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Veröffentlichungsversion / Published Version

Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Margulis, M. E. (2023). Backdoor Bargaining: How the European Union Navigates the Food Aid Regime Complex. *Politics and Governance*, 11(2), 29-38. <https://doi.org/10.17645/pag.v11i2.6307>

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Article

Backdoor Bargaining: How the European Union Navigates the Food Aid Regime Complex

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Submitted: 21 October 2022 | Accepted: 30 December 2022 | Published: 26 April 2023

Abstract

Scholars have long observed that states play off overlapping international institutions against one another in an effort to advance their policy objectives. This article identifies a strategy utilized by the EU in response to regime complexity that I term “backdoor bargaining.” Unlike forum-shopping, regime-shifting, and competitive-regime creation strategies, which states use to move multilateral negotiations to an institution that they expect will produce a more favorable outcome, backdoor bargaining involves a state using negotiations within one institution to gain an advantage in negotiations taking place at another distinct institution in a regime complex. I demonstrate the plausibility of backdoor bargaining by showing that the EU used the renegotiation of the Food Aid Convention as a strategy to gain bargaining leverage in the agriculture negotiations at the World Trade Organization. The article also offers insights into the potential consequences of international regime complexity for the EU as a global actor and the coherence of its foreign policies.

Keywords

European Union; Food Aid Convention; international negotiation; policy coherence; regime complexes; trade; World Trade Organization

Issue

This article is part of the issue “The European Union and International Regime Complexes” edited by Tom Delreux (University of Louvain) and Joseph Earsom (University of Louvain).

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1. Introduction

Scholars of regime complexes have long argued that actors play off overlapping international institutions against one another in an effort to advance their interests (Alter & Meunier, 2009; Morin & Orsini, 2014; Morse & Keohane, 2014; Oberthür & Stokke, 2011; Orsini, 2013; Raustalia & Victor, 2004; Rosenau, 2007). Yet empirical knowledge of how the EU as an actor advances its interests in regime complexes remains scant. In line with the objective of this thematic issue (see Delreux & Earsom, 2023), this article seeks to advance our understanding of how the EU navigates international regime complexity. I do so by analyzing the EU’s actions in the regime complex for food aid. This regime complex provides a good case for analyzing the EU’s approach to regime complexity as it is a long-standing site of inter-state political conflict due to the linkages between the international trade,

agriculture, and development regimes (Clapp, 2012). It is also a regime complex where the EU has full membership in each of the relevant focal institutions and where it is a key player and has significant economic and political interests due to its status as a leading global agricultural producer and the second-largest food aid donor (Cathie, 1997; Young & Peterson, 2013).

Drawing on an analysis of a contentious episode in the food aid regime complex, I show that the EU pursued a multi-forum negotiating strategy termed here “backdoor bargaining.” While exhibiting some similarities to strategies such as “forum-shopping” (Busch, 2007), “regime-shifting” (Helfer, 2004), and “competitive-regime creation” (Morse & Keohane, 2014), in which states seek to gain bargaining power by moving negotiations to an institution in a regime complex they expect will produce a more favorable outcome, backdoor bargaining also involves states playing off overlapping institutions

to increase their bargaining leverage but without permanently moving negotiations. As will be shown in the analysis that follows, the EU used concurrent negotiations at one institution in the food aid regime complex, the Food Aid Convention (FAC), as part of an effort to increase its bargaining leverage in negotiations taking place at another overlapping institution in the regime complex, the World Trade Organization (WTO). More specifically, the EU utilized negotiations at the FAC to obtain commitments from other states that could be leveraged to press the US to offer greater concessions at the WTO.

In addition to illustrating the concept of backdoor bargaining, analysis of how the EU navigates the food aid regime complex reveals the important effects of international regime complexity on the EU's efforts to act as a unitary actor and the coherence of its foreign policies. One insight from the analysis is that regime complexity may rescale authority relations among administrative units of the EU. As will be shown, the EU's backdoor bargaining strategy resulted in the Directorate General for Trade (DG Trade) supplanting the European Civil Protection and Humanitarian Aid Operations (ECHO) as the lead negotiator at the FAC. In addition, the analysis suggests that navigating regime complexity may, at times, exacerbate the EU's external policy incoherence. The EU's approach in the food aid regime complex privileged its trade interests over development considerations, thereby reviving debate and criticism about the coherence of the EU's trade and development policies.

2. Backdoor Bargaining, European Union Actorness, and Foreign Policy Coherence

In this section, I develop the concept of backdoor bargaining and situate the contributions of the article to the literature on international regime complexity, the EU as a global actor, and the coherence of the EU's foreign policy.

2.1. Navigating Regime Complexity Via Backdoor Bargaining

A defining feature of regime complexity is increased overlap between international institutions with authority for a given policy issue and thus a greater choice of venues at which states may pursue their interests (Alter & Raustalia, 2018; Hofmann, 2019; Raustalia & Victor, 2004). The extant literature generally predicts that actors will select the institution that they expect to be most favorable for achieving their objectives. This behavior may take different forms depending on the institutional context and actors' goals. Among the more well-known strategies utilized by states are forum-shopping, when states select one international institution among alternatives with similar jurisdictions to negotiate, implement, or adjudicate an international agreement (Busch, 2007; Murphy & Kellow, 2013); regime-shifting, where states move negotiations from an existing focal international institution to another

institution (Helfer, 2009); and competitive-regime creation, a situation where a group of dissatisfied states seeks to challenge an existing international agreement by creating a rival institution and/or agreement (Morse & Keohane, 2014). States may also engage in the strategy of "hostage-taking" when functional overlap among international institutions enables states to "exploit their position to attain influence in an organization where they are not [a] member" (Hofmann, 2019, p. 884).

This article contributes to our understanding of how states navigate regime complexity by identifying a strategy termed here backdoor bargaining. Backdoor bargaining can be conceived as part of a continuum of multi-forum strategies utilized by states in contexts where authority for an issue area is diffused among partially overlapping international institutions. A key difference between backdoor bargaining and other existing concepts, such as forum-shopping, regime-shifting, and competitive-regime creation, is that, with backdoor bargaining, states are not pursuing outside options by moving negotiations from one institution to another where they have greater bargaining leverage. In other words, backdoor bargaining is not characterized by states selecting one institution over another and/or threatening to exit from a focal institution, as is the case for forum-shopping, regime-shifting, and competitive-regime creation strategies (Clark, 2022; Lipsky, 2015). Instead, backdoor bargaining occurs when states seek to use negotiations at one institution to improve their bargaining position at another, such as by securing provisions in one agreement intended to strengthen their hand in another, concurrent negotiation. States can play off negotiations at overlapping institutions because, in regime complexes, "changes within one institution could reverberate across parallel institutions" (Alter & Meunier, 2009, p. 20), and thus, developments in one negotiation can influence the course of negotiations at another institution (see also Keohane & Victor, 2011).

Backdoor bargaining is most likely to occur in dense regime complexes, which are characterized by a greater number of partially overlapping international institutions and agreements and more extensive linkages among them. Many established regime complexes exhibit high levels of density and are characterized by a non-hierarchical division of labor among their constituent institutions and agreements (Gehring & Faude, 2014; Keohane & Victor, 2011). In dense regime complexes, it is more likely that, at any given point in time, multiple overlapping international agreements will come up for renegotiation concurrently. Most international agreements have automatic expiry and/or renegotiation clauses, which require states to return to the bargaining table. A situation where overlapping agreements are opened for negotiation at the same time creates an opportunity for states to secure commitments in one negotiation to enhance their bargaining position in another.

I demonstrate the plausibility of backdoor bargaining with an illustrative case study of the EU's approach to

negotiating in the regime complex for food aid. I show that the EU sought to use renegotiation of the FAC to increase its bargaining leverage in negotiations at the WTO. The EU's primary goal was to use the FAC negotiations to strengthen its hand at the WTO and weaken the US's bargaining position, thereby better positioning itself to extract greater economic concessions in the WTO agriculture negotiations. As will be demonstrated, the EU sought to secure commitments in the FAC negotiations that it could, in turn, leverage in the WTO negotiations.

2.2. *The European Union as a "Fragmented" Global Actor*

The EU's ability to act as a unitary actor and to speak with one voice in global affairs is highly debated (Bretherton & Vogler, 2005; da Conceição-Heldt & Meunier, 2014; Smith, 2003). This article starts from the assumption that the EU can be a unitary and global actor but recognizes that the EU's ability to act varies across international institutions and across time due to differences in the degree of delegation, capabilities, and salience of issues to member states (da Conceição-Heldt & Meunier, 2014; Dür & Elsig, 2011). A key obstacle for the EU to act as a unitary actor is the fragmented structure of its foreign policymaking apparatus, which is composed of both supranational and intergovernmental bodies, and that requires formal or implicit agreement among all member states (Smith, 2003). This complex structure, in turn, may undermine the EU's ability to develop a common foreign policy position, particularly when there are strongly diverging or potentially conflicting interests among constituent actors. The challenge of aggregating these diverse interests is especially acute in formulating and implementing foreign policy, where conflicts play out along multiple axes, including between the European Commission (hereafter referred to as the Commission) and member states, the Commission and the European Parliament, and the European Parliament and member states (Bretherton & Vogler, 2005; da Conceição-Heldt & Meunier, 2014; Dijkstra, 2009).

Where existing research has focused on conflicts between EU constituent actors at different scales (e.g., the Commission versus the Council), this article focuses on supranational-level conflicts between distinct Commission departments and bureaucratic units (often referred to as "directorates"). Scholars have long noted the existence of bureaucratic politics in the Commission, with directorates competing over agenda-setting, mandates, and resources (Candel et al., 2021; Carbone, 2008; Hartlapp et al., 2013). However, the nature of regime complexes may engender new sources of conflict among directorates.

A contention of this article is that regime complexity may increase policy and goal conflicts between distinct Commission directorates. The Commission has an internal division of labor with different directorates delegated authority to represent EU interests at particular multilat-

eral institutions. This division of labor is typically based on some set of specialized competencies and expertise. However, in regime complexes, where, by definition, multiple partially-overlapping international institutions share authority for a policy area, the traditional dividing line between where the responsibility of one directorate ends and another begins may become blurred or disappear altogether. Regime complexity may increase the likelihood of directorates coming into tension in situations where directorates with distinct interests/policy preferences find themselves sharing authority for an issue when the governance of that issue becomes linked across the elemental regimes constituting the regime complex. Given that the EU is more likely to have global policy influence when it speaks with one voice, this may result in one directorate being supplanted (temporarily or permanently) as the lead negotiator at a global governance institution by another directorate to ensure a single EU voice. This dynamic will be shown in the case study, where DG Trade supplanted ECHO as the lead negotiator at the FAC. This swap at the FAC was not the result of EU members formally changing DG Trade or ECHO's mandates, nor due to dissatisfaction with the ECHO's performance at the FAC. Instead, this shift in status and authority occurred because the FAC negotiations are linked to the WTO negotiations. Since European trade interests are accorded a higher priority than international development, DG Trade took charge of the EU's negotiating team at the FAC. While ECHO went along in recognition that trade interests were more salient to EU states and business actors than foreign aid, this was not without inter-directorate tensions. With DG Trade supplanting ECHO at the FAC negotiations, ECHO's goals for progressive reform of international food aid no longer drove the EU's bargaining strategy at the FAC.

2.3. *European Union Foreign Policy Coherence: Trade and Development*

Related to the EU's fragmented policymaking structure is the challenge of achieving the coherence of external policies. The EU is widely criticized by scholars and practitioners for lacking coherence across its foreign policies (da Conceição-Heldt & Meunier, 2014; Gebhard, 2017). External policy coherence (or the lack of it) by the EU is highly debated, but policy incoherence can be described as situations where distinct elements or structures of the EU pursue policy goals that are inconsistent and potentially work at cross-purposes to one another. While policy incoherence is not unique to the EU, Gebhard (2017) argues that this tendency is exacerbated by the EU's complex, multi-level structure.

The nexus between trade and development, which includes international food aid, is a policy domain where the EU has long struggled for external coherence (Carbone & Orbie, 2014; Hannah, 2016; Siles-Brügge, 2014). The EU presents its external trade and development policies as a "force for good." However, scholars

have observed a paradox: Whereas the EU's overseas assistance targets the populations most in need, its trade policy often produces adverse consequences for these same groups (Young & Peterson, 2013). To date, studies on EU (in)coherence in trade and development policy have exclusively focused on bilateral, preferential, or regional trade agreements with developing countries—a space where the EU, due to its large market size, wields disproportionate bargaining power (Hannah, 2016; Siles-Brügge, 2014). How (in)coherence in the EU's trade and development policies plays out at the multilateral level is far less understood and studied. This article contributes to our understanding of EU (in)coherence in trade and development at the multilateral level by analyzing its approach to partially overlapping multilateral institutions and agreements.

As the analysis will show, the EU's backdoor bargaining approach in the food aid regime complex was expected by other actors to have negative development implications. Achieving its trade objectives—changes to US food aid policies that the EU claimed distorted trade—was anticipated to drastically reduce the international supply of food aid available to feed vulnerable populations. The case study therefore suggests that the manner in which the EU navigated the food aid regime complex intensified the incoherence between its trade and development policies.

3. Case Study: The European Union Navigating the Regime Complex for Food Aid

In this section, I demonstrate the plausibility of the concept of backdoor bargaining with an illustrative case study of the EU's approach to negotiating reform of international food aid at the WTO and the FAC. I focus on a specific temporal period, 2003 to 2005, which is the period when both WTO and FAC agreements governing international food aid were opened for renegotiation and in which the EU's backdoor bargaining strategy may be clearly observed. The case study draws on extensive documentary analysis of publicly available WTO, FAC, and EU reports, meeting records, bargaining proposals, statements, press releases, and other official documents, as well as media reporting and confidential elite interviews with member state representatives and other relevant stakeholders.

3.1. Global Trade Politics and the Emergence of a Food Aid Regime Complex

The provision of international food aid for development and humanitarian assistance is a long-standing practice going back to the Second World War. However, international food aid has been a frequent source of trade conflict among the major food exporting countries, such as the US, EU, Canada, and Australia, which are also the main food aid donors (Shaw, 2007). Trade conflicts arise due to the multiple goals of food aid that cut across the trade

and development spheres. In addition to serving foreign policy, development, and humanitarian objectives, food aid has also been an instrument of agriculture and trade policy and historically provided a non-market mechanism for countries to dispose of surplus agriculture production in an orderly manner (Clapp, 2012). While food aid provided as relief in humanitarian emergencies does not generally produce trade conflicts, other types of food aid transactions, such as “concessional” food aid (i.e., government-to-government loan sales of food at below market rates) and “monetized” food aid (i.e., food aid sold in the recipient country to generate hard currency), have been criticized for displacing normal commercial food trade and depressing local prices (Zhang, 2004).

States have created numerous international institutions to prevent and resolve trade-related conflicts over food aid, as well as to improve its development effectiveness. Combined, these international institutions constitute a regime complex for food aid that cuts across the elemental regimes for trade, agriculture, development, humanitarian, and human rights (Hoddinott et al., 2008).

The origins of the food aid regime complex trace back to the 1950s, when donor and recipient governments negotiated the Principles on Surplus Disposal—a voluntary code of conduct that sought to ensure international food aid did not adversely affect commercial food trade and world price stability. The next major development was when the donors agreed in 1965 to the FAC, a burden-sharing system intended to guarantee a predictable supply of international food aid, which also committed donors to minimize distortions to international trade. While the food aid regime complex subsequently came to include many other institutions—including the World Food Programme (WFP), the United Nations High Commissioner for Refugees, the United Nations Office for the Coordination of Humanitarian Affairs, and the Group of Seven (G7)—perhaps the most significant development was the establishment of the WTO in 1995 and its Agreement on Agriculture (AoA), which brought international food aid partially under the authority of the multilateral trade regime (Zhang, 2004).

The trade impacts of food aid were an important concern for states heading into the Uruguay Round (1986–1994) of multilateral trade negotiations that created the WTO and the AoA. These negotiations took place in the context of a US–EU farm war, in which governments had turned to export subsidies and food aid to dispose of mounting surpluses. These policies depressed world farm prices and caused trade friction with other exporting countries. This is why a key objective of the Uruguay Round was to reduce agricultural export subsidies and establish stricter rules to ensure that donors provided only “bona fide food aid” (General Agreement on Tariffs and Trade, 1989, p. 6).

States were successful in achieving these objectives in the negotiations. The AoA established stricter international food aid rules that prohibit donors from tying food aid to purchases of other products by recipients and

require donations to be carried out in accordance with the Principles on Surplus Disposal, provided in fully grant form (i.e., free) or on concessional terms consistent with the FAC, and that all transactions be reported to the WTO Committee on Agriculture (WTO, 1994, pp. 9–10). Food aid transactions that do not meet WTO criteria are considered potential agricultural export subsidies, which are subject to strict quantitative and financial limits. The creation of the AoA was thus highly significant because it expanded the authority of the WTO—with its hard, binding rules—in the global governance of international food aid (Zhang, 2004). It also linked WTO and FAC agreements in the regime complex for food aid.

3.2. The European Union Makes Food Aid a Key Bargaining Issue in the World Trade Organization Doha Round

International food aid was not expected to be a significant issue in the WTO Doha Round negotiations launched in 2001. At the time, most WTO members believed that the reforms under the AoA had generally severed the link between surplus disposal and food aid. Indeed, by the early 2000s, the US and EU no longer held major surplus stocks (Daugbjerg & Swinbank, 2009). It was the EU that decided to put food aid at the top of the agenda of the Doha Round agriculture negotiations. The EU's 2003 bargaining proposal on agriculture identified food aid as a key issue. DG Trade expressed its position as follows:

Food aid in kind should be provided only for well-defined vulnerable groups or in response to well-recognized emergencies and humanitarian crisis and not, as is often the case today by some members, as a surplus disposal mechanism. WTO members should provide whenever possible direct cash contribution for the purchase of food within the recipient country, or from other developing countries. (EU, 2003)

Moreover, in May 2004, the EU chief negotiator tabled an offer to eliminate Europe's agricultural export subsidy program (EU, 2004). The EU made clear the price to eliminate its export subsidies would be for the US to make major reforms to its international food aid and, in particular, to shift to a "cash-only" food aid model (Clapp, 2012).

The EU's offer to eliminate its agricultural export subsidies was a significant development in the WTO agriculture negotiations. Eliminating agricultural export subsidies was a key stated goal of the Doha Round negotiations, as such subsidies are considered among the most trade-distorting (Hoekman & Messerlin, 2006). The EU was the main target for reform since it provided over 80% of all agricultural export subsidies by WTO members. If WTO members achieved the elimination of export subsidies, they would thus have met a key Doha Round objective.

Why did the EU offer in 2004 to eliminate its agricultural subsidies at the WTO? Its offer can be understood

as a strategic move to show leadership and support multilateralism by seeking to restart the stalled WTO negotiations. The EU has generally been viewed at the WTO as one of the most highly protectionist members and most opposed to agricultural trade liberalization. This reputation has been largely due to the Common Agricultural Policy, which was created to rebuild European food self-sufficiency after the Second World War and provided high levels of trade protection to the agricultural sector (Daugbjerg & Swinbank, 2009; Garcia-Duran et al., 2014). As the primary users of agricultural export subsidies, EU negotiators knew that this was its Achilles' heel in the agriculture negotiations and a major source of criticism from nearly all other WTO members. Agricultural export subsidies helped to maintain the competitiveness of European agricultural exporters and were thus a sensitive political and economic issue. Indeed, at the start of the Doha Round in 2001, the EU had partially dug its heel in on the issue, stating it was open to negotiating reductions but not elimination altogether (EU, 2000, p. 2).

At the WTO, the EU's 2004 offer was seen as a major change in its bargaining position. It also positioned the EU to change how it was perceived by other members—from blocking to leading in international agriculture trade liberalization. The EU's offer was also intended to bring WTO members back to the negotiating table. The WTO agriculture negotiations had been deadlocked since the 2003 Cancun WTO ministerial due to growing South–North tensions over agricultural trade reform (Hopewell, 2016). Since eliminating agricultural export subsidies was a major prize for WTO members, the EU's offer was a strong inducement for other members to resume the agriculture negotiations, which indeed was what occurred.

Key to explaining DG Trade's shift in bargaining position at the WTO was that the EU had already initiated Common Agricultural Policy reforms that paved the way to phase out export subsidies over the medium term (Garcia-Duran et al., 2019). Yet DG Trade's offer at the WTO agriculture negotiations was controversial among some powerful EU member states, including Germany and France, which called the Commission's offer a "massive tactical mistake" since the EU was perceived to be giving up too much without being offered concrete concessions from other WTO members ("EU offers to end farm export aid," 2004). The EU's offer was reported to have provoked a tense exchange between DG Trade's chief negotiator, Pascal Lamy, and the French finance minister, Nicolas Sarkozy. While dissatisfaction among powerful EU members did not alter DG Trade's approach to the WTO agriculture negotiations (since it is delegated exclusive authority to formulate EU trade policy), it did increase the political pressure on DG Trade to obtain a significant concession in return.

DG Trade identified US food aid as its key target in the WTO agriculture negotiations, and specifically that the US should only be allowed to provide food aid as cash grants. At the time, the US was the only major

donor that provided most of its food aid “in-kind,” in the form of domestically sourced agricultural commodities. Most donors, including the EU, provided a mix of cash and in-kind food aid but were gradually moving towards cash-only models since cash is widely believed to be more cost-effective and efficient (Clapp, 2012; Hoddinott et al., 2008).

Targeting US food aid was also a logical choice for DG Trade. The EU had long claimed that the US “abused” and “misused” food aid for the benefit of US producers and exporters. The critique of the US misusing food aid for commercial objectives and distorting trade fit with the common sense thinking at the WTO and provided a justificatory discourse for DG Trade in targeting US food aid. Selecting US food aid also made sense because agricultural export subsidies and food aid, alongside agricultural export credits and state trading enterprises, were linked issues that fell under the “export competition” pillar of the WTO agriculture negotiations (the other two pillars being “domestic support” and “market access”). The design of the WTO agriculture negotiations is such that members are encouraged to seek trade-offs within pillars. Only a few WTO members—the EU, the US, Canada, and Australia—had direct interests in the export competition pillar, and so it was expected that the EU would demand concessions on food aid in return for eliminating agriculture export subsidies. Indeed, EU negotiators repeatedly stated that eliminating their agricultural export subsidies was conditional on “strict parallelism” in the export competition pillar, and they expected other members to “fully match the EU on the forms of export support they use” (EU, 2004, p. 1), by which they meant US food aid.

In targeting US food aid, DG Trade selected an issue it knew would be politically contentious for US negotiators. Indeed, in an interview, a senior manager from the WFP familiar with the negotiations stated that the EU’s demand for cash-only food aid was a “political position just to upset the US” and to “obtain benefits in other parts of the [WTO] negotiations.” Any major reform of US food aid was likely to be difficult since food aid programs enjoy high levels of support from both sides of Congress, NGOs, the US farm lobby, and the public. Even efforts by then US President Bush and USAID to further shift US food aid towards more of a cash-only model were rejected by both sides of Congress. While obtaining the elimination of the EU’s agricultural export subsidies was the US’ top priority in the WTO agriculture negotiations, US negotiators informed other members that they faced an uphill battle in getting the necessary domestic political buy-in needed to make concessions on food aid (Clapp, 2004, pp. 1443–1444).

3.3. Spillover of Trade Politics Into the Food Aid Convention

Events at the WTO were not confined to that institution but would eventually spill into and alter the trajectory of

bargaining at the FAC. Earlier in June 2003, FAC members, which comprised all international food aid donors, including the EU, reached a consensus to launch negotiations for a new convention. This included the establishment of a working group to set out a negotiating timetable, with negotiations expected to be concluded by the end of 2005.

Initial discussions for a new convention took place in the context of and were shaped by major shifts in development policy, most notably the growing focus on aid effectiveness and the 2000 Millennium Development Goals, which had committed the international community to halve hunger by 2015 (Hoddinott et al., 2008). For FAC members, increasing the quantity, quality, and effectiveness of food aid to reduce food insecurity was a priority. In addition, the talks occurred as all donors were experimenting with policy changes to increase the proportion of donations provided in cash. Some of the most controversial food aid practices, such as concessional sales, had been almost phased out by this point.

Talks at the FAC were generally led by representatives of each member’s development agency (e.g., ECHO in the case of the EU, USAID in the case of the US, and so on), which formed an epistemic community. They shared a belief that negotiating a new convention was a once-in-a-generation opportunity to overhaul the convention and make fighting world food insecurity and malnutrition its driving goal. Among FAC members, many indicated a sense of optimism around the negotiations, given what appeared to be growing political momentum for international food aid reform, with donors already unilaterally shifting towards providing cash-only food aid.

However, just as FAC members were moving to the negotiation preparation phase, the political dynamics shifted as trade politics spilled over from the WTO into the FAC. FAC members had initially started talks for a new convention with a focus on rewriting the rules to incentivize donors to provide greater volumes of micronutrient-enriched foods (in order to address chronic malnutrition) and make use of local or triangular purchases (where food is sourced in countries or regions in closer physical proximity to the emergency site to hasten delivery). By mid-2004, the dynamics at the FAC began to change when EU representatives demanded that any new convention would have to prohibit the use of in-kind food aid and only permit food aid donations in cash. Yet, EU negotiators did not threaten to exit the FAC negotiation or propose moving negotiations to the WTO. Instead, EU negotiators signaled that they might not support a new FAC agreement without a commitment to cash-only food aid. This outcome meant that the existing FAC agreement from 1999—that is, the status quo—would remain in place. As a result, cash-only vs. in-kind food aid became the central negotiating issue at the FAC, just as it was in the WTO agriculture negotiations.

EU negotiators’ backdoor bargaining approach included consistent negotiating positions at the FAC and WTO, which was logical given that the two institutions

were linked and shared authority in the governance of food aid. Yet the EU's demands were puzzling to other FAC members. The EU's position was seen by other members as extreme, given that, despite recent efforts, the largest donors—including the EU—still continued to provide the majority of their food aid in-kind. Indeed, in interviews, other FAC members labeled the EU's position as “ridiculous” and “not related to donor reality.” Most food aid experts, including FAC member representatives, agreed in principle that shifting to cash-only food aid was desirable, but that reform should be gradual since such a shift required legislative and administrative changes to how donors financed, sourced, and distributed food aid. FAC members ranged in their views of how much reform was required and how quickly it should occur, but, with the exception of the US, were generally supportive of moving towards cash-only food aid.

3.4. The Dynamics and Consequences of the European Union's Backdoor Bargaining

The EU's approach and position at the FAC are best understood as a backdoor bargaining strategy, with it using the renegotiation of the FAC to gain bargaining leverage in the WTO agriculture negotiations. The EU's decision to demand cash-only food aid at the FAC was initiated by DG trade, not ECHO. DG Trade had sent representatives to the FAC talks to lead the negotiations, given the primacy of trade to EU interests and thus supplanting ECHO as the traditional leading voice on food aid at the FAC.

EU trade officials recognized that the FAC talks could strengthen or weaken their hand at the WTO, depending on how the negotiations for a new convention proceeded. It was generally accepted that the FAC negotiations, due to the limited number of issues and players compared to the larger and more complex negotiating agenda of the WTO, would conclude far more quickly and well before the WTO Doha Round. Given this, it was assumed that a new convention would have spillover effects at the WTO. In light of this assumption, DG Trade officials expected that obtaining a commitment by donors in a new FAC agreement to shift towards cash-only food aid would strengthen the EU's bargaining position vis-à-vis the US at the WTO. If the US agreed to cash-only food aid in the new FAC agreement, it would also have to do so at the WTO, where it would be bound by legally enforceable commitments. This was the favored scenario by DG Trade, as it would ensure it exacted the major concession it demanded in exchange for eliminating agricultural export subsidies and thus prevent backlash from dissatisfied EU member states. In an interview, one WTO negotiator noted that such an approach would “lock in a commitment” but still ensure “flexibility for each agreement to develop independently in the future.”

On the other hand, DG Trade recognized that the FAC negotiations could undermine its position at the WTO if the convention resulted in minimal, partial cash-only

commitments and/or exceptions waiving donors such as the US from committing to shifting towards cash-only food aid, hence the EU's threat to not support a new agreement without a commitment to cash-only food aid. In short, the EU's approach to the FAC became less about international food aid reform writ large, which was desired by ECHO and many other FAC members, and instead narrowed to ensuring that the FAC negotiations could be leveraged to increase the pressure on the US at the WTO to obtain concessions in exchange for eliminating its export subsidies.

Ultimately, the EU's backdoor bargaining approach had mixed results. On the one hand, its demand for cash-only food aid at the FAC did increase its bargaining leverage in the WTO agriculture negotiations. The FAC negotiations enabled the EU to clearly signal that cash-only food aid was a red line. By 2005, there was a general consensus emerging among WTO members to ban in-kind food aid and only permit cash-only food aid in order to lock in the EU's offer to eliminate its agricultural export subsidies (WTO, 2005). On the other hand, the EU's strategy made other FAC members, whose delegations were generally led by development rather than trade officials, express in interviews concerns about the “politicization of international food aid” by the EU at the FAC to achieve its trade objectives at the WTO. This led to tensions among FAC members and, eventually, the suspension of the negotiations in 2005. The decision to suspend the FAC negotiations due to trade politics was widely criticized by food aid practitioners and experts alike, who feared that trade had trumped development objectives and states had missed a vital opportunity to improve food aid effectiveness (Hoddinott et al., 2008).

Most notably, the EU's success in moving the WTO towards a decision to abandon in-kind food aid and require cash-only food aid drew severe criticism from the WFP, the world's largest humanitarian agency, which delivers the majority of international food aid. The WFP criticized the incoherence of the EU's trade and development policies and argued that the EU's demands would cause a massive decline in food aid supply and thus threatened the food security of millions of people. This criticism provoked a highly public and heated dispute between the head of the WFP, James T. Morris, and the EU trade commissioner, Peter Mandelson, at the 2005 WTO Ministerial in Hong Kong over the proposal to ban in-kind food aid (Clapp, 2012). The WFP's criticism eventually spurred the EU and other WTO members to roll back the ban on in-kind food aid at the WTO (Margulis, 2021). The collapse of the WTO Doha Round in 2008 due to North–South tensions on agriculture that were unrelated to food aid meant no new agreement on agriculture or other trade issues were reached. Whereas export competition issues, including export subsidies and food aid, were taken up again by WTO members in 2015, by this time, the negotiating dynamics and agenda had significantly evolved from the earlier events analyzed in this article (Wilkinson et al., 2016).

The episode of backdoor bargaining analyzed in this article suggests that the manner in which the EU navigated the food aid regime complex created friction between distinct Commission directorates. DG Trade and ECHO disagreed about both policy and strategy. ECHO and other EU development officials were uncomfortable with DG Trade's maximalist position on cash-only food aid, which they acknowledged did not even match the EU's own development practices. In an interview, a New Zealand negotiator confirmed that other states were aware that distinct EU directorates had "different interests," and this led to tensions in the negotiations. ECHO officials were not only frustrated at being supplanted by DG Trade as the lead voice at the FAC but believed that suspending the FAC negotiations meant they could not lock in reforms that were seen to benefit EU food aid policy and help achieve wider EU development policy objectives. In addition, widespread criticism that the EU was letting trade interests trump the needs of aid recipients was seen as undermining the reputation of the EU as a responsible international development actor, a reputation that ECHO and other EU development actors had worked hard over many years to build. In this case, DG Trade's supplanting of ECHO as the lead at the FAC was temporary in nature, and the EU managed to speak a single voice despite diverging policy preferences among its directorates. Nevertheless, DG Trade's backdoor bargaining strategy at the FAC to enhance its leverage at the WTO engendered tensions with ECHO.

4. Conclusion

This article has contributed to deepening understanding of how the EU navigates international regime complexity by demonstrating its use of a backdoor bargaining strategy. Drawing on the case of the EU's approach to the regime complex for food aid, it was shown that the EU played off overlapping negotiations at the FAC and WTO by seeking a commitment from states at the former to lock in its bargaining objectives at the latter. Unlike other strategies such as forum-shopping, regime-shifting, or competitive-regime creation, the EU did not block negotiations at the FAC or WTO, nor did it attempt to permanently move negotiations from one institution to the other. Faced with uncertainty over whether it would be able to secure an agreement at the WTO for all donors to provide cash-only food aid in exchange for giving up its agricultural export subsidy program, the EU utilized the negotiations at the FAC in an effort to lock in agreement there on cash-only food aid, which it expected would weaken the US position at the WTO. The EU's backdoor bargaining strategy was indeed effective in weakening the US's bargaining position and moving WTO members closer to agreeing to its bargaining demand for a ban on in-kind food aid. It is not possible, however, to determine if the EU's backdoor bargaining strategy was ultimately successful due to the collapse of the Doha Round

negotiations in 2008, which was precipitated by events and political dynamics completely unrelated to the specific international food aid issues under consideration at the WTO. While the purpose of this article is to demonstrate the EU's use of backdoor bargaining in the food aid regime complex, future research examining other actors and cases would be needed to determine how often this strategy is utilized and to refine our understanding of how states select to use backdoor bargaining instead of other alternative multi-forum strategies.

The analysis suggests that the manner in which the EU navigates regime complexity may potentially increase the fragmentary pressures on the Commission. As illustrated in the case study, the pursuit of the EU's trade interests resulted in a reshuffling of the division of labor and representation among bureaucratic units, with DG Trade supplanting ECHO as the lead voice at the FAC. This change occurred not due to redelegation among directorates but simply due to the spillover of WTO trade politics into the FAC, a move promoted by DG Trade. DG Trade and ECHO had distinct priorities and objectives for the FAC negotiations, with the former seeking to increase its bargaining leverage at the WTO, whereas the latter prioritized improving the effectiveness of international food aid. In being supplanted by DG Trade at the FAC, ECHO was forced to put its objectives for major international food aid reform on hold. In this case, regime complexity and institutional overlap impacted the ability of one directorate to pursue its goals by empowering some actors while disempowering others.

The EU's backdoor bargaining strategy in the food aid regime complex had an impact on the perceived (in)coherence of its foreign policies. In particular, the EU's demand to eliminate in-kind food aid was widely expected to sharply reduce the international supply of food aid for use in humanitarian emergencies and for addressing world food insecurity. The EU's prioritization of its trade policy goals was seen as being pursued at the expense of its development commitments to reduce global hunger and malnutrition. The perceived incoherence of the EU's trade and development policies elicited widespread criticism from both inside and outside. Analysis of the EU's backdoor bargaining strategy sheds light on some of the challenges faced by the EU in navigating regime complexes, some of which are unique to its decision-making architecture and character as a supranational actor, whereas others, such as ensuring external policy coherence, are made potentially more difficult by rising institutional density and overlapping authority in global governance.

Acknowledgments

I thank two anonymous reviewers for their constructive feedback and Tom Delreux, Joseph Earsom, and Katie Laatikainen for comments on earlier versions of the article.

Conflict of Interests

The author declares no conflict of interests.

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