Europe's Preferential Trade Agreements: Status, Content, and Implications

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Summary

Preferential trade agreements (PTAs) comprise a variety of arrangements that favor member parties over non-members by extending tariff and other non-tariff preferences. PTAs, particularly free trade agreements (FTAs), have proliferated in recent years. In the post-war period, the European Union (EU), which is a PTA itself, has developed the largest network of PTAs in the world. The main findings of this report are as follows:

- Historically, Europe's PTAs have differed among its partners in terms of provisions and commitments and they have been characterized by relatively modest ambition in terms of market-opening. In comparison, the U.S. approach has been more standardized in terms of its provisions and more focused on achieving reciprocal market access. These differences in approaches, however, have significantly narrowed since the EU adopted its more commercially oriented *Global Europe* strategy in 2006.

- EU PTAs cover nearly twice as much trade (exports) in percentage terms (70% versus 40%) and seven times as much in value terms ($3.4 trillion versus $0.52 trillion) than U.S. PTAs. These numbers can be used to support the argument that U.S. firms may face more discrimination and possibly reduced sales than EU firms. At the same time, the data may overstate the degree of discrimination because the amount of trade covered by PTAs is not the same as the amount of trade conducted on a preferential (duty-free) basis.

- Concerns about trade discrimination have been a factor in U.S. and EU efforts to negotiate and implement separate but similar PTAs with five trading partners (Israel, Mexico, Morocco, Chile, and Jordan). Based on market share data analyzed, neither side appears to have gained a competitive advantage from having negotiated a PTA. This, however, does not mean that individual firms and workers have not benefitted or that exports have not risen at faster rates after the PTA became effective.

- In the past, Europe's PTA program has not been a major factor affecting U.S. FTA policy, which currently is in flux. However, Europe's recently negotiated FTA with South Korea raises the concern that U.S. exports will be disadvantaged due to the duty-free price advantage European-based producers will gain in the Korean market. The United States has also negotiated an FTA with Korea, but congressional approval currently is uncertain.

- Ongoing negotiations between the EU and Canada over an ambitious and comprehensive FTA could also affect the U.S. FTA debate. If a robust agreement is reached, the EU and the United States would then both have FTAs with Canada and Mexico, making the absence of a FTA between the United States and EU all the more glaring after years of discussion.

- It is not clear where Europe's PTA policy is headed. There are only a few remaining major developed countries that fall outside the EU's network of PTAs, including the United States, China, Japan, and Australia. While PTA negotiations with these countries could yield large economic benefits and provide a big impact (for good or ill) on the world trading system, some of these countries would likely demand liberalization of European agriculture and services, areas where there is widespread opposition in Europe.

This report will be updated as events warrant.

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Introduction

Preferential trade agreements (PTAs) comprise a variety of unilateral, bilateral, or regional arrangements which favor member parties over non-members by extending tariff and other non-tariff preferences. The most prevalent PTA today is a free trade agreement (FTA), such as the North American Free Trade Agreement (NAFTA) or the U.S.-Australian FTA.[1] PTAs are excepted under certain circumstances from the non-discrimination clause of the multilateral world trading system. The World Trade Organization (WTO) permits countries to enter into PTAs under certain conditions, but the criteria are very elastic, and the examination by the WTO as to their consistency with WTO rules has not been rigorous.[2]

The main dispute is whether PTAs serve as a building block or a stumbling block for further multilateral trade liberalization.[3] If PTAs, on balance, create more trade (by allowing production to shift to the more competitive producers in the agreement) than they divert (by shifting trade from lower-cost non-PTA members to higher-cost members because of tariff preferences extended to members), they are said to be a building block or complement for the world trading system. On the other hand, if the converse is true, PTAs are considered to be a stumbling block for the multilateral trading system. However, it is very difficult to determine quantitatively whether trade creation or trade diversion dominates in any particular PTA. This is because the effects of the agreements on the patterns of trade and investment can depend on the content of the PTA as well as the size and magnitude of the barriers being reduced.[4]

What is not disputed is that PTAs have grown and become the centerpiece of world trade diplomacy as countries seek to improve access to foreign markets for their exporters and investors. With weakening momentum for multilateral trade liberalization, PTAs, particularly FTAs, have proliferated markedly in recent years. The annual average number of PTA notifications since the World Trade Organization (WTO) was established in 1995 has been 20, compared to less than 3 per year during the 1948-1995 period under the GATT. Many more bilateral and regional agreements are being negotiated—an estimated 60 PTAs in Asia alone—in all parts of the world. The share of world trade now covered by PTAs is estimated to be around 50%.[5]

In the post-war period, the European Union (EU) has been central to the proliferation of PTAs. The EU itself, initially established in 1957 as the European Economic Community, is the world's

[1] Under an FTA, two or more countries minimally agree to eliminate tariffs, quotas, and preferences on most traded goods. Most FTAs today also seek to liberalize trade in services, investment, and numerous other regulated areas of economic activity. At the same time, members of an FTA maintain their own tariffs, quotas, and other non-tariff barriers vis-à-vis non-members.

[2] The specific conditions for satisfying consistency with the General Agreement on Tariffs and Trade (GATT)/WTO rules are contained in Article XXIV.of the GATT (now part of the WTO), or Article V of GATT's agreement that covers services (the WTO's General Agreement on Trade in Services (GATS).) Apart from requesting the PTA to encompass "substantially all trade" between its members, and not to raise the overall level of protection vis-a-vis the rest of the WTO membership, these provisions oblige WTO members wishing to enter into a PTA to show that they have complied with the relevant multilateral rules.

[3] Multilateral trade liberalization generally is deemed preferable to preferential trade agreements on both economic and political grounds because it generates greater economy-wide benefits and is non-discriminatory.

[4] Jacob Viner, a Canadian economist, did the original work on trade diversion in his book, *The Customs Union Issue*, Anderson Kramer Associates, 1961.

[5] Kenneth Heydon and Stephen Woolcock, *The Rise of Bilateralism*, United Nations University Press, 2009, pp. 9-10.

largest preferential agreement.[6] Of the 199 PTAs in force and notified to the WTO by December 2008, or to its predecessor organization, the General Agreement on Tariffs and Trade (GATT), 35 involved the EU, making the EU's network of PTAs the largest in the world.[7]

As a result of its widespread PTAs (including unilateral preference programs), the EU trades with only 10 WTO members where the most-favored-nation (MFN) regime applies in its entirety. These 10 WTO members (Australia, Canada, Chinese Taipei, Hong Kong, China, Japan, Republic of Korea, New Zealand, Singapore, and the United States) accounted for 43.9% of the EU's total merchandise imports in 2009, up from 40.4% in 2008.[8]

After imposing a moratorium on negotiating new PTAs from 1999-2006, the EU in 2007 began negotiating a new generation of more ambitious or comprehensive FTAs.[9] These agreements are intended to obtain greater commercial and trade benefits than previous FTAs, as well as to be comprehensive in scope and "WTO-Plus" (going beyond current WTO commitments). If the EU's new FTAs follow this template, they are likely to be more similar to the FTAs negotiated in recent years by the United States—FTAs which are often referred to as state-of-the art or "gold standard" agreements.

As outlined in its 2006 *Global Europe* strategy, the EU targeted a number of larger countries and regions for negotiations, including South Korea, India, Canada, and the Association of South East Asian Nations (ASEAN).[10] Whether the EU will be successful with a more ambitious and comprehensive agenda of FTAs remains to be seen.[11]

Coincidentally, the EU change in FTA strategy has come at a time when the U.S. FTA policy has moved toward a "holding pattern" or "pause." Legislation granting the President authority to negotiate FTAs expired in July 2007 and has not been renewed by Congress. Of the four FTAs negotiated or under negotiation in 2007—South Korea, Panama, Columbia, and Peru—only one (Peru) has been approved and implemented to date. With the Democratic party divided about the economic and social effects of FTAs, as well as their content, the Obama Administration's major trade initiative has been to engage in the Trans-Pacific Partnership (TPP) Agreement negotiations.[12] In the meantime, calls from the U.S. business community sector have increased for

[6] The now 27 members of the EU (Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom) comprise the largest market in the world, with a GDP of $18 trillion (2008) and a population around 500 million.

[7] WTO, Regional Trade Agreements database.

[8] CRS calculations based on data from World Trade Atlas. With the expected entry into force of the EU-Korea FTA in 2010, this percentage can be estimated to drop by 2-3 percentage points.

[9] The EU moratorium, which was not a formal policy decision, was instituted in order to focus greater political attention on negotiating a comprehensive WTO Doha Development Round agreement. Continuing lack of progress in the Doha negotiations was an important consideration in the EU's decision to lift the moratorium. Other factors included pressures from European businesses to match what others, in particular the United States, were doing to negotiate FTAs and pressures to insert a number of EU "issues" into FTAs, such as competition and investment policy, that are not part of the Doha Round.

[10] *Global Europe: Competing in the World : A Contribution to the EU's Growth and Jobs Strategy*, European Commission Staff Working Document, [Com(2006)567 final], October 4, 2006. The Commission places its new FTA initiative in the context of Europe's increasing concern about global competitiveness.

[11] Heydon and Woolcock, *The Rise of Bilateralism*, pp. 165, 170. To some, the EU arguably has succeeded in negotiating only one FTA—the EU-Korea—that is comprehensive and ambitious.

[12] CRS Report R40502, *The Trans-Pacific Strategic Economic Partnership Agreement*, by Ian F. Fergusson and Bruce (continued...)

a more activist U.S. FTA policy, much out of fear of losing export sales and market share to EU competitors who may be gaining more favorable access to larger foreign markets as a result of new PTAs.[13] Given the need for the U.S. economy to rely on an increase in exports for faster growth, these concerns have also resonated in Congress and the Obama Administration.

This report explores these intersecting issues in three parts. The first section discusses the status and primary motivations of the EU's PTAs currently in place or under negotiation. The second compares the content and trade coverage of Europe's PTAs to U.S. PTAs. A third section assesses the implications of the EU's PTA program for the multilateral trading system and U.S. trade policy. A concluding section evaluates future directions for Europe's PTA policy. This report will be updated as events warrant.

Status and Primary Motivations of Europe's PTAs

Europe's PTA's can be grouped into four categories according to their primary motives. First, there are agreements for geographically close neighbors for which the EU is prepared to offer accession or some slightly looser relationship. A second category of agreements is designed primarily to foster stability around the EU borders. A third category of PTAs has a historical and development focus and comprises agreements with 71 small and mostly poor developing countries in Africa, the Caribbean, and the Pacific (the ACP countries). A fourth category involves more distant countries and regions where the primary EU objective is to neutralize potential discrimination against EU exports and investments resulting from FTAs between third countries or to secure commercial benefits via preferential access to foreign markets.[14]

Unlike the United States, the EU has not used a standard model for its PTAs. The EU's web of PTAs is characterized by different trade liberalization agendas and trading rules. All agreements appear to be negotiated in a flexible manner to suit the EU and its partners in each specific case.[15]

The EU's PTAs are also negotiated under a range of different kinds of agreements. The most typical is an *Association Agreement* (AA), which creates a framework for cooperation on a range of political, security, economic, trade, and human rights issues. The trade portion of the AA is often a free trade agreement between the EU and a third country. Given that *Association Agreements* are treaties, they have to be ratified by all the EU member states.

A short elaboration of the agreements reached or negotiations underway for each category follows. This summary is intended to provide a snapshot of EU preferential agreements currently in place or under negotiation. It does not provide a history of the evolution of many of these agreements.

(...continued)

Vaughn, December 7, 2009.

[13] U.S. Chamber of Commerce, *Trade Action—or Inaction: The Cost for American Workers and Companies,* September 15, 2009.

[14] L. Alan Winters, "EU's Preferential Trade Agreements: Objectives and Outcomes," in *The External Economic Dimensions of the European Union,* edited by Pitou van Dijck and Gerrit Faber, Kluwer Law International, 2000, pp. 195-223.

[15] Stephen Woolcock, "European Union Policy Towards Free Trade Agreements,' ECIPE Working Paper, No. 3/2007, p.4.

Agreements with Future EU Members or Close Neighbors

For close neighbors in Europe, the EU is prepared to contemplate accession or, if partners wish, some looser relationship. This is the area over which the *acquis communautaire* potentially extends.[16] As listed in **Table A-1**, this grouping includes three members of the European Economic Area (EEA)—Iceland, Liechtenstein, and Norway—and Switzerland. It also includes those Central and Eastern European countries (CEEC) that have not yet joined the EU, along with the countries of the Western Balkans and Turkey.

Acceding Countries

The various countries that have acceded to the EU over the past years signed *Europe Agreements* and *Association Agreements* prior to accession.[17] These agreements introduced free trade in almost all industrial products, but provided more limited liberalization in agriculture. As part of their EU obligations, new members had to terminate their bilateral trade agreements with foreign countries.

Over the past 15 years, 15 countries have gone through this process, expanding the EU from 12 member states to 27. In 1995, Austria, Finland, and Sweden entered the EU to increase the membership to 15 states (EU15); in 2004, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia joined to increase membership to 25 states (EU25); and in 2007, Bulgaria and Romania acceded, increasing membership to its current 27 states (EU27). The enlarged EU membership extends the geographical coverage of the EU's own trade agreements, thereby increasing market access to EU's preferential partners. As a result, third countries without such preferential market access arguably find it more difficult to compete in the EU market.[18]

European Free Trade Association (EFTA)

The EU's free trade agreements with individual members of EFTA were negotiated in the 1970s.[19] FTAs remain in force for Iceland, Liechtenstein, Norway, and Switzerland. The creation of the European Economic Area (EEA) in 1994 extended the EU's internal market to Iceland, Liechtenstein, and Norway.[20] The EEA allows its members to participate in the internal market without assuming the full responsibilities of EU membership. The Agreement covers all four pillars of the internal market: freedom of movement of goods (but not agriculture and fisheries),

[16] The term *acquis communautaire* is used in EU law to refer to the total body of EU law accumulated thus far. Countries hoping to accede to the EU are required to approximate their legislation with that of the EU in a full range of economic and regulatory areas. The depth of policy harmonization required is much less for countries not intending to join the EU.

[17] *Europe Agreements* recognize that the ultimate objective of a bilateral association agreement is accession to the EU.

[18] World Trade Organization, *Trade Policy Review of the European Communities*, WT/TPR/S/136, June 23, 2004, pp. 27-30.

[19] EFTA was established in 1960 by Austria, Denmark, Norway, Portugal, Sweden, Switzerland, and the United Kingdom. Its membership was reduced by accession to the EU of Denmark and the United Kingdom in 1973, Portugal in 1986, and Austria, Finland, and Sweden in 1995.

[20] Switzerland decided not to participate and the other EFTA members—Austria, Finland, and Sweden—joined the EU in 1995.

persons, services, and capital.[21] Thus, the EEA is intended to deliver the economic benefits of a single market without the political ties associated with EU membership. These three countries see themselves as structurally distinct from the EU to warrant this arms-length association.[22]

Switzerland elected not to participate in the EEA after a referendum in 1995. Relations between the EU and Switzerland are currently governed by the EC-Switzerland Agreement of 1972, which established free trade in goods, plus a total of 16 bilateral agreements. The bilateral agreements, covering such areas as the free movement of people, trade in agricultural products, and public procurement, have resulted in considerable market liberalization between the two partners.[23]

Western Balkans

Since the break-up of the former Yugoslavia, EU relations with the Western Balkans have been governed by the *Stabilization and Association Process* (SAP). The purpose of the SAP is to establish special relations between the countries of the Western Balkans in exchange for reforms that will align their legislation more closely with that of the EU. These countries are considered either as "candidate countries" or "potential candidate countries" for accession to the EU.

Two *stabilization and association agreements* (SAAs) are in place with Croatia and the Former Yugoslav Republic of Macedonia (FYROM) and both countries have been granted candidate status. Accession negotiations with both countries have been going on since 2005.[24]

SAAs have also been signed with Albania, Bosnia and Herzegovina, Serbia, and Montenegro. These states currently are recognized as "potential candidate countries" for EU membership. As part of the broader SAA, FTAs have entered into force with Albania, Montenegro, and Bosnia and Herzegovina. These FTAs place particular emphasis on liberalizing trade in goods, aligning rules with EU practice and protecting intellectual property.[25] The EU has also granted the Western Balkan countries non-reciprocal duty-free access for most all goods to the EU market until the end of 2010.[26] At the multilateral level, the European Commission supports the accession of Bosnia and Herzegovina, Montenegro and Serbia to the WTO.[27]

Other European Agreements

The EU opened accession negotiations with Turkey in October 2005. The current principles and conditions for Turkey's accession are provided in a Council decision on February 2008. In the meantime, trade relations continue under the EU-Turkey Customs Union established in 1995. The customs union covers industrial goods and processed agricultural items.[28] There is no timetable for integration of agriculture into the customs union. The customs union arrangement also makes

[21] WTO, *Trade Policy Review of the European Communities,* WT/TPR/S/214, 2009, p. 23.

[22] L. Alan Winters, "EU's Preferential Trade Agreements: Objectives and Outcomes," p. 203.

[23] WTO, *Trade Policy Review of the European Communities,* 2009, p. 24.

[24] The SSAs are similar in principle to the *Europe Agreements* signed with the Central and Eastern European countries in the 1990s and to the *Association Agreement* signed with Turkey in 1995.

[25] WTO, *Trade Policy Review of the European Communities,* 2009, p. 18.

[26] Ibid. p. 24.

[27] Ibid. p. 24.

[28] A customs union combines a free trade area with a common external tariff.

use of the pan-Euro-Mediterranean system of cumulation of origin, and covers technical barriers to trade, competition policies, and protection of intellectual property rights. Turkey also participates in the Euro-Mediterranean Partnership (see below).[29]

The EU also has customs union agreements with Andorra and San Marino, and a free trade agreement with the Faeroe Islands. In the working of free trade agreements between the EU and third countries, products originating in Andorra or San Marino normally benefit from the preferences granted to the EU.

Agreements with Bordering or Near-Bordering Countries

The second category of PTAs involves countries that border the EU broadly defined. A primary motivation of these agreements is to promote economic prosperity and, thus, political stability on the EU's doorstep or around the EU's borders. The primary concern is to insure against disruptive social or economic conditions that could spill-over and adversely affect EU member states.[30] This category of agreements (see **Table A-2)** applies most closely to Euro-Med countries, the Gulf States, and Ukraine.

Mediterranean Countries

Trade relations between the EU and the Mediterranean countries are governed by the Euro-Mediterranean Partnership (or Barcelona Process).[31] Launched in 1995, the partnership is a broad framework of political, economic, and social relations between member states of the EU and countries of the Southern Mediterranean.

One important objective of the partnership is the creation of a Mediterranean free trade area by 2010. The free trade area is being established through the conclusion of both Euro-Med Association Agreements between the EU and individual Med countries and through the conclusion of FTAs between the Med partners themselves. To date the EU has concluded Association Agreements with all its Med partners except Syria. Associated countries enjoy duty free access to the EU market for manufactured goods and preferential treatment for exports of agricultural and fisheries products. Tariffs will gradually be reduced for EU exports to the Med region. These agreements replace non-reciprocal Cooperation Agreements signed in the 1970s.[32]

Gulf States

Negotiations on an FTA between the EU and Gulf Cooperation Council (GCC) have been going on, albeit with a number of suspensions, for two decades.[33] Negotiations started in 1990 and were suspended while the GCC finalized plans for the creation of a GCC customs union. The

[29] WTO, *Trade Policy Review of the European Communities*, 2009, p. 20.

[30] Alan Winters, "EU's Preferential Trade Agreements: Objectives and Outcomes," p.202.

[31] The Mediterranean partners are Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia, and Turkey. Libya has observer status.

[32] World Trade Organization, *Trade Policy Review of the European Communities*, 2004, p.31, and World Trade Organization, *Trade Policy Review of the European Communities*, 2009, p.26.

[33] The Cooperation Council for the Arab States of the Gulf (GCC) is a regional organization comprising Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

negotiations resumed in 2002 following the adoption of new wider negotiation directive from both sides and a commitment on behalf of the GCC to establish a customs union, which entered into force in 2003 with the GCC adopting a unified customs tariff of 5%. The proposed FTA is to foster economic integration between the two regions and provide for progressive and reciprocal liberalization of trade in goods and services. The negotiations also cover government procurement, intellectual property rights, competition policy, dispute settlement, and rules of origin, as well as political issues such as human rights, immigration, and the fight against terrorism.[34]

The negotiations were most recently suspended in December 2008, but discussions on restarting the talks are ongoing.[35] Sticking points have included the GCC's opposition to EU demands for political and human rights reforms and the EU's imposition of a heavy carbon tax on oil and its derivatives, as well as on petrochemicals. The GCC member states hold a large share of the world's energy reserves while climate-related carbon issues are of growing importance on the EU policy agenda.[36]

Ukraine

In March 2007, the EU and Ukraine launched bilateral negotiations on a new Association Agreement. The agreement, if completed, will replace a Partnership and Cooperation Agreement that dates back to 1998. A comprehensive FTA will be embedded in the Association Agreement alongside provisions dealing with political, social, and sectoral cooperation. There have been nine rounds of negotiations held to date. The next two rounds are scheduled to take place in March and May 2010.[37]

The FTA will form part of the *New Enhanced Agreement* which aims for closer economic and political cooperation between neighboring countries. The EU has *Cooperation Agreements* with Armenia, Azerbaijan, Georgia, Kazakhstan, Krygyzstan, Moldova, and Uzbekistan and is considering negotiating FTAs with Armenia, Georgia, and Moldova.[38]

Ukraine, unlike the above mentioned former Soviet states, aspires to be considered as an EU candidate. Ukraine's prospects for eventual EU membership remains subject to debate within Europe.[39]

Agreements with Developing Countries

This category of agreements has a historical and development rationale, and comprises mainly agreements with 71 small and mostly poor developing countries in Africa, the Caribbean, and the Pacific (the ACP countries). Nearly all of the ACP countries were formerly colonies of one of the

[34] World Trade Organization, *Trade Policy Review of the European Communities*, 2009, p. 29.

[35] *Plus News Pakistan*, "New Push for GCC-EU free trade pact," November 27, 2009.

[36] *Saudi Economic Survey*, "GCC, EU trade talks to resume," January 27, 2010.

[37] *Ukrainian News*, "Ukraine and EU To Hold Ninth Round on Creation of Free Trade Zone in Kyiv From December 7 to 1," October 12, 2009.

[38] World Trade Organization, *Trade Policy Review of the European Communities*, 2009, p.19.

[39] CRS Report RL33460, *Ukraine: Current Issues and U.S. Policy*, by Steven Woehrel, March 2, 2010.

EU's member states. Concern for development and poverty alleviation also lie behind the EU's unilateral trade preferences under its Generalized System of Preferences (GSP).

ACP Countries

The EU and the ACP countries have been negotiating *Economic Partnership Agreements* (EPAs) since the expiration on the Contonou trade preferences in December 2007. The EPAs aim to create an FTA between the EU and groups of ACP countries, enhance cooperation in all areas related to trade, and support development and poverty eradication in all ACP countries. Due to the WTO incompatibility of previous preferential arrangements, the EPAs seek to remove all trade barriers between the EU and ACP partners on a non-discriminatory and reciprocal basis.

Negotiations were concluded with the former Caribbean colonies in December 2007 for a comprehensive or full EPA and the agreement was signed in October 2008. As shown in **Table A-3**, negotiations toward full EPAs with the other groupings in Africa and the Pacific are ongoing.[40]

Generalized System of Preferences

For developing countries who do not have a trade agreement with the EU, the EU's GSP offers duty-free access to 176 developing countries and territories to the EU's market on a non-reciprocal basis. The EU GSP program was last renewed in 2008 and extended until December 31, 2011.[41]

Agreements with Distant Countries and Regions

This category involves commercially oriented PTAs with more distant countries and regions where the primary EU objective often is to neutralize potential discrimination against EU exports and investments resulting from FTAs between third countries. These agreements help to secure commercial benefits for EU exporters and investors via agreements that provide preferential access to foreign markets. In contrast to the PTAs with European countries, near neighbors, or developing countries, these PTAs, particularly those negotiated after *Global Europe* (2006), are intended to contain provisions that are deeper, wider, and more reciprocal than previous PTAs.

This category includes agreements and negotiations with regional groupings and individual countries (see **Table A-4** for a full listing). Regional agreements/negotiations include ASEAN, the Andean Community, Central America, and Mercosur. Bilateral agreements/negotiations include Canada, Chile, India, Mexico, South Africa, and the Republic of Korea. As a result of slow progress in regional negotiations with the Andean Community and ASEAN, the EU has negotiated FTAs with Peru and Colombia and has commenced bilateral FTA negotiations with Singapore and Vietnam.

[40] World Trade Organization, *Trade Policy Review of the European Communities*, 2009, p.19.

[41] Ibid., p.19.

Regional Agreements

In the past, the EU has preferred in principle to negotiate region-to-region agreements. Given its own experience with regional economic integration, many member states and stakeholders view it as natural to promote such integration elsewhere. The promotion of a distinctive European approach to integration is also seen as a major element of EU foreign policy. This policy approach, however, is highly dependent upon the ability of regional partners to make progress toward regional integration.[42]

Andean Community and Central America

The EU opened negotiations for a region-to-region Association Agreement with the Andean Community (Bolivia, Colombia, Ecuador, and Peru) and with Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) in June 2007. The agreements are intended to comprise three components: political dialogue, cooperation, and a WTO-compatible free trade area.

The Andean negotiations were disrupted by Bolivia's withdrawal in 2008 due to disagreement with the targeted objectives and by Ecuador's disagreement over the EU's intellectual property demands and the EU's banana quota regime. Bilateral free trade agreement negotiations with Colombia and Peru progressed, however, and on March 1, 2010, culminated in the signing of comprehensive free trade agreements. The EU still hopes to include Bolivia and Ecuador in a region-to-region association agreement at a later date.[43]

Negotiations with Central America have progressed, with seven rounds completed as of July 2009. The eighth round was postponed following political uncertainty in Honduras. Negotiations resumed in February 2010, in Brussels. EU trade officials hope an agreement can be reached this year, but key challenges remain on liberalization of sensitive products and the overall ambition of the Central American countries in the areas of services, investment, and public procurement.[44]

ASEAN

The EU launched FTA negotiations with ASEAN in June 2007.[45] Progress in negotiating a comprehensive agreement was limited. An initial controversy involved Burma (Myanmar). EU member states refused to negotiate with the military dictatorship, while most Southeast Asian members stood by the junta in the name of ASEAN solidarity. Economic differences within the region were also a concern for the EU, which decided to exclude the least developed members, namely Laos and Cambodia. Given that the talks were not progressing, the two sides at the end of 2008 agreed to take a "pause" in the regional negotiations. In the meantime, the EU began informal talks with several individual ASEAN members (Singapore, Thailand, and Vietnam) to assess the possibility of commencing separate FTA negotiations. This approach proved controversial since the EU had always been officially a strong supporter of regional integration.

[42] Heydon and Woolcock, *The Rise of Bilateralism*, p. 164.

[43] *International Trade Reporter*, "EU, Peru, Colombia Conclude Free Trade Agreement Talks," March 3, 2010.

[44] *Philippines News Agency*, "EU still committed to signing free trade accord with C. America," January 19, 2010.

[45] The Association of South East Asian Nations (ASEAN) is made up of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

Some ASEAN officials accused the EU of pursuing a divide and rule strategy, but the EU continues to insist that it was still interested in a regional framework if feasible.[46]

In the meantime, the EU in March 2010 formally launched negotiations with Singapore for a bilateral FTA. Vietnam has also agreed to start bilateral negotiations with the EU this year.[47]

MERCOSUR

The EU first began negotiating a region-to-region Association Agreement with the four Mercosur countries (Argentina, Brazil, Paraguay, and Uruguay) in 2001. The process of strengthening trade ties between the two sides was viewed by many as a reaction to Mercosur's possible participation in the Free Trade Area of the Americas (FTAA), a proposal advanced by the United States a decade ago for creating a free trade zone stretching from Alaska to Argentina.[48]

EU-Mercosur negotiations were placed on hold in October 2004 when both parties recognized that support for concluding a comprehensive and ambitious agreement, going beyond their respective WTO obligations, was weak. The main sticking point was that Mercosur members demanded reductions in EU farm subsidies and quotas that constrain their exports of grains, beans, and beef, while European producers wanted Mercosur to lower its tariffs on industrial goods and to provide better patent protection and improved access for financial and other services. Agriculture makes up more than a third of all Mercosur exports to the EU. [49]

While no new negotiating rounds are scheduled, the two sides on November 30, 2009, agreed to resume contacts at the technical level. Spain, which holds the rotating Presidency of the EU in the first half of 2010, is particularly supportive of injecting new life into the negotiations.[50]

Bilateral Agreements

While the stated EU preference is to negotiate regional agreements, the EU also negotiates bilateral preferential agreements with individual countries. Given that the EU offers preferential access to its huge single market, it wants to receive equivalent market opportunities in return. While this is sometimes difficult for smaller countries to provide, the object of overcoming possible trade diversion caused by U.S. PTAs also motivates the EU to negotiate bilateral agreements.

Canada

Negotiations on an EU-Canadian *Comprehensive Economic and Trade Agreement (CETA)* began in October 2009 in Ottawa. A second round of CETA negotiations took place in Brussels in January 2010, and subsequent rounds have been scheduled this year for April, July, and October.

[46] *Europolitics*, EU/ASEAN: FTA Talks with Singapore Scheduled for March," January 15, 2010.

[47] *The Saigon Times Daily*, "EU Keen on FTA Negotiations with Vietnam," January 19, 2010, and *International Trade Reporter*, "EU to Launch Bilateral FTA Talks with Vietnam, Singapore," March 3, 2010.

[48] *Dow Jones Business News*, "EU, Mercosur, Chile Agree to Launch Free Trade Talks," June 28, 1999.

[49] *International Trade Reporter*, "Mercosur Makes Free Trade with European Union Top Priority," 26 ITR 1708, December 9, 2009.

[50] *Agence Europe*, "Spain wants to relaunch negotiations for EU-Mercosur FTA," December 5, 2009.

The negotiations are intended to be comprehensive, covering trade in goods and services, investment, public procurement, the protection and enforcement of intellectual property rights, and commitments on the social and environmental aspects of trade and sustainable development. Both sides hope to finalize an agreement in 2011.[51]

Canada is currently the EU's 11th most important trading partner, accounting for 1.7% of the EU's total external trade. The EU is Canada's second most important trading partner, after the United States, with a 10% share of its total external trade. EU-Canada trade is dominated by high-value goods such as machinery, transport equipment, and chemicals. Around 15% of trade consists of agricultural or energy-related trade. Trade in services, particularly travel and transportation, is an important area of the trade relationship. Foreign direct investment is also an important areas of the relationship, with the EU ranking as the second largest investor in Canada, and Canada as the fourth largest investor in the EU.[52]

Chile

The EU and Chile concluded an *Association Agreement* in 2000, which included an FTA that entered into force in February 2003. The agreement provides for progressive and reciprocal liberalization of trade in goods over a 10-year period. It is expected that 100% of industrial goods, 81% of agricultural products, and 91% of fish products will be duty-free by 2013. The agreement also provides for the reciprocal liberalization of services, government procurement, investment and capital flows. It also provides for greater protection of intellectual property rights, and a dispute settlement mechanism.[53]

The EU-Chile FTA foresees that both sides will undertake further efforts to liberalize trade in agriculture and services in the future. Discussions on the protection of geographical indicators will also be a part of future negotiations.[54]

India

FTA negotiations between the EU and India were launched in June 2007. Eight rounds have been held through January 2010, with much of the discussion focused on content and modalities. Negotiations are reported to be moving slowly. India is opposed to tariff liberalization of a large number of agricultural products and insists that government procurement not be included in the negotiations. India is reported to be resisting EU demands on intellectual property protection, including data exclusivity, patent-term extension, and enforcement. India is also opposed to inclusion of any non-trade issues such as child labor and human rights violations in the agreement. (At the same time, the EU's new trade commissioner Karel de Gucht has stated that all trade agreements must be linked to human right concerns, an issue which the European Parliament, with its greater trade powers under the Lisbon Treaty, concurs.) India is also resisting

[51] European Commission website: http://trade.ec.europa.eu/doclib/press/indes.cfm?id=135&serie=130&langId=en.

[52] European Commission website: http://europa.eu/treade/creating -opportunities/bilateral-relations/countries/Canada.

[53] WTO Trade Policy Review of the European Communities, 2004, pp.30-31.

[54] European Commission, DG-Trade Snapshot of Chile/Bilateral Relations, February 1, 2008.

WTO-plus liberalization of assorted regulatory barriers in services and investment, affecting sectors such as retail, banking, legal services, and insurance.[55]

From the European side, there is resistance to India's core negotiating demand, to gain better access for Indian investors and service suppliers. Given India's lower labor costs and large population of well-qualified professionals including engineers, accountants, and software programmers, there is ample European resistance to allowing greater mobility of the Indian labor force to accept jobs in Europe.[56]

Despite the obstacles, trade negotiators on both sides remain optimistic a deal can be reached. India's Commerce and Industry Minister, Anand Sharma, asserted after the recently concluded eighth round of talks that he expected an agreement to be reached by the end of 2010.[57]

Mexico

Negotiations for a free trade agreement between Mexico and the EU began in October 1996. An agreement, formally called the *Economic Partnership Political Co-ordination and Co-operation Agreement*, was signed in March 2000 and came into force on July 1, 2000.[58] An FTA was part of the overall cooperation agreement, which equally promotes political dialogue and other cooperative activities between the two sides.

The EU-Mexico FTA covers trade in goods and services, public procurement, competition policy, intellectual property rights, investment, and dispute settlement. The FTA called for the EU to phase out all duties on non-agricultural imports from Mexico by 2003, and for Mexico to lift all duties on non-agricultural imports from the EU by 2007. The average duty of EU-Mexican non-agricultural products stood at around 12% prior to implementation of the duty cuts. The phasing out of duties in agricultural and fishery trade was subject to a gradual and longer liberalization process. On services and government procurement, Mexico granted the EU treatment that was essentially equivalent to the treatment Mexico accorded the United States and Canada under NAFTA. The agreement also includes chapters in which the two sides agree to increase cooperation in a number of areas, including mining, energy, transportation, tourism, statistics, and science and technology.[59]

For Mexico, the FTA was intended to help it lessen its heavy dependence on the United States for its exports and to attract more foreign direct investment from Europe. For the EU, the FTA was seen as a way to help its firms compete on more equal terms with U.S. and Canadian companies who had enjoyed tariff and other non-tariff advantages since NAFTA was implemented in 1994.[60]

[55] Factiva, India Reluctant to Relent on Greater Market Access to the EU, HNMINT, February 4, 2010.

[56] Business Standard, "India, EU to resume FTA talks next week," January 22, 2010.

[57] Factiva, Accord Fintech, "Government Optimistic on Clinching FTA with EU by 2010-end," February 5, 2010.

[58] CRS Report R40784, *Mexico's Free Trade Agreements*, by M. Angeles Villarreal, August 27, 2009, p. 6.

[59] World Trade Organization, *Trade Policy Review of European Communities,*2009, p. 26.

[60] Joel Millman, "EU and Mexico Reach Free Trade Deal," *Wall Street Journal*, November 26, 1999.

Republic of Korea

The EU completed the negotiation of a comprehensive FTA with South Korea in October 2009. Assuming the agreement is approved by EU member states and the European Parliament, the FTA could become effective in 2010.

The main elements of the agreement include liberalization of tariffs, non-tariff barriers, and services, plus new disciplines in the areas of competition policy, intellectual property rights, labor, and the environment. Industrial tariffs will be eliminated on over 96% of traded items over a five-year period. Some agricultural items, including rice, are excepted. Under the FTA, Korea will consider as equivalent many European standards, and recognize European certificates, thus eliminating bureaucratic barriers to trade. Notably, the FTA addresses non-tariff barriers in the auto sector by committing Korea to recognize EU standards as equivalent. Liberalization of services is focused on four sectors: telecommunications, legal, environmental, and financial. The FTA will offer a high level of protection for EU geographical indicators such as Champagne, Feta Cheese, and Scotch whiskey.[61]

South Africa

Trade relations between the EU and South Africa are governed by a *Trade, Development, and Cooperation Agreement (TDCA)*, which was signed in October 1999 and which came into force in May 2004. The TDCA contains provisions on economic cooperation, cultural and social ties, and EU financial assistance to South Africa. The TCDA also aims to establish an FTA by 2012 that would cover 90% of bilateral trade. The agreement provided for asymmetrical liberalization in favor of South African goods and services so that by the end of a 12-year transition period South Africa will provide duty-free status to 86% of its imports from the EU and the EU will provide 95% of South African exports similar treatment. While the agreement applies to all products, some 300 sensitive agricultural products, including fruits, milk, corn, tomatoes, and rice, are excluded. The EU is South African's top trading partner.[62]

FTA negotiations were stalemated for a period of time over concerns relating to wine and spirits, particularly port and sherry. These products are closely guarded by southern European countries, such as Spain and Portugal. A final compromise allowed for the sale of South African wine (8.2 million gallons) in return for a South African commitment to stop using its own "port" and "sherry" names on export wines to third countries within five years, and in its own domestic market within 12 years.[63]

Comparing U.S. and EU PTAs

Most PTAs contain a dozen chapters or more and run hundreds and sometimes thousands of pages of highly technical text. Not surprisingly, only a few studies have attempted to compare and

[61] Office of the United States Trade Representative, "Press Release: "USTR Releases Preliminary Analysis of Korea-EU Free Trade Agreement, October 21, 2009.

[62] *Agence France-Presse*, "Highlights of EU-South Africa free trade agreement," October 1, 1999.

[63] *Economist Intelligence Unit –Views Wire*, "South African Economy–Free Trade agreement with EU signed," October 210, 1999.

contrast the agreements negotiated and implemented by the United States and European Union. Two studies, however, have undertaken such a comparison, albeit based on a different universe of PTAs.[64] This section draws from these two studies, one by researchers associated with the London School of Economics (LSE) and the other by researchers affiliated with the Bruegel Institute in Brussels, to illustrate differences in overall approaches and the extent to which provisions in the respective sets of agreements are either "WTO-plus" or "WTO-extra." The significance of these latter two criteria are explained below. In addition, EU and U.S. PTAs are compared in terms of trade coverage and competition.

Overall Approaches

The U.S. approach to FTAs is based on an evolving version of the North American Free Trade Agreement (NAFTA). The scope of U.S. PTAs, thus, tends to be structurally standardized and the content of the provisions fairly uniform. U.S. FTAs also tend to be symmetrical and reciprocal. As suggested by the LSE study, "the objective of obtaining reciprocal market access drives the [U.S.] process and there is little scope for asymmetry of commitments."[65]

Until completion of its recent FTA with South Korea, Europe's PTAs have been characterized by differentiation, flexibility, and relatively modest ambition in terms of market-opening.[66] The EU has differentiated among its partners in terms of provisions and commitments. The content of EU agreements has varied depending on a number of factors, including the level of development of its partners, how important they are for European security, and in which sectors they constitute a competitive challenge. For example, near neighbors and potential accession states were expected to sign up to the full *acquis communanutaire*.[67] Euro-Med partners were offered free trade in industrial goods, but were provided exclusions for sensitive agricultural products. Agreements with the ACP states provided preferential access to the EU market, long transition periods, and financial assistance.[68] On the other hand, agreements with emerging markets tend to match what the United States or other countries have achieved through PTAs.[69]

The EU PTA policy tendency for incorporating asymmetric provisions can favor either the EU's PTA partner or itself. On a range of issues, the EU, for example, has been willing to accept modest commitments on the part of its developing country PTA partners. In other instances, such as the EU-Chile FTA, the EU has liberalized less than its partner in specific areas.[70]

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[64] Heydon and Woolcock, *The Rise of Bilateralism: Comparing American, European and Asian Approaches to Preferential Trade Agreements*, United Nations University Press, 2009 [hereafter referred to as the LSE or London School of Economics after the affiliation of its authors]; and Henrik Horn, Petros C. Mavroidis, and Andre Sapir, "Beyond the WTO? An Anatomy of EU and US preferential trade agreements," Bruegel Blueprint Series, Volume VII, 2009 [hereafter referred to as the Bruegel study].

[65] Heydon and Woolcock, *The Rise of Bilateralism*, p. 239.

[66] The EU-Korea FTA is much more comparable to U.S. FTAs than previous EU agreements. Whether the EU-Korea FTA will herald a new approach for all future EU FTAs remains to be seen.

[67] As explained previously, this is the full body of EU law.

[68] The new EPAs being negotiated by the EU with developing countries embody a shift toward reciprocity in the undertaking of commitments. According to Heydon and Woolcock, they are prompting significant trade diversion as ACP states shift their imports of beef, beverages, and clothing from low-cost suppliers to the EU. See Heydon and Woolcock, *The Rise of Bilateralism*, p. 241.

[69] Heydon and Woolcock, *The Rise of Bilateralism*, pp. 169, 241-242.

[70] Ibid., pp. 25, 169.

WTO-Plus Provisions

WTO-plus provisions can be defined as provisions of PTAs that come under the current obligations and rules of the WTO, where the parties undertake commitments that build on or deepen commitments they have already made at the multilateral level. The most prominent example is a reduction of tariffs on industrial and agricultural products going beyond what is already committed to in the WTO context. Examples of other provisions that can be WTO-plus include obligations concerning customs administration, sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), trade remedies (countervailing duty and antidumping), services (obligations covered by the General Agreement on Trade in Services or GATS), government procurement, state trading enterprises, state aid, and intellectual property rights (IPR) that fall under the Trade-Related Intellectual Property Rights (TRIPs) agreement.[71] **Table 1** provides a list and description of 14 such WTO-plus provisions that have been incorporated into U.S. and EU PTAs.

Table 1. Description of WTO-Plus Provisions

Provision	Content
FTA industrial goods	Tariff liberalization; elimination of non-tariff barriers
FTA agricultural goods	Tariff liberalization; elimination of non-tariff barriers
Customs administration	Provision of information; publication on the internet of new laws and regulations; training
Export taxes	Elimination of export taxes
Sanitary and phytosanitary (SPS) measures	Affirmation of rights and obligations under the SPS agreement; harmonization of SPS measures
Technical barriers to trade (TBT)	Affirmation of rights and obligations under the TBT agreement; harmonization of regulations; mutual recognition agreements
State trading enterprises (STE)	Establishment or maintenance of an independent competition authority; non-discrimination regarding production and marketing conditions; affirmation of Article XVII GATT provisions
Antidumping (AD)	Retention of AD rights and obligations under WTO agreement
Countervailing duty measures (CVD)	Retention of CVD rights and obligations under the WTO agreement
State aids	Assessment of anti-competitive behavior; annual reporting on the value and distribution of state aids provided; provision of information
Public procurement	Progressive liberalization; national treatment and/or non-discrimination principle; publication of laws and regulations on the internet; specification of public procurement regime
Trade-related investment measures (TRIMs)	Provisions concerning requirements for local content and export performance on foreign direct investment
Trade in services agreement (GATS)	Liberalization of trade in services
Trade-related intellectual property rights (TRIPs)	Harmonization of standards; enforcement; national treatment and most-favored nation treatment

Source: "Beyond the WTO? An Anatomy of EU and US preferential trade agreements," Bruegel Blueprint Series VII, 2009, p. 14.

[71] Henrick Horn, Petros C. Mavroidis, and Andre Sapir, "Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements, Bruegel Blueprint 7, 2009, p.12.

The Bruegel analysis of WTO-plus provisions contained in 28 different agreements (14 U.S. PTAs and 14 EU PTAs) found a "fairly high degree of similarity" of coverage in the two sets of agreements. Both sets of agreements contained obligations covering substantially the same areas. Differences in terms of coverage related mainly to services, trade-related investment measures, and the enforceability of the provisions. Trade-related services obligations were included in all U.S. agreements, but in only four EU agreements. Most U.S. agreements included trade-related investment obligations, but none of the EU agreements did.[72] The U.S. agreements also had substantially more legally enforceable obligations concerning trade-related investment measures, technical barriers to trade, and services, while the EU agreements contained significantly more obligations of this kind concerning state trading enterprises.[73]

The LSE analysis, based on a smaller sampling of PTAs, focused more on substantive differences in WTO-plus provisions. On the central issue of tariffs, the U.S. FTAs provided for almost 100% elimination of U.S. tariffs by the end of a transition period for industrial products.[74] While this was very nearly the case for agricultural products, there remained some U.S. tariff-rate quotas.[75] In return, the U.S. PTA partners agreed to a gradual elimination of all tariff lines. U.S. PTA partners, however, make use of more extensive transition times to protect sensitive industries.[76]

Compared to the United States, according to the LSE analysis, the EU's tariff cuts also approach nearly 100% coverage of industrial products, but they exclude relatively more agricultural lines. Significant parts of EU agricultural products such as beef, poultry, dairy, olive oil, rice, barley, wheat, rye, sugar, and wine are often excluded from tariff reductions or liberalization. The EU-South Africa PTA, for example, excluded over 280 agricultural tariff lines.[77] Coverage also varies from PTA partner to PTA partner, reflecting potential competition for EU agriculture.[78] The EU agreements also tend to be more flexible towards partner countries, including provision for the PTA partner to reintroduce tariffs if they are needed as part of an infant industry strategy.[79]

According to the LSE analysis, U.S. PTAs tend to be significantly WTO-plus in the coverage of services and IPR. In terms of services, U.S agreements are judged to go beyond the GATS obligations in both financial services and telecommunications services. U.S. sector coverage of services is also based on the more liberalizing "negative" list approach compared to the GATS approach of a combination of positive and negative lists. Regarding IPR protection, U.S. PTA's are also seen as WTO-plus, progressively extending the 50-year terms of copyright to 75 years

[72] EU FTAs lack investment provisions because Member States (up until passage of the Lisbon Treaty) have competence over investment issues. In addition, many Member States have negotiated bilateral investment treaties (BITs) with FTA partners.

[73] Heydon and Woolcock, *The Rise of Bilateralism*, pp. 20, 23.

[74] Tariff preferences are WTO-plus in the sense that they reduce tariffs to the level of the MFN-bound rate in the WTO.

[75] This standard appears to have slipped with in the FTAs with Australia and South Korea.

[76] Heydon and Woolcock, *The Rise of Bilateralism*, p. 23..

[77] Stephen Woolcock, "European Union Policy Towards Free Trade Agreements," p. 6.

[78] According to the LSE analysis, the EU has provided greater coverage of agriculture in recent agreements. The EU-Korea agreement, for example, offers almost complete coverage of agricultural tariff lines. Because Korea is not considered a competitive threat to EU agriculture, it is uncertain whether future negotiations with countries that have greater agricultural exporting capabilities, such as Canada, will include extensive liberalization .

[79] Heydon and Woolcock, *The Rise of Bilateralism*, pp. 24, 242.

required by the TRIPS Agreement and the minimum term of trademark protection from 7 to 10 years.[80]

The EU treatment of services and IPR, according to the LSE study, is less ambitious than the U.S. approach. On services provisions, the EU uses a positive-list approach that provides the flexibility to exclude sensitive sectors both for itself and its trading partners. On IPR provisions, the EU tends to stress compliance with existing international standards of protection for IPR, rather than pressing for provisions that go beyond specific WTO-plus obligations (i.e.TRIPs.) The EU also, according to the LSE report, seeks to use PTAs to promote its case for TRIPs-plus protection for geographical indicators, a policy initiative that has faced considerable opposition from the United States and other trading partners.[81]

In some provisions, the LSE study determined that both the U.S. and EU PTAs have remained WTO-consistent and not WTO-plus. This is generally the case for trade remedies such as countervailing duty and antidumping measures where neither side allows PTAs to impose any additional disciplines on these procedures. At the same time, U.S. PTAs have consistently applied time limitations on the use of safeguard actions that are tighter than those found in the WTO.[82]

In one area involving SPS measures, the LSE study considered the EU approach to be WTO-minus. This was because the EU agreements call for an interpretation of the WTO SPS agreement that allows for social as well as science-based risk assessment and risk management (i.e., an interpretation of WTO SPS agreement that is less science focused). By taking non-scientific considerations into account, particularly in its interpretation of the "precautionary" principle, the EU approach arguably could be used to more easily restrict trade on public-health and safety grounds.

WTO-Extra Provisions

A WTO-extra provision, as defined by the Bruegel study, refers to commitments in policy areas not currently covered or regulated by the WTO. For instance, there are no current WTO undertakings with regard to environmental protection, labor laws, human rights, or movements of capital. **Table 2** provides a partial list and description of 15 such WTO-extra provisions that have been incorporated into U.S. and EU PTAs.[83]

The Bruegel analysis determined that EU PTAs extend much more frequently beyond current WTO obligations and rules than the U.S. agreements. Of the 28 agreements analyzed, the Bruegel study determined that the 14 EU agreements contain almost four times as many instances of WTO-extra provisions as do the 14 U.S. agreements. The study also judged that there has been an increasing tendency to this effect as more recent EU agreements have incorporated an even greater number of WTO-extra provisions.[84]

[80] Ibid., pp. 239-240.

[81] Ibid., p. 242.

[82] Ibid.

[83] Henrick Horn, Petros C. Mavroidis, and Andre Sapir, "Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements," p. 13.

[84] Ibid., pp. 6, 40.

Table 2. Description of Selective WTO-Extra Provisions

Provision	Content
Anti-corruption	Regulations affecting criminal measures relating to international trade and investment
Competition policy	Harmonization of competition laws; establishment or maintenance of an independent competition authority
Consumer protection	Harmonization of consumer protection laws; exchange of information and experts
Data protection	Exchange of information and experts; joint projects
Environmental laws	Development of environmental standards; enforcement of national environmental laws; establishment of sanctions for violation of environmental laws
Investment	Development of legal frameworks; harmonization and simplification of procedures; establishment of mechanisms for settlement of disputes
Movement of capital	Liberalization of capital movements; prohibition of new restrictions
Labor market conditions	Regulation of the national labor market; affirmation of International Labor Organization (ILO) core commitments
Intellectual property rights (IPR)	Accession to international treaties not referenced in the TRIPs Agreement
Human rights	Respect for human rights
Illicit drugs	Joint projects on reduction of supply and demand
Money laundering	Harmonization of standards; technical and administrative assistance
Social matters	Coordination of social security systems; non-discrimination regarding working conditions
Terrorism	Exchange of information and experience; joint research and studies
Visa and asylum	Exchange of information; drafting legislation; training

Source: "Beyond the WTO? An Anatomy of EU and US preferential trade agreements," Bruegel Blueprint Series VII, 2009, p. 15.

Notes: Other WTO-extra provisions described in the Bruegel study covered agriculture, approximation of legislation, audio visual, civil protection, innovation policies, cultural cooperation, economic policy dialogues, education and training, energy, financial assistance, health, illegal immigration, industrial cooperation, information society, mining,, nuclear safety, political dialogue, public administration, regional cooperation, research and technology, small and medium enterprise, statistics, and taxation.

The Bruegel study also found that only 8 of the 38 WTO-extra provisions included in either U.S. or EU PTAs involved legally enforceable obligations. Three of these eight areas are included in both U.S. and EU agreements: intellectual property rights, investment, and movement of capital. Three areas concern mostly or solely U.S. agreements: anti-corruption, environment, and labor. Two areas involve EU agreements only: competition policy and social matters. Provisions

relating to terrorism, illegal immigration, visa and immigration, and illegal drugs appear in only some EU agreements.[85]

Although both sets of agreements contain a significant number of WTO-extra provisions, the number of legally enforceable WTO-extra provisions contained in either the U.S. or EU PTAs is quite small. Provisions that can be regarded as breaking new ground compared to existing WTO agreements, according to the Bruegel study, are limited to the environment and labor standards for the U.S. agreements and competition policy for the EU agreements. These provisions all deal with regulatory issues, many of which have been the subject of previous U.S. and EU attempts to incorporate into the WTO rules, often against the wishes of developing countries. Based on the fact that the new, legally enforceable WTO-extra provisions all deal with regulatory issues, the Bruegel study concludes that EU and U.S. agreements effectively serve as a means for the two sides to export their own regulatory regimes to their FTA partners.[86]

Trade Coverage

To compare the scope and coverage of U.S. and EU PTAs in force, trade flows are presented in **Table 3** and **Table 4**. The list of PTAs compared is based on the WTO's Regional Trade Agreements database.[87] **Table 3** shows that the EU's 26 agreements notified to the WTO (rows 2-27) were valued at $511 billion in exports in 2008 (row 28), representing 27% of the EU's exports to the world. Including the PTAs (Korea, India, Ukraine, and Canada) for which the EU has made an early announcement to the WTO, these numbers (row 34) increase to $669 billion and 36% of EU27 exports to the world.[88]

Given that the EU itself is a preferential trade agreement that has been reported to the WTO, inclusion of intra-EU27 trade provides a more complete presentation of trade covered by the EU's PTAs.[89] Due to the fact that intra-EU exports are much larger (by a factor of 148% in 2008) than extra-EU trade, the total trade covered by EU PTAs is quite extensive.[90] As shown in **Table 3** (row 37), $3.4 trillion in trade is covered by a combination of intra-EU27 and extra-EU27 exports, accounting for 70% of total EU exports (intra-EU and extra-EU). In addition, if the four negotiations that the EU has provided early notification are included in these calculations, these numbers increase to a 74% share of total exports valued at $3.5 trillion (row 38).

[85] Ibid., p. 28.

[86] Ibid., p. 43.

[87] This database includes trade agreements (mostly customs unions and FTAs) notified to the WTO and in force, plus a list of other PTAs for which an early announcement has been made. The list does not include PTAs with non-WTO members or preference programs such as the EU's EPAs or the U.S. Generalized System of Preferences. It is unclear why the WTO uses the term "regional trade agreement" instead of preferential trade agreement.

[88] Extra EU27 exports are goods exported from EU member states to non-member states and is the figure often referred to as EU27 exports to the world. This figure, in turn, is most commonly compared to U.S. exports to the world.

[89] Intra-EU trade refers to member states exports to one another (e.g. German exports to France).

[90] Intra-EU27 exports totaled $2.86 trillion in 2008 compared to extra-EU 27 exports valued at $1.92 trillion.

Table 3. EU27 Trade (Exports) Covered by PTAs, 2008

Partner/Type	Share of Exports (%)	Value (billions of dollars)
1. Extra EU27	100.00	1,924.00
Agreements Notified to WTO		
2. Albania	0.15	0.86
3. Algeria	1.16	22.42
4. Andorra	0.09	1.67
5. Bosnia & Herzegovina	0.28	5.45
6. Cameroon	0.09	1.72
7. Cariforum states (Antigua and Barbuda, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Christopher and Nevis, Suriname, Trinidad and Tobago)	0.27	5.19
8. Chile	0.38	7.36
9. Cote d'Ivoire	0.11	2.18
10. Croatia	1.09	20.95
11. Egypt	0.96	18.50
12.Faroe Islands	0.03	0.64
13. Iceland	0.17	3.32
14. Israel	1.06	20.48
15. Jordan	0.22	4.29
16. Lebanon	0.30	5.72
17. Mexico	1.66	31.89
18. Macedonia	0.19	3.69
19. Montenegro	0.07	1.28
20. Morocco	1.10	21.17
21. Norway	3.30	63.50
22. San Marino	0.02	0.39
23. South Africa	1.52	29.26
24. Switzerland-Liechtenstein	7.57	143.80
25. Syria	0.26	5.08
26.Tunisia	0.76	14.56
27. Turkey	4.13	79.44
28. Sum of Rows 2-27	27.26	511.12
Early Announcements to WTO		
29. Korea, Republic of	1.95	37.4
30. India	2.40	46.1

Partner/Type	Share of Exports (%)	Value (billions of dollars)
31. Ukraine	1.92	36.90
32. Canada	1.97	37.91
Extra-EU27 Trade		
33. Sum of rows 29-32	8.24	158.30
34. Sum of rows 28 and 33	35.5	669.42
EC 27 Enlargement		
35. Intra-EU trade	59.7	2,855.00
36. Intra EU 27 exports plus extra EU 27 exports	100.00	4,779.00
37. Rows 28 plus 35 divided by row 36	70.43	3,366.11
38. Rows 37 plus 33 divided by row 36	73.74	3,524.41

Source: World Trade Atlas and Eurostat, External and intra-European Union trade, 2009 edition.

Notes: Data in rows 1-34 comprise extra-EU 27 exports and rows 35-38 include intra-EU 27 exports. Share data for rows 35-38 represent percentages of total EU trade—intra-EU27 exports plus extra-EU27 exports. Data for row 38 reflects shares that could be reached if agreements with Korea, India, Ukraine, and Canada are implemented.

As shown in **Table 4** (row 18), U.S. PTAs account for 40% of U.S. total trade (exports) that were valued at $520 billion in 2008. This compares to, on the one hand, 27% of Extra EU-27 exports valued at $511 billion, and, on the other hand, 70% of total EU exports (extra plus intra EU-27 exports) valued at $3.4 trillion.

If the three additional agreements (Korea, Colombia, and Panama) that the United States has been notified to the WTO are included (row 23), 44% of total U.S. exports are covered by PTAs with trade valued at $571 billion. These figures, in turn, compare to, on the one hand, 36% of Extra EU-27 exports valued at $36 billion, and, on the other hand, 74% of total EU exports (extra plus intra EU-27) valued at $3.5 trillion.[91]

These numbers can be used to evaluate two arguments that are commonly made about the proliferation of U.S. and EU PTAs: (1) that U.S. firms may face more discrimination and possibly reduced sales than EU firms due to the EU's larger participation in PTAs, and (2) that the EU's larger participation in PTAs may allow it to gain more control over the international trade agenda via extension of its own regulatory regime and standards to its PTA partners. Any evaluation depends heavily on whether one uses as a basis of comparison the EU's exports to the world (Extra-EU27 trade) or the EU's total exports (Extra-EU27 trade plus Intra-EU 27 trade).

Concerning the first argument that U.S. firms are falling behind, a case can be made that the EU's total trade (Extra plus Intra- EU27 exports) is an appropriate measure. This is because the EU itself is a PTA that discriminates against U.S. exporters as well as all non-members. Thus, it is possible to maintain that the EU's PTAs cover nearly twice as much exports in percentage terms

[91] Including the agreements both sides have notified to the WTO but not yet concluded, the EU to U.S. comparison is 74% to 44% and $3.5 trillion to $0.6 trillion. See row 38 in **Table 3** and row 23 in **Table 4**.

(70% versus 40%) and seven times as much in value terms ($3.4 trillion versus $0.52 trillion) than U.S. PTAs. At the same time, this argument may be overstated because the data are upwardly biased due to the fact that the amount of trade covered by preferential agreements is not the same as the amount of trade that is conducted on a preferential basis.[92]

Concerning the second argument that the EU's participation in PTAs may allow it to gain more control of the international trade agenda, a case can be made that EU exports to the world (Extra-EU 27 trade) is the more appropriate measure. This is because both the EU and United States are free to set their own regulatory standards, and the fact that the EU is a PTA provides no discriminatory advantage. Thus, it is possible to maintain that EU exports to the world are the most appropriate measure. Under this situation, the regulatory extension argument is basically a wash given that the U.S. and EU share of exports covered by existing PTAs are nearly identical in value terms ($520 billion for the U.S. and $511 billion for the EU).

Table 4. U.S. Trade (Exports) Covered by PTAs, 2008

Partner	Share of Exports (%)	Value (billions US $)
1. World	100	1,287.00
Agreements Notified to WTO		
2. Canada (NAFTA)	20.28	261.15
3. Mexico (NAFTA)	11.75	151.22
4. Dominican Republic (DR-CAFTA)	0.51	6.59
5. Costa Rica (DR-CAFTA)	0.44	5.68
6. El Salvador (DR-CAFTA)	0.19	2.46
7. Honduras (DR-CAFTA)	0.38	4.85
8. Nicaragua (DR-CAFTA)	0.08	1.09
9. Australia	1.73	22.22
10. Bahrain	0.06	0.83
11. Chile	0.92	11.86
12. Jordan	0.07	0.94
13. Morocco	0.11	1.43
14. Oman	0.11	1.38
15. Peru	0.48	6.18
16. Singapore	2.16	27.85
17. Israel	1.13	14.49
18. Sum of Rows 2-17	40.40	520.22
Early Announcements to WTO		
19. Korea, Republic of	2.69	34.67
20. Colombia	0.89	11.44
21. Panama	0.38	4.89
22. Sum of Rows 19-21	3.96	51.00
23. Sum of Rows 18 & 22	44.36	571.22

Source: World Trade Atlas.

Notes: List of U.S. PTA partners is based on the WTO Regional Trade Agreements database. Rows 2-17 are PTAs notified to the WTO and currently in force and rows 19-20 comprise PTAs for which an early announcement has been made.

[92] This is due to the fact that a significant amount of trade today is valued at zero duties or at very low tariff rates.

Trade Competition

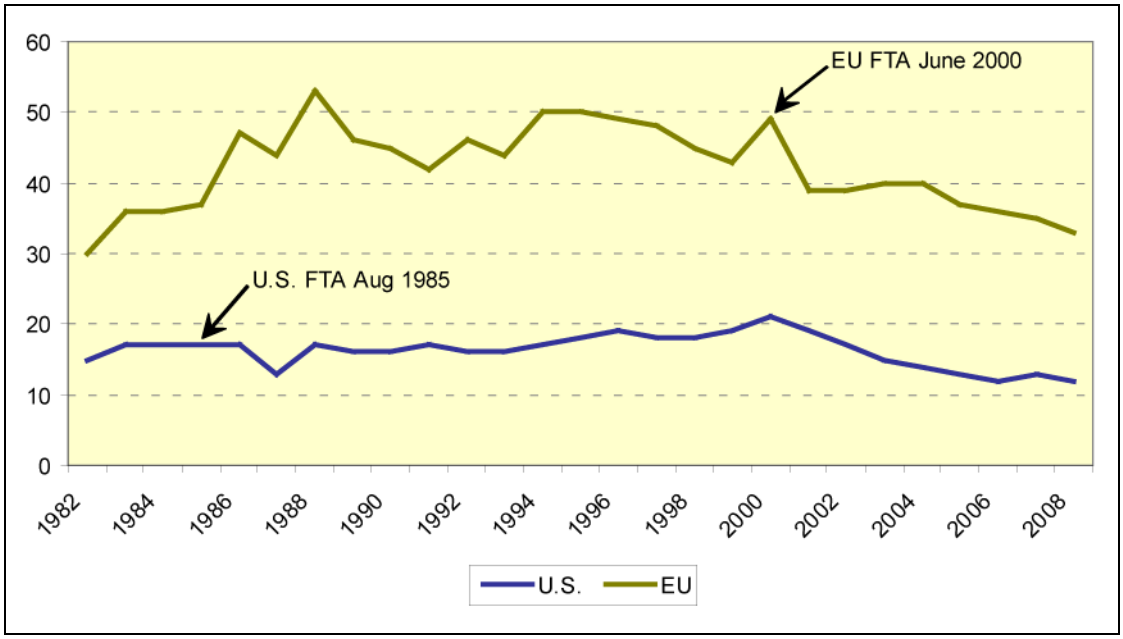
Concerns about falling behind and avoiding trade diversion have arguably been a factor in the two trading partners efforts to negotiate and implement separate but similar PTAs with five trading partners (Israel, Mexico, Morocco, Chile, and Jordan). The share of total U.S. and EU exports covered by these competing initiatives varies greatly (33% of total U.S. exports but only 4% of EU exports), but the trade shares do not necessarily capture the importance of these PTAs in terms of opening markets for specific industries and firms, boosting foreign direct investment flows, or pushing the envelope of economic reforms in areas such as services and investment.

Figures 1-5 provide data illustrating the extent to which either side has appeared to have gained market share as a result of the implementation of a PTA. In general, the data point to a lack of demonstrable success in improving market shares in four of the five FTAs. This does not mean individual companies and workers have not benefitted or that exports have not risen at faster rates as a result of these PTAs, but that in the aggregate many other factors other than PTAs may be determining how well each side does overall in supplying a trading partner with its imports. These factors may include historical ties, commodity composition of trade, general macroeconomic conditions such as growth and exchange rates, PTAs negotiated with other countries in an attempt to diversify from traditional suppliers, and the rise of new competitors, such as China.

The earliest trade agreements are with Israel, with the U.S.-Israeli FTA having entered into force in August 1985 and the EU-Israeli FTA in June 2000. As shown in **Figure 1**, neither trading partner has gained a larger share of Israel's market since its FTA became effective. In the case of the United States, its share of Israel's imports averaged 16.5% in the four years (1982-1985) prior to implementation of the agreement and 15.75% in the four years (1986-1989) after implementation. Over the 1990s (1990-1999), the U.S. share of Israel's market averaged 17.4% (nearly a percentage point higher than the four-year period prior to the agreement), but dropped to an average of 15% from 2000 to 2008. Over the most recent four-year period (2005-2008), the U.S. market share has averaged only 12.5%, four percentage points lower than the four years prior to the onset of the agreement.

Figure 1. U.S. and EU Shares of Israel's Imports, 1982-2008

(percent)



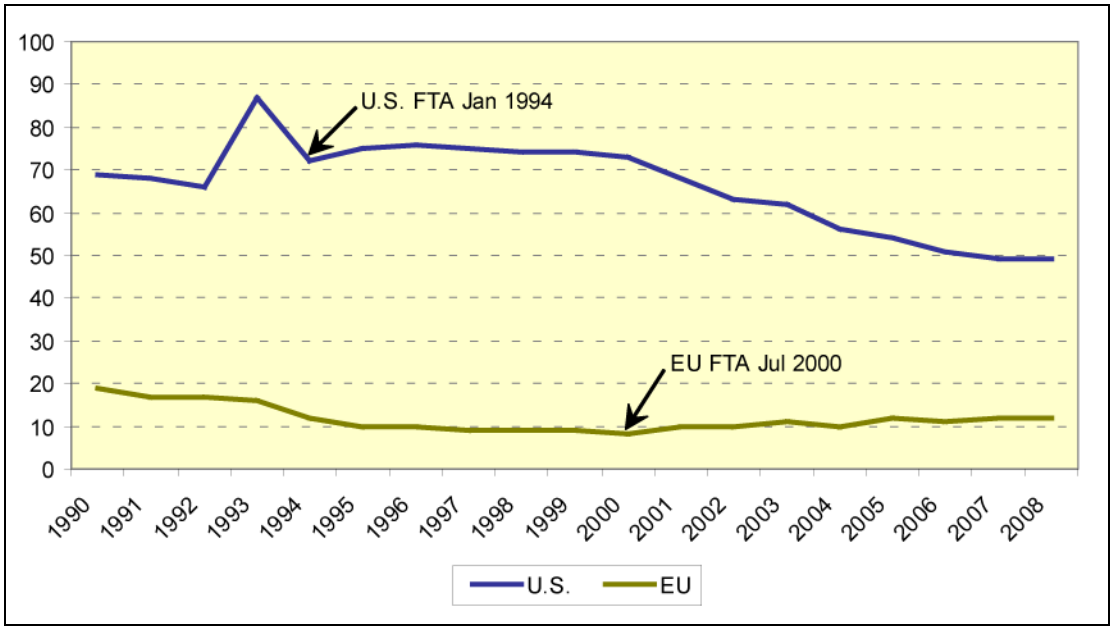
Source: CRS calculations based on data from the International Monetary Fund Directions of Trade Yearbooks.

The EU similarly has not experienced a rise in its share of Israel's market since its FTA went into effect in June 2000. For 19 years (1982-1999) prior to the FTA, the EU's market share averaged 46.7%, but this share dropped nearly four percentage points since the agreement came into force (based on a 42.3% market share from 2001-2008).

The free trade agreement with Mexico is the largest of the overlapping agreements. As shown in **Figure 2**, while the U.S. share of Mexico's imports rose from 72.0% in 1994 (the year the agreement went into force) to an average of 74.5% during the following six years (1995-2000), the U.S. import share has declined dramatically in recent years. During the past eight years (2001-2008), the United States import share averaged 56.5%, a drop of 18 percentage points from the immediate post-NAFTA period (1995-2000). The EU, on the other hand, has gained a minuscule amount of market share of less than 1% based on an average market share of 10.4% from the eight years (1993-2000) prior to the agreement and an average market share of 11.0% in the eight years (2001-2008) after the agreement went into effect. A comparison, however, based on the full decade of the 1990s (1990-1999), shows that the EU has lost a little over 1% market share since its agreement went into force in June 2000.

Figure 2. U.S. and EU Shares of Mexico's Imports, 1990-2008

(percent)

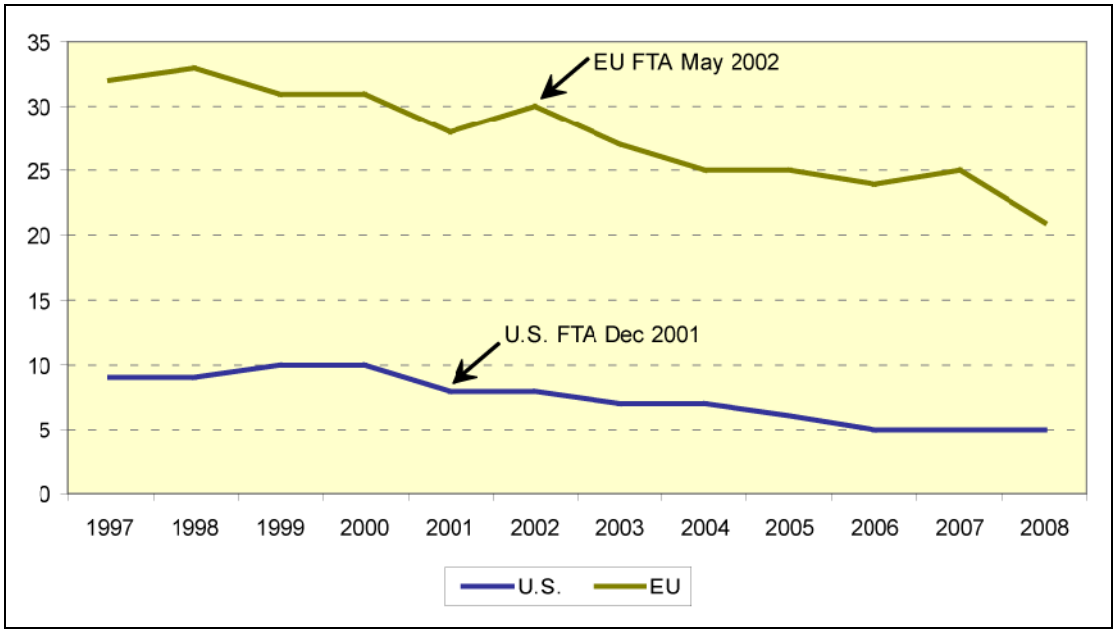


Source: CRS calculations based on data from the International Monetary Fund Directions of Trade Yearbooks.

Implementation of the FTAs with Jordan has also coincided with a decline in import market share for both the United States and the EU. As shown in **Figure 3**, the U.S. share of Jordan's imports has declined from an average of 9.2% (1997-2001) prior to the December 2001 implementation date to a post-implementation (2002-2008) average market share of 6.1%. Similarly, the EU share of Jordan's market has dropped post-FTA implementation, going from an average of 31.0% during 1997-2001 to an average of 25.2% during 2002-2008.

Figure 3. U.S. and EU Shares of Jordan's Imports, 1997-2008

(percent)

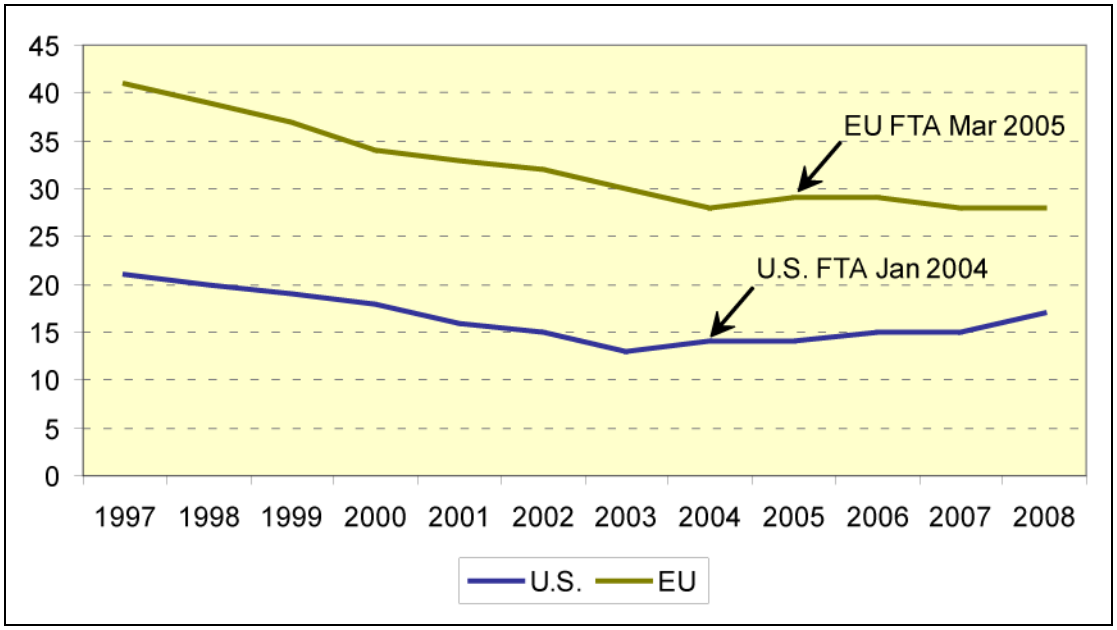


Source: CRS calculations based on data from the International Monetary Fund Directions of Trade Yearbooks.

In the case of Chile (**Figure 4**), both the United States and EU have also lost market share since the implementation of their respective free trade agreements. For the United States, the drop in market share has been about 1%-2% depending on the time periods compared. For the five years after the FTA became effective in January 2004, the U.S. market share averaged 15% compared to a 16.2% average share from 1999-2003 and a 17.4% average share from 1997-2003. For the EU, the drop has been about 3%-4% depending on the time frame compared. For the almost four years the FTA has been in effect since March 2005, the EU market share averaged 13.3% compared to 16.2% for the previous five years and 17.3% for the previous eight years.

Figure 4. U.S. and EU Shares of Chile's Imports, 1997-2008

(percent)

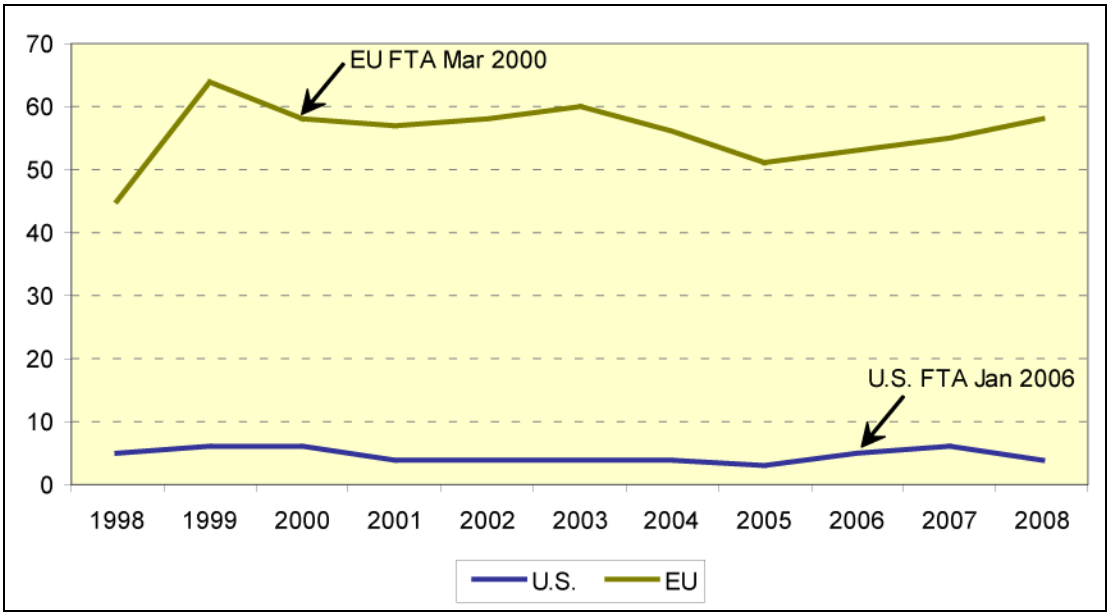


Source: CRS calculations based on data from International Monetary Fund Directions of Trade Yearbooks.

Morocco is the one country where implementation of an FTA has coincided with a small rise in market share for both the United States and EU. As shown in **Figure 5**, the United States has gained one half of one percent average market share since the FTA was implemented in December 2001, rising from an average market share of 4.5% from 1998-2005 to an average market share of 5.0% from 2006-2008. The EU gained about 1.5% market share post FTA implementation in March 2000, going from a 54.5% market share over 1998-2000 to an average market share of 56.0% from 2001-2008.

Figure 5. U.S. and EU Shares of Morocco's Imports, 1998-2008

(percent)



Source: CRS calculations based on data from IMF Directions of Trade Yearbook.

Implications for the Multilateral Trading System and U.S. Trade Policy

Europe's PTA program has implications for the multilateral trading system and for U.S. trade policy. These impacts are discussed below.

Multilateral Trading System

There are a variety of criteria for assessing how Europe's network of PTAs support or hinder the multilateral trading system. Depending on the criteria employed, various assessments that are neutral, positive, or negative can be derived.

No Impact

One school of thought maintains that PTA's can boost multilateral activity by serving as a prod (usually through trade diversion) for multilateral negotiations. Proponents of this perspective hold that some PTAs in the past have boosted multilateral activity through competitive liberalization.[93] For example, the conclusion of NAFTA, along with the EU's progress toward a single market in 1994, is said by many to have helped push the Uruguay Round of multilateral trade negotiations to a successful conclusion. It is argued that these regional efforts, in which both the EU and

[93] Competitive liberalization envisages bilateral and regional FTAs as mutually reinforcing steps that will drive countries to strengthen multilateral disciplines as well.

United States were involved, helped other countries see the benefits of a multilateral agreement particularly because they would be disadvantaged by NAFTA and Europe's single market if overall tariff levels remained the same. [94]

To date, many analysts maintain that Europe's PTAs have not provided a push for competitive liberalization or served as a prod for ending the stalemate in the Doha Round of multilateral trade negotiations.[95] An important reason could be that Europe's PTAs for the most part have not liberalized substantial amounts of trade.[96] Compared with the EU itself, most PTA partners have been individually small, accounting for a small share of EU exports and providing the EU with small markets. Whether potential FTAs with larger trading partners, such as Korea or Canada, could generate more trade diversion and thereby serve as a prod for other countries to liberalize, remains to be seen.

Positive Impact

A second school of thought holds that PTAs can be compatible with multilateral activity by developing new rules and obligations that will entice others to join. EU officials in fact have stated that to have a positive impact, future EU PTAs need to be comprehensive in scope, provide for the liberalization of substantially all trade (as "required" by the WTO), and go beyond current WTO rules with deeper obligations than currently exist. These commitments, if fulfilled, would increase the chances that future FTAs would be compatible and supportive of the multilateral trading system.[97]

Since its *Global Europe* policy shift in 2006, the EU has finalized only one agreement—the EU-Korea FTA—that appears to match the comprehensive in scope and WTO-plus criteria.[98] Expected to be implemented by both sides in 2010, the EU-Korea FTA broadly parallels the U.S.-Korea FTA in terms of comprehensiveness, trade coverage, and WTO-plus provisions, with certain differences. With respect to tariff commitments for industrial goods, the Korea-EU FTA appears to be comparable in ambition and comprehensiveness with respect to tariff commitments on industrial goods, albeit with key differences for motor vehicles. The EU-Korea FTA also appears to broadly match commitments in services made in KORUS, but lacks an investment chapter (until passage of the Lisbon Treaty, competency for investment matters rested with individual EU Member States).[99]

While a case can be made that the EU-Korea agreement appears to provide much of the deeper integration required to be supportive of multilateralism, the EU faces steep hurdles in negotiating comprehensive and deep PTAs with its other targeted trading partners. Efforts, for example, to

[94] European Centre for International Political Economy, "A Modern Trade Policy for the European Union: A Report to the New European Commission and Parliament from the EU Trade Policy Study Group," January 2010, p. 22.

[95] The same argument can be made about U.S. FTAs as well.

[96] The proliferation of production supply chains in many different countries may also be a factor in explaining why FTAs today could be having a more limited impact on trading patterns. See Erixon and Pehnot.

[97] European Commission Staff Working Document, *Global Europe: Competing in the World* [Com(2006)567 final], October 4, 2006.

[98] Recently concluded FTAs with Peru and Columbia may also match this criteria.

[99] Office of the United States Trade Representative, Press Release. "USTR Releases Preliminary Analysis of Korea-EU Free Trade Agreement," October 21, 2009. Under the Lisbon Treaty, the European Commission will gradually assume greater competence over foreign investment.

finish longstanding PTA negotiations with Mercosur and the Gulf Cooperation Council (GCC) have not been successful, and attempts to start new PTA negotiations with India and ASEAN have proceeded slowly or been abandoned. Whether its FTA negotiation with Canada can materialize into a strong, comprehensive, WTO-plus FTA remains to be seen.

Negative Impact

A third school of thought views PTAs as having an unfavorable impact on multilateral trade for a variety of reasons. One is that the discriminatory aspect of these agreements, combined with the necessity of incorporating more complicated rules of origin, makes business more complicated and uncertain with competition and efficiency suffering at the expense of trade diversion. A related concern is that PTAs may result mostly in the spread of competing regulatory structures with little discernible impact on trade liberalization.[100]

To the extent that a major aspect of Europe's PTAs in the past has been about extending its rules and regulations (e.g., promoting the adoption of EU standards on product safety, the environment, corporate governance and other issues), as much if not more than opening closed sectors to trade, some analysts see this tendency as a threat to the multilateral trading system. This concern is amplified because the United States is also trying to extend its rules, resulting in a U.S.-EU competition that lacks any grand scheme or blueprint for strengthening the multilateral trading system.[101]

U.S. Trade Policy

In the past, Europe's preferential trade agreements have had only a small impact on the direction of U.S. trade policy, particularly U.S. FTA policy. But in an environment where U.S. FTA policy has become stalemated, the EU's new FTA with Korea and proposed FTA with Canada could play a greater role in the U.S. FTA debate.

FTA Controversy

A decade ago, the U.S. had two free trade agreements in place and three FTA partners (Israel, Canada, and Mexico). The two agreements covered about one-third of U.S. trade (exports). From 2000 through 2007, the U.S. added nine more FTAs comprising 14 countries (Australia, Bahrain, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Morocco, Nicaragua, Oman, Peru, and Singapore). These agreements added preferential coverage to around 8% of U.S. trade (exports). Three additional FTAs have been signed since 2007 (Colombia, Korea, and Panama), but the Obama Administration has not to date arranged with Congress for the consideration of implementing legislation.[102]

[100] Jagdish Bhagwati, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade*, Oxford University Press, 2008

[101] Razeen Sally, "Looking East, The European Union's New FTA Negotiations in Asia," October 2007, European Centre for International Political Economy, Jan Tulir Essays, No 3. Accessed at http://www.ecipe.org.

[102] CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.

Lack of movement from the Obama Administration and the congressional leadership in considering these three FTAs reflects both specific concerns about each agreement (violence against labor union representatives in Colombia, treatment of trade in automobiles and beef in Korea, and labor and tax laws in Panama), as well as growing debate over the impact that FTAs have on the United States. The U.S. business community broadly supports FTAs as promoters of U.S. exports, jobs, and stronger political ties. But U.S. labor unions and some NGOs oppose them on grounds of unfair competition or their alleged adverse impact on workers and development in poor countries.[103]

Impact of EU-Korea and EU-Canada FTAs

Europe's PTA program to date, as previously noted, has not been a major factor in the U.S. debate over FTAs. While some U.S. interests have long worried that the EU used its PTAs to encourage adoption of international standards that emulate its own practices and policy objectives, there has been less concern that the EU's PTA agreements have been robust in terms of opening markets, thereby adversely affecting U.S.-based production and workers. This is primarily due to the fact that the majority of Europe's PTAs have been with countries that have small markets or with countries such as Mexico and Chile that already have an FTA in force with the United States. Additionally, U.S. multinational corporations are heavily invested in Europe and stand ready to benefit from preferential trade openings negotiated by the EU. However, the recently negotiated and initialed EU-Korea FTA, and the possibility of an EU-Canada FTA, coming into force could alter the shape of the discussion.

An important concern that the EU-Korea FTA raises is that U.S. exporters, particularly manufacturers, will be put at risk due to the duty-free price advantage European-based producers will gain in the Korean market. One analysis suggests the implementation of the Korea-EU FTA, while the U.S.-Korea FTA remains on hold, would disadvantage U.S. exports in a range of sectors, including chemicals, electrical and non-electrical machinery.[104] A second study estimates these adverse effects on U.S. exports and employment would total over $30 billion dollars and lead to a loss of over 200,000 jobs.[105] A third analysis estimates the impact of the EU-South Korea FTA on U.S. exports (again assuming the U.S.-Korean FTA is not implemented) at $1.1 billion in lost exports.[106] Accordingly, these FTA proponents argue that rapid implementation of the U.S.-Korea FTA is necessary to neutralize any real or perceived disadvantage the agreement places on U.S. exporters and investors.

EU negotiations with Canada over an ambitious and comprehensive FTA could also affect the U.S. FTA debate. A full range of issues including tariffs, services, non-tariff barriers, intellectual property protection, and government procurement are on the table. Hopes of success have been bolstered by the presence of Canada's provinces, which in the past have not been supportive of FTAs or participants in the negotiations. Their involvement is considered crucial since they

[103] Ed Gresser, "More Growth, Less Gridlock: Toward A New Trade Agenda," The New Democratic Leadership Council, July 2009.

[104] Ernest H. Preeg, "A New Trade Strategy: From Here to Multilateral Free Trade," Manufacturers Alliance Policy Review, February 2009.

[105] U.S. Chamber of Commerce, "Trade Action – or Inaction: The Cost for American Workers and Companies," September 15, 2009.

[106] Committee on Ways and Means, Republican Staff from technical assistance provided by the U.S. International Trade Commission, September 15, 2009.

undertake the bulk of public procurement and have jurisdiction over selected investment opportunities, including natural resources, key negotiating objectives of the EU. Canadian provinces also have wide competencies in the labor market, thereby allowing a CETA to go beyond NAFTA in scope.[107] The EU is also pushing to get increased patent protection for pharmaceutical companies, heightened support for famous trademarks, and new rules for industrial designs.[108] For Canada, a major priority of an FTA is to increase access to the EU market for agricultural products and other sectors such as aerospace, chemicals, wood products, fish, and automotive vehicles and parts.[109]

Assuming a robust EU-Canada FTA was agreed to, the EU and the United States would then both have a FTA with Canada and Mexico, making the absence of an FTA between the United States and Europe all the more glaring after many years of discussion. This concept was first proposed in the 1990s but encountered numerous objections. Whether a EU-Canadian FTA would alter these longstanding arguments remains to be seen.

A U.S.-EU FTA, with ambitious coverage in all sectors and that clearly goes beyond WTO commitments in non-tariff barriers, could generate significant effects on trade and welfare. It would also have strong effects on the multilateral system. Some say such an FTA could spur other countries to raise ambitions and offers in the Doha Round while others fear it would prove too threatening to most members of the WTO and undermine current multilateral trade liberalization efforts.[110]

Conclusion

It is not clear what direction Europe's PTA policy will head in the future. Under its *Global Europe* policy, the EU intended to negotiate commercially relevant and WTO-compliant PTAs by targeting middle-sized economies with some significant barriers such as Korea, India, and eventually Canada. According to some European observers, by pursuing this strategy, the EU hoped to gain better access to foreign markets without having to concede significant reductions in its own agricultural and services barriers. The underlying premise may have been that smaller countries or regions would be willing to deliver cuts in their own protective barriers on a non-reciprocal basis because the EU offered a much bigger market that would facilitate increases in export volume.[111]

To move forward, these same observers maintain that the EU should examine the idea of targeting bigger economies for bilateral negotiations. These would be the handful of remaining countries that fall outside the EU's network of PTAs, namely the United States, China, Japan, and Australia. PTA negotiations with these countries, it is argued, could yield significant economic benefits and provide the biggest impact (for good or ill) on the world trading system. Bigger trade partners

[107] Vogel, Toby, *European Voice*, "Talks to Start on Trade Deal with Canada," October 15, 2009.

[108] Ottawa Citizen, "Low-key EU trade talks could dramatically reshape Canadian IP law," December 22, 2009.

[109] Agence France-Presse, Canada, EU head into Round 2 of trade talks, January 19, 2020.

[110] Center for Strategic and International Studies, *The Transatlantic Economic Challenge*, September 2009, p. 10.

[111] European Centre for International Political Economy, *A Modern Trade Policy for the European Union*, p. 24.

such as the United States and China, however, would likely demand openings in agriculture and services, sectors where there is widespread opposition to liberalization.[112]

From a different perspective, some European economists maintain that the competitiveness of EU firms has more to do with internal EU market conditions (domestic trade policy) than with opening export markets through PTA negotiations. Rejecting the notion that opening export markets will strengthen the competitiveness of European companies, these observers advocate placing greater emphasis on unilateral liberalization of protected sectors and domestic market reforms. In addition to reforms of the Common Agricultural Policy, these economists propose completing a single market for services by ending barriers that member states still impose against suppliers from other member states on the grounds of regulatory differences. They argue that the absence of a more dynamic European-wide services sector raise the prices of services relative to goods, and prevents the EU from trading off its agricultural protectionism for better access for its industrial and services firms. If Europe is not prepared to extend improved market access to exports of services and agriculture, foreign countries are likely to maintain barriers against Europe's industrial and services firms.[113]

If public support in the EU is lacking for undertaking significant agricultural reforms and services liberalization to position itself to negotiate an FTA with the largest economies, European policymakers could explore a number of alternative approaches to trade liberalization both with the United States and with other big economies such as China. For the United States the possibilities include intensified regulatory cooperation with the goal of developing common standards, sector specific initiatives to remove barriers to trade, or the elimination of all tariffs on manufactured goods.[114] For China, where negotiations with the EU currently take place under the rubric of a Partnership and Cooperation Agreements (PCA), an improved PCA is put forth by some observers as an alternative way (from a multilateral agreement or a FTA) of dealing with bilateral trade tensions and negotiating better market access for European companies.[115]

In considering alternative trade liberalization approaches, many stakeholders in Europe no doubt will emphasize a need to place renewed emphasis and priority on concluding multilateral agreements. EU trading interests, just as U.S. interests, are worldwide and a strong multilateral trading system that ensures that trade flows smoothly, predictably, and as freely as possible will likely remain a top priority.

[112] Simon Evenett, "EU Commercial Policy in a Multipolar Trading System, The Center for International Governance Innovation, Working Paper No. 23, April 2007, p. 31-32.

[113] Razeen Salley, p.9 and European Centre for International Political Economy, *A Modern Trade Policy*, p. 30.

[114] Fredrik Erixon and Gernot Pehnelt, "A New Trade Agenda for Transatlantic Economic Cooperation," European Centre for International Political Economy, ECIPE Working Paper No 9, September 2009, p.16.

[115] Fredrik Erixon and Razeen Sally, "Defensiveness and Fragmentation in EU Trade Policy," Published in the EU in a World of Transition: Fit for what purpose?" in November 2009 by Policy Network. Downloadable at http://www.policy-network.net/uploadedFiles/Publications/Publications/A%20World%20in%20transition.pdf.

Appendix. EU PTAs

Table A-1. EU PTAs with Members and Close Neighbors

Partner	Nature of Agreement	Date of Entry into Force	Comments
EC Member States (EC12)	Treaty of Rome	January 1, 1958	
EC – Accession of Austria, Finland, and Sweden (EC-15)		January 1, 1995	
EC- Accession of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia (EC25)		May 1, 2004	
EC- Accession of Bulgaria and Romania (EC27)		January 1, 2007	
Iceland, Liechtenstein, Norway	European Economic Area	January 1, 1994	EEA replaces previous FTA agreements with these countries
Andorra	Customs Union	July 7, 1991	Exchange of letters
Turkey	Customs Union	December 31, 1995	Decision 1/95 of the EC-Turkey Association Council
San Marino	Customs Union	December 1, 1992	
Faroe Islands	Free Trade Agreement	January 1, 1997	Replace 1991 trade agreement
The former Yugoslav Republic	Stabilisation and Association Agreements	May 1, 2004	
Croatia	Stabilisation and Association Agreements	February 2, 2005	Provisions first applied under interim agreement
Albania	Stabilisation and Association Agreements	December 1, 2006	Provisions first applied under Interim Agreement
Montenegro	Stabilisation and Association Agreements	January 1, 2008	Interim agreement, pending entry into force of SSA
Bosnia and Herzegovina	Stabilisation and Association Agreements	July 1, 2008	Interim agreement, pending entry into force of SAA
Serbia	Interim Agreement on trade and trade-related matters	February 1, 2010	

Source: European Commission, Overview of Regional Trade Agreements, February 5, 2010.

Table A-2. EU PTAs with Bordering or Near-Bordering Countries

Partner	Nature of Agreement	Date of Entry into Force	Comments
Algeria	Association Agreement	September 1, 1995	Euro-Med agreement replaces cooperation agreement
Egypt	Association Agreement	June 1, 2004	Euro-Med agreement replaces cooperation agreement
Israel	Association Agreement	June 1, 2000	Euro-Med agreement; trade provisions initially applied under (1995) Interim Agreement
Jordan	Association Agreement	May 1, 2002	Euro-Med Agreement, signed November 24, 1997
Lebanon	Interim Agreement	May 1, 2002	Euro-Med Agreement signed on June 16, 2002; replaces cooperation agreement
Morocco	Association Agreement	March 1, 2000	
Palestinian Authority	Association Agreement	July 1, 1997	Interim Euro-Med agreement
Syria	Co-operation Agreement	July 1, 1977	Euro-Med Agreement signed in October 2004, but not yet entered into force
Tunisia	Association Agreement	March 1, 1998	Euro-Med Agreement
Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates)	None		Negotiations on an FTA expected to re-start in 2010
Russia	Partnership and Cooperation Agreement	1997	Negotiations on a new framework agreement commenced in 2008
Ukraine	Partnership and Cooperation Agreement	1998	Negotiations launched in March 2007 on a new Association Agreement

Source: European Commission: Overview of Regional Trade Agreements, updated February 5, 2010, and European Commission: Overview of FTA and Other Trade Negotiations, November 4, 2009.

Table A-3. EU PTA's with Developing Countries

Partner	Nature of Agreement	Date of Entry into Force	Comments
CARIFFORUM States (Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Christopher and Nevis, Suriname, Trinidad and Tobago)	Economic Partnership Agreement (EPA)	Pending	Date of signature: October 15, 2008 (Haiti signed on December 11, 2009)
EAC (Burundi, Kenya, Rwanda, Tanzania, Uganda)	Interim Economic Partnership Agreement		Negotiations on a more comprehensive EPA ongoing
ESA (Comoros, Madagascar, Mauritius, Seychelles, Zambia, Zimbabwe)	Interim Economic Partnership Agreement	Signed on August 29 2009 by Mauritius, Sychelles, Zimbabwe, and Madagascar	Negotiations on a more comprehensive EPA ongoing.
Pacific (Papua New Guinea, Fiji)	Interim Economic Partnership Agreement	Papua New Guinea signed on July 30 2009 and Fiji signed on December 11, 2009	Negotiations on a more comprehensive EPA ongoing
SADC (Botswana, Lesotho, Namibia, Mozambique, Swaziland)	Interim Economic Partnership Agreement	Botswana, Lesotho, Swaziland and Mozambique signed in June 2009	Negotiations on a more comprehensive EPA on-going
West Africa (Ghana)	Interim Economic Partnership Agreement		Negotiations on a more comprehensive EPA on-going

Source: European Commission, Overview of Regional Trade Agreements, February 5, 2010.

Table A-4. EU PTAs with Distant Countries and Regions

Partner	Nature of Agreement	Date of Entry into Force	Comments
ASEAN (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam)	FTA		Negotiations were launched in June 2007, but suspended in December 2008. Subsequently, the EU announced that bilateral negotiations with Singapore and Vietnam would commence in 2010
Andean Community (Bolivia, Colombia, Ecuador, and Peru)	Association Agreement		Regional negotiations suspended in 2008. Bilateral agreements with Colombia and Peru reached on March 1, 2010
Central America (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua)	Association Agreement		Negotiations ongoing
Mercosur (Argentina, Brazil, Paraguay, and Uruguay)	Association Agreement		Negotiations suspended since 2004, but discussions to resume are ongoing
Chile	Association Agreement which included an FTA	February 3, 2004	Full implementation of FTA expected by 2013
Mexico	Economic Partnership, Political Coordination and Cooperation Agreement which included an FTA	July 1, 2000	
South Africa	Trade, Development, and Co-operation Agreement (TCDA)	January 1, 2000	TCDA aims to establish an FTA by 2012
Republic of South Korea	FTA		Both sides still need to ratify the agreement which was reached in October 2009
India	FTA		Negotiations were launched in June 2007 and are ongoing
Canada	Comprehensive Economic and Trade Agreement		Negotiations were launched in October 2009 and are ongoing
Singapore	FTA		Negotiations to commence in 2010
Vietnam	FTA		Negotiations to commence in 2010

Source: European Commission, Overview of FTA and Other Trade Negotiations, November 4, 2009.

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