

# ‘Global Europe’: Quo Vadis?

David Kleimann\*

## Abstract

In 2006, the European Commission launched its ‘Global Europe’ trade and investment strategy. At its core, the ‘Global Europe’ strategy aims at the conclusion of ‘deep and comprehensive’ preferential trade agreements (PTA) with partner countries and regions that are of great economic and strategic importance to the European Union. Today, ‘Global Europe’ arguably makes for the most promising and dynamic area of EU external action, providing the credible prospect that European commercial and foreign policy interests will be advanced through a new generation of EU PTAs in the coming years. Against this background, this introduction to this e-book on EU PTAs outlines the origins of ‘Global Europe’ and takes stock of the progress that has been made since 2006. Furthermore, the paper presents the main external challenges that the European Commission, as the mandated EU negotiator, faces with respect to the substance and process of negotiations. Third, the author discusses the potential impact of the ‘Global Europe’ agenda on the WTO centred multilateral trading system. The paper closes with a discussion of the domestic challenges that EU leaders may face when it comes to the adoption of ‘Global Europe’ PTAs by the European Council and the European Parliament in Brussels and Strasbourg. Throughout this paper, it is argued that the merit of ‘Global Europe’ PTAs cannot only be measured by reference to the coverage and depth of its hard legal commitments and mutual concessions. Any such assessment must take a close look at the institutional provisions that these agreements entail. ‘Global Europe’ PTAs, as modern economic integration agreements and cornerstones of EU External Action, ought to include innovative institutional mechanisms that facilitate effective PTA management, implementation, and dispute settlement, as well as the progressive negotiation of additional integration measures in the future.

## I. Introduction

Following the release of the ‘Global Europe’ strategy<sup>1</sup> and the end of the European moratorium on bilateral trade negotiations with commercially meaningful partner countries in 2006, policy-makers in Brussels have significantly expanded and diversified the EU external trade negotiation portfolio. Since then, the European Commission has initiated a wide range of negotiations with important trade and investment partners such as South Korea, Canada, India, several ASEAN member states, as well as - most recently - Japan, the United States, and Morocco. Adding to the longstanding efforts to advance EU foreign policy objectives through the negotiation of trade agreements with lesser developed countries, the Commission, in 2010, declared that “the latest generation of competitiveness-driven Free Trade Agreements is precisely inspired by the objective to unleashing the economic potential of

---

\* David Kleimann is a Researcher at the Law Department of the European University Institute in Florence, an Associate Research Fellow at ECIPE in Brussels. The author gratefully acknowledges helpful comments received from Petros Mavroidis and Lisa Brandt. All remaining errors are the author’s alone. As a coordinator of the EUI Working Group on EU External Relations Law, the author co-organized an EUI conference titled “Global Europe? The New Generation of EU Preferential Trade Agreements”, which took place on May 14-15, 2012, in Florence. This volume compiles the written contributions that the speakers prepared for the conference.

<sup>1</sup> European Commission (2006): *Global Europe, Competing in the World – A Contribution to the EU’s Growth and Jobs Strategy*, European Commission Communication, External Trade, Brussels. Available at: [http://trade.ec.europa.eu/doclib/docs/2006/october/tradoc\\_130376.pdf](http://trade.ec.europa.eu/doclib/docs/2006/october/tradoc_130376.pdf)

the world's important growth markets to EU trade and investment.”<sup>2</sup> But while the underlying rationale for the negotiation of EU preferential trade agreements (PTA) is now more than ever grounded on commercial motives, the entry into force of the Lisbon Treaty in December 2009 has - with the empowerment of the European Parliament on trade policy matters - arguably enhanced the political dimension of EU trade and investment policy formulation.

This paper examines several key aspects of the ‘Global Europe’ agenda and provides for an outlook for the coming years. Section II briefly reviews ‘Global Europe’s’ origin and its economic rationale. Section III outlines the main challenges that the European Commission – as the Union’s negotiator – currently faces with respect to the substance and process of ongoing and prospective PTA negotiations. Section IV then turns to a discussion of the potential impact of the ‘Global Europe’ agenda on the WTO centered multilateral trading system. Section V presents the domestic challenges that EU leaders may face when it comes to the adoption of ‘Global Europe’ PTAs by the European Council and the European Parliament in Brussels and Strasbourg. Section VI provides an outlook and concludes the paper. Throughout this paper, it is argued that the merit of ‘Global Europe’ PTAs cannot only be measured by reference to the coverage and depth of its hard legal commitments and mutual concessions. Any such assessment must take a close look at the institutional provisions that these agreements entail. ‘Global Europe’ PTAs, as modern economic integration agreements and cornerstones of EU External Action, ought to include institutional mechanisms that facilitate effective PTA management, implementation, and dispute settlement, as well as the progressive negotiation of additional integration measures in the future.

## II. The Origin of ‘Global Europe’ and its Economic Rationale

At the time of its release, ‘Global Europe’ responded to a growing awareness among policy-makers in Brussels and EU Member States’ capitals that European commercial interests would not be satisfied by the outcome of the protracted WTO Doha Round negotiations at the WTO. What negotiators and policy-makers demanded, but could not receive from third country negotiators within the multilateral framework, was substantial access for EU goods and services to the new growth markets in South and East Asia as well as Latin America. Moreover, the increasing fragmentation of production through the development of international supply chains created the necessity for common approaches to competition, standards, investments, intellectual property rights, and other ‘behind the border’ policies. The rationale for common disciplines in these policy areas is to decrease trade costs and to enhance the legal security of international production networks.<sup>3</sup> As a result, these ‘21<sup>st</sup> century trade’ issues were rising up the list of priorities of EU businesses and governments.<sup>4</sup> WTO Ministerial Conferences in both Cancun (2003) and Hong Kong (2005), however, considerably frustrated EU hopes that the Doha Round would ever deliver on any of the EU’s key objectives. At both summits, major rifts between the positions of developed and larger developing countries surfaced and left EU negotiation targets out of reach.<sup>5</sup>

---

<sup>2</sup> European Commission (2010): *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Towards a comprehensive European international investment policy*, COM (2010)343, final Brussels, 7.7.2010.

<sup>3</sup> Baldwin, Richard (2010): *Economics*, in: Chauffour, Jean-Pierre & Maur, Jean-Christophe (eds.): ‘Preferential Trade Agreement Policies for Development – A Handbook’, World Bank, Washington D.C.

<sup>4</sup> On the importance of adapting trade policies to the realities of international supply chains, see: Hoekman, Bernard & Jackson, Selina (2013): *Reinvigorating the Trade Policy Agenda: Think Supply Chain!*, VOXeu column, 21 January 2013. Available at: <http://www.voxeu.org/article/reinvigorating-trade-policy-agenda-think-supply-chain>

<sup>5</sup> For an overview of Doha Round negotiation dynamics and major events, see: Kleimann, David and Joe Guinan (2011): *The Doha Round: An Obituary*, European University Institute Global Governance Programme Policy Brief, Issue 1/11, Florence, June 2011. Available at: <http://www.eui.eu/Projects/GGP/Documents/Publications/PolicyBriefs/PolicyBrief20111.pdf>

The release of the 'Global Europe' communication one year after Hong Kong then marked a consequent strategic shift. By ending the EU's PTA moratorium, which the Commission had put in place in 1999 to underpin its commitment to the Doha agenda, the EU *de facto* started to turn its back on the Doha Round. Officials in Brussels and policy-makers in Member States' capitals nevertheless continued to pay lip service to WTO negotiations. Less than two years later, following the eventual collapse of Doha talks in Geneva in July 2008, the Commission's Directorate General for External Trade already went as far as to consider options for PTA negotiations with all major OECD economies. To be sure, this radical reorientation had previously been deemed an absolute taboo, given the clouds that bilateral engagements among the richest economies would have casted over the Doha agenda.

Ever since 2006, the European Commission, backed by a trade-oriented coalition of EU Member States in the Council, has spared no efforts to meet the 'Global Europe' objective of creating economic growth through 'deep and comprehensive' integration with the commercially most attractive regions of the world. These efforts are mirrored in the large number of ongoing and proposed negotiations with respective target governments as well as in early signs of success, notably the conclusion of state-of-the-art agreements with South Korea and Singapore.

Arguably, the Commission's commitment to the execution of the Global Europe strategy has rendered external trade and investment policy the Union's most dynamic and the most promising area of EU external action and provides for a credible prospect of advancing both European commercial as well as geopolitical interests. At the same time, the Commission, as the institutional driving-force of Europe's PTA agenda, is now confronted with a number of formidable external and domestic challenges that it will have to tackle on the road to success. These challenges are discussed in the remainder of this paper.

### **III. External Challenges to the 'Global Europe' Agenda**

Above all, EU negotiators have been running out of bargaining chips vis-à-vis the lesser developed of their desired negotiation partners. Europe's generally low tariff protection and relatively open public procurement market leave Commission officials with little to offer to their counterparts. The list of EU offensive interests, however, is massive. It ranges from the liberalization of tariffs, services, investment, and government procurement to regulatory reforms of partner countries' regimes governing customs, competition, intellectual property rights (IPR), product quality control, labour rights, and environmental protection. As a result of this unfavourable exchange rate, several developing country partners, particularly in Southeast Asia, have proved to be considerably reluctant to join the EU at the negotiation table in the first place.

Four of the authors contributing to this e-book have zoomed in on specific items of the Commission's negotiation agenda. While **Patrick Messerlin** gives an overview of the EU's unfinished tariff reduction agenda, **Jakob Cornides** provides a European Commission perspective on the EU's efforts to advance IPR protection in third countries through the negotiation of comprehensive PTAs. Moreover, **Lorand Bartels** and **Fabiano de Andrade Correa** discuss the scope and depth of sustainable development chapters in EU PTAs.

Given the long list of EU demands and its fading ability to offer concessions in return, the Commission decided to complement its ambitious PTA strategy through several more defensive elements that are designed to (re-)gain leverage over a number of developing countries' governments that had initially shied away from a negotiation engagement. "Reciprocity", as **Adrian van den Hoven** demonstrates in his contribution to this e-book, is the new watchword when it comes to tackling difficult negotiating partners through EU market foreclosure.

For instance, the European Commission's 2011 proposal for a revised scheme of non-reciprocal trade preferences for developing countries showcased its intent to exclude several important emerging

economies from preferential tariff treatment.<sup>6</sup> The revision of the EU's Generalized System of Preferences (GSP), which will come into effect in 2014, will entirely strip several upper-middle income countries of their traditional preferential status. Moreover, the new scheme provides for product graduation criteria, which eliminates preferential treatment for many developing countries on a product-specific basis. Among those that will be affected by the reform are several governments with which the Commission currently negotiates or aims to negotiate PTAs in the future, including Argentina, Brazil, India, Indonesia, Malaysia, the Philippines, Thailand, and Vietnam. In turn, the elimination of these preferences provides EU officials with new bargaining chips, which they can utilize at the bilateral negotiation table. Moreover, the prospect of losing EU preferential tariff treatment has increased incentives for the affected country governments to reconsider EU courtship for the launch of negotiations. Thailand, having committed to PTA negotiations with the EU at the end of 2012, can be regarded as the most recent 'victim' of this strategy.

Regaining leverage, by the same token, is also at the core of the recent Commission proposal on government procurement.<sup>7</sup> The regulation would allow EU Member States to exclude bids from companies located in countries that are not parties to the WTO Government Procurement Agreement (GPA) and do not grant EU producers access to public procurement markets comparable to EU practices.

The persuasive power of (the withdrawal of) EU market access concessions, however, is likely to find its limits in the political and economic costs that emerging and developing countries' governments associate with the domestic implementation of the EU's 'deep and comprehensive' PTA negotiation template. As with every commercially meaningful trade agreement, sector specific economic adjustment costs that result from reciprocal market opening are the price to pay for a net economic welfare increase. Secondly, comprehensive market access concessions for goods, services, and investment, as well as bilaterally agreed rules on government procurement, intellectual property, and competition can considerably limit the amount of policy space that developing countries' governments have at their disposal. Such policy space can be instrumental in directing the development process of the domestic economy, for instance by shielding infant industries from foreign competition. Third, the domestic implementation of deep integration PTAs can confront middle and low-income developing countries with enormous institutional, financial, and political obstacles. As **Jean-Pierre Chauffour** and **David Kleimann** argue in this e-book, such domestic structural impediments to effective implementation often merit a gradual approach to the design of customized deep integration obligations. Tailor-made institutional design can - if based on country-specific structural contingencies - help to avoid overloading partner countries' reform agendas and the inefficient diversion of institutional, financial, and political resources.

The dangers that derive from overburdening the developing country partner, to be sure, are manifold. They range from eventual frustration of EU stakeholders' expectations about partners' (sometimes predictable) non-compliance, over inefficient prioritization of resource dedication in the resource scarce environments of developing countries, to the creation of adversarial rather than cooperative bilateral relationships with the partner countries.<sup>8</sup> Presenting oneself as a firm negotiator

---

<sup>6</sup> Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No. 732/2008. Available at: [http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc\\_150025.pdf](http://trade.ec.europa.eu/doclib/docs/2012/october/tradoc_150025.pdf)

<sup>7</sup> European Commission (2012): Proposal for a Regulation of the European Parliament and of the Council on the access of third-country goods and services to the Union's internal market in public procurement and procedures supporting negotiations on access of Union goods and services to the public procurement markets of third countries, COM (2012) 124 final, 2012/0060 (COD), Brussels, 21.3.2012. Available at: [http://trade.ec.europa.eu/doclib/docs/2012/march/tradoc\\_149243.pdf](http://trade.ec.europa.eu/doclib/docs/2012/march/tradoc_149243.pdf)

<sup>8</sup> For a general discussion of this notion, see: Hoekman (2010): *North-South Preferential Trade Agreements*, in: Chauffour, Jean-Pierre & Maur, Jean-Christophe (eds.): 'Preferential Trade Agreement Policies for Development – A Handbook', World Bank, Washington D.C.

in European economic interest is certain to receive immediate stakeholder applause at home, particularly so in the dire times of economic crisis. The long-term implications of excessive EU demands, however, have the potential of poisoning economic relations with the new high-growth regions of the world – such as Southeast Asia -, which are of utmost geopolitical and economic importance in the long run.

The negotiation of Economic Partnership Agreements (EPA) with African countries in the past ten years may hardly be comparable to the dynamics of 'Global Europe' negotiations for various reasons. However, the experience can provide EU negotiators with valuable lessons that generally apply to the consequences of a potentially overambitious agenda and the necessary balancing between short-term commercial objectives and the EU's long-term strategic interests in a cooperative relationship with the partner countries. In their contribution to this e-book, **Isabelle Ramdoo** and **Sanoussi Bilal** take stock of the EPA process up until today and conclude on important lessons that can be learned from this process.

Several of the EU's 'Global Europe' negotiation partners in South and Southeast Asia - as a result of their assessment of domestic economic adjustment costs; of the policy space required for the promotion of economic development; and of their own implementation capacities - may come to the conclusion that they are currently not prepared to sign up for the comprehensive hard legal obligations foreseen in EU PTA template. Difficulties in negotiations with India and Malaysia are the current prime examples of this scenario.

Should the EU Trade Commissioner decide to settle for less than envisaged in certain cases - and the EU-Korea PTA sets the self-imposed standard here - the Commission will be confronted with a two-fold challenge. At a technical level, it will have to ensure that the eventual agreements contain dynamic elements, so-called 'living-agreement' instruments, which allow for the continuous expansion of the agreements' hard legal provisions over time and link domestic reform progress in partner countries to the development of tailor-made rule-making. Varying combinations of soft law, the establishment of bilateral institutional fora for economic and regulatory cooperation, as well as the provision of technical and financial assistance can set significant incentives for the gradual institutional and economic modernization in the partner country, with a view to the joint development of hard legal rules and the achievement of further economic integration in the long run.<sup>9</sup> At the political level, the Commission will have to communicate to EU businesses and other stakeholders that 'deep and comprehensive' integration à la Global Europe means very different things in different contexts. Management of expectations early on will be critical in the attempt to avoid the alienation of domestic constituencies and stakeholders whose political support will be needed when it comes to the legislative adoption of these agreements in Brussels and Strasbourg. A recent Commission communication to the Council demonstrates that the Commission has already started this process.<sup>10</sup>

The engagement with large developed partner countries - such the U.S., Japan, and Canada - confronts EU negotiators with a very different set of realities and challenges. For starters, the degree of *de facto* economic integration between these economies has already reached very high levels, border protection has largely been dismantled, institutional capacities on all sides are strong, and economic cooperation among the partners has been well rehearsed over the past decades. As a result, the respective sensitivities, the remaining impediments to trade flows, as well as partners' institutional machineries are well known by all parties. The trade barriers that these negotiations will thus have to tackle are to a large extent those that have proved to be the most resistant to removal in the past, such as agricultural market access in Europe and Japan as well as numerous non-tariff barriers on all sides,

---

<sup>9</sup> For a comprehensive introduction and discussion of this notion, see: Hoekman (2010): op. cit.

<sup>10</sup> European Commission (2013): *Trade – A Key Source of Growth and Jobs for the EU*, Commission Contribution to the European Council of 7-8 February 2013, Brussels. Available at: [http://ec.europa.eu/commission\\_2010-2014/president/news/archives/2013/02/pdf/20130205\\_2\\_en.pdf](http://ec.europa.eu/commission_2010-2014/president/news/archives/2013/02/pdf/20130205_2_en.pdf)

ranging from diverging product standards over incompatible technical regulations and the regulation of services sectors to different approaches to food safety regulation.

Comprehensive economic integration of the largest OECD economies through EU PTAs with the U.S. and Japan has been estimated to result in substantial benefits.<sup>11</sup> In her contribution to this e-book, **Elisabeth Roderburg** presents the benefits that could result from the recently launched negotiations of Transatlantic Trade and Investment Partnership agreement (TTIP).<sup>12</sup> At the same time, however, the practical challenges and obstacles to successful integration of the largest and most advanced economies of the world are massive. They shall be briefly examined, with reference to TTIP negotiations, in the following paragraphs.

First, the generally low average border protection figures on both sides in fact hide a number of remaining tariff peaks, which protect sensitive sectors. As **Patrick Messerlin** explains in his contribution to this e-book, these tariff peaks are, in political economy terms, upheld by deeply entrenched vested interests. In other words, it should be recalled that there are important reasons why these tariffs are still in place, notably due to successful special interest lobbying. The attempt to eliminate these tariff peaks will likely be met by vigorous opposition from the affected industries and eventually involve some painful political costs.

Secondly, many of the technical and regulatory barriers to trade that these ‘mega-PTAs’ are supposed to remove exist due to the prevalence of diverging policy preferences, which shape both the modalities of the regulatory process as well as the substantive outcomes of regulation. The convergence of such preferences is extremely difficult to achieve as they are anchored in the regulatory cultures of the partner countries and legitimized by multilevel political processes. To be sure, such systemic and cultural issues are all but new. In the case of the transatlantic partners, negotiators on both sides have sought to remove associated trade irritants in a variety of different bilateral fora over the past two decades – however, with modest success. Asking a U.S. trade negotiator how he would clean a chicken before exporting it to the European Union may result in some insights to the pains that were suffered in this process.

The technical solutions, too, are, in principle, well known. The two basic alternate instruments for the elimination of regulatory bottlenecks are the harmonization of regulatory processes, regulatory substance, and standards, on the one hand, and the negotiation of mutual recognition agreements (MRA) for regulatory content or conformity assessments, on the other. Harmonization is often said to be more difficult to achieve than MRAs. However, the negotiation of MRAs similarly requires a minimum degree of convergence of regulatory processes, content, or conformity assessments. As such, the value of sectoral MRAs, as an alternative to harmonization, may often be overestimated.

Third, given the complex polity of the economies involved, the alteration of regulatory processes and outcomes in the name of bilateral convergence requires the involvement of various domestic stakeholders and political decision-makers at different levels. But domestic regulatory agencies and legislators frequently hold strong interests in retaining regulatory and enforcement powers at the national or sub-national level. Stakeholders, moreover, such as the affected industries, may shy away from the short-term costs associated with the adaptation of production to new regulatory regimes. Adaptation costs are particularly high for smaller enterprises, which benefit from less scale economies.

---

<sup>11</sup> For an overview of the benefits deriving from an EU-Japan FTA, see: Lee-Makiyama, Hosuk (2012): Upholding Europe’s Mandate on Trade, ECIPE Policy Brief No. 11/2012, Brussels. Available at: [http://www.ecipe.org/media/publication\\_pdfs/PB201212.pdf](http://www.ecipe.org/media/publication_pdfs/PB201212.pdf). On the same topic, see: Messerlin, Patrick (2013): The much needed EU pivoting to East Asia, *Asia-Pacific Journal of EU Studies*, Vol. 10 (2). Available at: [http://www.academia.edu/3046385/The\\_Much\\_Needed\\_EU\\_Pivoting\\_to\\_East\\_Asia](http://www.academia.edu/3046385/The_Much_Needed_EU_Pivoting_to_East_Asia)

<sup>12</sup> On the same topic, also see: Erixon, Fredrik (2012): *Transatlantic Free Trade – An Agenda for Jobs, Growth, and Global Trade Leadership*, Centre for European Studies, Brussels. Available at: [http://thinkingeurope.eu/sites/default/files/publication-files/transatlantic\\_free\\_trade.pdf](http://thinkingeurope.eu/sites/default/files/publication-files/transatlantic_free_trade.pdf).

Consumers and voters, finally, may express legitimate opposition to a different regulatory process or standard.

As a result of such complex interest configurations, a top-down imposition of new regulatory regimes in the name of transatlantic market integration is not an option and doomed to political failure. Rather, negotiators at the 'top' should initiate or strengthen existing regulatory dialogues between stakeholders and decision-makers on both sides and link these processes to integration objectives and bilateral for a that are provided for by the respective PTA. The institutionalization of such dialogues hence gives the accord a 'living agreement' dimension, which horizontally links both parties' deliberation and regulatory processes with each other at the 'bottom' and vertically connects these processes with the policy objectives and institutions that are bilaterally formulated and established at the 'top'.

In individual sectors, such as automotives, medical appliances, and pharmaceuticals, the necessary transatlantic stakeholder dialogues have already been established and may generate some early deliverables for the TTIP. The coverage of these regulatory dialogues can and probably will be expanded to include other priority sectors. In a good number of areas, however, the gaps are well known to be too wide to bridge. The most famous examples include the regulation of meat production (hormones treated beef) or the marketing of genetically modified organisms (GMO), whereas these long-standing trade irritants are only the tip of the iceberg of cultural differences in regulatory approaches and preferences. Generally speaking, common regulatory processes, content, conformity testing and certification is likely to be easiest to achieve in innovation sectors (e.g. electric cars, nanotechnology, internet based commerce), where both partners are still in the early stages of hammering out their respective regulatory frameworks.

In sum, apart from the enthusiasm expressed by representatives of export sectors, the announcement of TTIP negotiations has been met with large amounts of scepticism among observers in Brussels and elsewhere.<sup>13</sup> This scepticism responds to the failure of political decision-makers and regulators on all sides to achieve enhanced market integration in the past decades for the reasons outlined above.

So what is different now, compared to past initiatives? There are three immediate responses that come to mind. First, as a result of the breakdown of multilateral trade negotiations, the pace of economic liberalization and integration around the globe is and will not be negotiated at the WTO headquarters in Geneva for the rest of this decade. To the contrary, governments now find themselves in a process of competitive liberalization, in which the success of their bilateral and plurilateral liberalization and integration initiatives determines the breadth of additional commercial opportunities for the businesses they represent or, if expressed negatively, the extent to which these businesses will be excluded from such opportunities. Leaders on both sides of the Atlantic have recognized this reality and are, in consequence, seeking to negotiate bilateral and plurilateral PTAs with economically and strategically important countries and regions.

In turn, secondly, the design of respective negotiation strategies is not only a way of building stronger economic ties with targeted partner countries, but also a means of excluding competitors that are not willing to make WTO-plus liberalization and integration commitments, neither multilaterally nor bilaterally. As such, the 'all but China' PTA strategy pursued by the transatlantic partners also finds its manifestation in the negotiation of TTIP, the EU agreements with ASEAN countries, and the U.S. led Transpacific Partnership (TPP) initiative. If these initiatives yield commercially meaningful results, they will create trade diversion that will be costly for Chinese businesses and other emerging economies that fail to negotiate similar preferences with the EU, the U.S., and their partners.

---

<sup>13</sup> For a particularly pessimistic view, see: Sapir, André (2013): *The Transatlantic Trade and Investment Initiative – Hope or Hype?* Bruegel blog, Brussels, 5 March 2013. Available at: <http://www.bruegel.org/nc/blog/detail/article/1034-the-transatlantic-trade-and-investment-initiative-hope-or-hype/>

Moreover, the exclusion of China from ‘Global Europe’ PTAs and the TPP, which could ultimately create WTO-plus trade rules, aims at coercing China to adapt its commercial practices to 21<sup>st</sup> century trade rules and standards that are negotiated by the West. Setting the rules of the game, to be sure, gives EU and U.S. businesses an additional competitive edge over their Chinese competitors and reinforces the longstanding Western leadership in shaping economic integration processes.

The critical importance of the overall objective – i.e. the shaping of the 21<sup>st</sup> century world economic order in accordance with Western political and commercial interests - results in the presumption of a third difference between past and present transatlantic integration efforts: given the contemporary context of geopolitical multipolarity, the stakes of Western international economic strategies have rarely been higher. Hence, one may assume that the political capital that leaders are willing to spend in order to guarantee the success of TTIP and other landmark PTAs is now at an all time high. The intent of the Obama administration to acquire a Trade Promotion Authority (TPA) provides for a first indication of this sentiment. If granted by Congress, the TPA would preclude Congressional rights to amend PTAs that are tabled for legislative adoption and only allow for a yes-or-no vote. On the other side of the pond, the EU Trade Commissioner has made clear that he wants to complete negotiations within the comparatively short period of two years, i.e. before his term ends in spring 2015 - presumably to avoid the fragmentation of negotiations and to bring the commitment of his counterpart to a test early on.

To be sure, the challenges are huge. Administrations on both sides will have to fight costly political battles in order to keep special interest advocacy at bay and ought to find innovative legal and institutional solutions to address the challenges posed by complex governance structures and diverging structural contingencies in the partner countries. In this respect, the EU agreements with emerging economies and those with the United States and Japan have one thing in common. The value of these accords will not only be measured in terms of the static hard legal commitments that the parties codify in various areas. Rather, much of the merits of these accords will depend on how they institutionalize the process of ongoing and future liberalization and integration in issue areas that are not ready for detailed hard legal commitments yet.<sup>14</sup> More generally, the long-term viability of 21<sup>st</sup> century trade agreements will much depend on the bilateral and plurilateral institutional solutions that governments find for the management of continuous integration and implementation processes.

#### IV. ‘Global Europe’ and the WTO

Another dimension of ‘mega-PTAs’, such as the potential agreements between the EU, the U.S. and Japan, is their impact on the WTO-centred multilateral trading system. Several commentators have argued that bilateral agreements between the biggest economies of the world will render the WTO irrelevant in the areas of market access liberalization and trade rule making, while the organization would only retain its dispute settlement function. This line of thinking frequently concludes in a call for the revival of the Doha Round with a view to generating non-exclusive benefits for the entire WTO membership and the strengthening of the multilateral rule-based system.<sup>15</sup>

Unfortunately, such considerations are as commendable as they are illusory. It is true that the latest wave of economic regionalism constitutes a major blow to the core functions of the WTO – including dispute settlement. As **Petros Mavroidis** argues in his contribution to this e-book, “PTAs seem to run away with the trade agenda while the WTO is fighting a rear guard fight to remain at the spectrum of

---

<sup>14</sup> For an empirical analysis of institutional design chosen in the area of regulatory cooperation mandated by different PTAs, see: Steger, Debra (2012): *Institutions for Regulatory Cooperation in ‘New Generation’ Economic and Trade Agreements*, (38) 4 Legal Issues of Economic Integration (109), Kluwer Law International.

<sup>15</sup> See, for instance: Berger, Axel & Clara Brandi (2013): *The Transatlantic Free Trade Agreement: Think of the Consequences!*, Deutsches Institut fuer Entwicklungspolitik, Bonn. Available at: [http://www.die-gdi.de/CMS-Homepage/openwebcms3\\_e.nsf/\(ynDK\\_contentByKey\)/MRUR-95GB7W?Open](http://www.die-gdi.de/CMS-Homepage/openwebcms3_e.nsf/(ynDK_contentByKey)/MRUR-95GB7W?Open)



relevance.” Bilateral and plurilateral liberalization and rule development become the new norm of 21<sup>st</sup> century economic integration, whereby the value of WTO MFN liberalization and trade rules is increasingly eroded. Contemporary trade disputes are still being litigated at the WTO. Arguably, it is only a matter of time until WTO rules and liberalization commitments are so outdated that they will remain a meaningful benchmark only among those members that have not engaged in WTO-plus preferential liberalization and rule development. As a result, the most prominent future *raison d’être* of the WTO may hence well be to serve as a battleground for trade disputes between the U.S. and the EU on the one side and Argentina, Brazil, China, India, or Russia, on the other.

PTAs are only a second-best solution in many respects – most importantly because they create inefficient trade diversion. It must not be forgotten, however, that Doha Round negotiations did not fail for a lack of trying. As argued elsewhere in greater detail, the roots of failure can be found in the domestic politics of key WTO members on the core mercantilist items of the Doha agenda - manufacturing and agriculture. While some members - notably the U.S. - were not able to live with a low-ambition deal, others – notably China, India, and Brazil – were not prepared to commit to elements of a high-ambition deal, resulting in a fatal mismatch of demands and offers.<sup>16</sup> And as long as domestic political economy dynamics in the relevant capitals do not change dramatically, the current calls for the revival of Doha negotiations belong to the land of wishful thinking.

In response to the warnings of the systemic implications of mega-PTAs, other commentators - and EU Commission officials in particular - currently take pains to sell these agreements as ‘test-labs’ for and a contribution to multilateral liberalization and the development of WTO trade rules.<sup>17</sup> EU and U.S. PTA concessions would be multilateralized - the story goes - once China, India, Brazil and others are ready to match EU and U.S. PTA concessions and are ready to implement associated domestic trade reforms.

The proponents of this view refer to previous waves of preferentialism in the past sixty years, which were frequently followed by a multilateralization of preferential tariff concessions in the GATT and WTO framework.<sup>18</sup> This observation has prompted analysts, and most recently EU Commission officials, to depict international trade liberalization and economic integration as a pendulum that continuously and predictably swings from one side (multilateral) to the other (regional / preferential) and back again.

This historicism, while strangely building on the philosophical foundations built by Hegel and Marx, warrants a good amount of scepticism for three main reasons. First, there has been a dramatic change in the distribution of global economic leverage since the last multilateral trade deal was concluded in 1993. The history of the past sixty years of international trade liberalization and regulation is one of Western dominance. In today’s multipolar world, however, it is at least conceivable that the recently emerged regional hegemony seek to ensure their predominance through competing models of economic integration. These models can be incompatible and mutually exclusive at the global level. In this scenario, international economic integration could well be pursued regionally rather than multilaterally in the long run.

The second reason relates to the dramatic change in the substance of trade regulation and liberalization: first-generation trade barriers such as tariffs and quantitative restrictions are relatively

---

<sup>16</sup> Kleimann & Guinan (2011): op. cit.

<sup>17</sup> See, for instance: De Gucht, Karel (2013): *The Transatlantic Trade and Investment Partnership – Global Impacts*, Speech 13/343, at the Institute for International and European Affairs, 19 April, 2013, Dublin, Ireland. Available at: [http://europa.eu/rapid/press-release\\_SPEECH-13-343\\_en.htm?locale=en](http://europa.eu/rapid/press-release_SPEECH-13-343_en.htm?locale=en) ; Also see: European Commission (2013): op. cit.

<sup>18</sup> For a concise review of post war preferentialism, see: WTO (2011): *The WTO and Preferential Trade Agreements – From Coexistence to Coherence*, World Trade Report 2011, Geneva. pp51-54. Available at: [http://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/world\\_trade\\_report11\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report11_e.pdf)

easy to dismantle in context of multilateral negotiations because of relatively straightforward modalities of liberalization. This is exemplified by the success of consecutive GATT negotiation rounds. In contrast, bilateral configurations or plurilateral ‘coalitions of the willing’ are evidently better suited to address most of the more complex items on the 21<sup>st</sup> century ‘supply chain’ trade agenda, such as services and investment liberalization as well as the proliferation of uniform approaches to standards, food safety, and conformity assessments, and regulatory cooperation. Multilateral negotiations – if ‘variable geometry’ is not allowed for – are improbable to yield meaningful results in these areas. This is because of the lowest-common-denominator problem that persists in the context of a highly diverse 157 countries membership and the sometimes unmanageable complexities that the substance of these negotiation items creates in a multilateral setting. And even plurilateral deals have now run out of favour in the Commission as they tend to yield less commercial benefits than bilateral agreements with the same partners. The Commission’s abandonment of EU – ASEAN negotiations and their substitution through bilateral talks with individual ASEAN member states clearly indicates the departure from a past practice that allowed for a trade-off between the substance and ambition of trade accords and the inclusiveness of its membership. The Commission, in other words, is now more than ever concerned about the commercial value of EU trade and investment agreements.

Finally, it is at least questionable whether the mega-PTAs will create role models that can easily be adopted by third countries. Respective negotiations are likely to manifest very specific interest configurations, priorities, policy preferences, and implementation capacities that often do not match those of the countries that are currently being sidelined. The Commission’s efforts to depict the potential transatlantic trade deal as the lighthouse of trade rule innovation certainly resonate well in the ears of sceptics who fear for the erosion of the multilateral trading system. It is all but certain, however, that the agreement will generate more than external competitive liberalization pressures in the areas of tariffs, services, and investment. Given the WTO membership’s failure to deal with the latter two areas in a meaningful way in the past, such pressures are likely to result in bilateral or plurilateral rather than multilateral initiatives involving third countries in the future.

Against this background, and in light of the fast-paced competitive liberalization process that is currently underway around the globe, the Commission’s bilateral negotiation strategy, at a general level, remains highly commendable. ‘Global Europe’ lacks a credible alternative, both in context of the EU’s external economic as well as geopolitical objectives.

## V. The Domestic Challenges to the ‘Global Europe’ Agenda

On the domestic front, the Commission will face a number of challenges related to the political process leading up to the adoption and ratification of Global Europe PTAs. Since the entry into force of the Lisbon Treaty in 2009, there has been a lot of white noise surrounding decision-making on trade policy. This is particularly so because the European Parliament (EP) has been given co-decision powers with the Council on trade policy matters. Parliamentary participation in the decision-making process has significantly changed the rules of the game and has rendered trade policy making in Brussels an even more political exercise, as the EP has now become an additional target of all sorts of special interest advocacy. **Patrick Messerlin**’s contribution to this e-book provides for a general analysis of the domestic political economy dynamics associated with public decision-making on PTAs. **Maria-Joao Podgorny**, furthermore, discusses the EP’s involvement in the decision-making processes applying to EU PTAs from an EP - insider perspective.

On a bright note, the EP has played a rather constructive role in the deliberations on the launch of EU–Japan and EU–U.S. negotiations and has generally backed the offensive interests articulated by

the Commission vis-à-vis external trade partners.<sup>19</sup> In that way, the EP has anchored the Commission's negotiation positions domestically, signalling to third country governments that the Commission's hands are tied due to political constraints at home.

Parliament's supportive attitude, however, is somewhat facilitated by one important factor: the adoption of the large number of EU PTAs that are currently under negotiation will be the responsibility of a new Parliament - together with the Council – following the elections in May 2014. Therefore, the political responsibility for the price that Europe will inevitably have to pay for these agreements - in form of economic adjustment costs - will not have to be born by the current members of the European assembly.

As such, the real test for the EU's ambitious trade and investment policy agenda will only come when the large number of agreements that are currently in the pipeline arrive in the Council and Parliament for adoption. As lobbying efforts frequently culminate at the time when legislative files are tabled for decision, MEPs will carefully weigh the political costs and benefits of a 'yes' or 'no' vote. Recent political quarrels related to trade policy decision-making may serve as a foretaste of what is yet to come. The current economic climate appears to have divided the EU, broadly speaking, into a highly competitive northern pro-trade alliance, on the one hand, and a protectionist southern coalition struggling with the impacts of the current economic crisis, on the other.

Along these fault lines, respective political battles have been fought out in the arenas of the Council and the EP, with the Commission in the role of a biased mediator in pursuit of open and but reciprocal trade relations. Examples *par excellence* that showcase the north-south divide on trade issues include the political processes leading up to the adoption of the EU-South Korea PTA by the Council, the adoption of a safeguard mechanism for the EU-South Korea PTA by the EP, and the Commission's initiative to grant flood assistance in the form of tariff preferences on textile products to Pakistan following the natural disaster of 2010.<sup>20</sup> Moreover, the reform of the EU's procedural rules for the employment of trade defence instruments by the Commission within the new legal framework for delegated and implementing acts has surfaced similar divisions. A months-long stand-off eventually resulted in a partial victory for the coalition of southern EU Member States (including France), which advocated looser procedural requirements for the use of anti-dumping, safeguard, and countervailing measures against third countries.<sup>21</sup>

By the time that the 'Global Europe' PTAs will be tabled for adoption – i.e. from 2014 on - the newly elected Parliament and the Council will be confronted with the domestic economic and political costs of 'Global Europe' PTAs implementation. In that process, the Commission may well face considerable headwinds blowing in from the European south. At the same time, the Commission will have to develop strategies to keep a number of civil society groups in check whose sometimes highly populist but highly effective policy campaigns were, as **Jakob Cornides** recapitulates in this e-book, instrumental in the process leading to the rejection of the Anti-Counterfeiting Trade Agreement (ACTA) by the EP in 2012.

---

<sup>19</sup> See: European Parliament resolution of 23 October 2012 on trade and economic relations with the United States (2012/2149(INI)). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0388&language=EN> ; European Parliament resolution of 25 October 2012 on EU trade negotiations with Japan (2012/2711(RSP)). Available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-398>

<sup>20</sup> For a more comprehensive discussion of the political process leading to the adoption of the EU-Korea PTA by the Council and the EP, see: Kleimann, David (2011): *Taking Stock: EU Common Commercial Policy in the Lisbon Era*, CEPS Working Document No. 345, Centre for European Policy Studies, Brussels, April 2011. Available at <http://www.ceps.eu/book/taking-stock-eu-common-commercial-policy-lisbon-era>

<sup>21</sup> Brandsma, Gijs Jan & Jens Blom-Hansen (2011): *The post-Lisbon Battle over Comitology: Another Round of the Politics of Structural Choice*, EUI Working Papers, SPS 2011/03, Florence. Available at: [http://cadmus.eui.eu/bitstream/handle/1814/18440/SPS\\_2011\\_03.pdf](http://cadmus.eui.eu/bitstream/handle/1814/18440/SPS_2011_03.pdf)

## VI. Conclusions

The current EU Trade Commissioner is confronted with a large number of formidable challenges associated with the execution of the ‘Global Europe’ strategy, both domestically and externally. The EU Commissioner for external trade, Karel De Gucht, has so far presented himself as a tough chief negotiator following maxim that ‘no deal is better than a bad deal’. This approach is exemplified by his postures in negotiations with Canada<sup>22</sup>, India<sup>23</sup>, Malaysia and the Commission’s general policy stance vis-à-vis China. Time will tell whether the Commissioner is truly willing to sacrifice the conclusion of a number of agreements with key trading partners due to his dissatisfaction with the ambition of EU partner countries.

The Commissioner has roughly two more years left in office to shape his legacy. These two years will be of critical importance for the success of Europe’s strategic orientation in the field of external trade and investment policy. European negotiators are becoming increasingly busy with an EU-Canada PTA that is nearing conclusion; an EU-Singapore PTA in preparation for domestic ratification; EU-Vietnam negotiations well underway; the launch of negotiations with the U.S., Japan, Thailand, and Morocco; EU talks with India and Malaysia in limbo; and the need to bring Indonesia and the Philippines to the negotiation table as soon as possible to avoid the loss of momentum in the region.

To be sure, playing hardball is a commendable strategy for EU officials when dealing with their interlocutors from Canada, the U.S., and Japan. Diplomatic relations with these partner countries are characterized by a high degree of resilience and mutual understanding. In the case of China, moreover, a rigid approach may well be a necessary evil – aiming at the development of a sense of mutual respect at the negotiation table. The Commissioner may, however, eventually decide to opt for a softer and more gradual approach vis-à-vis several developing country partners that are not ready to meet the long list of EU demands at this point in time. A less rigid demeanour towards the EU’s newly emerging trade and investment partners in South and Southeast Asia could help to build cooperative rather than adversarial economic and diplomatic relationships with regions that are of utmost geopolitical importance. Innovative institutional design and PTA management can compensate for a lack of immediate hard legal commitments in some areas of offensive EU interest and provide the opportunity to build strong PTA institutions that lay the foundations for lasting economic partnerships.

## References

- Baldwin, Richard (2010): *Economics*, in: Chauffour, Jean-Pierre & Maur, Jean-Christophe (eds.): ‘Preferential Trade Agreement Policies for Development – A Handbook’, World Bank, Washington D.C.
- Berger, Axel & Clara Brandi (2013): *The Transatlantic Free Trade Agreement: Think of the Consequences!*, Deutsches Institut fuer Entwicklungspolitik, Bonn.
- Brandsma, Gijs Jan & Jens Blom-Hansen (2011): *The post-Lisbon Battle over Comitology: Another Round of the Politics of Structural Choice*, EUI Working Papers, SPS 2011/03, Florence.
- De Gucht, Karel (2013): *The Transatlantic Trade and Investment Partnership – Global Impacts*, Speech 13/343, at the Institute for International and European Affairs, 19 April, 2013, Dublin, Ireland.
- Euractiv (2013): *De Gucht urges Canada to make extra effort to reach trade deal*, 21 February 2013.

---

<sup>22</sup> Euractiv (2013): De Gucht urges Canada to make extra effort to reach trade deal, 21 February 2013. Available at: <http://www.euractiv.com/trade/de-gucht-urges-canada-extra-effo-news-517999>

<sup>23</sup> Financial Times (2013): India urges new push for EU trade talks, 11 February 2013. Available at: <http://www.ft.com/intl/cms/s/0/b22fd71e-745c-11e2-a27c-00144feabdc0.html#axzz2SRVagvaL>

- European Commission (2006): *Global Europe, Competing in the World – A Contribution to the EU's Growth and Jobs Strategy*, European Commission Communication, External Trade, Brussels.
- European Commission (2010): Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Towards a comprehensive European international investment policy, COM (2010)343, final Brussels, 7.7.2010.
- European Commission (2012): Proposal for a Regulation of the European Parliament and of the Council on the access of third-country goods and services to the Union's internal market in public procurement and procedures supporting negotiations on access of Union goods and services to the public procurement markets of third countries, COM (2012) 124 final, 2012/0060 (COD), Brussels, 21.3.2012.
- European Commission (2013): *Trade – A Key Source of Growth and Jobs for the EU*, Commission Contribution to the European Council of 7-8 February 2013, Brussels.
- European Parliament resolution of 23 October 2012 on trade and economic relations with the United States (2012/2149(INI)).
- European Parliament resolution of 25 October 2012 on EU trade negotiations with Japan (2012/2711(RSP)).
- Erixon, Fredrik (2012): *Transatlantic Free Trade – An Agenda for Jobs, Growth, and Global Trade Leadership*, Centre for European Studies, Brussels.
- EU Regulation No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No. 732/2008.
- Financial Times (2013): *India urges new push for EU trade talks*, 11 February 2013.
- Hoekman, Bernard (2010): *North-South Preferential Trade Agreements*, in: Chauffour, Jean-Pierre & Maur, Jean-Christophe (eds.): 'Preferential Trade Agreement Policies for Development – A Handbook', World Bank, Washington D.C.
- Hoekman, Bernard & Selina Jackson (2013): *Reinvigorating the Trade Policy Agenda: Think Supply Chain!*, VOXeu column, 21 January 2013.
- Kleimann, David (2011): *Taking Stock: EU Common Commercial Policy in the Lisbon Era*, CEPS Working Document No. 345, Centre for European Policy Studies, Brussels, April 2011.
- Kleimann, David & Joe Guinan (2011): *The Doha Round: An Obituary*, European University Institute Global Governance Programme Policy Brief, Issue 1/11, Florence, June 2011.
- Lee-Makiyama, Hosuk (2012): *Upholding Europe's Mandate on Trade*, ECIPE Policy Brief No. 11/2012, Brussels.
- Messerlin, Patrick (2013): *The much needed EU pivoting to East Asia*, Asia-Pacific Journal of EU Studies, Vol. 10 (2).
- Steger, Debra (2012): *Institutions for Regulatory Cooperation in 'New Generation' Economic and Trade Agreements*, (38) 4 Legal Issues of Economic Integration (109), Kluwer Law International.
- Sapir, André (2013): *The Transatlantic Trade and Investment Initiative – Hope or Hype?* Bruegel blog, Brussels, 5 March 2013.
- WTO (2011): *The WTO and Preferential Trade Agreements – From Coexistence to Coherence*, World Trade Report 2011, Geneva.

