal
2000-2001				France	Sweden
2001-2002	Robert Zoellick	Bush	Danuta Hübner	Belgium	Spain
2002-2003				Denmark	Greece
2003-2004			Italy	Ireland	
2004-2005			Netherlands	Luxembourg	
2005-2006	Rob Portman		Peter Mandelson (Barroso)	UK	Austria
2006-2007	Susan Schwab			Finland	Germany
2007-2008		Portugal		Slovenia	

Meanwhile, in the EU, a power struggle took place between the Commission and the member state governments of the EU as represented in the Council of Ministers. The Blair House accord between the EU and US in 1992 signalled a new direction for trade policy, solving an impasse that had grown between the two powers on agricultural liberalisation. The agreement was made possible by efforts of Commission officials who sought to gain greater negotiating autonomy from EU member state governments. As a result, French officials detested the accord, blamed it on the failing institutions of the EU, and demanded that the Commission's reign be tightened (Meunier 2005 Chapter 4, especially pp-112-117). External Affairs Commissioner Leon Brittan argued for wider powers for the Commission to negotiate, and an end to the requirement that trade policy be approved in a unanimous vote by member states, to make trade policymaking more efficient (Barber 1997).

The Marrakesh agreement in 1994 marked the successful conclusion of the Uruguay round and laid the foundations for the creation of the WTO. But it set off another vicious competency battle between the European Council and the European Commission. The Commission requested that the ECJ advise on the matter. On 15th November, just six weeks before the new WTO was supposed to come into being, the Court delivered *Opinion 1/94*⁹. The result was much less of a victory than the

⁹ Opinion 1/94 (1994), ECR I-5267, 5283.

Commission had hoped for and left widespread constitutional confusion: on trade in services and intellectual property, the Court reasoned that the competence was relative to the degree of internal harmonisation in these policy areas, and thus the Community could not be granted sole competence (Elsig 2002:96; Eeckhout 2004:28-35).

By 1996, NAFTA had been in existence for two years, the WTO for just one. The Clinton Presidency, represented by Mickey Kantor at the USTR, wanted to incorporate its new labour and environmental agenda into the WTO framework. Intense lobbying of the EU by the US persuaded them to follow suit and support a broader agenda at the WTO meeting in Singapore that year. In July 1996, the Commission pressed the Council to include a proposal on labour standards for the forthcoming WTO ministerial meeting in Singapore, and in 1997 the Commission proposed to include labour and environmental standards in its Generalised System of Preferences, as criteria for granting better terms to the EU's trading partners.

This was a surprising turnaround. Just one year earlier, the EU was all business. In 1995, an EU/US summit founded the Transatlantic Business Dialogue after a series of meetings between US Secretary of Commerce Ronald Brown, EU External Affairs Commissioner Leon Brittan and Internal Market Commissioner, Martin Bangemann (Green Cowles 2001). It looked likely that Brittan would realise his ambitions for a broader EU-US free trade area (although plans were later scrapped in the face of objections from French President Jacques Chirac). In February 1996, the Commission called for a 'sharper' trade policy, focussed tightly on gaining market access for European industry and promoting its interests (European Commission 1996).

But although Brittan was a committed free trader, he came round to the idea that limited labour and environmental standards should be addressed in trade agreements on the grounds that this would deflate the case for stronger protectionist measures, under pressure from US officials (see Chapter 4 below). As this quote demonstrates, Brittan's stance contains some severe contradictions. Brittan outlines his support in favour of positive but not negative sanctions in terms of labour, the environment, and trade:

'My own thinking has evolved from a belief in the single-minded pursuit of trade liberalisation towards a belief that we may often need to engage in a balancing act between that aim and wider policy considerations. We must avoid protectionism like the plague, and recognise that it often raises its head insidiously in more innocent-looking guises. But that should not prevent us giving serious attention to non-trade concerns that have genuine legitimacy' (Brittan 2000:147).

This 'evolution' was founded on the premise that these new trade policy areas would be limited in scope and address universal values:

'I would say that compliance should be rewarded. It is in this spirit that the Commission's proposal for GSP reform includes a provision for additional trade access for countries respecting international standards on free association, child labour, slavery, bonded labour and prison labour. These constitute a relatively narrow set of core issues on which I think we can all agree' (Brittan 1998:46).

However, stiff opposition from developing countries to the proposition at Singapore led the WTO to concur that although trade and environmental matters fell under the WTO's jurisdiction, the correct arena for dealing with trade and labour issues was the International Labour Organisation (ILO, see Chapter 4 below). It became obvious that developing countries, as an increasingly large percentage of the WTO membership, were more willing to voice their opposition to developed country proposals.

In the face of this opposition, the EU began to move away from advocating the incorporation of labour and environmental issues into trade agreements and towards a round which would highlight trade policy as a means of development. This change of position had an instrumental purpose. In 1998, the EU started to plan for some very important future agreements, initiating a new round of negotiations with ACP countries and starting consultation on the new millennium round. In November of that year, Brittan met with '70 industry, consumer, labour, environmental and development organisations' (European Commission 1998), one of a series of meetings that eventually became the more formal Civil Society Dialogue under his successor, Pascal Lamy. This process pre-empted the Commission's 2001 White Paper on Governance, and has become become a testing ground for new forms of consultation (see Chapters 5-7). Brittan also announced that an assessment of the sustainable development implications of the millennium round would be commissioned.

These initiatives left a legacy that changed the scope of EU trade policy under his successors, Pascal Lamy and Peter Mandelson: a transatlantic dialogue that included not just business but consumers and NGOs, requirements to consult civil society and to assess the non-economic impacts of trade agreements, and the momentum for a new round of trade talks. The millennium round that Brittan favoured would finally materialise, but Brittan himself ran out of time. He resigned in 1999, along with the other 19 Commissioners, amid allegations of fraud and corruption.

The US administration's ability to influence trade policy was severely diminished in 1998 with the loss of fast track negotiating authority. The alliance of interest groups that came together to lobby for stronger labour and environmental standards in trade agreements felt that they had been betrayed over NAFTA and were

keen to impede further trade deals. They saw the fast track mechanism as an undemocratic means to force through agreements without 'trade and' standards. Enough Democrats were persuaded that this was the case: only 29 of them voted in favour of the final fast track agreement. Clinton searched again for a compromise between the proponents and opponents of fast track, but to no avail. The famous 'Congressional bipartisanship' on trade, support for free trade agreements spread across both parties, was shattered.

The last years of Clinton's Presidency saw a dramatic 'trade and' conflict, the so-called 'Battle of Seattle' at the 4th WTO ministerial meeting in 1999. The Seattle WTO ministerial was supposed to launch the new 'millennium' trade round promoted by Clinton's European counterpart, Leon Brittan. Inside the conference, the US strongly supported the creation of a WTO working group on labour standards and a 'thick' trade agenda that included 'trade and' issues. Ironically, outside the conference, the same coalition that had pushed for the inclusion of these standards in NAFTA protested in the streets, joining the voices calling for the radical reform or abolition of the WTO. Developing country opposition from within the conference, and extensive media coverage of the protests outside, caused the meeting to fail utterly. For both sides this was a watershed. Anti-globalisation activists celebrated a great victory that they would try to emulate (with less success) at other international summits. For free traders, however, the ministerial left a lasting scar.

Pascal Lamy, only one month into his term as European Commissioner for Trade when the meeting was held, took this lesson to heart. Lamy stated his aim as ensuring that globalisation was 'maîtrisée' - managed. Managed globalisation was a 'broad and encompassing doctrine that subordinated trade policy to a variety of trade and non-trade objectives, such as multilateralism, social justice and sustainable development' that lasted for the duration of Lamy's term (Meunier 2007). DG Trade staff spoke fondly of Lamy, which is surprising given his reputation as the 'Beast of Berlaymont', the 'Gendarme', and the 'Exocet': nicknames that refer to his uncompromising attitude towards the staff below him (Eppink 2007:22-3). Originally an *énarque*¹⁰, Lamy worked as Chef de Cabinet for Jacques Delors in his role as President of the European Commission, then in the private sector, taking up the role of Trade Commissioner in 1999. Under him, DG Trade further eroded the boundaries between development, environment and trade policy. Those who admired Lamy's goals of a

¹⁰ A graduate of the Ecole National d'Administration in Paris, famous for producing high flying civil servants who often go on to become key figures in French politics.

more socially acceptable form of globalisation felt that it was a uniquely European take on trade policy that addressed broader problems in the global system.

In 2000, Lamy announced a more formalised consultation process in the form of the Civil Society Dialogue. The dialogue built on meetings with civil society established under Leon Brittan, and fed into the discussions on Governance which culminated in the Commission's 2001 White Paper. This was part of a wider strategy of building up the EU's support in and among developing countries. As the failed Seattle ministerial effectively ended previous US and EU efforts to promote an international trade and labour standards agenda (see Chapter 4), Lamy started to emphasise the EU's distinctiveness in the international trading system. This included establishing a 'development discourse' that brought trade and development issues together to neutralise opponents in the Commission and Council, and build a broader coalition of support in the WTO to counterbalance American dominance (Van den Hoven 2004). Continuing negotiation of 77 Economic Partnership Agreements (EPAs) with ACP countries put pressure on the Trade Commissioner to be development-friendly. The failure of America's labour and environment agenda and the shift of the EU towards a broader developmental approach to trade set the scene for the creation of the Doha Development Agenda in 2001.

'Trade And' Policies During the Doha Round

'Bush can seem disengaged. When he flew to New York to visit a Harlem school and promote his education program, he brought along New York congressmen on Air Force One, including Democrat Charles B. Rangel, chairman of the House Ways and Means Committee. The White House was in the midst of tough negotiations with Rangel over trade pacts. But Bush did not try to cut a deal with Rangel, chatting instead about baseball. "He talked a lot about the Rangers," Rangel said. "I didn't know what the hell he was talking about."' (Baker 2007).

President George W Bush has been much less engaged than his predecessor Bill Clinton in the details of trade policy. He and his representatives, however, have a very clear idea as to the goals of trade. His statements, when he makes them, talk about the need for maintaining freedom and developing democracy in other countries through free trade. In the 2000 election, Bush opposed linking environmental and labour standards to trade agreements, and supported the restoration of fast-track authority. His candidacy speech makes his position clear:

'I'll work to end tariffs and break down barriers everywhere, entirely, so the whole world trades in freedom. The fearful build walls. The confident demolish them. I am

*confident in American workers and farmers and producers. And I am confident that America's best is the best in the world'*¹¹

After the election, it became obvious that the administration was opting for a narrow policy agenda with a tight time horizon, the new leaders had a “90-day focus”: they talked only about those problems with a potential to cause a disaster within the next 90 days’ (Diamond 2005:434). For this reason, one international environmental NGO did not feel that it was worth their time in keeping a US office open to deal with trade issues:

‘So I met with [a US Trade Negotiator]...I thought it was interesting how he described this ninety-day horizon for trade policy in Washington. Where everything was more driven by business, where the USTR was reactive to all the demands put upon it. Whereas, at least in Lamy’s time, DG Trade was much more of a thinking place’ (Environmental NGO Representative, Brussels, November 2006).

2001: Competitive Liberalisation

Robert Zoellick (who later became President of the World Bank), was Bush’s first USTR. Under Zoellick’s watch, the US signed a large number of new bilateral and regional trade agreements. The US spent the period cementing relations with Central and South America and the Middle East before moving on to Asia, conducting parallel bilateral, regional and multilateral negotiations. Zoellick’s strategy of ‘competitive liberalisation’ reflected his views on negotiation and US hegemony. Zoellick argued that not only were parallel bilateral, regional and multilateral negotiations beneficial, but that US bilateral deals outside of the WTO framework put pressure on WTO members to push forward multilateral talks. In his view the new FTAs would create new ‘champions’ for liberalization in the WTO and ‘serve as models’ for countries that ‘need to embrace openness’, while also creating ‘a momentum that strengthens U.S. influence’ (Zoellick 2003). America saw itself as playing catch-up in the ‘FTA game’, being only party to one trade agreement out of the 30 in existence in the Western Hemisphere (Feinberg 2003). Zoellick began to announce the first agreements in a long list of FTAs: with Australia, Central America, Morocco, Africa, and Asian countries. We often think of the US as the aggressor in trade relations, but it is important to remember that many of these agreements were initiated by other countries. The US competitive liberalisation agenda had an element of soft power, with states buying into the US model because it held a degree of attraction for them: they wished to compete

¹¹ Candidacy Announcement speech, Cedar Rapids, Iowa Jun 12, 1999, reported by www.ontheissues.org.

for access to its large market and gain political capital with America for use in other policy areas.

While pursuing this agenda, the US also acted to protect its domestic interests, particularly logging, dairy and grain producers. In 2001, the USITC initiated 92 antidumping and 24 countervailing duty investigations, a huge increase on the previous period. Despite the Bush Administration's staunch arguments for 'free' trade, in 2002 the US introduced a protectionist tariff of up to 30% on imported steel, ostensibly for three years. The decision was heavily criticised both domestically and abroad, and the measures were repealed in 2003, but only after a WTO ruling that they were illegal and threats of retaliatory tariffs from the EU.

The USTR sought to link passage of Trade Promotion Authority (TPA)¹², legislation providing the USTR with extensive autonomy to negotiate agreements and requiring only that Congress vote the final text up or down, to its ability to negotiate agreements that would 'improve the economic environment for US agriculture' in an attempt to persuade Congress that a vote for TPA was a vote for protecting farmers. Negotiators argued that opening markets abroad should be the major focus of any trade deal 'because 96 percent of all consumers in the world live outside the United States' (USTR 2001). In May 2002, the US Congress passed the Farm Security and Rural Investment Act, which increased support to farmers at a time when the US was telling others to reduce theirs. This sent a signal to other countries that the US was not serious about agricultural reform. Notably, the USTR did not put out a statement on the passage of the Act, and in July released a 'Comprehensive U.S. Trade Proposal to Expand American Farmers' Access To Overseas Markets', calling for a levelling of the playing field with the EU on subsidies allowed under WTO rules (USTR 2002a). In July 2002, the House passed the TPA bill with a narrow majority of 215 to 212. The administration had won a mandate to negotiate the new trade round.

¹² Previously known as 'fast-track'.

Figure 2.4: Press Releases, Jan-June 2001

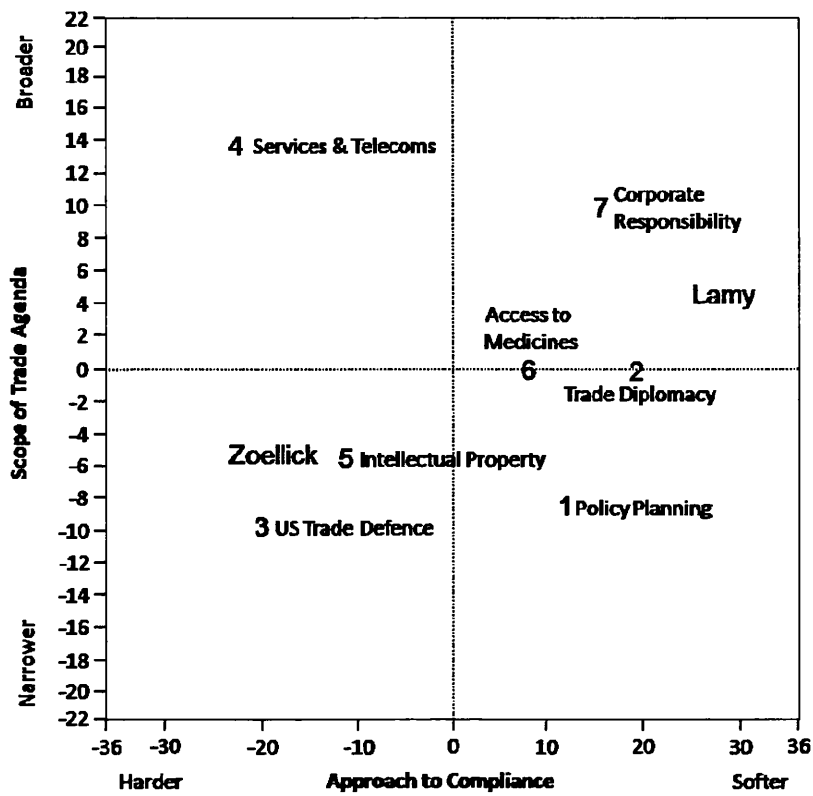
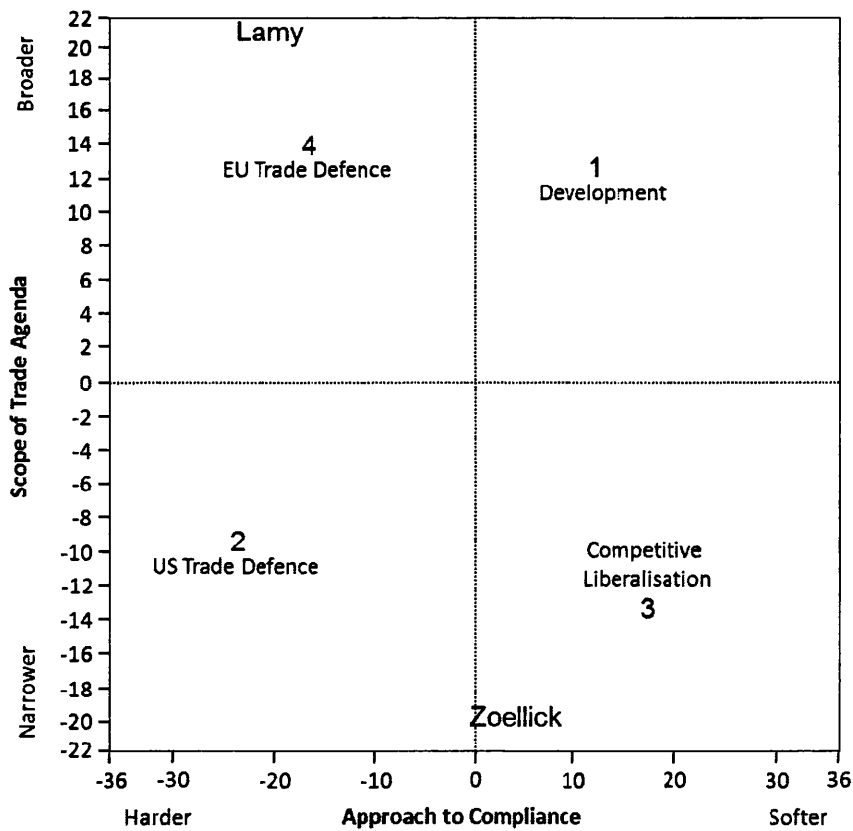


Figure 2.5: Press Releases, July-Dec 2001



Between January and June 2001, (Figure 2.4) Lamy occupies the soft/broad quadrant while Zoellick occupies the hard/narrow quadrant. The large number of themes indicates that the trade discourse at this time is very fragmented and a clear pattern is not yet apparent. Lamy is most strongly associated with discussions of trade diplomacy, a softer theme which concerns the EU's bilateral relations with countries attempting to join the union and other neighbouring states (theme 2, $\chi^2=194.65$). He is also closely associated with discussions of corporate responsibility, a broad theme which links economic arguments to both environmental and social policy (theme 7, $\chi^2=89.23$). Theme 4 represents a very small proportion of the data and is thus discounted.

In contrast, Zoellick discusses three narrowly constituted themes (1, 3, and 5, $\chi^2=73.28$, $\chi^2=49.97$ and $\chi^2=59.37$ respectively). After stepping into office, he recruits staff for the USTR's trade advisory committees and makes statements about trade to Congress in terms of freedom, leadership and security (theme 1). Trade defence is another important concern (theme 3), discussing import restrictions and anti-dumping initiatives in dispassionate legal language. Intellectual property rights are discussed in terms of enforcement and measures to 'combat piracy' (theme 5).

In preparation for the WTO ministerial which would take place later that year, both the EU and the US begin to talk about a possible increase in aid designed to assist developing countries in building up their capacity to trade (trade assistance). Lamy nonetheless still dominates this theme (theme 6, $\chi^2=63.84$), and while the US narrowly discusses an increase in trade assistance, the EU opts for a broader agenda which advocates not only increased trade assistance but also better access to generic AIDS drugs and humanitarian assistance.

The second half of 2001 contrasts dramatically with the first (figure 2.5). With the new US administration preparing for the Doha ministerial meeting, the trade policy agenda becomes greatly simplified. The overall trade discourse is much more coherent, with only four main themes shown. Zoellick occupies the narrow/soft quadrant while Lamy occupies the broad/hard quadrant. Zoellick has finished his policy planning and his coherent 'competitive liberalisation' strategy can be clearly seen, with press releases advertising multiple diplomatic visits and the initiation of new negotiations (theme 3, $\chi^2=212.99$) This theme represents softer forms of power, particularly attraction, but it is also narrow, promoting the economic benefits of free trade above all other issues. As in the first half of the year, press releases associated with Zoellick (theme 2, $\chi^2=19.68$) also discuss trade defence measures in flat legal terms, particularly descriptions of disputes within the WTO.

Lamy also discusses trade defence, but attempts to balance enforcement of trade rules with a broader justification of their existence (themes 1 and 2, $\chi^2=118.62$ and 86.72 respectively). Enforcement of intellectual property rights is described as essential for encouraging investment, but special provisions which allow developing countries greater access to generic medicines are also promoted. Enforcement of core labour standards is discussed alongside initiatives to foster 'social development'. Tariffs on developing country exports such as textiles and bananas are balanced by a discussion of development assistance. The EU's issue linkage approach is apparent here –linking development, both aid for trade and access to essential medicines, with the environment and social issues. This becomes a common strategy for the EU during the Doha round, where officials try to form a coherent policy stance that balances the more protectionist aspects of EU trade policy with 'development friendly' initiatives.

2003: Managed Globalisation

By 2003, WTO members had solidified the agenda for the Doha round. Between January and June 2003, the overall trade discourse reflects this. Lamy occupies the soft/broad quadrant, while Zoellick once again occupies the soft/narrow quadrant. While the two positions show a similar approach to compliance, they demonstrate very different agendas.

Again, Zoellick is most strongly associated with narrow discussions of competitive liberalisation (theme 2, $\chi^2=487.44$) and trade defence (theme 5, $\chi^2=37.25$). These two strands of US trade policy remain fairly static from 2001, discussing the negotiation of new bilateral agreements and the enforcement of trade rules respectively.

Lamy is most closely associated with the broad theme of trade and health (theme 6, $\chi^2=181.29$). The EU discusses the trade consequences of contemporary international public health debates, including the Framework Convention on Tobacco Control, and reform of the International Health Regulations on communicable diseases. Statements in this theme broadly discuss the health aspects of development, including the provision of clean water and sanitation in developing countries.

Descriptions of trade diplomacy distinct from Zoellick's competitive liberalisation discourse are placed in theme 1, which is moderately associated with Lamy ($\chi^2=49.74$). This theme is strongly related to competitive liberalisation as it describes many of the same trade diplomacy activities such as summits and ministerial visits. However, Lamy's trade diplomacy discussion places a greater emphasis on

cooperation with other states and dialogue with civil society groups. Lamy also discusses WTO negotiations regarding the services sector (theme 4, $\chi^2=31.59$). This is also a broad theme, as most of his energy is spent in reassuring activists that various public services such as education and health will not be deregulated by stealth via WTO rules.

Both the EU and US discuss agricultural issues, which form a core part of the Doha agenda (theme 3). But while the EU discussion of agriculture is broad, its American counterpart is narrow. US negotiators focus on opening agricultural markets abroad, discussing the agricultural benefits of new free trade agreements for US farmers and the regulatory barriers to exporting their products:

'United States agricultural exports would be even greater without the NTBs [non-tariff barriers] that are used against them. Since the European Union imposed a moratorium on imports of agricultural biotech products in 1998, for example, US corn exports to the European Union have declined by 55 percent' (USTR 2003c).

In contrast, EU statements in this theme discuss reform in the EU's Common Agricultural Policy (CAP). The CAP (discussed fully in chapter 4) reflects the EU's multifunctional approach to agriculture, its view that subsidising the agriculture sector not only supports farmers but performs other functions such as ensuring the quality of produce, animal welfare, defending rural ways of life and preserving the rural economy. The 2003 reform of the CAP fulfilled promises made by the EU during the Uruguay round to break the link between support payments and quantity of production. This was considered a great achievement by free traders, seen as paving the way to the successful conclusion of the Doha round.

Figure 2.6: Press Releases, Jan-June 2003

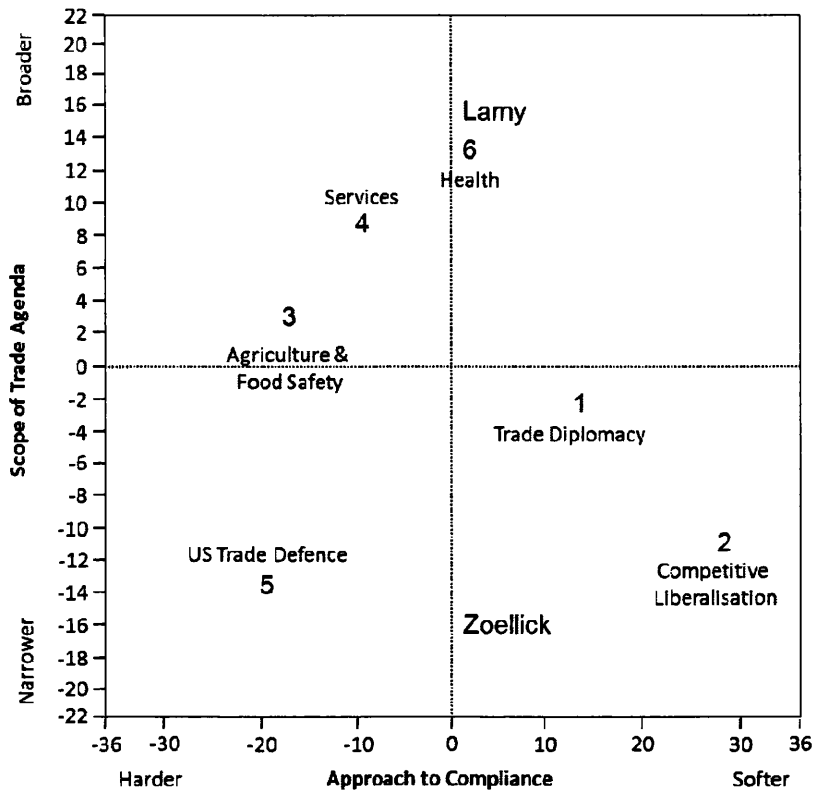
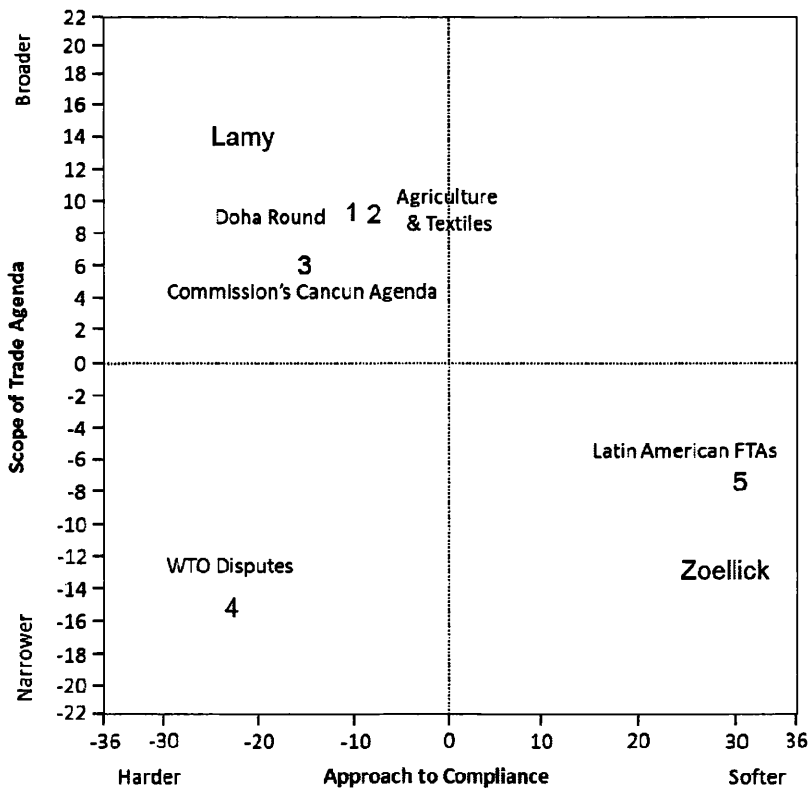


Figure 2.7: Press Releases, July-Dec 2003



In the second half of 2003, we can see the effects of the WTO ministerial meeting held in Cancun. Lamy occupies the hard/broad quadrant, while Zoellick occupies the soft/narrow quadrant. Zoellick's narrow focus on his competitive liberalisation agenda is beginning to pay off (theme 5, $\chi^2=636.14$). Zoellick's agenda is dominated by negotiations for the Central American Free Trade Agreement (CAFTA) and the Free Trade Agreement of the Americas (FTAA) to the exclusion of the Doha round –he is not strongly associated with any other theme in this period. CAFTA was a medium sized regional agreement between the US, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The FTAA, however, was far more ambitious, including 34 countries –all of the Western Hemisphere except Cuba. This is not to say that the US did not have a strong interest in showing support for developing countries. Unlike the EU, the USTR chooses to promote these relationships as diplomatic ties rather than economic ones. Zoellick spent a week in Sub-Saharan Africa in 2002 (USTR 2002b), travelled to South Africa in 2003 to propose an FTA between the US and the South African Customs Union (USTR 2003d), and visited 'local legislators, farmers and businesspeople' in Senegal, Benin and Mali in 2004 to talk about cotton and the Doha Round (USTR 2004a). When the US does talk about aid to developing countries, it is aid for trade capacity building rather than a wider concept of development.

While the US discourse focuses on its pursuit of trade agreements outside of the WTO framework, the EU's discourse on trade issues is firmly multilateral. Lamy is strongly associated with discussions of the Doha round (theme 1, $\chi^2=168.25$) the Cancun ministerial in particular (theme 3, $\chi^2=159.2$), and the EU's primary trade defence concerns for the Doha round, agriculture and textiles (theme 2, $\chi^2=31.83$). During this period, Lamy promotes his frequent visits to foreign countries to discuss the progress of the round and reaffirms the EU's commitment to a development agenda (theme 1). Lamy reassures the EU's developing country trading partners that Europe is concerned about not just trade, competition and intellectual property issues, but also public health and human rights (theme 3). Even during the most protectionist discussions (theme 2), the EU promotes a broader agenda by balancing them with statements concerning poverty reduction in developing countries.

Lamy's agenda at this time is best illustrated by a paper Lamy wrote in mid-2004 proposing a new type of safeguard¹³ based on a polity's 'collective preferences': the issues on which governments cannot compromise during negotiations for fear of

¹³ A trade measure, usually a temporary restriction of imports, allowed under WTO rules to protect a specific domestic industry.

derailing domestic support for the eventual agreement (Lamy 2004; Charnovitz 2005). The collective preferences initiative was popular among NGOs, but deemed impractical by others. It was seen as

'an attempt to start a discussion about the legitimate concerns that WTO members have about environmental, social, and health issues. And finding a way of actually making it legitimate to keep those while compensating those whose trade interests were hurt. That's something that could never have come out of the USTR'
(Environmental NGO Representative, Brussels, November 2006).

But this kind of diffuse, consultative trade policy would soon be under threat. With the Doha round facing severe difficulties, Lamy's successor would come under strong and increasing pressure to deliver.

2005: Global Europe

Two quotes from the same speech, delivered just minutes apart, illustrate the difficulties faced by the European Union in simultaneously trying to promote trade liberalisation and development through trade:

'...future EPAs [Economic Partnership Agreements] will have a clearer development focus. They should no longer be conceived as trade agreements in the conventional sense where both sides are seeking mutual advantage. The EU is not pursuing an equal bargain in relation to our EPA partners.'

'I am on the side of growth in Europe because the renewal of growth is our only route to full employment, social cohesion and long term sustainability...my primary responsibility is to the people of Europe. My ability to pursue a pro-poor agenda is dependent on delivering outcomes that they support and benefit from.' – Peter Mandelson, London, 4th February 2005

The tension between these two goals, awkwardly joined at the hip within the negotiation process, characterised EU policy development under the EU's new Trade Commissioner, Peter Mandelson.

Peter Mandelson's leadership style is dominated by his relationship with the media and his reputation has been overshadowed by the failure of the Doha Development Round. He has to manage a difficult agenda – economies around the world are tightening their belts and building walls against the threat of Chinese imports. Mandelson presided over the 'Bra Wars' (a tabloid editor's dream), and similar disputes over footwear and other Chinese imports after the WTO's Multifibre Agreement (which phased out textile quotas) ended on 31st December 2005. On June 10th, Mandelson negotiated replacement textile quotas with China under pressure from EU textile

manufacturers who expressed concern at the surge of Chinese imports that hit Europe after the phasing out of the agreement. Importers had little time to adjust to the new arrangements and quickly rushed to acquire export licences, leaving unlucky retailers without licenses and their stock languishing in European ports. Mandelson was forced to negotiate a replacement deal on quotas at short notice with the Chinese government. The chaos and the subsequent emergency negotiations damaged Mandelson's reputation.

The second USTR during the Bush administration was Robert Portman, a close friend of President Bush and a former Congressman and lawyer. His tenure was shortlived, lasting from May 2005 to May 2006, and unlike Mandelson, he closely conformed to his predecessor's conceptions of trade policy while in office. During this time, he also used his Congressional connections and Ways and Means Committee experience to make bargains with Representatives and key interests. American attention during this period is therefore concentrated on the domestic ratification of free trade agreements and the negotiation of still more.

Between January and June 2005 (figure 2.8, Mandelson creates a broad trade policy agenda, but adopts a neutral approach to compliance. Both Portman and Zoellick occupy the soft/narrow quadrant. Portman and Zoellick are highly associated with narrow discussions of FTA negotiations (theme 2, $\chi^2=371.53$ & $\chi^2=292.69$ respectively) particularly the domestic ratification of CAFTA. Upon stepping into office, Portman announced that he planned to

'pursue an aggressive agenda with a focus on opening new markets, enforcing our trade agreements and trade laws, spreading economic freedom, and working in close partnership with Congress' (Portman 2005).

This continued the two-pronged strategy adopted by Zoellick of trade diplomacy ('spreading economic freedom') and trade defence ('enforcing our trade agreements and trade laws', reflected in themes 4 and 5). Both the EU and US discuss the services agenda (theme 4), including the financial, telecoms and audiovisual sectors. They are also both concerned with preserving intellectual property rights and fighting the proliferation of counterfeit goods (theme 5). Mandelson in particular is associated with discussions of major disputes concerning footwear and textiles ($\chi^2=21.58$).

Figure 2.8: Press Releases, Jan-June 2005

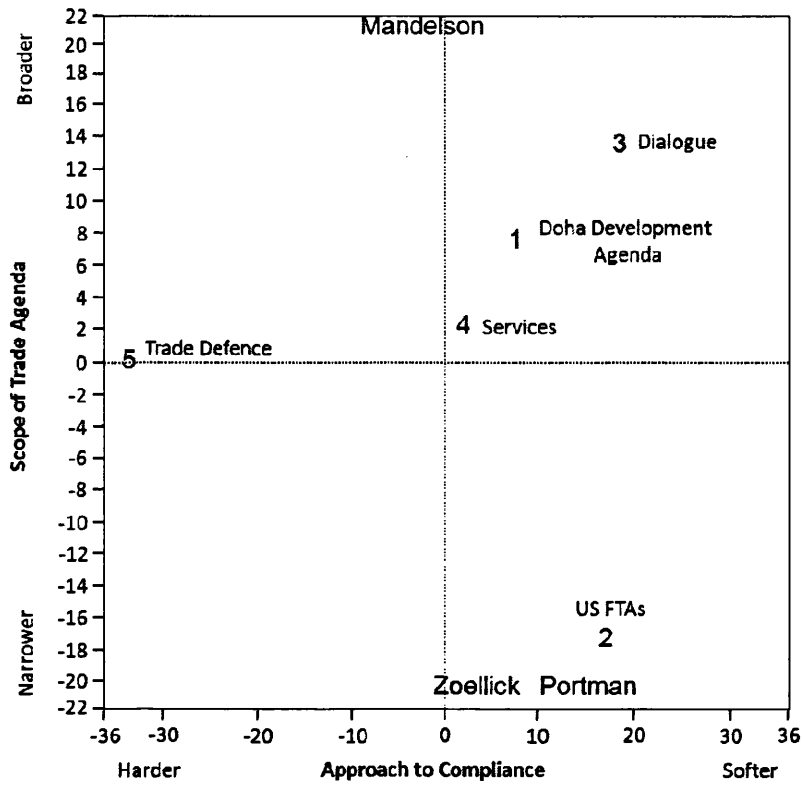
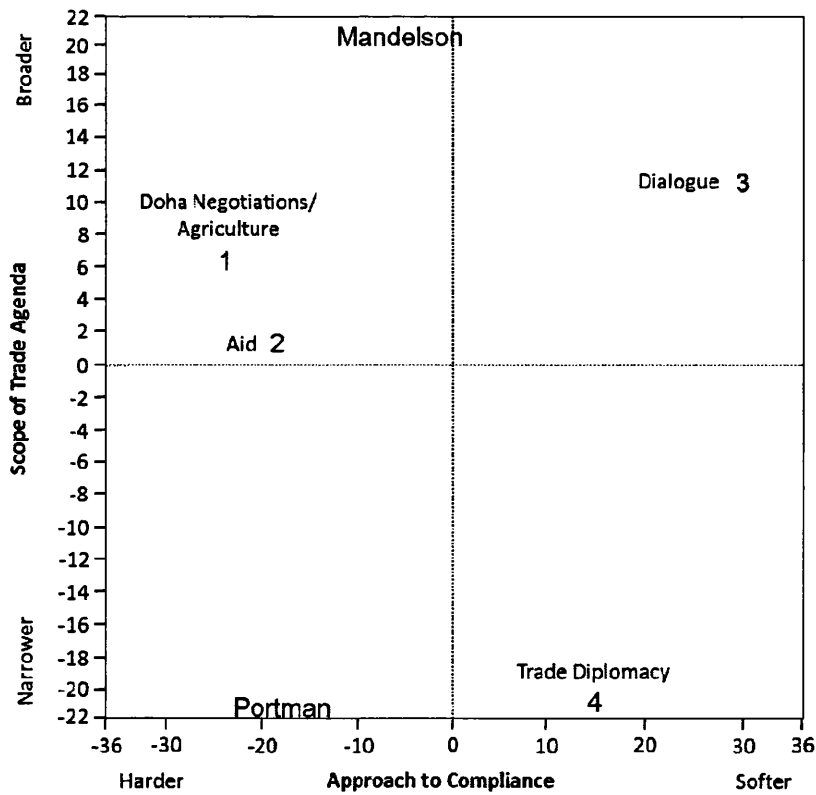


Figure 2.9: Press Releases, July-December 2005



Although Mandelson attempts to carve out his own tough agenda, he must still cope with Lamy's policy legacy. The EU contributes significantly to discussions on two broader themes. Mandelson is highly associated with discussions of the Doha Development Agenda and dialogue with civil society (themes 1 & 3, $\chi^2=145.14$ & $\chi^2=181.26$). Statements in this theme are broad, referring not only to trade issues but also to aid, debt, climate change and security issues.

In the second half of 2005, both the EU and US have abandoned talk of trade defence to focus on the ailing Doha round and the forthcoming ministerial meeting in Hong Kong. The major components of Mandelson's agenda have changed very little, and he remains neutral on compliance while invoking a large number of issue linkages. Portman occupies the hard/narrow quadrant. Once again, the trade discourse overall is focussed in preparation for the meeting, with just four key themes. Portman is once again very strongly associated with discussions of trade diplomacy (theme 4, $\chi^2=596.62$) particularly the extension of CAFTA to the Dominican Republic and the creation of a new bilateral FTA with Oman. US statements are only weakly linked to other themes.

In contrast, Mandelson lays out a broad agenda for Hong Kong (theme 1, $\chi^2=176.42$) discussing tariffs, key developing country exports such as bananas, subsidies, and market access. He also attempts to balance the nuts and bolts of the deal with attractive policies, by discussing human rights, climate change and other environmental protections, democracy and social provisions, with reference to dialogue and consultation with NGOs and other civil society groups (theme 3, $\chi^2=181.98$).

Both the US and EU discuss agriculture extensively. The EU focuses on the multilateral Doha round, making statements about the need for additional aid for trade and the needs of developing countries. However the US focuses on domestic agriculture, particularly the benefits for US farmers from new bilateral FTAs. When the US does discuss foreign aid, it is in the form of food aid, a programme which provides food to impoverished countries by buying produce from domestic farmers. The US highlights the benefits of such a programme for its own producers.

But both approaches to the round, both bilateral competitive liberalisation and the EU's multi-issue, multilateral agenda, were doomed to fail. The Hong Kong ministerial in December 2005 produced limited results and satisfied neither developed nor developing countries. The Doha round ground to a halt.

2007: Limited Ambition

In July 2006, after last minute talks in Geneva failed to produce a deal to break the stalemate, the Doha round was officially suspended. The EU blamed the US, claiming that American inflexibility was the major cause of the collapse (BBC 2006). US negotiators claimed in turn that they were not receiving enough market access concessions in return for their commitments to reduce agricultural subsidies.

The first half of 2006 saw a further change of personnel in the US, with Rob Portman replaced by Susan Schwab. Schwab, a seasoned trade negotiator and USTR veteran, inherited a chaotic trade agenda. Replacing the charismatic Portman at a crucial point in the negotiations, her selection was seen by some as a signal that the US had lost interest in the Doha round (although this argument undoubtedly reflects a degree of misogyny). Her tenure has seen a renewed attempt to solve the problems of the round, with an emphasis on agricultural liberalisation. But the administration continued to show little sympathy towards dissenting interest groups, with Schwab saying that the 'hard sell' of trade policy was made more difficult by "the proliferation of television channels, cable channels, the internet, blogs" and "un-checked communication". This has increased "the capacity of demagogues to reach well beyond the beltway", she says, empowering the anti-globalisation movement'. Schwab rejected calls for a 'new dialogue' in trade policy which puts more emphasis on aspects of trade beyond core principles (Callan 2007).

After several months of heavy criticism for the collapse of the round, Mandelson displayed his own vision more clearly in an attempt to appease the fears of business. In October 2006, DG Trade published 'Global Europe: Competing in the World', a report outlining Mandelson's response to these challenges (from business) and his new approach to negotiations. Mandelson promised a 'hardnosed' approach to opening foreign markets, signalling that he would pursue a renewed bilateral agenda. Development NGOs reacted with horror. An Oxfam representative commented: 'It seems the wolf has taken off its sheep's clothing. This is an extremely aggressive agenda' (Beattie and Bounds 2006). Mandelson's approach shows up in the Alceste analysis as a close correspondence between the EU's desire to protect its own interests and its attempts to enhance its image as a benevolent foreign power.

Meanwhile, the US focussed heavily on finalising bilateral deals: trade and investment agreements with Asian countries, bilateral deals furthering diplomacy and

security concerns in the Middle East, and negotiating FTAs with Latin American countries, including Peru and Colombia. By May of 2007, after extended bargaining with a new, Congress controlled by the Democratic Party, these negotiations resulted in a four new FTAs. These agreements were intended by Congressional activists to be a model for future agreements. The Peru FTA, for example, included text addressing labour and environmental standards, port security, and the ability of developing countries to access essential medicines. But USTR defence of the new FTAs remained focussed on compliance and economic growth: in the face of an increasingly sceptical domestic political climate, the Deputy USTR Peter Veroneau justified the FTAs as follows:

*'Is it worth it?...There's a couple of data points in the future that will, at least for myself, give me that answer. One will be, in the near term, Congressional passage of these four free trade agreements...the longer term but obviously equally important data point concerns the operation of these FTAs: economically, are they producing the goals...namely, economic growth across the broad spectrum of society, and secondly, in a more legalistic way but still important- is this agreement being abided by? It has to be both. It has to be producing the ultimate goals that we envisioned for these FTAs, but part and parcel of that has to be adherence and compliance to the agreement. Without compliance to the agreement political support to them understandably withers'*¹⁴

Between January and June 2007, Mandelson occupies the soft/broad quadrant, while Schwab occupies the hard/narrow quadrant. The breakdown of the multilateral trade agenda is apparent here –both the US and EU concentrate on the negotiation of regional and bilateral agreements. Mandelson's agenda is dominated by the negotiation of Economic Partnership Agreements with African, Caribbean and Pacific countries (theme 1, $\chi^2=439.26$). These agreements are broadly conceived, discussing not only trade but wider developmental, environmental, and social issues. Mandelson links these debates with both wider discussions of the EU's diplomatic relations, mainly with Russia and China, and exchanges on climate change, energy security and biofuels. Facing criticism from EU member states and the European Parliament, Mandelson tries to defend this cluttered agenda:

'the key rationale for the European Union lies in projecting Europe' collective interests in a globalised world, and in equipping Europeans for the economic and social challenges it brings'.

¹⁴ Deputy USTR Peter Veroneau, 30th June 2007, American Enterprise Institute, comments recorded by author.

Figure 2.10: Press Releases, Jan-June 2007

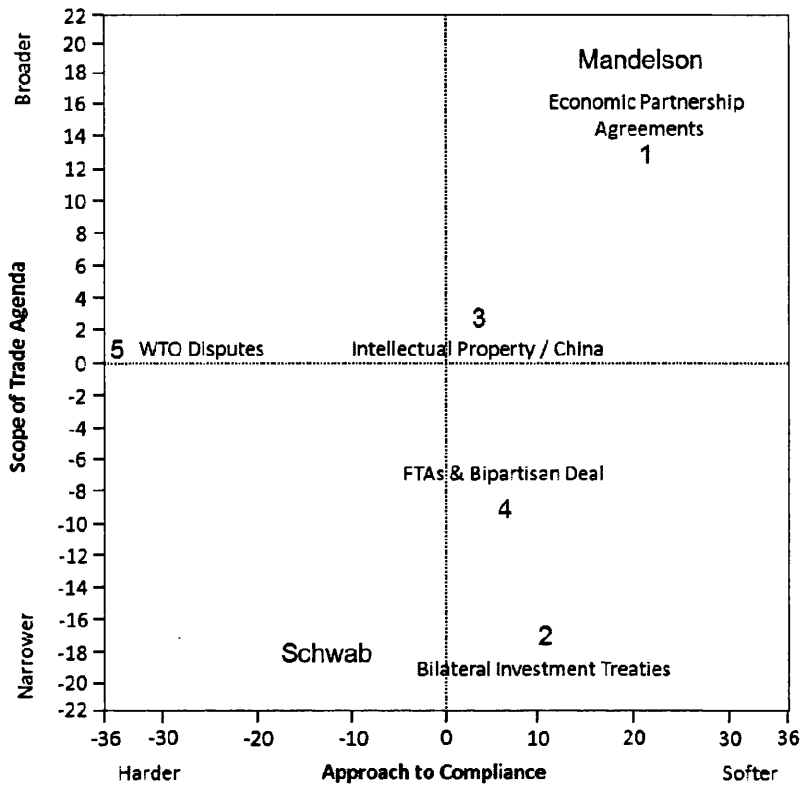
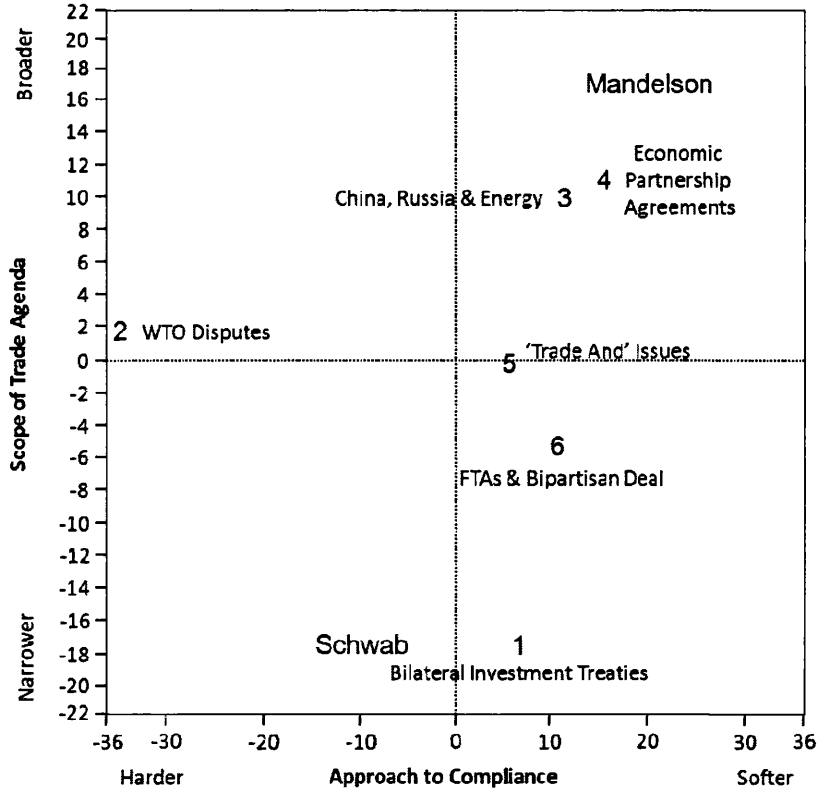


Figure 2.11: Press Releases, July-Dec 2007



While Mandelson attempts to shape the EU's amorphous agenda, Schwab's discourse is still dominated by bilateral agreements. At this time, the Democratic party had taken back control of Congress (and with it leadership of the powerful Ways and Means Committee), and this complicates her agenda considerably. While discussions of new bilateral investment treaties remain narrowly focussed (theme 2, $\chi^2=189.13$), the ratification of new FTAs by Congress is disrupted by discussions of 'trade and' issues (theme 4, $\chi^2=112.07$). In May 2007 a bipartisan deal was reached between Congressional Democrats and Republicans in which Democrats agreed to support new FTAs if they included chapters on labour standards, environmental protections and access to essential medicines, among other issues. This theme is consequently much broader than previous discussions of bilateral trade agreements under a Republican Congress. Discussions of WTO disputes are also moderately associated with Schwab (theme 5, $\chi^2=95.14$). Theme 3 is a common discourse which discusses the enforcement of intellectual property rights. Statements in this theme reflect concerns about the piracy and counterfeit goods, particularly in relation to the expanding Chinese economy.

In the second half of the year, the independent effect of the WTO ministerial meetings is absent and the discourse remains stable –without the need to prepare for a multilateral summit the two polities remain focussed on their own goals. Mandelson is closely associated with discussions of the EU's relationships with China and Russia. As before, this discussion is broad, reflecting renewed European concerns about climate change, energy policy, and markets for European 'green goods' (theme 3, $\chi^2=245.93$). The final stage of negotiating a series of Economic Partnership Agreements with ACP countries (theme 4, $\chi^2=154.53$) remains a big concern, reflecting again broad discussions of development, the environment and social policy.

Again, Schwab has two main concerns, a narrow discussion of new bilateral investment treaties (theme 1, $\chi^2=111.23$) and a much broader debate concerning new FTAs. This need to address non-trade issues in trade policy is reflected in theme 5, which is common to both Mandelson and Schwab. Concerns about piracy and counterfeit goods are tempered by discussions of climate change, health and safety issues, and regulatory cooperation.

Conclusion

This chapter has outlined the different approaches of the EU and US to 'trade and' issues between 1996 and 2007 in order to substantiate more fully the differences

between that portrayed by advocates of American dominance or European distinctiveness. Debates about the differences between the EU and the US often place the policy agenda and the means of accomplishing that agenda, hard or soft power, along the same axis. I have demonstrated here that by separating them we gain a clearer picture of the differences between the two polities.

The EU and US both use hard *and* soft approaches to trade policy. The US often engages in trade diplomacy. Officials promoted and negotiated numerous new bilateral trade agreements during this period and used those successes to entice further trading partners into making new deals, the essence of Zoellick's 'competitive liberalisation' doctrine. Likewise, the EU often prioritises trade defence activities, taking a tough stance on US anti-dumping legislation, increased imports from China, and defending its substantial agricultural support. The big difference is that the EU tends to employ broad set of non-trade issues to justify its actions, balancing, for example, its agricultural subsidies with promotion of trade preferences for developing countries or its access to medicines policy. Both the EU and US share a narrow core of economic trade objectives, protecting key domestic interests such as agriculture, but in addition the EU places more emphasis on a supplementary agenda. This is at the core of EU attempts to replicate its standards abroad.

The more important difference lies in the scope of the trade agenda adopted by each polity –when talking about a trade issue, do the EU and US link this to other non-trade policies? The amorphous EU agenda can be compared to a much narrower, two-pronged, US strategy of trade diplomacy and trade defence. The EU combines many non-trade issues in its trade diplomacy- emphasising its support for development, the promotion of generic medicines for developing countries, and multifunctionality in agriculture -the importance of payments for supporting rural communities and improving animal welfare. The activism of the US in promoting trade and environment and trade and labour linkages during the Clinton years is a strong contrast with the narrow focus on competition during the Bush administration.

As this chapter has explored the complex dependent variable, models of 'trade and' policy, the next chapter builds on this analysis by explaining the institutional differences that lie behind these different models. The different ways that the EU and US have manipulated 'trade and' policies, as outlined in this chapter, will be explained by exploring differences in delegation, who has negotiating authority and the extent to which they can use it, and the representation of the public and organised groups in the policymaking process.

3 Authority and Ambiguity in Trade Policymaking

The sheer volume of trade in the world today could not be sustained without institutions that enable predictable transactions, sales, and payment. Trade requires, at the very least, common understandings of the 'rules of the game' (North 1990), a means for applying those rules, and ways to implement the agreed strategies. As well as creating and sustaining a growing body of trade rules at the international level, the political institutions of the EU and US have several trade policy functions at the national level. Before negotiations take place, they provide a mandate for discussion and set certain parameters; during the negotiations, they separate negotiators from electoral politics and thereby seek to limit the access of special interests to the decisionmaking process; and after the negotiations, they either legitimate or reject the resulting agreement. Successful ideas become embedded in institutions and remain there long after their period of utilization by the interests that embedded them (Goldstein 1993).

Domestic institutional arrangements are vital, therefore, in determining not just the efficiency with which 'trade and' policy can be made, but also its direction. Given that policymaking in these areas is highly ambiguous, with 'trade and' policies often crossing issue boundaries and institutional jurisdictions, the direction of such policy is strongly affected by why, where and when authority, the legitimate use of political power to negotiate trade agreements, is delegated. The 'why', the reason for this delegation, is ostensibly the same in both the EU and US. In both, the authority to formulate positions prior to negotiations and carry them out is delegated so that a government can speak with a single voice and present the strongest possible bargaining position when face to face with representatives from other states. As part of this process in both the EU and US, the original position and the final agreement are sent through an approval process designed to legitimate the actions of the negotiators in the eyes of other parts of government and the wider public.

This legitimating process involves the representation of key groups which will be affected by the new policy, including both organised interest groups and the public, the latter represented largely by elected officials and occasionally through public consultation exercises. Delegation, which determines who gets to make key decisions, and representation, which determines the information presented to decisionmakers, are therefore the key variables in explaining how non-trade policies are formed and used.

A recent example provides us with an illustration of the importance of differing kinds of representation and delegation. January 2005 marked the end of 40 years of quotas on textile imports to the United States and Europe. As per a WTO agreement negotiated during the Uruguay round of international trade talks, restrictions on 2,400 items were abolished, ridding the system of an anomalous quota system not practiced in any other sector. There were, of course, winners and losers. The agreement ended an EU-US dominance of textile production which had hurt developing countries (especially China and India). Its elimination benefited consumers in the developed world who had previously absorbed the cost of the quotas. Despite a decade's warning, however, neither America nor Europe seemed prepared for such a dramatic change. Business and organised labour strongly voiced their concerns on both sides of the Atlantic: manufacturers worried about cheap Chinese t-shirts, jeans and underwear flooding the market and competing with their own products, while trade unions predicted the migration of thousands of skilled jobs to countries where labour was cheaper. Within a year, both the EU and the US had responded to the concerns of interest groups by negotiating fresh bilateral quotas with China, but the results highlight important differences.

Textiles debates in the US focussed on traditional trade concerns and centred around a single institution, the USTR. Producers pushed for stronger quotas, while importers and retailers opposed them. The US Association of Importers of Textiles and Apparel (USA-ITA) went so far as to sue the government, gaining an injunction from the US Court of International Trade against the imposition of safeguard measures in December 2004. More highly geographically concentrated industries have much better resources, and are more likely to convince the Court of International Trade of their case during appeals (Unah 1998). Congress, however, expressing the opinions of labour and the highly concentrated textiles industry in the South, loudly voiced its concerns about the growing trade deficit with China. In May 2005, the injunction was stayed, and the US imposed a 7.5% quota on certain garments. In November 2005, the USTR signed a bilateral quota deal which allowed Chinese textile imports to rise slowly between 2006 and 2008.¹⁵ The debate remained focussed on which policy would be best for American business, workers and consumers and the USTR was able to reach a compromise between these competing interests, legitimating the policy in the eyes of elected representatives.

¹⁵ This allowed WTO member governments to 'take action to curb imports in case of market disruptions caused by Chinese exports.' http://www.wto.org/english/news_e/pres01_e/pr243_e.htm

The European situation was not so straightforward. In June 2005, the EU agreed quotas with China on 10 categories of clothing until 2008, but EU transparency meant that producers anticipated the deal and sent large shipments of clothing in an attempt to export them before the deadline. This influx of goods very quickly exceeded the new quotas, leaving imports of Chinese clothing sitting in European ports. The blockages were sensationalised in the media as the 'bra wars' and a cascade of negative press ensued. The council of ministers, the main decisionmaking body on the issue, was split, with Italy and France promoting protection for their textiles industries whilst other member states supported their retail industries. A deal to unblock imports was reached in September 2005, but not without considerable loss of face for the EU Trade Commissioner Peter Mandelson. Without an elected body to approve the new policy, the legitimacy of the EU's agreement to the lower tariffs was easy to question in public. As a result the bra debate not only focussed on traditional trade policy issues, but questioned the fundamentals behind the European Commission's much vaunted pro-development, 'distinctly European' approach to trade (Heron 2007).

This chapter focuses on the role of delegation and representation in determining how the EU and US use 'trade and policies' to their advantage. I put forward my own alternative to the soft EU, hard US debate, arguing that the different EU and US bargaining styles can be better explained by focussing on domestic institutional differences. The next sections compare how negotiating authority is delegated, the role of elected representatives and interactions between officials and interest groups in the EU and US. I argue that examining these factors -delegation and representation- can explain why the EU and US adopt a different styles in relation to 'trade and' issues.

Why this approach and not others?

Viewing trade as primarily an economic policy, many studies in political science seek to explain a dichotomy: whether this is why a particular sector or industry is protected or liberalised; why a state chooses to actively pursue new trade agreements or react to those signed by others; or why a state holds particular preferences for regional or bilateral trade agreements. Even if a piece of research includes detailed case studies of particular policies, most of the time it is more concerned with using these to explain general patterns of functions rather than those of ideas. In short, we often make theories about the instruments of trade policy, but seldom about the content.

If the subject of study is why and how certain trade and non-trade policies are combined, this point is particularly important. The protectionist/liberal dichotomy breaks down when we examine modern trade agreements. They are full of schedules on procurement, governance, intellectual property, environmental standards, and human rights. Protectionism or liberalisation cannot be measured using tariffs alone –a whole raft of policy must be examined, and these debates are value driven. We only have to witness the struggles of the WTO agricultural negotiations to realise that one state's protectionism is an expression of another's essential values. It becomes clear that while a dichotomous view of trade can be very useful for building theoretical models, it is not particularly helpful in understanding many of the issues in contemporary trade politics. Once we reframe the dependent variable in this way, the most common independent variables used to explain trade policy are no longer adequate and further thought is needed.

Convincing political science studies of trade policy (Meunier 2005; Sell 2003; Meunier and Nicolaidis 1999; De Bièvre and Dür 2005; Dryden 1995; Gibson 2000; Destler 2005) all include an examination of delegation –the means by which authority is transferred from governments to trade negotiators- and the rules which govern decisionmaking. Knowing exactly how the transfer of authority is achieved and the extent to which negotiators are constrained in making trade bargains is essential in order to understand why a state is protectionist or liberal, active or reactive. Similarly, examining the rules which govern decisionmaking and their application, whether these rules govern Congress or the Council of Ministers, can tell us a great deal about the limitations placed on policymakers and how these affect likely outcomes. But although examining changing patterns of authority and decisionmaking rules might tell us why a state bargains in a particular way, it may not explain why a trade agreement contains environmental provisions- in other words, the breadth and content of the agenda discussed in the previous chapter. Finding adequate explanations for this more complex dependent variable does not mean abandoning these approaches, but rather requires a synthesis between them and other approaches which focus on how possible policies are framed and agendas set.

Interest groups of all kinds express and promote policy ideas. While policymakers sit in the policy 'driving seat' as the ultimate decision makers, interest groups, whether constituted broadly or more specifically, play an important role in defining policy alternatives and packaging solutions. There is a very large and distinguished body of literature examining interest groups in both the US and EU,

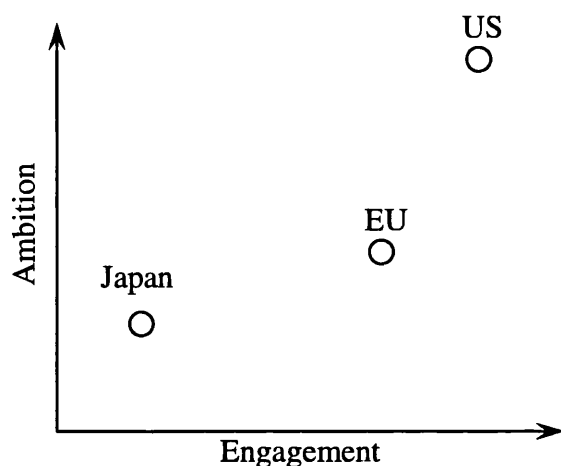
among which several studies of trade policy play a seminal role. Paying attention to theories of interest group representation enriches our understanding of institutions, actors and of their strategies and interactions. What interest groups do, their strategies and preferred policies, reflects their collective best judgment about where power is, how it can be influenced, and which policy solutions are practical. Groups aim to identify the levers of power that they can pull given their unique membership.

In turn, understanding which groups gain access to decision makers tells us something about the preferences and goals of policymakers themselves. Adding theories of interest group representation to an examination of decisionmaking rules creates a broader concept of representation. As an independent variable, representation includes representation of the public and organised groups via access to elected representatives and/or trade officials in the administration. This approach contains elements of new institutionalism (March and Olsen 1984; DiMaggio and Powell 1991; Streeck and Thelen 2005) which acknowledges that institutions affect the choices of individuals because they affect policy alternatives that individuals see as practical. Institutions, or more accurately the individuals within them, need to be seen as legitimate if they are to survive. The representation of organised groups beyond formal politics, whether business associations or broader constituencies, is an important part of achieving this goal. When USTR officials portray themselves as brokers for domestic interest groups, and when EU officials advocate consultation with NGOs, they are legitimating themselves and speaking of a system set up to legitimate their actions.

This chapter outlines a theoretical answer to the question of how and why EU and US approaches to 'trade and' policies have been different in the last decade. The next sections examine the specific institutional features of the two polities in turn, using literature on delegation and representation to define differences between the EU and US along these independent variables which will be fleshed out in greater detail in the policy chapters which follow. Amy Searight (2005) examines formal rules, informal rules and bureaucratic structures as influences on the 'bargaining style' of the US, EU and Japan in successive rounds of international trade negotiations. A bargaining style is a state's position in a two-dimensional policy space (figure 3.1) which describes its engagement in the negotiations – (its leadership in proposing new areas and supporting others in doing so) and its ambition (its aversion to risk and the scale of its proposals). Building on a series of earlier studies of international bargaining (Preeg 1970; Evans 1971) and of domestic constraints on the ratification of treaties (Milner and Rosendorff 1997), Searight finds that the EU and US bargain differently in international trade

negotiations. The US is more active and more ‘engaged’. It has been the leader in the last three rounds of trade talks and an advocate for the process as a whole. It puts forward ambitious proposals, then threatens to withdraw if others do not match them. The EU’s bargaining style is somewhat different. It tends to respond to proposals made by the US rather than putting forward its own, and dominates in fewer issue areas. Its deals also tend to be less ambitious, in contrast to the US’s ‘take it or leave it’ approach.

Figure 3.1: ‘Bargaining Styles’ in the EU, US and Japan (Searight 2005)



Grugel (2004) finds that although the EU and US have similar economic goals (building trade and investment markets) in negotiating trade agreements with South American countries, their ideas about the political and institutional environments the agreements create are very different. Europe’s negotiations with MERCOSUR have a political aspect based on European ideas of ‘democracy, social welfare and regional integration’, as part of a ‘model of liberal economic governance in which the market is mediated by authoritative supranational regional institutions. EU regionalism is based on ‘partnership’, ‘new inter-regionalism’, political and institutional reform, and social inclusion, while US regional agreements are ‘market-led’, spreading rules across Latin America centred around an American ‘hub’ instead of building institutions.

Delegating Authority

Nearly all modern governments delegate the power to negotiate trade agreements to a small group of officials. Principal-Agent theory, which examines the problems that arise when the delegator and their agent have unequal degrees of expertise and access to information, has crossed the Atlantic several times. Many Principal-Agent studies that examine the EU are largely based on American studies of delegation from Congress to

non-majoritarian institutions (Huber 2000; Pollack 2003; Weingast and Moran 1983; Ferejohn and Shipan 1989; Calvert et al. 1987; Huber and Shipan 2000). In trade policy, the EU's delegation mechanism itself was intended by Europe's founding fathers to closely mimic the American system (Meunier 2005:8).

It is no surprise then that the delegation mechanisms at the heart of both the EU and US trade policy processes perform some well known functions. First, international trade agreements are highly complex and negotiating a good outcome requires considerable amounts of specialist information and knowledge. Politicians attempt to overcome these information asymmetries through delegation to experts (De Bièvre and Dür 2005; Slaughter 2004). Second, a unified voice in negotiations is perceived as strengthening negotiating power. This allows politicians to make credible commitments in relation to agreements, reassuring other parties that deals will not be unravelled when they are referred to the national level for ratification. A third, related, point is that delegation can be used in an attempt to reduce the influence of special interests over trade policy, preventing policies that benefit limited sections of the population above the whole.

Delegation in the American System

Looking at US domestic institutional dynamics allows us to unravel America's sometimes contradictory and confusing attitude to international trade. Under article 2 of the US constitution, the President has authority to negotiate international treaties, while under article 1, Congress formally retains the sole power to 'regulate commerce with foreign nations' (Destler 2005).

In the early 1900s, this meant Congress possessed a de facto power to set tariffs on imports, and thereby raise revenue. This brings us to the first point of tension: that between elected members as representatives of their districts and the as representatives of the national interest. This is a classic collective action problem. While it is in the interests of each individual representative to seek protection for their district, when all representatives act in their own best interest, the result is extremely high tariff barriers that damage the national economy as a whole. The 1930 Smoot-Hawley Tariff Act passed by Congress was the last in a series of such bills that raised tariffs to record levels. It is often credited with deepening and lengthening the Great Depression of that decade, as other countries retaliated with their own high tariffs. E.E. Schattschneider (1935) advanced one of the most influential analyses of American trade policy in his

case study of the act. The paradox of the Smoot-Hawley Tariff was that although the US was extremely powerful in terms of the international trading system at the time, it still chose to enact protectionist measures. Schattschneider argues that this phenomenon was due to the pattern of competing demands for protection that were accommodated by Congress via an extreme process of logrolling. The legacy of this period among policymakers was a deep-seated rejection of protectionist measures and the high tariff schemes of the past. This ideological reversal was apparent in the trade policy of the new Roosevelt administration in 1933. Roosevelt's Secretary of State Cordell Hull, was convinced that Smoot-Hawley was a substantial contributing factor to the depression, a conviction that came to be shared by the rest of the administration. This change in ideas was matched by a realignment of key interest groups –farmers and manufacturers- in the US economy, creating a Congress that was motivated to push for liberalization.

The 1934 Reciprocal Trade Agreements Act (RTAA) was a dramatic reversal in the American trade policymaking process, allowing Congress to delegate its authority on trade to the Executive for the first time. Just a few short years after the peak of protectionist sentiment, a consensus began to build around the need to dismantle tariffs. It was thought that this new delegation would separate grubby interest group politics from the pursuit of economic objectives, preventing another Smoot-Hawley. Office seeking members of Congress would be prevented from tacking tariff increases that served their local industries onto trade legislation.

In its modern incarnation, fast track negotiating authority, (renamed Trade Promotion Authority under the G. W. Bush administration) allows Congressional negotiating power to be delegated to the Executive on the condition that Congress can then only vote to accept or reject the trade agreement as negotiated, and may not propose amendments. Trade agreements must therefore be negotiated with a view to passing with a majority in both Houses (Woolcock 2000).

Although Congress retains oversight capabilities, in practice, this considerable delegation allows Representatives to indulge in rhetoric without having to take responsibility for tariff decisions which they have little actual control over once fast-track has been granted (Gibson 2000). According to Searight (2005), the US has created a structure that results in a higher level of delegation than is found in EU trade policy. If autonomy is determined by the relative preferences of the agents and its principals, and the extent to which agents are constrained by oversight mechanisms (Pollack 2003:201), the European Commission is less autonomous. It is the most constrained by its political

principals, while the USTR has greater autonomy due to its 'special institutional position' between the Presidency and the Congress.

Currently, delegation occurs between Congress and an independent agency – the Office of the United States Trade Representative. The 1962 Trade Expansion Act required the President to appoint a Special Representative for Trade negotiations (STR). Once created, the office of the independent trade representative was repeatedly strengthened and accorded greater independence. The office of the United States Trade Representative was separated from the State Department under the Kennedy administration, where it was felt that separating trade from other security issues would benefit negotiations by depoliticising them (Dryden 1995). The STR was elevated to cabinet level in 1974, in conjunction with an expansion of the powers of the office, and reorganised in 1979 to become the office of the United States Trade Representative.

The USTR has a clear responsibility as the lead agency for reporting to Congress. Other departments are responsible for negotiating and coordinating the implementation of side agreements or cooperation agreements, but 'USTR has the lead according to the executive order for reporting to Congress on issues associated with that. We generally go with USTR when they are meeting with Congress on these issues but it's actually USTR's responsibility for reporting to Congress' (State Department Official, May 2008).

The relatively powerful and autonomous agency that exists today is the product of a process of Congressional and Executive delegation of authority which was primarily a response to external events, and maintained ties between economic and political security. The USTR has a large team of negotiators representing a fairly consistent body of legal and political skills. The average USTR official is well educated (one undergraduate and one or two further degrees), from a diplomatic, Congressional or legal background, and once a member of the agency, spends a great deal of their career there, circulating through various posts. This reflects the large amount of expert knowledge required to negotiate trade agreements¹⁶.

The USTR is relatively under resourced. In April 2005, the USTR had 212 members of staff, less than half the number of staff employed by the equivalent EU office at that time. Labour and Trade Capacity Building offices had 2 staff each, the Environment and Natural Resources office had 7 members of staff, while 'Monitoring and Enforcement' (trade defence- defending US trade policy from 'unfair' foreign trade practices) had 17 (Government Accountability Office 2005). The agency has a high

¹⁶ Based on a review of top level biographies available at www.ustr.gov in June 2007.

number of staff in the middle grades, reflecting its interagency role as an interest aggregator. The USTR sits at the head of a formal system of over 90 committees from different government departments, primarily Agriculture, Commerce, Labour, the State Department and the Treasury. As an understaffed body, the USTR relies on the resources of other departments to gather the information it needs, which prevents it from becoming too divorced from their trade goals (3 Trade Negotiators, USTR Official, Washington DC, June 2007). As table 3.2 shows, even after a large agreement such as CAFTA has been completed, multiple agencies from different parts of government take an interest. These bodies use the agreement as a basis for formulating regulations on many different topics –from textiles and futures trading to defence and environmental protection.

Table 3.2: CAFTA, Top 10 Rulemaking Agencies as of June 2008

Agency	Count
Committee for the Implementation of Textile Agreements	42
Commodity Futures Trading Commission	19
Office of the US Trade Representative	18
National Oceanic and Atmospheric Administration	16
Federal Acquisition Regulations*	15
International Trade Administration	10
Department of Defence	8
Securities and Exchange Commission	8
Customs and Border Protection Bureau	7
Environmental Protection Agency	6

*Multiple Bodies, usually led by General Services Administration, bringing Federal procurement into line with trade agreements

Source: Author's calculations, based on data at Regulations.gov

The side effect of this dependence is that the USTR also relies on outside interests, particularly business interests, to work up trade briefings (Trade Negotiator, Washington DC, June 2007). This promotes networking (and sometimes circulation of personnel) between concentrated interests with adequate legal resources to undertake such work, and USTR officials.

Delegation in the EU System

The European Union's trade policy is the result of 'double delegation': first, from member state governments to the intergovernmental European Council and then from the Council to the European Commission. By design, the Commission is fragmented along issue lines, and extremely open to interests. The principal-agent relationship between the Council of Ministers and the Commission is at the heart of EU trade policy. It differs from the American system in several important ways. The isolation from electoral politics is much more complete in the European system. National electorates are a step further removed from the decisionmaking process, represented largely by member state officials and only to a very small extent by members of the European Parliament. The institutional set up may add distance between territorially based electoral interests and trade negotiators, but the Commission itself is a magnet for interest groups.

Article 133 of the Treaty on European Union divides the EU trade policy process into three phases: first, the Commission prepares a negotiating position, and the General Affairs Council confers a mandate via unanimity, where a measure cannot be passed if more than one party votes against it; or Qualified Majority Voting (QMV), where an oversized majority in favour of the measure is required, and votes are allocated based on each member state's population. Secondly, negotiations are conducted, with the Commission speaking with 'one voice' on behalf of the EU as a whole. Thirdly, the results of the negotiations are approved by trade or foreign ministers, and adopted by the General Affairs Council via QMV. In contrast to the US Congress, the European Parliament plays a very limited role. The assent of the EP by simple majority is required under some circumstances, for example, if the agreement requires the amendment of EC legislation adopted by codecision (Woolcock 2000).

Where the US has created a structure that results in a high level of delegation, sitting between the President and Congress, autonomy in the EU is much lower. Although the EU Commission is technically the sole spokesperson on trade matters, this authority is not always absolute. Trade negotiations cover both areas of exclusive and mixed competence, and the Commission's right to act has not gone uncontested, with a challenge through the European Court of Justice by eight member states in 1994 over competence to conclude international trade agreements in goods, and shared competence on newer issues such as trade in services (Holland 2002; Leal-Arcas 2004; Meunier and Nicolaïdis 2000:336). The Treaty of Nice further determined that most areas of services would fall under the competency of the Commission but still reserved

certain powers for Member States (Smith 1999; Meunier & Nicolaidis 2000; Young 2002). Young finds that the strengthening of the Commission's authority versus the member states has not occurred 'through a series of discrete quantum leaps' but via political contestation between member states and the Commission, judicial intervention, and the pooling of sovereignty (Young 2002:159).

Pollack (1998) compares the Commission's role in trade policy with the chief negotiator in Putnam's two-level games model, while Moravcsik (1994:239) takes this further, portraying a 'three-level game' where the Commission negotiates with third party states, trade agreements are ratified by the intergovernmental Art. 133 Committee and the Council and national governments seek ratification among domestic constituents. Both of these models highlight the complicated and fragmented power structures at the heart of the EU which can be opaque and unpredictable to outsiders.

The Council's role is theoretically governed by rules which determine its method of decisionmaking. In matters of exclusive competence, the Council is required to use QMV, while shared competence issues require unanimity and greater consultation with member states. Jupille highlights the importance of voting rules in the Council over international bargaining outcomes. He argues that when EU member states vote using unanimity to form what is known as a 'Common Position', the weight of the full complement of EU member states makes this position integral to international agreements (Jupille 1999). But member states do not always follow the rules.

In practice, decisions in the Article 133 Committee are usually made by consensus, without voting. And regardless of the formal structures for agreeing negotiating mandates and ratifying the final agreements, large and powerful member states may still retain a de facto veto over the process even when QMV is called for. The Council is likely to agree to lowest common denominator mandates that are very flexible due to the need for unanimity, but the Commission may pay for this flexibility later if member states do not like the final deal (Nicolaidis and Meunier 2002:178-9).

In the past, the 133 Committee has been split between northern free traders (UK, Germany, Netherlands, Denmark and Luxembourg) and a protectionist 'Club Med' (France, Spain, Portugal, Belgium, Greece and Italy) (Murphy 2000; Elsig 2002:36). With the enlargement of the EU to 27 member states, reaching a consensus is even more difficult. In the most comprehensive recent study of European trade policy, Meunier (2005) examines the effect of this internal fragmentation on the EU's negotiating power. She argues that the EU's 'one voice' negotiating authority enhances its bargaining power in international trade negotiations, but that this is subject to the decision rule

used. Where the EU is fragmented on an issue under certain rules, its 'complex institutions and multiple masters' fragment its negotiating power.

The Commission is also often treated as a single unit, but in reality different directorates have very different ways of working, shaped by their respective interest group bases (Cram 1994). In 1993, the Trade and External Relations portfolios were divided. In the months that followed, the coordination between Trade and External Relations policy suffered due to animosity between the two Commissioners (Lister 1997:14). Christiansen (1997) argues that the Commission has 'multiple accountability', responsible both to the member states and European citizens, and a 'politicized bureaucracy', as it provides both executive government and public administration. The *cabinets* play a crucial horizontal and vertical coordination role, but discussions amongst *cabinets* are now more difficult as they are spread among different buildings (Christiansen 2001:752). In December 2005, DG Trade had 483 members of staff-making it a 'medium-sized DG' in comparison to others in the Commission. It was top heavy: 50% of staff were "A Grade" officials (equivalent to Head of Unit or higher). 33% of the staff were engaged in trade defence measures -that is, working up cases against other WTO members or in defence of the EU's own trade policy (DG Trade 2005a). Where the USTR is forced to rely on the resources of other agencies, DG Trade duplicates the tasks of other DGs.

Elected Representatives

When negotiating authority is delegated to government officials, what role is left for elected representatives? Delegation is often seen as a solution which 'prevents' electoral politics from interfering in the trade policy process. This is not quite true. In 2001, Congress voted to renew fast track authority by a very narrow margin –215 to 214. When it looked as if the legislation would fail, the (Republican) Speaker of the House held the vote open for 37 minutes whilst the Republican Whip persuaded Rep Jim DeMint of South Carolina to switch his vote from 'nay' to 'aye'. In exchange, DeMint received a protectionist concession for the textiles industry, a key industry in his district (Destler 2005:338-9). In the EU, although elected representatives in the EP have little say on trade issues, elected officials are also represented through the Council of Ministers. As Meunier (2005) has shown, although qualified majority voting (QMV) should theoretically be the norm for trade decisions, outcomes in the different phases of the Uruguay round agricultural negotiations were very different when unanimity was

invoked. Therefore, while the rules used by elected representatives to control trade negotiators are important, it is also important to examine how those rules are applied.

Role of Elected Representatives in the US

As an active parliament, where ordinary members are able to put forward their own legislation (a category occupied only by the US and Costa Rica, see Mezey 1979), the power of Congress to construct the legislative agenda is almost unique. In theory, Congressional oversight is relatively strong. Most US trade policy takes the form of primary legislation at some point in its life, with comparatively little work done through secondary legislation by agencies (table 3.2). Trade issues are discussed in the powerful Ways and Means Committee, and many members are very keen to get a seat on this important body. Due to the advantages enjoyed by incumbent candidates over their rivals, and the corresponding long Congressional terms of office, representatives serving on the Committee have the chance to develop considerable expertise. With each successive Trade Act since 1934, Congress appears to have increased its oversight functions, even as it has expanded the authority of trade negotiators first over tariffs, then non-tariff barriers. Successive legislation has seen the creation of a Congressional Oversight Group (COG) of ten members who can attend trade negotiations as observers, tighter deadlines for reporting to Congress, stricter reporting standards, and the ability to withhold a trade agreement from fast track consideration by passing a resolution of disapproval (Hornbeck and Cooper 2007:5-7). Despite the considerable formal autonomy delegated to the USTR, negotiators must constantly keep the opinions of Congress in mind.

Table 3.3: The Limited Role of Secondary Legislation in US Trade Policy

	Year Into Force	Notices	Rules	Proposed Rules	Public Submissions	Other
NAFTA	1994	405	176	37	2741	260
Jordan FTA	2001	6	5	0	0	3
Chile FTA	2004	31	24	1	5	1
Singapore FTA	2004	13	38	1	2	3
Australia FTA	2005	11	13	1	3	6
Morocco FTA	2006	15	34	1	0	3
CAFTA-DR	2005	158	37	1	16	5
Bahrain FTA	2006	15	34	1	0	3
Oman FTA	2006	1	0	0	1	0
<i>Total</i>		<i>655</i>	<i>361</i>	<i>43</i>	<i>2768</i>	<i>284</i>

Source: Author's Calculations, based on data at Regulations.gov

Growing divisions within Congress are threatening its influence, however. Since the RTAA was passed in 1934, the central question asked by trade policy experts has been: what are the necessary conditions for maintaining a consensus for liberal trade? Maintaining this consensus is proving increasingly difficult, and scholars are now questioning whether we are seeing a permanent return to territorially-based, protectionist divisions between blocs of representatives. The fast track system that worked well at the peak of Congressional consensus – sometime in the 1950s- is far less efficient and much more acrimonious in a divided political climate (Bailey et al. 1997; Hiscox 2002; Nollen and Quinn 1994). If the President and Congress aren't willing to 'get along' and build consensus between them – something that incidentally gets harder the more the trade agenda affects domestic policy decisions- fast track loses its legitimacy. Authors such as Lohmann and O'Halloran (1994) have used veto points to demonstrate that divided government has impeded trade liberalization in the US, while unified government has promoted it.

There is some evidence that non-partisan consensus is unusual and transitory. Although the majority of Republicans currently favour free trade, they have a history of protectionism. Similarly, the Democrats have been advocates of both free trade and protectionist measures in the past (Goldstein 1993; Rogowski 1989; Destler 2005). Big changes to the interest group bases of the two parties in the mid-twentieth century caused these changes. The concentration of industry in certain regions of the US – the Northeastern rustbelt, the agrarian South and the Western sunbelt – pressurises elected representatives, and shifting alliances between regional factions can create winning Congressional coalitions (Bensel 2000; Trubowitz 1998). The longstanding voting alliance between Republicans and southern Democrats gave rise to the impression that trade was a non-partisan issue in the House, but declining manufacturing, competition from Asian markets, and disputes over new trade issues caused the consensus to falter during the 1980s and 1990s (Polsby 2004; Shoch 2001).

As Fiona McGillivray (2004) argues, industry often maps onto political jurisdictions, creating strong links between electoral rules and the industries that are allocated protection. She finds that as office seeking individuals, it is politically efficient for governments to offer protection to industries. Nor are Presidential candidates immune from regional interests. In current and 2003/4 political contests, many Democratic Presidential candidates have found it necessary to adopt 'fair trade' approaches in order to gain funding and support. In the 2006 Congressional elections,

37 representatives from the freshman class were elected on the basis of promises to support 'fair' trade¹⁷. Trade unions provided campaign contributions to these candidates, whilst grassroots groups gave organising support. 41 out of 47 of the Democratic Freshman class received a third or more of their campaign contributions from trade unions¹⁸.

The importance of electoral politics in trade negotiations is never more visible than when fast track legislation is due for renewal. In May 2007, a group of Democratic members of Congress held an impromptu press conference to announce a new 'bipartisan deal' on trade that they promised would satisfy the long-term demands of the left for labour and environmental standards to be placed in the core texts of trade agreements (reviewed in detail in chapter 4). A statement of principles was issued which promised that bilateral signatories such as Panama and Peru would be required to implement standards as determined by the International Labour Organisation and a set of multilateral environmental agreements. The 'wish list' also contained provisions protecting the rights of domestic state governments to make procurement decisions and foreign governments to access medicines¹⁹. Congressional Democrats in the Ways and Means Committee were very proud of the deal:

'We hit the nail on the head. We got exactly what we wanted on labour and environment, IPR, investment, those are the things that we wanted. Now does that mean that this is immutable? If there's a Democratic president next year it won't change at all? I think we'll fine-tune...but I think the basics are there'
(Congressional Staffer, Washington DC, May 2008).

But many groups on the left were unhappy with the deal. At the same time that House Speaker Nancy Pelosi and the Ways and Means Committee Chairman Charles Rangel (flanked by several Republicans) were speaking to the press, the AFL-CIO was still holding a conference call to discuss their position on the issue, and some alleged that the timing of Rangel's announcement was deliberate in order to shut out fair trade advocates.²⁰

Role of Elected Representatives in the EU

¹⁷ Public Citizen, http://www.citizen.org/hot_issues/issue.cfm?ID=1471 accessed 15th May 2007

¹⁸ Author's calculation from Center for Responsive Politics data, 2006, www.opensecrets.org accessed 11th May 2007

¹⁹ House Ways and Means Committee statement, <http://waysandmeans.house.gov/Media/pdf/110/05%2014%2007/05%2014%2007.pdf>, accessed 10th May 2007

²⁰ Personal communication with grassroots organizers, Washington DC, 11th May 2007

Compared to the central role played by Congress, the European Parliament (EP) is a minor player in trade policy, particularly in terms of multilateral agreements, where the EP is consulted, and may send an observer, but do little else. The EP is slightly more important in terms of adopting bilateral association agreements, (or those that alter the budget or fall under codecision) where the EP must approve via a simple majority vote. National parliaments play a even smaller role than their European counterpart. Scrutinising trade policy is difficult given limited parliamentary time and resources (Woolcock 2000), and may hardly be a rewarding task for upcoming politicians, especially in those systems where committee membership is not an attractive career option.

Both the EU and US are institutionally fragmented, but the constitutionally based separation of powers in the US is far clearer than the dividing lines between EU institutions. In the EU, the consensus required to reach a mandate for negotiation must occur in the Council of Ministers, technically representing an electoral mandate, although the negotiating proposal they discuss is drawn up by the unelected Commission. This has several implications. The mandate for negotiation is determined in closed meetings, amongst government officials rather than legislators, and under two different decision rules: unanimity or QMV. In theory, the rule used is determined by the type of agreement under consideration, but in practice, member state's political preferences often override convention (Meunier 2005). Contrary to expectations, it may be easier for member states to achieve consensus under the unanimity rule. The rule as defined does not count an abstention as a vote against the measure. A member state can therefore abstain on a controversial issue, simultaneously demonstrating its commitment in front of the other member states and its resistance in front of unsupportive domestic interests (Hix 2005:84). As such, the electoral consequences of a policy can sometimes be divorced from the decisionmaking process. The role of the Commission in framing the policy alternatives discussed by the Council blurs the line between agenda setting and decisionmaking stages in the policy process, ensuring that the Commission must be part of any negotiating consensus.

Table 3.4: EU Secondary Trade Legislation by Type, 1999-2007

	Regulations	Directives	Decisions	Other	<i>Total</i>
Council	242	1	12	3	258
Commission	136	0	76	13	225
Multiple Parties	0	0	7	0	7
<i>Total</i>	378	1	95	16	490

Source: Author's calculations, DG Trade ICentre Database

Table 3.5: EU Trade Legislation by Subject, 1999-2007

Trade in Goods	Count
Chemicals & Plastics	132
Steel & Metal Tubing	85
Textiles, Cotton & Footwear	52
Agriculture, Food & Wine	33
Semiconductors & Electronics	27
Dual Use Items	16
Raw Materials	4
Automobiles, Aircraft and Shipping	2
Pharmaceuticals	2
Other Manufactures	60
	413
<i>Total</i>	<i>(84%)</i>
Newer Issues	Count
Development & General System of Preferences	19
Enlargement	8
Waste	7
Intellectual Property Rights	6
Labour Standards	4
Services	2
Competition	1
Weapons of Mass Destruction	1
Other Trade Diplomacy	13
Other Trade Defence	16
	77
<i>Total</i>	<i>(16%)</i>

Source: Author's calculations, DG Trade ICentre Database

This is especially true in terms of 'trade-and' policies. Whereas Council communications and regulations tend to focus on more traditional trade concerns such as steel, textiles and technical issues, 'trade-and' issues such as social rights and development are discussed in Commission communications and regulations (tables 3.3 and 3.4). In table 3.4, for example, all four pieces of legislation on Labour standards were initiated by the Commission. In principle, all EU legislation is subordinate or secondary, created by bodies other than the legislature itself (Page 1997:103-4). In comparison, US trade policy is conducted largely through primary legislation, with Acts of Congress corresponding closely to either an individual trade agreement (e.g. the Peru

FTA) or substantial changes in the policy process (the Omnibus Trade and Competitiveness Act 1988).

The tensions that this split creates in the EU system can be seen in this statement by Pascal Lamy on negotiations with the group of African, Caribbean and Pacific countries. Whilst he seems willing to follow through on European commitments to support development in the third world, he also shows a strong commitment to opening foreign markets:

*'Is development the objective of these negotiations? Yes, of course, but development cannot be negotiated, whereas trade can. That is why we are introducing certain elements of trade negotiations, while keeping development as our objective...granting unilateral preferences to these countries, is not, for a number of reasons, bringing about the transformation of this trade liberalisation, which we decided unilaterally, into a genuine instrument for development...in particular, the ACP countries must work together to create markets that are large enough to interest investors.'*²¹

Whereas the Council focuses on national and sectoral interests, often taking a 'firefighting' role in crises such as the Iraq wars, it is the Commission that seeks to extend this core of trade policy to other areas, attempting to increase its jurisdiction in the process. The Commission's relationship with interest groups is key to achieving this goal.

Interest Groups

Exploring interactions between interest groups and policymakers can establish how negotiating stances reflect group activity. Trade is linked with some of the seminal works on interest group behaviour (such as Schattschneider 1935), which see the policy process as a competition for scarce resources, with individual groups struggling to maximize their share of the pie (Hall 1997). The lobbying activities of interest groups create demands on the government which affect both its preferences and its ability to act upon them. This study focuses on the formal organisations that lobby governments rather than the wider interests that they represent, and uses the activity of such groups to make assumptions about those larger sections of the population. Although interest groups may not be present at the negotiating table, there are still substantial opportunities within the process for them to influence the resulting agreement. As Bayne and Woolcock (2003: 75) argue, the consultation phase at the domestic level of

²¹ Pascal Lamy, response to European Parliament Question No 42 (H-0039/03) asked by Glenys Kinnock, 28th January 2003.

international economic negotiations often coincides with agenda-setting at the international level.

Factor endowment models of trade policy attempt to determine the coalitions that will win or lose under a given trade policy (Rogowski 1989; Lake 1988; Hiscox 2002; Alt et al. 1996; Magee 1978). By measuring the degree to which factors of production (land, labour, capital) can move between sectors of the economy (their factor specificity), these models try to determine which groups will lobby the government to implement protectionist policies, and which will support liberalization, then examine what happens to these coalitions as factors in the economy change.

For example, Rogowski (1989) uses a model with varying land, labour and capital relationships (country can be high or low in either) to explain why countries have taken protectionist or liberal trade policy stances at different points in history. By examining a country's relative endowment in these factors, he predicts how agricultural interests, industry and labour will conflict or unite to form coalitions along class lines. His analysis is based upon the Stolper-Samuelson model (1941) where economic factors are very mobile between sectors. Under this model's assumptions, trade conflicts arise between owners of different factors rather than between different industries, something that does not always hold true in practice. Perfect mobility between industries is assumed, so in the model, all industries are affected in the same way by trade policy.

Other authors hold that a model with high factor specificity (i.e. low mobility between factors) may paint a more accurate picture. 'Ricardo-Viner' models assume immobility of one or more factor of production between industries. When changes in the economy harm an industry, employees of that industry are harmed too, unable to move to a different job in another sector. So coalitions form along industry lines rather than between workers, landowners and capital. These models produce results which are much closer to the pluralist view of competition between interest groups depicted in Schattschneider's (1930) seminal analysis of interest group competition in American trade policy. Hiscox (2002) uses congressional votes on trade legislation between 1824 and 1994 to show that US trade policy was dominated by conflicts between social classes when interindustry mobility was relatively high, and by inter-industry conflicts when mobility was relatively low.

As factor endowment models predict, the degree to which labour can move freely from one industry to another has definite consequences for workers' demands to include labour rights in trade agreements. Workers who are able to find new jobs elsewhere as the economy changes are much less likely to demand protectionist trade

measures. Similarly, farmers are more or less vulnerable to changes in the global economy depending on the versatility of their land (Alt et al. 1996:701).

This approach focuses on specific factors, but downgrades the importance of diffuse influences on policy. Political studies that apply factor specificity to areas of policy expect that diffuse interests will be less likely to organise effectively or engage in lobbying activity compared to specific interests. Given the strength of specific interests, their demands for protectionism, and the weakness of consumers, a common question asked by economists is ‘why do we find free trade policies at all?’ (Milner and Kubota 2005). In the context of ‘trade and’ policies, the puzzle is slightly different. Given expectations that specific interests are strong and diffuse interests weak, why have diffuse interests such as consumers and environmentalists been successful in incorporating their interests into trade agreements in the last decade? Why are these issues being discussed at all?

In an extensive ongoing study, Beyers (2002) builds on Mancur Olson’s (1971) work to contrast the strategies used by diffuse interests that are ‘linked to broad and general segments of society’, (for example, consumers, women or those concerned about development or the environment) with specific interests which have ‘clear-cut stake in the production process’ such as trade unions, employers unions and sectoral associations (589-90). Within this framework, Beyers outlines four competing hypotheses which compare the access and voice strategies of these groups (Hirschman 1970), arguing that the constituency type of an interest group can affect its ability to gain access to policymakers. He expects that diffuse interests will use more voice, whilst specific interests are more likely to seek (and gain) more access. Specific interests are more likely to have resources at their disposal and access is assumed to be the preferred strategy when money is no object, while limited funds cause diffuse groups to opt for cheaper (but less successful) voice strategies (Beyers 2004:216). In a detailed comparison of EU and US lobbying styles, Mahoney finds that lobbying pays off in the American political system, and that 75% of the time, industrial interests win. Industry is also successful in the EU, but other more diffuse groups, such as those representing consumers or environmental interests, are also successful (Mahoney 2008:204). The following sections discuss these insights in the context of American and European interest group politics.

Interest Groups in the US

The study of interest group behaviour has a long history in the US (Madison 1787; Herring 1929; Cater 1964; Salisbury 1969; Bauer et al. 1963; Hecllo 1978; Baumgartner and Jones 1993; Heinz et al. 1993; Kollman 1998; Baumgartner and Leech 1998).

Schattschneider's work on the Smoot Hawley tariff (1935) was one of several studies that heavily influenced the pluralist approach as represented by Truman (1951). Later, Schattschneider built on his analysis (1960) to emphasise the struggle between interest groups and the power of the strongest to define policy alternatives, criticising the pluralist assumption that all groups had equal access to power. The most influential reaction to pluralism, however, came from Olson (1971), who challenged the very basis of collective action. Attempts to lower tariffs are a classic example of Olson's influential framework. The costs of free trade tend to be concentrated in one sector or industry, while the benefits are diffuse, spread out among consumers. This inspired Destler's (2005) observation that trade losers lobby and business gets on with business.

American trade politics since NAFTA (North American Free Trade Agreement) has seen the creation of a new alliance between (concentrated) trade unions and (diffuse) environmental groups, who demand that labour standards and environmental protection should be included in the texts of trade agreements passed by Congress. Such alliances are mutually beneficial. Labour cooperates in order to gain increased political coverage whilst Environmental groups cooperate in exchange for access to increased funding. Negotiations have been decreasingly a 'matter of balancing producer interests and more a public contest of competing social values' (Destler and Balint 1999:46). However, analysis of the activity of diffuse groups in trade policy is limited to a few studies (Elliott 2003; Wallach and Woodall 2004; Destler and Balint 1999). There is some evidence, however, that they adopt distinct lobbying strategies, mobilising their members and the public to highlight issues on their behalf rather than pressurising representatives directly (Kollman 1998).

In 2006, 761 registered lobbyists filed reports of their activities on trade issues. Many of these were large firms or business associations, as we might expect. These associations spend an enormous amount of money lobbying on trade issues, (largely as a result of the need to fund Congressional and Presidential campaigns), and trade has been ranked between third and sixth in terms of lobbying expenditure per issue area for the last eight years²². What we may not expect is that a coalition of 715 grassroots groups and NGOs (known as the Citizens' Trade Campaign and founded in 1993) also

²² Center for Responsive Policy, 2006 returns. CRP annually ranks expenditure on lobbying by policy area based on organisations' self-reports.

campaigns on trade issues at local, state and national levels. The difference between the lobbyists and the NGO coalition is that the latter remains on the fringe of American politics, part of what made the demonstrations at the 1999 Seattle WTO ministerial so astonishing to many observers.

One observer argued that the USTR is purposefully understaffed in order to reinforce its reliance on other agencies and enforce its inter-agency role. This has another side effect- a high rate of circulation between lawyers, interest groups and the USTR. Because USTR has few resources, industries are expected to do the legwork for their own disputes, such as preparing necessary briefings and garnering support (Trade Negotiator, Washington DC, June 2007). Non-profit interest groups may not have the necessary resources to duplicate this approach. A USTR official explained his first impressions of the USTR's internal culture:

'It's a very different perspective, from working for the Department of Justice to working for an economic agency like USTR...[the two agencies] bring different concerns to the table. We represent different parts of the government so we're advocating for different interests...then of course USTR has a lead on negotiations where other agencies contribute, so much more of my role is coordination' (USTR Official, Washington DC, June 2007).

Interest Groups in the EU

The study of interest group lobbying at the European level is more recent. In response to the more normative American studies which often highlight the deleterious effects of lobbyists on democratic systems, European studies focus on empirical process, asking 'what constitutes lobbying in the EU? Who lobbies, and what strategies do they use? On which institutions and levels are these activities focused?'

Comparing this activity to that of US interest groups is essential to an understanding of the way their governments behave as world traders (Woll 2008; Mahoney 2008). A small but growing literature addresses the differences. In general terms, EU lobbying may be characterised by greater consensus and less confrontation (Woll 2006). The relationship between firms in particular is less adversarial and encourages longer-term thinking (Vogel 1996; Coen 1999, 2004). The EU lobbying industry is also less involved in distributing money. The salience of voters and elected representatives within the process is quite different. Congress provides legitimacy for the US process, but the European Parliament is much weaker and has almost no influence on trade policy. The EU must seek legitimacy elsewhere, and does so through the participation of interest groups (see Meunier 2003).

While American approaches can sometimes ignore differences in power and organisation between groups, such as distinctions between ‘producers’ and ‘consumers’, ‘insiders’ and ‘outsiders’ (Grant 1989, 2004) or groups with ‘diffuse’ or ‘specific’ constituencies, the European lobbying literature revels in them. Authors such as Streeck and Schmitter (1985) have argued that the EU is dominated by concentrated interests such as business. However, as the union has acquired new competences, the opportunity structure facing interest groups has changed (Greenwood and Aspinwall 1998; Marks and McAdam 1996; Mazey and Richardson 1993). These opportunities are examined by Pollack (1997), who argues that the diverse forms of EU organisation, fragmented institutions at multiple levels, present ‘opportunities as well as risks’ (573) for diffuse groups, enabling them to access decisionmakers via alternative routes. Where group-bureaucracy relationships in the US can be depicted as a series of ‘iron triangles’ (see Jordan 1981), the EU’s institutional structure allows more scope for fluid policy networks, based on consultation rather than negotiation (Page 1997:94). The European Commission goes out of its way to be open to interest groups, refusing to bring in accreditation schemes along the lines of those found in international institutions, and going so far as to foster and fund many groups (Greenwood 2003, Table 3.5). As the salience of voters and elected representatives within the process is quite different to the American system (Congress provides legitimacy for the US process, but the European Parliament is much weaker and has almost no influence on trade policy), the EU must seek legitimacy elsewhere, and does so through the participation of interest groups (see Meunier 2003).

Table 3.6: DG Trade Grants Recipients by Organisation’s Purpose, 1999-2005

	1999	2000	2001	2002	2003	2004	2005
Business	3	2	3	1	1	0	0
Environment & Energy	1	2	4	2	1	2	0
Development	0	0	0	1	5	2	5
Social	0	0	1	3	0	1	0
Health	0	0	0	1	2	1	1
WTO	1	2	1	1	2	0	0
Other IGOs	0	0	0	1	4	2	0
Other Research	1	1	0	4	1	0	1
<i>Total Groups</i>	<i>7</i>	<i>7</i>	<i>9</i>	<i>12</i>	<i>13</i>	<i>7</i>	<i>7</i>

Source: Author’s coding, DG Trade Grant Recipients 1999-2005

Note: Some groups cover more than one main issue area.

Latest data available as of June 2008.

The DG Trade Civil Society Dialogue includes several categories of groups under the rubric ‘civil society’: ‘labour market players’, including trade unions and employers federations; ‘organisations representing social and economic players’ e.g. consumer organisations; NGOs; and Community Based Organisations (CBOs) such as youth movements and religious communities. As of September 2006, there were 657 organisations registered on the DG Trade Civil Society database. This included 144 business associations, 137 development organisations, 69 consumer and public health organisations, 59 organisations promoting environmental protection, 30 trade unions, representatives of local and regional governments, and a sprinkling of think tanks, animal welfare, and women’s organisations. The active groups are much fewer, however, suggesting that the Commission may be getting the better deal. Of the organisations registered on the database in 2006, 271 had never attended a meeting, 447 had not attended for over a year, and only 31 had attended half the meetings or more in the previous year²³.

The Commission’s presentation of the process as a dialogue and a debate, with the intension of making ‘responsive policy’ (DG Trade 2005d) seems to imply some scope for deliberation amongst the groups, with the expectation that they may come to some sort of accommodation. DG Sanco (Health and Consumer Affairs) hopes to imitate the dialogue’s perceived success under its current Director General Robert Madelin, who was the motor behind the dialogue process in his former post at DG Trade. In practice, however, the dialogue is a deliberation process that fails to bring about deliberation. In fact, no consultation process to date has achieved this satisfactorily (Jordan 2007).

Conclusion

This chapter has explored the institutions that create trade policy in the EU and US. Together with the following three chapters, it argues that two variables, the delegation of trade negotiating authority, and the representation of diffuse and specific interests through institutions, can explain patterns of EU and US ‘trade and’ policies. This means that they explain which non-trade issues are incorporated into trade agreements, and the approach to compliance employed on those issues.

The US Congress is attempting to reassert its authority over the Executive’s negotiating powers, while the European Union attempts to externalise its domestic

²³ Development NGO, personal communication, October 2006.

policies through international trade agreements. As recent research has shown (Meunier and Nicolaïdis 2006), the European Union is attempting to exert 'power through trade', attaching policy requirements to its trade agreements much as it did in its agreements with the new accession states. In doing so, it attempts to build its credentials as both a world power, and an alternative for American dominance in the international system. The ideal EU, driven by the Commission, would like to adopt the structural advantages of the American Presidency when negotiating agreements, as outlined in Federalist Papers 64 and 75: 'unity, decision, secrecy, dispatch, stability of purpose, special sources of information – [making] the executive the prime agent in dealings with foreign states' (Schlesinger 2004:xi). This is proving incompatible, however, with some of the EU's other goals such as transparency in its dealings with society, legitimacy in the face of a widely discussed "democratic deficit", and the ideal of a 'social' Europe.

At the same time, elected representatives in the US are under pressure to take back some of the power that they have delegated to the Executive, by strengthening their authority to shape negotiating mandates and oversee the negotiation process. The Congressional consensus on trade that seemed stable after the second world war has weakened in subsequent decades. A partisan Congress, facing a record trade deficit with China, makes the periodic delegation of authority increasingly difficult to achieve.

Exploring these differences in the context of the new and growing links between international and domestic policy spaces leads to several propositions. European governments and the United States Congress both delegate decisionmaking authority for external trade in order to facilitate trade negotiations and insulate themselves from interest group pressures. The key difference lies in the terms of the authority transfer. In the US, an elected Congress is insulated from an Executive Agency, the United States Trade Representative. We may expect that policy development is heavily influenced by electoral factors and the territorial concentration of certain interests, which can exert control through Congressional committees. Proximity to electoral arenas could induce a tendency for trade to take on distributive aspects (Lowi 1964). This may explain why trade policy becomes characterised in terms of a cost benefit analysis for domestic constituents. In the EU, national governments (as the Council of Europe) are insulated from the European Commission, but the Commission is deliberately open to interest group pressures. DG Trade has its own separate 'Civil Society Dialogue', providing an easy registration service for groups, subsidising travel costs to attend meetings, and publishing briefings and minutes. External trade, as one of the oldest and most Europeanized competences of the EU, gives the Commission considerable discretion in

both agenda setting and decisionmaking, which take place in the same, non-electoral institution. Although the mandate to negotiate is conferred by member states, the proposal they consider is drawn up by the Commission, which gives it considerable influence on the outcome (Pollack 1997).

We can expect these differences in delegation and representation would have consequences for interest groups attempting to influence trade policy. In the US, delegation would favour specific groups. The electorally focussed terms of the debate in Congress and stable policy networks between insider groups and policy officials in the Executive could allow groups with greater resources and more readily identifiable constituencies to do better. The most accessible channel for diffuse interests, Congress, is effectively insulated from later decisionmaking which takes place through the USTR. Once delegation has taken place, the USTR has considerable discretion over the terms of trade policy, whilst Congress can only vote the resulting trade agreements up or down.

Delegation in the EU works differently, in that it serves to keep national governments insulated from voters and electoral constituencies out of the loop. The Commission is keen (rightly or wrongly) to bolster its legitimacy by remaining open to interest groups, which are consulted at an early stage when the Commission is formulating a mandate. In contrast, the EP and member state parliaments play a very limited role. The concentration of a large proportion of agenda-setting and decisionmaking power in the Commission may be more helpful to diffuse groups. Where there has been pressure in the EU for an accreditation-free civil society dialogue (so much so that DG Trade maintains its own database in addition to the Commission as a whole), access is achieved in the US via acceptance into a closed system of trade advisory committees at the discretion of the USTR.

Different interest group activity in the two cases contributes to different negotiating styles -starting with the differences in breadth of agendas noted in chapter two. The lobbying activities of interest groups create demands on trade negotiators which can affect both their preferences and their ability to act upon them. First, interest groups can alter the range of issues that must be considered before a negotiating position can be reached. They are able to frame policy issues, linking new domestic issues to the global economy. We would expect government attention to focus on a wider range of issues in the EU than the US. Second, in the US, the dominance of direct lobbying would benefit the government as well as insiders, by limiting the number of participants and keeping discussions largely private and insulated. The prevalence of

campaign finance would keep Congress attentive to specific interests. In contrast, we may expect EU policy negotiators to come under pressure from a broader range of interests on a wider number of issues, making consensus more difficult and ambitious negotiating positions less feasible. The media, information and networking strategies of these groups, coupled with the Commission's vulnerability to charges of illegitimacy, would make it harder for negotiators to keep secrets and sustain conflicting goals.

The next three chapters look at three strands of policy in greater detail: the export of labour and environmental standards, the creation of the Doha Development Agenda, and new developments in trade and health policy. These policy studies incorporate interview evidence, analysis of government documents and press releases to explain how and why each issue was initially placed on the trade agenda. I then explore the different policy mechanisms used to pursue the issue at the national level and the constellation of interest groups calling for change.

4 Exporting Standards: Labour Rights & Environmental Protections

'I can look my own constituents in the eye and tell them that for the first time the new Democratic Majority has placed worker rights and environmental standards in a trade agreement – on equal footing as all other commercial provisions- and that with this accomplishment we have taken the first step to completely change U.S. trade policy'

- Rep. Sander Levin, Round Robin Letter to Congressional Democrats, May 11th 2007

'Our core message is clear: rejection of protectionism at home, activism in opening markets abroad. We need to look beyond tariff reduction, to the trade barriers that lie behind borders'

- Peter Mandelson, statement to the European Parliament, (DG Trade 2007)

The incorporation of basic labour rights and environmental standards into trade agreements were the first substantial policy reactions to the new trade politics, pre-dating the creation of the WTO. Not only that, but they have persisted, and grown in importance, since that time. These two policy areas cannot be ignored if we are to understand how and why the EU and US incorporated non-trade issues into their trade agreements. This chapter examines two policies in the two polities: the different paths taken by the US and EU towards incorporating internationally recognized labour and environmental standards into their respective trade policies, paying special attention to the interactions between trade unions, environmental activists, and trade officials. It maps the pattern of EU and US resistance and acceptance of incorporating labour standards (such as the right to collective bargaining) and environmental standards (such as limitations on emissions) into the texts of trade agreements in the last two decades.

Trade unions in developed countries have long been concerned that trade liberalisation could result in a 'race to the bottom', where multinational companies are incentivised to seek out cheaper labour overseas, threatening jobs at home. Increased 'outsourcing' of jobs in fields such as information technology and manufacturing in recent years seems to confirm this theory. Unions are also concerned that US and European companies will use the 'race to the bottom' as an excuse to behave badly. They fear that companies will pressurise governments to lower domestic labour standards and use outsourcing as a threat against unionised workforces to deter them from taking industrial action.

Environmental campaigners take a similar stance. They argue that greater trade liberalisation without proper regulatory oversight will damage the environmental resources of rapidly growing states. They fear that companies will take advantage of lower environmental standards overseas in order to save money in the production process and avoid complying with what they often see as unnecessary red tape in developed countries. They also share the concerns of labour activists that the ability of multinational companies to move to countries where standards of regulation and enforcement are poor will put pressure on developed countries to compromise their standards in order to keep companies from leaving their shores. Both labour and environmental activists express concern that the WTO system places economic concerns above those of individual citizens, and even above the democratic process.

In order to explain how and why the EU and US have incorporated non-trade issues into their trade policy in the areas of labour and environmental standards, this chapter unpacks the forces at work at three different levels of interaction. In multilateral negotiations, I examine how and why the EU and US pushed for the inclusion of labour and environmental standards in WTO rules as part of their trade diplomacy efforts. Within each political system, I then explore the use of unilateral preference systems which link lower trade barriers for third parties with their performance on labour rights and the environment. Third, I describe how the two polities consulted with interest groups and how their policy stances changed as a result.

The rise and fall of the importance of the trade/labour/environment linkage at the international level reflects the changing dominance of the Democratic party in US politics. This emphasises the importance of Congressional and Presidential elections in determining and legitimising US trade policy: trade unions, in coalition with environmental groups, were able to access and put pressure on Democratic members of Congress and the President to change policy. This pressure disappeared under a Republican administration and reappeared when Congress came under Democratic control in 2006.

On 10th May 2007, congressional Democrats and the Republican administration reached a landmark agreement for American trade policy. In a deal intended to be a template for many future bilateral and multilateral agreements, the administration agreed to require trading partners to enforce provisions on labour and the environment. In return, negotiators hoped that the Democrats would not stand in the way of signing future bilateral agreements with priority countries – particularly Columbia, Peru, Panama, and South Korea. The agreement was hailed by many as renewing bipartisan

consensus in Congress on trade which had dissipated since the beginning of the Clinton administration. Some commentators welcomed the agreement, which contained the strongest text yet on labour and environmental standards. Trade unions, environmentalists and other NGOs were still unhappy with the deal, however, saying that it paid lip service to labour and the environment while paving the way for unfair trade agreements.

The EU, meanwhile, moved from shadowing US stances in the early 1990s to establishing its own unique take on trade policy that is as multifaceted and development oriented as its institutions: using 'trade and' issues to create a European policy model. This emphasises the decisions of Commission officials to consult a wide range of interest groups, not just business, during the decisionmaking process, in the hope that this would enhance the legitimacy of trade policy. Compared to the US focus on a small number of core labour rights and multilateral environmental agreements, the EU has chosen to frame these within a broader development and human rights agenda.

Multilateral Trade Negotiations

'...this is what a southern delegate, clearly fed up with the debate, had to say. Quote, "I was recently in the United States strolling in a supermarket, when I came across a can of tuna labelled as 'Dolphin-Safe.' I thought to myself," he said, "what about the goddammed tuna, is it not lying dead in the can! Why doesn't anyone care!" Needless to say the Committee realized that this was indeed a value-ridden debate.' – Pascal Lamy, WTO Director-General, Yale University, October 2007.

Both the EU and US have incorporated labour and environmental issues into their trade diplomacy efforts since the creation of the WTO, attempting to get their domestic policies onto the global trade agenda. But while US positions have remained fairly consistent in multilateral negotiations, EU policy positions are much harder to predict. Europe's trading partners often complain that EU decisionmaking is too slow, fragmented and contradictory. In trade/labour/environment debates, the EU follows this bargaining style: in two instances, the EU makes a seemingly sudden policy reversal, as the Commission struggles for free trade autonomy against member states. The pattern of US positions is much clearer, reflecting the stabilising factor of the USTR's strong interagency authority and the strong pull of party politics: Democrats have advocated the inclusion of labour and environmental standards in the WTO, Republicans have not: 'there actually was a pretty dramatic change when the Democrats came to power in

Congress [in 2006]...Congress basically told the administration that they wouldn't support those agreements unless the environment chapters and the Labour chapters were made more stringent...I think the environment was provisions in those agreements are the strongest of any free trade agreement anywhere negotiated' (State Department Official, May 2008).

The expansion of the international trade agenda was surprisingly slow before the creation of the WTO in 1995. Although environmental issues did have an effect on WTO negotiations as early as the Tokyo round (1973-1979) as part of discussions on 'Technical Barriers to Trade' (TBTs), it was not until the late 1980s that trade and environmental issues were explicitly linked. In 1987, the Brundtland Report (Our Common Future) was published by the World Commission on Environment and Development. The report used the term 'sustainable development' for the first time, advocating policy solutions that put economic and environmental issues on an equal footing.

It was not long before this new linkage affected the multilateral trade agenda. In 1991, the 'Tuna-Dolphin'²⁴ dispute between the US and Mexico put environmental issues firmly on the international agenda. Mexico launched a complaint under the GATT against a US decision to ban imported tuna that had been caught with a certain type of net thought to kill dolphins. The US argued that fishing for tuna with such nets contravened the 1972 Marine Mammal Protection Act, which prohibited the harassment, hunting, killing and importation of marine mammals into the United States. A dispute settlement panel ruled in favour of Mexico, concluding that a) the US could not ban tuna imports from Mexico because Mexican regulations on the way tuna was produced did not satisfy US regulations, and b) that the GATT did not allow for one WTO member country to enforce its domestic rules on another. Although the ruling was not formally adopted as part of the GATT, environmentalists in the US were horrified with the decision, which they saw as fundamentally undermining US environmental regulations; they began to pay much greater attention to trade issues. A second case on the same issue in 1994, nicknamed 'Son of Tuna-Dolphin', made sure that the WTO's potential environmental role remained high profile²⁵.

By 1994, the Marrakesh agreement– the blueprint for the WTO- contained environmental language, with the preamble referring to the need for sustainable

²⁴ 'United States- Restrictions on Imports of Tuna', panel report, circulated 3rd September 1991. The decision was not adopted. This means that the ruling does not legally form part of the GATT. The US and Mexico essentially 'settled out of court'. See http://www.wto.org/english/tratop_e/envir_e/edis04_e.htm.

²⁵ 'United States- Restrictions on Imports of Tuna', panel report circulated 16th June 1994. The case was this time brought by the EU, but again the report was not adopted.

development and environmental protections. The WTO's environmental committee was created one year later. Under current WTO rules, states can adopt environmental regulations providing they are not discriminatory, in other words, as long as they comply with the Most Favoured Nation (MFN) principle and treat all WTO member states alike. As a result, environmental policies are still fashionable. The recent emphasis on climate change and carbon trading systems has brought trade and environmental issues back into the limelight. By contrast, Labour standards have never been fashionable and were treated very differently by the international system.

Labour standards were discussed in the context of the 1994 Marrakesh Agreement, but no consensus was possible on their inclusion. The US and the EU were powerful supporters of labour standards at this time, but strong opposition from developing countries prevented an agreement. These countries saw the proposal as a thoroughly protectionist attempt to take away one of their few advantages – cheap labour. In 1995, the World Summit for Social Development held in Copenhagen identified a set of internationally recognised 'core' labour standards, keeping the issue on the WTO's horizon. The issue was taken up again at the first WTO ministerial in Singapore in 1996, but again, developing countries fiercely opposed US and EU support for labour standards. The 1996 Singapore ministerial declaration made it quite clear that the majority of WTO members were not very keen to take on any responsibility for enforcing core labour standards:

'The International Labour Organization (ILO) is the competent body to set and deal with [labour] standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question' (WTO 2003).

Although the declaration put some pressure on the ILO to adopt its own declaration on fundamental labour rights, something it did in 1998 (Barton et al. 2006:190), this was not the result that the EU and US were hoping for. At the controversial 1999 Seattle ministerial meeting, the US, EU, and Canada called for inclusion of labour standards one final time: the US proposed a WTO trade and labour working group, the EU favoured a joint ILO/WTO forum, and Canada proposed a WTO working group to discuss the appropriate relationships between trade, development, social policy, and the environment (OECD 2000:11). As discussed in Chapter 2 above, the Seattle conference was a disaster for the new trade round. While civil society groups

voiced their dissent outside the conference, the insistence of industrialised countries on forcing labour standards onto the agenda hastened its collapse from within.

In 2000, the momentum behind international labour standards dissipated. The Democratic administration in the US made way for a new Republican president, and labour and environmental standards in trade agreements were not part of President Bush's agenda. This left the EU alone to defend the labour/environmental platform: rather than continue in the shadow of the US, EU Trade Commissioner Pascal Lamy began to reorient European policy towards development issues (Van den Hoven 2004, See Chapter 5 below).

In the EU, the decision to support labour standards was made at the elite level, with little domestic lobbying. In January 1994, Leon Brittan, then trade commissioner, states firmly that the EU will not address labour standards in its trade agreements. Only a few months later, he stages a mysterious turnaround, announcing that the standards will be incorporated. Under pressure from France and US negotiators, the EU dramatically changed its policy within a few months. These two statements, attributed to Sir Leon Brittan as European Trade Commissioner, illustrate Europe's embarrassing switchback. His strong opposition to Clinton's trade agenda in January 1994 turns into support by March of that same year:

'Europe's trade chief rebuffed President Bill Clinton's new trade agenda on Monday, saying that attempts to impose environmental and labor standards on developing countries could be merely a "disguised form of protection." Sir Leon Brittan, the trade commissioner for the European Union, essentially dismissed Mr. Clinton's call to export the developed nations' higher labor standards as unworkable and unfair' (Buerkle 1994).

'Sir Leon Brittan, the European trade commissioner, called yesterday for workers' rights to be placed on the agenda of the planned World Trade Organisation...Sir Leon's statement, which was broadly endorsed by fellow commissioners, follows US demands that human and social rights be made a WTO priority. It coincided with an apparent softening in the position of France, which has favoured vigorous international measures to combat 'social dumping'...Sir Leon's remarks were noticeably more positive than his earlier stance, which appeared cool to US proposals for an early debate on workers' rights in the WTO' (De Jonquieres and Buchan 1994).

As explained in Chapter 2 above, Brittan's sudden change of heart was due partly to changing political realities and partly to his definition of core labour standards, which was focussed on narrow, fundamental human rights. The introduction of labour standards in EU trade agreements was thus initiated by governments and international organizations rather than by distinct pressure from below in the form of interest group

lobbying. The EU also campaigned heavily to get environmental issues into the Doha round of negotiations, and officials are keen to point out this fact. The EU called for regulatory agreements in the WTO in investment, competition, environment, and labour- attempting to put 'regulatory issues' at the core of the Doha round (De Bièvre 2006).

Support for a 'deep trade' agenda in multilateral negotiations lasted until late 2006, when another sudden change of tactics took place. By the publication of the 'Global Europe' strategy in October 2006, this emphasis had faded. From the viewpoint of several civil society groups, Global Europe seems to be focussed not just on deregulation abroad, but also emphasises a need for internal deregulation. It is 'very aggressive in [terms of] deregulation commitments by the EU's trade partner countries, and in terms of access to natural resources in developing countries...also it has an internal agenda because it says that EU industry will have to adapt to more competition and so there's a also a lot of internal deregulation imperatives...It is leaving aside the whole question about sustainability and poverty eradication...which was in a way somehow discussed in previous communications by the Commission' (Environmental NGO Representative, Brussels, November 2006). John Monks, General Secretary of the European Trade Union Confederation, showed dismay at inability of developed and developing countries to compromise on this issue, stating, 'I do not know how we are going to get around this problem unless there is a concerted effort between the United States and the European Union to do so. And at the moment, the will to do so is lacking, not just in the Bush administration but in many EU capitals too'.²⁶

So under pressure from member state governments, DG Trade's autonomy can be swiftly curtailed. On January 21st 2008, just two days before the much anticipated announcement of new Emissions Trading System (ETS) targets for EU member states, Commission President Jose Manuel Barroso announced plans to level the playing field for European companies by either giving them ETS allowances free of charge or by requiring 'importers to obtain allowances alongside European competitors, as long as such a system is compatible with WTO requirements' (Barroso, press conference, Lehman Brothers, London, 21st January 2008). Countries who had not signed up to strong carbon reduction targets would effectively be penalised. On the same day, Mandelson and Schwab completed bilateral talks on a number of issues of contention, including climate change. The remarks given by Mandelson did not chime with those of Barroso:

²⁶ John Monks, General Secretary of the ETUC, LSE, Oct 2007

*'I don't believe that trade restrictions are the way forward in combating climate change. They're not cost efficient, they carry a risk of retaliation, and they would result in increasing costs to European industry at large'*²⁷

Facing strong pressure from the French government and German industry, Barroso had overruled Mandelson's attempts to bury the policy. Reactions from American negotiators to the EU's announcement were thoroughly negative, with Schwab 'dismayed at a variety of suggestions where we see climate or the environment being used as an excuse to close markets'²⁸. One USTR official explains:

'The relationship between the various [Commission] directorates -in particular trade and environment- is perhaps not as integrated as it is in the US. So we think that there are things that DG Environment is doing that DG Trade is not fully supportive of, there isn't the type of integrated decisionmaking that there is here. They probably think that there are things that USTR is doing that EPA [Environmental Protection Agency] doesn't agree with. That is to some extent true but it seems much more a US government position than either an EPA or a USTR position' (USTR Official, Washington DC, June 2007).

Preference Systems in Bilateral and Regional Agreements

At different periods in their recent histories, both the US and EU have used labour and environmental standards as part of trade preferences granted unilaterally to their trading partners. This section shows how these standards can be used as carrots and sticks- as positive and negative incentives to certain types of behaviour among trading partners. Either better trade preferences are given to those enacting certain domestic policies, or trade preferences are withdrawn from countries who don't conform to those policies.

US Preference Programmes

The exact definition of 'labour and environmental standards' varies by trade agreement. Most commonly, provisions are based around 'internationally recognised core labour standards', a set of key principles administered by the International Labour Organisation (ILO). There are eight relevant ILO conventions, covering forced labour (Convention no. 29), freedom of association (87), right to organise and collective bargaining (98), equal remuneration (100), abolition of forced labour (105), non-discrimination in employment and occupation (111), minimum wage (138), and the worst forms of child

²⁷ Peter Mandelson, press conference, Brussels, 21st January 2008

²⁸ Susan Schwab, press conference, Brussels, 21st January 2008

labour (182). Occasionally, however, agreements provide for the trading partner's own domestic labour standards to be effectively enforced. In the US, which is not a signatory to the ILO conventions, labour provisions in bilateral agreements aim to mimic the ILO's values while skirting around the precise wording²⁹.

US trade unions were requesting links between a country's labour protections and its trade privileges as far back as 1974. The introduction of the Generalized System of Preferences (GSP) was the trigger for this strategy³⁰. Dealing directly with the administration (specifically the USTR) in tight relationships with officials drawing up the GSP, AFL-CIO officers were able to make strong policy recommendations on the granting or withdrawal of trade preferences to developing countries (Trade Union Representative, Washington DC, June 2007). The GSP included a variety of eligibility conditions, including: 'whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights'. It is interesting that at this point the language is 'worker rights' and not 'labour standards'. Initially, labour officials hoped that US trading partners would be able to use dispute mechanisms in trade agreements against the US and force it to adopt higher standards (Trade Union Representative, Washington DC, June 2007).

The aggressive lobbying that accompanies attempts to put these standards in trade agreements has resulted in a continuum of different texts (State Department Official, May 2008; Think Tank Representative, Washington DC, June 2007). Standards vary from agreement to agreement, depending on the strength of interest group lobbying and the power of Congress to impose its will rather than a comprehensive policy from the administration. The North American Agreement on Labor Cooperation (NAALC, signed 1993) was a side agreement of NAFTA, and only required the enforcement of 'high labour standards' but included a robust dispute mechanism. The US-Jordan FTA signed in 2000 had labour provisions in the main text of the agreement, but with enforcement language so weak as to render its effect on labour standards negligible. The US-Singapore and US-Chile FTAs signed in 2003 introduced an annual (\$15 million) fine, but returned to NAALC-level requirements for evidence: labour violations had to be 'sustained' over a period of time to incur a fine. Other bilateral deals, such as the US-Cambodia textile agreement (Article 10D), contained a far simpler trade off: US offered

²⁹ One reason for this is that ILO provisions on forced labour conflict with the US policy of assigning manual labour to prisoners.

³⁰ Authorized under the Trade Act of 1974, initialized January 1, 1976.

a 14% increase in textile quota if the Cambodia textiles sector complied with local law and internationally recognised standards.

The May 2007 bilateral agreements –with Peru, Panama, Columbia and Korea– have stronger language on labour standards in the core of the agreement, with Democrats seeking to improve on the perceived failure of the US-Jordan and Singapore FTAs (Elliott 2003; Kryvoi 2007; Hepple 2005). Other issues such as government procurement were ‘related to the Labour standards issue...ensuring that state and local governments can consider Labour standards in government procurement contracts and that they wouldn't run afoul of their [WTO Government Procurement Agreement] obligations’ (Congressional Staffer, Washington DC, May 2008).

International environmental standards in trade agreements are taken from Multilateral Environmental Agreements (MEAs). The current US provisions, included in the 2007 US-Central American FTAs are listed in box 4.1 below. Multilateral Environmental Agreements are more easily agreed upon and incorporated into global trade agreements than labour standards, but are comparatively narrow in scope. Unlike the EU, the US does not include agreements addressing climate change. As with labour standards, environmental provisions in the May 2007 deal also built on past agreements: signatory countries must adopt the listed agreements, they are prohibited from lowering their domestic environmental standards, and there is an additional provision to add new common MEAs to those listed. The Peru FTA also includes requirements to cut down on illegal logging (Think Tank Representative, Washington DC, June 2007).

The US approach to GSP preferences uses formal legal rules and focuses on negative sanctions. In the first decade of the GSP system, over 100 cases concerning violation of labour laws were submitted to the USTR for review, mainly by the AFL-CIO, but sometimes in conjunction with human rights NGOs. As one trade negotiator put it, interest groups ‘always wanted to know “how will we punish these countries?”’. On two occasions after CAFTA was signed, signatory countries changed their labour laws and the US ‘had to get them to change their laws back’ (Trade Negotiator, Washington DC, June 2007).

Although the US approach tends to be heavy on the ‘stick’, there is also some ‘carrot’. The US provided a total of \$1.34 billion for trade capacity building (TCB) initiatives in 2005. This included \$87,695,235 to promote ‘Human Resources and Labor Standards’ and \$29,287,153 for ‘Environmental Trade and Standards’ (Bureau of International Labor Affairs, Office of Foreign Relations). TCB funding aims to ‘strengthen the rule of labor law, build efficient and responsive labor markets, address

HIV/AIDS through workplace prevention, and reduce the incidence of the worst forms of child labor'. Environmental protection is promoted through 'programs that enforce domestic environmental laws and regulations and encourage citizen participation in environmental decision making'. Activities to 'increase compliance' include a web site on national labour laws, stronger inspection of the Ministry of Labor, enhanced alternative dispute resolution mechanisms and improving public awareness of labour obligations in trade agreements (USAID 2005).

Box 4.1: Labour and Environmental Components of the Bilateral Deal, 10th May 2007

ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998):

Freedom of association

The effective recognition of the right to collective bargaining

The elimination of all forms of compulsory or forced labour

The effective abolition of child labour and, for purposes of this Agreement, a prohibition on the worst forms of child labour

The elimination of discrimination in respect of employee and occupation

Multilateral Environmental Agreements

Convention on International Trade in Endangered Species of Wild Fauna and Flora

Montreal Protocol on Substances that Deplete the Ozone Layer

Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships

Convention on Wetlands of International Importance Especially as Waterfowl Habitat

Convention on the Conservation of Antarctic Marine Living Resources

International Convention for the Regulation of Whaling

Convention for the Establishment of an Inter-American Tropical Tuna Commission

Source: Chapter 18, Peru FTA, as accessed from Trade Subcommittee Web Site, May 2007

The Central American Free Trade Agreement (CAFTA) created a Labor Cooperation and Capacity Building Mechanism (Annex 16.5) but leaves the question of capacity assistance in this area entirely up to the parties themselves. Funding for the mechanism has not been consistent, totalling \$20 million in FY2002, \$40 million in FY2003, and \$20 million in FY2005. US labour activists look at past USTR funding for cooperation efforts and worry that poor capacity building efforts will render the 2007 Colombia FTA ineffective in tackling violence against union organisers. For example, \$40 million was provided to Guatemala to improve the efficiency of its labor ministry, but this had little effect upon the rate at which labour organizers are victims of violence in Guatemala (Rosenberg 2007).

EU Preference Programmes

Non-trade issues have long been included in EU trade preference programmes. The EU introduced its GSP system in 1971, five years before the United States. In 1989, the

fourth Lomé convention (a cooperation agreement negotiated between the EU and ACP countries) introduced human rights as an 'essential element' of the agreement, while introducing environmental concerns through a protocol that allowed the EU to call on money from the 8th EDF budget (1995-2000) to support ACP countries in protecting their rainforests. Lomé's successor, the Cotonou agreement went further, introducing co-operation in the areas of labour and environmental standards- but in the strong EU tradition of issue linkage, even incorporated these aspects into the GSP on drug trafficking (Panagariya 2002:1423).

The experiences of reconciling social, environmental and economic goals during the consolidation of the single market and enlargement of the EU's membership were good preparation for incorporating environmental, social, and developmental goals into trade agreements. In 2006, the 'GSP Plus' initiative took the EU's existing GSP further, linking a state's environmental regulation, human rights record and level of development with preferential tariff concessions. Under GSP Plus, developing countries 'have to ratify and implement 27 international conventions' (Box 4.2). As this list shows, the EU's GSP Plus preferences are both more ambitious and ambiguous. This holistic tendency reflects treaty requirements for 'coherence' and 'cohesiveness'. It also augments Commission authority in relation to that of member states, as only the Commission can play a coordinating role.

Box 4.2: 'Conventions to be ratified and implemented' under GSP Plus

Human & Labour Rights

International Covenant on Civil and Political Rights
International Covenant on Economic, Social and Cultural Rights
International Convention on the Elimination of All Forms of Racial Discrimination
Convention on the Elimination of All Forms of Discrimination Against Women
Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
Convention on the Rights of the Child
Convention on the Prevention and Punishment of the Crime of Genocide
Convention concerning Minimum Age for Admission to Employment
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
Convention Concerning the Abolition of Forced Labour
Convention concerning Forced or Compulsory Labour
Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value
Convention concerning Discrimination in Respect of Employment and Occupation
Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively
International Convention on the Suppression and Punishment of the Crime of Apartheid

Environment & Good Governance

Montreal Protocol on Substances that Deplete the Ozone Layer
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
Stockholm Convention on Persistent Organic Pollutants
Convention on International Trade in Endangered Species of Wild Fauna and Flora

Convention on Biological Diversity
Cartagena Protocol on Biosafety
Kyoto Protocol to the United Nations Framework Convention on Climate Change
United Nations Single Convention on Narcotic Drugs (1961)
United Nations Convention on Psychotropic Substances (1971)
United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)
United Nations Convention against Corruption (Mexico)

Source: European Commission, 'Is GSP+ an alternative to an Economic Partnership Agreement?', Brussels, September 27th 2007

Unlike US preference programmes, the EU's policy contains quite a lot of 'carrot' and not much 'stick'. European Council Conclusions of October 1999 agreed that the EU should strongly support protection of core labour 'rights' in trade agreements and supported enhanced cooperation between the WTO and ILO, but was firmly against 'sanctions-based approaches'. In 2001, the Commission added, 'growing public interest [in this issue] is based on recognition of the universality of core labour standards, and does not aim to put into question the comparative advantage of low-wage developing countries' (European Commission 2001b).

The EU approach to capacity building is to sign large-scale, long-term 'cooperation' agreements. Signed in 2000, Article 50 of the Cotonou Agreement referred to 'enhanced cooperation' on trade and labour policy, including better information exchange, new and stronger national legislation, education and awareness programmes, and better enforcement of existing measures. Article 49 of the agreement commits the parties to 'promoting the development of international trade in such a way as to ensure sustainable and sound management of the environment'. For example, the EU agreed a 7-year cooperation strategy with Chile in May 2007. The agreement focuses on funding for social cohesion projects, educational exchanges and scholarships, and innovation and competitiveness, including 'the environment and sectors that facilitate trade with the EU in fields such as standardisation, technical regulations and conformity assessment procedures, trade-related intellectual property rights (IPR) and sanitary and phytosanitary standards (SPS)'.

European trade/labour/environment standards are also less likely to be enforced than their American counterparts. The EU has only denied special trade preferences on the grounds of labour practices on two occasions: against Myanmar in 1997, and against Belarus in 2006. These two cases were raised by the International Trade Union Confederation (ITUC) in conjunction with the ETUC and in close collaboration with the ILO. A third case, that of Pakistan (ITUC/ETUC complaint submitted in 1995), was a near miss, as member states were reluctant to launch an investigation against the

country. Instead of trade restrictions, Pakistan received aid.

On 21st December 2005, the EU granted preferences under the GSP Plus system to 15 countries: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Moldova, Mongolia, Nicaragua, Panama, Peru, Sri Lanka and Venezuela³¹. This was widely condemned by European and international labour organizations, with the ETUC stating that the decision showed ‘serious incoherence in the EU’s stated policy of using positive incentives to get its trading partners to respect workers’ rights’, pointing out that each of the 15 countries had been criticised by the ILO in the past for a poor record of labour standards (ETUC 2005).

Interest Groups

A New Issue Linkage: Interest Groups in the US

In the last two decades US organised labour and environmental groups formed a strong alliance to campaign on trade. Since negotiations on NAFTA (the North American Free Trade Agreement) began, interest groups have demanded that worker rights and environmental protections should be included in the texts of trade agreements passed by Congress. After over a decade of NAFTA, influences on trade policy have become much more diverse, including not just labour and environmental groups, but also actors on both sides of the debate concerned about health, peace, security and the promotion of democracy abroad. Such alliances can be mutually beneficial. Labour cooperates in order to gain increased political coverage whilst Environmental groups cooperate in exchange for access to increased funding. Negotiations became decreasingly a ‘matter of balancing producer interests and more a public contest of competing social values’ (Destler and Balint 1999:46).

These campaigners, as part of the ‘blue-green’ alliance (blue for blue collar workers, green for environmentalists) argue that rapid economic development without adequate checks on natural resources and urbanisation damages the environment in developing countries, just as rapid development using child, forced, or underpaid labour harms the welfare of the poorest in society. They argue that in a globalised world where capital can move swiftly, a lack of labour and environmental regulations in developing countries places pressure on developed country governments to curb such regulations.

³¹ Council Regulation (EC) No 980/2005 of 27 June 2005, Applying a Scheme of Generalized Tariff Preferences.

When asked to what extent their own members would be able to articulate the policy concerns of the 'other side', both environmentalists and labour officials were fairly confident that their members possessed a fairly good knowledge of the positions of other members of the coalition and had become increasingly articulate since the NAFTA battles (Environmental NGO Representative, 2 Trade Union Representatives, Washington DC, June 2007).

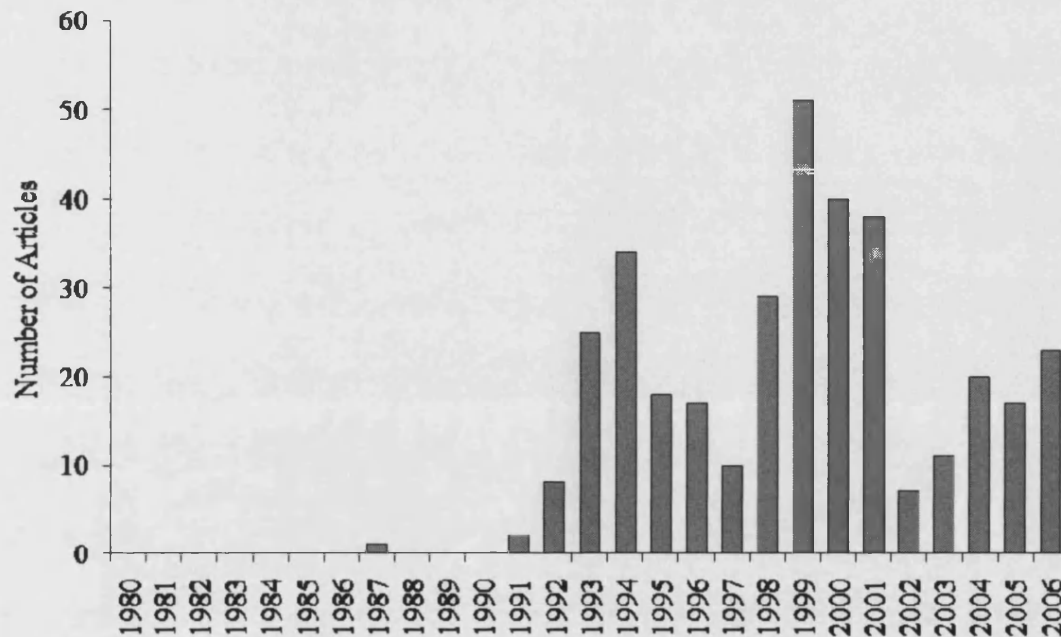
As early as 1988, American labour and environmental activists were producing jointly sponsored reports labelled with the symbols of both groups (Environmental NGO Representative, Trade Union Representative, Washington DC, June 2007). Describing the practice of running a string of Maquiladoras along the US-Mexican border as a 'flight from US regulation', the report alternates chapters outlining inadequate worker protections with examinations of poor environmental standards (Kochan 1988). As late as 2006, this alliance was still strong: the Sierra Club and the United Steelworkers announced a formalised 'blue-green' alliance in June 2006 to coordinate activities such as a campaign on logging in Indonesia. The alliance operates under the slogan 'Good Jobs, A Cleaner Environment, A Safer World' (Blue Green Alliance 2006), which echoes earlier sentiments of the labour/environmental movement. A decade earlier, the AFL-CIO used the slogan 'Jobs, Growth, Worker Rights, Clean Earth' for a similar campaign (Anderson 1996).

Figure 4.3 shows the peaks of interest in incorporating labour and environmental standards in trade agreements around the time of the finalisation of NAFTA in 1993, and the Seattle WTO Ministerial meeting in 1999. These peaks largely coincide with the peaks of labour and environmental NGO mobilization: over NAFTA between 1991-1994, around the Battle of Seattle in 1999, and in during the Congressional elections in 2006. One American labour representative who has worked on this issue for two decades, thought that European trade unions did not have to fight as hard on trade issues as their American counterparts because they needed to be less combative in general. In the US unions have to fight hard even when the Democrats are in power. In Europe, unions are closer to national governments, and have more stable relationships with private companies. Congress and the European Parliament work very differently, so have less traction there (Trade Union Representative, Washington DC, June 2007).

Environmental groups suffered a damaging split over NAFTA. Some groups, used to good access as lobbying 'insiders', felt that economic and environmental concerns could be compatible. Other groups were much more firmly anti-establishment and grassroots driven. They opposed NAFTA strongly from the start. After NAFTA

was passed, many mainstream groups felt dissatisfied with the weakness of the environmental side agreement and began to take a position closer to the outright opposition of outsider groups. After gaining little from their compromise (a fast-track renewal proposal with added environmental language was soon withdrawn) many groups felt betrayed by the administration (Destler and Balint 1999: 30-32).

Figure 4.3: Financial Times & Economist Articles Containing all of the Words ‘Trade’, ‘Labour’ and ‘Environment’



Source: LexisNexis, Financial Times and Economist archives

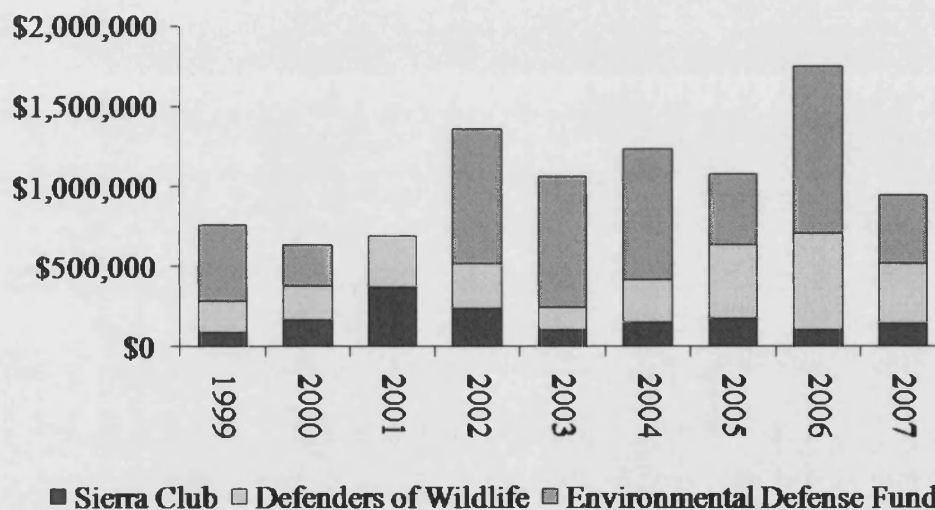
US trade unions are economically weak but politically strong. The US has several declining, labour intensive industries, including textiles and automobile manufacturing. In addition, the steel, lumber, automobile and semiconductor industries are highly concentrated, making them particularly sensitive to changing trade patterns (Krueger 1996). America’s level of organisation is lower than that of almost any other developed country, and its unions have never been the focus of a political party (Lipset and Marks 2000). The number of blue-collar unionized workers in the US manufacturing sector declined by 63 per cent between 1977 and 1997 (Baldwin 2003). We might expect that American unions would be less left-wing than their European counterparts, often supporting conservative viewpoints and sometimes Republican candidates and administrations.

However, American unions have a considerable influence on Congress and so play a pivotal role in determining trade policy. In the 2006 Congressional elections, all of the 47 Democratic freshmen elected had received campaign donations from trade

unions. For 41 of those Democratic freshmen, labour contributions made up a third or more of their campaign funding; 8 of them received over half of their money from trade unions. Labour support was considerably partisan- of the six Republicans that received support, none received more than 5% of their funding from labour³². In an increasingly divided electoral climate, unions have definitely picked sides.

Environmentalists also currently give more to Democrats than to Republicans. In 2006, they donated ‘\$1.2 million to federal candidates and party committees, 86 percent of which went to Democrats’. In recent years, at least one big environmental NGO, the Sierra Club, has elected to give less money to candidates and spend more issue ads (Center for Responsive Politics 2006). Figures 4.4 and 4.5 show lobbying expenditures for the largest environmental NGOs and trade unions from 1999-2007.

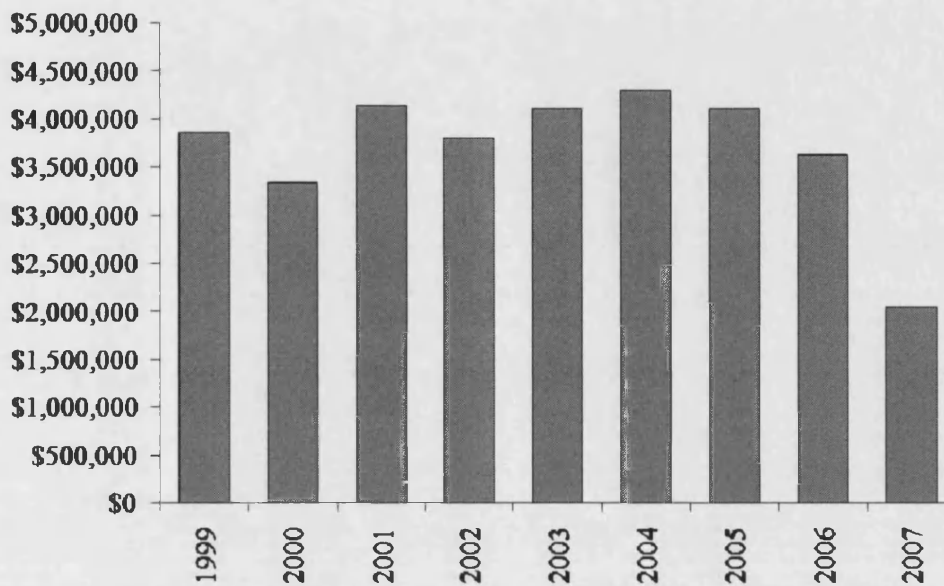
Figure 4.4: Lobbying Expenditure, Top Spending Environmental NGOs



Source: Center for Responsive Politics, www.opensecrets.org

³² Author’s own calculations, from data compiled by the Center for Responsive Politics, available at www.opensecrets.org.

Figure 4.5: Lobbying Expenditure, AFL-CIO



Source: Center for Responsive Politics, www.opensecrets.org

The system of trade advisory committees established under the Trade Act of 1974 reflects the different patterns of interest group opportunity that coincide with the state of the parties. There are approximately thirty trade advisory committees (TACs) with over 700 members, overseen by the departments of labour, agriculture, commerce and the EPA as well as the USTR. Members of the Committees are appointed jointly by the USTR and the Secretary of the relevant department for two years but can be reappointed. There is no payment, and travel is not compensated, unlike in similar EU consultative committees. All members must have Department of Commerce security clearance up to SECRET level. This reflects a key trade off: groups are allowed access to more detailed information about USTR negotiations, but must keep this secret. The USTR is then able to flag up policy issues without revealing their bottom line in negotiations. The administration is very careful about who can access this information:

Interviewer: How do you decide who is going to be on the environmental TPAC [Trade Policy Advisory Committee]?

Interviewee: I don't. They may be presidentially appointed or the members may be appointed by the USTR, there's our public liaison office at USTR and others who make recommendations to that office about people that we think would contribute to the work of TPAC. So they make the decisions. I know that there's a vetting process - I suspect it includes the White House but I'm just not sure. I suspect that you're not getting a lot of people willing to be very specific about it - I can't be!' (USTR Official, Washington DC, June 2007).

Although trade and environment and trade and labour have one dedicated committee

each, the balance of representation on these committees does not always reflect what activists want. In 2006, there were more representatives for the sweetener industry (27) than environmental activists (TEPAC had 26 members total, including representatives from 4 law firms, 4 policy think tanks, 3 business groups, and the Consumers Union, but only 10 NGOs whose main goal is environmental protection). In the early years of the Bush administration, the Labour Trade Advisory Committee included a union local representative and other Republican unionists, while the President of the AFL-CIO was denied membership (AFL-CIO official, May 2007).

Divide and Consult: Interest Groups in the EU

'The Union is changing...It will no longer be judged solely by its ability to remove barriers to trade or to complete an internal market; its legitimacy today depends on involvement and participation. This means that the linear model of dispensing policies from above must be replaced by a virtuous circle, based on feedback, networks and involvement from policy creation to implementation at all levels' (European Commission 2001a:12).

When it comes to 'trade and' policies, some countries use both carrots and sticks, but others are mostly carrot, 'based on confidence-building aimed at raising awareness and persuading the trade partner of the importance of dealing with environmental issues'. The EU favours a cooperation and capacity building approach (OECD 2007), that rests broadly on a policy of consultation with key stakeholders, mainly through dialogue with civil society, and assessment of the impacts of future trade agreements.

Of course, in reality, the Commission's 'virtuous circle' is far from perfect. Informal lobbying activity in Europe benefits those with the most resources, and is far less transparent than American interest group activity. While the EU's consultative fora are good for information sharing and have at least brought diffuse groups into the trade policymaking process, they provide information to the groups, not power.

The environment was not mentioned in the Treaty of Rome but the EC developed environmental policy anyway- over one hundred environmental directives by the 1970s to mid 1980s. Article 100A of the Single European Act recognised the environment as an EU competence. Article 130R of the Single European Act states that 'environmental protections shall be a component of the Community's other policies', paving the way for links between environmental policy and the internal market (Vogel 1995:60). From this viewpoint, incorporating environmental protections into international trade agreements seems a natural progression.

Despite this strong regulatory framework, the pattern of interest groups is quite

distinct in the EU. Trade unions have historically been viewed as weak at the European level despite their national strength (Wallace and Young 1997; Greenwood 2007). The European Trade Union Confederation (ETUC), the main Europe-wide labour organisation, has been blamed for being too dependent on the Commission, too close to the socialist bloc in the European Parliament, and too accepting of the internal market. One theory is that if a group is strong at the national level, it will not seek an alternative arena in Europe. Approaches to labour are very different in each EU member state. The differences between Germanic, English-speaking and Southern attitudes to organised labour have led to significant differences of opinion at the EU level. On top of that, union membership has declined in a majority of European countries in at least the last two decades.

Tsogas (2000) claims that while in the US, labour organizations have taken advantage of the new GSP arrangements to promote labour internationalism, European trade unions have not reacted in a similar way and remain preoccupied with other issues. Tsogas gives three reasons for this: that labour standards in the EU were introduced in an era that was 'less ideologically charged, and with totally different campaigning priorities for trade unions and NGOs'; that the EU labour movement was already fairly internationalized, but still rooted in Europe; and that EU trade with developing countries (especially in the industrial sectors which are most controversial in terms of labour standards) has been 'much less than that of the USA'. In the US, there is a 'lack of a developmental perspective' in terms of labour standards and trade, meaning that there are fewer links with distributional aid policies (Tsogas 2000: 363). Stillerman (Stillerman 2003:596) argues that 'because states have developed their capacity to take wages out of the market by bargaining with state actors at the national level, and because states utilized unions to carry out their foreign policy goals during the Cold War, unions and labor activists have had considerable difficulty "going global" whereas human rights or environmental organizations have had less difficulty in this area'.

EU environmental groups, meanwhile, 'are highly capable of engaging policy-making at a scientific level, drawing upon EU policy offices which are among the best staffed of citizen interest groups, a highly committed network of volunteers, and in the cases of Greenpeace, WWF and Friends of the Earth, the resources of global movements' (Greenwood 2007:130). They are also highly institutionalised, getting funding from the EU commission. Between 1999 and 2003, the European Commission's DG Trade provided funding for projects carried out by the International Centre for Trade and Sustainable Development, the United Nations Environmental

Program, European Partners for the Environment and the International Institute for Sustainable Development. After 2003, however, this environmental emphasis drops away in favour of groups promoting development as Commissioner Pascal Lamy separates the EU's agenda from that of the US (see Chapter 5 below).

One interviewee from an environmental NGO described this disparity in terms of 'good cops and bad cops', organisations that consider their role to be one of giving expert advice, gathering evidence, creating a reputation and making specific policy requests versus those who see their role as challenging the system and changing the axis of trade policy. The major environmental NGOs were put firmly in the first camp (Environmental NGO Representative, Brussels, November 2006). In other words, in the EU, environmentalists had no reason to form a lasting alliance with trade unions. Although NGOs and Trade Unions in the EU did work together briefly, the relationship got a bit uncomfortable. The NGOs thought that the unions were 'crashing their party' and so the relationship dissolved (Greenwood 2007).

The DG Trade Civil Society Dialogue was launched in 1999, pre-empting the Commission's 2001 white paper on governance, and DG Trade's dialogue is widely regarded in the EU as an example of good practice in this area. Other DGs, and even other countries (Canadian trade negotiators are said to have paid a visit to see the dialogue in action - Environmental NGO Representative, Brussels, November 2006) are interested in this new form of trade politics. As of September 2006, there were 657 organisations registered on the DG Trade Civil Society database, including 144 business associations, 59 organisations promoting environmental protection, and 30 trade unions (Jarman 2008:28).

The Commission is very keen to bolster its legitimacy by incorporating groups into its decisionmaking that more closely represent the sections of society affected by the new trade politics (Commission official, Brussels, November 2006; Meunier 2003). Whether the dialogue is representative or not, the Commission realises that incorporating these groups is a way to make its own life easier. Incorporating them into the dialogue gives the Commission an opportunity to gather and disseminate vital information, and even to pit groups against each other.

Brian Hocking (2004) explains that this new consultation attempts to solve three deficits within the system: deficits of legitimacy, access, and knowledge. From this viewpoint, the dialogue can be seen as a bargain between the Commission and interest groups in which the Commission seeks greater legitimacy for its actions, while interest groups seek better access to policymakers. One environmentalist described drafting

legislation regarding genetically modified food and sifting evidence from GMO field trials, as well as informing officials of their partnership with the renewable energy industry.

'what's funny is that regularly business associations claim that NGOs are actually more powerful than themselves because we do a lot of public demonstrations, public events...Last time I went to these meetings there was this guy from UNICE and he said "As business we were outnumbered 10 to one. There were 10 times more NGOs than business associations" so we started this discussion on that and they are really convinced that we have more influence than them. But we think the opposite. Because I think what happens publicly is just a percentage of what is actually happening with the lobbying' (Environmental NGO Representative, Brussels, November 2006).

One Commission official recounted that at first, civil society groups 'did not know how to act' in meetings with officials, resulting in dull briefings where NGOs read pre-prepared statements. Eventually, the process moved on from 'set piece' meetings, breaking up into smaller groups, and more progress was made. NGOs began to take the initiative, making more 'creative contacts' with officials. Environmental NGOs, for example,

'came to us and said "our analysis has focussed on the environment but we have become aware of the need to look at social and economic factors." So we are now working on an integrated approach. This was the direct cause of DG Trade developing Sustainability Impact Assessments' (Commission Official, London, September 2006).

Sustainability Impact Assessments (SIAs) must be carried out before a trade agreement is completed to assess its environmental and developmental impact. The 'three pillar' impact assessment approach (economic, environmental, social) was based upon the Integrated Impact Assessment (IIA) model introduced in 2002, which applies to the negotiating guidelines for international agreements as well as regulatory measures. The 'economic' pillar assesses the likely impact of an agreement on economic growth and competitiveness, administrative burdens to business and government, the potential for innovation and development, investment, among other economic factors. The 'environmental' pillar is broader, assessing potential impacts on climate change, air, water and soil pollution, land-use, bio-diversity, and public health. Broadest of all is the 'social' pillar, covering human capital, human rights, employment, job quality, gender equality, social exclusion and poverty, health, safety and consumer rights, social capital, security, education, training, and culture' (Renda 2006:53-55).

SIAs are carried out for all of the EU's trade negotiations, bilateral as well as multilateral, although they are not a strict legal obligation, and assessments are carried

out by external consultants. SIAs are unusual in that they examine the impact of a trade agreement in both the EU and its trading partner. In comparison, US impact assessments usually focus on the environmental effects of trade policies on the US rather than on its trading partners (OECD 2007:65) and take a narrow environmental approach where the EU again demonstrates issue linkage.

SIAs are built upon stakeholder consultation, mainly through maintaining networks of experts and through DG Trade's civil society dialogue. A basket of indicators is used to assess economic, social and environmental impacts, including 'average real income, employment, net fixed capital formation, equity and poverty, health and education, gender inequality, environmental quality of air, water and land, biological diversity and other natural resource stocks'. Position papers are developed that discuss possible 'flanking measures', including 'capacity-building and trade-related assistance initiatives, international regulation, use of trade and regional policy instruments within the EU' (DG Trade 2005e). The position paper is then discussed with the Article 133 Committee.

Some environmentalists, however, are not impressed: 'Some of our members and partner organisations fear that this is mostly window dressing, greenwashing and so forth...it is also a PR tool, to have SIAs and to have consultation meetings on trade issues. At the end of the day, it's just the Council who decides on the policy and the Commission who drafts it, and that's it' (Environmental NGO Representative, Brussels, November 2006).

Conclusion

This chapter has successively unpacked the forces at work at three different levels of interaction- multilateral, bilateral and regional, and unilateral- in order to contrast how and why the EU and US have used trade and environmental and trade and labour policies in the last two decades.

At each level, the EU and US pay attention to different types of interest groups. In the US, organised labour has been able to access the trade policymaking process via electoral politics –as a major funder of Democratic representatives and Presidents it has considerable influence. The fact that the devastation caused by the loss of manufacturing jobs is territorially concentrated strengthens their argument with elected representatives. Environmental NGOs are very important but secondary players, assisted in putting forward their arguments on trade by their participation in the blue-

green alliance. Environmental NGOs in the EU arguably have greater influence, initiating some important aspects of 'trade and' policies. They are more likely to work together with development NGOs and other diffuse groups rather than trade unions, who have come rather late to the 'trade and labour standards' debate when compared with their US counterparts.

Although on one level, US campaigners have got what they wished for –a voice in negotiations, certain standards in trade agreements, enforceability- the extent to which these mechanisms achieve the desired ends is debatable. US trade unions and environmentalists are closer to their long-term goal – fully enforceable, internationally recognised labour and environmental standards in the core text of trade agreements- than they have been in the last 34 years, but some acknowledge that they have failed to campaign successfully on the range of domestic policies such as health reform that would actually bring substantial benefits to their members.

In the US, environmental concerns have arguably been more successfully integrated than labour standards, '[the environment has] been a less controversial area than labour has been...[Labor] has been a difficult issue - there are some powerful interests on both sides of the question. Environment hasn't had that and there's much more consensus around and support for the issue' (USTR Official, Washington DC, June 2007). In the EU, groups have successfully gained a voice in negotiations, but not a vote in trade policy.

Contradictory EU/US strategies relate to their respective domestic institutions. In the US, labour standards are included in international trade agreements by the federal government, under pressure from trade unions and under scrutiny from highly organised Congressional committees. The administration hopes that this will placate domestic opposition to trade liberalization, while trade unions hope that foreign pressure will improve domestic labour standards. In Europe, labour standards are included in international trade agreements largely by the European Commission, under pressure from member state governments. The Commission hopes that this will increase its foreign policy influence, while member states with high labour standards hope that the mechanism will externalize labour costs onto foreign business.

In early 2008, both EU and US policymakers were discussing the links between climate change and trade. This debate depicts in miniature the fundamental points borne out by the history in this chapter. Two bills were introduced into the US Senate which proposed a combining carbon trading schemes, carbon caps, and charges on imports from countries with a poor record of managing carbon. The bills received considerable

input and support from American Electric Power and the International Brotherhood of Electrical Workers. Around the same time, the EU Commission was discussing similar measures- revealing strong divisions between DG Trade staff and Commission President José Manuel Barroso. Mandelson's DG Trade wanted to maintain a free trade stance in the face of delicate Doha-related negotiations with the US. Barroso, reacting to pressure from member state leaders such as French President Nicolas Sarkozy and environmental NGOs, nevertheless announced that the EU was willing to seriously consider a tax on imports from countries without carbon reduction commitments. Many development NGOs in the EU have shifted their emphasis from the ailing Doha round to climate change in the last year. Now they have a dilemma over which path to follow: developing countries would strongly oppose a climate 'tariff' (Beattie 2008).

There are many problems with using such preference programmes or standards in the text of agreements as a means of inducing behaviour in a trading partner. Ratification of conventions does not guarantee implementation. In all of these debates, implementation and enforcement are rarely discussed: governments largely don't want to discuss them. Even in the US, where dispute settlements are more substantial, only a small number of cases actually result in action by the US government, and that action cannot guarantee a change in conditions in a foreign country. GSP preferences are getting less important as tariffs generally decrease, while relaxing a non-tariff barrier for some trading partners and not others is not as realistic or simple an option as applying differential tariffs. In a more liberal trade regime, dominant countries must utilise other means to retain control. The next chapter looks at these means of control in greater detail, comparing domestic support for agriculture with aid for trade capacity building.

5 Shaping Doha: Linking Agriculture to Development

'All key players know they will have to move. The EU knows it will have to move on agriculture market access, the U.S. government knows it will have to move on agriculture domestic support — and emerging countries like Brazil, India or South Africa know they will have to move on industrial tariffs and services...Public opinion seems to be in favor of support for the preservation of rural life or the environment, or support for those small farmers with less comparative advantages, rather than lavish government spending that benefits a handful of large farmers or farming companies. In short, what the public points out — perhaps without knowing — is a good, non-trade distorting farm policy.'- Pascal Lamy, as WTO Director General, (Lamy 2006).

'If you look at our position in 2002 and you look at our position in 2006 absolutely nothing has changed. It's the deal which has decreased in its expectations, in ambition, in delivering for development' - (Development NGO Representative, Brussels, October 2006).

The European Union is both the world's largest importer *and* exporter of agricultural goods, with the US also a very large agricultural exporter. This chapter examines how two highly contentious issues, the liberalisation of trade in agriculture and the use of trade as a development tool, were combined to form the core of the Doha Development Agenda (DDA). In the months leading up to the WTO ministerial meeting in Seattle, 1999, both the US and EU were still pushing for environmental policies and labour standards to be major issues in the Doha round. The US was keen to open foreign markets for its farmers, acting as a broker for their interests. The EU sought to protect its generous agricultural subsidies. But developing country dissatisfaction with the implementation of the last round caused the EU and US to adopt another strategy: working with the Director General of the WTO, they pushed for a 'development round'. This was ostensibly aimed at the needs of developing countries, but also incorporating US calls for increased access to foreign agricultural markets. Agriculture and development issues were firmly linked, to each other and to the economic aspects of trade. Thus the 'how' and 'why' of EU and US approaches to 'trade and' issues cannot be understood without examining both the creation of this agenda and the different approaches of the US and EU to promoting it since 2001.

Back home after the Doha Ministerial of that year, EU Trade Commissioner Pascal Lamy and USTR Robert Zoellick viewed the development round very differently. Lamy used development rhetoric extensively to justify the trade round to dissenters at home and abroad, including the group of 77 'African, Caribbean and

Pacific' countries (ACP) and a host of European development NGOs. Zoellick soon dropped Doha's development arguments and continued to emphasise benefits from the new round for concentrated interests: ranchers and farmers. The EU sought to legitimate its actions using 'trade and' issues, looking to domestic NGOs for support and justifying its trade policy to its developing country trading partners. The US focussed on representing concentrated territorial interests, compelled to find new agricultural markets abroad by an influential Congress.

The impetus behind the new trade round did not last. By 2007, the Doha Development Agenda had effectively stalled. Despite repeated attempts to get the negotiations moving, developed and developing countries could not reconcile their differences over agricultural tariffs, non-agricultural market access, and trade in services. Negotiators and commentators alike had been aware for some time that US fast-track negotiating authority was due to expire in June 2007. Unfortunately, the US Congress was also due to discuss a new farm bill in the early part of that year. The juxtaposition of these two deadlines spelled severe trouble for the Doha round.

For free traders and small farmers in the US the 2007 Farm Bill was a protectionist disaster. It increased, rather than reduced, damaging subsidies to large agribusiness, in a political system where they already received some 75% of payments (Agriculture Association Representative, Washington DC, July 2007; Think Tank Representative, Washington DC, May 2007; (Oxfam America 2007:3). The bill pushed out sustainability measures, encouraged the growth of crops to provide ethanol, and made positive statements about genetically modified foods.

While the US lost the battle to reduce its domestic support for agriculture, a major source of frustration for developing country WTO members, the EU was unable to match US offers on improving agricultural market access. Attempts to reform the Common Agricultural Policy (CAP) in 2003 (the MacSharry Reforms) made it easier for the EU to compete on domestic support, but its market access record was a severe concern for developing countries.

For NGOs representing small farmers in developing countries, the breakdown in negotiations was a substantial setback. The worst poverty in developing countries is in rural areas and linked to the worst levels of malnutrition, illiteracy, gender inequality and child deaths. The majority of the rural poor rely on agriculture to survive. A large proportion of this activity is carried out by women who manage small plots of land (Watkins 2003). For these reasons, international development NGOs see the liberalisation of trade in agriculture as a key part of achieving the Millennium

Development Goals, a set of targets for poverty reduction adopted by the UN General Assembly in September 2000. As we can see from table 5.1, the agricultural sector makes up a large percentage of GDP for developing countries, particularly Least Developed Countries (LDCs), but a much lower proportion of GDP in developed states. Despite this, developed countries maintain substantial levels of financial support for their farmers.

Table 5.1: Agriculture as Percentage of GDP, Selected Countries, 1994-2004

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
High Income	2.4	2.3	2.3	2.1	2	1.9	1.9	1.8	1.7	1.7	1.7
Low Income	30.4	29.4	29.7	29.3	29.6	27.6	26	25.8	24.2	23.9	21.7
Middle Income	11.9	12	11.9	11.2	11.3	10.6	9.9	9.8	10	10	10.1
France	3.3	3.4	3.3	3.2	3.2	3	2.8	2.9	2.7	2.5	2.5
United States	1.8	1.6	1.8	1.7	1.3	1.2	1.2	1.2	1	1.2	1.3
Ghana	37.8	38.8	39	35.8	36	35.8	35.3	35.2	35.2	36.5	38
Vietnam	27.4	27.2	27.8	25.8	25.8	25.4	24.5	23.2	23	22.5	21.8

Source: World Bank 2007, World Development Indicators Online.

The analysis in Chapter 2 showed that the EU was more likely to use rural development, health, environmental, and animal welfare arguments to justify continued agricultural protection, and to balance these arguments with pro-development policies. The US takes a much simpler stance and justifies its agricultural policy to outsiders using the rhetoric of free trade (and competitive liberalisation), reassuring domestic agribusiness that it will push for open markets abroad. This case study adds more detail to the analysis in Chapter 2, showing that the argument holds in two difficult and controversial cases that go to the heart of problems with the Doha round. The EU and the US both use hard (defensive action to protect subsidies) and soft (setting special preferences and pushing a normative model) approaches, but the EU uses a broad set of issues to justify its policies where the US relies more heavily on a narrow agenda.

The next section deals with international negotiations, explaining how the millennium round became the development round. International elites deliberately placed agriculture at the centre of the round and used development arguments to justify its focus. The second section examines differences between US and EU models of trade in agriculture, contrasting US emphasis on market competition and access with the EU's 'multifunctional' approach. The third section looks at attempts by the EU and US to reconcile their agricultural objectives with a 'development' agenda since the 2001 Doha Declaration. While the EU quickly incorporated the linkage between agriculture and development issues into its own rhetoric, the US continued to emphasise the benefits of

free trade. Development issues are party oriented in the US. When Congress became Democratic again in late 2006, development NGOs reported better access to policymakers but still note the difficulties in overcoming entrenched agricultural interests. In contrast, the EU Commission has attempted to use the development agenda to legitimate its position on agriculture, creating new forms of consultation that allow development NGOs much greater access to decisionmakers.

From 'Millennium Round' to 'Development Round'

Between 1998 and 2001, the proposed 'millennium round' of trade negotiations crystallised into a 'development round'. First expressed by international organisations and officials from developed countries, the concept of a 'development round' became a shorthand for a particular vision of the world trading system which was all about increasing the ability of developing countries to participate in the existing WTO framework, while not necessarily adjusting it to fit their needs. The development round discourse is closely associated with 'capacity building' and 'aid for trade' initiatives that accompanied the round, particularly the Trade Related Technical Assistance (TRTA) programme and the peripheral capacity building initiatives attached to American and European bilateral agreements. A 'development round' would enable developing countries to reap the benefits of trade liberalisation.

UK Development Minister Clare Short (1999) called for a 'development round' as early as March 1999, refocusing Leon Brittan's call for a Millennium Round on the elimination of poverty rather than the inclusion of new, non-trade issues (Raghavan 1999). The British Department for International Development (DFID) has a reputation for being particularly open to development focussed NGOs (as noted by interviewees in both Brussels and Washington), and soon after Short's speech, DFID announced that it would cooperate with the World Bank to fund research on trade and development issues (DFID 1999). James Wolfensohn, its President, was an early supporter of a development round. By July 1999, the heads of the United Nations Economic and Social Council and the United Nations Conference on Trade and Development had both publically declared support for a 'development round' (Business Line 1999). These sentiments were echoed by the new Director General of the WTO, Mike Moore (Moore 1999) and Joseph Stiglitz, Chief Economist of the World Bank in September (Stiglitz 1999), and in October by the OECD (China Daily 1999) and Supachai Panitchpakdi,

Thailand's Deputy Premier and Commerce Minister (Anders 1999) , due to become Moore's successor in September 2002.

At the same time, the US and the EU were still attempting to promote the inclusion of labour and environmental standards in the round. The Clinton administration in particular was responding to strong domestic pressures from trade unions and environmentalists. USTR Charlene Barchefsky commented that "It's important that the WTO catch up with the domestic political reality of these issues" (Moulson 1999). In characteristic style, the EU sought to combine labour, environment and development issues in the new round (see Chapter 4 above). By November, EU officials referred to the forthcoming round as a 'development round' in position papers, and pushed the rhetoric of 'sustainable development' in public, pressured by development and environment NGOs in Brussels. EU Trade Commissioner Pascal Lamy attempted to use development language to his advantage, promoting the EU's decision to offer tariff free treatment to 99 per cent of imports from LDCs – the Everything But Arms initiative (Kenety 1999). In December, he warned a group of ACP trade ministers that 'the EU's determination to make the new round a Development Round is not shared by everybody' (Kenety 2000).

By the time of the Seattle meeting in December 1999, both the EU and US had announced their intention of making the round a 'development round'. But labour and environmental standards were still a stumbling block for the Clinton administration. Charlene Barchefsky's team pulled out of a joint press conference with the EU on development at the last minute and stressed to journalists that progress on development issues would depend on legislation going through Congress on Africa and the Caribbean (Marshall 1999).

The professed desire for a 'development round' did not have very deep roots. In the months leading up to the Doha ministerial declaration, neither the EU nor the US were focussed particularly on the needs of developing countries. The US was busy pushing for an ambitious agricultural reform agenda (Kanth 2001), while the EU emphasised its desire to include environmental policy in negotiations –particularly WTO recognition of the precautionary principle, a longstanding EU guiding principle which states that a course of action should not be followed until there is reasonable certainty that it will not cause harm. Developing countries became concerned that the EU would use 'green' excuses to validate protection for European agriculture. The US also opposed the EU's suggestion. American negotiators could not 'understand European concerns. Evolving case law suggest that environmental law trumps trade: but

politicians in Europe, used to laws based on a civil code, like the rules to be clear in advance' (The Economist 2001).

By the time of the November 2001 Doha ministerial, the EU had lost this battle, and the new American administration had signalled to other WTO members that it would drop its emphasis on labour and environmental standards. It was clear that a repeat of the chaotic Seattle ministerial could kill the round altogether. Developed countries were under pressure to save the system they had created in the face of strong criticism from developing states. This paved the way for Michael Moore, then Director General of the WTO, to suggest that the talks should be named the 'Doha Development Agenda' (Koppel 2001). The name stuck.

Moore is widely credited with transforming the 'Millennium Round' into a 'Development Round' and restoring the reputation of the world trading system after Seattle. Moore and his team had barely been in office for three months at the time of the Seattle ministerial, and he blames this lack of preparation time for the failure of the talks. After the battle, he set about 'making agriculture a development issue', in order to bring 'Africa, most of Asia and Latin America together on a common agenda' (Moore 2003:114). He hoped that this strategy would cut across the round's major divides: divisions between the EU and the US (backed by the Cairns group) over agricultural market access and export subsidies and between developed and developing countries over the introduction of new issues and the implementation of old ones, bringing developing countries together to push for agricultural liberalisation in the US and EU. Pascal Lamy followed this strategy within the EU itself, seeking to use a development agenda to limit the influence of his counterpart in DG Agriculture, Franz Fischler (Van den Hoven 2004)

The word 'development' occurs 63 times in the Doha declaration. Moore articulated this new focus:

'In agriculture, all countries, but particularly developing countries, stand to gain substantial commercial benefits under the negotiating mandate. Currently, according to the OECD, rich countries pay out \$1 billion a day to their farmers in agricultural subsidies; that is more than 4 times all development assistance going to poor nations. Negotiations will open markets and offer better conditions of competition' (Moore 2002a).

The pitch to developing countries was that the round would be worth far more to them than increased aid, tackling some of the issues that had been left over from the previous round and leading to faster economic growth. This argument was backed up by research from other international organizations, such as a World Bank research programme

which found that cutting agricultural subsidies and tariffs would raise real incomes in Sub-Saharan Africa and Southeast Asia (Anderson and Martin 2005).

At the Doha meeting itself, developing countries came under pressure from the US and European countries to accept the declaration. Developing states were keen to protect future development assistance, preserve the prospects of a WTO waiver allowing EU/ACP tariff concessions, and to be seen as collaborators, not dissenters, in the 'war against terrorism'. Developing country representatives also recount that developed countries, particularly the US and EU, collaborating with the Chairman and Mike Moore, used procedures to force developing countries to compromise -excluding countries from green room sessions³³, holding numerous informal meetings, removing bracketed passages (indicating points of disagreement) from the text, and then announcing to the Committee of the Whole on the last day that the document was now agreed and that changes were no longer possible (Wolfe 2004:581). They allege that Moore telephoned ministers over the weekend to persuade them to accept the introduction of new issues (Kwa 2003; Wade 2004). Moore went so far as to express his opinion in print, writing an article in the Financial Times in February 2002 that encouraged developing countries to accept the new issues (Moore 2002b).

Models of Agricultural Trade: Market Access & Multifunctionality

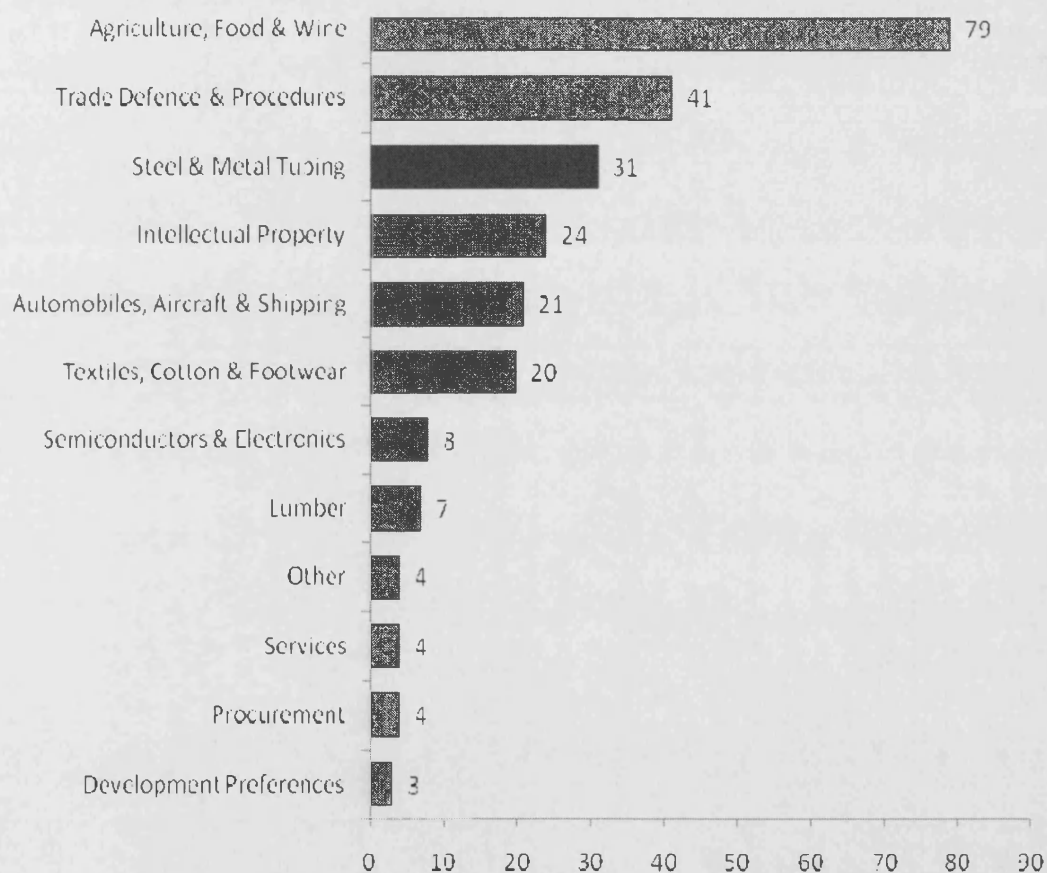
American and European models of agriculture are different, and these differences have consequences for their positions in agricultural trade negotiations. In the Doha round so far, the US has pursued a narrowly focussed market access agenda, while the EU has attempted to justify its actions on the basis of other 'trade and' issues. In a study of the Doha round negotiations on agriculture, Patrick Messerlin identifies four main motives for states: maintaining the current lifestyle for farmers; providing preferential access to goods; linking support for agriculture to environmental issues; and expanding market access abroad. He found that while the US was consistently strongly motivated by opening markets abroad across key agricultural products, the EU more often employed strategies that linked agriculture to environmental issues (Messerlin 2003:6).

The EU and US are both seen as agricultural protectionists by the rest of the world. As things stand, agriculture accounts for a comparatively small proportion of their GDP, while the subsidies they provide for agriculture are extensive. Agriculture is

³³ Small working group meetings of select WTO members.

a relatively 'new' issue in trade negotiations, exempt from negotiations until the Uruguay round (1986-1993), and a continuing major source of contention in the Doha round. Agriculture is the most disputed trade issue in multilateral settings (figure 5.2), with the EU and US involved in more WTO disputes concerning agriculture than any other issue. Debates addressing agricultural liberalization in the WTO are split into three 'pillars': arguments over increasing market access by lowering tariffs, over reducing the volume and value of exports that receive government subsidies, and about decreasing levels of domestic support for agriculture such as price supports.

Figure 5.2: Trade Disputes involving the EU or US, 1996-2006



Source: WTO Dispute database, www.wto.org, author's coding

The EU and US are protectionist in different ways (table 5.3). The EU is the worst offender in terms of domestic subsidies and tariffs (23%). The US is considered to have much less to give on tariffs, with its average at 12%, but has a poor record on domestic support, which is slowly increasing. Both EU and US agricultural tariffs do fall way below the WTO average of 62%, but as developed countries with complex institutions, they have many other, less transparent ways to support the agricultural sector.

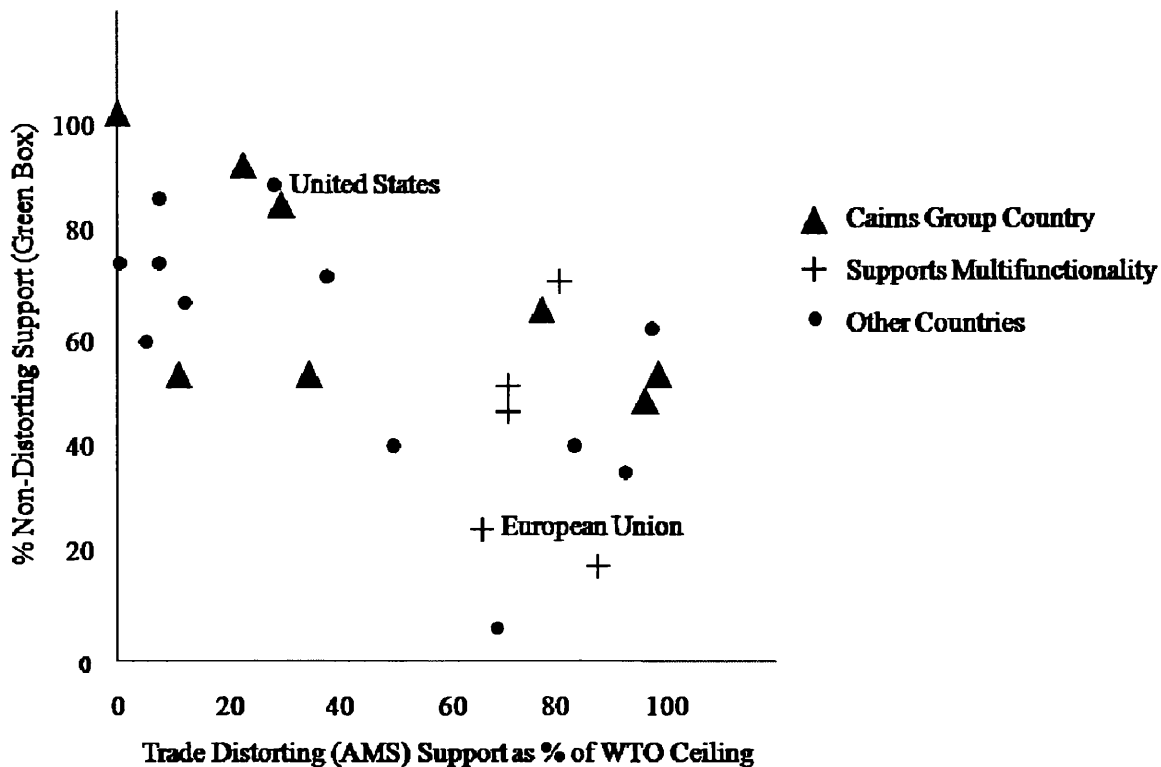
The third pillar of the Agreement on Agriculture differentiates between domestic support policies that are acceptable under WTO rules, such as domestic food aid or environmental programmes, and ‘trade distorting’ policies, including market price support and input subsidies. A country’s ‘aggregate measures of support’ (AMS score) is used to compare levels of domestic support between WTO members and place their policies in one of four ‘boxes’: red (forbidden- this box no longer exists), amber (trade distorting), blue (amber box with conditions designed to reduce distortion), or green (non-distorting). The controversial ‘blue box’ contains policies which encourage farmers to limit production but are not linked to prices and volume of output. In the Doha round so far, the blue box has been strongly supported by the EU and opposed by the US.

Two groups of countries have taken up opposing positions which correspond closely to these different models of EU and US agriculture. The Cairns Group of 19 Latin American, African and Asian Pacific countries strongly opposes export subsidies and amber box domestic supports. The group was formed in 1986 as a reaction to increasing EU and US agricultural subsidies. They argue that continuing to allow Americans and Europeans to subsidise their farmers while the EU and US push for developing countries to open their markets is unfair. These countries tend to have low AMS scores, meaning low levels of support for agricultural products as defined for the purpose of WTO negotiations.

Table 5.3: Trade and Agriculture	EU	US
Agricultural Subsidies		
Est. Total Support to Agriculture (2004) \$m	152 807	103 482
% of GDP	1.2	0.9
Producer Support Estimate (2004) \$m	109 577	42 869
Agricultural Trade		
% of Total Exports (2004)	6.5	9.7
% of Total Imports (2004)	8.4	5.8
Average Agricultural Tariffs	23%	12%

Source: OECD <http://hermia.sourceoecd.org/upload/5106051e.pdf>

Figure 5.4: How America Thinks: Agricultural Support Before the Doha Round



Source: (ERS and USDA 2000)

Figure 5.4 is interesting because it comes from a USDA publication. It plots ‘green box’ subsidies, ‘good’ support measures allowed under WTO rules, on the y axis and ‘trade distorting’ support along the x axis. We can see that while the US provides a high percentage of ‘good’ support and a much lower percentage of trade-distorting support, EU support is mostly classified as trade-distorting. When plotted like this the US seems to fit very neatly within the Cairns group of countries, flanked in the diagram by Australia and Brazil. The US sided with the Cairns group during the Uruguay Round negotiations, and as a result was successful at tilting the negotiations in favour of the US agricultural model.

The group’s arguments resonate with the image that the US likes to project on trade and agriculture: one of freer trade and open markets. What the diagram doesn’t tell us is that the vast majority of US support in the green box is food aid: agricultural products bought by the US government and supplied (often sold) to developing countries. The US is almost exceptional in allowing private voluntary organisations to sell food aid to fund their development projects –most other countries donate their food (Murphy and McAfee 2005). This ensures an income for farmers when the price of agricultural goods drops in world markets and creates new export markets abroad. This is at the heart of the US model of agricultural support.

The second group of countries support the concept of ‘multifunctionality’ in WTO negotiations. They argue that domestic support for agriculture performs other

functions than subsidising farmers, such as protecting the natural habitats or sustaining rural communities. These countries, unsurprisingly, tend to have high AMS scores. The EU argues strongly for agricultural multifunctionality, with the Council of Ministers advocating the multifunctional ‘European model of agriculture’ (DG Agriculture 1997). This argument dates back to the first days of the European Community’s controversial Common Agricultural Policy (CAP). Proponents of the CAP argued that ‘agriculture was the defining condition of rural space and the purpose of the CAP was to create the conditions under which family farms and rural society could flourish’ (Potter and Burney 2002:39). The next sections explore European and American positions in more detail.

The US: Opening Markets Abroad

‘By helping highly efficient and productive American farming operations, US farm policy also protects millions of acres of wildlands in the Third World where low efficiency, low productivity agriculture would otherwise increase’ (House of Representatives Committee on Agriculture 2002).

This quotation, from a leaflet in support of the Farm Security and Rural Investment Act of 2002, shows the US Congress at its most protectionist. The leaflet sets out various arguments in justification of agricultural subsidies, arguing that they make America more secure, produce cheap, good quality food, and help ‘all-American farm families’. Support for farmers in the US goes back to the great depression in the 1930s, and still evokes strong feelings despite the fact that farmers now make up a much smaller proportion of the population. In addition, each member of Congress represents a specific territory, and agriculture is concentrated in certain areas. Large rural states with smaller populations and more populous urban states are represented alike by two Senators each, giving farmers an advantage in the Senate.

Despite the focus on agricultural liberalisation in the Doha round, the US Congress has passed two farm bills since 2001, the Farm Security and Rural Investment Act of 2002, and the Farm Bill 2008. This fits a pattern that Congress followed during the Uruguay round, raising the level of agricultural support during the negotiations in order to lower them again per any commitments made in the final agreement.

Table 5.5: US Groups with the Most Trade Advisory Committee Members

Organisation

No. Representatives

American Farm Bureau Federation	5
Cargill, Inc.	5
Grocery Manufacturers of America	4
Altria Corporate Services, Inc.	3
American Forest & Paper Association	3
Monsanto Company	3
National Electrical Manufacturers Association	3
State of Idaho	3

Source: Author's calculations, from information published by participating agencies, 2006.

Agricultural groups are well-known in the US for being solid iron triangles – close relationships between Congress, interest groups and bureaucrats which make it almost impossible for outsiders to break in. Interest group money has a strong effect on US agricultural policy (Gawande and Hoekman 2006). In USTR's formal consultation process, the American Farm Bureau Federation and Cargill Inc. have five representatives each sitting on trade advisory committees, more than any of the other groups. More agricultural groups participate in the trade advisory committees than any other type of group (table 5.5).

The USTR takes a more competitive approach to agriculture than the US Congress (Coleman et al. 2004:106), aiming for the 'total elimination of trade-distorting subsidies and barriers to market access', an agreement which will 'substantially decrease and harmonize levels of trade-distorting domestic support' and 'a substantial increase in real market access opportunities both in developed and major developing economies' (USTR 2004b). The US proposals on agriculture during the Doha round prioritise the creation of market access opportunities for US farmers. One iteration, put forward by Portman, sees reform in two 'stages', in the first stage, 'WTO Members would phase-in deep cuts in trade-distorting support and tariffs, thereby creating effective new market access opportunities', only in the second phase would WTO members 'deliver on the elimination of remaining trade-distorting practices' after a 'period of consolidation' (USTR 2005b). The USTR's role therefore, is not to work against farmers in favour of consumers or other industries. It can be better understood as a broker for agricultural interests, seeking greater market access abroad as a first priority.

Negotiators also believe they must keep subsidies to use as leverage. As one prominent US agricultural negotiator remarked, 'We don't get rid of subsidies because we need them as a bargaining chip for getting the EU and Japan to reduce theirs' (Trade Negotiator, Washington DC, June 2007). One might argue that if negotiators see their tariffs as necessary bargaining tools, then multilateral talks within the WTO framework

are not serving their purpose.

The EU: Let Them Eat Subsidies

'The EU has a keen interest and much to gain in these areas and as we know from the Uruguay Round, negotiations have a much better chance of success if there are possibilities to achieve trade-offs between differing sectors. It is not in our interest for the focus to be exclusively on agriculture' (Brittan 1999).

The EU's Common Agricultural Policy (CAP) creates a huge problem for any European Trade Commissioner. In operation since 1962 and one of the oldest collective European initiatives, the CAP provides subsidies for farmers and agricultural exports. Despite a series of reforms which have caused it to fall as a percentage of the EU's budget, the CAP still accounts for nearly half of total EU expenditure (47% in 2006). The benefits of the CAP are not evenly distributed amongst member states: France has a large proportion of European agricultural land and is the largest beneficiary of the CAP. Spain and Germany also receive substantial support. Agricultural groups in the EU have traditionally reflected this bias, seen in the high number of French groups and the predominance of French as the language of agricultural policy. Even the UK's National Farmers Union represents itself within the EU as the 'Bureau d'Agriculture Britannique'. French resistance to the agricultural aspects of trade agreements is at least partially due to the willingness of French farmers to resort to direct action and cause widespread disruption (Nugent 2003:392).

These traditional cleavages have changed with the changing nature of the EU. The influence of large agricultural associations on the Commission has declined in recent years, as the Commission has been required to carry out agricultural market reforms (Grant 1997:170). The enlargement of the EU into Eastern Europe has enlarged Europe's agricultural land and changed traditional patterns of influence among member states, although the new states are not entitled to the same level of support as old Europe. Agricultural lobbyists have found that they are dealing more often in English in their day to day work and adapting to the new demands of 27 member states (Agriculture Association Representative, Brussels, November 2006).

Subsequent reforms of the CAP have made it more multifunctional in nature, meaning that officials aim to pursue multiple goals with one policy, rather than simply focusing on food prices and output. WTO negotiations have created an important incentive for agricultural reform within the EU. In addition to replacing indirect with direct forms of support, the 1992 MacSharry reforms introduced new aid programmes to

assist rural development, environmentally friendly agriculture, and re-forestation of agricultural land. Agenda 2000 expanded these programmes, with a new regulation promoting regeneration and diversification in rural areas and stronger environmental provisions (DG Agriculture 1999).

The position of agricultural groups can strongly conflict with that of development groups, who favour subsidy cuts at home and deviation from the international low tariff agenda in developing countries (Agricultural Association Representative, Brussels, September 2006).

As in many policy areas, the EU seeks to find consensus between these opposing views. Key to this argument is the acceptance of agricultural multifunctionality and pro-development policies as compatible. A large proportion of EU arguments for 'trade and' policies in areas like agriculture and the environment insist on the importance of public opinion and shared values – they make claims about a shared European way of life. There is an established EU agenda here: 'sustainable development', meaning that the EU's demands for agricultural multifunctionality – environmentally sustainable, promoting rural development- and development assistance are seen as compatible. These alternative 'public goods' can include 'a pleasant-looking and environmentally friendly countryside, a stable social infrastructure and cultural heritage built on small towns and villages, high standards of plant, animal and public health, or quality artisanal foods based on centuries-old environmental payments' (Coleman et al. 2004:97).

But the multifunctional model faces significant challenges from both the WTO framework and from within the EU itself. The EU's multifunctional view of agricultural policy and its strong emphasis on health and safety issues played a strong role in its moratorium on genetically modified products in 1999. Looking at its record of decisions, the WTO displays a tendency to downplay the role of 'non-science' –values and public opinion- in risk regulation cases such as the GMO foods case. The SPS agreement, for example, contains a version of the precautionary principle, but it is much narrower and is restricted to scientific criteria only (Lee 2005:109).

At the time of writing, tensions are high between the French government and the Commission. With the French assuming the European Presidency on 1st July 2008, French President Nicolas Sarkozy launched criticisms against the Barroso Commission, and in particular against Peter Mandelson. Speaking at a press conference, Sarkozy used development arguments to justify French support for agricultural protection:

'A child dies of starvation every 30 seconds and the Commission wanted to reduce European agriculture production by 21 per cent during World Trade Organisation

talks. This was really counter-productive...Frankly, there's only one person who thinks like that and it's Peter Mandelson and it's not France's position' (Wagstyl et al. 2008).

Speaking on British television on 1st July, Peter Mandelson hit back at Sarkozy:

'I am being undermined and Europe's negotiating position in the world trade talks is being weakened and I regret that. It is very disappointing because the mandate on which I am negotiating...has been agreed by all the member states. Indeed, at last week's European Council it was again recorded that Europe wants these talks brought to a speedy and successful conclusion with a fair and balanced outcome, and I regret that Mr Sarkozy's intervention last night will make it harder for me' (Mandelson 2008).

This is a familiar pattern in EU agricultural policy. Both the EU Trade Commissioner and the USTR must share responsibility for trade in agriculture with the counterparts in other departments. US trade officials pride themselves on a 'robust inter-agency process' and presenting a unified front in negotiations. Their fight is with Congress, and the USTR clearly anticipates the views of elected representatives. The EU Trade Commissioner, however, must contend not just with bureaucratic rivals but with a powerful, autonomous national President. EU member state governments may exercise de facto vetoes here regardless of the formal process.

Promoting the Trade and Development

Facing strong opposition from developing countries to both the US 'agricultural market access' and EU 'multifunctional' agendas, the US and EU changed position to advocate a development round. This section explains how the EU made strong use of the 'development round' framing while the US did not. Given that the US was generally less protectionist than the EU on agriculture, it is significant that US officials did not decide to emphasise their comparatively friendly position to developing countries.

There is some evidence that Americans and European view poverty differently. In their comparative analysis of poverty reduction policies in the United States and Europe, Alesina and Glaeser ask why some states are better predisposed to providing welfare benefits than others. They found that an 'examination of explanations which we labelled purely 'economic' has left us almost completely empty handed' and so turn to other institutional and cultural explanations (Alesina & Glaeser 2004: 75). One of the factors they find significant is public opinion of the condition of poverty (table 5.6).

Table 5.6: Beliefs About Poverty in the United States and Europe
(Alesina and Glaeser 2004:184)

Belief	US	EU
Believe that the poor are trapped in poverty	29%	60%
Believe that luck determines income	30%	54%
Believe that the poor are lazy	60%	26%

What is striking are the clear differences in perception between two regions with similar levels of economic development. As table 5.6 shows, Europeans are more likely than Americans to view poverty as structural and inescapable. Extrapolating from Alesina and Glaeser's results, we would expect that those states where poverty is seen as structural would find it easier to get support for public aid programmes overseas, and vice versa. We would expect to see higher support for aid in European countries and less support in the US. There is some evidence to support this assertion. Use of foreign aid as a development tool does correlate with the extent of the domestic welfare state (Schraeder et al. 1998). Official Development Assistance as a percentage of GNI is particularly high in Denmark (0.85%), the Netherlands (0.85%), Sweden (0.78%), and Portugal (0.63%), although in other European countries, notably Greece and Austria, it is much lower. The US comes in last among OECD donors, giving just 0.17% of GNI (OECD 2005a).

Globally, however, the contemporary US model of development is winning. There has been a horizontal, gradual drop in levels of development assistance in recent years, while global trade flows have continued to increase (Delamonica et al. 2004: 22). To some extent this reflects a paradigm shift in ideas about the best way to improve conditions in developing countries³⁴. Aid is increasingly seen as a limited tool for economic development. This scarce aid is not always distributed on the basis of need. Colonial and linguistic ties are strong, as we see in the case of UK and India, or Spain and South America (OECD 2005b). Most aid is conditional, but conditions are rarely implemented unless they are already in line with the goals of the recipient country (Ikhide 2004: 129).

As the volume of trade has increased, and economies become more interdependent, trade becomes a much more important factor in ensuring growth. A small percentage increase in exports can provide benefits that dwarf changes in aid provision, whilst global price variations can wipe out aid benefits overnight. Both

³⁴ Confusingly, ODA increased in 2004, but a large proportion of this increase was aid to Afghanistan and Iraq. The United States gives almost three times as much aid to Iraq as to its next greatest beneficiary, the Democratic Republic of Congo (OECD 2005b).

developed and developing countries see trade as a long-term means of reducing dependency upon handouts. World Bank economists Dollar and Kraay³⁵ (2004; 2002) argue that increases in trade flows to the world's poorest countries lead to increased growth, which in turn increases the income of the bottom quintile of the population in poor countries. Globalisation (they take this to mean increased trade flows and lower tariff barriers) leads to 'faster growth and poverty reduction in poor countries' (39). Developed nations see trade as a win-win strategy whereby they can also grow their economies by gaining access to new markets. Donor emphasis on trade is seen in the growing proportion of aid that tied to trade capacity building measures such as Trade Development Assistance, which totalled US\$2,184 million in 2004 (WTO/OECD 2005: 9).

Table 5:7 Official Development Assistance and Aid compared to Total Trade by Income and Region
(Glasius 2005: 313)

Income	Aid in % GNI 1993	Aid in % GNI 2003	% Change 1993- 2003	Total Trade in % GDP 1993	Total Trade in % GDP 2003	% Change 1993- 2003
<i>Low Income Countries</i>	4.1	3.0	-26	34.3	44.8	31
<i>Middle Income Countries</i>	0.7	0.4	-39	46.9	62.5	33
<i>High Income Countries</i>	0.0	0.0	-62	36.9	45.0	22
<i>Low & Middle Income</i>	1.4	1.1	-22	45.1	60.0	33
East Asia & Pacific	1.1	0.4	-67	49.3	80.8	64
Europe and Central Asia	1.0	0.8	-23	63.9	69.8	9
Latin America & Caribbean	0.4	0.4	-6	31.9	45.8	44
Middle East & North Africa	1.3	1.0	-20	62.6	61.6	-2
South Asia	1.4	0.8	-42	24.2	33.5	38
Sub-Saharan Africa	6.3	6.0	-6	56.2	64.5	15
<i>World</i>	0.3	0.2	-17	38.4	47.6	24

It is this discourse which emerged in the Doha declaration and became linked with calls for agricultural liberalisation, with an emphasis on how developing countries could be assisted in participating in this and future multilateral rounds. Policy experts' prescription for the Doha round consisted of three steps. First, negotiations must ensure better market access for goods and services which does not exclude important sectors such as agriculture and textiles. Second, 'greater attention should focus on ensuring that WTO rules support development, and are *seen* to be doing so by stakeholders' (emphasis in original). And finally, these rules must be accompanied by an expansion in aid for trade and capacity building initiatives (Hoekman 2002:24). In 2005, the Hong Kong declaration mandated a new WTO work programme on Aid for Trade. At the summit, the EU and its member states pledged to raise trade related assistance to €2

³⁵ This argument is dominant, though not uncontested. See (Rodríguez and Rodrik 2001).

billion per year (DG Trade 2005c) and the US announced that it would double capacity building grants to USD 2.7 billion a year (USTR 2005a), both by 2010. In the modern global economy, giving money to build new markets has become a key goal.

The US: Making the Rules

The US has a bad reputation when it comes to negotiating trade agreements with developing countries. American development policies are pragmatic, making links between military and development aid and tying both to principle of freedom (Karagiannis 2004:25). When asked what the US could do to improve its trade policy, one USTR official replied:

'I think as a general matter we need to work on improving our collaboration with other governments...we're a very strong economy, we have a lot of power, we have the ability to impose our will...The way we negotiated with our four partners over the terms of the bipartisan trade deal...it wasn't really a negotiation. It was sort of a "take this or leave it, if you leave it well then you won't have the access to our markets". It was a very heavy-handed thing' (USTR Official, Washington DC, June 2007).

A European business association representative mirrored this view:

'I'm convinced that a multilateral system is better from a development perspective...if you've seen how the Americans negotiate...this is not a negotiation! It's "this is the text, sign here" and that's it' (Business Association Representative, Brussels, November 2006).

US policy is also concerned with rules and the creation of a 'level playing field'. In 2006, the OECD's Development Access Committee reviewed the United States' aid and development policies. They found that since the events of September 11th 2001, 'Development is now part of the foundation of the U.S. National Security Strategy...Since that time, the government has used the logic of national security to resuscitate the image of development cooperation with Congress and the American public'. As we might expect when Canada and the UK are asked to review US policy, the report went on to recommend greater emphasis on poverty reduction, promotion of public awareness of the positive role of development as opposed to defence, and more consultation with civil society groups (OECD 2006). These are all elements which are strongly emphasised in European trade and development policy.

In contrast, most US trade and development policy is made via legislation not regulations, usually on a regional basis. On Africa, the Bush administration inherited two important development-focussed initiatives from Clinton: a focus on both trade and

aid was enabled by the Trade and Development Act of 2000, which created Assistant USTR for African Affairs and the Trade Advisory Committee on Africa³⁶. The African Growth and Opportunity Act (AGOA) also came into force in 2000, and was extended in 2004. In 2003, negotiations were launched towards a US-South African Customs Union (SACU) FTA.

The USTR envisioned that this agreement would eventually become a fully fledged Free Trade Area, with reciprocal benefits for US industries (Mattoo et al. 2002). Despite the strong arguments put forward by the administration and members of Congress for AGOA, the development community in Washington was still divided. One interviewee commented that 'our concern [with AGOA] is that the tendency in trade is to make decisions here in Washington or New York or London or wherever, and not consult the people on the ground...these things are almost unilaterally decided and imposed, so it's kind of neo-colonialism' (Development NGO Representative, Washington DC, April 2006). The same interviewee also mentioned his organisation's lack of access to decisionmakers.

The 1983 Caribbean Basin Economic Recovery Act (CBERA) was expanded in 2000 by the US-Caribbean Basin Trade Partnership Act (CBTPA), to form the Caribbean Basin Initiative (CBI). The CBI provides duty free access for 19 countries for a wide range of goods, giving signatories 'NAFTA-like parity' (Dypski 2003:132). The Acts aimed to 'promote economic development, alleviate global poverty, and create new economic opportunities for American workers and businesses' (Clinton 2000). This is a typical example of the reciprocity of US trade agreements: ideally, they should be 'win-win'.

The US also focussed its attention on its Latin American neighbours. There were two main planks of the US strategy in Latin America after 2001: CAFTA and the FTAA. Starting in 1994, the Summit of the Americas process, spearheaded by foreign ministries of 34 governments in the hemisphere, focussed on broad themes that include 'democratic governance, environmentally sustainable development, and other issues such as gender equality, education, and judicial reform' (Korzeniewicz and Smith 2001:7).

Civil society requests to access the FTAA process were not always heard, however. The Committee of Government Representatives on the Participation of Civil Society was created three years after negotiations started, in 1998. At first, it was little more than a 'suggestion box'. After demonstrations at the Quebec 2001 summit,

³⁶ Which has had an ad hoc, rather than a continuous existence.

attempts were made to increase civil society's role in the process, but these were still weak and mostly for appearances (Barenberg and Evans 2004).

Civil society involvement under later bilateral agreements was developed more fully in cooperation with ministries in signatory countries:

'the agreement provides a framework to encourage co-operation...we actually actively facilitate co-operation between different agencies in the departments of the US government and the departments of the government of Chile. Sometimes the other agencies come to us saying we want to do this and we put it in the work plan, and we ask the Chileans what they are interested in doing and then we work with our counterparts agencies and partners to get them to do things' (State Department Official, May 2008).

Despite this, funding for such initiatives is inconsistent between bilateral agreements, depending heavily on what gets written into the final bill. The resulting 'capacity building' activities are patchy and peripheral compared to their EU counterparts.

Domestically, US development groups are often outsiders, notably absent from the formal consultation process under the Bush administration despite inclusion under Clinton. Development is a difficult issue to sell to elected representatives with territorial constituencies. The links between development and trade are also hard to forge. There is an inherent contradiction between advocating a trade policy that protects citizens and one which promotes the interests of those in developing countries and in the US, this division is deep. Lower tariffs on agriculture and manufactured goods aid overseas development, but could also have harmful effects on domestic constituencies with a limited ability to adjust, hurting the election prospects of Representatives.

US trade and development policy alters drastically depending on partisan politics in Congress. Development organisations interviewed in Washington DC saw their natural arena as Congress rather than the Executive. While the larger groups do participate in roundtable meetings with executive officials, they found these to be largely symbolic with little real input. NGOs interviewed were weak compared to their European counterparts and had much less time to spend working exclusively on trade issues. During the period when the Republicans dominated Congress, many groups are narrowed their agendas, moving away from issues like trade to campaign on acute problems in specific countries or regions that they believed would appeal equally to Evangelical conservatives, such as the recent genocide in Darfur. Although many groups are part of larger coalitions, such as Jubilee USA and the One Campaign spearheaded by Irish singer Bono, they seem to be moving away from comprehensive 'trade, aid, debt', 'development round' or 'agricultural reform' messages towards

individual campaigns on key issues (Development NGOs, Washington DC, April 2006 and July 2007). One interviewee explained the lack of resources his group had access to compared with other regional offices:

'because we're so small we work on particular, specific issues and projects with partners in the US...in the UK we have 200 people...and some of our big countries where we've been for a long time, like Kenya and India, have 200 people, and even Afghanistan we've got 80 people or something...But we have a tiny capacity here' (development NGO rep, DC, April 2006).

Another interviewee backed up this view, arguing that US NGOs have a much harder time presenting their views to elected representatives:

'The influence of [our organisation] is so much stronger in Europe than the US. That being said I think they've really done a great job there carving out a place as being the voice of poverty and really taking responsibility for their positions ...they also have this presence of being in a big organisation with a very big following in the public...We don't have that here...one of the Chairs of the [Congressional] Agricultural Committee... he told somebody, one of [our] staff members here "Why should I listen to you on agriculture issues? You really just represent European interests". It's very depressing, but there you go' (Development NGO Representative, Washington DC, July 2007).

Issues of jurisdiction are key in trade negotiations. How topics are divided up between negotiators can have a big impact on the outcome of the negotiations. This is especially acute given the expansion of the trade agenda: where does one issue area end and another begin? Unlike the EU, the US prefers to keep issues strictly separate in trade negotiations (Anderson and Cavanagh 2004). Officials spend considerable time and effort to coordinate positions across departments before attending meetings. Consultation with private interests is institutionalised and held in advance. According to one negotiator: 'This turns into a negotiating tactic for foreign countries. The US likes to split Agriculture and NAMA [non-agricultural market access], and other countries don't like that', wanting to link issues together and trade off concessions against one another. Although developing countries come willingly to the US to negotiate trade agreements, and officials use development arguments to promote them, the focus is on deals where the US market will gain an advantage (ex-USTR negotiator, June 2007).

The EU: Searching for Coherence

When changing direction from a millennium round to a development round, the EU simply folded development rhetoric into existing policy. In December 2002, the EU

Commission put forward a draft proposal with the headline 'More market opening, less trade distorting support and a radically better deal for developing countries'. The proposal included 'specific actions to give developing countries a better deal', such as duty and quota free access for imports from LDCs, zero duties on half of imports from other developing countries, and a 'food security box' attached to a safeguard which would allow developing countries to shape agricultural markets based on food security and rural development objectives. The Commission also continued to emphasise the importance of environmental issues, especially the precautionary principle, rural development, and animal welfare (European Commission 2002). This multifunctional policy approach has seen animal rights campaigners in the EU attempting to create a joint platform with agricultural and development groups to protect the green box³⁷ and the style of European policymaking which it represents (Animal Rights Campaigner, London, September 2006).

But the European model is under threat. From the 1976 Lomé Convention, trade preferences granted to the group of African, Caribbean and Pacific (ACP) countries were granted unilaterally. WTO rules, however, state that agreements must be reciprocal and non-discriminatory (GATT art. XXIV). In 1999, the US government, under pressure from US corporations who control the production of Caribbean and Latin American bananas, challenged EU trade preferences for ACP countries under the GATT. Despite the fact that only seven percent of Europe's bananas came from the Caribbean, the US does not itself export bananas to Europe, and US multinationals had a near monopoly, the US won the dispute (Barkham 1999). As a result, only preferences granted to all developing countries or all LDCs are now legal under WTO rules. In 2000, the EU began negotiating a series of Economic Partnership Agreements (EPAs), free trade agreements with ACP countries to replace the Lomé conventions. Insistence on reciprocity, however, has resulted in agreements which could prove to be far less pro-development than their predecessors. Development NGOs have expressed concerns that the new agreements will result in lost revenue for signatory countries, that the newly created regional markets will be too weak, and that some ACP countries may not have the infrastructure needed to benefit from increased trade.

The EU has taken certain steps to appease these fears. In chapter 2, the analysis showed that the EU would often attempt to balance its agricultural policy stance with initiatives to promote the Union as 'development friendly'. The EU Trade Commissioner has several policy tools at his disposal to do this. The principle of

³⁷ The 'green box' refers to the WTO category of agricultural subsidies which are 'non-trade distorting'.

coherence indicates that all EU policy must be coherent with its commitments on development. The Maastricht Treaty states that ‘the Community shall take account of the objectives referred to in Article 130 U in the policies that it implements which are likely to affect developing countries’ (Hoebink 2003). EU trade officials under Pascal Lamy moved to fully implement coherence with ‘development friendly’ trade preferences and through greater consultation with development NGOs. At the same time, promoting wider awareness of these initiatives was key to the EU’s strategy.

In 2001, in time for the Doha ministerial meeting, the EU introduced a new system of pro-development trade preferences. The Council adopted regulation (EC) 416/2001, which granted duty free access to all products from least developed countries without quantity restrictions- with the single exception of armaments. This policy became known as the ‘Everything But Arms’ initiative. EU officials promoted the benefits of EBA extensively, taking the moral high ground above other states. DG Trade argued that the US, Japan and Canada should follow the EU’s model policy initiative (DG Trade 2001a).

Secondly, DG Trade introduced a new consultation process in 1999, the Civil Society Dialogue, which provided for a series of regular and ad hoc meetings between civil society groups, Commission officials and, occasionally, the Trade Commissioner himself.

Development groups are not new to the EU – the first ones arrived in the 1950s (Greenwood 2003) and have persisted ever since. They are well organised, and are actively encouraged to engage with the EU by the Commission. The Liaison Committee of Development NGOs (CLONG) was created in 1975. The Commission largely funded CLONG and considered it ‘vital to establish a European-wide network of Development NGOs’ (European Commission 2000) . CLONG was later succeeded by the European Federation for Relief and Development (CONCORD)³⁸, which now represents 1600 European NGOs. The role of these groups has changed since the early 1990s. Compared to American and Asian regional trade agreements, EU agreements emphasise civil society involvement and capacity building (Gamble and Payne 1996), and an increasing amount of EU aid is now delivered through NGOs (Grugel 2000; Freres 2000:415).

Development groups began to pay greater attention to trade issues after the Seattle 1999 ministerial, and were facilitated in this by new forms of consultation with European institutions. The DG Trade Civil Society Dialogue has attracted a multitude of

³⁸ After a financial mismanagement scandal where an audit found that €1 million were either not spent according to regulations or were unaccounted for.

development NGOs. The most influential group interviewed claimed to meet with Mandelson's Cabinet and the Director General of DG Trade approximately once a month and talk with the Permanent Representations every two weeks (Development NGO Representative, Brussels, November 2006). Weaker development NGOs lacked this formal access but participated in the DG Trade dialogue process to gather information (Development NGO Representative, Brussels, October 2006).

Representatives of NGOs which are part of international networks were able to compare their access with that of their counterparts on the other side of the Atlantic:

'I spent a fair amount of time in Europe, networking with European campaigners, especially in the past two years, because it's been really critical that we coordinate...what I've learned from that process is that European governments are in a lot of ways more inherently sympathetic to some of this work. And I know that from looking at, for example, the access that colleagues in Europe have to their finance ministries...There is more of a culture of being able to go and meet administration officials and the political climate is more open to this sort of work' (Development NGO Representative, Washington DC, April 2006).

Another interviewee highlighted the national and regional differences at work:

'Interviewer: Is what you do here in Europe different from what your counterparts do in America?

Interviewee: Very much. The dynamic is completely different. I think despite everything people say about the European Commission and EU member states there is a willingness to listen to us and to sit down -whether they take our demands into consideration is a different story- but I think there is a willingness to engage...when I hear what's going on in Washington and how the lobbying is done and how to approach Congress and the White House I think that the dynamic is completely different...in Washington if you're a correspondent there are so many high profile academics and political players that [development NGOs] can become a bit irrelevant...Are you from Britain? People there are very open to NGOs I have to say, whereas if you talk to a Congressman from the Plains I'm not sure he's so open...the same applies here for Eastern European countries, and Southern [European] countries. If you talk to Italian politicians or you talk to Polish politicians you don't get a very warm welcome. The European Commission and the European players are very much aware of [the differences between the EU and US], they see that the level of engagement is different and they push us to be more engaged and pressure America further and further' (Development NGO Representative, Brussels, November 2006).

It is interesting to note that it is the EU institutions themselves that have placed pressure on development NGOs to expand the lobbying efforts of their American counterparts.

A 2006 evaluation of the dialogue by a group of NGOs known as the European Trade Network criticised it as an ineffective tool that is time consuming and divisive of the NGO community without giving groups any real influence (Development NGO

Representative, Brussels, October 2006). Although participants in the dialogue feel that they have gained valuable information about the positions of other groups, most had not changed their own position as a result. In a recent study (subtitled 'A Voice, not a Vote') dialogue participants felt that some ideological differences were irreconcilable and expressed frustration that some were still clinging to "old fashioned views of what development is" (Slob and Smakman 2006:52). Nevertheless, it is clear that the efforts of the EU Commission to engage with development groups contrast strongly with US consultation strategies.

The EU is not, of course, universally admired by developing countries for its trade and development policy. Market access for some key developing country exports such as sugar and bananas has actually decreased since the introduction of recent 'development friendly' preferences under Cotonou and EBA. Some ACP countries have been rethinking their trade strategies, wanting to pursue trade relations with the US rather than the EU. Others are concerned that enlargement will slow down agricultural reform (Maxwell and Engel 2003:9). NGOs in Latin America have been more focussed on participating in US regional agreements such as CAFTA and the FTAA (Tussie and Botto 2002).

As it becomes clear that the ACP and Doha negotiations will deliver little in the way of development for the world's poorest countries, European NGOs are reflecting more and more the sense of frustration felt among developing countries:

'In the sense of advocacy and lobbying we want war on the Commission. To say "listen, if you come to us months later with the exact same bloody deal...that's just not going to go through" ... We believe [the Doha Round] has failed because of the intransigence of North America and Europe...and developing countries have been saying "no, no, no, no" every step of the way. So which part of "no" - I think it's the Zambian trade minister who said that- which part of "no" don't you understand?' (Development NGO Representative, Brussels, November 2006).

Conclusion

This chapter has examined the creation of the Doha Development Agenda, explaining how and why 'trade and' issues associated with agricultural policy (such as rural development and environmental preservation) and with development (such as aid and capacity building programmes) were advocated by the EU and US. Elite policymakers sought to link the agricultural policy aims of developed countries to the perceived benefits to developed countries from liberalisation in order to form a basis for the negotiations and overcome the impasse experienced at the Seattle WTO ministerial in

1999. In the years since the Doha Declaration in 2001, the EU and US have promoted the Doha agenda and incorporated it into their existing trade agendas in different ways.

Following the lead of WTO officials, the EU tried to develop a broad Doha agenda, linking sustainable development issues at home with those abroad, and pushing for multifunctionality in agricultural domestic support. Incorporating development issues into EU trade policy served a double purpose for EU negotiators: one of popular legitimization of EU policies among developing countries (the use of 'trade and' issues as a policy model) and reassurance of continuing agricultural subsidies as part of a distinctly EU model at home (the use of 'trade and' issues as bargaining tools). This can be seen in the efforts of the European Commission to participate in a dialogue process with key NGOs, and the considerable access given to key development groups when compared to their counterparts in the US. The lack of legal formality in EU trade policy facilitates the ability of the Commission to use development arguments to justify its trade stance. Both the EU and US have increasingly supported capacity building initiatives and 'aid for trade', although EU aid to least developed countries is consistently higher.

Where the EU sought to use a broad agenda to justify its actions between 2001 and 2007, the US has relied on free trade arguments. The USTR justifies its actions as 'opening markets' abroad to the benefit of both domestic agribusiness and the developing country. The agency acts as a broker for its domestic agricultural interests, seeking out new market opportunities. US officials prefer to keep agricultural negotiations separate from 'Non-Agricultural Market Access' discussions, reflecting the special status of the agricultural sector in US trade policy. Agricultural issues are particularly territorial, and as it once did on trade, Congress has a natural tendency to logroll, resulting in higher and higher subsidies. The USTR derives its legitimacy from Congress and cannot ignore this strong message of support for agricultural protection. The USTR advisory committee system is also structured to allow disproportionate access to agribusiness. The formal legal style of US trade initiatives means that a bilateral overture to a developing country over a possible FTA is more likely than an extensive consultation document which details a pro-development position. The large imbalance between agricultural and development interests in the US is summarised perfectly in its dispute against the EU's trade preferences for ACPs under the Lomé convention. Despite the relatively weak economic case for supporting US banana producers, the USTR responded swiftly to their requests and actively pursued them at the international level. As a result of this case, US reciprocity, not EU unilateralism, is

now the international norm for granting trade preferences to developing countries.

All of this reinforces the view that the crucial divide between the EU and US over trade policy is not one of hard or soft power per se but of the delegation and representation mechanisms which underpin each system. While the EU and US have both paid close attention to the needs of agricultural interests, the EU, concerned about its legitimacy amongst European citizens and developing countries, has sought consultation with development NGOs. In contrast, the US acts as a broker for specific agricultural interests, acting on clear legal responsibilities laid out by Congress. The next chapter extends this test to a newer area of policy, trade and health, exploring US and EU positions on access to essential medicines programmes and negotiations on trade in health services.

6 Trading Lives: Health Policy Under TRIPS and GATS

*'...we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all'*³⁹

– Doha Declaration on TRIPS and Public Health, 2001

*'...the Parties affirm that this Chapter can and should be interpreted and implemented in a manner supportive of each Party's right to protect public health and, in particular, to promote access to medicines for all'*⁴⁰

– US-Peru FTA Draft Text, 2007

Governments do not seem prepared for the extent to which trade and health policies could become connected within the next decade. Bilateral and regional trade legislation now commonly contains restrictions on intellectual property rights and drug patents. The developing trade in services agenda includes health and social services, and countries such as India and Thailand are keen to push forward liberalisation in these sectors to promote 'health tourism': patients travelling across borders to receive elective treatments from hip replacements to plastic surgery. The outsourcing of medical services such as transcription is now more common, and large private health providers from America are keen to expand into other markets. Health is a difficult policy to isolate: the liberalisation of financial services such as the insurance sector have a direct impact on the provision of care. The push to break down non-tariff barriers also calls into question domestic regulation addressing food safety and the use of genetically-modified organisms. The transborder spread of infections such as SARS and avian influenza is also related to increased global trade.

This chapter focuses on two of these areas, examining the issues surrounding access to generic medicines in developing countries and the creation of a global market in health services. It extends my argument to an issue area where there is still all to play for: it is issue areas where public spending and public services are at stake such as health, education and social policy where the 'how' and 'why' of 'trade and' policies will develop in future years. In each case, the EU and US have paid attention to different types of interests as a result of their domestic institutional arrangements. In the US, the importance of Congress, Presidential elections and the concentration of the

³⁹ Doha Declaration on the TRIPS Agreement and Public Health, WT/MIN(01)/DEC/2, adopted 14th November 2001.

⁴⁰ US-Peru Free Trade Agreement, draft text as revised 10th May 2007, Chapter 16, Article 16.3.

health services sector in certain districts and states have all influenced the politics of trade and health. In the EU, the strong influence of diffuse groups such as development and public health NGOs at the European level has been key to shaping the EU's broad agenda.

The TRIPS (Trade Related Intellectual Property Rights) case is unusual here due to the unprecedented degree of success enjoyed by fair trade groups. Unlike in the other two cases, the access to medicines movement has been truly transatlantic. Where trade unions might coordinate their strategies through an international confederation, and development NGOs through different national branches, the access to medicines movement was, from an early date, an international collaboration with a small number of policy entrepreneurs meeting face to face and enlisting the support of international organisations. Their persistence and joined up strategy resulted in one of the biggest successes for any fair trade coalition. Through advocacy efforts in Washington and Brussels, and by providing legal and technical expertise to developing country governments, the coalition helped to push America and Europe, two regions with huge pharmaceutical industries, towards a more flexible interpretation of intellectual property which affirmed the rights of developing countries to manage their own health affairs (Shadlen 2004).

The anti-GATS (General Agreement on Trade in Services) movement, by contrast, has remained small and uninfluential, yet the issue is still a good illustration of the differences between the EU and the US. In the EU, Pascal Lamy announced a moratorium on health services in the GATS negotiations. Although interest groups were a relatively small part of opposition to the health services negotiations, the EU Commissioner was representing the many interests that strongly opposed health sector liberalisation through an international trade agreement. In contrast, the US has pursued this agenda with vigour, pushing the interests of its private health sector, which is an increasingly large part of the US economy and one of few sectors where there is a trade surplus. In contrast to the TRIPS debates, in neither case have criticisms of the GATS become high profile public issues.

There is considerable potential for trade and health policy to develop along the lines of other 'trade and' policies. Health care is a controversial issue, and removing barriers to competition in health could stir up some very strong disapproval. Blouin makes five recommendations to ensure that trade and national health policies do not conflict: 'space for dialogue and joint fact-finding; leadership by ministries of health; institutional mechanisms for coordination; meaningful engagement with stakeholders;

and a strong evidence base' (Blouin 2007). These are exactly like the measures already implemented (through different channels) by the EU and US in other trade-related policy areas (see Chapters 4 and 5 above). As we have seen, these measures are much talked about, but not necessarily effective. Domestic institutional arrangements directly influence the effectiveness of any consultation or data gathering exercise. Governments must have the will to enforce; awareness among the public and elected representatives must be raised; funding must be guaranteed. If these measures are ineffective or rarely used in developed countries with stable and fairly efficient infrastructure, are they viable in countries with fewer resources?

The next section examines EU and US support for the 'access to essential medicines' campaign, showing that support for the campaign in the US is governed by partisan politics and in the EU by the need to legitimate the EU project by enlisting interest group support. The rest of the chapter explains the different approaches the EU and US have taken towards including health services in the General Agreement on Trade in Services. Here again, the US is keen to promote the interests of its large private health sector and those members of Congress who support it, while the EU is concerned with maintaining its legitimacy in the face of opposition from its member state governments. The chapter concludes that health services may well shape up to be the next big battleground, comparing the patterns seen here with those already established on labour, the environment, development and agriculture.

Intellectual Property Rights and Access to Medicines

Both the EU and the US are huge markets for medicines. EU member states are the world's largest exporters of pharmaceuticals, exporting \$214.5 billion worth in 2006, \$85.3 billion of this to countries outside the EU, and importing \$172.8 billion, of which \$43.6 billion came from outside the EU. The US exported \$29.1 billion and imported \$46.2 billion, a comparatively smaller amount, but nonetheless second only to the EU (WTO 2007b). Developing new medicines is an enormously time consuming and expensive task. Pharmaceutical companies based in America and Europe are responsible for the majority of research and development spending on drugs: US companies make up 49% of R&D spend on medicines worldwide. Pharmaceutical R&D makes up 23% of total R&D in the UK, 20% in France, and 19% in Germany (BERR 2006). Out of the 23 disputes notified under TRIPS, the US is the primary complainant in 17 (74%). The

EU is the primary complainant in 6 (26%). One other dispute was initiated by Canada, and another by Brazil⁴¹.

Given the strong interest of Europe and America in protecting their domestic industries, it is not surprising that the EU and US responded positively during the 1980s to demands from a coalition of businesses for greater protection of intellectual property rights, pushing for these protections to be incorporated in the new WTO framework. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) came into effect on 1 January 1995. Using a decidedly European metaphor, TRIPS constituted the third of three 'pillars' of the WTO, along with trade in goods and trade in services. Unlike the other two pillars, however, the agreement is protectionist in nature rather than liberalizing. The agreement sets out minimum standards for the protection of intellectual property, including patents on pharmaceuticals, which must be made available for 20 years. Business interests had pulled off an enormous coup: at the core of an organisation which aimed to pull down trade barriers, they had placed an agreement which effectively protected their rights, and economic interests, over those of more diffuse groups.

Not all players in the international community were happy with the agreement. Developing country governments, in particular, found that although TRIPS gave them the right to use certain policy instruments to tackle health problems such as the rapid spread of AIDS and tuberculosis, actions by developed country governments often violated the spirit of the agreement. Countries with little international power or economic autonomy were struggling to assert their TRIPS rights in the face of pressure from powerful creditor and donor states.

It was from this standpoint that developing country governments sought a further agreement which would clarify their rights. In 2001, intense activity on this issue on the part of governments and NGOs brought about just such an agreement. The Doha Declaration on the TRIPS Agreement and Public Health confirmed the flexibility of TRIPS, clarified the right of countries to issue compulsory licenses to promote public health and made clear that crises relating to epidemics such as HIV/AIDS, tuberculosis and malaria could serve as grounds for issuing such licenses (Shadlen 2004:95-6).

The Doha Declaration succeeded in clarifying the rights of developing countries and strengthened the hand of groups seeking to hold developed countries to account in undermining the flexibility of TRIPS. But this did not solve the problem for countries without the domestic capacity to manufacture generic medicines. In order to tackle

⁴¹ Author's calculations, based on data available at www.wto.org, accessed May 2008.

severe health problems, these countries would have to import the drugs from overseas under a compulsory licence granted by the foreign government— something that the TRIPS agreement did not allow⁴² and the Doha Declaration did not address (Shadlen 2004:96).

After failed attempts to address this problem, 2003 brought a significant turning point. WTO members agreed to a partial waiver of TRIPS restrictions on granting compulsory licenses for export in national emergencies –along with some significant new regulations and restrictions designed to prevent the rules from being used to justify more routine transactions (Shadlen 2007:568). WTO members made these changes permanent in December 2005 by amending the TRIPS agreement -the first time a WTO agreement had ever been revised.

Aside from power struggles between state actors, the TRIPS agreement and the 2001 Doha Declaration represent important victories for two very different types of interest group. Susan Sell and Aseem Prakash (2004) explore these two competing normative frameworks –the pro-IPR business lobby that pushed for the tough intellectual property rights contained in the TRIPS agreement, and the subsequent NGO campaign for better developing country access to essential medicines. The campaign against TRIPS grew out of actions by policy entrepreneurs with expert knowledge and a strong commitment to the issue. In the US, individuals such as Jamie Love and Ralph Nader started getting involved in these issues soon after TRIPS was agreed. Gradually, more individuals and groups began to get involved, not just in the US, but across the world. A small but motivated international network formed around the issue, and won the support of international organisations such as the United Nations Development Programme, the World Health Organisation and the World Bank (Sell 2003:146-162). While successful lobbying by major pharmaceutical companies led developed country governments to push for a highly protectionist agreement on IPRs, lobbying efforts by pro-access groups assisted developing countries in securing their own rights. The following two sections take a closer look at the domestic politics of IPRs and health in the US and EU.

The US and Access to Essential Medicines

America's huge health market makes the availability of affordable medicines a major domestic policy issue which at times overshadows the foreign policy aspects of

⁴² TRIPS Article 31f states that the granting of a compulsory licence 'shall be authorized predominantly for the supply of the domestic market of the Member authorizing such use'.

intellectual property rights. In the late 1980s and early 1990s, HIV/AIDS activists in the US were heavily focussed on campaigning for better awareness and improved funding and access to treatment within the US, and had few resources to consider or tackle the international dimensions of the issue.

At the same time, the HW Bush and Clinton administrations paid close attention to the demands of pharmaceutical companies in designing US trade policy. While texts addressing the protection of labour and environmental standards were added under Clinton as side agreements to NAFTA, intellectual property protection was already in the core of the agreement, discussed in the main text (Chapter 17). While labour and environmental standards were an afterthought, the US administration was already listening closely to demands from the pharmaceutical sector.

This remained the case throughout most of the Clinton administration, even as the access to medicines issue became more contentious internationally. In 1997, for example, South Africa passed the South African Medicines and Medical Devices Regulatory Authority Act. The act gave the South African government the ability to revoke patents on medicines and issue compulsory licences allowing manufacture of drugs to combat HIV/AIDS. US pharmaceutical companies reacted by complaining to the USTR and starting legal action against the Act. The USTR fully backed the pressure on South Africa to revoke the legislation, placing the country on the 301 watch list (Sell 2003:151-2). Countries on the list come under considerable pressure from the US to address the problems identified, under the ultimate threat of trade sanctions.

With the Clinton administration listening to domestic HIV/AIDS activists to some degree, but siding with pharmaceutical companies on IPRs and trade, forging links between these two issues was crucial for pro-access activists. Policy entrepreneurs looking to influence the US government's position on IPR and health were advised to engage with domestic activists such as ACT-UP, a grassroots network formed in the late 1980s to fight for greater availability and affordability of experimental AIDS drugs (Devereaux et al. 2006). Working together, international and domestic NGOs and activists were able to frame IPRs as a public health issue rather than a trade issue, a perspective that the USTR had not previously considered. Critics of AIDS policy and critics of globalization came together to criticise the USTR (at one point activists chained themselves to desks in Charlene Barshefsky's office) and to target Vice-President Al Gore's Presidential campaign (Gellman 2000b).

These efforts were successful in bringing the administration's attention to the problem. Trade Representative Charlene Barshefsky recalls that "Largely it was the

activities of ACT-UP and the AIDS activists that galvanized our attention [to the fact] that there was an absolute crisis' (Gellman 2000a). President Clinton announced his intention to change US policy in December 1999 at the Seattle ministerial meeting:

'Did you see the gentleman holding up the big white napkin here before we started? He was doing that to get the light for the television cameras...Mike [Moore, WTO Director General] whispered to me, he said, "Well, after yesterday, that could be the flag of the WTO" ...the United States will henceforward implement its health care and trade policies in a manner that ensures that people in the poorest countries won't have to go without medicine they so desperately need'(Clinton 1999).

Significantly, in May 2000 the Clinton Administration followed through on this pledge by issuing an Executive Order which prohibited the USTR from putting pressure on countries not to issue compulsory licenses⁴³. The change of framing played a crucial role in convincing the USTR to take on board the interests of constituencies other than pharmaceutical companies, contributing to the efforts of developing countries to get their problems addressed through the global trading system.

Throughout 2001, the new US administration struggled to define its position on TRIPS. In February, the Bush administration announced that it would extend Clinton's Executive order, a distinctively pro-access decision. But other actions contradicted this position. In May, an evidence-based process for revising the essential medicines list was proposed in a World Health Organisation (WHO) discussion document. The proposal was well received, 'with the exception of the USA, which attacked every aspect of the list in a detailed memorandum. Areas of dispute included the applicability of the list to developed countries and cost considerations' (Laing et al. 2003:1726). In June, the US stood up for pharmaceutical companies at a TRIPS Council meeting (Boseley and Capella 2001). In the same month, the US announced that it was rescinding its WTO dispute against Brazil over patents, in favour of bilateral consultation between the two countries. USTR Robert Zoellick stated that this was an example of the administration's 'flexible approach' towards health and IPRs (Bureau of National Affairs 2001).

At the Doha WTO ministerial in November 2001, this 'flexible approach' was tested. The US and its allies underestimated how strongly developing countries felt about TRIPS. The position taken by US officials was very similar to PhRMA's, arguing that the problem was 'poverty not patents' (Odell and Sell 2006:100). Despite publicly acknowledging the arguments of pro-access activists, USTR officials show considerable

⁴³ Executive Order 13155, 'Access to HIV/AIDS Pharmaceuticals and Medical Technologies', May 10th, 2000.

concern for the opinions of concentrated interests and are reliant upon them to provide policy details and overall direction. On this issue as in others, officials appear to see their role as servants of industry, as illustrated in this speech by USTR Robert Zoellick:

'The United States, working with other WTO members and our pharmaceutical industry, has strived to bridge the many differences and sought to develop with others constructive ideas about how to move forward...The consensus now reached in the WTO is a big step forward, removing a major hurdle to a successful Ministerial in Cancun and the overall Doha negotiations...The United States government appreciates the cooperative leadership of the executives of the pharmaceutical companies who are committed to developing the medicines of the future while helping those most in need today' (USTR 2003a).

The formal duties of the USTR reinforce this viewpoint among staff, with many of the USTRs major policy instruments emphasising the agency's action on behalf of private citizens and groups. Under the Trade Act of 1974 (as amended), the USTR has a duty to identify countries that do not provide adequate protection for or enforcement of intellectual property rights or market access to persons relying on and place the worst offenders under 'priority foreign country' status. Countries on the 'priority watch list' are subject to special bilateral attention from the USTR to try to reach an agreement, but may face sanctions if the situation is not rectified, although this is a rare occurrence (USTR 2006)⁴⁴. Developing countries anticipate action by the US before its annual review, and sometimes amend laws accordingly to avoid being put on the watch list. If the USTR resolves the action, the resulting bilateral agreement spreads US norms about IPR protection (Drahos 2001:793). This legal obligation, placed on the USTR by Congress, toughens US policy, pushing it towards legal formality and away from diplomatic compromise.

This is evident in that the US has a history of negotiating bilateral agreements with intellectual property standards that are tighter than those in the TRIPS agreement itself (Fink and Reichenmiller 2005; Correa 2006; Mayne 2005). These tighter standards are known as 'TRIPS-Plus' provisions. Such provisions can

'prescribe the patentability of second therapeutic uses of known medicine, provide a stronger protection for data submitted to regulatory authorities, extend the term of protection, narrow the exceptions to the rights conferred, add conditions on the use of compulsory licenses, proscribe the international exhaustion doctrine, and restrict the grounds for revocation (section 9)' (Morin 2006:41).

Krikorian and Szymkowiak (2007) examine 14 US FTAs from NAFTA onwards,

⁴⁴ The 2006 Priority Watch List named China, Russia, Argentina, Brazil, Egypt, India, Israel, Lebanon, Turkey, the Ukraine and Venezuela for failing to protect against 'unfair commercial use' of undisclosed data submitted by pharmaceutical companies.

scoring each according to the strength of its IP provisions. They find that IP restrictions in US FTAs since 1992 are systematically tougher than those under WTO rules. IP protections in later bilateral deals (the Peru, Panama and Colombia FTAs) are not as strong as those signed earlier with Oman, Bahrain and Morocco, however. Although Krikorian and Szymkowiak argue that this is due to a 'regional effect', there is another plausible explanation. The second set of FTAs were signed after the Democrats regained control of Congress at the end of 2006. With even a limited Democratic majority, these issues found their way onto the agenda again. In the US, unlike the EU, political parties seem to make a difference.

Intellectual property issues were unfinished business for key Democrats heading up the Ways and Means Committee in 2007 (Congressional Staffer, Washington DC, May 2008). In May 2007, the committee agreed a package of amendments to the text of the US-Peru FTA that included an unprecedented number of annexes addressing 'trade and' issues, intended as a model for future FTAs (see Chapters 4 and 5 above). The revised FTA text included a very clear restatement of US commitments to promoting access to essential medicines under the amended TRIPS agreement. Previously, NGOs had opposed the Peru and Colombia FTA text on intellectual property, arguing that the US had not responded adequately to negotiators' alternative proposals and had instead stuck closely to model language provided by pharmaceutical lobbyists (Oxfam 2006:13).

Emphasising the development debates surrounding TRIPS to elected representatives can be tricky. Congress responds to territorial interests above all. Pharmaceutical manufacturers provide skilled jobs and form a key part of the (still growing) health sector in certain states, often against the backdrop of declining manufacturing jobs. Another issue is the high domestic cost of drugs. It is difficult to sell constituents the idea that the US should promote cheap drugs for developing countries when many Americans, particularly retirees, face huge bills for medicines that they cannot afford to pay. From this viewpoint, access to medicines remains a domestic issue, if in a slightly different way to that experienced in the late 1980s and early 1990s (personal communication, health policy expert, Washington DC, May 2007). One pro-access lobbyist described the difficulty in targeting members of Congress:

'...you eliminate completely states where the pharmaceutical industry has a large mass of companies, and then you eliminate all the people who are ideologically just pro-business...you really have to limit down to a few states where you don't have a lot of pharmaceutical companies, where the person has an interest in foreign issues or their staff understand intellectual property issues, and where they are actually

going to trust you to come in and talk to them about it, and they've heard about your organisation. I mean you really start narrowing down. And you have to convince the staffers that they have to take this issue on' (Development NGO Representative, Washington DC, July 2007).

Despite these difficulties, the May 2007 proposal was a clear change in tone:

'there are members of Congress who genuinely care. And it's changing somewhat, not even in the last six months but just over the last ten weeks. There's more engagement...because the Democrats came to control Ways and Means in the House -that was a big deal. Basically, a lot of the [public health] groups have had relationships with the new head of the subcommittee on Ways and Means, Sander Levin, who has always been interested in intellectual property issues. It's all luck. If the Democrats had won the house and Sander Levin didn't come up to be the Chair of the subcommittee, who knows? Maybe none of this stuff would have gone forward. He's really interested in the details, he's always followed this issue...and he had a very good staffer working on this over the last six months. You need all of that to work out just to even get it onto the agenda' (Development NGO Representative, Washington DC, June 2007).

The EU and Access to Essential Medicines

European debates on access to essential medicines focus on external development issues rather than domestic ones. From the late 1990s onwards, a network of likeminded NGOs exerted pressure on the EU institutions, in particular, persuading the previously pro-pharmaceutical DG Trade to change its opinion. The coalition was led by groups such as Médecins Sans Frontières and Health Action International (Sell 2003), widely known as professionalised, knowledgeable and effective⁴⁵. The coalition had a hard task ahead of them. In 1998, in response to the draft World Health Assembly resolution on the Revised Drug Strategy (RDS), DG Trade concluded 'no priority should be given to health over intellectual property considerations', responding to 'considerable concern among the pharmaceutical industry' (t Hoen 2002:210).

As late as June 2001, in a communication to the WTO TRIPS Council, the EC and EU member states firmly stated that they thought that article 31 of the TRIPS agreement already left enough discretion to allow developing countries to grant compulsory licences on public health grounds (European Communities 2001). But by the end of the meeting a consensus had emerged (including the EU) that TRIPS should not interfere with the protection of public health (Sell and Prakash 2004:167). At the September 2001 TRIPS Council, the EU circulated its own draft text which was pro-compulsory licence, while the preferred American text focussed on limiting the

⁴⁵ MSF, for example, won the Nobel Peace Prize in 1999 for its work in war zones.

flexibility of the TRIPS agreement. But the US position became hard to maintain after Anthrax scares in Washington DC highlighted the possibility of a shortage of Cipro, the FDA's approved treatment for inhaled Anthrax (t Hoen 2002:42). By November 2001, the EU had signed the Doha declaration and on World AIDS day, Trade Commissioner Pascal Lamy called for more action going beyond the agreement (DG Trade 2001b).

In 2001, this change in direction was made more concrete in the Commission's Programme for Action (PfA) on AIDS, tuberculosis, and malaria. This was updated by COM(2003)93, COM(2004)726, and COM(2005)179, which covered the period 2007-2011. Council Regulation 953/2003, passed 26th May 2003, was designed to avoid 'Trade Diversion into the European Union of certain key Medicines'. The European Commission argues that the policy 'encourages manufacturers to distribute the medicines in question in the target countries at the lowest possible ("tiered") price, while at the same time recouping their research and development expenditure by charging higher prices in developed (OECD) countries' (DG Trade 2006). When asked to name a particular success from the past few years, several NGO representatives thought that progress on access to medicines had been a big breakthrough (Development NGOs, Brussels, November 2006; Commission Official, London, October 2006).

The pharmaceutical companies' champion among the EU institutions is DG Enterprise. In a series of reports on the sector, DG Enterprise argues that the European pharmaceutical industry is losing ground due to higher labour costs and the 'peculiarities of the public regulatory and health care systems' in European countries, which are impairing the competitiveness of European markets (Gambardella et al. 2000). A representative of a Europe-wide pharmaceutical association explained that DG enterprise was their most important point of contact within the EU:

'They have a pharmaceutical unit established at DG enterprise. They've actually been very good at hosting a lot of high-level stuff - there is a high level pharmaceutical forum going on right now which follows up on the G10 high level fora. There's been a growing awareness that, on the part of DG enterprise in particular, there's a willingness to try and find solutions' (Pharmaceutical Industry Representative, Brussels, May 2008).

The EU took a tougher stance on IPRs as a whole after 2004, with the launch of an 'Intellectual Property Enforcement Strategy' in November of that year. But even this strategy follows general European trends. In its list of 'solutions', the EU includes 'political dialogue', the 'creation of public-private partnerships' and 'institutional cooperation'. The report also highlights the fragmented nature of such policies, as it lists

no fewer than 8 DGs and two other agencies⁴⁶ as responsible for IPR issues, while noting that many of the actual enforcement mechanisms are at member state level (DG Trade 2004b, 2004a).

Members of the European Parliament played a larger role on access to medicines than they have on many of the other 'trade and' issues⁴⁷. The Council Regulation implementing the decision made on compulsory licensing at the December 2005 WTO ministerial harmonised member state legislation on patent law. It was therefore based not just on Article 133 (trade) of the EC Treaty, but also on the Article governing the single market (95), meaning that the co-decision procedure had to be used⁴⁸. This gave the European Parliament a rare opportunity to act on trade policy, and the results were very interesting. Changes to the final text as a result of using the co-decision process included the extension of compulsory licensing to all least developed and low income countries, not just those who are members of the WTO, limits on the remuneration due to the patent holder, and attempts to reduce the regulatory burden on licensees (Cornides 2007). In 1998, when the European Commission joined with US officials to put pressure on South Africa to repeal the Medicines Act, it was the European Parliament that demanded that companies dropped the case ('t Hoen 2002:37).

In May 2006, the European Parliament and Council passed Regulation 816/2006 on compulsory licensing of patents to comply with the WTO decisions of 2003 and 2005. Officials involved in drafting the regulation defend their work against criticisms from NGOs, arguing that the legal process was 'rather swift' and that the Commission's draft was more accurate than the final text and less likely to have to be amended once the TRIPS amendment was adopted (Cornides 2007). Nevertheless, in July 2007, MEPs obstructed plans to ratify the TRIPS agreement on the grounds that the amendment did not go far enough to assist developing countries in issuing compulsory licences – delaying the vote three times before ratifying the agreement in October 2007. In return for ratification, the Portuguese Presidency issued a statement committing the EU to financing technology transfer and the production of pharmaceuticals in developing countries, and the Commission agreed not to include public health or intellectual property provisions in bilateral trade agreements (including the Economic Partnership

⁴⁶ DGs Trade, Internal Market, Agriculture, Taxation and Customs Union, Justice and Home Affairs, Development, External Relations, and Enterprise, the Europe Aid Cooperation Office, the European Anti-Fraud Office.

⁴⁷ See, for example, EP Resolution on Access to Drugs for HIV/AIDS Victims in the Third World 2001 OJ (C343) 300.

⁴⁸ The co-decision procedure requires that the European Parliament adopt legislation jointly with the Council before a measure can be passed – they must agree on the same text.

Agreements) that would damage developing countries' access to medicines (Euractiv 2007). The EU formally accepted the 2003 amendment to TRIPS on 30th November. This shows that if all trade policy was made under the codecision procedure that results would be much more interesting: the Commission's position would be quite different if it had to take the Parliament's views into account *a priori*.

Trade in Health Services

In World Trade Organization (WTO) parlance, 'services' are very nebulous indeed, covering 'everything that you can't drop on your foot' - the intangibles we pay for, including financial, IT and legal services, telecommunications, transportation, construction, and retail, as well as educational, environmental, health and social services. Since the 1970s, an epistemic community of individuals with expertise in the services sector pushed to define crossborder services as a trade issue (Drake and Nicolaïdis 1992). Health services have been traditionally a part of the domestic economy, not traded extensively across borders. Patients and professionals did not often travel abroad to receive or provide treatment; providers were national rather than international organizations, and x-rays, medical transcription and training were all provided domestically. But globalization – in particular the rapid expansion of new technologies – has changed this. Healthcare is no longer a 'personal service' between customer and provider, such as might occur between a patient and local doctor. Telemedicine sends information across borders and oceans; health 'tourists' travel abroad for surgery; nurses and doctors train in one country then move to another; and large health providers are seeking new markets worldwide. Privatization in developing and developed countries (the UK is a good example) means that health services around the world are more likely to be provided by a private company than ever before. A global market in health services is emerging.

The WTO is the likeliest candidate to regulate this market. The General Agreement on Trade in Services (GATS) is an international agreement that came into force in 1995, the same year the World Trade Organization was born. Its aim is to eliminate barriers to trade in the services sector, just as the GATT (General Agreement on Tariffs and Trade) did for trade in goods. The GATS differs, however, in that negotiators aimed to make it more flexible to the needs of governments with very different policy priorities. As a result, where WTO members were allowed to decide which service areas they would commit to liberalization, successive rounds of GATS

negotiations applied greater pressure to open in new areas. As Article 19 of the GATS states, 'Members shall enter into successive rounds of negotiations...with a view to achieving a progressively high level of liberalization'.

All of this seems highly advanced policymaking for a sector in which we have almost no reliable data. There is no established international dataset that can tell us the size and nature of the global health market, and comparing national data is fraught with problems. We can speculate that trade in health services has grown as global trade in services overall has increased, and point to evidence by country to show that certain services such as medical transcription are increasingly being outsourced and that more patients are crossing borders to get treatment, but an analysis of the broader picture is extremely difficult.

Despite this, several countries have made concrete commitments to lower barriers to trade in health services, with several more engaging in negotiations on insurance. The GATS negotiations cover four 'modes of supply':

- Cross border trade: delivery of a service from the territory of one country into the territory of other country. This is most relevant for parts of the health sector where technology has made the outsourcing of telemedicine possible.
- Consumption abroad: supply of a service of one country to the service consumer of any other country. An example would be a citizen going abroad to seek treatment.
- Commercial presence: services provided by a service supplier of one country in the territory of any other country. This refers to a foreign company providing health services in a country via an actual physical presence in that country.
- Presence of natural persons: services provided by a service supplier of one country through the presence of natural persons in the territory of any other country. This would apply to situations where a foreign professional travels to another country in order to provide some kind of treatment.

The WTO recognizes essential government services as lying outside the GATS, but according to GATS Article 1.3, a government service is one which 'is supplied neither on a commercial basis, nor in competition with one or more service suppliers'. This creates a definitional problem of exactly what a government service is, and the rest of the GATS text does not elaborate. This 'constructive ambiguity' allows complex negotiations to be concluded, but causes trouble once the ambiguous phrases are interpreted. The WTO's panels and appellate body are left to interpret these terms (Leroux 2006:345-6).

The broadest interpretation of private services included in the GATS by this definition would include those 'wherever there is a mixture of public and private

funding, such as a user charge or private insurance, or there are subsidies for non-public infrastructure, such as public-private partnerships or competitive contracting for services' (Price et al. 1999:1890). Even applying a tighter definition, the US has the most commercial health market in the world, and it is likely that even the most publicly oriented reform plans will have a privately provided element, as the later sections of this report illustrate. As trade lawyer David Luff (2003) comments, a health service would be excluded from GATS rules if 'supplied exclusively by the government, that is, in hospitals that are entirely dependent on the government and by doctors who are appointed by it and who serve on a completely or nearly gratuitous basis, without allowing the patient to choose among the hospitals or doctors available. This is seldom the case.'

Some of the disciplines on domestic regulations are modelled on language formulated to regulate the accounting industry. In addition, negotiators and those advising them are seldom public health advocates.

The most important feature of the GATS –the main reason that it could be negotiated at all- is that it allows differential commitment to the talks. Participating countries have more say over which sectors they commit to the services negotiations. Cooperation between countries on 'immigration, labour-market policies, professional standards, mutual recognition, and licensing norms' takes place within the GATS, OECD, WHO and in regional organisations such as NAFTA and the EU (Chanda 2002:41). But although regional trade blocs have promoted liberalization in cross-border health services, they have been less successful in harmonizing the healthcare regulations and standards, particularly common standards for the licensing of professionals (Chanda 2002; Cortez 2008). GATS proved disappointing for business lobbies. It is a fundamentally weaker agreement than the TRIPS- the private sector wanted a much bigger liberalising agreement, but the GATS allows many exceptions (Sell 2003:166-7).

US Health Services

Americans often think of themselves as a nation of growers, producers, or manufacturers, but today the US is mostly a nation of service providers. In 2005, service industries accounted for 68% of US GDP, 79% of real GDP growth, and 80% of employment (USTR 2007). Before even a paragraph of commentary was written on the subject, trade and US healthcare were already intimately linked. In theory, trade should

provide the means to fund the US healthcare system, through employment, wages or taxed profits which provide insurance coverage. But globalization has fundamentally changed the way the American economy operates: better transport links and rapid information exchange have altered the way products and services are provided, stretching supply chains across the planet. Although this generally means cheaper prices for consumers and increased employment opportunities in developing countries, it also means that the number of good jobs in the US with high quality healthcare and pension benefits packages has decreased as manufacturing jobs have moved overseas.

Many commentators have questioned the ability of the American healthcare system to deliver efficient, cost-effective, good quality care, and US healthcare costs continue to rise dramatically. In 2004, total health spending accounted for 15.3% of GDP in the United States, the highest in the world. The US spends more per capita than any other OECD country, \$6102 per person: 55% of this is private money, (\$3374 per person) while public funds make up the other \$2728. In comparison, Canada spends \$3165 per person: \$956 from private sources and \$2209 from the public purse. The public sector is the main source of healthcare funding for all OECD countries except the United States and Mexico.

What is the US getting for all of this money? Per 1000 population, the United States has 2 physicians (the OECD average is 3), 7.9 nurses (the OECD average is 8.3) and 2.8 acute care hospital beds (the OECD average is 4.1). On average, Americans lived 7.6 years longer in 1993 than they did in 1960, but the Japanese lived 14 years longer and the Canadians 8.6 years.

Nor do high expenditures in the US cover the entire population; healthcare coverage is decreasing yearly. In 2005, 44.8 million people, 15.3 percent of all Americans, were without health insurance. 10.8 million of those people have a household income of \$25,000 a year or less (US Census Bureau 2007b). Even fewer would be covered without public programs such as Medicare, Medicaid and the State Children's Health Insurance Program (SCHIP). SCHIP, for example, currently insures more than 4 million low-income children most of whom would otherwise lack insurance. Since 1997, SCHIP has been largely responsible for reducing the number of uninsured American children by one third (Broadduss and Park 2007).

America continues to move from a manufacturing-based to a service-based economy, with considerable effect on US healthcare. Health insurance coverage varies greatly by industrial sector. The largest sectors are now service based – wholesale and retail trade, and education, health and social services (34% of the total private

workforce in 2005). Between 52 and 58% of these workers had coverage in 2005, and only 29% of service employees as a whole had coverage. Workers in the manufacturing sector, in contrast, had a coverage rate of 71% (Gould 2006). Manufacturing jobs are much more likely to provide good health benefits, with labor unions increasing the bargaining power of workers. However, this influence is declining as the number of workers in manufacturing decreases. Federal, state, and local government employees (including elected representatives) are much better off than those in the private service sector in terms of employer-provided or subsidized coverage. Without this public employment, the quality and availability of healthcare provided to service sector employees would be a lot worse.

Recently, several prominent economists have reassessed the impact of outsourcing on the US economy and found it to be more damaging than they previously thought. Princeton University economist and New York Times columnist Paul Krugman (Krugman 2007) argues that outsourcing has fragmented the production process, creating increased inequality by hollowing out the skills pyramid. As figure 3 shows, income inequality has drastically increased since the 1980s.

Krugman's theory is that the way trade redistributes income has contributed to the growing inequality. While a small number of new executive-level and highly-skilled jobs have been created in the US over the last two decades (for example, by foreign firms moving their management closer to Washington), a large number of mid-skilled jobs have moved overseas. Moreover, China has such a large labor pool that there is no incentive for the economy to move away from lower skilled jobs to higher skilled sectors as other Asian economies have done, suggesting that the current situation may not change for some time. Princeton University economist and former Vice Chairman of the Federal Reserve Alan Blinder supports conventional trade and economic free trade theories, but has doubts about outsourcing:

'I would argue that there's something new about the coming transition to service offshoring. Those two powerful forces mentioned earlier- technological advancement and the rise of China and India- suggest that this particular transition will be large, lengthy and painful...In some recent research, I estimated that 30 million to 40 million U.S. jobs are potentially offshorable. These include scientists, mathematicians and editors on the high end and telephone operators, clerks and typists on the low end...It's going to be painful because our country offers such a poor social safety net to cushion the blow for displaced workers. Our unemployment insurance program is stingy by first world standards. American workers who lose their jobs often lose their health insurance and pension rights as well. And even though many displaced workers will have to change occupations -- a

difficult task for anyone -- only a fortunate few will be offered opportunities for retraining. All this needs to change' (Blinder 2007).

High healthcare costs in the US make travelling abroad for treatment an attractive option. Countries in Asia, Latin American and the Caribbean are actively seeking to attract health tourists. In 2003, over 350,000 patients travelled to Cuba, India, Jordan and Southeast Asia to seek healthcare (Pierce 2006). One recent study estimated that the US would save \$1.4 billion per year if one in ten patients were to go abroad for 'a limited set of low-risk treatments' (Mattoo and Rathindran 2005:6; Arunanondchai and Fink 2005). In terms of telemedicine, the Philippines have carved out a small export market through providing medical transcription services to the US, thanks to its pool of English-speaking medical school graduate students. Of the 25 companies exporting medical transcription services in 2004, the majority were owned by US investors . In exporting its healthcare, India leads the way, showing considerable interest in expanding its telemedicine services and eventually building hospitals in the US. The United States is second only to the UK as the most popular destination for training Indian doctors, and only 50% of all Indian doctors who train abroad return home (Gupta et al. 1998:233).

Developing countries see health services as a potentially big growth industry, and there is no reason to believe that the US health system will remain insular in years to come. It is also possible that domestic health providers, many of whom are becoming increasingly international, may choose to change their country of domicile to use international trade laws to their advantage in the US (Forum on Democracy and Trade 2006). Now that healthcare can be construed as a transborder service rather than a localized, domestic one, health policymakers will need to consider international aspects of healthcare in weighing possible reforms.

In the US, a group of at least 100 NGOs, trade unions, and faith based organisations were formally campaigning against the GATS⁴⁹. This was a broader coalition than the groups focussing on TRIPS, which mainly consisted of policy entrepreneurs heading up small NGOs relying on their expertise. The GATS coalition has not been very effective, however, with little access to the administration and no concrete policy changes in their favour. In 2005, 42 business organizations were represented on the USTR's health related trade advisory committees. Although the USTR, like any other government agency, holds public hearings and must publish notices in the Federal Register, the advisory committees are allowed longer-term, more

⁴⁹ Organisations listed on the CorpWatch web site, www.corpwatch.org, accessed 20th May 2007.

extensive access to negotiators and legal texts, and are therefore important points of contact for groups wishing to change policy. Only one public health organization was represented, recruited to the Tobacco Advisory Committee after a hard fought campaign led by the Center for Policy Analysis on Trade and Health (Center for Policy Analysis on Trade and Health 2005).

Nor do public health advocates have much input into the interpretation of agreements. As a result of the complexity of trade rules discussed above, agreements tend to be interpreted through trade dispute settlements rather than by executives, legislatures or domestic courts. There are two methods of settling a trade dispute that bear on health services. Under the WTO dispute settlement process, a WTO member state government can challenge the policies of another WTO member. One of the main reasons the WTO was created was to improve upon the process for initiating and settling disputes under the GATT, a process that was considered too easily avoided. The WTO procedures have much tougher compliance requirements, allowing the prevailing state to enact retaliatory trade measures if the losing state doesn't comply within a reasonable time frame.

Under the second method, the investor-state dispute mechanism, private investors can challenge governments by using investment provisions in agreements such as NAFTA, CAFTA and many bilateral deals. These investment provisions are highly controversial, in that they give greater rights to foreign than domestic investors. Most national law allows governments to expand public services into new areas without facing challenges from private companies on the grounds of lost profits. By employing a very broad definition of what constitutes "expropriation" of those profits, including not just the seizing of assets, but actions which deprive investors of expected economic benefits, investment provisions allow foreign investors to challenge public expansion. The investment provisions are not universally loved even among trade lawyers, with many regarding it as an unworkable mistake (Trade Negotiator, Washington DC, June 2007).

Relying on dispute settlements as the means to clarify the language of trade agreements can lead to unintended consequences. For example, under national treatment provisions, regulations designed to protect patient privacy by requiring medical transcription to be carried out by domestic companies could violate trade rules by discriminating against foreign corporations (Schaffer et al. 2005:28).

The service sector is vital to the Administration's trade policy, too, constituting \$38 billion in exports in April 2007. Without these exports to prop up America's trade

balance there would be trouble: in 2007 the US had a \$67 billion deficit in traded goods, but an \$8.4 billion surplus in services (US Census Bureau 2007a). It is unsurprising, then, that the US and other developed countries in the same situation have been keen to put negotiations on trade in services firmly on the WTO's agenda and open up foreign service markets over the last decade.

The US has made several health-related commitments under the GATS, affecting health insurance, the construction of hospitals and other health facilities, professional licensing, prescription drugs, the availability of tobacco and alcohol, and even requirements to maintain emergency care facilities.

The American pharmaceutical industry has proved its willingness to bring suit to prevent state intervention in drug pricing. Since 2004, states have been experimenting with various methods of containing the costs of prescription drugs, such as adopting formularies (preferred drug lists, where states require prior authorization or justification for a doctor to prescribe an expensive drug rather than a cheaper equivalent in the formulary) and measures that facilitate the importation of cheaper brand-name and generic drugs. This copies existing policy in other countries. In Canada, US brand-name drugs are sold at lower prices thanks to the ability of the provinces to negotiate with drug manufacturers. In the US, states encouraged manufacturers of expensive drugs to negotiate a Medicaid rebate to avoid requiring a prior authorization of their product. Although PhRMA, (the trade association representing pharmaceutical manufacturers) sued three states (Maine, Michigan and Florida) over their use of formularies and rebates, US courts have upheld the right of states to use these methods. After losing in US courts, PhRMA requested provisions to be included in the US-Australia Free Trade Agreement that could 'serve as independent grounds for preempting or withholding federal funds from state programs' that sought to cut costs by requiring prior authorization of expensive drugs (Gerbasi and Stumberg 2005).

Medical tourism is still a policy problem very much on the horizon, but nevertheless, interested groups are starting to pay attention to the issue. The American Medical Association issued guidelines for medical tourism in June 2008, warning that patients should not be forced to go overseas or to accept substandard care (AMA 2008). Pinnacle Health, based in Massachusetts, is the first US Preferred Provider Organisation (PPO, a network of providers) to announce a deal facilitating medical tourism. Pinnacle's clients will be able to travel to New Zealand for treatment, potentially saving them considerable amounts of money (Fierce Healthcare 2008).

EU Health Services

In theory, the European Union is the perfect test case for the provision of health services across borders. Patients can expect to receive medical treatment in any other EU country in the same way as local individuals, with very little adjustments; their domestic health insurance is, largely, portable. Health policy was not part of the original EU blueprint, and member states did not go to great lengths to include it in the EU project. Nevertheless, the EU is developing a health services policy, shaped by reforms in the internal market.

For scholars of EU policymaking, the story of EU health policy is a familiar one. Health has become a progressively more European policy area due to actions by the European Commission and the European Court of Justice, despite a relatively narrow treaty base. Health services are not mentioned in the treaties at all. While the Commission has sought to increase its jurisdiction over health, the ECJ, in a set of key rulings, has reinforced the European health market.

As its internal market for healthcare consolidates, the EU is looking outwards, examining links between health and its external relations. A recent report by DG Sanco (Health and Consumer Protection) which looks at the period 2009-2014 talks about globalisation and the 'opportunities for exporting our standards' it provides (DG Sanco 2007). Robert Madelin, Director-General for Health and Consumer Protection from 2004, spent the previous decade in DG Trade, first as Deputy Head of Cabinet to Leon Brittan, and then at Director level. The treaties give DG Sanco a little-known power to place 'health in all policies', in theory the power to assess the public health impacts of other EU policies and compel other Directorates to adjust them accordingly. In reality, however, this is rarely used.

The EU's service sector has grown at an increasing rate in the last decade, and the EU remains the largest exporter of services in the world, boosted by recent enlargements, and larger than the US by a considerable amount. In characteristic style, the European Commission responded to complaints from service sector industries that they lacked representation by telling them to organise themselves. Prompted by Leon Brittan as Vice President of the Commission, the Europe-wide business association UNICE created the European Services Forum to assist the Commission in negotiating the GATS (Greenwood 2003).

ECJ decision 1/94 ruled that the Community and the Member States had joint competence over most GATS and TRIPS issues. This means that member states have an additional say over the authorization of the negotiating mandate other than via the 133

committee and that ratification in the Council is unanimous and is accompanied by parliamentary ratification in each member state (Meunier and Nicolaidis 1999:481).

European interest groups started campaigning against the GATS negotiations in 2000. Arguments against the GATS were made on two grounds: the potential deleterious effects on European publically funded health systems, and concern that the GATS would undermine the attempts of developing countries to build and maintain publicly funded health services. The network that formed on the issue therefore involved various different kinds of groups: trade unions, and development and environment NGOs as well as public health groups.

An anti-GATS campaign was formed in 2000, coordinated by the Corporate Europe Observatory in Amsterdam, Europe-wide NGOs such as Friends of the Earth and ATTAC, and trade unions. The European campaign was small, consisting of approximately 34 NGOs⁵⁰. The groups expressed concern that the services negotiations would deregulate essential services such as health, education and environmental services, opening them up to private competition. It was argued that this would decrease the quality of the services or reduce access to them, or both. Interest groups from member states in the Northwest of the EU –German, British, Scandinavian and Dutch groups- are the most active in European health policy, much more so than those in Mediterranean countries or Eastern Europe (Greer et al. 2008), and this is reflected in the anti-GATS coalition.

In April 2002, a draft of the EU's services offer was leaked to NGOs containing information about the service areas the EU wanted to liberalise in 29 countries (Friends of the Earth 2002). The document showed the detailed requests made by the EU to 29 of its principal trading partners, including the USA and Canada, as well as less developed countries such as Brazil, Philippines and Indonesia. Requests included the liberalisation of major service sectors including water supply, waste treatment, energy, transportation, scientific research and postal services.

Documents in the period 2002-2003 show how DG Trade's position on GATS was refined, rather than reformed, in response to interest group pressure. In January 2002, DG Trade argued that GATS does not apply to public services. Responding to an ETUC steering committee in January 2002, Pascal Lamy stated that 'public services are not threatened because the GATS does not affect the services that are provided either on a commercial basis or in competition with other providers'. In May of that year, Lamy

⁵⁰ As listed on the Corporate European Observatory web site, www.corporateeurope.org, accessed 20th May 2007.

confirmed that ‘the Commission has no intention to promote or request privatisation of public undertakings during the course of these or future negotiations irrespective of whether they are entrusted with the provision of public services or not’ but also noted that ‘One should however not over-dramatise the potential effects of carefully crafted and targeted liberalisation even in these sensitive sectors’ (Lamy 2002).

DG Trade press releases from 2003 onwards are careful to stress that ‘public services within the EU are fully safeguarded’, or ‘fully defended’, with no commitments in health or education (see, for example, DG Trade 2005b, 2003). On February 5th 2003, Lamy announced at a Commission meeting that the EU’s service agenda for the Doha Round would not include health and education (Geitner 2003). Government officials were keen to avoid alienating NGOs, stating ‘If we want to attempt to carry civil society groups, then we should avoid scaring them unnecessarily’ (Buck and de Jonquieres 2003). So although member states were already reluctant to include these issues in EU’s services offer, civil society groups still played a small role in limiting the ability of the Commission to press for liberalisation. This was far, however, from the overwhelming victory that NGOs claimed. After 2003, civil society activity on the issue markedly decreased and groups moved on to other issues, notably the development aspects of the Doha Development Agenda.

A moratorium on health services offers in the GATS may not be tenable in the long term. It was confirmed in 2006 that the EU’s internal Services Directive, with the same aims as the external GATS, would not apply to healthcare. But the creation of a transnational policy may not be intentional. As Greer (2006) explains, although the EU has taken steps to protect national sovereignty in health service regulation:

‘health systems are large organizations that require money, staff, users, and materials as they go about their tasks, and these factors are all subject to the EU legal regime. Regulations and judicial decisions concerning purchasing, workplace and employment issues, and principles of non-discrimination all shape the environment from which health systems must draw their resources and within which they conduct their activities’ (135).

The EU’s health services policy, while influenced by European interest groups, is not primarily a response to their demands, but rather the result of Commission activism and a number of key decisions made by the European Court of Justice (Greer 2008). Likewise, health interests lobbying on trade fluctuate in their visibility and commitment, and trade interests pay only sporadic attention to health services. Others have focussed their resources elsewhere, biding their time until international negotiations pick up again (personal communication, health lobbyist, 2006).

In the countries schedule of the GATS, under 'horizontal obligations', the EU stated that in all EU member states, 'services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators' (WTO 1994:2). In other words, the EU retains the right to discriminate against foreign private health providers. But opponents of the GATS claim that this definition of public services is too broad, and that there is a risk that public services could be targeted under the GATS by private providers wishing to expand their markets. By not explicitly including or excluding specific public services from the definition, but providing a list of 'examples', the EU risks being limited to those examples in future negotiations (Friedrich-Ebert-Stiftung 2003:16).

The EU's internal Services Directive has come under similar criticism for its definition of 'services of general interest'. Recent reforms in the UK and Germany encourage private providers to participate in health service provision and aim at using market pressures to increase efficiency and drive down costs. These trends make it still more difficult to draw a line between public and private provision.

In June 2008, the EU made significant steps towards harmonising health services at the European level, unveiling plans to allow European citizens to be treated in any EU member state and be reimbursed by their home country . Although it is difficult to predict what might happen as an EU internal market in health services develops, it is likely that a harmonised market would prove attractive to US health providers. A harmonised EU health market may make discrimination against foreign providers less defensible in future rounds of services negotiations.

Conclusion

This chapter has examined two related issues which highlight one profound difference between European and American trade policy: their approach to markets. Despite a very strong pharmaceutical lobby, the EU has chosen to listen to other groups arguing in favour of compulsory licensing for developing countries. It then used this policy to sell its development credentials in other areas such as the EPAs. On health services, EU officials faced strong pressures from member state governments, trade unions, and NGOs to protect public services from liberalisation under the GATS. This resulted in the EU pledging to keep health and education out of its GATS offer. In both cases, the EC shares competency with member states.

The US has a very large private health market, and its pharmaceutical companies spend more on research and development than those in any other country. In trade policy, this resulted in the pursuit of strong protections for intellectual property and the opening of foreign markets to US health care providers. US institutional arrangements mean that the USTR is obligated to pay attention to requests from pharmaceutical companies to address perceived deficits in IP protection in other countries. It was only through Presidential intervention that these rules were altered, with Democrats acting to satisfy the demands that were expressed through key AIDS NGOs. The access to medicines agenda is still a partisan issue, with Democrats in Congress pushing for it to be included in recent trade agreements. On trade in health services, the opposite is the case. Anti-GATS groups are prioritising other issues, and the coalition is weak. Likewise, there is little enthusiasm amongst health professionals and policy experts to take on a new frontier in health care.

This chapter has explored the use of 'trade and' policies in a relatively new and evolving issue area. Together with the last two chapters, these case studies have explored the different ways that the EU and US have used 'trade and' policies to their advantage. They have explained how and why each issue was introduced onto the trade policy agenda, and described the varied policy mechanisms used in the two polities to promote 'trade and' issues. In each case, the EU and US have paid attention to different types of interests. The EU, concerned about its legitimacy in the eyes of European citizens and foreign governments, has sought consultation with diffuse groups. In contrast, the US acts as a broker for specific interests, acting on clear legal responsibilities laid out by a powerful legislature. The next chapter summarises these findings and explores their implications for future trade negotiations.

7 Conclusion: Imagined Commodities

'Two economists were trapped on a desert island. And one says to the other "What are we going to do? If we don't get off this island we're going to die an agonising death from hunger and thirst". And the second one thinks for a while and says "well first, we assume a boat...". I'm going to talk about boats and tell you why in the real world it is very hard to assume a boat. For me the May 10th deal is a recognition of political reality – that may not be economic reality - but it is political reality.' – USTR General Counsel, 2007⁵¹

Since the creation of the WTO in 1995 and the initiation of the Doha round in 2001, the trade agenda has expanded to touch on many domestic policy issues: from agriculture to workers' rights, from competition to environmental protection and from intellectual property to public health. Governments have reimagined these 'trade and' issues as commodities, aiming to export their standards and values beyond their borders.

As the trade agenda has expanded, so too have the type and number of groups that claim a stake in the policy process. These demands have led to new forms of engagement with non-governmental organisations, including greater consultation within the WTO process, increased numbers of advisory committees in the United States, and the creation of new, more formal methods of consultation with NGOs in the EU. The conclusions of this study relate not just to debates on lobbying but to wider questions: to what extent do institutions shape behaviour, and what does this mean for our perceptions of the differences between business and civil society organisations?

I have examined the use of non-trade policies by US and EU trade negotiators to achieve their secondary goals -whether this is legitimating the policy process, distracting critics, or projecting the image of a benign foreign power. While both the EU and US use hard and soft approaches to trade policy, the EU attempts to justify its policy decisions by linking them to a broad range of other issues, such as rural and sustainable development, and public health. The US has promoted a more narrow agenda which focuses on free trade arguments, foreign policy relations and the benefits of these to groups back home. The explanation for these differences is not that the EU and US are irrevocably divided. The difference can be accounted for by the institutional settings in which decisions are made. Policymakers choose either to strictly enforce trade rules or convince foreign governments that new rules should be made. The evidence presented in this volume suggests that in trade policy, the EU and US each do

⁵¹ Warren Fukayama, AEI trade briefing attended by the author in Washington DC, 27th June 2007.

both. In doing so, institutional factors –delegation and representation- influence their decisions regarding the incorporation of non-trade issues into their negotiating agenda.

The EU pursues a broad, informal agenda and is open to diffuse groups. Standards are included in trade agreements via Commission communications and regulations rather than directives. The codecision procedure, which allows the European Parliament to have a greater say in the policymaking process, is not often used. The power relationship between the EU Council and Commission has been contested through a series of ECJ decisions which make even the policymaking process variable. The EU's policy is therefore strongly shaped by its need for legitimacy, which it bolsters through the involvement of a broad range of interest groups. Although the EU lobbying process is less transparent, there is a greater tendency for Commission officials to enter into dialogue with business associations, NGOs and other organisations.

In comparison, the American trade agenda is more closely governed by legislation, not regulation. Congress is a constant presence in the calculations of officials, who are required to consult with the powerful Ways and Means committee before and during negotiations. As American trade policy gains its legitimacy not from the input of groups alone, but from a powerful and territorial elected body, trade policy is much more partisan. The issues pursued by Democrats and Republicans can be clearly seen in the history laid out in Chapter 2. At a time when the Congressional bipartisan consensus on trade that emerged after World War two seems an anomaly, the President must clearly satisfy Congress in order to push forward the Administration's agenda. The lobbying system affords less access to diffuse groups and requires that participants spend far more money, but it is more transparent. The US bureaucracy is more efficient than its European counterpart, meaning that the US system for trade defence mechanisms is more formalised.

Examining interactions between interest groups and policy officials I find that while US officials use these new issues to benefit domestic constituencies, EU policymakers use them to enhance their international standing in foreign policy. Behind this story are fundamental differences in the way that trade policymakers interact with key diffuse and specific interest groups. The consequences of this expanding trade agenda are a need for better coordination between government departments and agencies, increasing pressure on negotiators to address unfamiliar issues, and uncomfortable questions about the nature of policymaking in a globalized world.

America and Europe in a Multipolar Economy

This is still a study of two policy ‘makers’ rather than policy ‘takers’. Successful WTO challenges by developing countries on vital products such as cotton and sugar demonstrate that developing countries can win against their more powerful neighbours. This makes a successful Doha round both less urgent for developing countries, whose have become ore likely to be met within the current system, more urgent for the EU and US, whose policies are being openly challenged (Anania and Bureau 2005:548).

But although the relative influence of the EU and US in the global trading system has diminished in the last two decades, they are still in a position which allows them to impose their preferences on other countries. The EU and US still have strong influence in the international economy due to their large internal markets (Drezner 2007). Holding on to this power is of primary importance to them, particularly in light of the rapid expansion of countries such as India, China and Brazil. For policy ‘makers’, domestic policy drives trade policy because it can. It becomes another tool for negotiators trying to defend domestic interests in the face of economic change.

The case studies in this volume show that the arrow of influence clearly runs upwards, from first, to second to third image (Gourevitch 1978). Negotiating or bargaining styles are affected by how authority is delegated and how various interests (whether citizens or organisations) are represented. In other words, how the EU and US negotiate, and the issues that they choose to prioritise, can be explained in large part not by international politics or economics, but by domestic institutions and interests. Delegation to policy officials, the amount of freedom that administrations have to decide the scope and priorities of trade agreements, explains the policy debates that lie behind EU and US actions on the global stage. In turn, representation of various interests explains why officials have those debates and not others. Perhaps someday the EU and US will be policy takers, but not just yet.

Chapter 4 explored how the EU and US use labour and environmental standards in their trade agreements. It demonstrated that the US uses more formal rules than the EU, often keeping non-trade issues separate from one another. In the US, partisan politics (in the Presidential race and in Congress) has determined which issues were incorporated into trade agreements. In the EU, labour and environmental standards are inseparable from a larger agenda that includes development and health policies in an attempt to form a coherent European foreign policy that can be a model for the world.

The politics of food will only get more controversial in an economic downturn,

and there is already evidence of this in the 2008 French Presidency of the EU. Chapter 5 examined the lengths to which the EU and US were willing to go to shape and promote a 'development round' of trade negotiations. At the WTO ministerial in Doha, Qatar in 2001, elite policymakers and negotiators attempted to link two controversial issues: agricultural liberalisation and trade as a tool for development. After the ministerial, the EU used diffuse issues to simultaneously sell its trade agenda and defend its agricultural subsidies, while the US protected its 'ranchers and farmers' with little use of development rhetoric –even though the US is technically less 'protectionist' on agricultural issues. While the USTR was a broker for its agricultural interests, seeking increased market access abroad, the EU Commission has sought greater consultation with development groups to balance its defence of member states' agricultural interests.

Chapter 6 explored EU and US behaviour on a relatively new issue, health care. It described EU and US reactions to an international NGO campaign for access to medicines, and officials' subsequent decisions on trade in health services under the GATS. On access to essential medicines, the both American and European officials responded to calls from an international network of health activists and Inter-Governmental Organisations to amend the TRIPS agreement. US receptiveness to the essential medicines argument has varied by Administration. In the EU, the European Parliament played a vital role in persuading member states to support an amended agreement. Trade in health services is a comparatively new issue, as yet unresolved. While the US responded to pressures from its large commercial health sector, pushing for market access for its large health providers. The EU, responding to strong pressure from diffuse groups, placed a moratorium on negotiating on trade in health services during the Doha round.

Implications

Trade policy has the potential to evolve in a variety of different ways. On the one hand, a body of text in bilateral and regional agreements brings pure trade concerns into contact with other non-trade issues by turning non-trade issues into imagined commodities. They are imagined because their value is often more closely related to their power as symbols rather than their actual practical effects. This creation of commodities, the commodification of non-trade policies, produces the same kinds of distortions that Polanyi discussed and thereby the same kinds of resistance (Polanyi 1944). Imagining policies as commodities changes the way they are framed within the

law, placing them within the scope of WTO rules. On the other hand, governments seem reluctant to enforce the measures they have placed in these agreements.

The evidence presented in this volume suggests that the old bipolar model of free trade versus protectionism is not a good fit with modern trade policy (if indeed it was ever a fit with past trade policies). Not even the revised version -free trade versus fair trade- is particularly accurate. Yes, many of these 'trade and' policies can and are used as non-tariff barriers. But the relationship between protectionism and legitimate policy concerns is more complex than it looks at first glance, and very heavily value laden. Terms such as 'free trade', 'fair trade' and protectionism change their meaning depending on who is wielding them.

The case studies above reveal a multipolar world of trade policy where interest groups of all kinds compete to have their rights formalised in international trade law, resulting in a blurred line between public and private law at the international level (Shaffer 2003). The new trade paradigm is a model of competing rights. The right of businesses in various sectors to trade freely across borders without undue interference or protect investments in intellectual property sometimes conflicts with an individual's right to adequate compensation for their labour, a clean environment, or adequate healthcare. The right of a state to maintain its own food supply competes with the right of other states to pursue economic development. Some authors see the EU model of 'social citizenship' rights plus free trade as an ideal form for new regional trade agreements (Abrahamson 2007). This demonstrates the Union's normative pull. But social citizenship rights have to be positively established; they don't happen by accident. If we rely solely on imperfect markets, the result is an unequal distribution of wealth- social citizenship rights are created to establish 'islands of equality in a sea of inequality' (Greer and Mätzke 2009). The expansion of the trade agenda could interfere with the state's ability to establish these rights at the national level.

The structure of the World Trade Organisation is straining under this expanded agenda. The large number of member states at different income levels, combined with a unanimous decisionmaking system means that multilateral negotiations are the most complex in the world. This has led some commentators to suggest that some form of subsidiarity is necessary to slim down (Rollo and Winters 2002; Sauvé and Zampetti 2000). Other critics have focussed on improved legislative oversight as the solution. Philippe Schmitter (1997) argues that 'Reciprocal Representation', reserving some seats in a country's national legislature for representatives from another country, could be a modest solution to the tensions between globalisation and democracy. How will we

regulate this policy space? This may be particularly salient in areas such as health and social services, where lives are dependent on good regulation.

This research has three main implications for understanding the consequences of globalisation for policymaking: increasingly complex agreements requiring additional resources; legalization of diplomatic relations, narrowing policy options; and difficulties of oversight and control.

Complexity

Increased links between foreign and domestic policy mean increased complexity. The number of pages in a typical European or American trade agreement has increased exponentially in the last decade (Congressional Staffer, Washington DC, May 2008). This causes several considerable problems. First, while bureaucrats and negotiators may be expected to deal with a much wider range of issues than ever before, human capacity has not increased. As a result, one individual may not be completely familiar with all of the issues they are asked to deal with. This makes extensive coordination with experts in other parts of government increasingly important (Trade Negotiator, London, April 2008).

But complexity can also make coordination between departments difficult. The USTR must deal with over 90 committees in 19 different government departments and agencies (Government Accountability Office 2005). The EU situation is even more fragmented, with policy coordinated between 27 member state governments, the Article 133 Committee, multiple DGs in the European Commission, the EU's nascent foreign policy apparatus and a host of subject committees, consultative forums and high level groups. Many of these units are territorial and protective of their influence. If the jurisdiction of a 'trade and' issue is not clearly defined, turf wars can ensue.

This is a large problem even in developed countries with plenty of resources. It is easy for an incoming President to gain approval for additional staff members to focus on 'trade defence', the identification of rule-breaking behaviour in foreign countries. It is not so easy for countries with little legal, financial or institutional capacity to deal with very complex trade agreements or disputes. The recent emphasis on 'trade capacity building' initiatives seeks to rectify this inequality through targeted aid payments and training programmes, although it is difficult to determine whether these initiatives are being successful.

The fundamental problem at the heart of WTO negotiations themselves is that of over 150 countries trying to come to unanimous agreement on a single undertaking. The difficulties experienced by the European Union in attempting to reform inefficient institutions against the background of an expanding membership foreshadow the difficulty of any proposed reform of the WTO. More countries are still waiting to join the WTO and any reform would have to overcome the political conundrum of persuading states to give up their vetoes. Complexity undoubtedly makes selling the benefits of multilateral trade agreements much harder. Long rounds with disappointing results and poor implementation damage arguments in favour of free trade.

Legalization

Another problem with the body of global trade rules is the language that they use. Trade agreements themselves are complicated, difficult to understand, and full of trade-specific language that often makes the implications of the text difficult to pin down. The possible effects of trade agreements on a particular good or service are sometimes difficult to spell out, even for those who have developed considerable expertise in the subject. Foreign policy measures that used to rely on diplomatic relations have been legalized, limiting available policy options, making negotiation much more time pressured, and introducing the possibility that measures could be struck down (Peterson and Pollack 2003:128).

A second, related problem is that once a particular piece of trade jargon has made its way into the body of trade rules, it tends to persist. It is much easier for negotiators, once they have agreed on the principles of a deal, to recycle language that has been agreed on in the past. Potentially harmful or imprecise terms such as one might expect from such a large scale bargaining process can be reused without being more clearly defined. In trade policy, small details – and their possible implications and interpretation -- matter, and given the longevity of trade agreements, they matter a great deal. One example is the concept of ‘like’ services under the GATS. There is little agreement, even among trade experts as to exactly what ‘like’ services are in practice. It is likely that in a future GATS dispute, it will be a legal decision, not a political one, on a single case, that determines whether a particular service is ‘like’ and hence whether the GATS agreement applies.

Third, once a commitment has been made in a trade agreement, breaking that commitment is very difficult. In some cases, there are measures in place that require a

government to provide compensation to other states if it changes its original commitments to relax barriers to trade. The rule-based WTO is a much less flexible system than one made of diplomatic ties. This has some advantages. In negotiations, the negotiating parties may be reluctant to backtrack for fear that the agreement will fall apart. Governments can be more easily held to their liberalisation commitments. There will also be domestic consequences for a government that breaks its word to vested interests. Early and extensive scrutiny of trade texts is, therefore, vital.

But locking in fixed preferences on 'trade and' issues narrows the range of policy options available to national decisionmakers in domestic policy. Governments may begin to anticipate conflicts and shape their programmes accordingly. A system that seems practical and effective for lowering tariffs may not be appropriate in other policy areas, going against deeply held principles of federalism and subsidiarity.

Control

If modern trade policy is highly complex and relies on legal rules rather than diplomacy, it is appropriate to ask: who controls this complex policymaking process? Who is accountable for trade policy? Understanding trade policy in any depth requires a remarkable extent of expertise –legal, economic and political. Some of the implications of a particular agreement may not be fully understood (even by experts) at the time of ratification. The full impact of an agreement may only be understood on a very long time frame, perhaps only many years later, after key disputes have clarified the rules. Once made, such agreements are very rarely renegotiated –there is little room for modification. This is a problem that has been recognised in many fields of international organisation and multilevel governance: how to maintain accountability to any kind of democratic public while simultaneously adapting to the demands of the policymaking system. Over and over again, the answer turns out to be delegation and the difficulty of establishing democratic accountability breaks down into who is the principal in the principal-agent relationship, and how does the principal-agent relationship work.

The large gap in expertise between elected representatives and officials in terms of 'trade and' policies means that problems of accountability and control are exacerbated. When dealing with 'trade and' policies, these problems can also be experienced between the trade negotiating authority and other departments and agencies.

In solving problems of legitimacy at different levels, there is a great deal that the EU and US can learn from each other (Nicolaidis and Howse 2001). The EU policymaking process suffers from a lack of transparency and a lack of perceived legitimacy. These two faults are inherently related, stemming from the way that EU institutions have been constructed. Firstly, the very process by which trade policy is made is contested. Jurisdiction over policy can change with rulings from the ECJ or the rules used under a particular procedure. Secondly, the EU's much discussed 'democratic deficit' means that EU citizens are very far away from where policy decisions get made, making the line of accountability both long and blurred. The lack of a 'European' media and weak relationships between MEPs and their constituents mean that EU issues are not always publicly discussed outside Brussels circles.

Lobbying in the EU is highly secretive. In 2005, the European Commission launched the European Transparency Initiative, which included the introduction of an 'EU Register of Interest Representatives' in June 2008. This is an online searchable register which provides details of an organisation's objectives, funding, group participation and clients. This is in part modelled on the US system for lobbying disclosure, although unlike the longstanding, effective US system, signing up is voluntary. Participants must also agree to a code of conduct for lobbying which sets out general principles for dealing with the Commission (European Commission 2008). At the moment, the database is more of a boon for those studying the EU than those lobbying it or its citizens, but with plans to expand it to cover the European Parliament the initiative has at least some potential to be more than just another web site.

The US delegation mechanism first created in the 1930s and refined in several iterations since is struggling to cope with the new realities of trade politics. The latest legislation authorising the USTR to negotiate agreements and refer them to Congress for an up or down vote without amendments via the fast track mechanism expired in July 2007. At the time of writing, the future for US trade agreements looks doubtful:

'before you even get to talking about new trade agreements you have to come up and deal with Congress on issues about either perception or reality that existing trade agreements aren't enforced...until you deal with the kind of enforcement, income and inequality issues in the United States and whether trade is exacerbating it we don't get to the second half' (Congressional Staffer, Washington DC, May 2008).

The fundamental assumptions of the fast track mechanism are being challenged by elected representatives. Job losses from trade have fallen disproportionately in the manufacturing sector, where large plants often form the backbone of a community's

economy. When jobs move overseas, communities are affected just as much as individuals. Representatives have responded strongly to these territorial changes by opposing new fast track legislation. Without fast track authority, the scope of new policy initiatives is limited:

'Over the last few years we've been focused on negotiating various free trade agreements and that's obviously come to a stop so others in the building are looking at implementation or looking at other types of arrangements that don't require Congressional approval' (USTR Official, Washington DC, June 2007).

While Congressional committees have some power to shape and scrutinise the detail of trade agreements, they have much less ability to affect the administration's overall trade strategy, which is determined by the President and USTR. Some commentators have suggested that the Ways and Means committee should be given an added ability to shape and approve the administrations overall trade strategy before any agreements are negotiated. Other critics have opposed the renewal of any fast track legislation, arguing that the practice is undemocratic and should be abolished.

A final point regarding control refers to the normative implications of 'trade and' policies. where developing countries are concerned, there are plenty of economic levers available to the EU and the US to exert control over proceedings. Including non-economic policy requirements in trade agreements, backed up by enforcement mechanisms invites comparison with the structural adjustment policies attached to aid and debt relief programmes. Although 'trade and' chapters of agreements not do not strictly force developing countries to change their domestic policies, attempting to influence an economically weaker trading partner in this way may simply be a continuation of 'colonial' control by other means. There is a very fine line between cooperation and control, and governments and NGOs alike pushing for 'trade and' policies have not fully addressed or answered accusations of neo-colonialism.

Conclusion

Policies are becoming commodities. The EU and US have responded to economic globalization by seeking to export their values beyond their borders, with the ultimate goal of incorporating them into key international institutions. By doing this, the two polities seek to reduce the impact of negative economic externalities on their home populations. These values act as 'imagined commodities' in trade negotiations: they have a value to negotiators as bargaining tools, to officials in forming relationships with

other countries, and in justifying and enforcing systems of trade preferences and subsidies.

As the case studies in this volume show, these ‘trade and’ policies are not always substantial, sometimes little more than statements of intent. Yet because we imagine them to be substantial, they become so. As bargaining tools, they counterbalance or provide justification for other policies which may otherwise be considered protectionist. As policy models, they assist officials in exerting soft power, attracting the attention of other countries who wish to emulate them and fostering communication and cooperation. Attached to enforcement mechanisms, they expand the tools available to officials to coerce other states while protecting their own interests. ‘Trade and’ policies can be instruments of both soft and hard power. They can be both a means of trade diplomacy, creating new trade relationships, and a means of trade defence, enforcing existing trade rules.

The different ways in which the EU and US have used ‘trade and’ policies tells us something significant about their foreign policy actions as a whole. The US model emphasises reciprocity in trade agreements. US officials are keen to make ‘win-win’ deals, as long as the benefits for the US are clear. Officials and elected representatives alike emphasise ‘fairness’ in trade relations, and playing by the rules. US trade rhetoric focuses on a narrow range of key issues, emphasising the benefits of agreements to domestic constituencies. The USTR sees itself as a broker for these constituencies, seeking out new market opportunities for them in other countries and consolidating these within trade agreements.

Policy outcomes are legitimated through the involvement of Congress, with a large proportion of trade policy taking the form of legislation, not regulation. This has two implications. First, non-trade issues have been placed onto the trade agenda by elected representatives (Congress and the President) responding to demands from organised interests. Representatives’ responses vary according to their party affiliation – and so US emphasis on different ‘trade and’ issues varies according to which party controls the Presidency and the Chair of the Ways and Means committee. Secondly, the use of legislation means that once ‘trade and’ issues are on the agenda, they persist.

The EU focuses on formulating and maintaining a coherent ‘trade and’ policy position where issues overlap and influence one another. The resulting European model is exported beyond EU borders by the European Commission, which promotes the idea of a diverse, democratic and flexible EU through its public statements and Communications on policy. But in fact, issues of jurisdiction are pressing problems in

the EU. The Commission answers not to one government, but 27. The relationship between the European Communities and the member states continues to be contentious, particularly regarding the new trade issues brought up by agreements such as GATS and TRIPS. Rulings by the European Court of Justice have the power to change the nature of this relationship overnight.

Policy outcomes are legitimated by member state governments, and through the consultation of organised interests. In contrast, the European Parliament plays a minor role in most issue areas. Because of the contested nature of trade policymaking power, the European Commission seeks to build constituencies to legitimate its trade policies from among organised interests at the European level. The funding and access made available to diffuse groups allows them correspondingly greater influence on policy outputs.

Neither political system is static. The ways that the EU and US attempt to export imagined commodities are constantly changing, and will change again with new governments and altered institutions.

Appendix 1: Interviews

The following interviews were conducted by the author for this study between 2006 and 2008. On average, the interviews lasted 1 hour.

1. Agricultural Association Representative, Brussels, September 2006
2. Development NGO Representative, Brussels, October 2006
3. Development NGO Representative, Brussels, October 2006
4. Business Association Representative, Brussels, October 2006
5. Business Association Representative, Brussels, October 2006
6. Energy Industry Lobbyist, Brussels, October 2006
7. Women's Association Representative, Brussels, October 2006
8. Business Association Representative, Brussels, November 2006
9. Environmental NGO Representative, Brussels, November 2006
10. Trade Union Representative, Brussels, November 2006
11. Agricultural Association Representative, Brussels, November 2006
12. Development NGO Representative, Brussels, November 2006
13. Environmental NGO Representative, Brussels, November 2006
14. Business Association Representative, Brussels, November 2006
15. Environmental NGO Representative, Brussels, November 2006
16. Commission Official, Brussels, November 2006
17. Business Association Representative, Brussels, December 2006
18. Pharmaceutical Industry Representative, Brussels, May 2008
19. Animal Rights Campaigner, London, September 2006
20. Commission Official, London, October 2006
21. Trade Negotiator, London, April 2008
22. Development NGO Representative, Washington DC, April 2006
23. Development NGO Representative, Washington DC, April 2006
24. Development NGO Representative, Washington DC, April 2006
25. Development NGO Representative, Washington DC, April 2006
26. Think Tank Lobbyist, Washington DC, May 2007
27. Think Tank Representative, Washington DC, May 2007
28. Think Tank Representative, Washington DC, June 2007
29. Think Tank Representative, Washington DC, June 2007
30. Trade Union Representative, Washington DC, June 2007
31. Trade Union Representative, Washington DC, June 2007
32. Trade Negotiator, Washington DC, June 2007
33. Trade Negotiator, Washington DC, June 2007
34. Trade Negotiator, Washington DC, June 2007
35. Environmental NGO Representative, Washington DC, June 2007
36. USTR Official, Washington DC, June 2007
37. Congressional Staffer, Washington DC, June 2007
38. Congressional Staffer, Washington DC, May 2008
39. Trade Negotiator, Washington DC, June 2007
40. Agricultural Association Representative, Washington DC, July 2007
41. Defence Contractor, Washington DC, July 2007
42. Development NGO Representative, Washington DC, July 2007
43. Development NGO Representative, Washington DC, July 2007
44. Development NGO Representative, Washington DC, July 2007
45. State Department Official, Washington DC, May 2008

Interview Schedule for Interviews with Interest Groups

Statement of Intent

Thank you for agreeing to participate in my research. This study aims to measure and compare the effects of interest group lobbying and other campaign activities on trade policy in the United States and European Union. This interview is only for my own research, and the information you give me will be held anonymously and securely and will not be passed on to a third party. The research may be published at a later date, but I will not identify individual interviewees by name in the final text. None of the questions are of a sensitive nature, but you are entitled at any point to request that certain statements or sections of the interview are not associated with your organisation. If you request this, your name and the name of your organisation will not be used to identify these statements.

Section 1: Agenda

Could you tell me a little about your role here at [organisation]?

What do you see as the most important trade-related issue for your organisation? / Why is this? / What other trade-related issues do you deal with? / How do you decide which are the most important issues?

What do you think about recent events in the Doha Round negotiations? / How have they affected your organisation?

Section 2: Strategy

Now I'm going to move on to some detailed questions about how your organisation promotes its views on trade. First, I'm going to show you a list of activities, and for each one I'd like you to tell me if this is something you do regularly, sometimes or never.

Direct contact with policymakers or their staff

Encourage members to make direct contact with policymakers or their staff

Arrange press conferences

Send out press releases

Attend government organised meetings

Attend meetings organised by a coalition you are part of

Initiate meetings on behalf of a coalition of groups

Sign on to joint statements/amicus curiae briefs/petitions

Initiate joint statements/amicus curiae briefs/petitions

Gather information for your members

Gather information for the public

Gather information for policymakers

Organise protests or demonstrations

Initiate legal challenges

Give evidence to a tribunal/committee

Donate money to political campaigns

Is there anything you do to promote trade issues that I haven't mentioned?

Which of the activities on my list are the most important for your organisation?

What factors make you decide which of these actions to take?

Can you give me an example of an action that was particularly successful? / Are there any that weren't so successful?

Here's a second list which shows different organisations. Could you tell me if you interact with them often, sometimes or never.

World Trade Organisation
Other International Organisations (which ones?)
European Parliament
European Commission
European Council/Permanent Representations
European Court of Justice
Other European Organisations (which ones?)
National Government Departments or Agencies
National Parliaments/Congress
US Court of International Trade
State Governments
Local Governments

Are there any other government organisations that you have contact with that I haven't mentioned?

Which of the organisations on my list are most important to you? / Why is that?

What factors make you decide which of these organisations to contact? / Are there some organisations on the list that are more difficult for you to interact with than others? / Why is this?

Section 3: Working with Other Organisations

Does [organisation] participate in any networks or coalitions of like-minded groups?

Are there any groups outside these coalitions that you work with often?

Of all the groups that you work with, are there any that you look to for leadership on trade issues? / Are there any groups that look to you for leadership?

In terms of attracting resources (and members), are there any groups that you see as competing with your organisation?

Section 4: Expand on any interesting issues in the previous discussion.

Section 5: Fill in any details from the personal information or organisation categories that have not been determined prior to the interview, e.g. level of education, previous employment, languages spoken.

Appendix 2: Correspondence Analysis Data Tables

	Jan-Jun 2001	Jul-Dec 2001	Jan-Jun 2002	Jul-Dec 2002	Jan-Jun 2003	Jul-Dec 2003	Jan-Jun 2004	Jul-Dec 2004	Jan-Jun 2005	Jul-Dec 2005	Jan-Jun 2006	Jul-Dec 2006	Jan-Jun 2007	Jul-Dec 2007
No. Press Releases	65	113	143	129	123	115	146	118	141	169	201	137	122	151
Total Word Count	41126	59817	87019	77682	102030	76619	108196	81231	91850	87526	107531	69420	56522	55934
No. Classified ECTS	930	1321	1947	1729	2077	1684	2109	1905	1919	1708	2938	1972	1299	1091
As % Total ECTS	83.41%	81.04%	81.77%	81.67%	74.34%	80.46%	68.23%	82.32%	73.98%	68.21%	69.61%	74.65%	77.00%	65.68%
No. Lexical Classes	7	4	5	5	6	5	4	5	5	4	6	6	5	6
Distribution of ECTS	99.99%	100.01%	99.99%	100.27%	99.99%	99.99%	99.99%	99.99%	99.99%	100.01%	100.01%	99.99%	100%	100%
Class 1	15.59	39.67	20.49	26.41	20.46	19.83	12.66	24.04	14.38	26.41	9.98	23.7	36.49	20.90
Class 2	29.78	33.16	15.2	10.58	14.68	20.9	25.08	18.74	7.14	19.5	21.52	12.3	17.09	23.65
Class 3	7.63	14.46	22.34	37.88	18.2	17.81	25.98	20.52	17.46	22.66	15.94	15.96	12.24	18.70
Class 4	6.67	12.72	15.2	7.35	9.48	7.54	36.27	21.15	24.34	31.44	18.92	9.1	7.78	12.92
Class 5	18.92		26.76	18.05	29.08	33.91		15.54	36.69		23.03	8.22	26.40	14.02
Class 6	9.68				8.09						10.61	30.71		9.81
Class 7	11.72													

These pages provide summaries of the content analysis results for this project. The first table in each section shows data on the correspondence analysis, including the percentage of variance covered by each dimension. The second table in each section summarises the classes determined by Alceste's hierarchical classification analysis, the themes assigned by the researcher, typical words, and validation data.

Jan-June 2001

Dimensions	Eigenvalue	Percentage of Variance	Cumulative Variance
Factor 1	0.31	22.3%	22.3%
Factor 2	0.25	18.1%	40.4%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Congressional Politics	President+ (115.9), Congress+ (91.6), committee+ (81.7), America+ (80.5), environment+ (59.0), university (54.7), administration (53.9), Senator+ (49.2), executive (47.7), hemisphere (43.7)
#02	Trade Diplomacy	Pascal Lamy (194.7), Russia+ (68.8), accession+ (55.1), European Union (52.4), China+ (47.3), Egypt+ (43.2), bilateral+ (36.6), liberalis+ (35.9), multilateral (32.1), visit+ (28.7)
#03	Trade Defence	product+ (91.47), panel+ (90.5), body (87.6), appellate (83.1), export+ (82.4), turtle+ (60.9), glut+ (54.2), subsid+ (54.2), safeguard+ (52.1), Canada+ (51.9)
#04	Services & Telecoms	competit+ (166.2), carrier+ (154.0), telecom+ (144.8), market+ (109.3), supplier+ (98.1), service+ (88.5), regulator+ (83.73), German+ (76.1), entrant+ (76.1), Japan+ (75.5)
#05	Intellectual Property	intellectual (237.7), proper+ (214.5), piracy (190.8), protect+ (137.1), Ukraine+ (122.3), enforce+ (115.2), Greece+ (113.5), television (103.9), TRIPS (77.2), Robert Zoellick (59.4)
#06	Access to Medicines	target+ (97.6), develop+ (95.0), fund+ (89.8), technical+ (85.2), medicine+ (85.1), preference+ (75.1), GSP (73.0), disease+ (73.0), drug+ (66.9), Pascal Lamy (63.8)
#07	Corporate Responsibility	telework+ (419.1), social+ (221.4), compan+ (187.4), employ+ (185.2), corporate (155.8), employee+ (141.2), guidelines (123.4), technologist+ (91.2), Pascal Lamy (89.2), respons+ (88.2)

930 E.C.U.s classified (83%), threshold for validation 60%.

July-December 2001

Dimensions	Eigenvalue	Percentage of Variance	Cumulative Variance
Factor 1	0.30	42.1%	42.1%
Factor 2	0.24	32.6%	74.7%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Development	Develop+ (131.5), Pascal Lamy (118.6), countries+ (86.4), Europe+ (31.4), incentive+ (27.8), aid+ (26.4), medicines (26.2), social (24.4), health+ (22.8), labour+ (19.8)
#02	US Trade Defence	panel+ (368.5), body+ (204.0), appellate (194.0), Canadian (130.9), ruling+ (112.6), United States (96.1), dairy (94.4), wheat (94.4), subsid+ (92.1), settle+ (82.0)
#03	Competitive Liberalisation	Robert Zoellick (213.0), minister+ (115.3), China+ (89.7), economic+ (76.8), President+ (73.2), America+ (54.9), Taiwan (47.2), free (37.1), India+ (36.6), Japan+ (35.7)
#04	EU Trade Defence	banana+ (179.7), quota+ (166.3), duties (107.6), European Union (91.0), Pascal Lamy (86.7), rate+ (74.8), tariff+ (71.7), cloth+ (67.9), supplier+ (55.2), duty (54.4)

1321 E.C.U.s classified (81%), threshold for validation 60%.

Jan-June 2002

Dimensions	Eigenvalue	Percentage of Variance	Cumulative Variance
Factor 1	0.32	36.9%	36.9%
Factor 2	0.23	26.4%	63.3%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Trade Diplomacy	visit+ (288.4), meet (254.5), President+ (182.8), Zoellick (144.9), Lamy (126.8), relation+ (66.1), delegation+ (64.9), Asia+ (63.8), Singapore+ (57.1), leader+ (53.9)
#02	Sustainable Development	polic+ (208.3), social+ (165.6), Pascal Lamy (163.7), environment (130.2), sustain+ (122.5), govern+ (104.0), develop+ (101.3), poverty (88.5), educat+ (82.9), support+ (81.9), co-oper+ (79.9)
#03	WTO Disputes	panel+ (431.1), body+ (290.5), dispute+ (280.3), appellate (256.9), safeguard+ (224.6), United States (191.1), ruling+ (174.1), WTO (173.8), case+ (158.3), findings (109.7)
#04	Doha Development	Doha (234.4), negoti+ (210.3), develop+ (153.8), countries+ (150.7), technical (139.0), agenda+ (112.4), build (100.4), capacity+ (93.2), ACP (75.2), access+ (57.6)
#05	Protection	product+ (88.6), protect+ (82.0), export+ (60.1), market+ (56.0), price+ (55.8), competit+ (51.0), United States (45.8), tariff+ (45.1), airline+ (44.2), industr+ (44.1)

1947 E.C.U.s classified (82%), threshold for validation 60%.

July-December 2002

Dimensions	Eigenvalue	Percentage of Variance	Cumulative Percentage
Factor 1	0.33	32.5%	32.5%
Factor 2	0.29	28.8%	61.3%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Competitive Liberalisation	Robert Zoellick (197.8), America+ (103.9), bilateral+ (98.4), Australia+ (93.4), FTAA (86.5), Congress+ (85.9), discuss+ (73.6), leader+ (69.7), Lamy (57.0)
#02	US Trade Defence	panel+ (393.1), countervail+ (229.0), steel (207.4), subsid+ (205.6), United States (178.2), appellate (171.5), body+ (171.5), exclusion+ (160.6), Robert Zoellick (106.6), safeguard+ (105.6)
#03	EU Trade Defence	textile+ (317.1), cloth+ (291.6), quota+ (241.0), tariff+ (191.5), Brazil+ (116.8), export+ (93.2), wheat (92.9), bill+ (86.4), barley (85.0), import+ (67.0)
#04	Agricultural Reform	farm+ (674.4), rural (348.0), payment+ (282.2), animal+ (242.5), welfare (242.5), CAP (221.5), mid-term (190.9), policy+ (172.3), environment (114.6), Pascal Lamy (110.1)
#05	Access to Medicines	Pascal Lamy (188.7), develop+ (134.5), poor+ (68.7), medicine+ (65.4), AIDS (53.4), need (50.3), protect+ (49.4), HIV (46.5), capacit+ (40.7), health+ (39.5)

1729 E.C.U.s classified (82%), threshold for validation 60%.

Jan-June 2003

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.29	26.7%	26.7%
Factor 2	0.26	23.2%	49.9%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Trade Diplomacy	Lamy (188.2), discuss+ (143.0), meetings (85.2), dialogue+ (77.3), Cancun (70.1), Patten (67.8), transatlantic (58.7), agenda+ (56.0), TABD (54.8), Pascal Lamy (49.7)
#02	Competitive Liberalisation	Robert Zoellick (487.4), FTA (297.6), free+ (266.0), Chile+ (138.4), Morocco (132.0), America+ (110.9), South (98.9), African+ (97.6), liberal+ (92.9), Bahrain+ (90.2)
#03	Agriculture & Food Safety	agricultural (204.3), farm+ (112.2), payment+ (109.4), export+ (107.1), cut (73.9), food+ (67.6), tariff+ (65.2), increase+ (56.2), maize (56.1), GM (52.6)
#04	Services	services+ (581.6), companies+ (219.8), foreign+ (163.3), national+ (96.5), loyalty (95.9), computer+ (89.6), sector+ (85.4), cross-border (76.6), telecom+ (75.9), insurance (67.4)
#05	US Trade Defence	panel+ (663.8), body+ (367.5), dispute+ (332.2), appellate (310.8), settle+ (306.1), dump+ (239.9), findings (194.8), investig+ (162.6), appeal+ (160.2), Canada+ (160.1)
#06	Health	Pascal Lamy (181.3), health+ (94.3), disease+ (62.4), Commission+ (58.9), fisheries (55.4), medicine+ (55.4), environment (48.7), public+ (47.9), tobacco (43.7), control+ (40.1)

2077 E.C.U.s classified (74%), threshold for validation 60%.

July-December 2003

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.34	34.7%	34.7%
Factor 2	0.27	27.0%	61.7%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Doha Round	Cancun+ (176.6), Pascal Lamy (168.25), access+ (72.6), Saudi (70.8), Doha (60.9), European Union (55.0), develop+ (49.4), need (47.2), clear+ (46.1), spirit+ (39.2)
#02	Agriculture & Textiles	export+ (236.3), price+ (200.6), sugar+ (198.5), quota+ (117.2), import+ (98.4), agricultural (79.0), cotton (77.9), duties (73.6), textile+ (58.7), poultry (55.8).
#03	Commission's Cancun Agenda	Pascal Lamy (159.2), regulation+ (112.7), right+ (97.0), health (88.2), rule+ (76.3), inform+ (64.6), enforce+ (54.7), authorities (54.7), direct+ (51.4), legal+ (50.8)
#04	WTO Disputes	panel+ (762.4), body+ (454.9), appellate (411.4), dispute+ (251.5), Japan+ (235.6), appeal+ (222.0), settle+ (193.2), apple+ (172.7), findings (160.4), fire (148.2)
#05	Latin American FTAs	Robert Zoellick (636.1), America+ (144.1), FTA (142.6), free+ (141.2), central (115.7), CAFTA (99.0), Dominican (88.1), Congress+ (87.3), FTAA (76.4), President+ (76.2)

1684 E.C.U.s classified (80%), threshold for validation 60%.

Jan-June 2004

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.35	39.6%	39.6%
Factor 2	0.30	33.6%	73.2%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Trade Defence	panel+ (278.6), dispute+ (228.2), anti-dumping (208.4), request+ (137.0), Mexico+ (132.7), ruling+ (132.2), appellate (132.2), countermeasures (132.2), body (123.0), FSC (116.1)
#02	Agriculture & Textiles	product+ (214.0), export+ (208.5), agricultural (184.3), euro+ (177.3), cotton (156.2), Pascal Lamy (123.7), tariff+ (122.3), import+ (107.5), quota+ (106.5), ACP+ (75.6)
#03	Cooperate & Consult	Pascal Lamy (426.1), Commission+ (300.6), enlarge+ (114.7), social+ (95.1), common+ (78.4), dialogue+ (75.6), develop+ (67.9), cooperat+ (64.5), Russia+ (64.0), globalisation+ (43.0)
#04	Competitive Liberalisation	Robert Zoellick (980.5), FTA (310.2), free+ (167.1), CAFTA (103.2), Dominican (102.9), President+ (91.7), Australia+ (81.9), expand+ (81.9), Bahrain+ (81.5), agree+ (77.9)

1209 E.C.U.s classified (68%), threshold for validation 60%.

July-December 2004

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.30	34.2%	34.2%
Factor 2	0.22	25.3%	59.5%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Quotas & Preferences	product+ (264.7), quota+ (217.7), sugar+ (200.1), import+ (150.3), tariff+ (100.0), textile+ (99.0), export+ (77.1), GSP (76.7), subject+ (63.1), beneficiar+ (55.7)
#02	EU Regionalism	minister+ (197.5), negoti+ (160.3), Pascal Lamy (122.5), EPA (108.3), Brussels (100.0), regional+ (81.5), Euromed+ (74.0), senior+ (60.9), talk+ (59.2), integr+ (56.5)
#03	Airbus Dispute	subsid+ (260.5), panel+ (218.3), United States (141.0), dispute+ (134.9), airbus+ (118.1), boeing+ (92.6), aircraft (83.7), sanction+ (77.2), obligation+ (76.3)
#04	Competitive Liberalisation	Robert Zoellick (465.4), FTA (388.6), free+ (233.6), Congress+ (227.7), Morocco (175.3), Bahrain+ (151.7), sign+ (144.4), President+ (135.1), Jordan+ (126.1), pass+ (112.9)
#05	Development	develop+ (96.9), intellectual (91.4), proper+ (78.0), cooperat+ (69.5), standard+ (56.3), regulatory (53.2), strengthen+ (41.1), enforce+ (39.8), enhance+ (39.4), help+ (35.8)

1905 E.C.U.s classified (82%), threshold for validation 60%.

Jan-June 2005

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.32	34.8%	34.8%
Factor 2	0.25	27.0%	61.8%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Doha Development Agenda	ACP (313.4), EPA+ (256.9), develop+ (221.8), regional+ (221.8), Peter Mandelson (145.1), access+ (129.6), market+ (103.9), integr+ (86.8), Cotonou (77.9), capacity (76.8)
#02	US FTAs	Robert Portman (371.5), Robert Zoellick (292.7), CAFTA (146.5), Congress+ (126.9), counterfeit+ (92.5), free+ (83.1), house+ (72.3), intellectual (72.27), enforce+ (68.7), piracy (66.3)
#03	Dialogue	summit+ (212.9), Peter Mandelson (181.3), visit+ (116.9), dialogue+ (92.2), partner+ (72.2), transatlantic (70.0), polic+ (67.6), strateg+ (62.7), phytosanitary (60.4), social (51.3)
#04	Services	offer+ (529.2), service+ (478.4), revise+ (350.5), energy (183.2), financial+ (160.7) transport+ (97.1), telecommunication+ (90.8), profess+ (78.3), computer+ (53.3), educat+ (53.2)
#05	Trade Defence	investig+ (101.9), product+ (101.2), panel+ (95.9), import+ (94.2), regulation+ (70.0), subsid+ (65.9), textile+ (58.0), China+ (53.5), body+ (49.0), appellate (49.0)

1919 E.C.U.s classified (74%), threshold for validation 60%.

July-December 2005

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.28	38.3%	38.3%
Factor 2	0.24	33.0%	71.3%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Doha Negotiations/ Agriculture	Peter Mandelson (176.4), proposal+ (119.0), tariff+ (103.0), Hong Kong (91.8), banana+ (88.0), access+ (86.8), Commission+ (66.6), MFN (50.7), ACP (45.1), arbitrator+ (39.3)
#02	Aid	billion+ (221.5), aid (216.5), export+ (182.5), food+ (153.3), goods (66.2), euro+ (60.0), product+ (52.6), benefit+ (48.9), ship+ (41.5)
#03	Dialogue	India+ (319), cooperat+ (248.9), dialogue+ (202.6), Peter Mandelson (182.0), summit+ (122.2), exchange+ (117.2), mutual+ (92.1), strateg+ (84.5), research+ (69.6), human (58.6), society+ (55.8)
#04	Trade Diplomacy	Robert Portman (596.6), President+ (112.7), meet (73.7), commerce+ (64.8), negoti+ (63.6), announce+ (59.7), agenda+ (52.2), east (49.1), Congress+ (42.3), free+ (41.3)

1708 E.C.U.s classified (68%), threshold for validation 60%.

Jan-June 2006

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.30	27.4%	27.4%
Factor 2	0.26	23.7%	51.1%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Environment	service+ (294.1), financ+ (147.0), telecommunic+ (122.9), environmental (83.9), insurance, (81.6), energ+ (73.0), innovation+ (63.4), biodiversity (63.4), postal (54.3), transparent+ (54.3)
#02	Multilateral Negotiations	Commission+ (305.7), negoti+ (119.4), Peter Mandelson (94.3), Doha (82.7), successful+ (58.3), Hong Kong (56.1), Vienna (55.1), counterfeit+ (52.5), summit (44.4), ambitious (40.5)
#03	Agriculture Development	develop+ (242.5), cut (166.9), agricultural (137.1), industrial+ (132.8), Peter Mandelson (131.3), tariff+ (123.2), farm+ (103.7), liberalis+ (94.7), aid (92.7), access+ (69.9)
#04	Trade Defence	duties (185.0), import+ (155.2), export+ (121.5), dump+ (86.5), leather (70.2), duty free (65.9), Mexico+ (61.8), shoe (61.5), sugar+ (58.8), Byrd (57.9)
#05	WTO Disputes	dispute+ (221.8), Robert Portman (209.1), panel+ (200.9), request+ (126.3), article+ (81.2), enforce+ (79.9), Section 301 (67.5), ruling+ (66.9), review+ (64.4), intellectual (47.1)
#06	Bilateral Negotiations	free+ (292.7), East (228.0), region+ (203.4), FTA (152.4), ties (144.4), Oman+ (113.2), Bahrain+ (101.7), investment+ (87.4), nation+ (83.3)

2938 E.C.U.s classified (70%), threshold for validation 60%.

July-December 2006

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.33	29.1%	29.1%
Factor 2	0.32	28.0%	57.1%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Trade Defence	panel+ (126.7), investigation (110.9), dump+ (101.9), body+ (101.9), antidumping (91.8), duties (88.7), dispute+ (88.2), request+ (82.2), appellate (78.5), wine+ (70.2)
#02	US Bilaterals (negotiation)	Susan Schwab (248.4), GSP (230.3), duty free (200.8), preference+ (136.0), ATPA (128.0), Peru+ (114.0), beneficiary (108.1), Colomb+ (102.5), product+ (94.8), Haiti+ (93.6)
#03	Investment	TIA (146.8), Susan Schwab (142.7), discuss+ (95.1), Asia+ (71.4), Indonesia+ (66.8), cooperat+ (65.9), invest+ (57.0), Rwanda+ (51.3), Southeast (51.3), relation+ (49.4)
#04	Doha Agriculture	farm+ (215.4), cut (191.3), Doha (109.0), agricultural (76.0), trade distorting (70.8), offer+ (61.5), subsid+ (59.1), tariff+ (51.6), G20 (49.9), caricature (40.1)
#05	US Bilaterals (Congress)	free+ (128.4), middle (106.4), Susan Schwab (100.0), opportunit+ (81.5), Oman (79.6), consumer+ (76.6), Panama+ (71.5), Bahrain (67.0), Congress+ (64.2), service+ (62.1)
#06	Global Europe	Peter Mandelson (480.6), Commission+ (189.3), China+ (155.9), argue+ (84.4), global+ (67.7), strateg+ (60.9), business (52.6), competit+ (52.6), counterfeit+ (40.32), partner+ (39.5)

1972 E.C.U.s classified (75%), threshold for validation 60%.

January-June 2007

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.35	36.5%	36.5%
Factor 2	0.24	25.3%	61.8%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Economic Partnership Agreements	Mandelson (164.8), argue+ (83.0), ACP (81.2), Commission (77.5), Economic Partnership Agreements (57.1), global+ (53.0), political+ (41.9), debate+ (39.0), negoti+ (38.5), energy (31.8)
#02	Bilateral Investment Treaties	investment+ (162.9), forum (137.2), Schwab (131.5), initiat+ (90.3), bilateral+ (88.2), ties (85.6), official+ (68.5), discuss+ (55.0), Vietnam+ (48.9), Indian (48.1)
#03	Intellectual Property / China	Intellectual property (149.6), enforce+ (130.4), China+ (102.4), Special 301 (72.3), serious+ (57.7), geographical (56.7), counterfeit+ (56.7), protect+ (43.1), indication+ (42.5), software (36.0)
#04	FTAs & Bipartisan Deal	Panama+ (191.2), Congress+ (168.4), bipartisan (167.9), Trade Promotion Authority (155.8), farmers+ (154.9), ranchers (131.6), Peru (130.9), Colombia (95.0), Korea (88.9), Dominican Republic (71.4)
#05	WTO Disputes	Dispute+ (200.2), panel+ (164.4), WTO (159.0), request+ (137.2), duties (131.2), settle+ (131.2), spirit+ (122.2), consult+ (115.3), wine+ (111.7), resolve+ (62.3)

1299 E.C.U.s classified (77%), threshold for validation 60%.

July-December 2007

Axes	Eigenvalue	Percentage of Association	Cumulative Percentage
Factor 1	0.36	27.5%	27.5%
Factor 2	0.29	22.2%	49.7%

Class	Theme	Typical Words (χ^2 value, indicating association with this class)
#01	Bilateral Investment Treaties	Negoti+ (112.8), Trade and Investment Framework (95.2), discuss+ (91.6), Schwab (86.2), text+ (69.7), progress+ (61.7), group+ (61.5), delegation+ (48.3), bilateral+ (47.5), Doha (43.9)
#02	WTO Disputes	Panel+ (214.0), WTO (205.6), request+ (191.1), subsid+ (121.8), settle+ (87.7), claim+ (79.2), public+ (76.3), Boeing+ (66.2), prohibit+ (59.1), Antigua (52.4)
#03	China, Russia & Energy	Mandelson (204.6), textile+ (98.7), Commission+ (83.5), argue (61.3), China+ (53.1), Russ+ (51.3), speech (46.9), instrument+ (43.9), summit (41.9), defence (41.8)
#04	Economic Partnership Agreements	Economic Partnership Agreements (271.2), ACP (220.7), region+ (164.5), develop+ (155.4), aid (128.9), Pacific (102.5), agree+ (64.9), Africa+ (63.5), initial+ (54.3), partner+ (46.6)
#05	'Trade And' Issues	Technolog+ (91.7), enforce+ (79.6), environmental+ (78.5), intellectual (78.5), anti-counterfeiting (61.9), non-tariff (61.9), NAFTA (60.9), services+ (59.2), goods (48.5), global+ (45.3)
#06	FTAs Bipartisan Deal	Billion+ (145.4), export+ (144.4), ranchers (139.9), total+ (133.5), farm+ (115.3), duty free (110.6), million+ (96.4), Peru+ (83.2), job+ (67.0), Colombia+ (59.8)

1091 E.C.U.s classified (66%), threshold for validation 60%.

Bibliography

- 't Hoen, Ellen. 2002. "TRIPS, Pharmaceutical Patents, and Access to Essential Medicines: A Long Way from Seattle to Doha." *Journal of Public Health and International Law* 3 (27):27-46.
- Aaronson, Susan Ariel. 2001. *Taking Trade to the Streets: the Lost History of Public Efforts to Shape Globalization*. Ann Arbor: University of Michigan Press.
- Abrahamson, Peter. 2007. "Free Trade and Social Citizenship: Prospects and Possibilities of the Central American Free Trade Agreement." *Global Social Policy* 7 (3):339-57.
- Alesina, Alberto, and Edward L Glaeser. 2004. *Fighting Poverty in the US and Europe: A World of Difference*. Oxford: Oxford University Press.
- Allum, N. 1998. *A Social Representations Approach to the Comparison of Three Textual Corpora Using Alceste*. London: London School of Economics and Political Science.
- Alt, James, Jeffrey Frieden, Michael Gilligan, Dani Rodrik, and Ronald Rogowski. 1996. "The Political Economy of International Trade: Enduring Puzzles and an Agenda for Inquiry." *Comparative Political Studies* 29 (6):689-717.
- AMA. 2008. "New AMA Guidelines on Medical Tourism."
- Anania, Giovanni, and Jean-Christophe Bureau. 2005. "The negotiations on agriculture in the Doha Development Agenda Round: current status and future prospects." *European Review of Agricultural Economics* 32 (4):539-74.
- Anders, Michael. 1999. "Asia, Europe at odds over labour rights in free trade talks." *Agence France Presse*, 10th October.
- Anderson, Benedict. 1983. *Imagined Communities: Reflections on the Origins and Spread of Nationalism*. London: Verso.
- Anderson, Kym, and Will Martin. 2005. "Agricultural Trade Reform and the Doha Development Agenda " *The World Economy* 28 (9):1301-27.
- Anderson, Mark. 1996. "Worker Rights in U.S. International Trade and Investment Law." Washington DC: AFL-CIO Task Force on Trade.
- Anderson, Sarah, and John Cavanagh. 2004. "Lesson of European Integration for the Americas." Institute for Policy Studies.
- Arunanondchai, J , and J Fink. 2005. Trade in Health Services in the ASEAN Region. Paper read at ICTSD and PIDS Asia Regional Dialogue on Services and Sustainable Development, 28th February-1st March.
- Ayres, Jeffrey M. 1998. *Defying Conventional Wisdom: Political Movements and Popular Contention Against North American Free Trade*. Toronto: University of Toronto Press.
- Bailey, Andrew, and Cheryl Schonhardt-Bailey. 2005. *Explaining the Volcker Revolution of 1979: Testing Theories with Transcripts*. Washington, DC: American Political Science Association.
- Bailey, Michael, Judith Goldstein, and Barry Weingast. 1997. "The Institutional Roots of American Trade Policy: Politics, Coalitions and International Trade." *World Politics* 49 (3):309-38.
- Baker, Peter. 2007. "A President Besieged and Isolated, Yet at Ease." *The Washington Post*, 2nd July, 1.
- Baldwin, Robert E. 2003. *The Decline of US Labor Unions and the Role of Trade*. Washington, DC: Institute for International Economics.
- Barbé, Esther, ed. 2005. *¿Existe una Brecha Transatlántica? Estados Unidos y la Unión Europea tras la crisis de Irak*. Madrid: Editorial Los Libros de la Catarata.

- Barber, Lionel. 1997. "Brussels Strives to Call the Tune on Trade." *The Financial Times*, 12th March 1997.
- Barenberg, Mark, and Peter Evans. 2004. "The FTAA's Impact on Democratic Governance." In *Integrating the Americas: FTAA and Beyond*, ed. A. Estevadeordal, D. Rodrik, A. M. Taylor and A. Velasco. Cambridge, MA: Harvard University Press.
- Barkham, Patrick. 1999. "The Banana Wars Explained." *The Guardian*, 5th March.
- Barton, John H, Judith L Goldstein, Timothy E Josling, and Richard H Steinberg. 2006. *The Evolution of the Trade Regime: Politics, Law and Economics of the GATT and the WTO*. Princeton: Princeton University Press.
- Bauer, Raymond, Ithiel de Sola Pool, and Lewis Dexter. 1963. *American Business and Public Policy: The Politics of Foreign Trade*. Chicago: Aldine-Atherton.
- Baumgartner, Frank R, and Bryan Jones. 1993. *Agendas and Instability in American Politics*. Chicago: University of Chicago Press.
- Baumgartner, Frank R, and Beth L Leech. 1998. *Basic Interests: The Importance of Groups in Politics and in Political Science*. Princeton, NJ: Princeton University Press.
- Bayne, Nicholas, and Stephen Woolcock, eds. 2003. *The New Economic Diplomacy*. Aldershot: Ashgate.
- BBC. 2006. *Europe Blames US for WTO Failure*, 25th July. Available from <http://news.bbc.co.uk/1/hi/business/5209010.stm>.
- Beattie, Alan. 2008. "Green Barricade: Trade Faces a New Test as Carbon Taxes Go Global." *Financial Times*, 24th January.
- Beattie, Alan, and Andrew Bounds. 2006. "Sceptics Fear Political Ties that Bind Free Trade." *The Financial Times*, 5th October 2006.
- Bensel, Richard Franklin. 2000. *The Political Economy of American Industrialization, 1877-1900*. Cambridge: Cambridge University Press.
- Benzecri, J-P. 1981. *L'Analyse des Données. Tome 1: La Taxinomie. Tome 2: L'Analyse des Correspondances*. Paris: Dunod.
- BERR. 2006. *The Pharmaceutical sector in the UK*, accessed 15th November 2006. Available from <http://www.berr.gov.uk/sectors/biotech/pharmaceutical/page10219.html>.
- Bertelli, Anthony M, and Laurence E Jr Lynn. 2006. *Madison's Managers: Public Administration and the Constitution*. Baltimore: Johns Hopkins University Press.
- Beyers, Jan. 2002. "Gaining and Seeking Access: The European Adaptation of Domestic Interest Associations." *European Journal of Political Research* 41 (5):585-612.
- . 2004. "Voice and Access: Political Practices of European Interest Associations." *European Union Politics* 5 (2):211-40.
- Blasius, J, and V Thiessen. 2001. "Methodological Artifacts in Measures of Political Efficacy and Trust: A Multiple Correspondence Analysis." *Political Analysis* 9 (1):1-20.
- Blinder, Alan S. 2007. "Free Trade's Great, but Offshoring Rattles Me." May 6th.
- Blouin, Chantal. 2007. "Trade Policy and Health: From Conflicting Interests to Policy Coherence." *Bulletin of the World Health Organisation* (85):169-73.
- Blue Green Alliance. 2006. "Devastating the Environment. Destroying U.S. Jobs: A clear cut case of Indonesia's illegal logging and unfair trade." Minneapolis.
- Boseley, Sarah, and Peter Capella. 2001. "US Defends Drug Companies." *The Guardian*, 21st June.
- Braudel, Fernand. 1979. *The Perspective of the World: Civilization and Capitalism 15th-18th Century*. Vol. 3. London: Phoenix Press.

- Brittan, Leon. 1998. *Globalisation vs. Sovereignty? The European Response: The 1997 Rede Lecture and Related Speeches*. Cambridge: Cambridge University Press.
- . 1999. "The Next WTO Negotiations on Agriculture -A European View." In *53rd Oxford Farming Conference*.
- . 2000. *A Diet of Brussels: The Changing Face of Europe*. London: Little, Brown & Company.
- Broadbuss, M, and E Park. 2007. "Freezing SCHIP funding in coming years would reverse recent gains in children's health coverage." *Center on Budget and Policy Priorities*.
- Brougidou, M. 2000. "The Discourse of Demands and Action in Trade Union Press Editorials (1996-1998)." *Revue Française de Science Politique* 50 (6):967-92.
- Buck, Tobias, and Guy de Jonquieres. 2003. "Trade Commission to Block Talks on Public Services Liberalization." *Financial Times*, 5th February.
- Buerkle, Tom. 1994. "Brittan Rebuffs Clinton Over Labor Standards." *International Herald Tribune*.
- Bureau of National Affairs. 2001. "United States Drops WTO Case Against Brazil Over HIV/AIDS Patent Law." *WTO Reporter* (June 26th).
- Business Line. 1999. "UN Economic and Social Council discusses foreign debt and nature of poverty."
- Callan, Eoin. 2007. "Schwab Proud of Bipartisanship." *Financial Times*, 1st July 2007.
- Calvert, Randall, Mark Moran, and Barry Weingast. 1987. "Congressional Influence Over Policymaking: The Case of the FTC." In *Theories of Congress: The New Institutionalism*, ed. M. McCubbins and T. Sullivan. Cambridge: Cambridge University Press.
- Cater, Douglass. 1964. *Power in Washington*. New York: Random House.
- Center for Policy Analysis on Trade and Health. 2005. *Campaign for Public Health Representation in Trade Policy*, accessed 11th March 2007. Available from <http://www.cpath.org/id4.html>.
- Chanda, Rupa. 2002. "Trade in Health Services." In *Trade in Health Services: Global, Regional and Country Perspectives*, ed. C. Vieira. Washington, DC: Pan American Health Organization.
- Charnovitz, Steve. 2005. "An Analysis of Pascal Lamy's Proposal on Collective Preferences." *Journal of International Economic Law* 8 (2):449-72.
- China Daily. 1999. "Vested Interests Hijack World Free Trade."
- Christiansen, Thomas. 1997. "Tensions of European Governance: Politicized Bureaucracy and Multiple Accountability in the European Commission." *Journal of European Public Policy* 4 (1):73-90.
- . 2001. "Intra-institutional Politics and Inter-institutional Relations in the EU: Towards Coherent Governance?" *Journal of European Public Policy* 8 (5):747-69.
- Clinton, Bill. 1999. "Remarks at a World Trade Organization Luncheon in Seattle."
- . 2000. "Statement on Caribbean Basin Initiative and African Growth and Opportunity Act Beneficiary Countries " *Weekly Compilation of Presidential Documents*, 9th October.
- Coen, David. 1999. "The impact of U.S. lobbying practice on the European business-government relationships." *California Management Review* 41 (4):27-44.
- . 2004. "Environmental and Business Lobbying Alliances in Europe: Learning from Washington?" In *Business of Global Environmental Governance: A Political Economy Approach*, ed. D. Levy and P. Newell. Cambridge: MIT Press.
- Coleman, William, Wyn Grant, and Tim Josling. 2004. *Agriculture in the New Global Economy*. Cheltenham: Edward Elgar.

- Cornides, Jakob. 2007. "European Union Adopts Regulation on Compulsory Licensing of Pharmaceutical Products for Export." *The Journal of World Intellectual Property* 10 (1):70-7.
- Correa, Carlos María. 2006. "Implications of bilateral free trade agreements on access to medicines." *Bulletin of the World Health Organisation* 84 (5):399-404.
- Cortez, Nathan. 2008. "Patients Without Borders: The Emerging Global Market for Patients and the Evolution of Modern Health Care." *Indiana Law Journal* 83 (71):71-132.
- Cowhey, Peter, and Jonathan Aronson. 1993. *Managing the World Economy: The Consequences of Corporate Alliances*. New York: Council on Foreign Relations Press.
- Cram, Laura. 1994. "The European Commission as a Multiorganisation." *Journal of European Public Policy* 1:195-217.
- De Bièvre, Dirk. 2006. "The EU regulatory trade agenda and the quest for WTO enforcement." *Journal of European Public Policy* 13 (6):851-66.
- De Bièvre, Dirk, and Andreas Dür. 2005. "Constituency Interests and Delegation in European and American Trade Policy." *Comparative Political Studies* 38 (10):1271-96.
- De Jonquieres, Guy, and David Buchan. 1994. "Brittan Wants Rights Put on WTO Agenda." *Financial Times*, 24th March, 6.
- Delamonica, Enrique, Santosh Mehrotra, and Jan Vandemoortele. 2004. "Education for All: How Much Will It Cost?" *Development and Change* 35 (1):3-30.
- della Porta, Donatella, Andretta Massimiliano, Lorenzo Mosca, and Herbert Reiter. 2006. *Globalization from Below: Transnational Activists and Protest Networks*. Minneapolis: University of Minnesota Press.
- Destler, I M. 2005. *American Trade Politics*. 4th ed. Washington DC: Institute for International Economics.
- Destler, I M, and Peter J Balint. 1999. *The New Politics of American Trade: Trade, Labor and the Environment*. Washington, DC: Institute for International Economics.
- Devereaux, Charan, Robert Lawrence, and Michael Watkins. 2006. *Case Studies in US Trade Negotiation: Making the Rules*. Vol. 1. Washington DC: Institute for International Economics.
- DFID. 1999. "Britain & The World Bank Work Together To Help Poor Countries."
- DG Agriculture. 1997. "Rural Developments." European Commission Working Document.
- . 1999. "Agenda 2000: A CAP for the Future."
- DG Sanco. 2007. *Future Challenges Paper: 2009-2014*, accessed 21st October 2007. Available from http://ec.europa.eu/dgs/health_consumer/events/future_challenges_en.htm.
- DG Trade. 2001a. "Positive Gains Seen for LDCs if QUAD Implements EBA." In *DG Trade Press Release*. Brussels.
- . 2001b. "World AIDS Day: Lamy Calls for More Action on Access to Medicines After Progress on Doha."
- . 2002. "EU-Chile Association Agreement to be signed today in Brussels." Brussels.
- . 2003. "WTO Services: Commission Submits Draft Offer to Council and Parliament - Public Services Fully Defended." Brussels.
- . 2004a. "EU Strengthen Fight Against Piracy and Counterfeiting Beyond Its Borders."
- . 2004b. "Strategy for the enforcement of intellectual property rights in third countries."

- . 2005a. *DG Trade 2005 Annual Activity Report*, accessed 20th March 2007. Available from http://ec.europa.eu/atwork/synthesis/aar/aar2005/doc/trade_aar.pdf.
- . 2005b. "European Commission presents revised offer on services for Doha Development Round." Brussels.
- . 2005c. "European Union offers big new trade aid boost." Hong Kong.
- . 2005d. *Responsive Policy: Dialogue with Civil Society*, 20th March 2007. Available from http://trade.ec.europa.eu/doclib/docs/2005/june/tradoc_113527.pdf.
- . 2005e. *Sustainability Impact Assessments*, <http://ec.europa.eu/trade/issues/global/sia/faqs.htm>.
- . 2006. "Access to Essential Medicines."
- . 2007. "Mandelson Debates Global Europe and Economic Partnership Agreements with the European Parliament."
- Diamond, Jared. 2005. *Collapse: How Societies Choose to Fail or Succeed*. New York: Penguin.
- DiMaggio, Paul, and Walter Powell, eds. 1991. *The New Institutionalism in Organizational Analysis*. Chicago: University of Chicago Press.
- Dollar, David, and Aart Kraay. 2002. "Growth is Good for the Poor." In *World Bank Working Research Paper: World Bank*.
- . 2004. "Trade, Growth, and Poverty." *The Economic Journal* 114 (114):F22-F49.
- Drahos, Peter. 2001. "Bits and Bips: Bilateralism in Intellectual Property." *The Journal of World Intellectual Property* 4 (6):791-808.
- Drake, William J, and Kalypso Nicolaïdis. 1992. "Ideas, Interests and Institutionalization: "Trade in Services" and the Uruguay Round." *International Organization* 46 (1):37-100.
- Drezner, Daniel. 2007. *All Politics is Global: Explaining International Regulatory Regimes*. Princeton: Princeton University Press.
- Dryden, Steve. 1995. *Trade Warriors: USTR and the American Crusade for Free Trade*. New York: Oxford University Press.
- Dypski, Michael. 2003. "The Caribbean Basin Initiative: An Examination of Structural Dependency, Good Neighbor Relations, and American Investment." *Journal of Transnational Law and Policy* 12 (1):95-136.
- Eeckhout, Piet. 2004. *External Relations of the European Union: Legal and Constitutional Foundations*. Oxford: Oxford University Press.
- Elliott, Kimberley Ann. 2003. "Labor Standards and the Free Trade Area of the Americas." In *Working Paper: Institute for International Economics*.
- Elsig, Manfred. 2002. *The EU's Common Commercial Policy: Institutions, Interests and Ideas*. Aldershot: Ashgate.
- Eppink, Derk-Jan. 2007. *Life of a European Mandarin: Inside the Commission*. Tiel: Lannoo.
- ERS, and USDA. 2000. "Three Pillars of Agricultural Negotiation."
- ETUC. 2005. *The ETUC condemns EU Trade preferences decision*, 21st December. Available from <http://www.etuc.org/a/1904>.
- Euractiv. 2007. *EU Parliament clears access to cheap medicines for poor nations*, 25th October. Available from www.euractiv.com.
- European Commission. 1996. "Commission Calls for Sharper European Trade Policy." Brussels.
- . 1998. "Commission and NGOs hold dialogue on the Millennium Round." Brussels.

- . 2000. "The European Commission and the Liaison Committee of Development Non-Governmental Organisation to the EU." Brussels.
- . 2001a. "European Governance: A White Paper." COM(2001) 428.
- . 2001b. *Promoting Core Labour Standards and Improving Social Governance in the Context of Globalisation*, 18th July. Available from http://trade.ec.europa.eu/doclib/docs/2004/march/tradoc_111234.pdf.
- . 2002. "WTO and Agriculture: European Commission Proposes More Market Opening, Less Trade Distorting Support and a Radically Better Deal for Developing Countries." Brussels.
- . 2008. "Commission's lobby register: it's time to sign up." Brussels.
- European Communities. 2000. "EC Comprehensive Negotiating Proposal."
- . 2001. "The Relationship Between the Provisions of the TRIPS agreement and access to medicines." IP/C/W/280: WTO TRIPS Council.
- Evans, John W. 1971. *The Kennedy Round in American Trade Policy: The Twilight of the GATT?* Cambridge, MA: Harvard University Press.
- Feinberg, Richard. 2003. "The Political Economy of the United States' Free Trade Agreements." *The World Economy* 26 (7):1019-40.
- Ferejohn, John, and Charles Shipan. 1989. "Congressional Influence on Administrative Agencies: A Case Study of Telecommunications Policy." In *Congress Reconsidered* ed. L. Dodd and B. Oppenheimer. Washington DC: Congressional Quarterly Press.
- Fierce Healthcare. 2008. "Medtronic New Zealand announces partnership with MA-based Pinnacle Health: A ground-breaking industry alliance." 7th July.
- Fink, C, and P Reichenmiller. 2005. "Tightening TRIPS: The Intellectual Property Provisions of Recent US Free Trade Agreements." Washington DC: World Bank.
- Finlayson, Jock A, and Mark W Zacher. 1981. "The GATT and the Regulation of Trade Barriers: Regime Dynamics and Functions." *International Organization* 35 (4):561-602.
- Follesdal, Andreas, and Simon Hix. 2006. "Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik." *Journal of Common Market Studies* 44 (3):533-62.
- Forum on Democracy and Trade. 2006. "Report to the Health Care Subcommittee of the Maine CTPC."
- Freres, Christian. 2000. "The European Union as Global Civil Power: Development Cooperation in EU-Latin American Relations." *Journal of Interamerican Studies and World Affairs* 42 (2):63-86.
- Friedrich-Ebert-Stiftung. 2003. "Negotiations on Trade in Services: The Position of the Trade Unions on GATS." *FES Occasional Papers* (6).
- Friends of the Earth. 2002. "GATS Gotta Go."
- Gabriel, Christina, and Laura Macdonald. 2006. "Chretien and North America." In *The Chretien Legacy: Politics and Public Policy in Canada*, ed. L. Harder and S. Patten. Montreal and Kingston: McGill-Queen's University Press.
- Gambardella, Alfonso, Luigi Orsenigo, and Fabio Pammolli. 2000. "Global Competitiveness in Pharmaceuticals, A European Perspective." In *Enterprise Papers*: DG Enterprise.
- Gamble, A, and A Payne, eds. 1996. *Regionalism and World Order*. Basingstoke: Macmillan.
- Gawande, Kishore, and Bernard Hoekman. 2006. "Lobbying and Agricultural Trade Policy in the United States." *International Organization* 60 (Summer):527-61.
- Geitner, Paul. 2003. "EU makes offer to open up services while protecting European film, health and education." *Associated Press*, 5th February.

- Gellman, Barton. 2000a. "A Conflict of Health and Profit: Gore at Center of Trade Policy Reversal on AIDS Drugs to South Africa." *Washington Post*, 21st May.
- . 2000b. "A Turning Point That Left Millions Behind: Drug Discounts Benefit Few While Protecting Pharmaceutical Companies' Profits." *Washington Post*, 28th December.
- Gerbasi, J, and R Stumberg. 2005. "Prescription Drugs." Forum on Democracy and Trade.
- Gibson, Martha L. 2000. *Conflict Amid Consensus in American Trade Policy*. Washington, DC: Georgetown University Press.
- Glasius, Marlies, Mary Kaldor, and Helmut Anheier, ed. 2005. *Global Civil Society 2005/6*. London: Sage.
- Goldstein, Judith. 1993. *Ideas, Interests and American Trade Policy*. Ithaca: Cornell University Press.
- Gould, E. 2006. "Health Insurance eroding for working families: Employer-provided coverage declines for fifth consecutive year." *Economic Policy Institute Briefing Paper* (175).
- Gourevitch, Peter. 1978. "The Second Image Reversed: The International Sources of Domestic Politics." *International Organization* 32 (4):881-912.
- Government Accountability Office. 2005. *International Trade: USTR Would Benefit from Greater Use of Strategic Human Capital Management Principles*, accessed 10th June 2006. Available from <http://www.gao.gov/new.items/d06167.pdf>.
- Grant, Wyn. 1989. *Pressure groups, politics and democracy in Britain*. Hemel Hempstead: Philip Allan.
- . 1997. *The Common Agricultural Policy*. Basingstoke: Macmillan.
- . 2004. "Pressure Politics: The Changing World of Pressure Groups." *Parliamentary Affairs* 57 (2):408-19.
- Green Cowles, Maria. 2001. "The Transatlantic Business Dialogue: Transforming the New Transatlantic Dialogue." In *Transatlantic Governance in the Global Economy*, ed. M. Pollack and G. Shaffer. New York: Rowman & Littlefield.
- Greenacre, M, and L Underhill. 1982. "Scaling a Data Matrix in Low-Dimensional Euclidean Space." In *Topics in Applied Multivariate Analysis*, ed. D. Hawkins. Cambridge: Cambridge University Press.
- Greenwood, Justin. 2003. *Interest Representation in the European Union*. Basingstoke: Palgrave Macmillan.
- . 2007. *Interest Representation in the European Union*. Basingstoke: Palgrave Macmillan.
- Greenwood, Justin, and Mark Aspinwall, eds. 1998. *Collective Action in the European Union*. London: Routledge.
- Greer, Scott. 2006. "Uninvited Europeanization: Neofunctionalism and the EU in Health Policy." *Journal of European Public Policy* 13 (1):134-52.
- . 2008. "Choosing paths in European Union health services policy: A political analysis of a critical juncture." *Journal of European Social Policy* 18 (3).
- Greer, Scott, Elize Massard da Fonseca, and Christopher Adolph. 2008. "Mobilizing bias in Europe: Lobbies, democracy, and EU health policymaking." *European Union Politics* 9 (3):403-33.
- Greer, Scott, and Margitta Mätzke. 2009. "Introduction: Devolution and Citizenship Rights." In *Devolution and Socil Citizenship in the United Kingdom*, ed. S. Greer. Bristol: Policy Press.
- Grugel, Jean. 2000. "Romancing Civil Society: European NGOs in Latin America." *Journal of Interamerican Studies and World Affairs* 42 (2):87-108.

- . 2004. "New Regionalism and Modes of Governance: Comparing US and EU Strategies in Latin America." *European Journal of International Relations* 10 (4):602-26.
- Gupta, I, B Goldar, and A Mitra. 1998. "The Case of India." In *International Trade in Health Services A Development Perspective*. Geneva: UNCTAD-WHO.
- Habermas, Jürgen. 2001. "The Postnational Constellation and the Theory of Democracy." MIT Press.
- Hall, Peter A. 1997. "The Role of Interests, Institutions, and Ideas in the Comparative Political Economy of Industrialized Nations." In *Comparative Politics*, ed. M. I. Lickbach and A. S. Zuckerman. Cambridge: Cambridge University Press.
- Hall, Peter A, and David Soskice. 2001. "An Introduction to Varieties of Capitalism." In *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, ed. P. A. Hall, and David Soskice. Oxford: Oxford University Press.
- Hanson, Brian T. 1998. "What happened to fortress Europe? External Trade Policy Liberalization in the European Union." *International Organization* 52 (1):55-85.
- Heclo, Hugh. 1978. "Issue Networks and the Executive Establishment." Washington, DC: American Enterprise Institute for Public Policy Research.
- Heinz, John P, Edward O Laumann, Robert L Nelson, and Robert H Salisbury. 1993. *The Hollow Core: Private Interests in National Policy Making*. Cambridge, MA: Harvard University Press.
- Hepple, Bob. 2005. *Labor Laws and Global Trade*. Portland, OR: Hart.
- Heron, Tony. 2007. "European Trade Diplomacy and the Politics of Global Development: Reflections on the EU-China 'Bra Wars' Dispute." *Government and Opposition* 42 (2):190–214.
- Herring, EP. 1929. *Group Representation Before Congress*. Washington, DC: Brookings Institution.
- Hirschman, Albert O. 1970. *Exit, Voice and Loyalty: responses to decline in firms, organizations and states*. Cambridge, MA: Harvard University Press.
- Hiscox, Michael J. 2002. "Commerce, Coalitions, and Factor Mobility: Evidence from Congressional Votes on Trade Legislation." *American Political Science Review* 96 (3):1-16.
- Hix, Simon. 2005. *The Political System of the European Union*. 2nd ed: Palgrave.
- Hocking, Brian. 2004. "Changing the Terms of Trade Policymaking: from the "club" to the "multistakeholder" model." *World Trade Review* 3 (1):3-26.
- Hoebink, Paul. 2003. "Coherence and Consistency in Europe's Foreign Policy." In *Europe and the World, Essays on EU Foreign, Security and Development Policies*, ed. H. Mollett: BOND.
- Hoekman, Bernard. 2002. "Strengthening the global trade architecture for development: the post Doha agenda." *World Trade Review* 1 (1):23-45.
- Holland, Martin. 2002. *The European Union and the Third World*. Basingstoke: Palgrave.
- Hornbeck, J F, and William H Cooper. 2007. "Trade Promotion Authority (TPA): Issues, Options, and Prospects for Renewal." In *CRS Reports for Congress*. Washington, DC: Congressional Research Service.
- House of Representatives Committee on Agriculture. 2002. "The Facts on US Farm Policy."
- Howse, Robert, and Kalypso Nicolaidis. 2003. "Enhancing WTO Legitimacy: Constitutionalization or Global Subsidiarity?" *Governance* 16 (1):73-94.
- Huber, John. 2000. "Delegation to Civil Servants in Parliamentary Democracies." *European Journal of Political Research* 37 (3):397-413.
- Huber, John, and Charles Shipan. 2000. "The Costs of Control: Legislators, Agencies, and Transaction Costs." *Legislative Studies Quarterly* 25 (1):25–52.

- Ikhide, Sylvanus I. 2004. "Reforming the International Financial System for Effective Aid Delivery." *The World Economy* 27 (2):127-52.
- Irwin, Douglas. 1996. *Against the Tide: An Intellectual History of Free Trade*. Princeton, NJ: Princeton University Press.
- Jackson, John. 2002. "Perceptions About the World Trade Institutions." *World Trade Review* 1:101-14.
- Jarman, Holly. 2006. "Bring Back Bono: The Successful Failure of the UK Movement for Debt Cancellation." In *Society for the Advancement of Socioeconomics Annual Meeting*. University of Trier.
- . 2008. "The Other Side of the Coin: Knowledge, NGOs and EU Trade Policy." *Politics* 28 (1):26-32.
- Johnston, Josée. 1998. "'We Are All Marcos'? Zapatismo, Solidarity and the Politics of Scale." In *Defying Conventional Wisdom: Political Movements and Popular Contention Against North American Free Trade*, ed. J. McKelvey Ayres. Toronto: University of Toronto Press.
- Jordan, Grant. 1981. "Iron Triangles, Woolly Corporatism and Elastic Nets: Images of the Policy Process." *Journal of Public Policy* 1 (1):95-123.
- . 2007. "Policy Without Learning: Double Devolution and the Abuse of the Deliberative Idea." *Public Policy and Administration* 22 (1):48-73.
- Jordan, Grant, and William A Maloney. 1997. *The Protest Business: Mobilizing Campaign Groups*. Manchester: Manchester University Press.
- Jupille, Joseph. 1999. "The European Union and International Outcomes." *International Organization* 53 (2):409-25.
- Kanth, Ravi. 2001. "WTO Members Remain Divided over Scope of Doha Talks; Farm Trade at Issue." In *Trade Observatory Report*. Geneva: Institute for Agriculture and Trade Policy.
- Karagiannis, Nathalie. 2004. *Avoiding Responsibility: The Politics and Discourse of European Development Policy*. London: Pluto Press.
- Kenety, Brian. 1999. "NGOs wary of EU pledges for a WTO development round." *Inter Press Service*, 23rd November.
- . 2000. "A year of making EU aid more effective." *Inter Press Service*, 21st December.
- Kochan, Leslie. 1988. "The Maquiladoras and Toxics: The Hidden Costs of Production South of the Border." Washington DC: AFL-CIO.
- Kollman, Ken. 1998. *Outside Lobbying: public opinion and interest group strategies*. Princeton, NJ: Princeton University Press.
- Kono, Daniel. 2006. "Optimal Obfuscation: Democracy and Trade Policy Transparency." *American Political Science Review* 100 (3):369-84.
- Koppel, Naomi. 2001. "National interests rule in trade talks agenda." *Associated Press*, 14th November.
- Korzeniewicz, Roberto P, and William C Smith. 2001. "Protest and Collaboration: Transnational Civil Society Networks and the Politics of Summitry and Free Trade in the Americas." In *North-South Agenda Papers*: University of Miami.
- Krikorian, Gaëlle, and Dorota Szymkowiak. 2007. "Intellectual Property Rights in the Making: The Evolution of Intellectual Property Provisions in US Free Trade Agreements and Access to Medicine." *The Journal of World Intellectual Property* 10 (5):388-418.
- Krueger, Anne, ed. 1996. *The Political Economy of Trade Protection*. Chicago: University of Chicago Press.
- Krugman, Paul. 2007. "Trade and Inequality, Revisited."
- Kryvoi, Yaroslau. 2007. "Why European Trade Sanctions Do Not Work." *Harvard European Law Working Papers* 04/2007.

- Kwa, Aileen. 2003. *Power Politics in the WTO*. 2nd ed. Bangkok: Focus on the Global South.
- Lahlou, Saadi. 1996. "A Method to Extract Social Representations from Linguistic Corpora." *Japanese Journal of Experimental Social Psychology* 36:278-91.
- Laing, Richard, Brenda Waning, Andy Gray, Nathan Ford, and Ellen t' Hoën. 2003. "25 years of the WHO essential medicines lists: progress and challenges." *The Lancet* 361 (9370):1723-9.
- Lake, David. 1988. *Power, Protectionism and Free Trade: International Sources of US Commercial Policy 1887-1939*. Ithaca, NY: Cornell University Press.
- Lamy, Pascal. 2002. "GATS : Pascal Lamy responds to Trade Union concerns on public services, letter to Emilio Galboglio, General Secretary ETUC." Brussels: DG Trade.
- . 2004. "The Emergence of Collective Preferences in International Trade: Implications for Regulating Globalisation." European Commission.
- . 2006. "Managing Global Expectations." In *The Globalist*.
- Leal-Arcas, Rafael. 2004. "The EC in GATT / WTO Negotiations: From Rome to Nice - Have EC Trade Policy Reforms Been Good Enough for a Coherent Trade Policy in the WTO?" In *European Integration Online Papers*.
- Lee, Maria. 2005. *EU Environmental Law: Challenges, Change and Decision-making*. Oxford: Hart.
- Leroux, Eric H. 2006. "What is a "service supplied in the exercise of governmental authority" under Article I:3(b) and (c) of the General Agreement on Trade in Services?" *Journal of World Trade* 40 (3):345-85.
- Lipset, Seymour Martin, and Gary Marks. 2000. *It Didn't Happen Here: Why socialism failed in the united states*. New York: WW Norton.
- Lister, Marjorie. 1997. *The European Union and the South: Relations with Developing Countries*. London: Routledge and UACES.
- Lohmann, Susanne, and Sharyn O'Halloran. 1994. "Divided Government and US Trade Policy: Theory and Evidence." *International Organization* 48 (4):595-632.
- Lowi, Theodore J. 1964. "American Business, Public Policy, Case Studies and Political Theory." *World Politics*.
- Luff, David. 2003. "Regulation of Health Services and International Trade Law." In *Domestic Regulation and Service Trade Liberalization*, ed. A. Mattoo and P. Sauvé. Washington DC: World Bank and Oxford University Press.
- Madison, James. 1787. "The Federalist No. 10."
- Magee, Stephen. 1978. "Three Simple Tests of the Stolper-Samuelson Theorem." In *Issues in International Economics*, ed. P. Oppenheimer. London: Oriel Press.
- Mahoney, Christine. 2008. *Brussels Versus the Beltway: Advocacy in the United States and the European Union*. Washington, DC: Georgetown University Press.
- Majone, Giandomenico. 1998. "Europe's Democratic Deficit: The Question of Standards." *European Law Journal* 4 (1):5-28.
- Mandelson, Peter. 2008. "Remarks to BBC's Newsnight programme." *BBC*, 1st July.
- March, James, and Johan Olsen. 1984. "The New Institutionalism: Organizational Factors in Political Life." *American Political Science Review* 78 (3):734-49.
- Marks, Gary, and Doug McAdam. 1996. "Social Movements and the Changing Structure of Political Opportunity in the European Union." In *Governance in the European Union*, ed. G. Marks, F. Scharpf, P. Schmitter and W. Streeck. London: Sage.
- Marshall, Andrew. 1999. "WTO in Seattle: Summit divided over attempt to halt child labour." *The Independent*, 3rd December.
- Mattoo, Aaditya, and Randeep Rathindran. 2005. "Does Health Insurance Impede Trade in Healthcare Services?" World Bank.

- Mattoo, Aaditya, Devesh Roy, and Arvind Subramanian. 2002. "The Africa Growth and Opportunity Act and Its Rules of Origin: Generosity Undermined?" In *Policy Research Working Papers*: World Bank.
- Maxwell, Simon, and Paul Engel. 2003. "European Development Cooperation to 2010." Overseas Development Institute.
- Mayne, R. 2005. "Regionalism, Bilateralism, and "TRIP Plus" Agreements: The Threat to Developing Countries." In *Human Development Report Office Occasional Papers*. Geneva: UNDP.
- Mazey, Sonia, and Jeremy Richardson. 1993. *Lobbying in the European Community*. Oxford ; New York: Oxford University Press.
- McGillivray, Fiona. 2004. *Privileging Industry*. Princeton, NJ: Princeton University Press.
- McGuire, Steven. 1999. "Firms and Governments in International Trade." In *Trade Politics*, ed. H. a. McGuire. London: Routledge.
- Messerlin, Patrick. 2003. "Agriculture in the Doha Agenda." In *Policy Research Working Papers*: World Bank.
- Meunier, Sophie. 2003. "Political Legitimacy and European Union Trade Policy." *Comparative European Politics* 1:67-90.
- . 2005. *Trading Voices: The European Union in International Commercial Negotiations*. Princeton, NJ: Princeton University Press.
- . 2007. "Managing Globalization? The EU in International Trade Negotiations." *Journal of Common Market Studies* 45 (4):905-26.
- Meunier, Sophie, and Kalypso Nicolaidis. 1999. "Who speaks for Europe? The Delegation of Trade Authority in the EU." *Journal of Common Market Studies* 37 (3):477-501.
- Meunier, Sophie, and Kalypso Nicolaidis. 2000. "EU Trade Policy: The "Exclusive" Versus Shared Competence Debate." In *The State of the European Union: Risks, Reform, Resistance and Revival*, ed. M. G. Cowles, and M Smith. Oxford: Oxford University Press.
- . 2006. "The European Union as a Conflicted Trade Power." *Journal of European Public Policy* 13 (6):906-25.
- Mezey, Michael L. 1979. *Comparative Legislatures*: Duke University Press Durham, NC.
- Milner, Helen, and Keiko Kubota. 2005. "Why the Move to Free Trade? Democracy and Trade Policy in the Developing Countries." *International Organization* 59 (1):107-43.
- Milner, Helen, and Peter Rosendorff. 1997. "Democratic Politics and International Trade Negotiations: Elections and Divided Government as Constraints on Trade Liberalization." *Journal of Conflict Resolution* 41 (1):117-46.
- Moore, Michael. 1999. Trade for Development – the Way Ahead. Paper read at G77 ministerial meeting, 14th September, at Marrakesh.
- . 2002a. The challenges of the Doha Development Agenda for Latin American and Caribbean countries. Paper read at Inter-American Development Bank, 27th February.
- . 2002b. "Development Needs More than Trade." *Financial Times*, 18th February.
- . 2003. *A World Without Walls: Freedom, Development, Free Trade and Global Governance*. Cambridge: Cambridge University Press.
- Moravcsik, Andrew. 1994. "Why the European Community Strengthens the State: Domestic Politics and International Cooperation." In *Working Paper*. Cambridge, MA: Centre for European Studies.

- . 2002. "In defence of the "democratic deficit": reassessing legitimacy in the European Union." *Journal of Common Market Studies* 40 (4):603-24.
- Morin, Jean-Frédéric. 2006. "Tripping up TRIPS Debates: IP and Health in Bilateral Agreements." *International Journal of Intellectual Property Management* 1 (1-2):37-53.
- Moulson, Geir. 1999. "Labor, Environment Divide WTO Members Ahead of New Trade Talks." *Associated Press*, 26th October.
- Murphy, Anna. 2000. "In the Maelstrom of Change: the Article 133 Committee in the Governance of External Economic Policy." In *Committee Governance in the European Union*, ed. T. Christiansen and E. Kirchner. Manchester: Manchester University Press.
- Murphy, Sophia, and Kathy McAfee. 2005. "US Food Aid: Time to Get it Right." Minneapolis, MN: Institute for Agriculture and Trade Policy.
- Narlikar, Amrita. 2003. *International Trade and Developing Countries: Bargaining Coalitions in the GATT & WTO*. London: Routledge.
- Nicolaidis, Kalypso, and Robert Howse. 2001. *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union*. Oxford: Oxford University Press.
- Nicolaidis, Kalypso, and Sophie Meunier. 2002. "Revisiting Trade Competence in the European Union: Amsterdam, Nice and Beyond." In *Institutional Challenges in the European Union*, ed. M. Hosli, A. van Deemen and M. Widgren. London: Routledge.
- Nollen, Stanley D, and Dennis P Quinn. 1994. "Free Trade, Fair Trade, Strategic Trade, and Protectionism in the U.S. Congress 1987-88." *International Organization* 48 (3):491-525.
- North, Douglass. 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.
- Nugent, Neill. 2003. *The Government and Politics of the European Union*. Basingstoke: Palgrave Macmillan.
- Nye, Joseph. 1990. *Bound To Lead: The Changing Nature Of American Power*. New York: Basic Books.
- . 2004a. "The Decline of America's Soft Power." *Foreign Affairs* 83 (3).
- . 2004b. *Soft Power: The Means to Success in World Politics*. New York: Public Affairs Press.
- Odell, John, and Susan Sell. 2006. "Reframing the Issue: the WTO coalition on intellectual property and public health, 2001." In *Negotiating Trade: Developing Countries in the WTO and NAFTA*, ed. J. Odell. Cambridge: Cambridge University Press.
- OECD. 2000. "International Trade and Core Labour Standards." accessed 21st December 2005.
- . 2005a. "Definition of Official Development Assistance, DAC Glossary." http://www.oecd.org/glossary/0,2586,en_2649_33721_1965693_1_1_1_1.00.html accessed 20th December 2005.
- . 2005b. "Aid Statistics, Donor Aid Charts." http://www.oecd.org/countrylist/0,2578,en_2649_34447_1783495_1_1_1_1.00.html accessed 21st December 2005.
- . 2006. *United States DAC Peer Review*, accessed 14th April 2007. Available from http://www.oecd.org/document/27/0,3343,en_2649_34603_37829787_1_1_1_1,00.html.

- . 2007. "Environment and Regional Trade Agreements."
http://www.oecd.org/document/8/0,3343,en_2649_34287_38768584_1_1_1_1,0_0.html accessed 12th December 2007.
- Olson, Mancur. 1971. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge, MA: Harvard University Press.
- Oxfam. 2006. "Song of the Sirens, Why the US–Andean FTAs Undermine Sustainable Development and Regional Integration." In *Oxfam International Briefing Paper*.
- Oxfam America. 2007. "Farm Bill 101: A quick and easy guide to understanding the Farm Bill."
- Paemen, Hugo. 2005. "The US-EU Economic Relationship." In *Creating a Transatlantic Marketplace: Government policies and business strategies*, ed. M. Egan. Manchester: Manchester University Press.
- Page, Edward C. 1997. *People Who Run Europe*. Oxford: Clarendon.
- . 2003. "The Civil Servant as Legislator: Law Making in British Administration." *Public Administration* 81 (4):651-79.
- Page, Edward C, and Bill Jenkins. 2005. *Policy Bureaucracy: Government with a cast of thousands*. Oxford: Oxford University Press.
- Panagariya, Arvind. 2002. "EU Preferential Trade Agreements and Developing Countries." *World Economy* 25 (10):1415-32.
- Peterson, John, and Mark Pollack. 2003. *Europe, America, Bush: Transatlantic Relations in the Twenty-first Century*. London: Routledge.
- Pierce, Olga. 2006. "Cashing in on Healthcare Trade." *United Press International*, 13th March 2006.
- Polanyi, Karl. 1944. *The Great Transformation: The Political and Economic Origins for Our Time*. Boston: Beacon Press.
- Pollack, Mark A. 1997. "Delegation, Agency and Agenda Setting in the European Community." *International Organization* 51 (1):99-134.
- . 1998. "The Engines of Integration? Supranational Autonomy and Influence in the European Union." In *European Integration and Supranational Governance*, ed. W. Sandholtz, and Alec Stone Sweet. Oxford: Oxford University Press.
- . 2003. "Learning from the Americanists (Again): Theory and Method in the Study of Delegation." In *The Politics of Delegation*, ed. M. Thatcher, and Alec Stone Sweet. London: Frank Cass.
- Polsby, Nelson. 2004. *How Congress Evolves: Social Bases of Institutional Change*. Oxford: Oxford University Press.
- Portman, Robert. 2005. *Statement before the Committee on Finance of the US Senate*, 21st April. Available from
http://www.ustr.gov/assets/Document_Library/USTR_Testimony/2005/asset_upload_file911_7708.pdf.
- Potter, Clive, and Jonathan Burney. 2002. "Agricultural Multifunctionality in the WTO: Legitimate Non-trade Concern or Disguised Protectionism?" *Journal of Rural Studies* 18:35-47.
- Preeg, Ernest H. 1970. *Traders and Diplomats*. Washington D.C.: The Brookings Institution.
- Price, David, Allyson Pollack, and Jean Shaoul. 1999. "How the World Trade Organisation is Shaping Domestic Policies in Health Care." *Lancet* 354.
- Raghavan, Chakravarthi. 1999. "Cool Reception to British Call for WTO Development Round." *Inter Press Service*, 4th March.
- Reinert, Max. 1983. "Une methode de classification descendante hierarchique: application a l'analyse lexicale par contexte." *Les Cahiers de l'Analyse des Données* 8 (2):187-98.

- Renda, Andrea. 2006. *Impact Assessment in the EU: The State of the Art and the Art of the State*. Brussels: Centre for European Policy Studies.
- Rockman, Bert. 1996. "Leadership Style and the Clinton Presidency." In *The Clinton Presidency: First Appraisals*, ed. C. Campbell and B. Rockman. Chatham, NJ: Chatham House Publishers.
- Rodríguez, Francisco, and Dani Rodrik. 2001. "Trade Policy and Economic Growth: A Skeptic's Guide to the Cross-National Evidence." In *Macroeconomics Annual 2000*, ed. B. Bernanke and K. S. Rogoff. Cambridge, MA: MIT Press for NBER.
- Rogowski, Ronald. 1989. *Commerce and Coalitions: How Trade Affects Domestic Political Alignments*. Princeton, NJ: Princeton University Press.
- Rollo, Jim, and Alan L Winters. 2002. "Subsidiarity and Governance Challenges for the WTO: Environmental and Labour Standards." *The World Economy* 23 (4):561-76.
- Rosenberg, Mica. 2007. "Guatemala Union Heads Killed Despite US Trade Deal." *Reuters*, 18th October 2007.
- Ruggiero, Renato. 2000. "Foreword." In *The WTO After Seattle*, ed. J. J. Schott. Washington DC: Institute for International Economics.
- Salisbury, Robert H. 1969. "An Exchange Theory of Interest Groups." *Midwest Journal of Political Science* 13 (1):1-32.
- Sally, Razeen. 2002. *Globalisation, Governance and Trade Policy: The WTO in perspective*. London School of Economics, <http://www.lse.ac.uk/collections/globalDimensions/research/globalisationGovernanceAndTrade%20Policy/Default.htm#id2861582>.
- Sauvé, Pierre, and Americo Beviglia Zampetti. 2000. "Subsidiarity Perspectives on the New Trade Agenda." *Journal of International Economic Law* 3 (1):83-114.
- Schaffer, Ellen R, Howard Waitzkin, Joseph Brenner, and Rebecca Jasso-Aguilar. 2005. "Ethics in Public Health Research: Global Trade and Public Health." *American Journal of Public Health* 95 (1):23-34.
- Schattschneider, E E. 1935. *Politics, Pressures and the Tariff: A Study of Free Private Enterprise in Pressure Politics, as Shown in the 1929-1930 Revision of the Tariff*. New York: Prentice-Hall.
- . 1960. *The Semi-sovereign People: A Realist's View of Democracy in America*. New York: Holt, Rinehart and Winston.
- Schlesinger, Arthur M. 2004. *The Imperial Presidency*. 3rd ed. Boston: Houghton Mifflin.
- Schmitter, Philippe. 1997. "Exploring the Problematic Triumph of Liberal Democracy and Concluding with a Modest Proposal for Improving its International Impact." In *Democracy's Victory and Crisis*, ed. A. Hadenius. Cambridge: Cambridge University Press.
- Schonhardt-Bailey, Cheryl. 2002. "Conservatives Who Sounded Like Trustees But Voted Like Delegates: The Reinterpretation of Repeal."
- . 2005. "Measuring Ideas More Effectively: An Analysis of Bush and Kerry's National Security Speeches." *Political Science and Politics* 38:701-11.
- . 2006. *From the Corn Laws to Free Trade: Interests, Ideas and Institutions in Historical Perspective*. Cambridge, MA: MIT Press.
- , ed. 1997. *The Rise of Free Trade: Freer Trade and Its Critics*. London: Routledge.
- Schott, Jeffrey J, ed. 2000. *The WTO After Seattle*. Washington DC: Institute for International Economics.
- Schraeder, Peter J, Steven W Hook, and Bruce Taylor. 1998. "Clarifying the Foreign Aid Puzzle: A Comparison of American, Japanese, French and Swedish Aid Flows." *World Politics* 50 (2):308-9.

- Searight, Amy. 2005. The Makings of a Multilateralist: Domestic Institutions and Bargaining Behaviour of the US, EU and Japan in the GATT/WTO. Paper read at the American Political Science Association Annual Meeting, September 1-4th, Washington DC.
- Sell, Susan. 2003. *Private Power, Public Law: The Globalization of Intellectual Property Rights*. Cambridge: Cambridge University Press.
- Sell, Susan, and Aseem Prakash. 2004. "Using Ideas Strategically: The Contest Between Business and NGO Networks in Intellectual Property Rights." *International Studies Quarterly* 48:143-75.
- Shadlen, Ken. 2004. "Patents and pills, power and procedure: The North-South politics of public health in the WTO." *Studies in Comparative International Development* 39 (9):76-108.
- . 2007. "The Political Economy of AIDS Treatment: Intellectual Property and the Transformation of Generic Supply." *International Studies Quarterly* 51:559-81.
- Shaffer, Gregory. 2003. *Defending Interests: Public Private Partnerships in WTO Litigation*. Washington DC: Brookings Institution.
- Shiva, Vandana. 2003. "Food Rights, Free Trade and Fascism." In *Globalising Rights*, ed. S. George, Noam Chomsky, et. al. Oxford: Oxford University Press.
- Shoch, James. 2000. "Contesting Globalization: Organized Labor, NAFTA, and the 1997 and 1998 Fast-Track Fights." *Politics and Society* 28 (1):119-50.
- . 2001. *Trading Blows: Party Competition and US Trade Policy in a Globalizing Era*. Chapel Hill: University of North Carolina Press.
- Short, Clare. 1999. Future Multilateral Trade Negotiations: A Development Round. Paper read at UNCTAD, 2nd March, at Geneva.
- Slaughter, Ann Marie. 2004. *A New World Order*. Princeton: Princeton University Press.
- Slob, Anneke, and Floor Smakman. 2006. "Evaluation of the Civil Society Dialogue at DG Trade: Assessment of Relevance, Effectiveness and Efficiency of CSD Policy and Procedures." Rotterdam: Ecorys.
- Smith, Michael. 1999. "The European Union as a Trade Policy Actor." In *Trade Politics*, ed. H. a. McGuire. London: Routledge.
- Stiglitz, Joseph. 1999. "Two Principles for the Next Round, Or, How to Bring Developing Countries in from the Cold." Geneva.
- Stillerman, Joel. 2003. "Transnational Activist Networks and the Emergence of Labor Internationalism in the NAFTA Countries." *Social Science History* 27 (4):577-601.
- Stolper, Wolfgang, and Paul Samuelson. 1941. "Protection and Real Wages." *Review of Economic Studies* 9 (1):58-73.
- Streeck, Wolfgang, and Philippe C Schmitter. 1985. *Private Interest Government: Beyond Market and State*. London: Sage.
- Streeck, Wolfgang, and Kathleen Thelen. 2005. *Beyond Continuity: Institutional Change in Advanced Political Economies*. Oxford: Oxford University Press.
- The Economist. 2001. "Tackling Trade." July 31st.
- Trubowitz, Peter. 1998. *Defining the National Interest*. Chicago: University of Chicago Press.
- Truman, David. 1951. *The Governmental Process: Political Interests and Public Opinion*. New York: Alfred D Knopf.
- Tsogas, George. 2000. "Labour Standards in the Generalized Systems of Preferences of the European Union and the United States." *European Journal of Industrial Relations* 6 (3):349-70.

- Tussie, Diana, and Mercedes Botto. 2002. "La agenda del ALCA: patrones nacionales y tendencias regionales." In *Anuario Social y Politico de America Latina y el Caribe*. Buenos Aires: Nueva Sociedad/FLACSO.
- Unah, Isaac. 1998. *The Courts of International Trade: Judicial Specialization, Expertise, and Bureaucratic Policymaking*. Ann Arbor: University of Michigan Press.
- US Census Bureau. 2007a. *Foreign Trade Statistics*, accessed 12th February 2008. Available from <http://www.census.gov/foreign-trade/www/>.
- . 2007b. *Income, Poverty, and Health Insurance Coverage in the United States*, accessed 11th February 2008. Available from <http://www.census.gov/prod/2008pubs/p60-235.pdf>.
- USAID. 2005. *Participation, Empowerment, Partnership: Seeking Sustainable Results Through U.S. Trade Capacity Building*, December. Available from http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2005/asset_upload_file913_8588.pdf.
- USTR. 2001. "USTR Promotes U.S. Farm Trade Agenda."
- . 2002a. "Administration Unveils Comprehensive U.S. Trade Proposal to Expand American Farmers' Access To Overseas Markets."
- . 2002b. "USTR Robert B. Zoellick Visits Sub-Saharan Africa, February 14 – 20."
- . 2003a. "Statement of U.S. Trade Representative Robert B. Zoellick on TRIPS and access to medicines."
- . 2003b. "United States and Chile Sign Historic Free Trade Agreement." Washington.
- . 2003c. *USTR Releases 2003 Inventory of Trade Barriers*, http://www.ustr.gov/Document_Library/Press_Releases/2003/April/USTR_Releases_2003_Inventory_of_Trade_Barriers.html.
- . 2003d. "USTR Zoellick to Discuss Regional Free Trade Agreement on Visit to South Africa."
- . 2004a. "Ambassador Zoellick to Travel to sub-Saharan Africa to Advance Doha Agenda, Discuss Cotton."
- . 2004b. "USTR Zoellick to Attend Cairns Group Agriculture Trade Meeting in Costa Rica."
- . 2005a. "U.S. Agrees to More Than Double Contributions to Aid for Trade by 2010 - Already the Largest Single-Country Provider, U.S. Will Help Least Developed Realize Potential of Doha Round."
- . 2005b. "U.S. Offers Bold Plan on Agriculture to Jumpstart Doha Round."
- . 2006. "Background on Special 301."
- . 2007. "Services Trade Fuels Growth of US Economy."
- Van den Hoven, Adrian. 2004. "Assuming Leadership in Multilateral Economic Institutions: The EU's Development Round Discourse and Strategy." *West European Politics* 27 (2):256-83.
- Vogel, David. 1995. *Trading Up: Consumer and Environmental Regulation in a Global Economy*.
- . 1996. *Kindred Strangers: The Uneasy Relationship between Business and Politics in America*. Princeton, NJ: Princeton University Press.
- Wade, Robert. 2004. "The Ringmaster of Doha." *New Left Review* (25).
- Wagstyl, Stefan, George Parker, and Andrew Bounds. 2008. "Sarkozy hits at Mandelson over No vote." *Financial Times*, 21st June.
- Wallace, Helen, and Alasdair Young. 1997. *Participation and Policymaking in the European Union*. Oxford: Oxford University Press.

- Wallach, Lori, and Patrick Woodall. 2004. *Whose Trade Organization?* New York: New Press and Public Citizen.
- Watkins, Kevin. 2003. "Northern agricultural policies and world poverty: will the Doha 'development round' make a difference?" In *Annual Bank Conference of Development Economics (ABCDE)*. Paris: Oxfam Great Britain.
- Weingast, Barry, and Mark Moran. 1983. "Bureaucratic Discretion or Congressional Control? Regulatory Policy-making by the Federal Trade Commission." *Journal of Political Economy* 91 (5):765-800.
- Weisman, Steven, and Alexei Barrionuevo. 2006. "Failure of Global Trade Talks Is Traced to the Power of Farmers." *New York Times*, 27th July.
- Weller, S, and A Romney. 1990. *Metric Scaling: Correspondence Analysis*. London: Sage.
- Wolfe, Robert. 2004. "Crossing the river by feeling the stones: where the WTO is going after Seattle, Doha and Cancun." *Review of International Political Economy* 11 (3):574-96.
- . 2005. "See You in Geneva: Legal (Mis)Representations of the Trading System." *European Journal of International Relations* 11 (3):339-65.
- Woll, Cornelia. 2006. "Lobbying in the European Union: From Sui Generis to a Comparative Perspective." *Journal of European Public Policy* 13 (3):456-69.
- . 2008. *Firm Interests: How Governments Shape Business Lobbying on Global Trade*. Ithaca, NY: Cornell University Press.
- Woolcock, Stephen. 2000. "European Trade Policy: Global Pressures and Domestic Constraints." In *Policy-Making in the European Union*, ed. H. Wallace and W. Wallace. Oxford: Oxford University Press.
- World Bank. 2007. *World Development Indicators Online*, accessed 15th December. Available from <http://web.worldbank.org>.
- WTO. 1994. "European Communities and their Member States: Schedule of Specific Commitments." Geneva.
- . 2001a. "Doha Ministerial Declaration."
- . 2001b. "Market Access: Unfinished Business." In *Special Studies*.
- . 2003. *Understanding the WTO*, accessed 25th March 2005. Available from http://www.wto.org/english/thewto_e/whatis_e/tif_e/tif_e.htm.
- . 2007a. "Anti-Dumping Initiations: Reporting Member vs Exporting Country, 01/01/95 To: 30/06/07."
- . 2007b. "International Trade Statistics 2007."
- WTO/OECD. 2005. "Joint Report on Trade-Related Technical Assistance and Capacity Planning."
- Young. 2002. *Extending European Cooperation: The European Union and the "New" International Trade Agenda*. Manchester: Manchester University Press.
- Young, Alasdair, and John Peterson. 2006. "The EU and the New Trade Politics." *Journal of European Public Policy* 13 (6):795-814.
- Zeng, Ka. 2004. *Trade Threats, Trade Wars: Bargaining, Retaliation and American Coercive Diplomacy*. Ann Arbor: University of Michigan Press.
- Zoellick, Robert. 2003. "Our Credo: Free Trade and Competition." *The Wall Street Journal*, 10th July.