‘RESHAPING THE GLOBAL ECONOMY IN ITS OWN IMAGE? THE EU, GROWING BILATERALISM IN THE INTERNATIONAL TRADE ARENA, AND THE IMPLICATIONS FOR POORER DEVELOPING COUNTRIES’

Adrian Flint

University of Bristol

© Adrian Flint

School of Sociology, Politics and International Studies

University of Bristol

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Adrian Flint is currently Lecturer in Development Politics at the School of Sociology, Politics and International Studies/University of Bristol. His main research interests lie within the field of North-South relations and include issues such as global trade, poverty alleviation, sustainable development, HIV/AIDS and European Union development policy. His most recent monograph, "HIV/AIDS in Sub-Saharan Africa: Politics, Aid and Globalization," was published by Palgrave Macmillan in 2011. He can be contacted at Adrian.Flint@bristol.ac.uk
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Adrian Flint
University of Bristol

Abstract:
This paper analyses the ongoing shift in the international trading system away from the multilateralism espoused by the WTO to a system governed increasingly by bilateral ‘free trade’ agreements. In particular, the paper addresses the implications of the aggressive imposition of the EU economic template that forms part of this particular trend and the potential implications of this for poorer developing countries within the global trading system. While the ongoing failure of the Doha Round talks has, in some respects, demonstrated the growing influence of developing countries within the institution, the stagnation of the WTO has opened up the space for economic powers like the EU (and the US) to act far more unilaterally – and assertively – with respect to trade issues. So, perversely, just as developing countries have achieved a bigger collective voice within the WTO, they have arguably lost power outside its confines. Rather than a rules-based multilateral forum for global trade, we are now increasingly seeing a return to power politics. It is argued that if poorer developing countries are to retain any momentum in determining the rules of the international trading system, then it is imperative they take the lead in reinvigorating the WTO.

Keywords: European Union, WTO, Doha Round, Developing Countries, Free Trade Agreements

This paper considers the growing influence of the EU in shaping the international trade arena, and the effect of related EU policies on the ability of poorer developing countries to act as agents in defence of their own interests. By way of illustration, this paper addresses, amongst other examples, the longstanding relationship between the EU and the African, Caribbean and Pacific (ACP) bloc, set against the backdrop of an increasingly moribund WTO, and the implication of changes in this relationship for poorer countries within the confines of the global economy. The tenth anniversary of the start of the Doha Round rolled by in November 2011. The negotiations, scheduled for completion in 2005, have collapsed at regular intervals, and, at the time of writing, continue to appear irresolvable. In part, the failure of Doha can be seen as a victory for the growing power of developing
countries no longer prepared to be dictated to by the EU\textsuperscript{1} and US on matters of international trade. However, while successful in this respect, developing countries need the Doha Round to succeed because, rather than the prospect of a rules-based international system negotiated in an open forum (however flawed), developing countries are now increasingly faced with the alternative spectre of old-fashioned power politics. The ongoing failure of multilateralism has opened the door for muscular bilateralism. What the EU and US have not been able to achieve inside the WTO, they have sought increasingly to secure through Preferential Trade Agreements (PTAs).\textsuperscript{2} Issues that for developing countries have proven intractable within the WTO negotiations – for example, rules governing investment, services, environmental and labour standards, and intellectual property rights – are instead being forced on them by way of PTAs, the majority of which are WTO+ and WTO-x.

While the US has garnered the most column inches for its aggressive approach to the negotiation of PTAs with developing countries, especially with respect to matters of intellectual property rights, the EU has been rather more quietly engaged in similar negotiations of its own. The difference is that while US enthusiasm for bilateralism in trade is relatively new, the EU’s preference for such an approach dates back to the founding of the Community. Moreover, signs of enhanced hegemonic tendencies in the trade arena are becoming increasingly evident as the EU attempts to deploy a more global approach where its international affairs are concerned. While it is sometimes difficult to establish a clearly defined or unified model of world order as advocated by the EU, attempts at the regulation of global values by way of bilaterally negotiated trade agreements are clearly visible. Far from being purely economically predicated, these agreements are heavily political (Piening 1997; Canterbury 2009, 2010). Through the ‘hegemonic harmonization of regulatory policies’ (Lawrence cited in Baccini 2010: 198), the EU has become increasingly focused on capturing the global regulatory environment and the propagation of accompanying norms. This ‘soft power’ approach to expanding its global influence as an international actor is unsurprising, given both the nature of EU integration and the EU’s status as something more than an intergovernmental organisation and something less than a fully fledged state (Piening 1997). The EU approach is based largely on ‘cookie-cutter’ expansion. It works from an established, albeit flexible, template that facilitates the duplication of established European practice. That the EU has been successful in this
regard is reflected in the growing unease in Washington itself over the scope of the former’s ambitions.

It is clear that the failure of multilateralism has opened up space for the EU to establish itself as a far more dynamic international economic actor. However, while the jury remains out as to the benevolence or otherwise of the EU’s mounting ambitions – with critical theorists like Dennis Canterbury (2009, 2010) going so far as to describe the EU approach as ‘European bloc imperialism’ – it is far from obvious whether the ongoing recourse to bilateralism in trade negotiations is in the best interests of either poorer countries or the global economy more generally. Accordingly, and especially when the interests of poorer developing countries are under consideration, the now bifurcated nature of the international trading system must be the starting point for any comprehensive analysis of the state of global trade.

**Multilateralism versus bilateralism: the fault lines**

The literature outlining the value of multilateralism versus bilateralism in promoting freer trade and, more importantly, associated welfare gains, is both well trodden and has a relatively long pedigree that can be traced back at least as far as the post-War work of Jacob Viner (1950), James Meade (1955) and, later, George Bronz and Joseph Gold (1960), and Kenneth Dam (1963), all of whom evaluated the potential impact of PTAs in this regard. For much of the period to the 1980s this debate tended to be focused largely on the EU and its associated partnerships (see for example Segal 1964; Feld 1965; Van der Lee 1967; Hutton 1974; Twitchett 1974; Gruhn 1976; Zartman 1976; Twitchett 1978; Shaw and Newbury 1979). It was only in the 1980s which, with the stalling of the GATT process after the completion of the Tokyo Round, and the US’ search for alternatives to multilateralism, that the current focus on multilateralism versus bilateralism in a more global sense began to emerge. The negotiations that culminated in the signing of the North American Free Trade Agreement (NAFTA), together with the reinvigoration of the EU integration process (Treaty on European Union), fuelled a number of important works (see for example Krugman 1989; Bhagwati 1990; Panagariya 1993). The bulk of this literature pertained to ‘building block’ versus ‘stumbling block’ arguments with respect to freer trade. However, the ‘abundance of unfettered’ PTAs (Walsh
that were negotiated in the wake of the failure of the Doha Round served to shift the focus of the debate. It became increasingly clear that PTAs involving developed and developing countries were about more than just trade, concerned as they were with new forms of global regulation and international norms (see for example Maur 2005; Whalley 2006; Morin and Gagné 2007; Baldwin 2008, 2011a, 2011b; Flint 2008a, 2009). This in turn required an alternative understanding of the mechanisms of PTAs.

As Doha continued to hover, in Indian trade minister Kamal Nath’s phrase (cited in Green 2006), ‘between intensive care and the crematorium’, proponents of multilateralism attempted to go on the offensive (for example Sutherland Report 2004; Bhagwati 2008; Bhagwati and Sutherland 2011). In terms of this literature, bilateralism would appear to offer developing countries relatively little; the paradox, then, of the apparent failure of multilateralism with respect to trade is perplexing. Arguments attempting to explain the ‘lateralism paradox’ (Morin and Gagne 2007) vary, from the ‘medieval’ nature of the WTO (Lamy cited in Wolfe 2007) to problems with respect to plurilateral approaches to negotiations in international forums (Sutherland Report 2004), debates on the value of the single-undertaking approach to Rounds (see Wolfe 2007, 2009), the significance of power asymmetries in successful negotiations (Salacuse 2004; Sauvé 2006), and ‘domino theories of regionalism’ linked to classic ‘prisoners’ dilemma’ debates (Baldwin 1993). However, it is the suggestion that a lack of ‘sufficient’ power asymmetries might preclude ready decision-making that forms the basis for much of the enquiry outlined below.

The EU as a global actor

The EU’s role in the post-2000 proliferation of PTAs is important with respect to the above in that the EU forms more than simply a case study in debates surrounding multilateralism versus bilateralism in the international arena. As arguably the main driver of bilateralism, and its accompanying capture of the trade agenda, the EU is well positioned to shape the international economy for decades to come. Yet despite this, the EU tends to ‘fly beneath the radar’ in international affairs, being, in effect, only a ‘partial superpower’ (Hill and Smith 2006); its capacity to mould the international environment is therefore often underappreciated.
The EU makes much of the fact that it is, collectively, the world’s largest aid donor, providing nearly half of all official development aid meted out between 2004 and 2010, and dispensing nearly €54 billion in development aid in 2010 alone (EU 2011). However, the EU’s ‘nice guy’ image (Marsh and Mackenstein 2007) in international affairs is a necessity rather than a policy choice, given the limited foreign policy tools available to it; notably, its lack of ability to employ coercive military power. That this is so has arisen as a result of the EU’s tortured process of integration, which has spawned an actor capable of exercising significant international authority in some sectors but not in others. Despite concerted efforts within the EU, ambitions for a common foreign policy and a unified position on foreign affairs continue to flounder against the rock of ‘high politics’. It is unsurprising, therefore, that the EU’s institutions have sought to expand their influence, instead, into the spaces afforded them by virtue of the EU’s domination of the ‘soft politics’ agenda of its member states – sectors like trade, development, and environmental sustainability (Flint 2008a, 2008b). This expansion is essentially a ‘spillover’ effect, in the neofunctionalist sense, of economic integration. Trade and development policies thus constitute the heart of effective EU attempts to assert itself in international affairs; in this regard, it has been extremely successful.

While it is often difficult to point to a unified vision of world order as advocated by the EU, a logic underpinned by the defining and cementing of a global system of values by way of bilaterally-negotiated trade agreements is clearly visible, and has been from the earliest days of the EU. Given that its commitment to a development agenda based largely on trade facilitation was articulated as far back as the Treaty of Rome (1957), when French demands ensured the development of a ‘special relationship’ (Flint 2009) between the newly formed European Economic Community and countries tied to Europe through colonialism, it is unsurprising that ongoing engagement with developing countries has provided the basis for much of the EU’s rise to prominence as a global actor, both in the international economy and within international affairs more generally.

The relationship between the EU and the former colonies of its member states was formalised in 1963 with the signing of the association agreement in Yaoundé between 18 newly independent francophone African states and the EU. The agreement, subsequently renegotiated, was operative between 1963 and 1969 (Yaoundé I) and between 1969 and 1975 (Yaoundé II). It now offers an early
view of EU ambitions lying beyond its own borders. What is clear, from an examination of these agreements is that, from the outset, the EU was attempting to shape aspects of the global economy along its own lines and in step with its own economic evolution. The Yaoundé conventions actively encouraged the formation of regional partnerships amongst the signatory countries and had, as an eventual goal, the aim of moving towards the establishment of free trade zones between the signatories (Feld 1965; Van der Lee 1967; Twitchett 1974). While the negotiation of free trade zones proved difficult – and was subsequently temporarily derailed when Britain was finally admitted to the EU in 1973, bringing with it its own former colonies (see below) – recent developments, post-1995, demonstrate the longevity of the EU’s ambitions in this regard, which are now finally coming to fruition.

The end of the Cold War meant that, from a strategic perspective, the EU was able to broaden its focus to include countries and regions that lay beyond its traditional sphere of influence. Markets and trading partners in Eastern Europe, long cut off from the EU by the iron curtain, now became accessible. The EU’s commitment to its near neighbours was confirmed in 2004 when ten mainly former communist bloc countries became members of the Polity, swelling its membership to 25, and again in 2007 with the accession of Bulgaria and Romania. Moreover, the end of the Cold War also served to open up other regions to European interests. Latin American countries, during the Cold War lying largely within the US sphere of interest, entered into a variety of arrangements with the Polity, including an association agreement between the EU and MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) in 1996 and a EU-Mexico free trade agreement in 1999. Negotiations for a EU-MERCOSUR free trade agreement are underway (despite having been suspended for a number of years). The EU is similarly attempting to extend its influence in Asia, expanding on a cooperation agreement signed with the Association of South East Asian Nations (ASEAN). In short, since 1989 the EU has become a global actor with global ambitions.

**Establishing an EU trade agenda**

The EU’s relationship with the ACP countries, post-2000, can be understood as having provided a platform for the development of norms and values consistent with EU ambitions within the
international trading regime. It took some time to arrive at this point as, despite demands in the 1960s for free trade zones and reciprocity in trade relations with its former colonial territories, by the mid-1970s the EU had seemingly lost control of the agenda. When Britain was finally admitted to the EU in 1973, it was clear that a new agreement would need to be negotiated with the Yaoundé signatories in order to accommodate Britain’s Commonwealth interests. At the time, commentators (see for example Hutton 1974; Twitchett 1974) believed that an association agreement resembling Yaoundé would be the most likely outcome of any negotiations. Yet to the surprise of the EU, when talks began in July 1973, the African, Caribbean and Pacific countries invited to negotiate association agreements with the EU, encouraged by amongst others Nzo Ekangaki, the Secretary-General of the Organization of African Unity (OAU), decided to negotiate as a bloc rather than in regional groupings as originally envisaged (Hall and Blake 1979). Ekangaki called for a ‘United Africa to deal with a United Europe’ (cited in Gruhn 1976: 250). This show of unity led to the formation of the African, Caribbean and Pacific group in June 1975, when 46 developing countries signed the Georgetown Agreement. That these countries chose to negotiate an association agreement as a single group significantly bolstered their leverage during the talks.

The ACP group, buoyed by European fears of commodity shortages, Cold War geopolitics, and prevailing trends like the New International Economic Order, rejected much of the EU’s original template for cooperation. The resultant convention, Lomé I, offered ACP countries a number of favourable concessions. Writing in Foreign Affairs soon after the agreement was signed, William Zartman (1976: 332) noted how the ‘African states have clearly improved the terms of their relationship with Europe; over 15 years they have demanded and received more and more favourable provisions and the European signatories have received less and less in return’. EU demands for reciprocity and free trade zones inherent in earlier treaties like Yaoundé were dispensed with in favour of non-reciprocal tariff preferences for ACP countries, something not originally contemplated by the EU as this would have been a breach of the GATT (Twitchett 1974). Furthermore, the EU introduced compensation mechanisms in order to help offset commodity price instability. Despite clear asymmetries in power, by negotiating in concert, the ACP was able to effect an agreement that reflected its perceived needs and priorities. There was little or no conditionality, and ACP members
were free to formulate their own economic policies without undue outside interference. However, the
debt crisis of the 1980s, the collapse of world commodity prices, and the end of the Cold War steadily
eroded ACP gains and accompanying bargaining power, with the result that by 2000, the EU had
reclaimed the agenda.

The official explanation for the change in the EU’s dealings with the ACP countries was
ostensibly Lomé’s incompatibility with the international trading regime enshrined in the GATT and
later the WTO. The Lomé regime found itself under sustained pressure from 1994 onwards when a
GATT Panel ruled that the non-reciprocal elements contained within the convention, as well as its
discriminatory nature, meant that it was incompatible with the multilateral trading system.
Consequently the final incarnation of the Lomé regime, Lomé IV-bis (1995-2000), required a WTO
waiver before it could be implemented. The GATT Panel’s findings provided legal cover for the EU’s
insistence on an agreement more in line with its original vision (Flint 2008a).

The replacement for Lomé, a new partnership agreement, was signed in Cotonou, Benin, in
2000, and set out the blueprint for future ACP-EU relations. While WTO rules do not allow for non-
reciprocal agreements, they do allow for PTAs, including agreements between regional economic
blocs (Regional Trade Agreements or RTAs). It was for this reason that the EU chose to build its post-
Lomé strategy on regional integration. Article 35 of the Cotonou Agreement stressed that ‘economic
and trade cooperation shall be built on regional integration initiatives of ACP states, bearing in mind
that regional integration is a key instrument for the integration of ACP countries into the world
economy’. The proponents of increased cooperation maintained that, in addition to attracting
additional investment, increased regional integration would provide the ACP countries with
economies of scale and increased competitiveness. Furthermore, the new regime created a degree of
consistency and coherence in EU external relations more generally, the new treaty being broadly
consistent with EU blueprints outlined in the Copenhagen Conditions (1993) and the Barcelona
Process (1995), which were directed at EU relations with Eastern Europe and the Mediterranean
countries respectively.

PTAs and Article XXIV of the GATT

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Importantly, the Cotonou agreement, although capable of ensuring WTO-compatibility, also enabled the EU to include a host of other trade-related (and even non-trade-related) provisions. The loophole that allows for PTAs within the WTO system is a contentious one, the implications of which were never considered adequately by its framers due to the fact that such agreements appeared, to them, to be poor value compared to the most-favoured-nation (MFN) approach. Indeed, up until 1990, this appeared largely to be the case, with just 70 agreements in force at that time. Yet, as of May 2011, there were 489 PTAs notified to the WTO, of which nearly 300 were in force (WTO 2011), up from a mere 183 in force in 2006. PTAs now cover nearly half of all trade flows (Baldwin 2011b) and account for up to 80 percent of rules regulating global trade (Horn et al. 2009). Expressed as an average, each WTO member is party to 13 PTAs (Rocha and Teh 2011). Critically, when assessing the proliferation of PTAs over the past two decades, especially in the light of concerns regarding trade diversion and ‘building block’ versus ‘stumbling block’ debates, only 16 percent of world trade still qualifies for preferences, meaning that the remaining 84 percent is covered by MFN principles (Carpenter and Lendle 2010). Accordingly, the concern for opponents is that PTAs cover far more than just traditionally-conceived impediments to free trade.

Article XXIV of the GATT, which makes allowances for free trade areas and customs unions, is, to put it mildly, rather vague, making as it does references to ‘substantially all trade’ and ‘reasonable’ periods of time. As a result, terms like ‘substantially’ and ‘reasonable’, in a GATT/WTO context, have generated reams of analysis, interpretation and recommendation (see for example Frank 1960; Dam 1963; Evans 1968; Walsh 2004; Chase 2006; Bhagwati 2008). With the signing of the Treaty of Rome in 1957, the EU became the first such agreement notified to the GATT, this despite the fact that it was unclear as to whether the EU satisfied the conditions set out for regional groupings in Article XXIV (Dam 1963). The fudging of the EU’s position subsequently opened the door for further PTAs that, while compatible with the GATT framework, arguably did not fully satisfy its conditions. Furthermore, vague as the Article XXIV wording is, critics nonetheless complain that the rules as they stand are insufficiently enforced (for example Chase 2006). In response to concerns regarding the ambiguities of Article XXIV raised during Uruguay Round negotiations, a Committee on Regional Trade Agreements was established to monitor PTAs notified to the WTO. However,
infighting and a lack of consensus meant that the Committee struggled to operate effectively. The result is that the rules governing PTAs continue to remain opaque.

**The sudden proliferation of PTAs**

However, opacity aside, part of the ‘lateralism paradox’ (Morin and Gagné 2007) and the current proliferation\(^7\) of PTAs is arguably down to the fact that, for developed countries, the WTO is still mired in negotiations that are more suited to a previous age; the pace of change in global trade has left much of the Doha process behind and, as a result, developed regions have grown impatient. As Richard Baldwin (2011a) points out, the rules governing the international economy were last agreed when Bill Clinton was in office and, even then, these looked back to the needs and concerns of the 1980s rather than towards the twenty-first century. The truly global development of international supply chains, facilitated by rapid advances in information technology has created unforeseen problems, notably how best to regulate a global system of investment and production. Issues such as enhanced protection of intellectual property rights, competition policy, movement of capital, and investment assurances are all-important facets for sectors engaged within these supply chains. So-called ‘behind the border’ issues such as infrastructure and local regulatory environments (for example those covering SPS and TBT)\(^8\) are now also increasingly key considerations. Agreement has proved difficult and, as the literature on regulating investment suggests (see for example Salacuse 2004; Sauvé 2006; Morin and Gagné 2007), the relative simplicity of negotiating bilateral agreements has ensured their proliferation.

Accordingly, the WTO is in danger of becoming irrelevant – even the anti-globalisation movement appears to have lost interest in the institution, with the police battles, rioting and teargas that epitomised summits like that of Seattle in 1999 now seemingly part of history. From a developing country perspective, this is potentially dangerous, and the changing nature of the international trading system shows why this is so. What is left, then, are the two main concerns that (1) PTAs ultimately lead to protectionism, which is in turn inimical to a broader system designed to generate freer trade and (2) PTAs are less about trade and more about developed countries imposing their desired systems of regulation on the global system.
The interwar years highlighted the dangers of a trading system dominated by bilateralism, leading as this did to an approach based on beggar-thy-neighbour policies that did much to ferment conflict, both economic and, subsequently, military. In an attempt to prevent a recurrence, the designers of the post-War economic blueprint were determined to build a system based on MFN trading principles. Alongside proposals for the establishment of the World Bank and International Monetary Fund, the Bretton Woods negotiators proposed an International Trade Organisation (ITO) that would work to regulate international trade. However, the agreement failed to pass the US Congress for fear that it would be too intrusive and the GATT, which had been negotiated in 1947, served as an alternative forum from then onwards. While the US had prevented the establishment of the ITO, it was an enthusiastic promoter of the GATT process, being the key force driving the process forward. It was only after general enthusiasm for the GATT process waned in the wake of the completion of the Tokyo Round in 1979 that the US, unable to force a new round of negotiations, began to look to bilateralism as a way to break the deadlock.

The US has subsequently viewed bilateral approaches, often built on PTAs with regional groupings, as being complementary to the WTO agenda. US enthusiasm for PTAs stems from the belief that the latter engender the convergence of circles of free trade; they act as building blocks in the shift towards freer trade within a more integrated global economy. This is a view that is not universally shared. Jagdish Bhagwati (1990) and Paul Krugman (1989), writing in the dawning days of ‘Big Think Regionalism’ (Baldwin 2008), were early sceptics, arguing that any trade system based on preferential agreements was bound to be a ‘stumbling block’ to increased multilateralism, and maintaining that the latter are inimical to the principles of non-discrimination and reciprocity. It was the view that, while a multilateral system was by nature inclusive, bilateral agreements were by definition exclusive. Bhagwati has steadfastly maintained this position over the last two decades, describing the current ‘outbreak of regionalism’ (Bhagwati 1990: 1305) as a ‘pox on the world trading system’ (Bhagwati 2008: 15). His 2008 analysis of the effects of bilateral agreements on world trade, *Termites in the Trading System*, makes plain his enduring scepticism as to the value of such an approach in fermenting freer trade. His now ubiquitous analogy of the global trading system as a ‘spaghetti bowl’ of overlapping preferences, rules of origin, and discriminatory tariffs encapsulates...
neatly the fears of those who maintain that PTAs create pockets of protectionism rather than an open global economy (Bhagwati 2008). In Bhagwati’s view, the spaghetti bowl system results in distortions in trade and investment flows, the net effect being trade diversion rather than trade creation, which can be welfare-reducing even to the members concerned (Bhagwati and Sutherland 2011). Furthermore, particularly when developed countries are involved, associated asymmetries in power mean that PTAs are more likely to be poor value for developing countries compared to the potential gains on offer from a multilateral forum like the WTO.

However, the evidence against PTAs is not entirely clear cut. Antoni Estevadeordal et al. (2008) argue that such agreements can indeed act as building blocks rather than stumbling blocks, leading to an overall decrease in tariffs, even for third countries. They argue too that, at times when progress in multilateral forums like the WTO has stalled, PTAs keep the process moving; they produce a ‘complementary effect’ (Estevadeordal et al. 2008). They complain that too much of the debate surrounding PTAs is theoretical and lacking in empirical evidence. They note, for example, that the formation of the European Economic Community led to a drop in external tariffs, as did the creation of PTAs in Latin America. Baldwin (2011b) also points to the fact that global tariffs have fallen by 5 percent since the mid-1990s – at a time when PTAs were (and are) proliferating. However, while this may be the case in some instances, there do appear to be caveats, namely when the goals of PTAs are not necessarily solely trade-related. The majority of PTAs currently being negotiated by the EU and the US are WTO+ (provisions which are covered by the WTO but which go beyond current prescriptions), or even WTO-x (provisions that are not actually covered by the rules of the WTO). Examples of WTO+ relate to matters such as more stringent intellectual property rules, tariff cuts beyond that which is required, and rules surrounding investment, competition, public procurement and services. WTO-x provisions, on the other hand, cover aspects such as investment, environmental and labour standards, corruption and elements of ‘good governance’. An examination of EU and US PTAs currently notified to the WTO shows that these agreements all contain a significant proportion of WTO+ and WTO-x provisions. While both cover WTO+ aspects in their respective agreements, it is the EU that leads the way in incorporating WTO-x elements (Horn et al. 2009). While it can certainly be argued that much of that which is covered under the EU’s WTO-x provisos shows evidence of a
lack of legal enforceability (Horn et al. 2009), those that are enforceable are focused on regulatory frameworks. The EU, by way of bilateral negotiations, has gone some way towards capturing the global trade agenda and thereby the monopoly on the establishment of new norms for the international economy.

Evidence that these bilateral negotiations are not always perceived to favour developing countries can be evinced from cases in which the latter tend to confine themselves to market access issues only when seeking to form South-South agreements, as in Latin America (Bhagwati 2008, Estevadeordal et al. 2008). Problematically for the ACP, the regional sub-groupings which form the basis for the ACP-EU economic partnership agreements are based not on a freely negotiated South-South model but upon imposed European standards. The regulation agenda is something that is never articulated as such, but its impact for developing countries is both significant and something of which the EU is well aware, given the ACP’s reticence concerning the Cotonou process (see for example Flint 2008a, 2009). In effect, the failure of Doha has created an opportunity for an actor like the EU to reshape the global trading regime.

**An international trading system moulded by the EU**

The EU is party to, and currently engaged in negotiating, an extensive network of PTAs that is almost global in coverage. Its agreements with the ACP countries have been noted above. Other regions include Latin America (the EU has trade agreements with the Central America Association Agreement, Peru and Colombia, Mexico, and Chile, and is currently negotiating an Association Agreement with MERCOSUR), Asia (the EU has free trade agreements with India, Singapore, South Korea, and Malaysia, and has an eye to bringing other Asian members, through talks with ASEAN, into the fold), the Mediterranean (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Tunisia, and Turkey have all signed Euro-Mediterranean Association Agreements), and North America (negotiations with Canada are ongoing). The extent of the EU’s success in seizing the trade agenda has begun to cause concern in the US (Ahearn 2011). While Washington was previously content for the EU to busy itself with the negotiation of trade agreements with what the US perceived to be economically unimportant groupings, like the ACP, the current shift to targets in North, Central
and South America, together with countries in Asia like South Korea, has given pause for thought. That business interests in the US have become increasingly concerned with the potential loss of market share in such regions is a clear indication that the EU is now viewed as setting the pace where the international economic environment is concerned.\textsuperscript{9}

While trade negotiations are usually contested and contentious affairs, and some of the PTA negotiations listed above have been little different in this respect, the nature of ACP-EU relations has brought the asymmetries in negotiating power between the powerful and the less powerful into sharp focus. These negotiations emphasised the vulnerability of developing countries when deprived of the ability to band together effectively. By insisting on negotiating PTAs with regional groupings of ACP countries (described as Economic Partnership Agreements or EPAs) rather than the bloc as a whole, the EU has been able to overcome the resolve shown by the ACP in 1975. Post-2000, ACP-EU negotiations have, in many instances, been characterised by acrimony and accusations of bullying (Flint 2008a). A declaration by the ACP Council of Ministers in 2007 deplored ‘the enormous pressure that has been brought to bear on the ACP states by the EU, contrary to the spirit of the ACP-EU partnership’. African trade ministers, meeting in Addis Ababa in 2007, urged the EU to note that the level of preparedness necessary for ACP countries to conclude PTAs was inadequate and requested that ‘in the spirit of partnership’ the EU ‘show flexibility’ with respect to its demands (African Union 2007). That such ‘flexibility’ has not been forthcoming was a source of considerable disquiet and served to emphasise the vulnerability of ACP countries in bilateral negotiations. The EU’s ‘hardball’ tactics have reflected a stiffening of resolve with respect to the shaping of the ACP-EU relationship and a determination to ‘normalise’ what has traditionally been viewed as a ‘special relationship’.

The nature and content of the EU PTAs has prompted ACP members to complain that the EU has come to view PTAs as ends in themselves rather than a means to an end, namely the fostering of economic development. To date only one of the ACP-EU PTAs, that between the EU and CARIFORUM (Caribbean Forum of African Caribbean and Pacific States), has been fully completed. An analysis of the agreement highlights a number of provisions that go well beyond that demanded by the WTO; 13 WTO+ and 14 WTO-x provisions respectively (World Trade Report 2011: 157). That
the treaty includes chapters covering public procurement, competition, investment, trade in services, and e-commerce, as well as environmental standards, and social issues (for example, labour standards) demonstrates the degree to which the EU has succeeded in expanding the terms of its remit with respect to ‘trade issues’ (EU 2008).

Where developing countries are concerned, this is precisely why something must be salvaged from Doha, yet it is developing countries that are partially to blame for the latter’s collapse. It is evident, when one looks at the growing influence of developing countries within the WTO, that this is a far safer environment for developing countries: rules-based not power-based. In debates surrounding the future of the WTO, countries like Brazil, China, India and even South Africa attract the majority of the headlines, but this obscures the fact that many poorer countries have significantly improved their position inside the WTO. Donna Lee and Nicola Smith (2008: 259) argue that some of the delay with regard to Doha can be put down to small state activism, maintaining that ‘through the formation of a range of alliances, small developing states have become central to the process and form of multilateral trade negotiations’ and that by ‘raising their collective game in the WTO, small developing states have shifted from being mere objects of trade talks to being subjects in trade negotiations’. In support, Lee and Smith point to the success of Benin, Burkina Faso, Chad, and Mali in putting US cotton subsidies under the microscope, and to the current ability of blocs like the G20\(^\text{10}\) (which effectively succeeded in crippling the Cancun talks), G90, the African Group and even the ACP, to influence negotiations. While they conclude that asymmetries in power still mean that the EU and US cannot be forced into action within the WTO, developing country activism has meant that the relationship is no longer purely a one-way street. Poorer countries have also been helped by the fact that the WTO negotiations have now taken on a ‘moral’ dimension that privileges development narratives over the demands of developed countries (Wolfe 2007: 6).

Crucially, the WTO allows for smaller countries to coalesce around important issues (for example, as a result of PTA negotiations with the EU, ACP unity might actually be better preserved within the WTO than within its traditional framework). Furthermore, in order facilitate meaningful negotiations, the WTO provides logistical support to poorer countries, helping the latter to develop their technical and administrative capacities. While care should be taken not to overstate the position
of poorer countries within the WTO (Birkbeck and Harbourd 2011) – they remain significantly under-
resourced, capacity is frequently lacking, coalitions are frequently tenuous, and internal asymmetries
within coalitions are clearly evident – their combined voice in multilateral talks has the potential to be
louder than when diffused individually across the PTA global ‘spaghetti bowl’. After all, the
increasing inability of the ACP to operate en bloc against the EU is plain. The loss of the WTO as a
potent forum would undermine all the gains of the last decade made by developing countries within
the institution.

By operating outside of the WTO but still making claims to its rules, the EU, in order to
facilitate its preferred outcomes, has been able to impose its own interpretation of various stipulations
on the ACP. The EU has argued that EPAs must be compatible with the WTO regime, yet, as outlined
above, Article XXIV of the GATT, which covers PTAs, is vague as to the stipulations defining such
agreements. It is the EU’s interpretation of Article XXIV, especially the phrase ‘substantially all’ that
has created a considerable degree of controversy: the EU has determined that ‘substantially all’ trade
should entail a minimum of 90 percent of total trade between parties, a figure that it argues is
defendable within the WTO.11 ACP countries in West and Central Africa have argued for a lower
figure, given the fact that, as the EU together with the 77 ACP states forms such a considerable bloc
within the WTO, a lower figure would be perfectly defendable (Bilal and Stevens 2009). However,
the EU can ignore calls for flexibility because it has, by way of negotiating regional PTAs,
undermined the unity of the ACP bloc that proved so influential in 1975.

Saving Doha (and the WTO?)
If the WTO model is seemingly the best means of ensuring trade-related welfare gains for developing
countries, why have the Doha negotiations proved so intractable? Proponents of the WTO process
argue that Doha is actually nearly complete and that there is agreement on approximately 80 percent
of the agenda (Pangestu 2011). Furthermore, they argue that even an agreement based simply on that
which was agreed at the time that negotiations were suspended in 2008 would provide significant
gains for the global economy (Deutsch 2011). Importantly, an agreement would lock in liberalisation
measures and help to preclude a return to protectionism. Hufbauer et al. (2010) estimate that a Doha
deal based on what has already been agreed, together with some form of agreement on services and manufacturing, could lead to global GDP gains of close to $300 billion. While this figure – already based on an optimistic scenario – is significant, it is, in many respects, not sufficiently significant to generate the necessary political excitement. For example, for the EU and US, gains would be modest and Doha would prove a ‘tough sell’ to their respective publics, particularly in the face of special interest opposition. On the whole, developing countries stand to gain far more from the completion of the Round, despite their own lack of enthusiasm for bringing the process to an end (Hufbauer et al. 2010). In order for Doha to work, developing countries, especially the major developing countries, are going to have to ‘give’ on issues like services.

The rise of China and the attendant fears of both developed and developing countries in this regard has been an additional complicating factor. In areas of trade where protection remains, any liberalisation is bound to favour China significantly (Mattoo et al. 2011), which would, under an optimistic Doha scenario, stand to gain a $52.7 billion increase in GDP (Hufbauer et al. 2010). For Mattoo et al. (2011), China’s continued manipulation of the Renminbi skews the trade process in its favour and, because currency issues are governed by the IMF rather than the WTO, this is not something that can be negotiated as part of any WTO package. Thus, without some shifting on the part of China (and the other key emerging markets) towards a deal more attractive to the developed countries, there is little chance of an agreement. However, if there was sufficient movement on the part of the poorer developing countries, like those which make up the ACP, more effective pressure could be brought to bear on key emerging markets as a result of the adjusted development narrative that such a shift would represent. However the failure of poorer developing countries to take the initiative in this regard could result in the EU and US losing interest in the WTO, thus compromising severely its legitimacy as an actor in the global economy.

Many of the current problems faced by negotiators at the WTO were largely absent from previous Rounds. Prior to the completion of the Uruguay Round, the economic world was divided relatively neatly into developed and developed countries, with a notable gulf between the two. Disparities in wealth meant that developing countries were generally permitted to free-ride, their economies being relatively insignificant within the global context. In turn, given their liberty to free-
ride, developing countries were generally content to allow developed countries to control the agenda. Furthermore, issues such as trade tariffs were ostensibly simple to negotiate. However, the sheer speed of China’s economic development over the past decade, coupled with similarly impressive growth in countries like India and Brazil, has meant that these emerging markets are increasingly viewed as having become too large to be accommodated as free-riders. The EU and US have increasingly begun to demand reciprocity, something the majority of developing countries have been reluctant to provide.

There are additional issues for developing countries. History has shown that it is difficult to keep up with the demands of multiple parallel negotiations. For example, part of the reason for the failure of the 1999 Seattle Ministerial Conference was arguably the recent return of weary US negotiators from trade talks with China. For developing countries without access to the same resources as the US, the challenges are even more daunting (Bilal 2002). The ACP states opened PTA negotiations with the EU in September 2002; the Doha Round had commenced barely a year previously. Both sets of negotiations (with the exception of that of the CARIFORUM bloc which completed its PTA with the EU in 2008) are ongoing.

Yet there is a get out for developing countries, if they can reinvigorate the Doha process. Part of the Doha Declaration was a call for members to ‘clarify existing rules’ – if ever there was a rule that required clarification, Article XXIV is it (Walsh 2004; Chase 2006; Ochieng 2007). Developing countries could thus make a case for all PTA negotiations to be suspended until this rule is clarified adequately.

The WTO’s Eighth Ministerial Conference, which took place in Geneva in mid-December 2011, did little to lift the gloom surrounding the future of the Round. While Russia’s accession to the WTO was finally confirmed, bringing the last remaining major economy into the fold, there was little for advocates of the WTO to shout about. Despite US Trade Representative Ron Kirk’s (2011) assessment that WTO members had ‘much to be pleased about’, the Geneva summit, in comparison to those of Seattle and Cancun, barely featured in the media, let alone the popular imagination, largely due to the fact that it had been agreed in advance that nothing overly contentious would be put to ministers. With respect to the Doha agenda, there was little movement, much talk of an ‘impasse’, and
a prevailing sense of ‘wait and see’, with the Chinese Minister of Commerce, Chen Deming (2011) admitting that ‘talks have hit the wall’. In his closing address to the summit, Pascal Lamy (2011), citing a Russian proverb, reminded ministers of the dangers of chopping off the branches on which they were sitting and argued strongly that only ‘political courage and goodwill’ could drive the process forward. For the future of the institution generally – and their own interests in particular – poorer developing countries need to be the ones that provide both.

**Conclusion**

There is a pressing need to re-evaluate how the forces driving the international trading system are compartmentalised. Even within the field of political economy, what the EU continues to accomplish is frequently overlooked. In much the same way that generals are said to always fight the last war, political economists have had, at times, a tendency to focus excessively on debates that have either moved on or are too narrowly focused. That so much of IPE scholarship is still directed so squarely at the mechanics, failings and iniquities of the WTO has obscured the fact that a dramatic restructuring of the global economy has begun to occur. It is rare for the EU’s bilateral trade agenda to be considered in tandem with developments within the multilateral arena; it is usual for these aspects to be considered as individual points of analysis. Critically, changes in the global trading regime have also gone largely unnoticed and unremarked upon within the popular imagination: no Seattle-style riots, no Cancun-style media overload, very little mass transboundary socio-cultural resistance.

The recent proliferation of PTAs within the global trading system has little to do with freer trade and everything to do with regulation and norms. As Bhagwati (2008) implies, if such agreements were really concerned with free trade, then PTA texts would be far simpler and more concise documents. Instead, chapters covering areas such as rules of origin and intellectual property rights often run to hundreds of pages. While regulation of the global economy is not necessarily in itself a bad thing, especially if there are accompanying welfare benefits, it becomes problematic when rules are, in essence, imposed rather than negotiated. Particularly where its evolution post-2000 is concerned, consideration of the ACP-EU track record should provide developing countries with a sobering insight into the alternative global system hovering on the horizon; a system determined by
asymmetries in power rather than one that is rules-based. While the WTO is far from perfect, suffering indisputably from its own form of democratic deficit, it does offer a more attractive alternative to the increasingly muscular bilateralism that is currently on offer. Between the ACP and the EU, talk of development is all very well, but there is some truth to the claim that, for the EU, PTAs remain an end in themselves. The inference is that with every successfully opened round of PTA negotiations, comes an increased acceptance of the EU model – an ever-increasingly universal model in which WTO+ and WTO-x are the norm.

Notes

1 Historically, the EU has gone by a number of different designations (for instance, the term ‘European Community’ (EC) is the legally-correct expression in a WTO context), but for ease of use this paper will make reference to the ‘EU’ throughout.

2 The field is replete with three-letter acronyms – FTAs, PTAs, RTAs – which can create confusion. Regional Trade Agreements (RTAs) can take two forms: (1) Free Trade Agreements (FTAs), which constitute 90 percent of such agreements, or (2) Customs Unions which comprise 10 percent (WTO 2011). Regional Trade Agreements can also be described as Preferential Trade Agreements (PTAs) – although not all PTAs are regional. The EU bases its ACP development strategy on Economic Partnership Agreements (EPAs), which are FTAs.

3 Kwame Nkrumah described Yaoundé I as ‘collective colonialism of a new order which will be stronger and more dangerous than the old evils we are striving to liquidate’ (cited in Gruhn 1976).

4 Some Francophone African states like Senegal argued in favour of keeping reciprocal trade concessions based on the fact that this suggested a sense of equality between the two blocs, maintaining that ‘if Africa is to retain its self-respect as an equal partner with the Community’ then reciprocity needed to be retained (cited in Twitchett 1974).
Some commentators have blamed the US, as the ‘guardian’ of the GATT, for failing to defend Article XXIV due to Cold War political expediency, anxious as it was to promote European integration as a bulwark against Soviet expansion (see for example Bhagwati 2008).

The vague wording of Article XXIV has irked analysts for decades – as Isaiah Frank (1960: 179) pointed out nearly fifty years ago, ‘although the intention is clear, it is apparent that “substantially all” is not an unambiguous concept’. See also, for example, Kenneth Dam (1963: 615), who argued that the ‘General Agreement on Tariffs and Trade has been charged with the duty to regulate the formation of customs unions and free-trade areas...GATT has failed to discharge that responsibility’ and John Evans (1968: 83), who argued that, as a result of this failure, the GATT signatories left ‘the EEC in possession of the field’.

It must be said that concerns for the wellbeing of the multilateral trading system in the wake of incursions by regional trade agreements are not new. A 1963 article by Kenneth Dam (1963: 615) opens with the lines ‘the last dozen years have seen a proliferation of customs unions and free-trade areas of unforeseen proportions’. George Bronz and Joseph Gold, writing in 1960, argued that the ‘development of regionalism abroad makes it all the more important that we regain the initiative in levelling trade barriers on a global basis...the world will be better off to the extent that we have nourished multilateralism’ (Bronz and Gold 1960: 187-8).

Sanitary and Phytosanitary (SPS) Measures and Technical Barriers to Trade (TBT).

Estimates suggest that the EU’s recently negotiated PTA with South Korea could cost the US economy up to $30 billion in lost trade and employment opportunities, and potentially 200,000 lost jobs (Ahern 2011).

The G20 bloc comprises Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nicaragua, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela.
The figure of 90 percent is not evenly applied; in most cases the EU is offering to liberalise 100 percent of its trade if the ACP in return liberalises 80 percent.
References:


