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EUROPEAN  
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European Foreign Policy Unit  
Working Paper No. 2009/2

THE EU AND THE RISE OF REGIONALISM

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March 2009

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## The EU and the rise of regionalism

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### Introduction

During the course of 2005/6 the EU shifted policy on free trade agreements (FTAs) towards the more active negotiation of preferential trade agreements. This shift in policy was set out in the Global Europe policy paper of October 2006.<sup>1</sup> Prior to 2006 the EU had maintained *de facto* moratorium on the negotiation of new preferential agreements after 1999. Although there was no explicit articulation of this moratorium, it was understood by both the European Commission, which has the lead when it comes to negotiating trade agreements for the EU, and the Member States of the EU that the priority should be the promotion of the EU's comprehensive agenda for the multilateral trading system of the WTO. After about 1996 the EU had been the main proponent of a new and comprehensive multilateral round of trade negotiations under the aegis of the World Trade Organisation (WTO). But progress at the multilateral level had been slow. After repeated failures a new round of trade negotiations was launched in 2001 in Doha; the Doha Development Agenda. But by 2005 it was clear that the EU had not succeeded in its aim of a comprehensive agenda. Some key issues of interest to the EU, such as the so-called Singapore issues of investment, competition and government procurement had been dropped from the agenda. Even the negotiations on more conventional topics of industrial tariffs and services had been scaled back in terms of their ambition. There was also a perception in EU trade circles that it was the EU and the EU alone that was making concessions, such as offers of liberalisation and reduced subsidies for agriculture, in order to keep the negotiations going.

Against this background the EU shifted to adopt a more active and commercially oriented approach to free trade agreements. While FTAs have figured in EU policy for many years, the FTAs negotiated by the EU have tended to be motivated by strategic

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and political aims as much as commercial aims. The policy pursued after 2006 has been more commercially oriented.

This shift in EU policy has come at a time when other major WTO members were also negotiating preferential agreements. Many of these have been between major WTO members and smaller countries, in other words of a north-south nature. The move in the early 2000s to apply a policy of competitive liberalisation on the part of the United States of America was a particularly important development. This meant that the US, which had been the major power favouring multilateralism in the post 1945 period, had now shifted to a policy of negotiating in the forum which offered best chances of meeting US trade objectives, regardless of the level. There have so far been no FTAs negotiated between any of the major WTO members. But the growth in FTAs has meant that such preferential agreements now constitute a major element of the international trading system.

This general shift towards preferential agreements raises a number of questions for trade policy in general and for the EU in particular and there are a number of contradictions in the EU approach. For example, the EU favours multilateralism, but seeks at the same time to negotiate bilateral or region-to-region agreements. EU policy statements argue that EU preferential agreements will be compatible with multilateralism. It is easy to state that EU trade policy should ensure compatibility between the bilateral and multilateral levels, but what does this really mean in practice? History tends to suggest that preferential agreements undermine multilateralism when protectionist forces have the upper hand, such as during the inter war period (Oye, 1992), but can complement multilateralism when the broad policy direction is liberal, such as during the 1980s and much of the 1990s (Woolcock, 2005). With protectionist pressures growing in the wake of the international economic slowdown caused by the 2008/9 international financial crisis this issue of compatibility has become more urgent. Is the EU's shift a permanent one, or was it driven by what its major trading partners were doing? With a new US Congress that is at best wary of bilateral free trade agreements, will the US throttle back on 'competitive liberalisation' and if it does how should the EU respond?

A practical, pragmatic approach might suggest that preferential agreements will form a central feature of trade policy along side the WTO and multilateralism in general for some years to come. If this is the assumption how should the EU manage this 'multi-level' trade policy? What criteria should it use when negotiating bilateral or region-to-region agreements in order to ensure that the policy aim of compatibility between preferential and multilateral trade policy is satisfied?

### **The basic tenets of EU policy**

It is worth recalling what the treaties say on trade policy. The original Treaty of Rome calls on the EU to promote the harmonious development of world trade and the progressive abolition of restrictions on international trade. These objectives have been confirmed in the constitutional convention and in Article 206 of the consolidated version of the Treaty on the Functioning of the European Union. Article 206 also adds the progressive liberalisation of restrictions on investment, as foreign investment would, with the ratification of the Lisbon Treaty, become European Union competence. In addition to these very broad statements of policy on trade the EU has developed a set of norms that shape its trade policy. These include the maintenance of an effective multilateral system, broad reciprocity in trade agreements, but also an acceptance of the need to grant developing countries special and differential treatment. Finally, the EU has moved towards support for a rules-based (as opposed to a power-based) multilateral system.

During the 1980s the EU moved towards a policy of greater support for liberal trade and investment policies and progressively adopted a more proactive approach to multilateral trade negotiations. When the EU was first established trade policy served the interests of building Europe. In other words the European preference in terms of tariffs was defended, as were common policies such as the common agricultural policy. Both of these were challenged by US inspired initiatives in the General Agreement on Tariffs and Trade (GATT) that sought general most favoured national (MFN) liberalisation of tariffs and checks on the CAP right from the start. During the 1970s the United States pressed for stronger multilateral discipline on European national champion policies. This took the form of efforts to introduce controls on state subsidies, the preferential allocation of government contracts and technical

regulations, which US producers believed were being used unfairly as instruments of protection against US exports. The EU therefore adopted a defensive position in the face of US proposals for multilateral rounds of trade negotiations. Even into the early 1980s the EU resisted the launch of a new multilateral the Uruguay Round including services, investment and other measures until 1985/6.

The 1980s saw a shift in the EU position towards a much more positive view of liberal trade and greater support for multilateral disciplines. This was due to the general shift towards liberal policies among the EU Member States, but also the liberalisation that took place in the shape of the European Single Market after the Single European Act and the Cockfield White Paper. EU support for more multilateral rules was in part a reflection of the more rules-based approach adopted within the EU in the shape of the *acquis communautaire* and in part a desire for stronger multilateral rules in order to contain US unilateralist tendencies during the first half of the 1980s.

### **The EU policy on preferential agreements prior to 2006**

Whilst the EU had a *de facto* moratorium on new free trade agreements from 1999 until 2006, it was still engaged in a series of negotiations on preferential agreements that were the legacy of early periods. The EU's existing preferential agreements were shaped by a range of different factors, as indeed are the FTA policies of all countries. These included foreign policy and broad security interests, as well as the more commercial interest in access to other countries' markets.

EU FTAs have fallen into three broad categories. There have been the association agreements with the EU's near neighbours in Central and Eastern and South Eastern Europe as well as the association agreements with the EU's EuroMed partners. These agreements have been motivated by important security interests, such as bringing about a stable transition from the Cold War to the post Cold War commercial relations in Europe. Thus the Europe Agreements of the early 1990s provided preferential access for the EU's Central and Eastern European neighbours. These agreements were of course the first step towards closer economic integration and ultimately membership for many Central and East European countries. While there were

commercial interests in ensuring access to these markets the main motivation was to promote economic and thus political stability in the countries concerned.

The Stability and Association Agreements (SAA) with the countries of the western Balkans are motivated by similar aims. Following the Balkan wars of the 1990s the EU's aim is to promote economic and thus political stability in the region and thus foster wider European security.

North Africa and the Middle East are also areas that also pose a potential security threat to the EU. High levels of unemployment and underdevelopment are seen as potential causes of political instability and potentially destabilising ideological extremism. High unemployment among the generally young population of the region is also a cause of outward migration towards the EU. The EuroMed Association agreements were therefore motivated by the aim of promoting economic growth in the countries concerned in order to help stabilise the political and social conditions in the countries. The EU policies towards the Mediterranean have also sought to promote intra regional integration within the region as a means of mitigating or resolving political tensions. Market access for EU exporters or investors was a factor, but not something at the forefront of EU policy-makers minds.

A second category of preferential agreements negotiated by the EU concerns those with the African, Caribbean and Pacific (ACP) states. The agreements with these countries are due to the colonial legacy of some EU Member States. Preferential access to the EU market has been offered as part of a broader framework in the Lome and subsequently Cotonou Agreements. The main motivation of the EU has been development, rather than access to the ACP markets. For the most part the ACP markets are not important for EU exporters and all ACP states put together account for little more than 4% of EU exports. This is not to say that certain markets such as Nigeria are not important, or that there are some significant interests in specific sectors, but overall the ACP markets do not excite much interest among EU exporters, who have their sights set more on the large emerging markets.

The third category of FTAs that the EU has negotiated concerns the emerging markets. To date the EU has negotiated such agreements with Mexico, South Africa

and Chile. Commercial interests have been more prominent in these agreements, even if political factors have been important, such as in the case of the Trade, Development and Cooperation Agreement with South Africa shortly after the end of the apartheid regime. In the case of the EU-Mexico agreement the EU was concerned that the NAFTA preference would lead to trade diversion away from EU exporters and in favour of US exporters and investors. The EU-Chile agreement was similarly influenced by the fact that the US had negotiated an FTA with Chile. In the case of the EU-Chile agreement, negotiations began because Chile had an association with MERCOSUR and MERCOSUR was negotiating with the United States under the Free Trade Agreements for the Americas (FTAA) initiative.

The EU policy on FTAs was therefore shaped by different motivations depending on the negotiating partner and their relative importance for European security, commercial and development interests. The content of the FTAs negotiated has also varied. Some preferential agreements, such as the Europe Agreements envisaged the progressive, but far reaching approximation of EU standards and norms by the central and east European states. This set the scene for future accession by these countries and was also feasible because many of the countries concerned did not have developed regulatory systems that were suitable for market economies. The agreements negotiated with the ACP states and Euro-Med partners provide for much less approximation of EU norms or standards and the agreements with emerging markets have also varied according to the level of development and the particular sectoral interests of the EU and the country concerned. In short the FTAs negotiated by the EU have varied in their content as much as in the motivations behind them. This is in contrast to the United States, which has tended to favour a more uniform approach to FTAs based on the NAFTA model (Heydon and Woolcock, 2009).

Before leaving the issue of what has motivated EU FTA policy it is necessary to mention two other distinctly European policy objectives that have been pursued through FTAs. These concern the promotion of regional integration and the promotion of European regulatory norms.

For some years the EU has sought to use preferential trade agreements and thus access to the EU market as a means of promoting regional integration in other regions. This

has been the basis of the region-to-region approach to FTAs pursued by the EU in its relations with other regions, such as MERCOSUR in Latin America, the Central American Common Market in Central America, ASEAN in south east Asia and a range of African regions. By using improved access to the EU market as an incentive, the EU has sought to use region-to-region FTAs to promote regional integration elsewhere. The motivation here is to promote regional integration *per se* as a means of promoting economic welfare and political stability. This reflects the EU's own positive experience with regional integration and represents a desire to 'export' the idea of regional integration to other regions. As such it represents an attempt to exercise EU 'soft power' to influence the nature of the international system.

Another way in which the EU seeks to exercise 'soft power' is through the promotion of European regulatory norms. European market integration in the shape of the *acquis communautaire* is based on the exercise of market forces within an established regulatory framework that helps to ensure legitimate social and environmental policy objectives other than liberalisation are met. In other words the EU model of capitalism is market based, but markets operate within a clearly defined regulatory framework. As all trade policy is shaped by domestic policy, the EU's approach to trade policy and thus to the content of FTAs is also shaped by its 'domestic' policies in the shape of the *acquis*. This does not mean that the EU simply tries to export the *acquis*, but it does mean that the EU places importance on regulatory or governance type issues in its trade policy as well as market access. Hence the EU's promotion of a comprehensive trade agenda, including the Singapore issues as well as a range of more standard non-trade barriers, in both the WTO and in its bilateral or region-to-region negotiations.

### **The shift in emphasis**

Why did the EU shift to adopt a more active FTA policy in 2006? As noted above the EU had maintained a *de facto* moratorium on new preferential negotiations after 1999 in order not to undermine its efforts to promote a comprehensive multilateral round. Had the EU engaged in FTA negotiations this would have been taken by other WTO members as an indication that the EU was not serious about a new round. The EU's commitment to multilateral negotiations remained despite early setbacks in the Doha



Development Agenda (DDA). Even after the Cancun WTO ministerial meeting that resulted in some of the EU's favoured topics, such as three of the Singapore issues, being taken off the agenda, the EU continued to give preference to multilateral negotiations over FTAs.<sup>2</sup> But the difficulties in the WTO and the active FTA policies being pursued by other major WTO members stimulated discussion on FTAs in the Commission and among the EU Member States.

There were a number of factors favouring a shift to a more active FTA strategy on the part of the EU. First, there was the apparent inability of the EU to influence the multilateral trade agenda. The EU had, from the late 1990s pursued the aim of a comprehensive trade round in the WTO, but opposition from leading developing countries and a lack of support from the United States meant that the EU had had little impact on the WTO agenda. This was confirmed by the Cancun ministerial meeting of the WTO.

Second, the existing pattern of FTAs did not really serve the EU's commercial interests. Many FTAs had been motivated by broader European security or EU foreign policy aims. The Europe Agreements with the EU's central and east European neighbours had a significant economic potential, but these countries had since opted for EU membership. The Euro-Med agreements and the Economic Partnership Agreements (EPAs) that the EU is in the process of negotiating with the ACP states to replace the Cotonou Agreement are not really commercially but more development motivated. Although these preferential agreements included many countries their share of EU trade is small. More importantly North Africa, the Middle East and Africa are not regions of dynamic economic growth. The dynamic regions in which there are major emerging markets are East and South East Asia and perhaps Latin America. But the EU had no FTAs with Asian countries and the EU-MERCOSUR negotiations were going nowhere. A second reason for adopting a more active FTA policy was therefore to shift the balance of EU FTAs towards those regions that offered important future markets.

A third factor was the policies pursued by other major WTO members. The concept of 'competitive liberalisation' had been promoted in the United States in the mid 1990s (Bergsten, 1996). Its active application had however been held back by the Clinton

Administration's difficulty getting trade negotiating authority from the US Congress. When the Bush administration gained Trade Promotion Authority in 2001 the US began to implement a policy of competitive liberalisation that resulted in negotiations with Singapore, Australia, South Korea, Thailand and a number of other countries. In 2000 China had already made approaches to ASEAN with a view to negotiating preferential trade agreements and the ASEAN plus 3 (including Korea and Japan) process soon followed. In a marked change of policy Japan joined the general trend in east and south East Asia and began negotiating preferential agreements with New Zealand, Singapore and then other ASEAN countries. With other major WTO members actively negotiating FTAs, a growing number of economic interests and policy makers within the EU began to feel that the EU would lose out by continuing to support what appeared to be a progressively less interesting multilateral agenda.

These factors then combined to influence the shift in EU policy. It appears that this shift came about progressively with no major differences among the EU Member States on the desirability, or perhaps the inevitability, of a shift. If there were differences these were on the timing of the shift, with the more liberal Member States, such as Britain, Sweden and the Netherlands, wishing to wait in the hope of making more progress in multilateral negotiations, and Member States such as Germany that saw the need to move sooner in order to head off the trade diversionary effects of the FTAs being negotiated by the US, Japan and others. The shift in policy therefore came about mainly as a result of developments elsewhere.

### **The contradictions in EU policy**

Any area of policy is likely to face contradictions and the EU's policy on FTAs is no exception. The clearest example of this is, of course, the desire of the EU to promote multilateralism whilst at the same time negotiating FTAs. The EU is by its nature multilateral in the sense that policy making within the EU takes the form of multilateral negotiations and in the area of trade the EU has supported a rules-based multilateral system for the WTO since the Uruguay Round as something that parallels the EU's internal rules-based regime. In opting for a more activist and commercially driven FTA policy the EU therefore risks exacerbating the contradiction that has always been present between multilateralism and preferential agreements. This may

be more important in 2009/10 when, due to the growth of bilateral FTAs, the multilateral system is genuinely challenged.

A second contradiction in EU policy has more to do with an incompatibility between the timing of efforts to promote region-to-region agreements and its desire to make FTAs more commercial. As the EU-MECOSUR and Economic Partnership Agreement negotiations with the ACP have shown, region-to-region negotiations can be held hostage to the pace of integration within the partner region. While the EU can use the incentive of enhanced access to the EU market to encourage greater integration in its partner regions, some countries in the region concerned may not be economically or politically ready to move towards deeper integration. The EU is then faced with a choice of delay in the region-to-region negotiations until the other region is ready to move, or negotiating bilateral agreements with specific countries in the region concerned. This contradiction was particularly acute in the case of the EPA negotiations, because a deadline of the end of 2007 that had been set for the replacement of the Cotonou waiver from most favoured nation obligations of GATT Article I. In the case of the EPAs the EU moved ahead to conclude interim agreements with specific ACP states that could, in December 2007. If no subsequent adjustment measures are carried out, these bilateral agreements could undermine regional integration in the ACP regions rather than promote it as is the EU's policy aim in negotiating region-to-region agreements. In the case of MERCOSUR a lack of full market integration in MERCOSUR led to delays in the EU-MERCOSUR negotiations. Other contradictions are likely to arise in future in the EU negotiations with ASEAN, where member countries are at very different levels of development, and in the case of the EU negotiations with Central America and the Andean Community.

A third, potential contradiction exists between the desire on the part of the EU to promote comprehensive trade and investment rules and the EU's development aims. While the EU has been frustrated in its efforts to include the Singapore issues in the DDA, it may be more successful in including them in agreements negotiated bilaterally or perhaps on a region-to-region basis. Indeed, the comprehensive EPA negotiated with CARIFORUM at the end of 2007 included reasonably ambitious provisions on the Singapore issues. But the question is whether these are consistent

with development. The EU argues that they are and that clear rules for trade and investment promote development. But developing countries in Africa argue that they are not yet ready to apply such rules. There is also a question of whether the EU efforts to push through EPAs are consistent with broader development aims with regard to tariff reductions.

### **Which criteria to use?**

The EU policy as expressed in the Global Europe policy statement of 2006 is that it will ensure that FTAs are consistent with multilateralism. Equally, the EU will argue that other potential or real contradictions in EU policy can be reconciled in practice. But how can this be done? What criteria should be used to determine the nature and content of EU FTAs to ensure compatibility or at least reduce the scope for contradictions?

The existing multilateral rules in the shape of Article XXIV of the General Agreement on Tariffs and Trade 1994 (and the equivalent Article V of the GATS) provide only a rather vague criterion. Consistency with multilateralism could mean that the EU ensures that the content of the FTAs it negotiates is consistent with Article XXIV. But the provisions in Article XXIV are too general. Article XXIV states that FTAs should not result in a general increase in the incidence of protection, in other words barriers to trade such as tariffs should not be higher as a result of a customs union or FTA. Article XXIV also states that substantially all trade should be covered and that FTAs or customs unions should be implemented within a reasonable period of time. But there is no agreement on what this means. The EU has interpreted substantially all trade to mean 90% of trade or tariff lines. But some would argue that this allows for the exclusion of too many sensitive sectors and that the threshold should be higher. The 1994 Understanding on the Interpretation of Article XXIV did clarify some points. For example, that the implementation period should be 10 years except in exceptional circumstances. But the GATT rules still remain too ambiguous to provide more than broad guidelines.

On questions of rule-making the WTO provides even less in the way of criteria. Article XXIV states that FTAs and customs unions also need to remove 'other

regulatory restrictions to commerce’ to ‘other restrictions of commerce’ but again there is no clear view among WTO members on what this covers. For example, some WTO members, including the EU, argue that the introduction of common technical regulations and standards facilitates trade, whilst others argue that agreements on common technical regulations or standards as part of an FTA constitute additional new impediments to trade that should be prohibited by the WTO rules. Nor does the WTO provide any guidance on what if any provisions on Singapore issues should be included in FTAs, because there are no rules governing these topics in the WTO.

One possible, criterion for the EU could be to seek to match what its major trading partners do. Thus if the United States or Japan negotiate favourable access to a given market through preferential tariffs or access to service sector markets, the EU should seek to match this in order to preclude any trade diversion and put EU exporters or investors on a equal footing with their major competitors in other developed economies. But this criterion is silent on the question of compatibility between bilateral or regional agreements and multilateralism.

The EU could use the promotion of regional integration in other regions as the main guiding principle for FTAs. But as noted above the pace of integration in other regions is often slow, so that the prospect of concluding such region-to-region agreements would be hostage to progress or the lack of progress in the partner region.

For many years the debate was shaped by customs union theory which noted that preferential agreements can be trade creating or trade diverting. So the efforts of many trade economists over the years have been devoted to determining the balance between creation and diversion. This work has failed to come up with generally conclusive results. In the majority of cases preferential agreements have shown small but positive trade creation, but not really enough to justify the effort that goes into negotiating such agreements. But the analyses have been based on tariff preferences only. The current phase of FTAs is characterised by the inclusion of a significant number of non-tariff issues as well as rule-making in a range of topics, for which quantitative measures are in their infancy. The literature on FTAs has therefore introduced a debate on whether preferential agreements are building or stumbling

blocs? But there has to date been no real progress in developing a set of operational criteria for assessing what is a building or what a stumbling block.

### **Prescription**

In a short contribution such as this it is not possible to develop in any detail on the criteria that could be applied by the EU, but a number of general statements are possible that draw on existing criteria.

First, in negotiating FTAs the EU should seek, in line with existing WTO/GATT criteria, to be as complete as possible. In other words it should aim to reach beyond 90% of trade or tariff lines in terms of coverage. A numerical definition of substantially all trade is not in itself sufficient. Even with 98% coverage of tariff lines it would still be possible to exclude 'sensitive sectors'. The EU should therefore also ensure that no sectors are completely excluded from liberalisation under FTAs. In the FTAs the EU negotiates with developing countries this raises a problem of how asymmetry can be included that favours the developing country partners. North – South FTAs must be notified to the WTO under Article XXIV, which, unlike the equivalent Article V of the GATS, has no reference to special and differential treatment for developing countries. If the EU wishes to provide its developing country partners with some greater flexibility to retain tariffs in certain key sectors, this suggests the EU would have to get even closer to 100% coverage of tariff liberalisation in order that the aggregate figure for coverage remains well within the margin of differing interpretations of Article XXIV, in other words above 90%.

A second important means of ensuring that FTAs are building rather than stumbling blocs would be to work towards a simplification and harmonisation of rules of origin. Different rules of origin for a growing number of preferential trade agreements could have an adverse effect of trade and would clearly be seen as a stumbling rather than a building block. The EU has since the 1990s already done a good deal to harmonise its rules of origin in the PanEuro system. But these common rules are still complex. Rules of origin vary from product to product, thus making it difficult and costly to comply with them. Simplification would reduce the costs of compliance and perhaps facilitate efforts to reach agreement on preferential rules of origin at the international

level. This would mean that rules of origin required by the EU would be the same as those required by, for example, the United States. At the moment there are differences between the Pan Euro and NAFTA rules of origin, so that exporters from third countries have to incur the additional expense of complying with both if they wish to export to these major markets.

Third, the EU should seek to use the existing WTO rules whenever possible. This it has for the most part been the case for the EU, as it has for the other major WTO members that have negotiated FTAs. On a range of non-tariff issues EU FTAs have adopted rules used in WTO agreements. For example, on technical barriers to trade and sanitary and phytosanitary measures, the EU FTAs use the WTO rules. The same is true for services trade where the EU approach to services provisions in FTAs is the same as the GATS. All that differs are the commitments or coverage, which are greater than those made in multilateral negotiations. Whilst greater coverage of liberalisation can raise the danger of trade diversion, such preferences can be eroded or removed over time through multilateral liberalisation. Provided the framework rules remain the same there is scope for preferential and multilateral provision on services to be compatible. Difficulties of compatibility would be greater if the approach to services differed between the bilateral or regional and the multilateral levels.

Building on the point made above, FTAs can build on existing WTO principles and rules by strengthening certain provisions that support the application of such rules. A key element here is enhanced transparency through FTAs. Provisions that enhance transparency, such as in the fields of technical regulations, sanitary and phytosanitary provisions, government procurement or state subsidies, can build on WTO rules without creating preferences because the improved transparency would benefit all WTO members. For example, better information and clearer contract award procedures would help suppliers bidding for public/government contracts, regardless of where these suppliers were based. In this way then also FTAs can be building blocks rather than stumbling blocks.

EU FTAs can also promote the wider implementation of agreed international standards. In a range of policy fields there are existing international standards that

have not been fully implemented. This is the case in standards for goods, such as in the International Standards Organisation (ISO), for food and food products (Codex alimentarius), or for intellectual property (WIPO). If FTAs promote the use of such agreed international standards they could also be seen to be building blocks. On the other hand if FTAs promote other alternative standards or rules that match the interests of the stronger party in an FTA negotiation, one could say they are creating stumbling blocks to the application of common international/multilateral rules. Some less developed countries are likely to argue that the existing standards have been shaped by EU or US interests and that pushing their application in FTAs is simply the EU (and US) using the bilateral route to more extensive trade rules when the multilateral route of the Doha Development Agenda is blocked because of developing country opposition. There is something in this argument, because developing countries have not always been able to contribute much to the adoption of international standards. The EU Member States have for example, largely shaped ISO standards. But an approach in which FTAs hold to agreed international standards is far better than having each major WTO member determine their own standards unilaterally and then impose them on their weaker FTA partners.

Finally, EU FTAs can be seen as building blocks rather than stumbling blocks if any bilateral dispute settlement decision holds to existing WTO interpretations of key elements of trade law. To date this has been less of an issue for EU FTAs as these have generally had less judicial dispute settlement procedures than for example, the US. The point here is that many trade provisions are ambiguous and that there remains scope for policy making through the interpretation of such ambiguity. The EU should therefore ensure that any ruling on a bilateral dispute within the dispute settlement machinery of an FTA is consistent with existing WTO interpretations.

## **Conclusions**

The EU has shifted to a more active and commercially oriented approach to FTAs largely as a result of developments in the international trading system and the policies of other major WTO members rather than as a result of domestic pressures. The urgency with which the EU pursues such FTAs is therefore likely to be equally influenced by developments outside of the EU.



When it comes to the content of FTA policies, the EU's policy is influenced more by domestic factors such as the existing *acquis communautaire*, but it has thus far not insisted on a rigid standard approach to FTAs.

If the EU is to operationalise its policy aim of ensuring that the preferential agreements it negotiates are consistent with continued support for multilateralism, it needs to develop a number of practical, operational criteria for determining the content of the FTAs it negotiates.

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