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Abstract

The European Union is the world's largest trader, a fact that on the face of it ought to convert into considerable clout in international commercial negotiations. Yet, since the World Trade Organization's (WTO's) creation in 1995, it is difficult to point to a string of successes for the European Commission's (EC's) often beleaguered trade negotiators. Even the enthusiasm associated with the launch of the Doha Round in 2001 has dissipated as these negotiations have repeatedly stalled, with many questioning what can feasibly be accomplished at the WTO in the near to medium term. A 2006 EC decision to abandon its moratorium on negotiating new free trade agreements seems more of a stop-gap measure to maintain some negotiating momentum than a systematic strategy to leverage European clout. Worse, it carries the risk of seriously undermining the multilateral trading system if EC negotiations with Korea tempt Japan, and in turn possibly even the United States, to eventually seek preferential access to the European Union's markets. With so little to show for the last 10 years and the future of the multilateral trading system decidedly uncertain, a fundamental rethink of the ends and means of European trade policy is in order.

That rethink needs to take account of the following realities: a shift away from a bipolar towards a multi-polar WTO; recognition of the fact that the principal liberalising accomplishment to date of the multilateral trading system has been the freeing of manufactured goods trade between industrialised countries and that many other potential reforms have either stalled or proved, on implementation, to be highly controversial; substantial opposition among many prominent groups in the leading trading powers to further trade reform (even in countries experiencing fast economic growth or export growth); and a greater emphasis on signing bilateral and regional free trade agreements (whose liberalising intent and impact is often highly circumscribed).

Once the superficial attractions associated with the scramble for preferential market access in Asia fade, European trade policymakers ought to confront these realities. At a minimum, the search will then be on for a *modus vivendi* with the new trading powers. This will require thought to be given to the likely future offensive and defensive commercial interests of all concerned, bearing in mind the differences in level of development and overseas corporate exposure and organisation. The ultimate goal should be to identify the potential basis for future multilateral trade accords. Properly conceived, future European trade strategy could contribute significantly to the renewal of one of the most successful post-war international economic institutions.

Keywords

European Union, commercial policy, trade policy, WTO.

JEL Classification

F13, F15.

I. Introduction.

The European Union is the world's largest exporter of goods and services and the second largest importer. In 2005 approximately \$3.6 trillion of goods and services crossed its external borders, more than any other nation or customs union on Earth. With a single trade policymaker with considerable powers of initiative, the European Commission, representing the interests of 27 nations and 450 million people, one might have expected that the EU's trade policy has both considerable clout and a string of recent successes to point to during the past 10 years. In fact, the European Union has not much to show for its negotiating efforts. The Doha Round has repeatedly stalled and even if it is concluded in 2007--which few experts anticipate--then it will be on terms that fall far short of the EU's original negotiating objectives. The multilateral trading system is important to the EU because, despite the numerous preferential trading schemes the EC has negotiated or created over the last 50 years, approximately three-quarters of imports by the EU still enter on non-preferential terms. For sure, worldwide few policymakers have emerged from the Doha Round with much credit. Even so the question does arise as to whether the content and strategy of EU trade policy requires a rethink.

The case for a rethink is all the stronger when one considers how the world trading system has developed since the signing of the Treaty of Rome fifty years ago, when six European countries began to pool their sovereignty on commercial policy matters. Then, European nations and the United States dominated the General Agreement on Tariffs and Trade (GATT) and continued to do so for another 40 or so years. Now, Brazil, China, and India have come forward to challenge the bipolar domination of the world trading system. Back in 1957, the liberalisation of merchandise trade between industrialised countries still had a long way to go. Now, with some tariff peaks remaining, such liberalisation has been almost completed. Moreover, throughout much of the post-war period trade liberalisation by industrialised countries took place within the context of reciprocal trade agreements. Now,

many nations unilaterally lower their trade barriers and appear reluctant to binding their reforms in trade accords. These factors and others indicate that the multilateral trading system, which has served European commercial interests well, is moving into new territory and the question arises as to what constructive role the EU can play in shaping its future trajectory. (It being taken as given in this chapter that, by and large, multilateral measures to reduce discrimination against foreign commercial entities and to reduce the policy-related uncertainties associated with international commerce is decidedly in the interests of the European Union's producers and consumers.)

The purpose of this chapter is to describe the evolution of the European Union's trade policy since 1995, highlighting the changing international trade policy terrain and the arguably inadequate response from European trade policymakers to those changes. Rather than gear up for the task of revitalising a multi-polar trading system and exploring the basis upon which future multilateral trade agreements could be signed, an October 2006 Communication from the European Commission advocates joining the scramble for preferential access to Asian markets, a proposal which on closer examination is likely to yield far less than some anticipate. Once the challenges of negotiating with a mercurial India, an inchoate ASEAN group, and a weak Korean government become clearer, the alternatives to multilateral trade accords may seem less attractive. At that point, probably towards the start of the next Commission, further attention ought to be given to securing Europe's proper place in a multi-polar WTO.

Considerations of space necessitate some prioritisation on my part as to which of the many facets of the EU's trade policy should receive more attention here. Developments at the multilateral level and the negotiation of reciprocal free trade agreements (FTAs) and the like receive more attention here, not least because of the emphasis on the former in the recent past and the likely priority given to the latter in the near term. Far less attention is given to the non-reciprocal trade initiatives undertaken by the EU, to its neighbourhood policies, and to

relations with important countries such as Turkey, Russia, and the Ukraine. This is because either the associated negotiating processes are operating on a clearly established time line (such as the negotiations with the African, Pacific, and Caribbean (ACP) nations) or because they are driven a very specific set of circumstances and are likely to have limited systemic impact.

The remainder of this chapter is organised as follows. The next section briefly describes the current allocation of competences and decision-making powers over commercial policy in the European Union. In section III the major developments in the EU's trade policy since 1995 are described as are the underlying factors that have been shaping the international trade policy landscape in recent years. The most recent (October 2006) Communication from the EC on its external trade policy is also described in section III. This Communication is assessed and, in short, it is found wanting in certain respects. Section IV identifies a number of the current and future challenges facing European trade policymakers as the bipolar trading system gives way to a multi-polar alternative. Some concluding remarks are offered in section V.

II. The allocation of competence and associated decision-making in EC trade policy.

At a minimum commercial policy refers to those state measures and (unilateral, bilateral, regional, and multilateral) accords between states that influence the degree of discrimination against foreign suppliers of goods and services or in favour of domestic rivals. In the European Union, as a general proposition, the European Commission is said to have sole competence over the conduct of commercial policy although, as noted below, this does not mean that the Member States (MS) play no role in European trade policy decision-making

or in selective areas of commercial policy.¹ The chapter of the revised Treaty establishing the European Community on a Common Commercial Policy is relevant here, in particular the provisions of Article 133, as amended.² Under Article 133(2) the European Commission (EC) has the right of initiative as far as trade negotiations are concerned but must seek and obtain a mandate from the European Council (ECM). Article 133(3) allows the Council to authorise the Commission to negotiate and provides an obligation on the Commission to report frequently to the Council. Article 300 of this Treaty, as amended, sets out the constitutional requirements for the intra-EU procedures for ratifying and implementing a treaty that the Commission has negotiated.

The Commission must seek a mandate from the European Council for any negotiation that it plans on undertaking, which may or may not be time-bound. The mandate issued by the Council gives broad objectives for the negotiation, but is not so detailed that the Commission must repeatedly come back to ask for changes in the mandate. There is an interesting question as to how long a mandate lasts when no time limit was set for a given mandate and the terms upon which a mandate is superseded by another mandate. Both the terms of the mandate and the absence of any time limit, therefore, can create ambiguity that can be exploited by the European Commission. The Commission must also seek approval of any agreement that it does negotiate with a trading partner or for any unilateral measures, such as the imposition of anti-dumping duties, that it is in principle empowered to take. With a few exceptions, all such

¹ For instance, certain investment provisions, certain service sectors, and the transportation sector remain in the competence of the Member States.

² This treaty also specifies the objectives of EC trade policy. As noted in page 19 of WTO (2007):

"The EC Treaty establishes the overall objectives of its trade policy. Under Article 131 of the Treaty of Nice, the EC common policy aims to "contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers"; Article 133 sets out the scope, instruments and decision-making procedures. This objective underscores the general aims of the Treaty, i.e. "to promote, throughout the Community, a harmonious, balanced and sustainable development of economic activities, a high level of employment and social protection, equality between men and women, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States."

decisions are made in the Council by qualified majority votes. The Council can offer interpretations to the Commission of any international obligations that the latter has signed up to.

There exist a number of venues where the Member States can express their views to the Commission as to the merits of various actions. The so-called 133 Committee meets weekly with senior officials from the Directorate-General for Trade. On anti-dumping matters a separate advisory committee has been established. Informal polls of Member State opinions are undertaken in these advisory groups and committees, providing Member States with a way to signal to the Commission how they are minded to vote on a matter should it reach the Council. Typically records of deliberations in these advisory groups and committees are not made public and it is particularly difficult to ascertain precisely what has gone on behind close doors. Nevertheless on some trade policy matters, such as anti-dumping, there have been repeated leaks to business newspapers and the specialist press concerning the positions of various Member States and the likelihood that the Council will vote one way or the other. With these leaks it has been possible to identify distinctive patterns in many Member States voting records and to identify a number of "swing" Member States that may well trade their votes on certain trade policy matters for other *quid pro quos* (see Evenett and Vermulst 2005 for details.)

Although the Member States set the negotiating mandate for the European Commission, it would be wrong to believe that their next official oversight occurs at any conclusion of the negotiation. Member States can and do express themselves forcefully when they believe the Commission has exceeded, or is likely to exceed, its negotiating mandate. In recent years nowhere has this been more apparent than in the agricultural negotiations in the Doha Round.³ France has maintained a coalition of more than half of the Member States that have repeatedly

³ If press reports are to be believed then the European Council met every day of the December 2005 Hong Kong WTO Ministerial Conference to review the status of the agricultural and other multilateral trade negotiations.

warned the European Commission not to exceed the relevant negotiating mandate, which in this case refers to the outer limits of the agricultural reforms that the Member States agreed to undertake earlier in the decade. In Evenett (2006a) I documented the steps taken by France and her allies to shore up this coalition throughout 2005, when European trade negotiators came under considerable pressure from their trading partners to liberalise agriculture. With the subsequent accession of Bulgaria and Romania press reports have suggested that this coalition has been strengthened. To date this coalition has been relatively robust, however the ultimate test of its strength may come about when Member States see more clearly what overseas commercial opportunities that will have to forgo if they persist in defending their agricultural interests in this manner.⁴

On a few occasions there have been outright public disagreements between the EU Member States and the European Commission over trade policy priorities and measures. Moreover, members of the European Parliament have not been adverse to engaging in such disagreements either. Such discord has arisen during the negotiations between the EC and the ACP countries over Economic Partnership Agreements (EPAs). The European Commission has sought, amongst others, to include provisions on investment policies, government procurement, and competition law in these EPAs. The U.K. government, for one, has repeatedly argued against this negotiating position, often in public⁵--as have leading European parliamentarians. Readers may wonder what the effect of such public disagreements have on the negotiating tactics of both the ACP nations and the European Commission. Do the former view the latter merely as an awkward intermediary that can be bypassed by appealing directly to the Member States, some of which were (after all) former colonial rulers and may have residual affinity for the ACP nations? Or, is the concern about not concluding a free trade agreement under the EPA, with its implied loss of certain preferential market access to the EU

⁴ Optimistic former (European and non-European) trade negotiators have made precisely this point to me and argue that it may be easier to isolate the French government and its "diehard" allies than the newspaper reports tend to imply if a credible Doha Round agreement is floated.

⁵ See, for example, UK (2005).

market, sufficiently strong that the ACP nations view the European Commission as their principal interlocutor?

This brief description of the manner and procedures associated with the delegation of trade policy competences from the Member States to the European Commission highlights both the enormous power of initiative that the latter has and the various means of oversight, some more subtle than others, available to the former. Given the use of qualified majority voting and the differences in the levels of economic development between the first 15 members of the EU and the relatively newer Member States, one factor that may become more important over time is how aggressively the 12 new Member States encourage the European Commission to pursue their commercial policy interests over other interests that have received considerable attention in the past. For example, the new Member States may be less interested in supporting measures to strengthen intellectual property rights regimes abroad and to open foreign financial markets, preferring instead measures that bolster foreign direct investments and outsourcing in general and better access to the merchandise sectors of middle-income developing countries. In short, EU enlargement may well affect the trade-related negotiating priorities of the European Commission more in the future than it has done in the past.

III. Major developments in EC trade policy since 1995.

Charting the major changes along the many dimensions of EU commercial policy requires some organising themes and inevitably some selectivity on the author's part. Here I seek to identify not only the major trade policy actions taken by the EC since 1995 and the logic apparently underlying them, but also the significant factors that appear to be shaping the international trade policy landscape in recent years. Several of these factors are almost certain to persist and will condition the options and trade-offs faced by European trade policymakers in the future, points picked up and developed later in this chapter.

In what follows I start by characterising EC trade policy just after the creation of the World Trade Organization (WTO) in 1995. Then, I describe the subtle differences in the rationales for EU commercial policy advanced by Mr. Mandelson's two most recent predecessors and manifested in official EC Communications and other documentation from 1996 to 2004. Third, I discuss developments in bilateral and regional trading fora. Then, I describe the principal developments in the multilateral trading arena since 1995. Finally, an assessment of the last EC Communication on its actual trade policy, issued in October 2006, is presented. Throughout these discussions the goal is to identify the internal and external factors that appear to have a significant influence on EU trade policy formation and on the effectiveness of such policy.

III.1. EC trade policy at the creation of the WTO and the enduring commercial significance of MFN tariffs.

On 1 January 1995 the European Union⁶ and MS became founding members of the WTO, and in so doing signed up to the core multilateral agreements of the world trading system as well as the plurilateral Agreement on Trade in Civil Aircraft and the plurilateral Agreement on Government Procurement. The expansion in the EU's membership in that year to include Austria, Finland, and Sweden required consolidation of their trade commitments with the existing 12 MS and some renegotiation of Europe's WTO commitments with major trading partners followed.⁷

In the Uruguay Round of multilateral trade negotiations, that were concluded in 1993 and which began to come into effect in 1995, the EU agreed to bind all of its tariff lines. With respect to agricultural products, the EU agreed to reduce its bound tariff rates by 36 percent on average. (The EU also committed to cut each tariff by a minimum of 15 percent.) The EU

⁶ Unless otherwise specified, throughout this chapter the European Union is referred to and not its predecessors.

⁷ Under Article XXIV:6 of the GATT Agreement.

made commitments on the use of tariff-quotas on the imports of agricultural products and agreed to cut the total financial support for agriculture (specifically, the so-called Aggregate Measure of Support) and both the value and volume of export subsidies for agricultural products (WTO 2000, page 28).

As far as non-agricultural goods are concerned, in the Uruguay Round accord the EU agreed to cut its average rate of duty from 6.9 percent in 1995 to 4.1 percent at the end of the relevant implementation period. As a result of the Information Technology Agreement (ITA), which was subsequently agreed to at the WTO Ministerial Conference in Singapore, from 1997 many information technology-related products entered the EU free of tariffs. This was to lower the average tariff on non-agricultural products to 4.0 percent. Agreements to eliminate tariffs on pharmaceuticals and on spirits lead to further European market opening after the conclusion of the Uruguay Round (WTO 2000, page 29). Table 1 provides a summary of the trade barriers currently erected by the European Union and compares them to several of its major trading partners.

The schedule of Specific Commitments made by the EU on services in the Uruguay Round covers all service sectors except the audio-visual sector and, to some extent, maritime services and air transport services.⁸ Derogations from Most Favoured Nation (MFN) treatment in services applied to audio-visual services, transportation services, and subsidies. To these Specific Commitments were added obligations to liberalise basic telecommunications and financial service sectors, as negotiated in sector-specific initiatives after 1995 (WTO 2000, page 29.)

After the conclusion of the Uruguay Round, the EU retained the right under prevailing WTO rules to impose quotas on imports of textiles and clothing. Like other WTO members,

⁸ In an interesting aside, the WTO Trade Policy Review of the European Union quotes the following statement from a EC document about the nature of the EC's GATS schedule of Specific Commitments. The schedule:

"was a function of progress in the creation of the Single Market, and consisted of translating its internal achievements in this field to the multilateral stage" (WTO 2000, page 29).

the EU agreed to eliminate such quotas by or before the end of 2004; a commitment it held to. In the interim the average rate of quota expansion was to be increased from 16 percent on 1 January 1995 to 25 percent on 1 January 1998 (WTO 2000, page 29.)

Such was the network of preferential trading agreements between the EU and its trading partners in 1995⁹ that the WTO Secretariat, in its Trade Policy Review of the EU, then noted:

"The vast majority of the Union's trading partners qualify for free trade area or other preferential treatment. Although the EU has no more than a handful of purely m.f.n. suppliers, the largest value of imports enter under non-preferential conditions, reflecting the economic weight of the suppliers concerned, limits in the coverage of the preferential trade schemes, and the high share of imports qualifying for zero m.f.n. rates. The multi-layered network of free trade, association, and other preferential agreements between the EU and its trading partners has consolidated and expanded significantly over the last few years. Certain preferences have decreased in economic importance as other trading partners have secured improved access to the Union's markets" (WTO 1995, pages 17 and 18.)

In February 2007, when the last WTO Trade Policy Review of the EU was published, only nine WTO members¹⁰ conducted their trade with the EU on a purely MFN basis (WTO 2007, page 24). Of these nine, three (Hong Kong, China; Republic of Korea; and Singapore) were graduated out of the EU's GSP regime on 1 May 1998 and, therefore, whose exports

⁹ That network included the European Economic Area, the so-called Europe Agreements with many Central European states, FTAs with the Baltic States and others, Partnership and Cooperation Agreements with members of the Commonwealth of Independent States, the Lomé Convention, the Generalised System of Preferences (GSP), a Customs Union with Turkey and Association Agreements with Cyprus, Israel, and Malta and "Euro-Med" Agreements with Morocco and Tunisia. Closer cooperation agreements that could lead to the negotiation of reciprocal preferential trade agreements were also in place with selected Latin American and Asian countries.

¹⁰ Australia, Canada, Chinese Taipei, Hong Kong, Japan, Republic of Korea, New Zealand, Singapore, and the United States.

subsequently faced MFN duties. WTO (2004, page 22) notes that these nine WTO members account for 36 percent of the EU's merchandise trade.¹¹ This report further observes:

"The [European] Commission estimates that 74 percent of the EC's trade is under the MFN regime; this implies that MFN trade with its preferential partners represents some 38 percent of its overall trade."

Despite the accession of 10 MS in 2004 and two more MS in 2007, the signing of more Europe and Association Agreements, the Cotonou Agreement, the Everything-But-Arms (EBA) Initiative, a reformed GSP system, the conclusion of FTAs with Chile, Mexico, South Africa, and (essentially) Switzerland, and the establishment of the Euro-Mediterranean Free Trade Area, nearly three-quarters of the EU's imports are conducted on a MFN basis. There are, for sure, some WTO members whose exports to the EU take place overwhelmingly under certain preferential trade regimes (see Curran et al. 2006 for details), but for most WTO members this is simply not the case--again highlighting the importance of the multilateral trading system for Europe's trading partners. In this regard it is worth noting that the EU is the second largest importer of merchandise in the world (see Table 2 for the magnitude of trade flows across the EU's external borders in 2005.)

III.2. The evolving rationales and objectives for EU trade policy since 1995.

I now turn to discussing two distinct yet related official conceptions of the challenges facing EU trade since 1995, one associated with Sir Leon Brittan's tenure as Trade Commissioner and the other with his successor, Mr. Pascal Lamy. Arguably both perspectives partially inform EU trade policy today and, as I will argue later, the latest (October 2006) Communication from the EC on trade policy is in many respects closer in spirit to the former approach.

¹¹ According to WTO (2007, page 24) these nine jurisdictions accounted for approximately 30 percent of the EU's total imports in 2005.

Although globalisation is much discussed today, it is worth recalling that in the mid-1990s the integration of national economies into world markets was seen as an important factor too. In a 1996 Communication on trade policy titled "The Global Challenge of International Trade: A Market Access Strategy for the European Union," mention was made of the "relocation" of business and the potential for dislocation that this could cause. The connection between opening foreign markets and the ability of European firms to exploit their competitiveness was also made (EU 1996, page 2). Furthermore, the rising might of Asia was already on the minds of European policymakers, and the WTO Trade Policy Review of EU trade policy in 1995 noted that a 1994 EC paper "asserts a need to accord Asia a higher priority than in the past" (WTO 1995, page 26).

Having painted a global picture of commerce, the 1996 Communication characterised the trade policy challenge for the EU as follows:

"Greater access to markets worldwide should be one of the prime objectives shaping the deployment of Community resources in the months and years ahead. To achieve significant increases in market access is necessarily a long-term process. Both in tackling pressing problems under existing rules and in developing new rules to remove other obstacles to trade and investment, the Community will be successful if it produces a clear analysis of its own priorities and works closely with its trading partners, developed and developing alike. We should concentrate on actions which respond to the demands and priorities of industry and which results in tangible and direct benefits for our exporters and investors" (EC 1996, page 19).

This quotation is worth reflecting on for a moment. First, market access is the lens through which policy instruments are assessed, whether they are directly tariff-related or not. Second, non-tariff barriers receive significant priority. Rules for these barriers would not be developed for their own sake, but because they constitute an impediment to market access. (It is

noteworthy that in the 1996 Communication the following non-tariff barriers are specifically mentioned: the failure to protect intellectual property rights, rules of origin, selected government procurement practices, investment policies, and competition policies.) Third, the beneficiaries of this policy would be exporters and investors, that is, commercial interests only. The strategy would be market access- and demand-driven (EC 1996, page 10), developing bilateral and multilateral approaches as appropriate.

By 2003 Sir Leon Brittan's successor as Trade Commissioner was characterising the challenges facing EU trade policy and its rationale in a different light. It may well be that the high profile protests by some elements of civil society against the multilateral trading system, and globalisation more generally, had some bearing on the rationales offered by EU trade policymakers. In a report at the end of his tenure as EU Trade Commissioner, Mr. Lamy noted that from the very start he had set himself a goal of "la globalisation maîtrisée" (EU 2004, page 3). In his view European trade policy had to be "properly integrated" with the other goals of the EU,

"And much of the responsibility for that [integration] lies with the European Commission, not just to regulate trade with third countries but to ensure we properly manage the interface between our external policy and the internal EU market, and of course the European Model" (EU 2004, page 3).

Lest anyone be in any doubt about the relative importance of market access in Mr. Lamy's schema, he went on to argue:

"But the opening of markets is not an end in itself, but is a way of making progress. Moreover, while necessary, market opening is not sufficient. It does not by itself ensure development. Internal policies have to be right too, not least to ensure that the distribution of its benefits is more equitable" (EU 2004. page 3).

A broader audience and set of outcomes is conceived, then, for EU trade policy. Mr. Lamy notes that it is "critical" to keep a sizeable majority of the European public in favour of open

trade policies, and opening markets abroad may not be enough in this respect. He acknowledges that these changes have made trade policymaking more difficult and affects the assessment of such policymaking. In his view the effects of trade policy on transparency and legitimacy, on development, and on cherished values and sectors are important too, not just the amount of market opening and number of trade agreements signed. Arguably, therefore, this perspective reflects a distinct evolution from the thrust of the 1996 Communication discussed earlier, although some common tenets recur.

In his assessment of the trade policy-related accomplishments of the Prodi Commission, of which he was a member, Mr. Lamy argued that the EU was still able to resist trade policy initiatives that it did not like and to "set the international agenda" (EU 2004, page 4.) He argues that the "priority given to development in the Doha Agenda, or the agreement on medicines are evidence of this pivotal European role" (EU 2004, page 4). Interestingly, Mr. Lamy's assessment also included the following reflection:

"Our arguments in favour of a better regulated multilateral world have thus been less effective. Indeed, arguably as a result, trade policy or the WTO has too often been the sole focus for efforts to strengthen international governance, which risks weakening its legitimacy both internally within the Union, and in the outside world. I don't believe the WTO can or should remain the sole island of governance in a sea of unregulated globalisation" (EU 2004, page 5).

The experience of the ill-fated Singapore Issues, which as is recounted in section III.4 below, three of which were eventually dropped from the Single Undertaking of the Doha Development Agenda in 2004, may well have influenced this judgement. Whatever the motivation for international rules on non-tariff policies, it is apparent that the challenges described in the 1996 Communication had not been adequately resolved by this 2004 account of EC trade policy.

The principal reason for contrasting the 1996 Communication with the 2004 assessment was to highlight the evolution in the perceived purpose of EU trade policy, from a market access-centric approach to a multi-faceted view that sought to address a wide range of matters at a time of considerable public discourse over the merits of globalisation. That Mr. Lamy was instrumental in launching the Doha Development Agenda in 2001, and the relative consistency with which EC trade policy has been applied since then, probably accounts for the continuing influence of some of the ideas expressed above on European trade policymaking. Having described the EU's point of departure (in trade policy terms) in 1995 and two sets of ideas that appear to have shaped EU trade policymaking over the last 10 years, I now turn to a discussion of selected important aspects of preferential and multilateral trade initiatives negotiated by the EC since the conclusion of the Uruguay Round.

III.3. Developments in the EU's bilateral and regional trading relationships since 1995.

In developments outside of the multilateral trade arena a distinction has to be made between agreements negotiated with nations in Europe's so-called neighbourhood, including those nations seeking to accede to the European Union, and preferential arrangements with other countries. With respect to the former, as the series of WTO Trade Policy Reviews on the EU can attest, the EC has been assiduously strengthening economic ties with almost every country which it borders or is geographically proximate to. These agreements vary in terms of obligations, where steps to adopt more or less of the EU's *acquis communautaire* are often complemented by packages of aid and technical assistance, and have often been motivated by diplomatic and security considerations as well as commercial interests.

The EU has also made important changes to the non-reciprocal preferences that it offers different groups of developing countries. On 23 June 2000, the ACP-EU Partnership Agreement was signed in Cotonou, Benin. Apart from the EU, this Agreement has 77

developing country signatories, most of which are former European colonies from the African, Pacific, and Caribbean regions, and 40 of which are classified as Least Developed Countries (LDCs) by the United Nations. The EU grants these countries duty-free access to its markets for industrial products, processed agricultural goods, and fishing products, but there are exceptions (including separate regimes for sugar, beef, and veal.) These are interim measures, however, and are due to lapse on 1 January 2008. By then it is expected (hoped?) that the EU will have completed negotiations on so-called Economic Partnership Agreements (EPAs) with the 77 signatory countries. These agreements are to be reciprocal, to respect WTO rules, and are expected to include flexibilities concerning the depth of liberalisation, transition periods, product coverage, and exceptions. In addition to enhancing market access, the EPAs are supposed to foster sustainable development and to promote regional integration among developing countries.¹²

Changes have also been made to the Generalised System of Preferences (GSP) that the EU unilaterally offers to qualifying developing countries. Over time there has been a tendency to simplify the EU's GSP programme as well as to sharpen the incentives it contains for beneficiaries to promote internationally-accepted labour standards, tackle specific environmental concerns, and combat drug production and trafficking. Of particular note is the EBA initiative that the EU instituted in 2001. This extends duty-free market access to those LDCs not covered by the Cotonou Agreement, although there are separate phase-in periods for three sensitive products. Another feature of the GSP regime is that the EC reserves the right to graduate a developing country which meets certain criteria, at which point the EC believes that the country's exports no longer need preferences to effectively sell into the EU. As noted earlier, three jurisdictions were graduated from the EU's GSP regime in 1998, implying that their exporters now face MFN duties. The EC also reserves the right to graduate

¹² As noted earlier, an interesting feature of the EPA negotiations has been the willingness of leading MS and European Parliamentarians to openly criticise the negotiating stance taken by EC officials.

sectors within a GSP beneficiary even if the beneficiary country itself is not entirely excluded from the GSP regime.¹³

The spread of preferential market access to the EU was the subject of discussion in Brussels in the mid-to-late 1990s. The WTO's Trade Policy Review in 1997 noted that preferential market access was "the subject of debate within the EU over the last two years" (WTO 1997, page 23.) Furthermore in April 1997, the ECM called for close scrutiny of new preferential arrangements and argued that "the fundamental architecture of the EU's policy on preferential agreements has been put in place and should be preserved" (WTO 1997, page 23), a remark that the WTO secretariat concluded "implicitly left little scope for the further expansion of the current network of agreements" (WTO 1997, page 23). This effectively led to a moratorium on the launch of new negotiations towards FTAs, a moratorium that was adhered to until the publication of the October 2006 Communication on the EU's external trade policy.

Since their launch in 2001 the Doha Round negotiations provided another way to deflect any pressures for new FTA negotiations. It was often argued that a multilateral agreement would deliver many more commercial opportunities than any particular FTA. Moreover, there was a concern that concluding FTAs with the largest of the EU's trading partners would undermine the multilateral trading system. The fear being that, if the big players can effectively deal with each other outside of the WTO, then the need for multilateral rules would be much diminished.

In the intervening years, however, the EU was able to conclude in 2002 a far-reaching FTA with Chile that included provisions on political dialogue and cooperation on a wide range of state and non-state matters, as well as the more traditional trade liberalising measures. An FTA with Mexico came into force on 1 July 2000 and included a range of

¹³ For an evaluation of the research on the utilisation and effectiveness of the EU's GSP regime see Evenett (2007a).

obligations on tariff and non-tariff measures, including rules of origin, technical regulations, sanitary and phytosanitary measures, safeguards, trade in services, government procurement, competition policy, investment policy, intellectual property rights, and dispute settlement. This agreement included a liberalisation schedule whereby the EU committed to eliminate its tariffs on Mexican imports four years before Mexico had to reciprocate. FTA negotiations between the EU and Mercosur and the EU and the GCC states, in contrast, were not concluded. With the latter negotiations stalled, the focus of the EU's trade liberalising efforts shifted increasingly towards the WTO and I now turn to an account of developments in that arena since 1995.

III.4. EC trade policy and the multilateral trading system since 1995.

Developments at the WTO have, one way or the other, consumed much of the attention of senior European trade policymakers since 1995. The EC has played an active, even central, role in every WTO Ministerial Conference and in the many mini-ministerials and other events that have come to dominate the WTO timetable. Initially, the market access perspective provided the lens through which a wide range of multilateral initiatives were put forward by the EC for inclusion in the WTO's agenda, but this was to change in the late 1990s and early part of this decade with the EC arguing increasingly that new rules brought their own benefits to WTO members. In addition to rules on labour standards, in preparation for the WTO Ministerial Conference in Singapore in 1996, the EC made its position known on the following trade-related matters: competition policy, investment policy, trade and the environment, intellectual property rights, and technical barriers to trade (WTO 1997, page 37). The EC sought to expand the remit of the WTO further, sometimes into areas where a multilateral agreement existed and sometimes where new rules would have to be created in the first place. This was in addition to the EC's stated goal of completing the unfinished

business of the Uruguay Round (the so-called Built In Agenda) and the timely implementation of multilateral commitments agreed in 1993.

Even though other WTO members, notably the United States, too wanted to expand the remit of the WTO's rules in the mid-to-late 1990s, such initiatives were not universally accepted by the WTO's membership. In fact, around the same time many developing countries asserted that the terms and costs of implementing a number of the Uruguay Round agreements were so onerous that they sought redress for these grievances. Outright renegotiation of existing multilateral accords was unacceptable to the EC, the U.S., and to many other industrialised countries, however concessions were made in the interpretation of provisions and concerning the implementation of obligations taken on in the Uruguay Round. These concessions went only some of the way to satisfy certain developing country members of the WTO, which having not gotten all of what they wanted began to oppose more vigorously the negotiation of new multilateral rules. The consequences of such opposition would become clear for all to see at the three WTO Ministerial Conferences that followed (namely, in Seattle, Doha, and Cancun.)

There were a number of significant developments in 1999. First, the EC sought and received from the ECM a negotiating mandate in advance of the third WTO Ministerial Conference, which was to take place in Seattle. This mandate envisaged launching what was then referred to as the Millennium Round. Second, sharp disagreements over whether rules on labour standards should be included in the multilateral trading system led to the breakdown of the Seattle Ministerial Conference and there was no consensus on launching a new round of multilateral trade negotiations. Third, the Santer Commission collectively resigned over allegations of budgetary mismanagement and fraud. This Commission was replaced by one led by Mr. Prodi and included Mr. Lamy as European Trade Commissioner. As noted earlier, the growing sentiment against globalisation among "civil society," so forcefully expressed on the streets of Seattle, may well have begun to influence the manner in which the ends and

means of EU trade policy were articulated. Perhaps the calculation was that if Europe's public was unwilling to support further trade liberalisation at home, how could European trade negotiators persuade other countries' officials to open up their markets? An interesting question is whether 1999 saw the strengthening of domestic policy constraints on the level of ambition of EU trade policy, constraints that arguably remain to the present day.

The next round of multilateral trade negotiations were in fact launched in 2001, at a WTO Ministerial Conference in Doha, Qatar. While preparations by some for such a launch were being made beforehand, the attacks in the United States on 11 September 2001 created the geopolitical imperative to demonstrate that the world's governments could cooperate at a time of heightened uncertainty. Arguably this was a very important contributing factor to the launch of the Doha Round. So was the commitment, apparently extracted by developing countries and probably with the fulsome support of Mr. Lamy, to raise the profile of development-related considerations in this Round. Not for nothing was this Round of negotiations to be guided by the Doha Development Agenda. It is unclear whether negotiators had considered all of the ramifications of this step, not least because the concept of development is so broad. Was the WTO to become a development institution, similar in some respects to the regional and multilateral development banks? Did the development focus imply that developing countries would receive redress for what they perceived as an unbalanced Uruguay Round agreement? If renegotiation of prior agreements was unacceptable to some, how would the development focus influence the negotiation of new multilateral obligations? What would the "development" label imply for business support for the Round? Without good answers to these questions (which have been posed since the Round's launch), and arguably trade negotiators have preferred to muddle through rather than address them head on, it should not be surprising that in moments of despair many poorer WTO members have concluded that the "development mandate" was a ruse and many business leaders have wondered what stake remains for them in the multilateral trading

system. In the light of these considerations, after the gestation period of an elephant, the launch of the Doha Round was akin to a fraught birth with a barely recognisable sick infant being quickly taken off to intensive care.

At the Doha Ministerial Conference the EC representatives argued for a shorter (in their view preferably a three year) negotiating timetable. Moreover, they called for proper consideration to be given to matters of sustainability in all aspects of the WTO's work programme and for seeking the right combinations of trade and trade-related government measures to attain the Round's broad objectives. The EC also accepted a compromise text on the launching of negotiations of four so-called Singapore Issues (trade and investment policy, trade and competition policy, transparency in government procurement, and trade facilitation), text that would prove to be important at and in the run up to the next WTO Ministerial Conference.

The years 2002 to 2003 saw three significant developments. First, the budget for (and by implication the sequence of reforms to) the Common Agricultural Policy (CAP) was agreed for the years through to 2013. Included within this agreement was a programme of reform, essentially to cut the cost of the CAP, which would effectively allow some flexibility to EC's trade negotiators on agricultural matters. Proponents of the CAP, however, sought and received assurances that the EC's trade negotiating mandate on agricultural matters would go no further than the reforms agreed in the revised CAP budget. The proponents were tenacious and dogged in holding the EC's trade negotiators to this commitment from 2003 on, and in particular in 2005 when the EC was under considerable external pressure to make further reforms on agricultural trade policy matters. One effect of limiting the EC's ability to offer concessions on agriculture was to effectively constrain what the EC could reasonably demand of its trading partners in agriculture and elsewhere. These considerations go a long way to account for the EC being, whether it liked it or not, in the camp of WTO members with

relatively lower market access-related ambitions in the Doha Round, whatever the rhetoric that emerged to the contrary.

In the years leading up to the Cancun Ministerial the EC tabled a wide range of proposals at the WTO. The WTO's Trade Policy Review of the EU in 2004 included the following survey of the EC's contributions thus far to the Doha Round:

"It [the EC] has spearheaded initiatives in the liberalization of trade, strengthening of WTO rules, and promotion of sustainable development. On market access for goods, it is of the view that liberalization should be carried out on a comprehensive basis, rather than in a sectoral manner, and that negotiations should help developing countries get better access to the markets of developed countries; and that trade barriers between developing countries should also be significantly lowered. On agriculture, it proposes to reduce its import tariffs and trade-distorting farm support by more than a half and has offered to eliminate export subsidies on a list of products of interest to developing countries. It also stresses that the negotiations on agriculture must take into account non-trade concerns as well as the better protection of geographical indications. Further market access for services is also advocated. The EC has presented more than 100 initial requests for improved access to third-country markets and has received several initial requests from third countries. It advocates the need for multilateral environmental agreements to mesh smoothly with agreements in the multilateral trading system in mutually supportive ways. The EC has called for tariff- and quota-free access for goods from least developed countries, as well as special and differential treatment based on the level of development and capacity of developing countries. It has also been behind initiatives to finance and support trade-related technical assistance aimed at helping developing countries to accede to the WTO, to implement WTO rules, and to participate more actively in the

multilateral trading system. As regards trade defence measures, the EC has been advocating stricter mechanisms and greater transparency. It also argues for improvements in trade facilitation rules; a more transparent and predictable climate for investment; and the promotion of fair competition and procurement policies" (WTO 2004, page 24).

The next major developments were the Cancun WTO Ministerial Conference and the so-called July 2004 package. These two events are related as arguably the latter helped get the Doha Round negotiations back on track after the breakdown in talks at the former. In the run up to the Cancun Ministerial Conference the EC and the US were asked by other WTO members to narrow their differences on agricultural trade matters and to make a joint proposal. The EC and US took up this challenge and produced a compromise text that was promptly rejected by the G20 (the group of 20 or so developing countries led by Brazil, China, India, and South Africa.) Worse was still to come, in what proved to be for a variety of reasons an acrimonious Ministerial Conference, the African group of developing countries formally objected to the launch of negotiations on any of the four Singapore issues, which was an important objective of the EC. This impasse arose even after the EC's representative agreed to drop two or three (it was unclear precisely how many to observers) of the Singapore issues from the Single Undertaking. This impasse was the proximate cause of the collapse of the Ministerial Conference and was followed by recriminations between many WTO members for the remainder of 2003.

In addition to rejecting an expansion of the WTO's remit, perhaps the lasting significance of the Cancun Ministerial Conference was the emergence of reasonably robust groupings of developing countries (the G20, G33, and G90) that sought to assert their rights in this important multilateral forum. Until this Ministerial Conference, by and large, the EC and the United States (sometimes with the assistance of Japan and Canada), dominated

deliberations at the WTO. A bipolar WTO had given way to a multi-polar alternative.¹⁴ So, on top of the fraught questions concerning what constituted a development round and what are the boundaries of the WTO was a governance challenge, namely, how to attain consensus in an organisation where every member has a veto and is more inclined to use it? Problem compounded upon problem and stalemate and frustration ensued.

At a General Council meeting in July 2004 WTO members sought to rejuvenate negotiations on the Doha Round. In addition to dropping three of the Singapore issues from the Single Undertaking for the duration of the Doha Round and allowing negotiations on one of them (trade facilitation) to commence, it was agreed that a formula approach be adopted in negotiations on cutting tariffs on imports of non-agricultural products. This formula was such that larger tariffs would be cut more than smaller tariffs. Provision was also made for lower cuts by developing countries, consistent with the agreed principle of less-than-full-reciprocity accorded to poorer WTO members. Timetables were elaborated for 2004 and 2005 for the important elements of the negotiations, and there was still much talk of the need for an ambitious outcome for the Round, especially from the United States, Brazil, and some other agricultural exporters.

From the perspective of understanding European trade policy formation, the year 2005 was significant. During that year the EC came under relentless pressure to make further concessions on agricultural market access and domestic support (subsidies) to farmers. Elsewhere (Evenett 2006a) I have documented the steps taken in 2005 by those MS that opposed such external pressure to expand the EC's negotiating mandate on agricultural matters beyond the CAP reforms agreed in 2003. Time and again the external pressure was rebuffed until the EU's large trading partners began to appreciate (perhaps in October and November 2005 for Brazil, perhaps later for other trading partners) just how little room for further agricultural concessions on agriculture the EC had. Without such concessions on

¹⁴ For a longer account of the factors responsible for the fall of the bipolar WTO see Evenett (2007b).

agriculture many of the European Union's trading partners (especially the large developing countries) refused to make more ambitious offers to liberalise their service sectors and tariffs on industrial products that were of direct concern to EU commercial interests. The level of ambition in the Doha Round collapsed faster than a house of cards. It should not be surprising, therefore, that every previously agreed deadline for setting the modalities for negotiations were missed in 2005 and that the WTO Ministerial Conference in December 2005 produced limited progress. This progress included commitments to eliminate the (relatively small in financial terms) export subsidy programmes on agricultural products by 2013, agreement to extend duty-free and quota-free access on 97 percent or more of industrial countries' tariff lines to developing countries (a commitment that was relatively easier for the EU to meet given its existing non-reciprocal preference regimes), and commitments totalling more than U.S. \$10 billion on to be specified "Aid for Trade" programmes for developing countries.

On reflection perhaps the most significant event at the Hong Kong WTO Ministerial Conference, if the specialised press reports are to be believed, was the realisation by Brazil that it would have to choose between its geopolitical ambitions (which at the WTO manifested itself in its leadership of the G20) and its agricultural trade negotiating objectives. Apparently, after the commitment to eliminate agricultural export subsidies was secured, Brazil tried to persuade its G20 partners to push for greater agricultural market access commitments and was rebuffed. Brazil may well have concluded, therefore, that its principal vehicle for extracting agricultural concessions from the United States and Europe (that is, the G20) could only deliver a lower level of liberalising ambition. As was to become clear in 2006, once Brazil allied itself with the low ambition camp of WTO members, which included the EC and India amongst others, this effectively left the U.S. alone among the big players seeking an ambitious outcome for the Doha Round. The foundations for the subsequent suspension of the Doha Round were falling into place.

The Hong Kong WTO Ministerial Conference elaborated another set of deadlines for negotiators in 2006. The looming expiration of the U.S. Administration's trade negotiating authority from Congress (due to expire on 30 June 2007) injected some urgency into the deliberations. Even so the sequence of deadlines, each dealing with a separate negotiating topic, was unable to break the mutually-supporting factors holding the Round to a low level of ambition. Worse still, personnel changes at the highest level of the U.S. trade negotiating team were interpreted as a diminution of interest by the U.S. Administration in the Round's completion or as a reduction in that Administration's assessment of the likely successful conclusion of the Round. Moreover, new U.S. trade representatives cannot be seen back home to be making large concessions at their first major meeting with foreign counterparts, slowing down progress further. As the first half of 2006 went by, the shadow of the mid-term Congressional elections in the United States loomed larger, making it harder for U.S. trade negotiators to offer concessions on sensitive agricultural matters without substantial balancing concessions from trading partners on agricultural market access, in particular from the larger developing countries.

Senior trade negotiators met in June and July 2006 to discuss the so-called "headline" numbers around which a final agreement could be built. They were unable to narrow their differences sufficiently and the WTO Director-General suspended the Doha Round in July 2006. It was thought that such a suspension might open national policymakers' eyes to the possibility of outright failure and that this, in turn, would result in more concessions being made to restart the negotiation. In fact, despite protestations of their commitment to complete the Doha Round by the world's most senior political leaders, no such concessions were made. The U.S. need for an ambitious outcome within agriculture (and not just across the entire Round) did not square with any of its major trading partners' priorities. Seen in these terms, perhaps some sort of stalemate in 2006 was almost inevitable, as was the resulting isolation of the United States.

After the U.S. Congressional elections were held in November 2006 more WTO members began to question both the value of suspending the Doha Round negotiations and just how much progress in negotiations could be made at ministerial level. Soon after, informal and then formal consultations by the chairpersons of the various WTO committees were permitted. Moreover, more intensive bilateral discussions at the level of officials took place in early 2007. U.S. and EU officials, for instance, met regularly to examine whether a deal on agriculture could be "reversed engineered", that is, to examine the terms of any of the various exceptions specified so that negotiators could better understand what actual liberalisation would follow from any set of proposals. Discussions have continued on a bilateral basis, principally among the Group of Six countries¹⁵ that have taken the lead in negotiating this Round since the July 2004 Framework agreement, and this has caused some consternation among other WTO members. There is a continuing tension between the apparent need to make progress negotiating in small groups and having an inclusive multilateral negotiation process in which every WTO member has, in principle, a veto over the outcome. Many smaller developing countries, in particular, question whether the development-related needs are best taken into account in this informal, bilateral negotiating process.

This account of the European Union's actions in the multilateral trading system has emphasised a number of factors that have influenced the nature and success of the EC's initiatives. These factors include: a domestic political climate more sceptical of globalisation's benefits (and those of open borders, more generally); the launching of an ill-defined multilateral trade round (both in terms of new issues and priorities, including the development mandate, and no apparent prior agreement on the approximate level of liberalising ambition); tenacious EU MS constraining the concessions offered on agriculture and contributing to the lowering of the Round's overall level of ambition; the rise of several new trading powers that

¹⁵ Australia, Brazil, the EC, India, China, and the United States.

ended the bipolar domination of the multilateral trading system; and the legacy of the Uruguay Round agreements at least as perceived by many developing countries. The consequence was that much of the rule-making envisaged by EC officials, partly as a response to protect against unfettered globalisation and partly linked to commercial considerations, was jettisoned early on and the traditional market access objectives of the EU's trade policy remain as yet unfulfilled. Current EU trade policy, however, was not to be shaped solely by these multilateral developments as the EC unveiled a new set of commercial policy priorities in late 2006, an account of which I turn to now to.

III.5. A brief overview and assessment of the European Commission's October 2006 Communication on external trade policy.¹⁶

A Communication titled "Global Europe: Competing In The World" was issued by the EC on 4 October 2006. Significantly this document was subtitled "A Contribution to the EU's Growth and Jobs Strategy" indicating the linkages sought and contribution of the EU's external trade policy to the Barroso Commission's overall economic policy objectives, including supporting the renewed Lisbon Strategy. The Communication identifies the following seven steps as being important components of its future external trade policy:

- "-Maintain our **commitment to the Doha Trade Round** and the WTO as the best way of opening and managing world trade.
- Make proposals on priorities in trade and investment relations with **China** as part of a broad strategy to build a beneficial and equal partnership.
- Launch a second phase of the EU **IPR enforcement** strategy.
- Make proposals for a **new generation of carefully selected and prioritised FTAs.**

¹⁶ For a more extensive assessment of this Communication see Evenett (2006b) and the contributions to the Special Issue of the journal *Aussenwirtschaft* (in which Evenett (2006b) is published). This Special Issue was published in December 2006.

- Make proposals for a **renewed and reinforced market access strategy**.
- Propose measures to open **procurement** markets abroad.
- Conduct a **review of the effectiveness of our trade-defence instruments**" (EU 2006a, pages 18 and 19. Bold in original document.)

Beyond affirming its commitment to the WTO and expressing the desire to revive and conclude the Doha Round negotiations, this Communication has very little constructive to say about the future of multilateral trading system.¹⁷ With respect to the proposals for negotiating a new set of FTAs, the Communication contends that "if approached with care" (page 9) these agreements can complement multilateral trade initiatives. The Communication identifies "market potential," levels of protection against EU exports, the FTA strategies of the EU's major trading partners, and the potential erosion of preferential market access enjoyed by EU firms as being factors influencing the selection of countries as potential FTA negotiating partners for the EC (page 10). On this criteria, the Communication identifies the Association of South East Asian nations (ASEAN), Korea, and MERCOSUR as "priorities" for EU FTAs. India, the Gulf Cooperation Council (GCC) members, and Russia are said to have some of the required attributes and so are included as potential FTA partners. Interestingly, China is not identified as a potential FTA negotiating partner "because of the opportunities and risks that it presents" (page 10).¹⁸

Arguably the 4 October 2006 Communication reflects an evolution rather than a revolution in the EC's thinking about the EU's external trade policy. The prominence given to market access, non-tariff barriers, and other economic considerations (such as jobs and

¹⁷ I accept that, with the Doha Round being suspended in July 2006 and the "you first" nature of negotiations experienced throughout so much of the Doha Round, that the EC may have decided that the second half of 2006 was not the right time to offer any substantive reflections on the future and potential reform of the multilateral trading system.

¹⁸ In this regard it is worth noting that the EC issued a separate Communication on relations with China on 24 October 2006.

economic growth) indicates a shift in the EC's thinking back to its 1996 predecessor. It also represents a shift away from perceiving negotiated rules as being valuable in their own right and possibly as a useful instrument in strengthening European public support for globalisation and for international market integration. This is not to suggest that rules go without mention in the 2006 Communication, rather that their justification is principally couched in commercial and economic considerations. Perhaps underlying the apparent differences in the role of rules is that current thinking may well be informed by the view that European public support for integration will be stronger if the populace are seen to be economically benefiting from openness (in terms of jobs, growth, and prices), rather than seeing rules as allaying fears about globalisation and its compatibility with European values.

Also implicit in this Communication is an apparent differentiation between Europe's poorer trading partners. The developing country label is no longer enough to get an EU trading partner an undemanding non-reciprocal package of access to the EU market. Large, faster growing, and relatively richer developing countries can in the future, it seems, expect to be treated in a manner similar to industrialised countries. However not all promising developing countries can assume that they will become potential FTA partners with the EU, as the case of China shows. Moreover, while for the potential for market growth and the height of trade barriers may well be factors in the EU decision-making on FTA partners, it would not be a surprise if the capacity of a developing country's exporters to cause adjustment in a sensitive European sector did not become *de facto* another criteria.

Elsewhere (Evenett 2006b) I have presented a more detailed assessment of the implications of this Communication's abandonment of the moratorium on negotiating new FTAs. I summarise the main points made there here. First, the apparent desire of the EC to join the scramble for market access in Asia is probably unstoppable, but it is likely to be far less commercially important than some might think. This is not the least because, for better or

for worse, the two largest economies in Asia (China and Japan) are not on the EC's list of potential partners to negotiate FTAs.¹⁹

Second, given the current asymmetries across MS in export performance to India, Korea, and several ASEAN nations, evidence is presented in Evenett (2006b) which strongly suggests that the boost to the EU's exports from less competitive European firms catching up with their more successful European rivals is multiples of the increase in trade that typically follow from signing FTAs. Therefore, EU firms can make much more of the market access that they already have and are not beholden to these FTA initiatives to increase their market shares in the fastest growing region of the world economy.²⁰

The third reaction relates to the treatment by the EC of non-tariff barriers and trade-related domestic policies in its future FTA negotiations. The EC has rightly identified many such government measures as potential impediments to European exporters but what is unclear is how to deal with these challenges. The proliferation of FTAs in the last 10 years ought to have provided a wealth of experience and approaches upon which to draw-- understanding potentially what types of negotiated binding provisions have bite and which

¹⁹ As currently conceived of in the 4 October 2006 Communication, the plans for future potential FTAs omit two countries that alone amount to 55 percent of the "market potential" in the Asian region. In the Statistical Annex to the Communication a table of EU trading partners is reproduced, reporting the estimated value in euros of their market potential over the years 2005-2025. The total value of the market potential of the Asian nations in that table (including Australia) is €474 billion. Of that total €278 billion is accounted for by China and Japan, neither of which are mentioned as possible FTA partners in the Communication. In contrast, India, ASEAN, and Korea, which are listed as FTA targets, have a combined market potential of €160 billion. Now, access to a market potential of €160 billion is not peanuts, but it does represent just over a third of the total size of the economic potential of the Asian market. Asia may appear vast and full of promise, but it is important to remember that the EC's FTA strategy only envisages securing better market access to a slice of it.

²⁰ This empirical finding might lead some to oppose the launch of negotiations on FTAs between the EC and selected Asian nations, a view with which I have a certain amount of sympathy. However, the horse has almost certainly bolted and slamming the stable door in disgust has only theatrical value. Another implication of the empirical finding mentioned above is that, although European commercial interests may eventually benefit from these FTAs, they are not the only way in which the EU can make inroads into Asian markets. So the EC should be prepared to walk away from cosmetic, face-saving FTAs and drawn out negotiations. This point could be communicated to potential FTA partners at the beginning of the negotiations and, to demonstrate its seriousness of purpose, the European Council (ECM) should give the EC a fixed two-year mandate to complete the negotiations of each FTA. Two years is long enough to negotiate a complex deal if the partners are willing. Foreign prevaricators would, thus, be put on notice. Plus, this timetable would ensure that any results are secured before the end of the Barosso Commission's term. There may be an instinctive reaction within the EC against the loss of discretion implied by a fixed-term mandate, but consideration should be given to the tactical and strategic value of this constraint as well as to the harm and bad blood created by never-ending FTA negotiations.

matters ought to be dealt with in other non-binding international fora. In fact, however, there seems to be insufficient empirical research on the effects of different types of FTA provisions to guide EC trade negotiators in this matter.²¹ Moreover, the vehement opposition to the Singapore Issues in the Doha Round and in the ongoing EPA negotiations alluded to in section III.3 above will almost certainly taint new proposals for further rules on non-tariff barriers and trade-related domestic policies in FTAs. The bitter aftertaste may take some time to overcome. Here the EC may find that it has to blend incentives (perhaps in the form of dedicated technical assistance and financial support) with obligations if trading partners are going to accept anything but the most token commitments in these policy areas.

The next set of factors concern the likelihood of successfully completing ambitious FTA negotiations with India, Korea, and the ASEAN nations. India's sheer ambivalence (or worse) during the Doha Round negotiations must raise some questions about its willingness to sign a FTA with the EU. Now it is true that countries can, and some have, taken view different positions about the commitments they are prepared to make in FTAs and in WTO agreements. Moreover, it may well be true that India has made several overtures to the EC, indicating a willingness to sign a FTA. But how deeply and how widely felt is that conviction, especially in a country whose central government is relatively weak? A careful reading of the newspaper articles in Indian newspapers in 2006 and in the first quarter of 2007 reveals that on no occasion has a senior Indian government minister publicly called for FTA negotiations with the EU.²² Instead there were plenty of promises to "look into" proposals for a potential FTA negotiation, but no serious political capital has been put on the line in New Delhi. There is a substantial risk here of the EU being painted as the demandeur in any FTA negotiation, whatever the overtures there have been between technocrats. Moreover, Indian officials have

²¹ There is a growing number of legal analyses, and in some cases even taxonomies, of FTA provisions in selected policy areas but these are not the same as empirical analyses of the effects of such provisions. I make these claims having just completed an in-depth assessment of the available economic and other literature on the effects of five types of FTA provision dealing with non-tariff barriers and trade-related domestic policies.

²² These newspaper articles can be readily searched and downloaded from the *Factiva* database.

indicated that they expect this FTA negotiation with the EU to take five or six years to complete, which if it came to pass would be well beyond the planning horizon of the current, and possibly the next, college of European Commissioners.

A further source of concern is the large number of exceptions that India has sought in FTA negotiations with other countries. India sought to put 840 items on a sensitive list (down from an initial demand of 1400 items!) in its FTA negotiations with ASEAN, and rejected an ASEAN demand that India remove import duties on 90 percent of its product lines by 2011. (The ASEAN-Indian FTA negotiations were suspended on 25 July 2006.) Thailand faced similar challenges in its negotiations with India, with the latter seeking to impose very restrictive rules of origin that would have reduced the amount of goods able to enter India on a preferential tariff basis. Admittedly, the EC may be able to strike a far better deal with India than the ASEAN nations together or Thailand on its own, but few should be under any illusion about the defensive nature of India's negotiating position on trade in goods, the most basic trade commitment, let alone the non-tariff and behind-the-border policies that according to the recent Communication are key EC negotiating objectives.²³

Despite the signing in April 2007 of a FTA between Korea and the United States, the former's offensive interests in automobiles, textiles, and electronics are likely to cause difficulties for the EC and certain MS. Moreover, Korea may use its FTA negotiations with the EC to seek changes in Europe's trade defence instruments, which are a very delicate matter within the EU. There is also a question mark over the capacity of Korea's government to obtain legislative approval of any FTA (including the one signed with the United States),

²³ Defenders of India's FTA strategy point to its FTA with Singapore, which includes measures to modestly liberalise India's service sector. (Even here certain restrictions on the establishment of commercial presence through foreign direct investment have been retained by India.) It should be noted that this agreement also contains numerous exceptions to liberalising goods trade between the parties. A total of 6551 tariff lines were excluded outright from tariff liberalisation. A further 2407 tariff lines will only see a phased reduction of 50 percent in the applied tariff rates. Together these exclusions and phased reductions account for approximately 76 percent of India's tariff line commitments in its FTA with Singapore. In my view the latter indicates a distinct reluctance by India to commit to across-the-board goods trade liberalisation in the context of a reciprocal trade agreement with a nation whose economy is less than five percent of the size of the Indian economy (when these economies are measured in purchasing power parity terms.)

given that the currently (very unpopular) President faces a large opposition majority in the National Assembly. The next presidential elections in South Korea, scheduled for December 2007, may well clarify the degree of political support for trade reform in Korea.

Matters in ASEAN are not much better and again the specialised press reports on the protracted negotiations between the U.S. and Thailand and the U.S. and Malaysia on their respective FTAs make for sobering reading. (It is worth noting in this respect that in March 2007 the U.S. abandoned its FTA negotiations with Malaysia.) Leaving aside the 2006 coup in Thailand, which may make some EU MS reluctant to seem to be negotiating--and potentially rewarding--a military-sponsored government, it is inconceivable that any EC negotiations with ASEAN will involve that latter operating as a coherent, unified group. Some differentiation within the ASEAN grouping will be needed not least to take account of Myanmar, whose government the EU MS are most unlikely to allow negotiations with. Taken together these considerations imply that negotiations with the ASEAN nations may actually amount to negotiating separately with a core group of countries (possibly, Malaysia, Singapore, Cambodia, and maybe Vietnam). As a result, the likelihood is slim that emerging from this process will be an ASEAN-wide set of disciplines that would significantly cut red tape and the barriers facing European business. Again, there is much less here than initially meets the eye.

The purpose of this section was first to briefly outline the principal components of the EC's new trade policy, as described in a Communication issued in October 2006. Then several points were made about viability and likely payoff of the decision to launch FTA negotiations with several Asian nations. It was argued that, at least in the near term, this scramble for preferential access to Asian markets is unlikely to bear significant fruit, in terms of both better market access for European firms and greater disciplines on so-called behind the border measures. Moreover, little or no thought appears to have been given to the relationship between these potential FTA negotiations and resolving the impasse in the Doha Round of

multilateral trading negotiations. The very coherence of the near- to medium-term trajectory of EC trade policy can thus be called into question.

IV. The EC in a multi-polar trading system.

The multilateral trading system can and should remain the corner stone of EU trade policy, even though the Doha Round of trade negotiations have frequently been at an impasse. Whether or not these negotiations are concluded satisfactorily in 2007, it will take a few years for any agreement to be implemented and for a new U.S. administration team of trade officials to be put in place. This two year or so interregnum should be used to assess what role the EU can profitably play in a multi-polar trading system. Given the size of the EU's own market and its sizeable foreign investments, there is a strong case for engagement. The alternative, essentially becoming a veto player over the agendas proposed by others, may seem appealing to some battered and bruised egos after the difficult Doha Round, but this would forgo Europe's extensive internal experience in coalition formation and coalition preservation.

The first step in any such assessment of the EU's potential future role must surely be to identify the current and likely future offensive and defensive interests of the new trading powers will be. Direct domestic political constraints are a consideration here and, if the discussions around the Doha Round are anything to go by, are generally not well understood abroad. Elsewhere (Evenett 2007b) I have argued that the fast growth in the number of Indian and Chinese multinationals along with strong (but distinctive) ties between big business and government in both of these countries may well led these governments' trade policymakers to identify their future offensive interests with those of their overseas multinationals. As greenfield foreign investments are relatively unrestricted, even encouraged in many jurisdictions, restrictions on takeovers and mergers by foreign firms may well become more contentious (as the recent takeover of a Continental steel company Arcelor by a nominally

Indian company Mittal Steel made clear.) The treatment of such transactions and of multinationals more generally may well lead to many traditionally domestic measures that affect the national business environment becoming topics upon which many of the leading trading powers share a common interest. In trade policy parlance, stronger and/or wider disciplines on national treatment may well be sought. These arguments suggest that a rules-based agenda for further multilateral trade negotiations may well be attractive.

The preservation of existing market access, which underpins that substantial export growth recorded since 2000 by Brazil, China, and India, may well cause those nations' governments to seek further disciplines on the various discretionary policy instruments available to restrict imports. Again this is only one possibility and the question arises as to whether other potential areas of common interest exist. With respect to a market access-improving negotiating agenda, one challenge that must be recognised is that the political arguments in favour of reciprocal trade negotiation (with its goal of mobilising export interests to counter the domestic political influence of import-competing firms) may not resonate at all well in the political systems of the new trading powers. In fact, I have argued previously that neither China nor India has ever undertaken serious trade reform in the context of a reciprocal trade agreement (Evenett 2007b). They have done so as a condition for joining the WTO or unilaterally.²⁴ To the extent that the latter continues and domestic opposition to trade reform can be overcome (without mobilising export constituencies) then in the future the market opening role of the WTO may become secondary. A counterargument is that when average tariff rates fall to low levels, then export interests are needed to back trade reform as the remaining import-competing interests are particularly strong politically. Chile's experience is sometimes mentioned in support of this argument, apparently its switch from unilateral to reciprocal trade liberalisation occurred once average tariffs fell to approximately 10 percent.²⁵

²⁴ China's WTO accession is seen here as involving unilateral and not reciprocal trade reform.

²⁵ I thank C. Fred Bergsten for pointing this argument out to me.

Having said that, it remains to be seen if in the future the new trading powers see value in the WTO's capacity to deliver reciprocal trade reform.

Once the topics of common interest have been identified then the next step is for rough assessments of their commercial or other value to each party. This will require considerable new work as the commercial value of many trade rules has rarely been the subject of serious empirical analysis, and perhaps may account for some of the scepticism as to their value (and to preference of some for market access liberalisation, whose consequences are on the basis of existing tools easier to estimate.²⁶) After that, it will be necessary to explore what permutations of measures are likely to garner greater support among the leading trading powers, recognising that the possibility of gains does not guarantee that agreements will be forthcoming. The latter point highlights the continuing need to better understand the combinations of domestic policies and technical capacities necessary to enhance the benefits of trade-related reforms. With all of this information the potential basis for different possible future multilateral trade deals might be identified.

One consequence of pursuing this analysis is the realisation that certain commercial or cherished European goals may stand little or no chance of commanding support among the leading trading powers, either as a stand-alone priorities or as topics over which bargains can be made. International trade rules as they relate to medicines may well now fall into this category, given the bad odour attached to the associated WTO rules. This may call for a refinement in either the proposed rules (perhaps sweetening the proposed obligations with technical assistance or financial support) or in the constituencies supporting trade reform (and may involve some commercial parties no longer having their interests served as closely as before.)

²⁶ An analogy with the proverbial drunkard looking for their keys under street lamps--precisely because that is whether the light is--comes to mind.

V. Concluding remarks.

It is widely recognised²⁷ that the multilateral trading system has produced substantial benefits to the world economy in the post-war era. By fostering liberalisation (at least in merchandise goods trade among industrialised economies) and encouraging compliance with rules that help reduce the uncertainty associated with exporting and importing, multilateral trade accords have resulted in better allocations of resources and, if some studies are to be believed, in higher rates of national economic growth. The European Union's Member States and the European Commission can share much of the credit for this securing beneficial outcome as together with successive United States' administrations they ran the multilateral trading system for most of the post-war era.

In part due to the relatively open markets for manufactures that this bipolar system created, several large developing countries have become trading powers themselves and now seek to influence the trajectory of the world trading system. As the Doha Round proceeded, these new trading powers have repeatedly reminded the EU and the U.S. that they no longer jointly determine the trading system's destiny. Various European proposals for new trade rules have been rebuffed and the American's aggressive market liberalising objectives will almost certainly not be met. The question is: What next for the multilateral trading system and what role for the European Union?

With an economy that produces annually \$12 trillion in value added and has 450 million relatively well-off customers, the European Union will be able to remain at the top negotiating table in the decades to come. The question, then, is to what purpose? Here there may well have to be changes. In the past both the EU and the United States have sought to project their commercial interests and values on other nations through bilateral, regional, and multilateral trade agreements. With the rise of at least three new trading powers, the first order of business is to establish what is the potential basis for future multilateral deals and the trade-

²⁷ Although not universally accepted.

offs associated with such future deals. Market access liberalisation measures alone are unlikely to form such a base especially if the new trading powers continue to liberalise border barriers on their own. But if the traditional alternative to market access reform, namely rules, is to the basis of a future deal, which rules are likely to be the subject of multilateral negotiation? As each of the new trading powers has a growing overseas multinational footprint, then perhaps the new agenda could²⁸ be based on rules that further restrict discrimination by national governments in the design and implementation of non-tariff barriers and domestic policies. Stronger and broader national treatment disciplines could be an area of mutual interest to the current and new powers of the world trading system. This implies that, despite the setbacks with the Singapore Issues in the Doha Round of trade negotiations, the boundaries of the WTO have probably not been set in stone.

An associated question concerns what happens to the multilateral provisions that Europeans say they value, such as those associated with labour and environmental standards, that their trading partners are not interested in? In my view, the right European response here is not to disengage from the WTO (or worse raise trade barriers) because apparently cherished goals do not receive the weight we might want. Rather it is to consider alternative combinations of formal obligations, incentives (both positive and negative), and other international initiatives to advance those values. It should be remembered that industrialised countries have aid budgets and other measures available to them to pursue these cherished goals. Moreover, much more could probably be made of bodies such as the International Labour Organisation.²⁹ Related considerations probably imply that attempts to extend the WTO's reach beyond commercially meaningful obligations (into, for example, social and environmental policies) are likely to founder on the opposition of the new trading powers.

²⁸ Notice the word is "could" not "should." This wholly pragmatic exercise is about the art of the possible.

²⁹ I accept that far too often many of the supporters of international social, labour, and environmental standards have been fobbed off by trade experts arguing that other international organisations can take the lead with these matters. What I have in mind is giving serious consideration to strengthening the ambit and resources of the latter organisations.

The opposition of the new trading powers to certain types of trade provision, or proposals for such provisions, may call for changes in the business and political coalitions that, *de facto* or *de jure*, are assembled to support trade reform in Europe. For example, the window for further improving intellectual property rights through trade agreements may well have closed for the time being, or the future price demanded by trading partners for including new provisions is likely to be so high, that the pro-trade reform constituency may have to be organised without some of the European corporations that have prominently supported trade reforms over the past 15 to 20 years. Those doubtful of these alternatives might well recall the paucity of accomplishments over the last 10 years when objective-upon-objective was piled on to European Union trade policymaking.³⁰ The watchwords for the future are likely to be common ground, pragmatism, and accommodation; all of which the member states of European Union and European Commission officials have plenty of experience with.

The policy recommendations in this chapter have focused on the multilateral trading system, in part because that is where the greatest long-term and systemic challenges lie and also because of doubts about the likely payoff from negotiating preferential trading agreements. This is not to say, however, that the European Union will not face a number of specific and important challenges in managing its commercial relations with certain neighbours in the years to come, in particular, with Russia, the Ukraine, and Turkey. No doubt foreign policy as well as commercial considerations will together continue to influence any negotiations and trade policy initiatives with the latter. These matters, with their propensity to generate headlines and to absorb policymakers' attention, should not distract European trade strategists from the necessary task of establishing a new *modus operandi* for the multilateral trading system.

³⁰ With Michael Meier, I have made a similar argument with respect to the future of United States trade policymaking (see Evenett and Meier 2007). More generally, there is probably a strong case for believing that the trade policies of the leading industrialised countries have been asked to support a far too diverse set of objectives.

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Table 1. Indicators of trade policy stance for the European Union and selected trading partners.

<i>Trade policy indicator</i>	European Union	United States	Brazil	China	India
Tariff binding coverage, %	100	100	100	100	73.8
Simple average applied tariff rate for agricultural goods, %	5.9	n.a.	10.3	15.9	15.4
Simple average applied tariff rate for non-agricultural goods, %	4.0	3.3	12.7	9.1	37.6
MFN duty free imports, % of total imports	53.1	46.8	22.2	34.0	2.1
GATS services sectors with commitments	115	110	43	93	37

Source: WTO Country Profiles obtained from <http://stat.wto.org>

Table 2: Extra-EU trade flows, 2005.

Extra-EU trade flow.	Billions, US\$	Ranking in the world	% world total
Total merchandise exports	1320	1	17.12
Total merchandise imports	1461	2	18.03
Total services exports	432	1	27.08
Total services imports	384	1	24.39
Grand total exports and imports	3597	1	
<i>Memo.</i>			
Total GDP, PPP.	12097	2	
Implied Total Trade/GDP ratio: 0.297	n.a.		

Source: WTO Country Profile for the EU (25 MS) obtained from <http://stat.wto.org>