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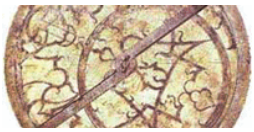


An EU development-friendly trade policy under a "Comatose Doha"

Patrick A. Messerlin

Executive summary

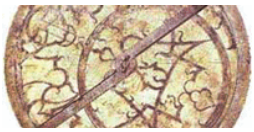
The paper examines four aspects of the world trade under a Comatose Doha that could last for some time. First, it examines the situation of the developing countries in the near future. All the developing countries which would freeze their liberalization process will loose. The small developing countries turning to preferential trade agreements (PTAs) will face much more difficult negotiations with the large (developed or developing) countries. Large developing countries will not be necessarily in a better situation, as illustrated by China which will have hard time to find partners willing to conclude PTAs with it. Only a few former developing countries (Korea, Chile, Taiwan) have already found alternatives to a Comatose Doha by concluding PTAs with the large economies. For instance, Korea has secured to its firms access to 77 percent of the world markets.

Second, the ongoing EU EPAs will also suffer from a Comatose Doha. The intrinsic flaws which are making the EPAs with the ACP countries costly to the ACPs will be amplified by the absence of a Doha Round. The EPAs with Asia (India) and Latin America (Brazil) do not target partners helpful to the debt-ridden, growth starving EU. These partners are too small (and will not be large enough before the 2030s), have deep-rooted protectionist instincts and are far to be the best regulated countries in the world – all features that make them unable to boost EU growth. The partners that the EU should target are the US, Japan and Taiwan, the only large enough, open enough and well regulated enough economies to boost fast enough EU growth.

Third, a EU development-friendly trade policy should take the Treaty of Rome as a model. The Treaty was very ambitious. It coped with the wide differences of income among the EU regions by fragmenting its huge liberalization programme in a carefully designed sequencing of phases. A sequencing of phases based on focus, progressivity and best negotiating techniques is key for making future EU PTAs development-friendly. In this context, the paper develops three themes:

- focus is ensured by defining the core content of a development-friendly PTA;
- progressivity is ensured by making the sequence of implementation conditional on some partner's objective and economically sound features, such as threshold of its GDP per capita and/or its size.
- some negotiating techniques have proven to be much better than others in terms of favoring growth and diversification.

Finally, at the WTO level, reform is not a credible option. Rather the WTO should exploit its capacities to be a quiet forum of discussions for addressing some promising trade issues (trade facilitation, binding commitments negotiated in other for a, etc.) and for building coalitions of convergent interests looking for a better multilateral regime in trade, climate, water, fisheries, etc.



An EU development-friendly trade policy under a "Comatose Doha"

Patrick A. Messerlin[1]

Introduction

At the December 2011 Geneva WTO Ministerial, the Doha Round was declared in a "comatose" stage. There is very little hope that the situation could change before mid-2013 at the earliest (this time horizon refers to a fully operating new US Administration, be Obama II or a Republican President). However, it should be stressed that such a date is highly hypothetical. It assumes that the US Executive is in the driving seat in trade matters. This is not the case: the US Constitution gives to the Congress the final word in trade matters, as witnessed with the lengthy and chaotic ratifications of the preferential trade agreements (PTAs) during the last four years. In addition, the last (2012) State of the Union speech was so much focused on manufacturing in a country where more than 70 percent of the GDP is generated by services and on subsidies of all kinds that it does not raise high hopes on a rapid shift of an Obama II Administration towards a strong US support to a successful conclusion of the Doha Round.

These perspectives call for a review of the EU trade policy and of its development dimension. Such a review should take into account a critical factor. The EU share in the world GDP during the next two decades – a rough indicator of the EU political influence –will be cut by half during the next twenty years [Buiter and Rahbari 2011], falling from 25 percent in 2011 to 13 percent by 2030 (the US will follow roughly the same course). Of course, such "guess-estimates" should be taken with great care. But errors are on the speed of the evolution, not on its trend. As a result, the key message of these guess-estimates is that claiming that the EU is the largest world

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economy is a message which is not credible anymore among the EU partners. Re-designing EU policies – including trade and development policies – should integrate this decisive factor.

The paper is organized in four sections. Section 1 describes the consequences of a Comatose Doha for the emerging and developing countries. It suggests that most of the developing countries will loose from such a situation, and that the rare exceptions are fragile. Section 2 looks at the EU Economic Partnership Agreements (EPAs) with the African, Caribbean and Pacific countries (ACPs) and at those with the neighboring and other (Latin American and Asian) countries. It shows that the Comatose Doha will magnify the intrinsic costs of the EPAs for the ACPs, and that the current EU PTA approach with the other countries is based on the wrong choice of partners. In particular, it misses the three key countries – US, Japan and Taiwan – with which the debt-ridden, growth hungry EU should conclude PTAs as soon as possible. Section 3 examines what could be the main components of an EU development-oriented PTA policy. As the Comatose Doha may last some time, this section is particularly developed. A concluding section presents brief remarks on the WTO.

Section 1. Developing countries under a "Comatose Doha": mostly losers

A Comatose Doha leaves PTAs as the only negotiating instrument left to open a domestic economy to foreign competitors for the time being. Past experience does not show PTAs as a very efficient instrument. Between mid-1980s and mid-2000s, PTAs have delivered a very small share of tariff cuts, roughly 10 percent of total tariff cuts [Martin and Ng 2004]. The largest share of tariff cuts has been provided by unilateral liberalization (65 percent) followed by multilateral liberalization (25 percent). That said, a Comatose Doha is likely to have a different impact on the small and large developing and emerging economies.

<u>The case of the small developing economies</u>.

A vast majority of the developing countries are small economies. This feature makes them particularly fragile in a world where PTAs are the only trade liberalization instrument left.

A first group of developing countries will not have the energy to review their trade policy in order to adjust it to a Comatose Doha. They will decide not to open negotiations on PTAs or to negotiate deliberately "shallow" PTAs. Most of the existing PTAs could be classified as shallow in the sense that they have not opened the signatories' key economic sectors that would have deserved the most to be exposed to foreign competition. According to the 2011 WTO Trade Report [WTO Secretariat 2012], two-thirds of the "peak tariffs" (defined as tariffs higher than 15 percent) which have been left untouched by unilateral or multilateral liberalizations have escaped PTA-related cuts.

As these highly protected and often key sectors do not benefit from external competitive pressures to improve their efficiency, they continue to impose high costs on consumers – as a rule of thumb, economic analysis shows that doubling a tariff multiplies by four (the square of the tariff increase) the existing welfare costs. The powerful vested interests entrenched in these highly protected sectors make very difficult for the governments of the country in question to launch and to fully implement a domestic pro-growth reform agenda. The reform process takes then the "go-and-stop" pace so often observed in the past in Africa or Latin America. Such an irresolute trajectory has its own cost: it gives to the people the conviction that it is the reforms – not the absence of reforms decisive enough – which don't do any good.

The rest of the small developing countries will decide to turn to "deep" PTAs. As today most PTAs are bilateral agreements, the negotiating dynamics favor clearly the large negotiating partner – be an industrial country or an emerging country – for several reasons. First, the PTA agenda is generally set up by the large partner, as illustrated by the PTAs with India as a hub or by the EU PTAs which include topics of no or little relevance to the developing countries at their current stage of development (see the discussion of section 3).

Second, by nature, a PTA agenda has a more limited range of potential trade-offs since there are only two negotiating countries (compared to 156 countries in the WTO forum). For instance, if country A has interests in goods 1, 2 and 3, and country B in goods 1, 2 and 4, an agreement between A and B may be reached on goods 1 and 2 (if one country is an importer and the other

one a potential exporter in one good, and vice-versa for the other good). But, an agreement between A and B is less likely in goods 3 and 4, and finding trade-offs involving these two goods is likely to require the presence of one or more countries at the negotiation table.

Last but not least, there is no possibility in a bilateral agreement for the small negotiating partner to build a coalition with other small countries in order to raise its negotiating leverage with respect to the larger partner. That said, it could be rightly argued that the coalitions among the small countries in the WTO may have shown their muscles, but that it has been, paradoxically, essentially at the detriment of their members.

Coalitions of the small countries at the WTO have shown their muscles to the extent that they have succeeded to extract deep and wide exceptions to trade liberalization from the developed and emerging economies in the Doha negotiations. In short, they have been "negative" coalitions trying to reject new disciplines (good or bad for development) rather than to build new disciplines which could be pro-development. Table 1 illustrates this point by presenting the major negative coalitions in the Doha Round. Altogether, these negative coalitions include roughly 84 to 90 Members which are totally or very substantially exempted from the possible results of a revived Doha Round. In short, the Doha negotiations have fully involved only 40 Members or so, half of them being developing and emerging economies (out of a total WTO membership amounting to 127 Members, the EU being one Member). As these 40 Members represent more than 80 percent of world trade and GDP, these negative coalitions can be seen – ironically – as having deeply weakened the Single Undertaking constraint, a sort of gift of the small countries to the large WTO Members.

Table 1. The Negative Coalitions in The Doha Round

	Negotiations in	
	Agriculture	NAMA
Least-Developed Countries (LDC)	32	32
Small and Vulnerable Economies (SVE) [a]	38	37
New Recently Acceded Members (N-RAM)	10	10
Other groupings with wide exceptions [b]	4	11
Total	84	90
All WTO Members [c]	127	127
Core negotiating countries [d]	43	37

Notes: [a] excluding N-RAM and other groupings. SVE are developing WTO Members that, in the period 1999-2004, had an average share of (i) world merchandise trade of no more than 0.16 percent, (ii) world trade in NAMA of no more than 0.1 percent, and (iii) world trade in agricultural products of no more than 0.4 percent. [b] Countries with Low Binding Coverage in NAMA and Net Food Importing Countries in agriculture. [c] Counting the EC as one WTO Member. [d] The WTO Members not pertaining to a negative coalition.
Source: Messerlin 2012a. WTO NAMA and Agriculture Chair texts, TN/MA/W/103/Rev.3, TN/AG/W/$/Rev.4, 6 December 2008.

Paradoxically, these negative coalitions have been mostly detrimental to their own members from a development perspective. They have imposed self-inflicted high damages on the "opting out" countries since they substantially reduce potential trade not only between them and the rest of the world but also among themselves. This feature helps to understand that these negative coalitions could have often been manipulated by the large countries to the extent that they offer a large reservoir of small allies to these large countries. In the early years of the Doha Round, the "Round for free" that the EU "offered" to the LDCs was first and foremost a way for the EU efforts to reduce pressures on its farm liberalization: it was highly unhelpful for helping the LDCs to improve the efficiency of their economies. In the later years of the Doha Round, China and India have replaced the EU in getting these many allies by overtaking the G33 coalition, for instance.

The large developing and emerging economies

Large emerging and developing countries are not necessarily in a much better shape. They don't have more options than the small developing countries: status quo or shallow PTAs vs. deeper PTAs. Argentina and, to a lesser extent, Brazil seem to bend towards the status quo or even maybe to backslide into shallower PTAs (including Mercosur) while India seems to have a lot of difficulties to simply take action.

As illustrated by Table 2, the emerging and developing G20 Members (excluding China) have PTAs with the mammoth economies (China, EU, Japan, US). But, they have not been very active among themselves – a sign that they have been busy to protect their sectors under the competitive pressures from their peers.

At the other side of the spectrum, China – the archetypical successful emerging economy – is not in an easy situation under the Comatose Doha, when compared to the three other mammoth economies (EU, Japan, US) [Messerlin 2012b].

- China has only one, relatively old and so far unsuccessful, option: talks on the China-Japan-Korea agreement (CJK) are ongoing since 1999.
- the TPP is not an option open to China because it includes provisions on labor or state-owned enterprises (among others) that China cannot sign.

Table 2. PTAs among the G20 members

G20 Members [a]	Share (%) of world GDP	EU27	USA	China	Japan	PTAs of Emerging/developing countries with other G20 Members
Mammoth economies						
EU27	**26.6**	---	*Transatlantic*		*JEU*	
USA	**23.9**	*Transatlantic*	---		*TPP*	
China	**9.6**			---	*CKJ*	
Japan	**9.0**	*JEU*	*TPP*	*CKJ*	---	
Emerging and developing G20 members						
Brazil	**3.4**	**ongoing**				**Argentina, India**
India	**2.8**	**ongoing**		**concluded**	**concluded**	**Argentina, Brazil, Indonesia, Korea**
Russia	**2.4**					
Mexico	**1.7**	**concluded**	**concluded**		**concluded**	**Argentina, Brazil, *Korea***
Turkey	**1.2**	**concluded**				
Indonesia	**1.2**	*[c]*		**concluded**	**concluded**	**India, Korea**
Saudi Arabia	**0.7**	*[d]*			**ongoing**	
Taiwan [b]	**0.7**			**concluded**	**[e]**	
Argentina	**0.6**	**ongoing**				**Brazil**
South Africa	**0.6**	**concluded**				***India***
Industrial G20 members						
Canada	**2.6**	**ongoing**	**concluded**		*ongoing*	
Korea	**1.7**	**concluded**	**concluded**	*initial step*	*CKJ*	
Australia	**1.5**		**concluded**	**ongoing**	**ongoing**	

Source: WTO website, Database on the PTAs.

- the "High Level Economic and Trade Dialogue" (HED) between China and the EU is a fuzzy forum that offers no serious perspectives to China.[2] Its current EU motto – "accepting tough Chinese competition while pushing China to trade fairly" – suffers from two major flaws: not accepting the Chinese competition is not an option for the EU except at astronomical costs, and there is no definition of what could be "fair" trade.

[2] Moreover, the HED involves only the Commission on the EU side, not the ultimate decision-makers – the Council (EUMS) and the Parliament which are unlikely to witness passively the trade dialogue with China.

That said, one should expect that China to get out of this uncomfortable situation. It could try to do so by re-launching the CJK or by launching a set of bilateral agreements in East Asia for counter-balancing the TPP. Alternatively, it could launch a bold initiative in the WTO, the best forum to diffuse the fears about strong Chinese competition on the widest range of trading partners. Last but not least, more options could be made available by China's trading partners. This is the case with the prospect (still unclear) of a China-Korea PTA agreed by both countries in early January 2012.

Emerging dynamics?

The global picture arising from the above observations suggests a developing world rather frozen under a Comatose Doha. However, there are a small group of former-emerging countries which have adopted a trade policy resilient to a Comatose Doha: Chile, Korea, Singapore (all of them generally still classified as developing countries in the WTO forum) and more recently Taiwan.

Korea is the best and largest illustration of this group. Since the mid-2000s, it has followed a PTA policy targeting as partners large, relatively open and well regulated economies. In 2010, only 12 PTAs give to Korean firms free access to 77 percent of the world GDP. The two PTAs that Korea has just offered to China and Turkey in January-February 2012 would add 10 percent of the world GDP, meaning that Korean firms will enjoy a level of market access close to what the Doha Round would have delivered (if one takes into account all the exceptions extracted by developing countries during the Doha negotiations). Although there are political considerations behind Korea's PTA policy (the Korea-China PTA was offered less than two weeks after the death of the North Korean dictator Kim Il Jong) the main driver of the Korea's PTA policy is economic.

Turkey is a good illustration of an opposite approach (Turkey's economy is two-third of Korea's economy). Its PTA approach was fundamentally political. Turkey has seen PTAs mostly as a foreign policy instrument for (re)establishing its regional influence – a view that mimics the EU PTA approach. If one excludes the customs union with the EU, Turkey has signed 18 PTAs, all of them with Middle-East or Central Asian neighbors often former parts of the Ottoman Empire.

Such an approach has shown severe limits. The markets opened by these PTAs to Turkish firms are small: the GDP of all the Turkey's PTA partners represent roughly 6 percent of the world GDP – less than one-tenth of what Korea's PTAs give to the Korean firms. Turkey's partners are economies highly protected and badly regulated, hence not promising in terms of growth prospects. Last but not least, the political benefits of these PTAs are challenged by the Arab revolutions which have overturned the regimes with which Turkey has signed PTAs.

Section 2. A Comatose Doha and the EU EPAs

Since 2006, the EU has launched negotiations on "Economic Partnership Agreements" (EPAs) with a wide range of countries. There are two very different groups of EPAs: those with the African, Caribbean and Pacific countries (ACPs) and those with the Latin American and Asian countries negotiated in the follow up of the "Global Europe" initiative. There is a third group of EPAs, those with the neighbor countries (Eastern Europe and South Mediterranean countries). If this last group of PTAs has a specific political dimension, it raises economic issues that are not far from those raised by the Latin American-Asian countries.

<u>The EPAs with the ACPs: A Comatose Doha increases their costs for the ACPs</u>

Despite all the good intentions, the EPAs with the ACPs have intrinsic flaws which are very detrimental to ACP development. In a nutshell, these EPAs are doomed to generate a "biased liberalization, fiscal crunch" outcome in the ACPs for the following reasons.

Far to liberalize the ACPs in a pro-development way, the EPAs will systematically amplify the already high distortions existing in the ACP economies – hence keeping these economies in their current problems – for two mutually re-enforcing reasons:

- the ACP sectors which are highly protected will continue to be fully protected vis-à-vis the EU and non-EU producers. This is because thee EPAs allow the ACPs to keep their current tariffs on imports from the EU for roughly 20 per cent of their tariff lines. This percentage is high enough to allow to protect almost all the existing ACP domestic

productions. As they will remain protected with respect to the EU *and* to the rest of the world, ACP producers will have no incentive to improve their production, cut their costs and/or decrease their prices. ACPs domestic labor and capital will be induced to stay in these currently protected sectors or to go to these sectors. ACP consumers will have no reason to support the EPA process.

- Meanwhile, the other ACP sectors will be subjected to full competition from EU competitors because the EPAs require the ACPs to eliminate their current tariffs on EU imports for the remaining roughly 80 per cent tariff lines. EU firms will make very hard for potential ACP producers to enter these markets, all the more because ACPs domestic labor and capital will avoid as much as possible these relatively competitive sectors which are likely not to provide the same wages or capital returns that the ACP highly protected markets. Such a situation will entail severe long term economic costs for the ACPs: elimination of the existing domestic producers (if any) possibly combined high prices that the EU firms could charge in the ACP markets protected by (high) tariffs on imports from non-EC origin. In short, ACP consumers will pay rents (possibly as high as the high ACP tariffs on non-EU products) to EU firms, and will feel exploited by the EU firms, another reason for the ACP consumers not to support the EPAs.

In short, the EPAs are structurally unable to support ACPs domestic pro-growth reform agendas. In particular, they will make it very difficult for ACP countries to reach what is probably their most cherished development goal: economic diversification in terms of productions.

"Fiscal crunch" should be expected from eliminating ACP tariffs on imports from the EU on 80 per cent of tariff lines, with huge adverse implications for many ACP government budgets. The EU says that it is ready to provide compensations. But it has no permanent binding obligation to do so, and the current EU economic crisis makes this promise less certain. More importantly, in economic policy, correcting an initial mistake by an off-setting policy gives more uncertain and costly results than eliminating the initial mistake. From a political perspective, EU aid granted in these conditions may lead to a serious deterioration of the long term political relations between the EU and the ACP.

A successful Doha Round could have softened the negative aspects of the EPAs. It would have induced the ACPs to decrease *erga omnes* the protection of the most protected sectors, reducing by the same token the relative distortions (between the 20 percent protected sectors and the 80 percent non protected sectors) generated by the EPAs. It might even have been possible for the ACPs to try to negotiate a new "waiver" from the non-EU WTO Members in order to keep low or moderate tariffs on the 80 percent tariff lines set to be liberalized under the EPAs. In such a case, the Doha Round could have helped the ACPs to progress towards a more uniform protection (a more similar level of protection for all the products). As shown below (section 3) uniform low or moderate protection is a good way to introduce pro-development liberalization because it ensures that capital, labor and land go to the most efficient activities, not to the most protected ones.

The ongoing EU negotiations with Asia and Latin America

A Comatose Doha will also magnify the intrinsic flaws in the current EU PTA plan (which was designed before the crisis) for three reasons that have been largely ignored by the economic literature of the last seventy years – simply because there was no failure of GATT-WTO Rounds as serious as this one is.

Size does matter

First, a WTO Round is an efficient way of negotiating market access because it does not require paying attention to the economic size of the partners since all of them will be part of the final deal. This is not the case in case of PTAs. Negotiating PTAs with all the ACPs has almost no chance to have a substantial impact on EU growth simply because these countries are too small to influence EU prices (except maybe for a few commodities). Very few countries in the world have the economic size (in terms of productions and demands, hence exports and imports) capable to have a wide-ranging and notable influence on EU relative costs and prices, hence on EU consumers' welfare.

As of today, if one leaves aside the EPAs with the ACPs, the EU has concluded or is negotiating 32 PTAs with countries which represent only 17 percent of the world GDP. In short, these PTAs do not expand very much the size of the markets open to EU firms' operations, compared to the 77 percent open by the Korea's PTAs (see above).

Why such a disappointing result? The current EU PTA plan has made the wrong choice of partners. Since 2006, the EU is trying to conclude PTAs with large developing partners (Argentina, Brazil, India, Russia). But, these countries have three serious drawbacks:

- they will become truly large (compared to the EU economies) economies only in the 2030s at the earliest,
- they have still deep-rooted protectionist instincts, and
- they are far to be the best regulated countries in the world.

The EU choice of partners was driven by the hope to get big preferences to EU firms in these markets. Such a hope can only lead to disillusions because, as soon as the EU PTA partners will realize the huge rents that strong preferences would grant to EU firms, they will conclude PTAs with other countries, hence erode EU preferences and leave EU firms with severe adjustments problems.

A much more beneficial PTA policy for a debt-ridden, growth-hungry EU would be to negotiate and conclude as soon as possible PTAs with the US, Japan and Taiwan [Messerlin 2012b]. If the Comatose Doha is not revived, China will necessarily be added to this list.

Predicting growth

Second, a WTO Round is an efficient way of negotiating market access because it does not require a given country to predict which partner will have the fastest growth in the future. If all the WTO Members agree on non-discriminatory market access commitments, firms from a given country will find out the fastest growing markets as and when required.

The situation is quite different when PTAs are the only instrument left for undertaking trade liberalization. In this case, every country has "to bet" on which partners will have the fastest

growth for the foreseeable future, hence will be worth negotiating and signing a PTA. By nature, such bets are very uncertain, if only because there is always the possibility that things could suddenly go wrong, even in the most promising countries.

So far, very little attention has been paid to this source of Rounds efficiency because previous economic crises were much more limited than the current one. But, this source is particularly crucial to the debt-ridden, growth hungry EU. The major developing countries with which the EU is currently negotiating (Argentina, Brazil, India and Russia) are not expected to be the stars in terms of growth for the two next decades [Buiter and Rahbari 2011]. Rather, they are expected to have average growth performances compared to the rest of the world, in sharp contrast with Emerging Asia and Africa which are expected to have higher than average world growth. And, the deep hesitations of these four mentioned countries in terms of their own trade policy and structural (regulatory) domestic reforms (a critical component of market access in services) are unlikely to boost their growth. For all these reasons, the current EU PTAs plan is unlikely to deliver the boost in terms of growth that is so much needed by the debt ridden EU.

The costs of negotiating sequentially

The last reason is that PTAs are negotiated "sequentially" (or by successive waves). Such a sequential process creates inevitably backward-looking and forward-looking discriminations. For instance, the EU may discriminate (voluntarily or not) among its PTA partners by granting to a new partner (say Japan) more (or less) concessions than to a previous partner (Korea) which has deep economic relations with Japan. And similarly the EU may be discriminated against by its PTA partners. Discrimination works also in a forward-looking manner. For instance, the EU may grant to a partner with whom it is negotiating (say Taiwan) more (or less) concessions than to a future partner (China) which has deep economic relations with Taiwan. Such discriminations are likely to be costly for all the countries involved (even an apparent beneficiary may ultimately loose because of the combined losses of its two partners). The higher the number of PTAs negotiated, the more numerous (and possibly larger) such distortions will be..

Section 3. Defining a development-friendly EU trade policy

Section 2 strongly suggests that, despite all the good intentions, the existing EU trade policy is largely unfriendly to development concerns, in some cases for intrinsic flaws (for instance, the EPAs with the ACPs) in other cases for circumstantial reasons (for instance, the way GATT negotiations have shaped the GSP). That said, it is fair to add that the EU is not an exception in this matter: the same conclusion could be drawn for most of the trade policies in the world.

This conclusion should not come as a surprise. The logics of trade and development policies are intrinsically at odd when trade policy is driven by a mercantilist rationale, as it is the case when countries negotiate trade agreements, be in the WTO or in PTAs. Trade policy buttresses well support development policy only in the particular context of unilateral liberalizations, when a country decides to open its markets to foreign competitors in a conscious and deliberate support to its own development. Examples of such unilateral liberalizations are not frequent, but they are not rare, and more importantly some of them have played a crucial role in the world economic development: Britain in the early 1800s (it initiated the current wave of globalization among developed countries), France in the 1860s, Hong Kong and Singapore in the 1950s, China in the 1980s (it initiated the current wave of globalization among developing countries), certain Central EUMS (particularly Czechoslovakia and Estonia) in the very early 1990s, Georgia in 2006. Last but not least, the above described PTA policies followed by Korea, Chile or Singapore may be less dramatic, but they all conceive trade policy first and foremost as a contributor to domestic pro-growth reform agendas, not as a stand-alone policy.

This section tries to cope with this intrinsic conflict of logic between "mercantilist" trade and development. As stressed by the January 2012 Commission's Communication on Trade, Growth and Development, two key problems should be addressed. First is the need to take better into account the "differentiation among developing countries" which has greatly increased during the two last decades and to focus on the poorest. Second is the question of how to handle the many topics which have been, or could be seen as components of a development-related trade policy. Some of those components should easily gather a wide consensus: trade facilitation, foreign direct investment (FDI), services for instance. But other components – social and environmental

regulations, intellectual property rights (IPRs), competition policy, the EPAs with the ACPs, the GSPs, to quote a few of them – deserve a careful analysis. Trade policy is a powerful instrument which can easily turn "good intentions into hell" (to paraphrase a French say). Badly conceived trade measures can be very detrimental to development, as best illustrated by the EPAs.

The section is organized in four steps:

- it argues that the Treaty of Rome offers an interesting model defining differentiation by a careful progressivity in the implementation of its provisions;
- it presents a screening exercise allowing to trim the range of topics included in the current EU PTAs in order to keep only those really related to growth and development;
- it suggests simple progressivity criteria for defining the best sequencing of liberalization phases from a development perspective;
- it presents a few techniques of trade negotiations which are shown as pro-development, hence should be used systematically by the EU trade policy.

The Treaty of Rome: a model for a EU development-friendly trade policy

Looking at the Treaty of Rome as a source of inspiration for defining a development-friendly trade policy in the 2010s may look awkward at a first glance. But, the key aim of the Treaty (which, after all, established a PTA) was the growth and development of the EU Member States (Article 2), and freer trade among them was seen as the major contributor to this objective (it makes six out of the eleven measures to be taken listed in Article 3). All these features seem very attractive for a development-friendly PTA.

Moreover, the Treaty drafters were very well aware that the Treaty was establishing a PTA between very heterogeneous European regions [Milward 1992]. In the mid-1960s, the GDP per capita of the richest EU region (Hamburg, Germany) was roughly five times the GDP per capita of the poorest region (Molise, Italy) [Office Statistique des Communautés Européennes 1968-1969]. This gap is of the same order of magnitude than the current differences of GDP per capita between the EU on the one hand and Egypt, Angola or Sri Lanka on the other hand.

This well recognized development gap within Europe did not stop the Treaty drafters to design what is probably the most encompassing trade treaty of the last seventy years with the lowest number of exceptions. In other words, they did not define "differentiation" as requiring a set of many different measures depending the partners. In particular, the drafters were extremely careful not to introduce any kind of "Special and Differentiated Treatment" trade provision which would exempt some EUMS from disciplines imposed on the others. Instead, they set up a much more appropriate (non-trade) instrument, namely a regional policy.

What the Treaty drafters decided was to carefully "fragment" this gigantic liberalization program into a manageable sequencing of progressive and self-reinforcing phases:

- a first phase defined in a very precise way, focusing entirely on the elimination of industrial tariffs and remaining quotas (roughly the 1960s);
- a phase still well defined around concepts in the Treaty, in particular "equivalent effect", but requiring sharper interpretations and more precise schedules of implementation as and when necessary;
- a very rough framework agreement in agriculture that was filled up only in the mid-1960s with great difficulties, and indeed with severe economic mistakes in the long term;
- even vaguer framework agreements in investment, labor movement and services which have had to be re-interpreted, developed and implemented after the mid-1970s. Covering services in a PTA drafted in the late 1950s was an amazing novelty (indeed, it was fortunate that some initial Treaty provisions in services were not enforced too rapidly because they were economically unsound).

In short, differentiation was based on the expectations that, at given and pre-determined points in time, all the EUMS would be capable to deliver a relatively well defined set of targeted results. Such expectations relied on the conviction that the growth and development generated during any given phase thanks to the appropriate trade liberalization measures will serve as a robust basis for further progress in the following phases. In short, the Treaty was both growth-focused and growth-driven.

This approach has had a huge advantage in legal and economic terms. The central concept of "equivalent effect" has allowed to keep the "reference" measures to a strict minimum (duties and quantitative restrictions on imports and exports). This feature is key because it allows to bring down any new measure suggested by endlessly creative policy-makers (as those mentioned by the Communication) to these very few legal references, ensuring the highest level of consistency of the EU legal regime and avoiding the risk of an inconsistent proliferation of policies based on differentiation among trading partners.

A very ambitious Treaty fragmented in a sequencing of implementing phases seems an attractive model for what could be an EU development-friendly trade policy embedded in PTA legal texts. In fact, one may wonder why such an approach has not been more used for the accession process of the less developed EUMS in the 1990s and 2000s. It would have spared many shocks and disappointments.

The basic structure of the existing EU PTAs: core provisions and unsustainable periphery

The progressive approach of the Treaty does not imply that the content of the EU PTAs should be a copy of the content of the Treaty of Rome. A better sense of the content to be expected from future EU PTAs is provided by a look at the content of the existing EU PTAs. Table 3 lists the 52 "chapters" (policy topics or areas) covered by the PTAs negotiated by the EU until 2009 [Horn, Mavroidis and Sapir (hereafter HMS) 2009].

Table 3 uses the HMS methodology, but presents the results in grades. For every EU PTA, a grade of 0.5 is granted if the PTA chapter contains some "obligations", even with no legally binding commitment. An additional grade of 0.5 is granted when the chapter in question defines legally binding commitments for the obligations. Table 3 provides the simple averages of all these grades by chapter and by region for the 14 EU PTAs. It also specifies if the chapter has a

WTO counterpart (WTO-C) or if it deals with topics which go beyond the current WTO mandate (WTO-X for WTO extra).[3]

Table 3 reveals a clear distinction among the 52 chapters. There are only 20 chapters (left block of Table 3) which shows enough positive grades to be considered as "legitimate" provisions to be expected in any EU PTA with non-European developing countries (Mediterranean EU neighbors, ACPs and other countries). Interestingly, the grade for financial assistance does not exceed 0.5, in sharp contrast with all the other chapters on the left block. This feature suggests a very asymmetrical balance of obligations between the EU and its partners.

Table 3. core provisions and unsustainable periphery

	Chapters	WTO: C or X	All PTAs	All - EEA	NEU	NM	ACP	Others
	The core provisions							
	Income independent							
1	Industrial tariffs & equivalents	C	1.0	1.0	1.0	1.0	1.0	1.0
2	Agricultural tariffs & equivalents	C	1.0	1.0	1.0	1.0	1.0	1.0
3	Export taxes & equivalents	C						
4	Customs administration	C	1.0	1.0	1.0	1.0	1.0	0.8
5	Antidumping, Safeguard	C	1.0	1.0	1.0	1.0	0.8	0.8
6	Countervailing measures	C	1.0	1.0	1.0	1.0	0.8	0.8
7	Trade in services agreement	C	0.3	0.2			1.0	0.7
8	Trade-related investment measures	C						
9	Investment	X	0.7	0.7	0.8	0.5	1.0	0.8
10	Movement of capital	X	0.9	0.9	0.8	1.0	1.0	1.0
	Income dependent							
11	Sanitary & phytosanitary measures	C	0.4	0.4	0.3	0.2	1.0	0.6
12	Technical barriers to trade	C	0.7	0.7	0.6	0.5	1.0	0.8
13	Public procurement	C	0.7	0.7	0.9	0.4	1.0	0.8
14	Trade-related intellectual property	C	1.0	1.0	1.0	1.0	1.0	1.0
15	Intellectual Property Rights	X	0.9	0.9	0.9	1.0	1.0	0.8
	Size dependent							
16	State trading enterprises	C	0.9	0.9	1.0	1.0	1.0	0.7
17	State aid	C	0.9	0.9	1.0	1.0	1.0	0.7
18	Competition policy	X	1.0	1.0	1.0	1.0	1.0	1.0
19	Environmental laws	X	0.5	0.5	0.4	0.5	1.0	0.7
20	Financial assistance	X	0.5	0.5	0.4	0.5	0.5	0.5

	Chapters	WTO: C or X	All PTAs	All - EEA	NEU	NM	ACP	Others
	The unsustainable periphery							
21	Anti-corruption	X						
22	Consumer protection	X	0.3	0.2	0.4	0.1		0.2
23	Data protection	X	0.3	0.3	0.3		1.0	0.7
24	Labour market regulations	X	0.1	0.1			1.0	0.3
25	Agriculture	X	0.4	0.4	0.4	0.5		0.3
26	Approximation of legislation	X	0.4	0.3	0.5	0.5		
27	Audiovisual	X	0.4	0.3	0.4	0.2		0.3
28	Civil protection	X	0.1					
29	Innovation policies	X					0.5	0.2
30	Cultural cooperation	X	0.5	0.4	0.4	0.5		0.3
31	Economic policy dialogue	X	0.3	0.2	0.4			0.2
32	Education and training	X	0.4	0.3	0.4	0.4		0.2
33	Energy	X	0.5	0.5	0.4	0.5	0.5	0.5
34	Health	X	0.1	0.1				0.3
35	Human rights	X	0.4	0.5	0.4	0.5	0.5	0.5
36	Illegal immigration	X	0.3	0.3	0.8	0.2		
37	Illicit drugs	X	0.4	0.4	0.4	0.5		0.2
38	Industrial cooperation	X	0.4	0.4	0.4	0.5		0.3
39	Information society	X	0.3	0.3	0.4	0.1		0.3
40	Mining	X	0.1	0.1				0.3
41	Money laundering	X	0.4	0.4	0.4	0.5		0.3
42	Nuclear safety	X	0.1	0.1	0.3			
43	Political dialogue	X	0.4	0.4	0.4	0.5		0.3
44	Public administration	X	0.2	0.2	0.1			0.3
45	Regional cooperation	X	0.4	0.4	0.4	0.5	0.5	0.3
46	Research and technology	X	0.5	0.4	0.4	0.4	0.5	0.5
47	Small and medium enterprise	X	0.3	0.2	0.4			0.3
48	Social matters	X	0.7	0.7	0.8	0.8	0.5	0.5
49	Statistics	X	0.4	0.4	0.4	0.4		0.3
50	Taxation	X	0.1	0.1	0.4			
51	Terrorism	X	0.2	0.2	0.3	0.1		
52	Visa and asylum	X	0.1	0.2	0.4	0.1		

[3] Instead of the term WTO, HMS uses the expression "WTO plus" in the first case. This expression is appropriate when the PTA goes further than WTO obligation (for instance in case of further tariff reductions). But it is not when the PTA softens WTO rules (for instance in the case of antidumping regulations).

Source: Horn, Mavroidis and Sapir, 2009. All-EEA: All PTAs except EEA. NEU: European EU neighbors (Turkey, Macedonia, Croatia and Albania). NM: Mediterranean EU neighbours (Tunisia, Israel, Morocco, Jordan and Egypt). ACP: South Africa and Cariforum. Others: Chile and Mexico.

The other 30 chapters (right block of Table 3) have too few and/or too low (if any) average grades to be considered as "natural" components of a PTA with non-European developing countries. Most of these chapters have been added to PTAs in this "omnibus" approach so frequent in trade treaties: a negotiating party (*de facto* the EU) adds topics to a treaty under negotiations in order to signal some offensive interests (coming from some specific, sometimes very narrow EU vested interests) even if these topics are loosely related to trade issues at stake and even if no meaningful commitment is made.

Such an omnibus approach seems condemned in the future for several reasons:

- the pro-growth and trade dimensions of these chapters are remote; indeed, the fact that the EU PTA with the Cariforum Countries often shows the highest grades in a substantial number of these chapters raises serious questions on the rationale (or reality) of the EPA approach towards the ACP countries;[4]
- these chapters show disappointing results not only in legal terms, but also in concrete results; for instance, the presence of chapters on human rights, money laundering and political dialogue with the Mediterranean neighbours in treaties signed with dictatorial and highly corrupted regimes is an embarrassing situation for the EU;
- these chapters have been a source of permanent and often high resentment against the EU from EU partners which have been felt pressured to include these chapters in the PTA text if they wanted the rest of the text;
- last but not least, the declining EU share in world GDP in the two next decades and its corresponding declining negotiating leverage will make the EU partners increasingly reluctant to accept such a deal.

As a result, it seems reasonable for the EU to exclude these chapters from the future EU PTAs, and to use specific negotiations and treaties for dealing with these issues.

[4] There are conflicting reports on the implementation of the EU-Cariforum EPA which raises serious doubts on the existence of the whole EPA.

Defining progressivity: the two most obvious criteria

What could be a few simple criteria to be used for organizing the 20 core chapters in an economically sound sequence of progressive implementation phases? It goes beyond this paper to provide a long list of such criteria. Indeed, it seems reasonable to keep this list as short as possible, for the same reason that multiplying tools or concepts have adverse and unexpected consequences due to their interactions.

These criteria should reflect the three objectives to be delivered by a development-friendly trade policy:

- buttressing the best allocation of resources in the EU partner in order to maximize its growth; in particular, the PTA should contribute to minimize the domestic distortions that the EU partner may try to keep, favoring unduly some of its domestic activities at the detriment of others activities potentially more profitable.
- boosting the amount of global resources that the EU partner could attract, in particular investment flows (labor and land are generally less pressing issues for EU partners),
- allowing the partner's government to take the necessary actions when the partner's domestic markets deserve to be better regulated without the fear of counter-measures from the EU (for instance anti-subsidy or countervailing measures).

The first goal favors anti-distortionary policies in the partner (and in the EU), the second one expansionist policies of the global resources available to the partner (and to the EU), the last one the desire to protect a well-defined "economically sound policy space" for the EU partner.[5]

Clearly, these three goals do not have the same weight whether the EU partner is a very poor country, a low-middle income country or an emerging economy. The two first goals are highly dominant when the partner is poor. In other words, a first criterion for defining the progressivity of the implementation of a PTA is the level of the partner's income, for instance, its GDP per

[5] This paper uses the term "policy space" which is generally highly correlated with the freedom for the developing countries to keep protectionist barriers, a narrow interpretation that makes very rarely sense. By contrast, it may happen that some markets will produce too much or too little and that some consumers will consume too much or too little. In these cases, governments have to weight the costs and the benefits of acting on the production and/or consumption levels by taxing or subsidizing. Note that what is at stake is domestic productions and consumptions, not imports and exports (hence the guideline on using trade measures only in case of trade problems is respected).

capita. It is essential that the PTA imposes the enforcement of concessions at a time when the partner is capable to deliver the expected outcomes.

Another simple criterion to consider is the partner's size: the same PTA provision may not have the same impact on the EU economy whether the EU partner is a small or a large economy. A PTA with a small partner may thus be laxer in terms of progressivity than a PTA with a large partner. While the GDP per capita criterion focuses mostly on the partner's development, the size criterion focuses more on the EU's interests.

Table 3 utilizes these two simple criteria for dividing the left block of 20 chapters into three broad groups, hence sketching a progressive implementation of the same PTA content.

Income independent chapters

A limited number of chapters are so crucial that they should be considered as to be delivered independently from the level of the partner's income during the very first phase(s). For instance, tariff cuts should be granted by the EU partner, whether it is poor or rich, small or large; and implementing these tariff cuts should start as quickly as possible and make as much progress as possible as soon as possible. The same could be said for instruments of conditional protection, the elimination of a few basic distortions in investment (such as content requirement) and the beginning of opening services markets (see below for details).

All the provisions related to these chapters have a heavy focus on tariffs and other key border trade barriers. This is in sharp contrast with the Commission's Communication laxer approach on such instruments which relies on the wide-spread view that a lot of tariff liberalization has already been done. This laxer approach underestimates the fact that peak tariffs have escaped such liberalization [WTO Secretariat 2012] and that the remaining peak tariffs protecting domestic goods are those which have the highest impact on the competitiveness of the economy in question and on the welfare costs of its consumers.

Income dependent chapters

A wider range of chapters requires a certain level of income in the EU partner in order to become "trustable deliverables". For such chapters, the scope of the EU partner's concessions and the schedule of implementation should be defined conditionally to the fact that the EU partner should have reached a certain threshold of GDP per capita to be agreed when negotiating the PTA. For instance, provisions requiring the introduction of certain technical or environmental norms in the EU partner's legislation should take into account whether the country could deliver them without harming its agricultural or industrial growth, and in particular, its export potentials.

This conditionality has two benefits, one for each negotiating partner. On the one hand, it gives to the EU partner a list of "credible, hence trustable" concessions from the partner as and when the partner's growth strategy is successful. On the other hand, it allows the EU to define its own concessions as and when the successful partner will deliver, hence allowing the EU not to put excessive – therefore unproductive for its own reputation – pressures during the PTA negotiations. This sequence of balance of concessions is robust to the extent that a criterion, such as the GDP per capita, is so general that it is unlikely to be distorted for escaping much narrower concessions. For instance, the risks that a country will stop its GDP growth just for not implementing technical and environmental norms in some sectors are negligible.

Size dependent chapters

Finally, some chapters may be considered as dependent on the partner's size. This implies that the position of these chapters in the sequencing of phases may be different whether a country is small or large. For instance, a competition policy in an open and small developing country will bring little (if any) net benefits to the country in question. Hence, it could be postponed to the latest stages of implementation with little harm to the EU and to its partner. By contrast, a competition policy may be considered as an important factor in a large developing country, even if this economy is relatively open.

Using the best negotiating techniques

A credible sequencing was not the only reason of success of the Treaty of Rome. The drafters also relied heavily on the best negotiating techniques from a development perspective for the first phases of the sequencing dealing with trade in goods (these phases were the only ones really well defined by the Treaty). For the parts of the Treaty that were developed at a later stage of the EU history (technical norms or services liberalization for instance) the EU has had to create these best techniques, and its own implementation has been recently improved by other countries (Australia in particular). As a result, the EU future PTAs have a wide range of best negotiating techniques from a development perspective available for all the 20 chapters.

Table 4 presents the best negotiating techniques in the context of the 20 core chapters of a PTA typical text. What follows explains why these techniques can be seen as pro-development, hence should be pillars in any EU PTA with developing countries.

Uniform tariffs

Development depends greatly on whether the developing economy allocates as efficiently as possible the available factors of production (labor, capital and land) among all the possible productive activities. Contrary to what is often believed, this goal is not achieved by eliminating a vast number of tariffs while keeping intact a limited number of peak tariffs for protecting key domestic productions (see above on the EPAs with the ACPs). Indeed, the "low hanging fruits" approach of trade diplomats is likely to have a negative impact on the resources allocation of a country because it magnifies the distortions among sectors, hence in the resources allocation process.

Rather, the EU partner should ideally be induced to adopt the same moderate tariff over the whole range of products (an "uniform" tariff). Under such an uniform tariff, businesses will invest not in the most protected sectors but in the sectors which have the best perspectives in the international competition ("comparative advantages"). This policy has been used for the first

time by Chile, and it was instrumental in reducing Chile's dependency on copper exports and in diversifying Chile's exports.

Table 4. Combining sequencing and best negotiating techniques

#	Chapters	Objectives	Negative lists	Exceptions	Reviews	Remarks
	First phase(s)					
1-4	Import and export taxes and equivalents, Customs administration	elimination, ideally for all products	minimal, possibly with the use of an Article 115 (Treaty of Rome) procedure	minimal, no permanent exceptions	in industry, systematic and on a year basis; in agriculture, more distant and should take into account poorest farmers' income	promote uniform liberalization of the EU partner in order to eliminate as much as possible distortions among sectors and in order to fight corruption; promote the adoption of a farm policy with some income support from the start in order to deliver a smooth adjustment process of the small/poor farmers
5-6	Conditional protection (antidumping, countervailing, safeguard)	at least, stick to WTO standards; ideally tend to intra-EU standards	possible, with the use of an Article 115 (Treaty of Rome) procedure	minimal	frequency depending the intensity of the use of these instruments	minimize the anti-competitive effects of AD and safeguard; do not threaten by CVDs an economically sound policy space of the EU partner
7	Trade in services	focus on the most crucial sectors for developing countries	probably substantial during these phases	probably substantial during these first phases	every 2-3 years	focus on trade facilitation and infrastructure services of prime interest for the partner, with efforts to start the use of mutual evaluation of domestic regulations leading to unconditional mutual recognition
8-10	Investment, TRIMs and movement of capital	eliminate the most costly TRIM-related distortions (local content	probably substantial during these phases	probably substantial during these first phases	every 2-3 years	focus on making easy investments inflows and outflows
	Second phase(s) These second phases mostly aim to improve services liberalization, to develop disciplines on investment, norms, public procurement					
7	Trade in services	focus on the most crucial sectors for the partners	shorten the negative lists of the previous phases	shorten the lists of the non-permanent exceptions	every 3-4 years	widen the scope of services liberalization and the use of mutual evaluation leading to unconditional mutual recognition
8-10	Investment, TRIMs and movement of capital	eliminate all TRIMs, improve investment disciplines	shorten the negative lists of the previous phases	State-firm dispute settlement	every 3-4 years	focus on making easy investments inflows and outflows
11-12	Norms (SPS and TBT)	favor international (not-EU) norms, unconditional mutual recognition	probably substantial during these phases	probably substantial during these phases	every 3-4 years	minimize the negative impact on the partner's growth of too stringent EU regulations
13	Public procurement	introduce WTO standards	probably substantial during these phases	probably substantial during these phases	every 3-4 years	first steps to open public procurement markets (beyond World Bank regulations)
14-15	IPRs issues	keep WTO key standards	probably substantial during these phases	probably substantial during these phases	every 3-4 years	minimize the negative impact on the partner's growth of too stringent EU regulations
19	Environmental laws	first works on mutual evaluation in these matters	probably substantial during these phases	probably substantial during these phases	every 3-4 years	minimize the negative impact on the partner's growth of too stringent EU regulations
	Third phase(s) These third phases witness the development of all the dimensions specified by the PTA					
7	Trade in services	focus on the most crucial sectors for developing countries	shorten the negative lists of the previous phases	shorten the lists of the non-permanent exceptions	every 3-4 years	widen the scope of services liberalization and the use of mutual evaluation/unconditional mutual recognition
8-10	Investment, movement of capital	cover the State-frim dispute settlement	shorten the negative lists of the previous phases		every 3-4 years	target a "single" competitive capital market between the EU and the partner
11-12	Norms (SPS and TBT)	widen the use of unconditional mutual recognition	shorten the negative lists of the previous phases	shorten the lists of the non-permanent exceptions	every 3-4 years	minimize the negative impact on the partner's growth of too stringent EU regulations
13	Public procurement	compatibility with competition laws	shorten the negative lists of the previous phases	shorten the lists of the non-permanent exceptions	every 3-4 years	improve open public procurement markets
14-15	IPRs issues	include WTO+ standards which could be beneficial for the partner's growth	shorten the negative lists of the previous phases	shorten the lists of the non-permanent exceptions	every 3-4 years	minimize the negative impact on the partner's growth of too stringent EU regulations
16-18	Competition policy, state aid and state trading enterprises	designed to be beneficial for the partner's growth	limited	limited	every 3-4 years	improve a competitive functioning of goods, services, capital and land markets
19	Environmental laws	designed to be beneficial for the partner's growth	shorten the negative lists of the previous phases	shorten the lists of the non-permanent exceptions	every 3-4 years	minimize the negative impact on the partner's growth of too stringent EU regulations
	Over the whole implementation period Timing to be specified.					
20	Financial assistance	possibly to be linked (partly) to some specific targets with EU binding commitments	probably substantial	probably substantial	every 3-4 years	increases the global resources made available to the partner

Diversification which is a clear sign of development when it is within the limits of comparative advantages is favored by an uniform tariff which has a huge additional benefit: it is one of the best anti-corruption instruments. This is because wide differences among the tariffs of a country offer vast opportunities to generate rents, hence to fuel bribes. A recent illustration of this tight relation is the 2006 reform in Georgia which introduced very low (hence almost uniform by definition) tariffs on industrial goods. This reform prevents the notoriously corrupted Georgian Customs to extract bribes from the trade operators. With similar reforms in other domains, Georgia was able to reduce drastically the level of corruption in the country – to a level better than in some EUMS in 2010 [Messerlin et al. 2011, World Bank 2012].

In particular, this first principle should be a crucial pillar of a EU development-friendly trade policy vis-à-vis the Arab countries. The tariff structures of most Arab countries are very complex, and they have been an essential source of financial funds of the Arab dictatorial regimes. There is no reason that the same causes would not generate the same results in the future. When negotiating PTAs with the Arab countries, the EU should thus be bold enough to table the following sequencing within the first phase:

- a first sub-phase focusing on tariff cuts for the most protected products, even if that means to keep moderate (possibly at a cost of very limited preferences for the EU) tariffs on the rest of products;
- a second sub-phase cutting all the remaining tariffs at the same speed.

Interestingly, such a process would induce the EU partner to reduce its high tariffs also vis-à-vis the rest of the world because, if it does not, it will grant too high preferential margins to EU firms.

Negative lists

There are two ways to make concessions in goods and in services. First is to make a "positive" list of the goods or tariffs to be liberalized: only the goods and services listed are to be liberalized. The second is to make a "negative" list of the goods and services that will not be liberalized, with all the goods and services not listed in the negative lists being considered as liberalized. The negative list approach emerges as the best technique.

In the case of goods, the difference between the two approaches does not seem so big at a first glance because all the products are listed in a supposedly harmonized schedule of products (the so-called HS6). As the harmonization has *de facto* many limits (hence, the PTA provisions trying to tighten up the level of harmonization) it is much more certain to know which goods will remain with a tariff with a negative list approach than with a positive list approach. Moreover, long negative lists have the merit to reveal quickly "shallow" PTAs. It is useful to note that the intra-EU liberalization has been based on one of the ever shortest negative lists, with only two exceptions (green coffee and bananas, the latter exception having spoiled the EU trade policy for almost sixty years).

The benefit of negative lists is much greater in services because there is no exhaustive list of services. Positive lists require from the services providers a deep knowledge of the services which have not been liberalized but remain crucial for taking advantage of the liberalization measures. This requirement is particularly costly for newcomers (less certain to fully decipher the positive lists) hence weakens considerably the pro-competitive effect of the liberalization measures. Last but not least, the informational bias of positive lists plays in favor of large firms – generally those of the larger PTA partner. It is useful to note that, for its internal liberalization in services, the EU has started with a positive list approach before shifting in 2006 to a largely negative list approach with the "Services Directive".

Finally, the use of negative lists can also play a key role for fragmenting the vast difficulties generally met on the norms issues – be in industrial goods (TBT) or in agricultural goods (SPS). A negative list approach allows to focus on the norms problems in the few goods or services which are the key exports of the EU partner. What really matters is to define the conditions at which the EU norms and its partner's norms could be considered as equivalent – to the point of triggering a process of mutual recognition – in the few key products by the partner. The negative list of norms considered as non-equivalent could thus be broad although it should be careful not to include goods which could become quickly important exports of the EU partner (the diversification process) or, at least, to get a review clause allowing quick adjustments of the negative lists (see below, the review process).

Such a negative list approach (combined with the GDP per capita criterion) will also protect the partner against the EU tendency to impose EU norms on the partner for producing goods for its domestic consumption and for exports to non-EU markets.[6]

Reviews and exceptions

Negative lists are even more powerful when they are complemented by a review mechanism (the commitment to come back to the table of negotiations for addressing the problems frozen in the negative lists) with pre-determined deadlines. Deadlines could be defined by a number of years, but they could also be defined in more progressive way for the partner – reaching a threshold of GDP per capita or, in even some cases, a threshold more specifically (narrowly) defined (for instance, the share of poor farmers).

Reviews have the advantage to put the pressure on those sectors which have been powerful enough to have escaped the general move towards progressive liberalization during the previous phases of liberalization. They force those sectors to justify why they should again be exempted from the liberalization process. Acceptable exceptions for a given phase may not be acceptable for the next ones.

Of course, the combination of negative lists and reviews do not exclude exceptions granted for a long time or even permanently. But, at least, these exceptions should be clearly stated. This feature leaves open the perspective of starting completely new negotiations (in the framework of a new treaty) when the economic and political context behind these exceptions has changed substantially enough.

Once combined, negative lists, reviews and exceptions offer an integrated framework allowing a progressivity well adapted to the two PTA partners.

[6] Of course, goods exported to the EU should abide by the EU norms, whether the partner is poor or not, except if the partner's norms are evaluated as equivalent to the EU norms (see below mutual evaluation and recognition).

Mutual recognition and mutual evaluation

There are two main forms of the "mutual recognition" principle stated by the 1979 Cassis de Dijon ruling of the European Court of Justice. Mutual recognition can be conditional, that is, depends upon a core of common principles. This has been the traditional approach of the EU. It has shown its limits: many forces (from political pressures to anti-competitive business pressures) induce to expand the core conditions to the point that mutual recognition is becoming increasingly closer to harmonization, with all the constraints that harmonization imposes on the competitive process, including a growing feeling that no country really trusts its partner. But mutual recognition can alternatively be unconditional: the two signatories feel that they trust each other enough that they could recognize unconditionally the partner's regulations. This is the approach that the EU has adopted with the Services Directive. Generally, unconditional mutual recognition is subjected to a mutual evaluation of the regulations in question by the two negotiating partners.

Unconditional mutual recognition combined with mutual evaluation is by far the best negotiating technique for all the topics intensive in regulations (that is, norms in goods or market regulations in services). From an economic perspective, it allows the consumers of both partners to enjoy the widest varieties of products (varieties can be due to different regulations). From a political perspective, it develops trust among partners. From a management perspective of the highly complex regulatory issues, it offers the simplest solution.

Concluding remarks

The paper has focused on a situation characterized by a long Comatose Doha, and it has tried to develop economically sound PTA policies in such a context. It is crucial to stress that the need for sound PTA policies is even stronger in the case of a Comatose Doha. Development-unfriendly trade policies (by the EU and by other large countries) will become much more rapidly more costly because new distortions will quickly pile up and amplify older ones. One of the benefits of the successive GATT/WTO Rounds is that they have been able to "erase" some of

the mistakes done between Rounds (even if it was sometimes very slow as in the textile and clothing sectors).

If the coma lasts long in Geneva, what could be done at the WTO level, especially from the developing countries perspectives? What follows suggests three available options.

First of all, the WTO has always been a very difficult place to reform, and reforming it after such a failure seems mission impossible. Reforms have always been difficult because the WTO is one of the most democratic world institution where every "vote" counts. Of course, the rule of the powerful exists as everywhere in the world. But, this rule has had – and will have – a strong limit: if well organized, small countries will always find a "friendly champion" among the largest countries, and there are plenty of candidates, be one of the industrial countries or one of the so-called BRICs (a very heterogeneous group). The Cancun Ministerial showed how it was easy to defeat the EU-US "duopoly". Decades to come will witness an "oligopoly" of at least six to seven large countries. Competition among them will be fierce. Getting a consensus on reforms with such a "competitive" situation among the largest powers looks almost impossible.

Second, there is progress to be made on some issues in a WTO handicapped by no negotiations on market access. These issues require the WTO to be above all a forum of quiet negotiations (no spot lights, as it was the case before the early 1990s). What follows provides a few illustrations:

- trade facilitation is a topic where technical issues discussed in Geneva could lead to *de facto* liberalization measures (involving services).
- the WTO may also witness some discussions on multilateralizing and "binding" commitments agreed in other fora. For instance, it could be the place where the EU could bring all its PTAs and try to solve the above mentioned distortions which would have been generated by negotiating sequentially liberalization.
- the WTO could also be prepared to smooth nascent conflicts by discussing them on time. For instance, aid granted by developed countries will be increasingly confronted to aid provided by some emerging economies under quite different conditionalities. As a result, frictions on "unfair" aid competition are likely to emerge in the future. In this context,

the best way to increase international aid from donors, to prevent frictions on unfair aid competition and – last but not least – to make aid more beneficial for recipients is to evaluate aid programs. The WTO is probably not the place to make such evaluations. But, it could be an useful forum to show the need for such evaluations, and possibly to provide some guidelines on how to do them properly.

- and, of course, the WTO will remain one of the best places to monitor protectionist pressures, and the only place to solve trade-related disputes.

Last but not least, the trade regime is not the only one to suffer from a lack of multilateralism. Negotiations on climate, water and fisheries are in a worse situation. There is now a notable literature (in climate) and an emerging literature (in water) [Messerlin 2011 and 2012c] which strongly suggest that:

- the WTO principles of non-discrimination are critical for a good world regime in climate and water;
- the WTO rules should be amended to accommodate many (not all) specific needs of the climate and water community. For instance, WTO rules on subsidies should be revisited for better fit a world economy where concerns such as climate change and water supply may require subsidies. Unsuitable disciplines can only lead to trade conflicts, as already observed on biofuels, photovoltaic cells and fossil fuels. Guidelines defining "codes of good conduct" when granting green or water subsidies would help to prevent such conflicts.

In all these three areas, the WTO could be a pivotal place to invite all the other "communities" (climate community, water community, fish community) to come and to discuss together initiatives to bring back a multilateral approach in all these issues. Creating such broader coalitions among communities may well succeed where each individual community would fail.

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