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The EU, the USA and the WTO – an Uneasy Relationship

In earlier multilateral trade rounds, a closing of ranks between the European Community and the United States used to secure the success of the exercise, witness the famous Blair House agreement on agriculture that in 1992 opened the way to the conclusion of the Uruguay Round. More recently, however, a joint EU-US initiative, again in the agricultural sector, apparently had the opposite effect. Like the “Singapore issues” (investment, competition policy, trade facilitation and transparency in government procurement), the common proposal of the two superpowers in international trade was a major reason for the failure of the WTO ministerial conference in Cancún in September 2003. In particular, it met with fierce resistance from the newly formed group of twenty-plus developing countries which demanded a much more radical liberalisation of agricultural markets in industrial countries (while however keeping their own agricultural trade barriers largely intact). The ensuing collapse of the negotiations caused a sense of multilateral fatigue in both the EU and the USA mixed with anger and frustration. Pascal Lamy, the EU trade commissioner, called the WTO a medieval institution overseeing a deeply flawed negotiating process, while Robert Zoellick, the US trade representative, started to look for coalitions of the willing in trade policy. In fact, the multilateral non-agreement gave additional impetus to the formation of trade alliances outside the WTO, involving the EU and the USA as well as non-aligned countries such as Brazil and India, which of itself tends to further diminish the incentives to seek accord inside the organisation.

In an attempt to escape this vicious circle, the USA in mid-January 2004, rather unexpectedly in view of the beginning presidential election campaign, came forward with new ideas to revive the Doha Round, thereby effectively unravelling the unholy alliance with the EU. The new initiative mainly provides for the complete elimination of agricultural export subsidies by a certain date (to be fixed at a later stage of the negotiations) and suggests dropping three of the Singapore issues, which would leave just trade facilitation (i.e. essentially combating corruption and inefficiency in customs regulations) on the agenda.

In practice, however, the epicentre of US trade policy is bilateralism and regionalism. Since the 1980s, the USA has turned from a laggard into a forerunner in this area. US preferential trade policies are driven by a mixture of economic and political considerations. Economically, the underlying concept reads “competitive liberalisation” as announced by Zoellick in February 2003. Deals with a limited number of trading partners would accordingly advance trade liberalisation and at the same time put pressure on the multilateral negotiation process. The true economic impact of these agreements has remained rather limited, though, as critical sectors (in particular agriculture) are typically excluded from liberalisation and critical policy instruments by definition cannot be covered. It is impossible, for instance, to cut domestic subsidies in agriculture (or elsewhere) exclusively to the advantage of certain trading partners. As far as the agreements are WTO-plus, i.e. go beyond or significantly deepen existing WTO disciplines, some of the new elements are highly controversial at the multilateral level, which in particular applies to labour standards and their enforcement through trade sanctions. Moreover, preferential trade policies can be used to skew multilateral bargaining. This happened in the case of a number of Latin American countries, which for fear of losing trading opportunities with the USA have withdrawn from the G-20 plus. Bilateralism and regionalism may thus indirectly come close to unilateralism, which is also more directly gaining ground in US trade policy.

In the US Congress, and in the population at large, resentment against the WTO, and trade agreements in general, has significantly grown, fuelled by a rising number of WTO

disputes in which the USA has been defeated. The view is widespread that trade integration has gone too far and the USA should, if not retreat from the division of labour with foreign countries, not intensify it either. In particular, it is felt that the “knowledge worker” jobs that Americans were told to prepare for are now leaving the country, too, causing a high degree of white-collar job insecurity. The current debate on outsourcing and offshoring is a case in point as is a recent bill in the US Senate (adopted in March) outlawing the outsourcing of work within public procurement contracts. It has drawn an immediate response from India, with its highly competitive information technology sector, questioning the credibility of US moves to really push the Doha Round talks. Such kind of protectionism, based on the false assumption that one job created abroad means one job fewer in the USA, may indeed seriously affect the readiness of trading partners to further open their own markets.

The EU, meanwhile, has even in Cancún signalled its willingness to “unbundle” the Singapore package and set aside investment and competition policy. It is now apparently ready to definitely abandon the two issues from the multilateral agenda and content itself with trade facilitation as a “must” subject for multilateral negotiation, which largely coincides with the US position in this area and also with that of a number of influential developing countries (including China, India and Malaysia). In agriculture, on the other hand, which is the make-or-break issue in the Doha Round, the Community sticks to a hard line. In particular, it has given no sign of greater flexibility on phasing out farm export subsidies by a fixed date. The European Commission insists on the legitimacy of agricultural policy choices (“multi-functionalism”) in this context, comparing it with the legitimacy of social safety nets, and more generally points to the need of protecting collective preferences in international trade agreements. Europe’s continued reluctance to allow imports of genetically modified crops provides an example. The USA has been challenging this regime in the WTO as it – successfully – also did in the case of beef hormones (i.e. the EU’s import ban on beef from cattle raised with certain growth hormones) a few years ago.

Settlement of such transatlantic trade disputes has become a common feature of WTO activities. Most recently, the USA has for the first time in GATT/WTO history been faced with retaliatory trade measures by the EU after losing its case on export-related tax subsidies under the guise of Foreign Sales Corporations. This case is also remarkably different from the preceding steel case (also lost), where the US President could repeal the extra tariffs imposed on foreign steel products “with a stroke of the pen”. The FSC case, by contrast, is a “behind-the-border” case where Congress has a crucial say and the question of national sovereignty, i.e. the free choice of tax systems, is at stake. Domestic market regulation, entailing a potential “clash” of different economic cultures, is the new battlefield in international trade. In EU-US relations, this is also demonstrated by a number of conflicts in the area of trade-related competition policy, such as Boeing-McDonnell versus Airbus (1997), General Electric-Honeywell (2001) and presently Microsoft. It bears the risk of a spiral of tit-for-tat retaliation in which both sides are likely to lose.

Transatlantic bickering may also spill over into the multilateral negotiations. Hence a more effective strategy of bilateral conflict resolution – and prevention – is needed to restore joint US-European leadership in multilateral trade policy. In parallel, non-aligned countries could play a stronger role at the multilateral level than previously, challenging both the EU and the USA, as already occurred in Cancún. However, these countries would also have to offer meaningful market opening of their own in the negotiations. Ultimately then, the failure of Cancún could even prove to be a stepping-stone to a successful conclusion of the Doha Round.

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