



EUROPEAN POLICY BRIEF



GLOBAL RE-ORDERING: EVOLUTION THROUGH EUROPEAN NETWORKS

Responding to new powers: The EU's global trade strategy moving forward

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INTRODUCTION

The rapid rise of the emerging economies in the global trading system since the turn of the 21st century has generated significant uncertainty for the European Union (EU). Whilst questions remain over the EU's capabilities and influence in other areas of foreign policy, on trade policy and within the global trading system, the EU is undoubtedly a great power. The geopolitical shift which has seen a growing assertiveness, and influence, of the emerging economies within both global markets and global governance, has however, had significant implications for the EU as a global actor and trader, and for its approach to global trade policy. Since 1999 the EU has subsequently, and pragmatically, altered its trade strategy, moving away from its previous managed globalisation strategy (1999-2006), to Global Europe (2006-2010), to the Trade, Growth and World Affairs (TGWA) strategy, launched in 2010 as part of the Europe 2020 Strategy for Smart, Sustainable, and Inclusive Growth.

2015 marks the half-way juncture for the Europe 2020 Strategy to which the TGWA strategy forms a core component. With a new Juncker Commission now in office 2015 further represents a crucial opportunity to re-evaluate the EU's global trade policy, and reconsider how the EU might pursue its trading interests, and develop its strategic outlook, to best adapt to a changing world. In this paper focus is therefore given to the evolution of the EU's trade strategy, its implications for the EU's global trade policy – with particular reference to the ongoing TTIP negotiations with the United States and the WTO Doha Round – and with recommendations made for how the EU might adjust its strategic outlook for the period 2015-2020. Specifically it argues that the EU's new trade strategy should maintain the pragmatic outlook of its predecessors in the pursuit of a deep and ambitious TTIP agreement, but also crucially cast an eye forward to the governance and legitimacy challenges it represents for global trade rule-making and the future of the WTO particularly.

The emergence of a multipolar global trading system

A multipolar world exists where there are several centres or 'poles' of great power within the international system. In contrast to the multipolarity of the 19th and 20th centuries however, the 'polarity' of the 21st century is being assessed less on military hard power, and more on global shares of Gross Domestic Product (GDP), competitiveness in global markets, shares of world trade, and potential demographic and economic growth. More than this, whilst power continues to be seen in part as a calculable asset, assessed in terms of economic strength, population (and thus market) size, and technological capabilities of the major economies, it is also associated far more with political influence in systems of global governance. Within the global trading system this has become most apparent within the World Trade Organisation (WTO) where the emerging economies, namely including India, Brazil and China, have asserted an ever-increasing influence over the course of the Doha Round of multilateral trade negotiations. The fact that, by 2025, China and India are expected to have the world's second, and fourth, largest economies respectively, and that the developing economies are likely to outpace both the export and GDP growth of the developed economies by a factor of two or three in the decades ahead, are trends expected to therefore impact not just the wealth, and power, of the world's current global leaders – the United States and EU – but also the global balance of power in political decision-making.

The evolution of the EU's global trade strategy

Since the birth of the WTO in 1995 the EU's global trade strategy has fundamentally altered in response to the changing dynamics of world trade and the global trading system. In 1999 the EU's 'managed globalisation' strategy positioned the EU as the leading power within the WTO, and its main advocate for the launch of new multilateral trade negotiations which would broaden the multilateral trade agenda to establish new rules on trade and investment, competition, procurement, and trade facilitation, whilst reducing bound tariffs and removing non-tariff barriers (NTBs) in traditional trade policy areas such as agriculture, textiles, services, and industrial goods. Further calling a moratorium on all new bilateral and plurilateral trade negotiations, the 'managed globalisation' strategy established the EU as the WTO's champion, and the Doha's Round principle *demandeur*, being largely responsible for corralling the United States and developing world into supporting its launch. By 2003 the Doha Round was however, to experience the first signs of a new found assertiveness by the emerging economies, and a resultant stagnation in the WTO's multilateral trade negotiations. With ongoing disagreements over the very modalities that the Doha Round negotiation agenda should adopt - along with increasing entrenchment of the diverging stances of developed versus developing nations - the Doha Round was, by July 2006, suspended.

In what must be recognised as a pragmatic response to the impasse within the Doha Round, in 2006 the EU re-evaluated its global trade strategy. With the EU's efforts within the Doha Round proving ever more costly, and in further reaction to the United States' own aggressive pursuit of numerous regional and bilateral preferential FTAs with key partners, the Global Europe strategy brought a close to the EU's moratorium on bilateral and regional preferential trade agreements, and reopened the EU's pursuit of its trade interests beyond the forum of the WTO. Global Europe further signalled a shift in the EU's policy towards the emerging economies. No longer accepting their development status as reason for non-reciprocation of trade concessions within the Doha negotiations, and further recognising that the rising powers were combining their high growth with high barriers to EU exports, the EU raised its demands in expecting the emerging economies to take on greater responsibility in favouring market openness and to give Europe 'something in return'.

However, with continued stalemate preventing progress within the Doha Round, the impact of the 2008 global economic crisis, and with a new Trade Commissioner, Karel de Gucht, taking the helm at DG, the EU again re-evaluated its global trade strategy. Launched in November 2010, the TGWA strategy was a response to several factors. First, the economic crisis resulted in weakened demand for European products and enhanced the EU's reliance on growth through trade, and exports particularly. Second, projections showed that developing and emerging countries would

account for nearly 60 per cent of world GDP by 2030, and with 90 per cent of world growth being generated from outside of Europe. The TGWA strategy thus placed priority onto securing the EU's growth and competitiveness in a changing world, with particular emphasis on securing better access for EU products in traditional markets, whilst broadening its reach to access new markets as well.

In 2013 a Commission policy communication entitled Trade, Growth, and Jobs, made in contribution to a European Council debate on the same topic, further honed the EU's global trade strategy. This document set out the EU's prioritisation of ambitious trade negotiations with advanced economies, including the United States and Japan, 'anchoring' the large emerging economies into the global trading system through evenly shared global-responsibilities and reciprocation, and through the pursuit of a 'realistic' agenda within the multilateral trading system..

With the new Juncker Commission in office since the beginning of November 2014, Celia Malmström has taken up the helm at DG Trade. With this new appointment DG Trade shall again be conducting a period of reflection on its trade agenda moving forward and its strategic outlook in dealing with today's global trading system. The Foreign Affairs Council, at a meeting of its Trade Ministers on 21 November 2014, has since further invited the Commission to 'consider updating its strategic document on 'Trade, Growth and World Affairs'' in order to come back to them within an appropriate timeframe.

POLICY IMPLICATIONS

The EU's TGWA strategy and subsequent Trade, Growth, and Jobs policy communication signified a major step forward in the EU's response to new powers in the global trading system and which has had several important policy implications which the EU must take into account when considering its next strategic update. These include:

1. TGWA deliberately refocused the EU's global trade agenda onto 'new' privileged policy issues including investment, procurement, and services as well as emphasising the broader need to enhance the EU's foreign market access and to overcome regulatory barriers elsewhere. Important to note is that many of these issues are not dealt with under the current remit of the WTO's Doha Round, but have been pursued through bilateral negotiations with key partners (i.e. the United States, China, Japan, Canada, Singapore, India), and in issue-specific plurilateral negotiations within the forum of the WTO (i.e. the Trade in Services Agreement).
2. Whilst the EU continues to stress that the Doha Round remains its 'top priority' and that it is important for the EU's external trade agenda to 'strengthen the multilateral trading system centred on the WTO', the EU has exerted little energy within the Doha Round negotiations since 2008. Whilst it is important to note that the EU cannot be the sole engine pushing for progress within the Doha negotiations – a multilateral negotiation requires that all members demonstrate willingness to find compromise and consensus - the EU nevertheless has an important role to play as the world's largest trading bloc and the foremost champion of multilateralism, if it has the political will to do so. The EU did seek to play a mediatory role in 2011 in an effort to facilitate a compromise between American and Chinese interests on sectoral tariffs in the non-agricultural market access (NAMA-sectorals) negotiations, but it has since adopted much more a back seat. The EU's support and consent remains critical to the progress and eventual outcome of any Doha deal, including any Doha-Lite deal stemming from the Post-Bali Work Package, but the EU's performance within the WTO in recent years has been much more that of a cruiser than a pusher.
3. The Transatlantic Trade and Investment Partnership (TTIP) is at the forefront of EU global trade policy at this time and will continue to be for the foreseeable future. TTIP is however a 'game-changer' for the global trading system. Portrayed by some as a necessary and strategic response to the changing trading order, and one that will in turn kick-start multilateral negotiations, it is, fundamentally, a post-crisis response by the EU and US to defend against

future competitors, shape the future parameters of competitiveness in the global economy, and safeguard against the erosion of shared Atlantic values.

The EU's trade strategy furthermore presents a number of challenges which require due attention in the next five year period. These include the likely efficacy of the EU's ambitious, and far-reaching, negotiation agenda; the sufficiency of its trade strategy in addressing current trade dynamics; and the legitimacy of its approach in terms of global trade rule-making.

Efficacy

The EU's prioritisation of bilateral over multilateral trade negotiations since 2006, and with advanced industrialised countries particularly since 2013, is considered a pragmatic response to the ongoing stalemate and multilateral governance dilemma impacting the WTO. There are still however no guarantees to the EU's Competitiveness-First trade agenda. As the EU's hard-fought FTA negotiation with Canada and the ongoing TTIP negotiations have increasingly proven, the EU's bilateral trade negotiations today are neither simple nor easy. To make the types of gains necessary for enhancing EU growth and competitiveness, the EU must deal at the bilateral level with other equal partners. Its bargaining strengths and capacity to make demands whilst resisting pressure for its own reforms, is therefore much reduced compared to negotiations with weaker or smaller states where the asymmetry of power stands in the EU's favour.

The proliferation of the EU's bilateral and plurilateral trade and investment agenda has moreover meant that, today, the EU is conducting an array of ongoing negotiations spanning a vast global network, including with the USA, ASEAN, Singapore, Malaysia, Vietnam, Thailand, Japan, India, the Andean Community, MERCOSUR, Egypt (dialogue only), Morocco, Iraq (over access to the WTO), Azerbaijan, Kazakhstan, and China. With so many negotiations under way, questions must start to be raised as to the efficacy of the EU's approach. It further flags potential issues of how coherent each of these negotiating agendas are and the extent to which the EU will be able to then consolidate agreements made, particularly if, in the process, it alienates the WTO. Whilst these negotiations do present a substantial potential gain for the EU if concluded (TTIP alone is anticipated to inject €120billion into the EU economy), the EU will nevertheless be required to exert considerable energies if it is to achieve outcomes that it can count a success, and which in fact bolster EU growth and competitiveness.

In the case of the TTIP negotiations the question of efficacy is especially pertinent. Negotiations have already hit a wall of political resistance and normative contestations, with growing concerns over its highly ambitious scope and, until recently, limited transparency. Momentum within negotiations has moreover started to wane, and the window of opportunity for concluding negotiations before the American Presidential election cycle begins threaten progress, not least over regulatory convergence and the Investor-State Dispute Settlement Mechanism.

A core objective of the TTIP negotiations has been the need to find regulatory convergence between the EU and United States. On this issue however, critics in Europe have particularly targeted the notion of TTIP as a 'living' agreement, fearing that it signals a future, pro-business regulatory approach. It is likely that an ambitious TTIP will be equipped with a horizontal chapter defining crosscutting disciplines across numerous regulatory barriers, with extended transparency requirements, and an institutional chapter establishing an independent body that will be mandated to tackle regulatory trade barriers in the future. However, the uncertain scope of the Horizontal Chapter on Regulatory Coherence has generated widespread misunderstandings. While TTIP is likely to host an institutional platform for future trade-related regulatory governance, in the form of the Regulatory Cooperation Council, this has so far been seen as a decision-making regulatory body beyond democratic control, potentially covering both prospective and existing regulatory measures of general application. This uncertainty has particularly fuelled anti-TTIP sentiments in Europe.

Another core TTIP objective concerns investment rules. The aim is to facilitate more private investment across the Atlantic and to develop a transatlantic model for future investment-related trade agreements, especially with the emerging economies. However, the Investor-State Dispute Settlement Mechanism is criticised for granting firms the right to sue governments and demand

compensation if proven that investor rights have diminished, by unfair, illegitimate and disproportionate public policies. It is seen as the irreversible shift from public to corporate power, forcing governments to compensate firms for legitimate public regulations to protect environmental or health interests. The legal process of secret, unaccountable tribunals, whose composition is hampered by conflicts of interests, has further politicised the issue.

In addition, critical efficacy issues are also present over the EU's efforts to conduct free trade and investment agreements with the emerging economies. In the case of China, challenges most notably exist in tackling the missed business opportunities owing to market access and regulatory barriers reported by 45 per cent of EU companies based there. Challenges also exist over the prominence of state-owned enterprises, unequal access to subsidies, and with serious questions over the adequacy of China's intellectual property enforcement. In the EU's ongoing negotiations with India and Brazil/MERCOSUR moreover there remain no clear signs of progress despite their longevity, particularly in addressing non-tariff barriers. In the case of India especially, this includes quantitative restrictions, import licensing, mandatory testing, certification for large quantities of products, and lengthy customs procedures.

Sufficiency

Events and economics move quickly in global trade and the TGWA strategy is already showing signs of being insufficient to the current trade climate. Launched in 2010 when achieving EU recovery from global recession was a critical driving factor, TGWA was crucially about surviving crisis. Since then the politics of global trade governance has shifted dramatically. TTIP has itself produced a knock-on effect for global trade governance; spurring on other mega-regional negotiations, diverting energy, momentum, and political will away from the WTO, and raising criticisms of the EU and United States as seeking to re-establish their former co-hegemony of the global trading system.

The EU's Trade, Growth and Jobs communication by the Commission to the European Council in 2013 has provided an important update to the TGWA strategy, and is a formal policy document reflecting on several of these issues. Importantly it does also engage with crucial questions of the EU's place in global value chains and in 'value generation', particularly in services where the EU is especially well placed, and in setting out specific steps forward for the EU in dealing with key trading partners at the multilateral, plurilateral and bilateral levels. This document does also require updating however, particularly with reference to developments, albeit limited, within the WTO. Most crucially this includes reference to and consideration of the WTO's Bali Agreement from December 2013 and the WTO's new focus onto 'early harvest' deals rather than the single undertaking. It further set out a new 'post-Bali work programme' which the EU has given its support to but which has thus far made limited progress. The document moreover presents no clear EU policy or agenda for addressing the future of the WTO, or how TTIP and the EU's other negotiated agreements will explicitly complement multilateral trade liberalisation. It is also important to note that the EU has not established a Reflection Group on the Future of the WTO, as set out in its 2010 TGWA strategy, and which has not been referenced either within the Trade, Growth, and Jobs communication or in the Foreign Affairs Council's own deliberations on the EU's trade agenda on 21 November 2014.

Legitimacy

The EU has consistently emphasised that its pursuit of trade liberalisation in bilateral and plurilateral trade and investment agreements is complementary to multilateralism and can help kick-start negotiations within the WTO – indeed signalled by the framing of TTIP regulatory issues as 'WTO+'. This has not however, been translated into any explicit effort to reinforce the role of the WTO as the legitimate trade legislator within the global trading system. More pressingly, there has been no clear signal by the EU that it has either considered or will look to address, the external legitimacy of TTIP in terms of clarifying its global economic effects, in ensuring greater transparency, or the need to safeguard the ongoing and legitimate role of the WTO.

It is correct that the EU should now consider an update of its trade strategy for the next five year period of the Europe 2020 Strategy. This update should explicitly draw upon the Trade, Growth and Jobs communication from 2013, along with recommendations from the November 2014 Foreign Affairs Council, but go further in updating its agenda to encompass more recent developments with the United States, Japan, China, and within the WTO. Such a refresh should particularly consider:

1. A balanced, multi-level, and time-aware strategy

The EU should outline the need for a clear balanced, coherent, multi-level, and time-aware approach to the EU's negotiating agenda moving forward. This is evident to a certain extent within the EU's Trade, Growth and Job 2013 communication but should be updated for the new Commission. As the Doha Round has demonstrated, negotiation agendas can soon be outdated. A balanced prioritisation of the TTIP negotiations alongside the WTO's Post-Bali Work Programme should be addressed first and foremost.

2. Progress in TTIP

In the case of TTIP urgent clarification of the mandate of the proposed Regulatory Cooperation Council is required. It should be stressed that the Regulatory Cooperative Council holds the potential of raising the transparency level of business-regulators interaction, and of improving the political oversight capacity of the TTIP implementation process. Its decision making capacity must therefore be carefully crafted and specified. It is also imperative to clarify the procedural rules of the envisioned chapter on investor rights in the TTIP. A hybrid model of an investigatory panel process open to private claims and a state-to-state Appellate Body can perhaps bridge this polarised debate. A roster of pre-selected panellists serving in an independent capacity should be established along with the creation of a permanent Appellate Body.

3. The Doha Development Agenda

Whilst the EU cannot be a sole engine driving forward the WTO, it does remain the Doha Round's principle *demandeur* and the world's largest trading bloc. It should not sit on the side-lines if it is also to expect results. It requires to translate its policy rhetoric into activity. The EU must therefore demonstrate a genuine willingness to actively reengage in the Doha Round's Post Bali Work Programme.

Whilst broad-based single undertakings represent the best case scenario for multilateral trade negotiations, enabling all players to achieve a positive sum outcome, they are unrealistic in an emerging multipolar global trading system. The EU should therefore consider means of achieving its trade interests through smaller, more definitive, multilateral trade deals or, as a second best solution, in the pursuit of plurilateral 'coalitions of the willing' within the WTO.

4. Governance and the WTO

The EU must critically revisit its governance approach towards global trade-rule making. The WTO is not unfit to govern globalised trade but it needs updated rules to ensure that it remains a vital forum for countering the formation of rival trade blocks. The EU must consider ways and means by which to live up to its own multilateralist principles to reinforce, support, and strengthen the WTO moving forward.

Fulfilling the EU's objective of setting up a Reflection Group on the Future of the WTO, as detailed in its TGWA Strategy, should now be reconsidered as a point of priority for the EU's new trade strategy. Such a group should pay particular attention to: (1) how the emerging economies are represented, and treated within the WTO, particularly with regards principles such as Special and Differential Treatment and Less Than Full Reciprocity; (2) the upgrading of China's WTO status to full member rather than Recently Acceded Member; and (3) considering mechanisms for ex-post analysis of the economic effects of FTAs within the WTO.

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FURTHER READING

All working papers, policy briefing papers and other publications are available on our website: www.greenfp7.eu/papers