

# **POST-DOHA TRADE GOVERNANCE: ATLANTIC HEGEMONY OR WTO RESURGENCE?**

DAN HERMAN

## **KEY POINTS**

- Negotiations toward a US-EU free trade agreement (FTA) continue the divergence from the World Trade Organization (WTO) as the key forum for trade negotiation and governance. If successful, the US-EU FTA will create significant economic and strategic benefits for both parties, notably the ability to forestall calls for decreases in distorting industrial and agricultural subsidies.
- Countries left outside of the US and EU bilateral and regional agreements will be hard-pressed to extract significant market access or development assistance concessions from either party. Developing countries are particularly at risk, as trade governance shifts further away from the WTO's more democratic processes, becoming increasingly shaped by power differentials.
- The likelihood of increased transaction costs and the re-centring of power that may accompany the shift away from multilateral negotiations create significant incentives for both developed and developing markets to push for new efforts to be made through the WTO.



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## **INTRODUCTION**

While negotiations have yet to begin, a trans-Atlantic FTA between the United States and the European Union is finally moving closer to reality. Long-rumoured as a near-certain eventuality, negotiations have repeatedly failed, owing to significant domestic opposition in both markets. The continuation of slow growth trends in both the United States and Europe, and ongoing worries about long-term structural unemployment have pushed a deal up the priority list in both regions. This congruency is likely to see negotiations on a trans-Atlantic deal begun over the summer of 2013. While several significant challenges remain and negotiations are likely to take upwards of

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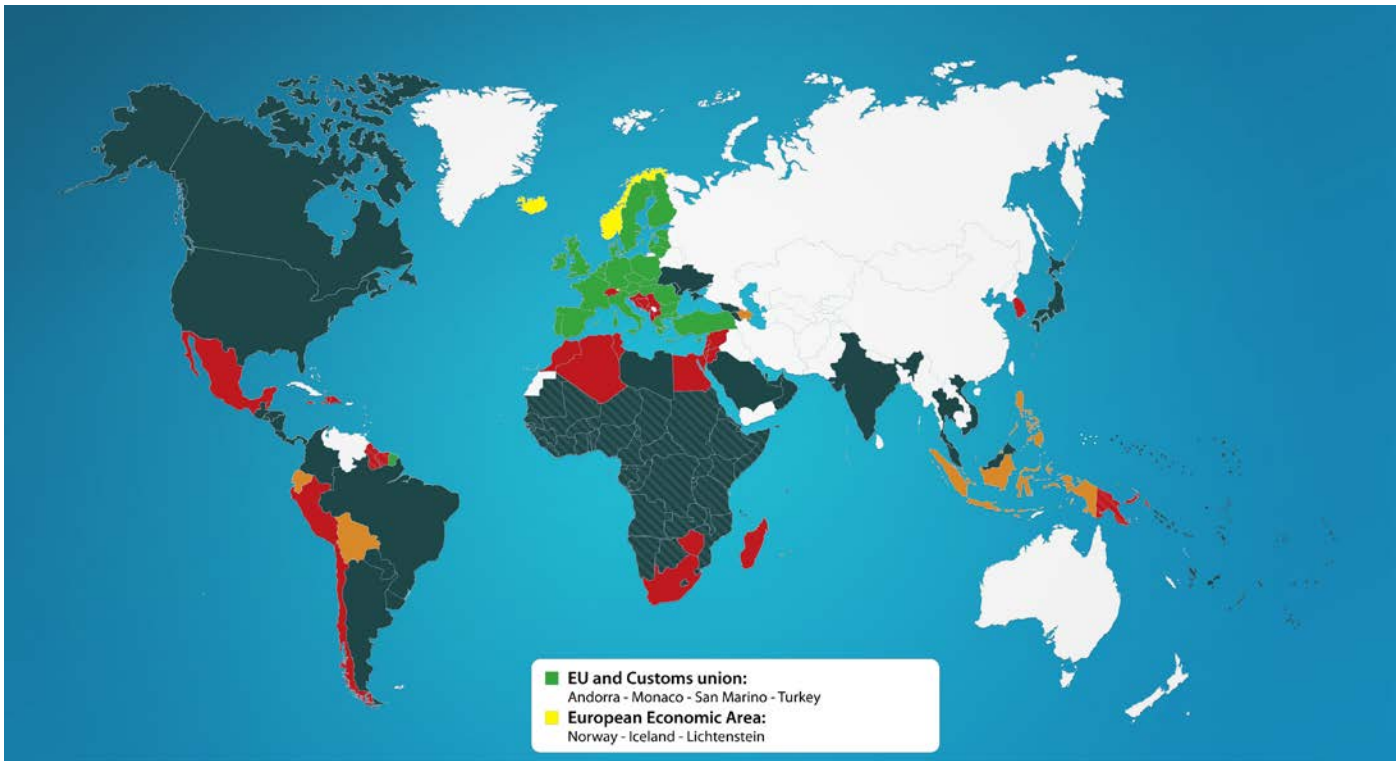
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two years, strong political support in both markets has dramatically improved the likelihood of the successful completion of a deal.

If successful, the two actors will have shaken the lull created by the demise of the Doha Development Round. The aggregate economic effects of a trans-Atlantic agreement and the risks for those left out may work to create sufficient pressure on other trading partners to allow for a resumption of WTO talks. Ultimately, the aggregation of the global economy’s two richest markets restructures the distribution of trade governance power, re-centring these Atlantic trade partners as the primary drivers of global negotiations after nearly two decades of increasingly — albeit imperfectly — democratized global rule at the WTO. Almost ironically, and as a result, the WTO will be given another chance to prove itself as the forum for global trade governance.

## BEYOND THE WTO

The proposed trans-Atlantic free trade deal is the latest in a series of bilateral and regional trade agreements signed by the two parties. Europe’s broader “universe” of trade deals includes upwards of 80 countries, while the United States, less aggressive on this front, has 20 FTAs, including the three that entered into force in 2012, with Korea, Colombia and Panama. These diversions from the multilateral focus of the WTO notwithstanding, both parties have repeatedly reaffirmed their commitment to the WTO as the central forum for global trade governance. Analysts, however, have wondered whether such moves represented hedging bets against the failure of Doha (Drezner, 2006).



The European Union's Bilateral and Regional Trade Coverage (Complete and In Negotiation). Source: Directorate General for Trade of the European Commission. Available at: [http://trade.ec.europa.eu/doclib/docs/2012/june/tradoc\\_149622.jpg](http://trade.ec.europa.eu/doclib/docs/2012/june/tradoc_149622.jpg).

Talks toward an EU-US FTA will only magnify this divergence of attention. While the substantive elements of a deal may be less transformative than the Canada-EU Comprehensive Economic and Trade Agreement (CETA) that is currently in negotiations — notably, as it relates to subnational government procurement and agricultural subsidies — the impact of a US-EU deal would be far more geopolitically and economically significant.<sup>1</sup> Together, the two blocs encompass nearly 50 percent of global GDP, 30 percent of global trade in goods and 40 percent of global trade in services. While weighted tariffs for both trade partners average just three percent, the signing of a comprehensive trade and investment agreement that provides beyond most-favoured nation status for the two parties could unleash

significant economic growth and employment creation in their respective economies by addressing a variety of non-tariff barriers to investment and trade (US-EU High Level Working Group on Jobs and Growth, 2013).

Although early talks focus on the potential gains to be made from trans-Atlantic trade liberalization, officials on both sides agree that a deal will be hard to come by, especially as it relates to regulatory cooperation, geographical indications, air transport, state-owned enterprises, agriculture, sanitary and phytosanitary measures, and government procurement. As European Trade Commissioner Karel De Gucht recently noted, “There are no quick fixes for the complex issues that still hamper trade between the most developed economic blocs in the world” (“De Gucht Says,” 2012). Such mitigating factors notwithstanding, a comprehensive trans-Atlantic trade treaty would cover over 30 percent of global trade, and would create a “worldwide benchmark” related to regulatory, investment,

1 Before now, the United States has left subnational levels of government beyond the reach of its international trade policy, whereas current CETA negotiations see a significant inclusion of subnational government procurement.

procurement and environmental standards (Joseph, 2013).

Unsurprisingly, support for a trans-Atlantic deal runs deep. The EU Council has stated that it would like to see a deal covering trans-Atlantic trade and investment launched in 2013 and concluded before the end of 2014. Ireland, which holds the EU Presidency in 2013, has made the launch its priority. In the United States, prior to President Obama's public comment in support of negotiations, US senators advocated for a quick launch of negotiations. Kevin Brady, then chair of the US House Committee on Ways and Means' trade subcommittee, has suggested that President Obama "go big" and "go smart" on trade, prioritizing fast-track trade promotion authority and the completion of the bilateral EU-US FTA (Palmer, 2012). Brady's successor as chair of the trade subcommittee, Devin Nunes, has indicated similar support for a US-EU deal (Nunes, 2012).

## GEOPOLITICAL CONSIDERATIONS

While economic factors are a driving force in the eradication barriers to trade, there may be other, less explicitly stated reasons for the prioritization of deals that group "like-minded" allies. As former Secretary of State Hillary Clinton noted prior to stepping aside, "This is as much a strategic imperative as an economic one" (Clinton, 2012).

In Chinese academic and policy circles, for example, "a strong voice...maintains that the main reason behind the Obama administration's support for the TPP [Trans-Pacific Partnership] agenda is a desire to use it as a tool to economically contain China's rise" (Song and Yuan, 2012). Such perceptions suggest that if the TPP agreement included Japan, it would severely disadvantage an "outside-looking-in China," thus

pressuring China to join either the TPP on US terms, or to alter its behaviour in other forums, such as the WTO ("Obama To Laud," 2011). As Chinese editorials have noted since President's Obama greenlight on US-EU trade negotiations, China must "protect" itself against the strengthening EU-US economic and strategic relationships by re-prioritizing regional cooperation and investing in companies that are likely to benefit from improved trans-Atlantic trade (Weiwen, 2013). Whether such "protection" is sufficient depends on whether the re-centring of the trans-Atlantic relationship in global trade governance facilitates the advancement of the multilateral trade agenda, or marks a turning point in the prioritization of non-multilateral deals.

## MOVING BEYOND DOHA

As the world's two most influential economies upgrade their economic relationship and continue a slow retreat from multilateral leadership, their motives come under scrutiny. US disengagement from Doha stems from the perception that what emerging and developing economies are offering has been insufficient. As a Peterson Institute working paper notes, "there just isn't enough on the table" to prompt serious American efforts towards the resolution of the Doha Round (Adler et al., 2009). This view leverages an American perspective that emerging market growth has come squarely at the expense of developed economies. As US employment remains stagnant, the benefits of globalization and unfettered trade are increasingly vulnerable to the political whims of domestic constituencies, lending strength to the politicization of trade in the wake of the slowed recovery from the global financial crisis.

In July 2011, business lobbies met in Washington to discuss how to secure additional market access from developing economies and support from elected



officials (“Business Groups Say,” 2011). US trade officials subsequently called on emerging markets to “take on additional (economic) responsibilities” (US Trade Representative [USTR], 2010), notably as they relate to US demands for significant concessions on market access (Punke, 2011). Beyond Doha, US bilateral negotiation priorities have focussed on a “beyond-NAFTA” approach to investment provisions, intellectual property protection and the liberalization of previously limited openings in sectors such as telecommunications, travel services and government procurement. The TPP agreement provides further evidence of US attempts to use non-multilateral deals to go above and beyond WTO rules. Eleven US senators, for example, are pushing to ensure that a final TPP agreement includes enforceable environment rules that are stronger than those in previous US free trade agreements (“Eleven Senators Push,” 2012). European disengagement from Doha is premised on similar calculations. Like the United States, it seeks additional market access from key emerging economies, including China, India, Brazil, South Africa and Argentina (Ismail, 2012). Moreover, while rhetorically supportive of the stated Doha objective, the European Union has taken largely defensive stances to protect its agricultural carve outs through its Common Agricultural Policy.

On the FTA front, a distinctly East Asian “pivot” has marked contemporary EU trade policy, as it completes agreements with South Korea and Singapore, and engages in ongoing negotiations with India, Japan, Malaysia and the broader Association of Southeast Asian Nations (ASEAN) bloc (Parello-Plesner, 2012). This focus and the overlapping membership between those signatories and the ASEAN members that are party to the US-led TPP negotiations highlight the increasingly competitive approach to preferential access in Asian markets. This aggressive element underscoring

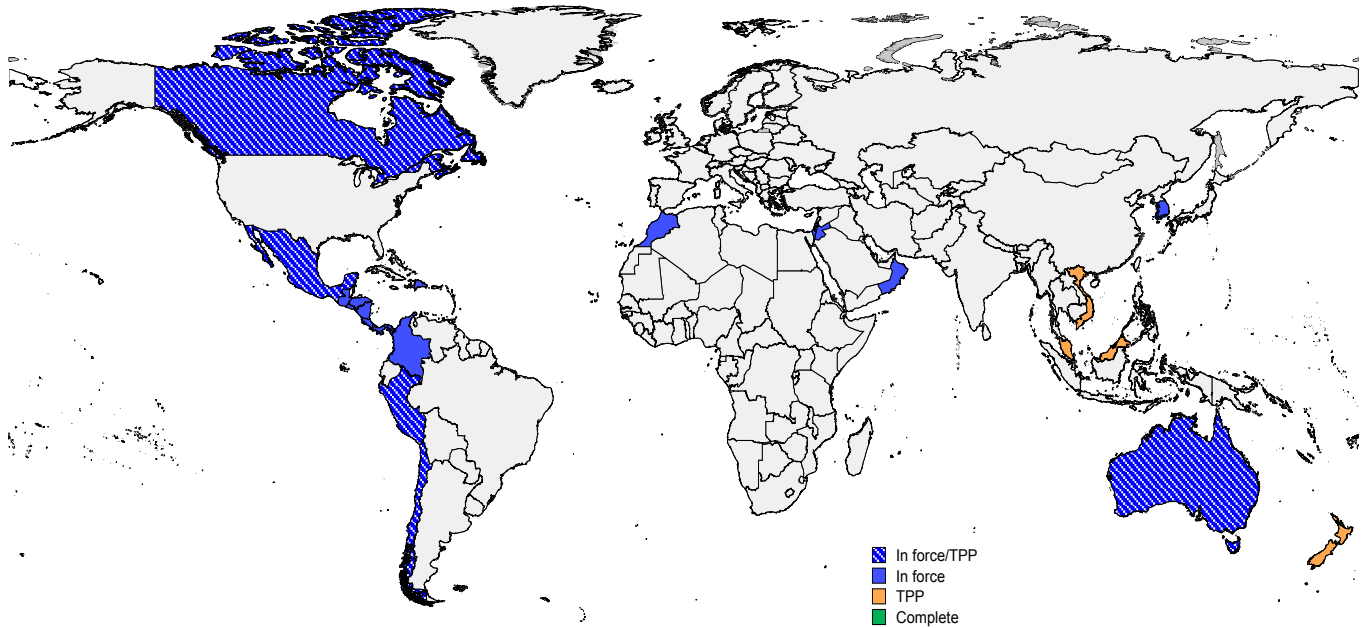
EU and US trade policy emphasizes the fragmentation of authority underway in the global economy. As Richard Higgott notes, this fragmentation does not yield clean multipolar structures as witnessed in previous periods of competition, but rather “a depolarized world of fluid, unfixed or overlapping sets of relationships” (Higgott, 2010). One major study terms this a “nether-world,” where the decline of US hegemonic power has not been met by a simultaneous rebirth of multipolarity, but rather a mash of prioritized bilateral and regional relationships (Hamilton et al., 2009).

The resulting mesh of trade deals reminds us of Bhagwati’s (1995) “spaghetti bowl” allusion to the proliferation of FTAs, where their inherently preferential and discriminatory nature leads to increasing transaction costs as rules of origin requirements multiply across trade blocs.<sup>2</sup> As Bhagwati notes, FTAs promote an unequal distribution of power amongst negotiating parties, allowing the more powerful party to “satisfy its multiple non-trade demands on other, weaker trading nations better than through multilateralism” (Bhagwati, 1995).

Therein lies a potential rationale for the significant shift away from multilateralism by the world’s two largest trade powers. As Young notes, “the relatively even distribution of power in the global political economy has thus far prevented the US and the EU from being able to shift the negotiations (at Doha) such that a prospective agreement is sufficiently superior to the status quo” (Young, 2010).<sup>3</sup> The inability to shift terms has created the grounds (for those who can) to shift the forums of negotiation to bilateral and regional ones

2 Beyond the US and EU, WTO member countries are party to an average of 13 preferential trade agreements.

3 For similar conclusions, see Rorden Wilkinson, *The WTO: Crisis and Governance of Global Trade* (London: Routledge, 2006).



**TPP Countries:**

- Australia
- Brunei Darussalam
- Canada
- Chile
- Malaysia
- Mexico
- New Zealand
- Peru
- Singapore
- Vietnam

**CAFTA-DR Countries:**

- Costa Rica
- Dominican Republic
- El Salvador
- Guatemala
- Honduras
- Nicaragua

Status of US FTAs as of March, 2013. Source: US Department of Commerce, International Trade Administration. Available at: [http://trade.gov/mas/ian/build/groups/public/@tg\\_ian/documents/webcontent/tg\\_ian\\_002679.pdf](http://trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_002679.pdf).

where power differentials are more pronounced. The aggressive pursuit of WTO-plus styled agreements by the United States and the European Union certainly fits this narrative. This shift away from multilateral fora further highlights the contemporary popularity of a realist approach to trade diplomacy, one that attempts to privilege power and strong ties over the quasi-democratic ethos pervading the WTO's procedural elements.

**THE REASSERTION OF POWER OVER DEMOCRATIC IDEALS**

As power is reasserted as the core driver of contemporary trade negotiations, the WTO's future as the centre of trade governance depends, in large part, on how

emerging economies negotiate with the United States and the European Union. Should China (and other economies of similar clout) perceive it is too valuable to remain outside the gravitational pulls of a US-EU FTA and the US participation in the TPP, the prospects of WTO-centred advancement will improve, albeit on terms more aligned with the market access demands of the United States and European Union.

Should the trend towards non-multilateral agreements continue, however, the WTO will continue to shift to the periphery of trade governance. While it would remain the centre of trade dispute adjudication, removing its centrality in the negotiating process would nullify the powerful balancing mechanism that a consensus

approach to ratification endows less powerful states. Many may argue that this procedural mechanism has proven impotent as it relates to the failure of Doha, but its very existence provides weaker parties with a legal, if not moral, framework for engagement and the ability to forestall hard-power tactics.

Moreover, should this fracturing of the multilateral agenda (and thus the privileging of the bilateral and regional) continue, three significant impacts will be felt. At best, these impacts may incentivize a return to the table for negotiations towards a successor to the Doha Round; at worst, the impacts will ensure concerted efforts are made at finding common ground at the 9th WTO Ministerial Conference in Bali, Indonesia, in December 2013.

**Global transaction costs risk significant inflation.** The potential for significantly increased transactions costs, incurred as a result of the competing sets of rules of origin, standards and regulations, will increase as the mesh of complementary and competing bilateral and regional deals expand. Bhagwati's view of the trade-distorting and transaction-cost-inducing effects of bilateral deals is even more likely, as trade governance shifts away from the multilateral stage towards more discriminatory groupings. The economic dampening effect that such inflation portends for both developed and developing economies makes progress on a multilateral framework essential. Doing so, however, is likely to require small steps, and should focus on achievable gains, such as ongoing talks towards trade facilitation, progressing to incremental trade-offs involving market access and subsidies.

**Developing countries risk significant losses in the shift away from multilateral trade governance.** The proliferation of bilateral and regional deals will allow more powerful trading partners to mitigate multilateral

calls for the end to distorting subsidies, notably in agriculture, creating significant non-tariff barriers to trade for developing economies and severely limiting market access requests from developing economies. Power, and not democratic governance, is thus reasserted. Mitigating this shift will require the collective action of small and developing economies. Moreover, it will provide space for middle powers, such as Canada, to play a leadership role in negotiations aimed at balancing the aspirations of developing economies with the market-access demands of their developed counterparts.

**The agenda for global trade liberalization risks being usurped by "tit-for-tat" preferences and protectionism.** A multilateral framework is required to temper the precedence of domestic interests and demands for discrimination amongst privileged trade partners. Competing regional agreements risk promoting the introduction of protectionist policies as preferential access becomes the norm, rather than the exception. Policy makers must move beyond rhetorical commitments to unfettered trade and the complementary nature of regional/bilateral and multilateral agreements. Removing exceptions to most-favoured nation clauses, especially those related to regional precedence, is a very ambitious target, but one that may be necessary to ensure that the shift to regional and bilateral agreements acts as a means of building a multilateral framework rather than impeding one.

## CONCLUSION

The effects of a trans-Atlantic partnership on trade and investment are far more than economic. It yields rather significant political and geostrategic implications to the governance of global trade, notably the re-centring of the European Union and the United States as the primary influencers of global trade regulation. The launch of these

negotiations adds to the conclusion that the world's trade heavyweights are not counting on the WTO, and especially on the Doha Development Round, as the means of capturing incremental gains from global trade.

Progress on a services deal at the WTO aside, the real action has thus shifted to an increasingly structured set of bilateral and regional agreements that allow the European Union and the United States to dictate more forcefully the terms of trade to suit their domestic political and economic goals. The impending launch of US-EU free trade negotiations will only further empower these trans-Atlantic partners.

In so doing, however, the future of the WTO may actually improve. While the actions of the United States and the European Union since the onset of negotiations towards the Doha Development Round have done little to indicate a true commitment to a multilateral agenda, the negative impacts of the ongoing shift from multilateral to bilateral/regional agreements, such as increases in transaction costs and the negative effects of power differentials, create significant incentives for both developed and developing markets to push for new efforts to be made through the WTO. The Doha Development Round may be dead, but the WTO is not. Coalitions of like-minded trading partners may be popular, but they will create pressures for a levelling of the playing field that will bring governance back to the multilateral table at the WTO. Through a process of bilateral and regional constituencies, headlined by the TPP, the proposed trans-Atlantic FTA and the concomitant pressures they place on other trading parties, the United States and the European Union may have facilitated the development of the basis for the next round of WTO-led negotiations and the re-centring of the WTO at the heart of global trade governance.

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