

European Union - Asia-Pacific Trade Relations: Tentative Bilateralism amidst Competing Plurilateral Initiatives

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Abstract: *This paper² analyses major current trends in EU trade policy and their impact on the Asia-Pacific region. It explains how after being a guardian of multilateralism for many years, the EU is currently negotiating bilateral Free Trade Agreements with countries in the area while important and competing trade initiatives are also emerging amongst these nations. The fact that the EU is not a party to any of these plurilateral projects jeopardises its goal of becoming an active player in this challenging geopolitical landscape. Moreover, the political conditionality linked to EU trade diplomacy is generally not welcomed by these countries, which are becoming increasingly more economically and politically assertive. The divergent trade agendas of Member States further complicate any joint EU policy in the region. In light of these factors, political conditionality needs to be revised to provide more flexibility to global dialogue with these countries and a genuinely common trade strategy must be defined for the EU to leverage more effective influence and involve itself in regional integration deals in Asia-Pacific.*

Keywords: *bilateralism, free trade agreements, political conditionality, plurilateral initiatives, regional integration.*

Introduction

As the world's largest trading bloc, the European Union (EU) has for many years been one of the major guardians of multilateralism. However, the EU's focus is currently on bilateral free trade agreements (FTAs). Over the last seven years, the EU's trade policy has also been characterised by a formal, rather legalistic approach, linking politics and economics. This trend entails the inclusion of a predefined set of clauses in political agreements negotiated in parallel with trade deals. As a result of this strategy, FTAs are very often relegated to the position of a subset of the political agreements. To make matters more problematic, the EU's diplomatic trade efforts are frequently challenged by Member States, which may hold divergent interests and deploy different strategies.

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Bilateralism, political conditionality and the lack of a cohesive trade policy all limit the EU's ability to engage in a more flexible and strategic approach when dealing with its partners. This is particularly true of the EU's relations with countries in Asia-Pacific, a region which has emerged as the most dynamic region in international trade³. Indeed, the proliferation of trade and business transactions clearly shows that this zone has become central to worldwide prosperity and to the EU's growth prospects (European External Action Service, 2013). The Asia-Pacific region is now the destination for almost a quarter of EU exports and home to the world's fastest-growing economies, such as China and India. But, beyond economic concerns, the EU also has a strategic interest in regional security in Asia, where historical disputes, national rivalries and territorial conflicts appear to be growing more serious (e.g. tensions on the Korean Peninsula, the China-Taiwan conflict, China-Japan territorial disputes, etc.) (Godement, 2013: 1-3). In addition, the European and Asian economies are linked by various sea routes, further increasing the EU's strategic interests in the region.

In line with its current trade approach, the EU is presently immersed in bilateral trade dialogues with individual countries in the area. However, the most important trade deals currently being negotiated within the Asia-Pacific region are plurilateral and the EU remains outside these regional initiatives. In addition, this trade bilateralism accompanied by political requirements has been shown to be inconsistent with the EU's stated foreign policy aim of contributing to greater integration in the Asia-Pacific region, and does not match the rapidly evolving geopolitical landscape of the region (Okano-Heijmans, 2014: 12).

This article examines current trends in the EU's trade policy, with a particular focus on the implications for the Asia-Pacific countries. The approach does not take into account so much the economic opportunities this trade dialogue may provide, but rather the scope and consequences of the EU's choices and norm-setting role. Against this background, the article first analyses major trends in the European trade diplomacy, highlighting the lack of a cohesive policy, notwithstanding the EU's exclusive power in the field. Second, it assesses the effects of current European trade approaches in the Asia-Pacific region, providing a general overview of the bilateral FTAs and their state of negotiation by the EU. It finds that the EU's trade bilateralism is moving in the opposite direction to concurrent plurilateral initiatives currently emerging in the region. This divergence risks sidelining the EU from playing a constructive role in the region. Third, given the EU's crucial interests in the region, not only in trade and finance, but also in politics and regional security, the article concludes that the EU and its Member States must rethink their strategies, which are very often competing and mutually contradictory, and define a long-term comprehensive framework for the EU to act as a global player in the newly evolving Asia-Pacific context.

Current Trends in EU Trade Relations: the Lack of a Cohesive Policy

Trade policy has always been an exclusive competence of the EU. However, in practice, Member States also pursue parallel external trade policies in order to obtain individual advantages. This diplomatic dispersion dilutes the EU's potential leverage in trade deals.

³According to the UN definition, the Asia-Pacific area stretches from Pakistan in the west via India and China to Japan in the east and down through Indochina, Indonesia and the Philippines and many small Pacific islands to Australia and New Zealand in the south. <http://www.un.org/depts/DGACM/RegionalGroups.shtml> (accessed 2 September 2016).

A major trend is that EU trade policy is currently focused on bilateral FTAs. As a singular characteristic, current EU strategy is to condition the conclusion of an FTA on the signing of a political agreement. Depending on the partner, this conditionality may become a straitjacket, if not a barrier, to EU trade deals, adding to its inherent difficulty in engaging in comprehensive trade negotiations.

The EU's Exclusive Competence among Parallel State Policies

Article 3.1e of Treaty on the Functioning of the European Union (TFEU) includes trade policy among the areas of EU exclusive power. According to Article 2.1 TFEU, exclusive competence implies that only the EU may adopt legally binding acts. Further on in the TFEU, trade policy is covered in Part V, governing the Union's External Action (Articles 206 and 207). Exclusivity is not limited to trade in goods, but also includes trade in services, trade-related aspects of intellectual property and foreign direct investment. This is the current extent of EU exclusive competence provided by Article 207.1, as amended by the Lisbon Treaty⁴ (De Gucht, 2010: 2-3; Woolcock, 2012: 45-84; Bungenberg and Herrman, 2013). The most important extension of EU competence in the Lisbon Treaty is, without doubt, the inclusion of foreign direct investment, which was previously an area of shared competence (Waibel, 2013: 12-17). In keeping with this integrated nature, external trade relations rely on the European Commission's responsibilities on behalf of the whole EU. Yet the European Commission does not act alone, but under the strict supervision of Member States and in close cooperation with the Council and the European Parliament which ultimately have to approve the overall agreement.

In reality, EU policy-making on trade involves a multi-layer dynamic. In this regard, before opening trade negotiations, the European Commission holds a public consultation on the interest and content of any trade agreement and then conducts an assessment of the impact on both the EU and the other partner. This preliminary phase is known as a 'scoping exercise'. There is then an internal scoping exercise, as the European Commission has to request authorisation from the Council to enter into formal negotiations. This permission is known as the 'negotiating directive' and provides the legitimization from the Member States for the Commission to negotiate on behalf of the EU and sets out the general objectives and the Commission's remit (European Commission, 2013:3). In general terms, trade agreements are intended to create reciprocal opportunities for opening new markets for goods and services, increasing investments and making trade cheaper and faster. However, the ultimate aim may vary depending on the EU's partners. Thus, FTAs negotiated with developed countries and emerging economies have clear economic objectives⁵. In contrast,

⁴ Specifically, this first paragraph of Article 207 TFEU sets the scope of the EU's exclusive competence on trade when it provides that 'The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements related to trade in goods and services, the commercial aspects of intellectual property, foreign direct investments, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action'.

⁵ FTAs grant priority access to the markets of the partners concerned. They therefore represent an exception to the critical principle of granting equal treatment to all trade partners established by the World Trade Organization (WTO). This is why specific rules for FTAs are set out in the WTO, specifically in Article XXIV of the General Agreement on Tariffs and Trade, and in Article V of the General Agreement on Trade in Services. The legal texts of the WTO agreements are available at: https://www.wto.org/english/res_e/res_e.htm (accessed 2 September 2016).

Economic Partnership Agreements with African, Caribbean and Pacific countries mainly seek to promote sustainable development and reduce poverty⁶.

Once negotiations are over and the text has been finally reviewed, the Presidency of the Council decides what person should sign the agreement on the EU's behalf. This is usually the European Commissioner for Trade. Very often, however, trade agreements include issues that are the responsibility of the Member States (e.g. criminal sanctions for violations of intellectual property rights, visa matters –since not all Member States participate in the EU visa policy– etc.). These are the so called 'mixed agreements' and they also have to be signed by Member States (Rosas, 2011: 1313-1317). When it comes to this kind of agreement, Member States sometimes confer a second mandate on the Commission to negotiate on their behalf on those issues that fall within their competence. This duplication of mandates further complicates the European negotiation process. However, matters can become even more difficult when the European Commission is not given a specific mandate from Member States and the Council's rotating Presidency negotiates on behalf of Member States. This parallel negotiation gravely jeopardises consistency in talks and deals with partners, while limiting the EU's potential to wield political leverage over trade relations (Mang, 2014).

After signing and since the European Parliament has given its consent, the Council adopts the final Decision to conclude the agreement, which then enters EU law with publication in the Official Journal. In the case of a mixed agreement, Member States also ratify it in accordance with their respective constitutional procedures.

The multi-layer process on trade deals between the EU and Member States is not the only internal challenge to a truly common trade policy; dialogue between EU institutions themselves is another one. Indeed, the European Commission does not intervene as a sole actor when undertaking negotiations. Several Directorates-General are usually involved, though the EU chief negotiator generally comes from the Directorate-General for Trade. In addition, if a political agreement is linked to the trade agreement, the chief negotiator for the political arrangements comes from the European External Action Service (EEAS). In these cases, it would be a logical tactic to work in coordination, but apart from some informal meetings, there is as yet no institutionalized strategic interaction either between Directorates-General or between the Directorate General for Trade and the EEAS (Wouters *et al.*, 2013:53-54; Bendiek, A. 2014:1-2).

The situation is further fragmented by the fact that Member States pursue parallel trade policy in a way that is increasingly undermining a common EU strategy. Moreover, Member States compete between each other for market access, seeking sources of growth in exports to compensate their current slow domestic growth. Thus, in dealing with China, most Member States –particularly Germany, Denmark, France, the Netherlands, Spain and Poland– have their own highly differentiated trade and investment promotion strategies. Germany, for example, has had no qualms in openly pursuing its own interests, as it did in 2011 when it negotiated a bilateral agreement with China on electric cars and renewables-related trade, undermining parallel EU deals (Kundnani and Parello-Plesner, 2012:2). Other cases include the lack of coordination over bids to join the Asian Infrastructure and Investment Bank (AIIB)

⁶ An overview of these agreements may be found at: http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf (accessed 2 September 2016).

proposed by China and disputes over the European Commission's decision to pursue China for dumping on trade in solar panels. In the first case, some Member States, such as France, Italy and Germany, ultimately coordinated their bids to participate in the AIB, while the UK submitted its own bid. In the anti-subsidy solar panel case, a major controversy arose between Germany, France and other Member States, evidencing competing national interests⁷. These asymmetries observed in Member States' trade and investment trends fundamentally complicate a joint EU strategy towards China (Parello-Plesner and Kratz, 2013:4; Huotari et al., 2015:5-6).

Divergent national agendas continue to override a common approach. Indeed, while Article 207.1 TFEU enshrines a commitment to bundle bilateral agreements into single EU deals, in reality the struggle for exports has stepped up bilateralism even further, away from EU common approaches. As a result, European capacity may be said to be split between the Member States and the EU, with the result that none of them appears to have any special leverage in external trade relations. In addition, this fragmented performance is unlikely to make Europe more prosperous. Indeed, some commentators believe that the EU needs to encourage domestic demand by promoting policies that also boost consumption and investment across Member States. Rather than obsessing about exports to the rest of the world, new efforts are also considered necessary to incentivise trade between the Member States themselves by achieving greater convergence between European markets and increasing competition between European companies. Initiatives aimed at meeting this challenge will help to raise the continent's low productivity, a critical step for long-term prosperity (Springford and Youngs, 2013:40).

Economic recovery and growth promotion at home may indeed be additionally encouraged by a comprehensive common trade strategy. The EU's current bilateral agenda is specifically designed with this aim in mind.

From Guardian of Multilateralism to Politics-Linked Bilateralism

Several strategy documents adopted by the European Commission in 2010 and 2013 explain the role that trade policy can play in fostering prosperity within the EU. These texts also evidence major trends in the EU's current trade policy, to wit, a shift away from multilateralism towards bilateralism and an evolving approach to linking political and economic issues in trade deals.

The switch in the EU's trade policies is justified in the 2006 document 'Global Europe: Competing in the World' (European Commission, 2006), on the basis of which the EU lifted the moratorium informally imposed on the launching of new FTAs by WTO Director-General Pascal Lamy (Woolcock, 2007:2). Despite the stated change, in this document the EU largely stressed that it did not actually intend to turn away from multilateralism, since FTAs should be built on WTO rules and should even become an instrument for including issues not covered by the WTO, such as investment or public procurement. In fact, the EU's

⁷ More importantly, the European Commission had decided in May 2013 to impose provisional tariffs on solar panels imports from China, but the opposition of 18 Member States led the Commission, not only to lower anti-dumping duties, but also ultimately to settle the dispute in July 2013 (EU Trade Commissioner Karel De Gucht's statement, 2013).

new trade approach on FTAs would serve to accelerate multilateral liberalization within the WTO. At that time, potential target partners for the EU included Mercosur, Russia, Korea, India, the Association of Southeast Asian Nations (ASEAN) and China. However, the latter was considered to be a special case that required particular attention, given the opportunities and, at the same time, the risks it entailed (Xiaotong, Ping and Xiaoyan, 2014:527). In any case, FTA negotiations with these countries did not go very well, chiefly due to a general lack of foresight and planning (Khandekar, 2013:3).

The European Commission's 2010 Communication on 'Trade, Growth and World Affairs' extended FTA partners to the Gulf countries, Canada and other ASEAN countries (European Commission, 2010). Nevertheless, the EU continued to give top priority to the Doha Round trade negotiations. In the same year, the Commission set out a strategy on investment, in accordance with the negotiation mandate it had received from the Lisbon Treaty (European Commission, 2010a). Shortly thereafter, following failed attempts to include investment within the WTO and the Organization for Economic Cooperation and Development (OECD) and after the Doha Round talks stalled, the EU firmly committed itself to a bilateral path (Antimiani and Salvatici, 2015:253-259).

Against the background of the global economic crisis, in 2013 the EU began to seek economic recovery through large-scale free trade agreements, such as those being negotiated with the US and Japan. Along these lines, the strategic document 'Trade: a Key Source of Growth and Jobs for the EU', published in 2013, largely explains the role of trade policy within the European Commission's comprehensive policy for stimulating growth and job creation in Europe. Thus, ambitious trade deals with countries throughout the world and in the neighbourhood are deemed a key instrument for addressing this recovery policy. In particular, the document focuses on the contribution that trade deals with key Asian countries (South Korea, Japan, India, China and ASEAN) could bring, towards a boosting economic recovery in the EU (European Commission, 2013a). This new generation of agreements includes not only trade and investment issues, but also services and other matters not directly associated with trade, such as environmental protection, social standards and cultural values (Bendini, 2015:15-16).

The other current trend in EU trade, legalism linking economics and politics, in practice generally entails the EU's conditioning FTAs on the signing of a political agreement with the third country concerned. This legalistic approach is a singular characteristic of EU trade diplomacy. It was made official by the Lisbon Treaty in current Article 21.1 TEU⁸. These political commitments are known by various epithets, but are usually called 'Partnership and Cooperation Agreements' (PCAs). They include a predefined set of political clauses on human rights, democracy, rule of law and non-proliferation of weapons of mass destruction, among other issues. The human rights clause, in particular, is considered an essential element, having been systematically included in agreements with third countries well

⁸ This provision states that 'The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law'. Trade policy is included in Part Five TFEU on the Union's external action and must therefore be guided by the range of EU values, in which human rights feature prominently.

before the Lisbon Treaty⁹. In contrast, agreements on other political clauses were adopted by the Council in the 2000s. More recently, this political framework has been known as the ‘2009 Common Approach’¹⁰. After the Lisbon Treaty, the legalistic approach linking trade diplomacy to political commitments was reaffirmed by the Strategic Framework and Action Plan for Democracy and Human Rights adopted by the Council of the EU in 2012. It specifically provides that the conclusion of trade and/or investment agreements is to be linked to the human rights situation in third countries, while human rights dialogues are to be reinforced with FTAs (Council, 2012).

The EU currently negotiates trade agreements and political agreements in parallel, but in reality, this political conditionality relegates FTAs to a subset of political agreements, while limiting the EU’s ability to engage in a more flexible way. In this vein, partners are very often reluctant to accept human rights and other political commitments required by the EU, since they do not see why trade issues must necessarily be made conditional on such exigencies (Zwagemakers, 2012:4-5). In addition, the EU has also demonstrated that it has some leeway to include political engagements or not as it deems fit. Thus, the Transatlantic Trade and Investment Partnership (TTIP), currently being negotiated with the US, does not provide for the negotiation of a political pact. In contrast, the FTA with Japan includes a binding political agreement largely opposed by the Japanese government. The EU has consequently been criticised for applying different standards depending on the partner. Another line of criticism concerns implementation since, in general, the conditionality policy lacks any proper mechanism for monitoring and evaluating the effectiveness of the clauses in partner countries, making most political commitments unenforceable (Hachez, 2015:20). Different standards of conditionality and a low level of enforcement compromise the legitimacy of the EU’s efforts to link political engagements and trade in international agreements. In addition, EU political conditionality has not proved very effective in today’s rapidly-changing international context, where non-western partners, Asia-Pacific countries among them, are gradually strengthening their influence in global affairs and resisting it very assertively.

Zooming in on Asia-Pacific

The economic and political landscape of the Asia-Pacific region is rapidly changing. Several of the world’s fastest-growing economies are located in the region, where internal commercial exchange has increased greatly since 2000. In trade terms the EU interacts with the region on a bilateral basis. However, this trend turns out to be opposite to the Asian economies’ approach of increasing commercial integration among them. The EU is not a party to any of these region-wide economic initiatives, reducing its relative leverage as an actor in the region.

⁹ The first mention of human rights in an EU trade agreement can be found in Article 5 of the 1989 Lomé IV Convention with ACP countries. Since 1995, the human rights clause has been included in agreements with more than 120 countries. It is accompanied by a sanction mechanism providing for the possibility of suspending the agreements or parts of it. This suspension mechanism has seldom been applied, a fact that some consider as a sign of weakness on the EU’s part, while some partners, such as Japan and Singapore have criticised it for being selective and discriminatory (Okano-Heijmans, 2014:17).

¹⁰ COREPER document of 29 May 2009 on ‘Common Approach on Political Clauses’. Available at <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2010491%202009%20REV%201%20EXT%202> (accessed 2 September 2016).

Fostering Bilateral FTAs as a Geo-Strategic Tool...

EU trade with Asia-Pacific partners has been growing over recent years. In 2015 the region accounted for 57.9% of all EU trade, while Europe remains the largest trading partner for most of these countries¹¹. Negotiations on FTAs are ongoing with several countries in the region, which could increase trade flows with them and help the EU integrate much more into the Asian economy.

To date, the EU-South Korea FTA, which came into force in 2011, is the only such agreement concluded by the EU with an Asian country. As a result of its implementation, around 70% of bilateral trade is now free of duty and EU exports to South Korea have increased by over 15% in the last three years¹².

Bilateral trade negotiations are underway with other countries, but the envisioned agreements vary depending on the partner concerned. Thus, the EU is currently negotiating an FTA and an economic partnership agreement with Japan, which specifically includes market access for goods, non-tariff measures, services, investment, public procurement, trade and sustainable development (Amighini *et al.*, 2016:76-77). In contrast, negotiations with China are geared towards a Bilateral Investment Treaty (BIT), as a first step before a potential FTA is concluded with the Asian giant. Indeed, the EU's current priority is for greater coherence by bringing together the EU Member States' BITs with China (Parello-Plesner and Kratz, 2013:3). Trade relations with China can sometimes prove very tense, due to the country's still state-led capitalist system and the unfairly low prices of Chinese imports (Barone, 2015:4-5). Nonetheless, the EU will probably have to rethink its deals with China in the short term, since it is the main trade partner of Japan, South Korea, Taiwan and India. Indeed, trade integration between China, Japan and South Korea is currently larger than intra-EU trade relations. Moreover, China has become an exit point for Asia's exports, with other countries in the region using China as a path to global export. However, as China gradually becomes a producer of high-tech goods, the situation may be reversed with China using the rest of Asia's FTAs as a stepping stone to global markets (Yoshimatsu, 2014:12-13).

Following the failure of negotiations on a trade agreement with the ASEAN in 2009, the EU embarked on bilateral talks with the ten countries in ASEAN. These individual negotiations created tensions among ASEAN countries and the EU was consequently criticised for seeking to undermine ASEAN unity, in clear contradiction with the EU's aim of fostering regional integration in Asia. Among ASEAN countries, Singapore was the first to begin talks on an FTA with the EU. Negotiations for a comprehensive FTA were completed in October 2014, but the agreement has still not entered into force due to a dispute between the European Commission and the Council concerning the EU competence. FTA negotiations are ongoing with other ASEAN countries, such as Malaysia, Vietnam, Thailand, and Myanmar, while negotiations for a FTA have yet to materialise with Cambodia, Laos, the Philippines, Brunei and Indonesia (Khandekar, 2014; European Commission, 2015).

¹¹European Commission, Directorate-General for Trade. 2015. Available at http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_111473.pdf (accessed 2 September 2016)

¹²European Commission, Directorate-General for Trade. 2015. Available at http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_111834.pdf (accessed 2 September 2016).

Outside the ASEAN, in South Asia, the EU launched negotiations on an FTA with India in 2007. However, bilateral dialogue was suspended in summer 2013 due to discrepancies on the level of ambitions and outcomes (Wouters *et al.*, 2013a; Amighini *et al.*, 2016:74-75).

In the Pacific, an FTA is being negotiated with New Zealand. This country is not among the EU's largest export markets, receiving only 0.2% of its exports, but the EU-New Zealand FTA is expected to open the doors of the European trade agenda to Australia and ASEAN. Indeed, Australia and New Zealand are tied into a common market by the Closer Economic Relations agreement with estimated economic output equivalent to North American Free Trade Association. In addition, both Pacific countries have concluded ambitious FTAs with ASEAN. Consequently, the results of the EU-New Zealand FTA could be operationalised beyond Oceania by the EU (Lee-Makiyama, 2015:13-14).

As with other third countries, political agreements with Asia-Pacific partners are also pursued in parallel with trade deals. Experience shows that negotiations may last two or more years, depending on the partner's sensitivity on the issues to be included in the PCA. Once concluded, it has to be ratified by both sides, which also takes time. Disagreement on certain political clauses may bring dialogue to a standstill, also affecting trade relations. PCAs have currently been concluded with Indonesia (signed in 2009, came into force in 2014), Thailand (concluded in 2013 after seven years of negotiations), Vietnam, Singapore and Philippines. The Manila government strongly opposed the clause requiring the Philippines to join the Statute of Rome on the International Criminal Court. After the EU amended the terms of this clause, the government of Philippines agreed to conclude the PCA, recognising that 'the most heinous crimes of international concern must not go unpunished'. Negotiations on political agreements are now underway with Malaysia and Brunei, while talks have not yet been initiated with Laos, Cambodia and Myanmar. In South Asia, India refuses to negotiate an EU PCA, preventing progress on FTA negotiations. Japan has also objected to the EU's inclusion of a human rights clause and expressed its displeasure at the fact that the EU wants to impose such a clause on a G-7 country. South Korea, on the other hand, was willing to yield on the political clauses, in light of its keenness to facilitate a quick trade agreement. With China, negotiations on a PCA started in 2007 and are still ongoing (Okano-Heijmans, 2014:40; EEAS, 2014:1-2; Bendini, 2015:12).

As already mentioned, political conditionality is linked to the EU's current trade diplomacy. However, it is evident that this legalistic approach to wielding influence is not proving particularly effective when it comes to countries in Asia-Pacific, which remains the sole region in the world that lacks an institutional and legal human rights system (Croydon, 2014: 290). Discrepancies, delays and stalemates in political dialogue also demonstrate that these partners do not share the EU's view of these PCAs as a legal basis for future cooperation that may turn these countries into privileged partners for the EU. Political conditionality on Asia-Pacific, therefore, does not have the same strong effects as it has on EU's developing neighbour countries or candidate states, for which economic aid, market access and the prospect of membership are incentives for introducing political and legal reforms (Schimmelfenning and Scholtz, 2008:194).

The key question is therefore whether the EU should tailor this legalistic approach to the challenging geopolitical context of the Asia-Pacific region or find other ways of promoting its democratic values.

...amidst Regional Integration Attempts

Over the last five years, major commercial developments in Asia have transformed the economic landscape of the region, which has become the focus for world trade and business. A key factor in this economic transformation is the significant increase in Asian intra-regional trade. Commercial exchange within the region is growing faster than in the rest of the world. Behind this phenomenon lies a proliferation of FTAs among Asian countries: from 53 in 2000 to over 250 in 2015, of which 150 are intra-regional (Asia Regional Integration Centre, 2015).

In line with this trend, ASEAN, for example, has concluded FTAs with important regional actors, including Australia, New Zealand, China, India and South Korea. Implementation of these FTAs is already boosting commercial exchange and investment, as a result of the removal or reduction of trade barriers and customs duties. The FTA with China, for instance, has effectively reduced tariffs on nearly 8,000 products and completely eliminated them for 90% of imported goods, with favourable effects for China and ASEAN countries. However, the specific impact of the ASEAN's FTA with China goes beyond trade, in that its implementation is shifting manufacturing capacity from China, whose workforce is now becoming older and wealthier, to Vietnam, Indonesia and other ASEAN countries, where wages are lower and there is a large available workforce. This shift in world manufacturing capacity to these countries is attracting foreign investment from both China and other markets such as Europe and the US. ASEAN's FTA with India has also reduced or eliminated tariffs on most goods traded between them. This FTA has a similar effect to the agreement with China in that it opens the Indian consumer market to ASEAN manufacturers' goods. This FTA with India is being expanded to include services and investments. The joint impact of these two agreements with China and India is turning ASEAN into a strategic hub for global sourcing and manufacturing. The ASEAN market, coupled with China and India, currently represents a total middle class consumer market with complete free trade of some 650 million people. By 2030, it is estimated that around 64% of the world's middle-class population will be located in Asia (Devonshire-Ellis, 2014).

Besides bilateral deals, three large regional free trade initiatives are emerging in Asia. One of them is a trilateral FTA between China, Japan and South Korea, negotiations having started in 2012 (Yoshimatsu, 2014). As a more ambitious initiative, the ASEAN Framework on Regional Comprehensive Economic Partnership (RCEP) aims to create a vast free trade area by interlinking ASEAN's existing FTAs and including agreements covering services and investments. The RCEP will cover 45% of the world's population and a third of its GDP (Pham 2016:95)¹³. The Trans-Pacific Partnership (TPP) is another mega-initiative, launched and backed by the US as a geo-strategic tool for wielding its influence in the region. The TPP has twelve members and was concluded in October 2015¹⁴. It is expected to enter into force in 2018 after ratification by the participating economies. The TPP is a more comprehensive framework than the RCEP, including trade and investment in goods and services, issues related to digital economy and other topics (Amari, 2016:14-15).

¹³ The RCEP includes the 10 ASEAN countries and Australia, China, India, Japan, New Zealand and South Korea.

¹⁴ The TPP embraces US, Canada, Mexico, Chile, Peru, Australia, New Zealand, Singapore, Brunei, Malaysia, Vietnam and Japan.

These large plurilateral initiatives are in fact competing paths for regional integration in the Asia-Pacific zone (Oba, 2016: 100). No doubt they offer benefits for those participating, but they also have negative effects for those that do not join. For instance, the TPP is considered to have a detrimental impact on China's economy, mainly due to the trade diversion effects caused by its implementation. China is responding to competing pressure by giving priority to its FTA with Japan and South Korea, as well as those with Australia and with Western Asia (Hearn and Myers, 2015: 6-7).

The EU does not participate in any of these large trade initiatives. The FTA being negotiated with Japan might in some ways be seen as a response to these regional trends, since the EU-Japan agreement could provide a bridge to the TPP and the RCEP, but it is still too early to confirm this prospect. To date, there have been no signs that the EU is considering a more regional approach, which lessens the EU's potential presence and relative weight as an actor in the region.

What is already evident is the role of the ASEAN integration process as a key factor in the evolution of Asian geopolitics in recent years. ASEAN is behind the two mega-regional initiatives: the RCEP and the TPP. The TPP in particular could be expanded to embrace all ASEAN countries. The ultimate aim is also to transform these plurilateral FTAs into a Single Free Trade Area of the Asia Pacific (FTAAP) (Amighini *et al.*, 2016:56). Therefore, the landscape of the region is changing dramatically with the emergence of these large trade frameworks and the economic growth of most Asian countries. In this scenario, the EU's insistence on bilateral deals does not seem to be the optimal strategy.

To capitalise on the growing market boom in Asia-Pacific, which is building political and economic ties between countries, the EU's approach and strategies need to be revised to match this challenging geopolitical context.

Revising EU Policy towards a more Flexible and Cohesive Trade Strategy

Relations between the EU and Asia-Pacific countries are based on diverse and sometimes contradictory policies. A coherent strategy needs to be defined that will enable the EU to effectively address the rapid economic and geopolitical developments in the region. This strategy document would provide the EU with permanent guidance in the medium and long term. The new EU trade strategy 'Trade for all' prioritises concluding on-going projects, while opening the door to new negotiations, such as those proposed for Taiwan and Hong Kong. Yet, no specific strategy is formulated for this region (European Commission, 2015a).

More coherence among Member States at a political level would further strengthen the position of the EU as a whole, especially in negotiations with China and Japan. In the Asia-Pacific region, where large economic and trade integration initiatives are proliferating, the EU should be the level for policy-making to leverage a more effective influence.

Likewise, the EU should get involved in regional trade deals in Asia-Pacific. Strengthening the dialogue with ASEAN is one way. The two organizations have a combined population of over 1.1 billion and both blocs have an important stake in global affairs. The EU and ASEAN share common interests in global security and peace, particularly counter-terrorism, rule of law, economic stability, climate change and energy security, which provide the basis for

stronger mutual engagement. In April 2012, the two regional blocs signed a five-year Plan of Action in Bandar Seri Bagawan (Brunei), providing the political framework to build dialogue. The plan, which replaces an earlier one covering 2007-2012, expresses the EU's interest in collaborating more with ASEAN on a number of issues going beyond trade (Jetschke and Portela, 2013). ASEAN envisions and is currently working on establishing a community built on three pillars: the ASEAN Political-Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community. More specifically, the ASEAN Community seeks to become a region that is people-centred and socially responsible, where member states will live in peace with one another and there will be a competitive single market (ASEAN, 2015; Caballero-Anthony, 2016). Working more closely with ASEAN should therefore permit the EU to address two of its major ambitions: to enhance its visibility and influence and to support regional integration.

At present, the EU and ASEAN have a multi-layered relationship. In 2014, both sides agreed to strengthen cooperation in certain key areas for the period 2014-2020: connectivity between ASEAN countries through sustainable inclusive economic integration and trade; climate change; environment and disaster management and comprehensive dialogue facility. With regard to trade and investment flows, in particular, initiatives include work towards a region-to-region FTA, building on bilateral agreements between the EU and ASEAN countries (High Representative and European Commission, 2015). However, achievement of this ambitious objective, like many others agreed on by both sides, will have to be backed by stronger political endorsement, beyond the current ASEAN-EU ministerial meetings. The changing economic and geopolitical context in Asia-Pacific requires closer dialogue at the highest political level, since only bilateral summits can define joint priorities and provide the necessary drives to turn relations into an enduring strategic partnership.

Besides enhanced dialogue with ASEAN, one way for the EU to increase its relevance in the Asia-Pacific region could be a free trade and investment agreement with China. Given the weight of China's trade in Europe and its effects for Asian suppliers as well, such an agreement could in the long term address the core of the EU's economic relationship with Asia. China itself is calling for a more comprehensive trade and investment deal with the EU, as a way of counteracting increased US presence in the region through the negotiation of the TPP, as well as in the north-western hemisphere through the TTIP. The time may not yet be ripe for an agreement of this scope with China, but the proposal should be considered by the EU, since it could have comparative advantages for European industry, improve political dialogue with Beijing and strengthen the European trading position throughout Asia (Godement and Stanzel, 2015:7-8).

In revising its policy, the EU would also do well to review its rather old-fashioned approach of setting political objectives in its trade negotiations by trying to influence others. Political conditionality was devised for an era when European countries were still able to impose their norms on trade and geopolitical interests on others. However, that time is rapidly passing, and there is currently a greater and more diverse group of countries whose voice and influence in global affairs is becoming even stronger. In particular, the formal linkage between politics and economics has proved inefficient in addressing the broad range of interests of the EU and its Member States in a region such as Asia-Pacific. Consequently, the 2009 Common Approach needs to be revised to provide greater flexibility and diplomatic room for manoeuvre, something which is always required in international negotiations.

Whatever course of action the EU chooses, there can be no doubt that it would be better to reinforce its trade diplomacy to suit the Asia-Pacific context. Region-wide FTAs are paramount, not just for economic, but primarily for strategic reasons.

Conclusions

In the current post-Doha era of competitive liberalisation and multi-track trade policy, the EU is presently focused on bilateral FTAs. Large-scale trade deals are deemed a key instrument for boosting economic recovery in Europe. However, the EU is not alone in this endeavour, since its Member States are pursuing divergent commercial policies with the same aim of making up for slow domestic growth, thus undercutting EU efforts. Poor performance in terms of economic growth over recent years has also aggravated the EU's decline as a normative power. Indeed, political conditionality, linked to trade and economic deals, does not seem to be very effective for exporting European democratic values in the current multipolar world and, moreover, it limits the EU's ability to engage in a more strategic and flexible way.

The international economic and political focus is presently centred on Asia-Pacific region, where emerging markets are playing an increasing role in the rapidly changing global context. The EU is immersed in negotiating bilateral FTAs with most countries in the area, but this approach is out of step with the continent's own trends towards trade integration through the implementation of large FTAs. While other western powers, such as the US, have already switched from a bilateral approach to a regional trade strategy, backing the TPP, the EU remains outside these extensive regional dynamics. Therefore, if the EU does not want to waste the opportunity to access the region's opening markets, it should follow suit and become involved in this area's free trade architecture.

Deeper engagement with ASEAN could be a key way to developing a more rounded strategy for the Asia-Pacific region. Both sides share integration aims. ASEAN is working to consolidate the ASEAN Economic Community and develop its post-2015 vision, and the EU can help ASEAN to achieve its integration goals as a trusted partner, without predicating any specific model. The moment to articulate a strategic framework for the future of EU-ASEAN relations is therefore now.

EU trade diplomacy should in any event be reinforced, in its extent and its effective power, so as to better address the new region-wide strategic initiatives. The European Commission, on behalf of the EU, and Member States should define what kind of trade and economic power the EU should be. To achieve this, however, it is urgently necessary to clarify the respective institutional powers of the EU *vis-à-vis* the Member States, as determined by the Lisbon Treaty. Revising political conditionality to provide more flexibility and room for diplomatic negotiation is also desirable, in particular, with Asia-Pacific countries, which are strengthening their voice in global politics and economics. The region has become a new centre of economic and geo-political influence. Therefore, only through intensified ties and coordination with partners in the region will the EU be able to address major global issues, such as trade, security, migration and climate change. The EU and its Member States should seize the momentum and define a joint comprehensive strategy for Europe to take the field.

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