The EU and Brazil: Trading Partners in Different Fora

Rafael Leal-Arcas

Jean Monnet/Robert Schuman Paper Series
Vol. 8 No. 11
June 2008

Published with the support of the EU Commission.

The Jean Monnet/Robert Schuman Paper Series

The Jean Monnet/Robert Schuman Paper Series is produced by the Jean Monnet Chair of the University of Miami, in cooperation with the Miami-Florida European Union Center of Excellence, a partnership with Florida International University (FIU).

These monographic papers analyze ongoing developments within the European Union as well as recent trends which influence the EU's relationship with the rest of the world. Broad themes include, but are not limited to:

- EU Enlargement
- The Evolution of the Constitutional Process
- The EU as a Global Player
- Comparative Regionalisms
- The Trans-Atlantic Agenda
- EU-Latin American Relations
- Economic issues
- Governance
- The EU and its Citizens
- EU Law

As the process of European integration evolves further, the Jean Monnet/Robert Schuman Papers is intended to provide current analyses on a wide range of issues relevant to the EU. The overall purpose of the monographic papers is to contribute to a better understanding of the unique nature of the EU and the significance of its role in the world.

Miami - Florida European Union Center

University of Miami
1000 Memorial Drive
101 Ferré Building
Coral Gables, FL 33124-2231
Phone: 305-284-3266
Fax: (305) 284 4406
Web: www.miami.edu/eucenter

The EU and Brazil: Trading Partners in Different Fora♣

Dr. Rafael Leal-Arcas ♦

I. Introduction

This paper aims at understanding the potential of partnership of the European Union (EU) with Brazil, focusing on international trade law and policy. Although the power base of Brazil is its respective region, there may be specific policy areas in which its influence might be global.[1] With this in mind, the paper raises interesting questions: is the EU an attractive partner for Brazil? Does the EU want cooperation with Brazil? What are the characteristics of Brazil? What are the EU's priorities in its foreign trade policy? With which instruments can the EU engage Brazil and how can the EU internal coordination be ensured?

The paper argues that the EU's objective of engaging with Brazil is to establish peace, security, and prosperity in the XXI century. Trade creates economic ties and generates more welfare; thus it contributes to peace and security (e.g. the EU integration). The same argument is true multilaterally: before the creation of Doha Round in 2001, developing and least-developed countries had been marginalized in the world trading system,[2] which brought with it serious economic implications. In 2001 in Doha (Qatar), developing countries were promised inclusion in the world trading system in order to achieve a higher level of justice and equity in the world. That is why the Doha round is called the development agenda.[3] The argument is that a more open and

♣ Paper presented at Dalhouse University Conference on The EU as a Global Actor, May 5-6, 2008, under the co-sponsorship of the European Commission.

♦ Rafael Leal-Arcas is a Lecturer in international economic law and the external relations law of the European Union at Queen Mary, University of London, where he acts as Deputy Director of Graduate Studies. He is the author of more than 30 publications, the most recent of which is his book *Theory and Practice of EC External Trade Law and Policy* (Cameron May, London, 2008). Dr. Leal-Arcas has been a consultant to the World Trade Organization, has served in the U.S. Curt of International Trade, and in various EU institutions. He has been a Tillar House Resident Fellow at the American Society of International Law, a Fellow at Georgetown Law Center, a Visiting Researcher at Harvard Law School, an Emile Noël Fellow at NYU School of Law, Fellow at the Australian National University, and Visiting Scholar at the University of Wisconsin-Madison Law School. He has completed his graduate legal education at Stanford, Columbia, the London School of Economics, and the European University Institute (Florence, Italy).

[1] In 2007, the International Monetary Fund ranked Brazil as the tenth wealthiest nation in the world in absolute terms. See http://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal) (last visited May 18, 2008).

[2] Ismail, F. "How Can Least-Developed Countries and Other Small, Weak and Vulnerable Economies Also Gain from the Doha Development Agenda on the Road to Hong Kong?" *Journal of World Trade*, Vol. 40, No. 1, pp. 37-68, 2006.

[3] Not everyone agrees with the governmental position that the Doha Round is beneficial to developing and least-developed countries. For severe criticisms of the Doha Round, see Oxfam Press Release, "New WTO framework doesn't add up to development," 22 June 2006, available at http://www.oxfam.org/en/news/pressreleases2006/pr060622_wto (last visited May 18, 2008); Hertel, T.W. & Keeney, R. "What is at Stake: The Relative Importance of Import Barriers, Export Subsidies, and Domestic Support," available at http://siteresources.worldbank.org/INTTRADERESEARCH/Resources/Ch2AgTradeBook_HertelKeeney.pdf; Bouet, A., Orden, D. & Mevel, S. "More or Less Ambition in the Doha Round? Winners and Losers from Trade Lberalization with a Development Perspective," available at https://www.gtap.agecon.purdue.edu/resources/download/2508.doc (last visited May 18, 2008); Kinnman, S. & Lodefalk, M. "Economic Implications of the Doha Round," Swedish National Board of Trade, July 2006, available at https://www.gtap.agecon.purdue.edu/resources/download/2756.pdf; European Commission Press Release, "Doha Round: Some Recent Economic Analysis," MEMO/06/247, available at

equitable trading system[4] brings peace to the world and, in this sense, the Doha round should not be approached as a zero-sum game –as many developing countries seem to perceive it- but as a win-win situation.[5]

The paper also argues that there remains substantial scope for Brazil to make further commitments towards greater liberalization within the services sectors and within all modes of supply provided in the General Agreement on Trade in Services (GATS). It will be demonstrated that, despite the commitments made within the GATS, services sectors still exhibit limitations that restrict equal competition for foreign competitors, sometimes resulting in non-compliance with the World Trade Organization (WTO) doctrines of market access and national treatment. Different WTO countries set different strategies for services liberalisation, reflected in their GATS or other negotiating positions. Excessive use of non-tariff barriers[6] can lead to ineffective enforcement of GATS commitments, resulting in true market access lagging behind bound rates. Some countries keep a conservative position on their bound commitments, while in reality a more liberal access is enjoyed, affording them stronger leverage on future rounds of negotiation. A failure to effectively enforce bound commitments can also reflect an inability within a country to ensure uniform domestic implementation.[7]

It will also be argued that the attitude of Brazil to multilateralism and responsibility in global governance is questionable or unclear. Brazil wants to become a more important player, it seems to lean against "old" powers (mainly the U.S.), and tends to focus on South-South regionalism. Evidence of this is the trilateral developmental initiative IBSA (India, Brazil, South Africa).[8]

The EU has a long history of promoting regional integration in other parts of the world, especially among developing countries. This is based on its own nature as the oldest and most advanced regional scheme, coupled with the perception among leading European policymakers that the EU does indeed constitute a model for others.[9] The EU has therefore long viewed itself as a "'natural' supporter of regional initiatives,"[10] a view that sparked the increasing externalization

---

http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/247&format=HTML&aged=0&language=EN&guiLanguage=en (last visited May 18, 2008).

[4] Mr Mandelson, who referred to a development package for least-developed countries (LDCs) as 'indispensable,' indicated at the Hong Kong WTO Ministerial Conference that the EU had committed to step up annual spending on aid for trade to EUR 2 billion by 2010. One billion of this will come from EU Member States, which agreed at the Hong Kong Ministerial Conference to the increase (from EUR 400 million per year); the remainder will come from the European Commission. "Europe did not come to Hong Kong empty-handed on aid for trade," he said. See in this respect, Iorio, M. "The Doha Development Agenda (DDA) and Aid for Trade: Finding the Policy Link," International Gender and Trade Network, 2007.

[5] For an analysis of the evolution of the world trading system, see Demaret, P. "The Metamorphoses of the GATT: From the Havana Charter to the World Trade Organization," *Columbia Journal of Transnational Law* (1995) Vol. 34, 123-171.

[6] Non-tariff barriers or non-tariff measures are measures other than tariffs applied by governments at the border that determine the extent to which a good or service has access to the import market.

[7] Among those who claim that there is potential for developing countries to benefit from trade liberalization are: Anderson, K., Maritin, W. & van der Mensbrugghe, D. "Doha Merchandise Trade Reform: What's at Stake for Developing Countries?," World Bank Policy Research Working Paper 3848, February 2006, available at http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2006/02/15/000016406_20060215164859/Rendered/PDF/wps3848.pdf.

[8] The IBSA Dialogue Forum (India, Brazil, South Africa) represents three important poles for galvanizing South-South cooperation and greater understanding between three important continents of the developing world namely, Africa, Asia and South America. The forum provides the three countries with a platform to engage in discussions for cooperation in the field of agriculture, trade, culture, and defense among others. See Wikipedia, available at http://en.wikipedia.org/wiki/India-Brazil-South_Africa_Dialogue_Forum (last visited April 1, 2008).

[9] David Miliband, "Europe 2030: Model Power Not Superpower," Speech Given at the College of Europe, Bruges, 15 November 2007; Romano Prodi, "Europe and Global Governance," Speech to the 2nd COMECE Congress, Brussels, 31 March 2000: No. 00/115.

[10] European Commission, "Support for Regional Economic Integration Efforts among Developing Countries," *COM(95), 219 final* (Brussels, 16 June 1995, p. 6).

of its model over time. This policy has become one of the cornerstones of the EU's development policy, and the incentive of offering market access to the EU's large internal market in support of such a strategy has gained in salience in recent years. By promoting regional integration, therefore, the EU actively influences emergent forms of regional governance in other parts of the world.

The EU's main motivation for the promotion of regional integration is predicated on trade and economic gains. According to this view, the EU needs to have important economic interests at stake in order to get involved in the integrative efforts of other countries. These interests are two-fold: first, the EU promotes the integration of national markets into regional economies to benefit from economies of scale when accessing them with their own goods. Second, through the negotiation of bi-regional trade agreements, the Union has a powerful tool to shape the framework of economic governance in counterpart regions.[11]

The Union has a lot to gain from the integration of small, fragmented markets into larger economic units in which EU products can circulate more easily. Market size has become an important criterion for investment and trade decisions by private companies and serves as a strong incentive for European traders and investors: "the whole will grow faster than the sum of its parts, offering outlets for our exports and opportunities for our investors."[12] This rationale is best reflected in the EU's new approach to integration in Africa through the negotiation of economic partnership agreements (EPAs)[13]: they "should deal with all factors that constrain business activities in ACP countries"[14] through "the creation of open, integrated regions sufficiently large to trigger economies of scale, support trade and attract foreign investment."[15] Such a strategy has been evaluated by one commentator as indicating that it "is based upon securing market access for European producers while selling the concept of the European 'model' of regional integration."[16] As the creation of regional markets goes hand in hand with the development of a regional economic governance framework, the Union has an interest in being able to access the enlarged market on terms that are favorable to its own industry. Regional economic integration is an ongoing process that is never complete. The EU has a comparative advantage to other such schemes as the integration process is the most advanced, and it can therefore draw on its long experience in formulating common rules to impact the economic integration process of others.[17]

The paper is divided into three parts: I present first the EU's unilateral approach to international trade law in relation to Brazil, followed by a multilateral approach when dealing with Brazil in trade issues. A bilateral/regional approach with Brazil follows, with an examination of the EU-Brazil trade relations before the conclusion.

---

[11] Meunier, S. and Nicolaidis, K. "The European Union as a Conflicted Trade Power" *Journal of European Public Policy*, September 2006, Vol. 13, No. 6, pp. 906-925.

[12] Lamy, P. "Regionalism and Multilateralism in Latin America" speech delivered at the Federação das Indústrias do Estado de São Paulo, 10 July 2001.

[13] Economic partnership agreements are bilateral or plurilateral agreements. The content of such agreements varies greatly. Some merely promote voluntary economic cooperation between the partners. Others are proper free-trade agreements. See Walter Goode, *Dictionary of Trade Policy Terms*, 5th ed., Cambridge University Press, 2007, p. 145.

[14] European Commission, "EPA Negotiations: Toolbox" (Brussels, 27 January 2003).

[15] European Commission, "Africa, Caribbean, Pacific. EPA Negotiations: Toolbox," available at http://ec.europa.eu/trade/issues/bilateral/regions/acp/toolbox_en.htm#top (last visited April 25, 2008).

[16] Farrell, M. "The EU and Inter-Regional Cooperation: In Search of Global Presence?," in A. Verdun and E. Jones, *The Political Economy of European Integration,* (Routledge, January 2005), p. 19.

[17] Anne-Sophie Claeys and Alice Sindzingre, "Regional Integration as a Transfer of Rules: The Case of the Relationship between the European Union and the West African Economic and Monetary Union (WAEMU)," paper given at Development Studies Association Annual Conference, Glasgow, University of Strathclyde, 10-12 September 2003. Available at http://www.edpsg.org/Documents/dp26.doc (last visited April 25, 2008).

II. Unilateralism

The focus in this section is to determine whether the EU can increase cooperation and establish trust through unilateral liberalization. In purely economic terms, unilateral most-favoured-nation (MFN) liberalization is in the interest of each country. However, trade liberalization in political economy terms is seen as a concession and is resisted by import substitution[18] industries. This means that unilateral MFN-liberalization on a broad scale is often not very viable for the EU.

When looking at bilateral political relations, we note that unilateral liberalization could work as a "carrot" to the benefit of the respective country. Given that only one country benefits, this is politically more feasible. Unilateral liberalization could also work as a "stick" because withdrawal is possible at any time.

The EU already uses unilateral preferences. For example, the everything-but-arms initiative,[19] or the preferential treatment given to the African, Caribbean and Pacific (ACP) countries, although neither one of these programs is applicable to Brazil. The original Treaty of Rome[20] contained guidelines about external relations. First of all, the treaty established a special regime for development aid and cooperation, which initially aided developing countries that had a long-standing relationship (mostly former colonies) with founding Member States.[21] This regime was further developed through the Yaoundé and Lomé Conventions, which linked 70 developing countries to the European Community (EC).

Another unilateral tool used by the EU is the Generalized System of Preferences (GSP).[22] This is a multilaterally agreed instrument, where Brazil is a beneficiary. However, tariff reductions are generally not very meaningful because of preference margins not being very large, because of sensitive goods, graduation for product groups where competitiveness has increased, or restrictive rules of origin. It is interesting to note that, although the Union does use the GSP Plus incentive system[23] to foster sustainable development and good governance, Brazil does not want to be part of it. So would it make sense to create a new unilateral instrument? Not really, since the political resistance for competition from Brazil would probably be strong, particularly with regard to agriculture.

[18] Import substitution is a policy for the development of a domestic productive capacity in goods and services to reduce or displace imports, often with the expectation of increases in employment and reductions in the current account deficit. For further information, see Walter Goode, *Dictionary of Trade Policy Terms*, 5th ed., Cambridge University Press, 2007, p. 222.

[19] Council Regulation (EC) No 416/2001 of 28 February 2001. This regulation grants duty-free access to imports of all products from least developed countries without any quantitative restrictions, except to arms and munitions.

[20] Treaty Establishing the European Economic Community (TEEC).

[21] B Martenczuk 'Cooperation with Developing and Other Third Countries: Elements of a Community Foreign Policy' in S Griller and B Weidel (eds) *External Economic Relations and Foreign Policy in the European Union* (Springer, 2002) 385–417.

[22] The idea of granting developing countries preferential tariff rates in the markets of industrialized countries was originally presented by Raul Prebisch, the first Secretary-General of UNCTAD, at the first UNCTAD conference in 1964. The Generalized System of Preferences was adopted at UNCTAD II in New Delhi in 1968.

[23] To benefit from the from the GSP Plus scheme, countries need to demonstrate that their economies are poorly diversified, and therefore dependent and vulnerable. They also need to have ratified and effectively implemented the 16 core conventions on human and labour rights and 7 (out of 11) of the conventions related to good governance and the protection of the environment. At the same time beneficiary countries must commit themselves to ratifying and effectively implementing the international conventions which they have not yet ratified. In any case, the 27 conventions have to be ratified by the beneficiary countries by 31 December 2008. For the list of conventions to qualify for the GSP Plus scheme, see http://ec.europa.eu/trade/issues/global/gsp/memo230605_en.htm (last visited May 24, 2008).

III. Multilateralism

The question to ask is how to foster more constructive multilateralism by using a trade policy approach. The Doha Round[24] was the result of widespread agreement among delegates at the 4th WTO Ministerial Conference in Doha that it was time to address the imbalances of previous rounds and to offer developing countries the prospect of trade talks which they could see were to their benefit.[25] Although wealth redistribution seems to be vital to truly help the poor nations of the world, I would agree with WTO Director-General Lamy that the WTO's role is not about redistribution of wealth. So a new Round was necessary to include poor countries in the world trading system, and to promote economic development, as well as to alleviate poverty.[26]

The WTO members are currently negotiating the Doha Development Agenda (DDA).[27] A successful result of the DDA will mean more growth and development in the world trading system. *A sensu contrario*, failure of the DDA will imply no growth or development for the world, especially the poorest countries on the planet. In addition, the failure of the DDA will be regarded as a missed historic opportunity to eliminate export subsidies, to put an end to trade distortion. Consequently, all countries of the world trading system will lose, especially developing countries. With a successful result, the biggest gains to development will certainly be in the core areas of goods, services and agriculture, and hence liberalising trade among developing countries is an essential part of the Doha exercise.[28] That is why the international community cannot miss the opportunity offered by the DDA, which can set a vision for the global economy for the next decades and make a major contribution to development.

In this context, what role does Brazil play multilaterally? How can the EU engage with Brazil to foster the DDA? Brazil plays an increasingly important role at the WTO. Brazil has attained a global reach in trade policy since the Cancún WTO Ministerial Conference in September 2003. Because major divides exist among the various WTO members in relation to what the WTO's future agenda should comprise, the Doha Ministerial conference text put off all the major decisions until the following WTO Ministerial conference in Cancún, whose principal aim was to present an overview of the progress of the negotiations in the framework of the DDA. In Cancún, talks were intended to forge agreement on the Doha round's objectives but collapsed due to strong North-South divide on agricultural issues. Developing nations gained in strength,

---

[24] For a summary of the current Doha round of trade negotiations, see Leal-Arcas, R. *Theory and Practice of EC External Trade Law and Policy*, Cameron May, 2008, pp. 486-500.

[25] For an overview of the Doha Round, see S Cho 'Doha's Development' (2006) 24 Berkeley Journal of International Law.

[26] This is certainly the position of European trade commissioner Peter Mandelson, who said at a Party of European Socialists conference in Brussels on Decent Work that far from being responsible for poor labour conditions, free trade could be a ladder out of poverty and 'an engine of the very prosperity that helps societies put poor labour conditions behind them for good'. 'Free trade is not the enemy of decent work', he concluded: 'The enemy of decent work is our willingness to turn a blind eye to it. Free trade does not mean trade indifferent to fair conditions of production'. See the speaking points on 'Free Trade is not the Enemy of Decent Work', given by commissioner Mandelson at a Party of European Socialists conference in Brussels on 10 May 2006 available at http://ec.europa.eu/comm/commission_barroso/mandelson/speeches_articles/temp_icentre.cfm?temp=sppm098_en (last visited 13 May 2008).

[27] Interestingly, rich countries call this agenda of negotiations the "Doha Development Agenda," whereas poor countries refer to it as the "Everything but Development Round." It has certainly been a mistake to call this round the "development round," since the DDA is a multilateral trade negotiation with very little input on development. This rather vague distinction between rich and poor countries is based on the World Bank's country classification. See The World Bank, "Country Classification," available at http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20420458~menuPK:64133156~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html (last visited March 20, 2008).

[28] As we saw in the pre-Hong Kong Ministerial Conference period of negotiations, the agriculture negotiations are considered key to the success of the overall Doha Round of WTO talks.

forming two new negotiating groups – the G-20,[29] consisting of middle-income developing countries, and the G-90[30] group of poorer developing countries – and finally rejecting the deal which they viewed as unfavourable. Evidence of the fact that Brazil is increasingly playing important roles multilaterally is in the G-20, where Brazil and India seem to act as leaders. In the G-4, Brazil and India are now members (with the U.S. and the EC), and have replaced Japan and Canada in this small circle.

So what is required from the EU to conclude the DDA? Agricultural liberalisation seems to be the key issue. Efforts to reach a preliminary agreement on the crucial Doha trade round have been stalled on the issue of agricultural subsidies and tariffs. The big trading blocs in the WTO (the US, Brazil, and Australia on one side, and the EC on the other) had been engaged in a tit-for-tat struggle,[31] each refusing to accept that offers of subsidy cuts from the other had gone far enough. The group of 20 developing nations (G-20) is demanding heavier cuts from both sides. It is interesting to see the differences of opinion between the G-20's strong stance on eliminating agricultural subsidies and the EU trade commissioner Peter Mandelson's statement that while there was a need for an ambitious Doha Round outcome, focusing on agriculture alone would be counter-productive. In response to a U.S. offer to cut farming subsidies by 60 per cent, the EC had offered to reduce its tariffs on agricultural goods by, on average, 38 per cent – an insufficient figure in the eyes of the U.S. and the developing countries. The EC, however, was driven by internal conflict, with France accusing commissioner Mandelson of exceeding his mandate to negotiate on behalf of the EU.[32]

Turning now to Brazil, what is required from Brazil to conclude the Doha round? An immediate reaction would be that Brazil should be prepared to accept more responsibility for the multilateral system, i.e., hiding less behind the status of a developing country and stand up to their own ambition to new leadership. However, the term 'development' is not clearly defined in the Doha round. If the Doha round is concluded, certainly Brazil will greatly benefit from a better access to developed countries' markets. However, this may happen partly at the expense of other poorer developing countries. Brazil should also accept greater differentiation among developing countries in the WTO and lower market barriers vis-à-vis poorer developing countries.

What can the EU do to support all this? In my opinion, the EU should try to foster a new sense of trust with Brazil. However, the problem seems to be a direct conflict of interests as well as pressure on the Commission's Directorate-General for external trade not to be too altruistic. The EU should also refrain from patronizing as a major economic "old" power. Moreover, the EU should accept and foster even more actively the new leadership roles of Brazil. Since lack of trust seems to be an important impediment toward progress in the Doha round, bilateral dialogues as well as more intensive and broader political cooperation between the EU and Brazil may establish new trust. In this sense, it is worth noting that during the Doha round a Strategic Partnership between the EU and Brazil has taken place.[33]

---

[29] The Group of 20, or G-20, is a group of developing countries focused on tearing down industrialised countries' barriers to agricultural trade. In March 2006, the group included 21 countries: Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, the Philippines, South Africa, Thailand, Tanzania, Uruguay, Venezuela and Zimbabwe.

[30] The G-90 is a tripartite alliance of the African Union (AU), the African, Caribbean and Pacific Group (ACP) and least-developed countries (LDCs), forming a majority of developing countries in the WTO.

[31] Tit-for-tat is the *modus operandi* in international trade. For example, country A raises barriers on product X because country B did it to product Y.

[32] It is interesting to observe the French fixation on agriculture, given the small percentage that it represents on France's GDP. The argument of a French political obligation to look after France's farmers seems evident, but is it macroeconomically justified?

[33] See European Commission, "Towards an EU-Brazil Strategic Partnership," COM(2007) 281, 30 May 2007; see also European Commission press releases, EU-Brazil Strategic Partnership, available at http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/725&format=HTML&aged=0&language=EN&guiLanguage=en (last visited May 20, 2008).

IV. Bilateralism/Regionalism

The question to ask is: what can the EU offer Brazil to foster trust, a sense of cooperation and respect, as well as a better multipolar global governance framework? EC trade policy uses a pyramidal structure with regard to the various degrees of trade preferences that it offers to different countries and regions. Brazil has by and large been at the bottom of the preference pyramid thus far. An unofficial ranking of the preference pyramid would look as follows starting from the top: new EU Member States and accession candidates, countries with which the EC has a free-trade agreement, countries of the Mediterranean region, the African, Caribbean and Pacific countries, and the BRIC countries (Brazil, Russia, India, and China) in relation to the Generalized System of Preferences.[34] So there appears to be a potential to offer more market-access to Brazil and embed this in a policy-centered foreign policy approach.

If we look at bilateral free-trade agreements (FTAs) as instruments for liberalizing trade, the "carrot" function is important since FTAs offer preferential market-access, whereas in the "stick" function it does not seem to be realistic to withdraw preferences, as the given free-trade agreement would need to be breached. This situation seems hardly imaginable and thus not a credible threat. From the emerging-markets perspective, another reason for the attractiveness of signing a free-trade agreement with the EC is their competitive advantage. A free-trade agreement can level the playing field, for example for Brazil in relation to Mexico and Chile, both of which already have FTAs with the EC. Moreover, there is an insurance against trade defense instruments as these are generally less used against trade partners. Furthermore, the EU could offer additional incentives (and therefore show generosity to build more political trust) by granting larger concessions or demanding fewer concessions than would be the case in a purely reciprocal give-and-take situation. However, even if the EU concessions were possible, what would the EU want to obtain in return? Market-access seems to be the evident answer. This is what trade negotiations are about. The Commission's Directorate-General for trade would come under pressure if EU concessions were not used to enhance market-access for European exporters in growing and important emerging markets.

However, there are also disadvantages to FTAs. There are transaction costs such as the danger of further proliferation of FTAs to the detriment of multilateral trade liberalization at the WTO level. In this sense, I would argue that the EU has responsibilities for the multilateral trading system and therefore should be defensive in bilateralism; in other words, the EU should only react when other countries move first with FTAs to EU export markets. That was the case with the U.S. and Japan after the suspension of the Doha round in July 2006 and the European Commission started negotiating FTAs with India, ASEAN, and South Korea.

Trade Analysis of the EU vis-à-vis Brazil

The EU is Brazil's main trading partner, while Brazil represents the EU's main trading partner in Latin America.[35] Brazil is an efficient agricultural producer with strong interest in EU agricultural liberalization. Furthermore, Brazil constitutes 1.5% of EU services trade with the world, with EU exports of services to Brazil totaling €4.4 billion and EU imports of services from Brazil in 2005

[34] The Generalized System of Preferences, or GSP, is a formal system of exemption from the more general rules of the WTO. Specifically, it is a system of exemption from the most-favored-nation (MFN) principle that obligates WTO countries to treat the imports of all other WTO countries no worse than they treat the imports of their most favored trading partner. In essence, MFN requires WTO countries to treat imports coming from all other WTO countries equally, that is, by imposing equal tariffs on them, *inter alia*. See Wikipedia, available at http://en.wikipedia.org/wiki/Generalized_System_of_Preferences (last visited May 1, 2008).

[35] EurActiv, "EU, Brazil join in strategic partnership," 5 July 2007, available at http://www.euractiv.com/en/trade/eu-brazil-join-strategic-partnership/article-165263 (last visited May 18, 2008).

totaling €3.9 billion.[36] The 1992 EC-Brazil Cooperation Agreement[37] provides the institutional setting for the political ties between the EU and Brazil and a framework for cooperation in trade in services, among other fields. Since the establishment of the 1995 inter-regional Cooperation Agreement[38] between the EC and its Member States, on the European side, and Mercosur,[39] on the South American side, EU-Brazilian negotiations have mainly been carried out through this framework.[40]

Since 2000, the EU and Mercosur are in the process of negotiating a bi-regional Association Agreement,[41] including a free trade area. This will be the backbone of future bilateral trade relations. Substantial progress in the trade chapter of the agreement allowed both parties to realistically envisage a conclusion of negotiations by the end of October 2004. However, on 20 October 2004, at the occasion of a Mercosur-EU trade negotiators meeting at ministerial level in Lisbon, trade ministers concurred that the offers on the table did not reach the degree of ambition that both parties expect from this agreement and decided to give negotiations more time. Following a number of technical contacts in 2005 to discuss the ways to re-engage the process, trade ministers met again on 2 September 2005 to discuss on a way forward.[42] In 2005, Brazil represented 80% of Mercosur's GDP and is critical to Mercosur's further integration.[43] In my opinion, in addition to the EU agricultural liberalization issue mentioned earlier, this intra-Mercosur disparity is one of the reasons why the EU-Mercosur negotiations for the conclusion of a bi-regional free-trade agreement, which began in April 2000, do not seem to come to an end: on the South American end, there is a tremendous imbalance of power within Mercosur; Brazil is an enormous market of 190 million people, whereas Uruguay is of insignificant interest to Brazil, with a total population of 3,5 million people. This asymmetry makes Mercosur's search for a common position vis-à-vis the EU very difficult.

In July 2007, the EU-Brazil Summit, in the framework of a Strategic Partnership,[44] reaffirmed both parties' commitment to resolving the EU-Mercosur negotiations between the two blocs (which have been effectively stalled for more than two years),[45] the Doha round of trade negotiations,[46] as well as initiating a dialogue on the EU and Brazilian shipping market developments.[47] Despite liberalisation processes throughout the 1990's, Brazilian goods and

[36] Eurostat.

[37] Council Decision 95/445/EC, OJ L 262, 1 November 1995, pp. 54–65.

[38] Council Decision 96/205/EC, OJ L 69, 19 March 1996, p. 4.

[39] MERCOSUR stands for Mercado Común del Sur (Common Market of the Southern Cone) and is composed of Brazil, Argentina, Paraguay, and Uruguay. On 9 December 2005, Venezuela was accepted as a new member, but not scheduled to be finalized until later. It was founded in 1991 by the Treaty of Asuncion, which was later amended and updated by the 1994 Treaty of Ouro Preto (December 17, 1994). Its purpose is to promote free trade and the fluid movement of goods, peoples, and currency.

[40] See generally speech by Ferrero-Waldner, Benita "Steering the EU/Brazil-Mercosul Relationship for the Challenges Ahead," Instituto Roberto Simonsen and the Federation of the Industries of the State of Sao Paulo Sao Paulo, Brazil, 12 July 2005.

[41] For an overview of association agreements concluded by the European Communities with third parties, see Leal-Arcas, R. *Theory and Practice of EC External Trade Law and Policy*, Cameron May, 2008, pp. 282-288.

[42] European Commission, "Mercosur," available at http://ec.europa.eu/trade/issues/bilateral/regions/mercosur/index_en.htm#top (last visited May 19, 2008).

[43] World Bank's World Development Indicators.

[44] See European Commission, "Towards an EU-Brazil Strategic Partnership," COM(2007) 281, 30 May 2007; see also European Commission press releases, EU-Brazil Strategic Partnership, available at http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/725&format=HTML&aged=0&language=EN&guiLanguage=en (last visited May 20, 2008).

[45] 1st EU-Brazil Business Summit, Lisbon 4 July 207, p. 3.

[46] Ibid, at p. 2.

[47] Ibid.

services markets still enjoy a relatively high level of protection through various barriers to trade of both a tariff and a non-tariff barrier nature, especially in transport and ports.[48]

So what is Brazil's interest in EC trade policy? Brazil's main interest is the EU's agricultural liberalization, given that Brazil is considered a highly efficient agricultural producer that is expected to gain tremendously from the EU's liberalization. If this will be the case after the conclusion of the Doha round, it will certainly be so even more from a potential free-trade agreement. Moreover, Brazilian exports of agricultural products (such as coffee, cocoa, and sugar) to the EU account for 41% of Brazilian exports,[49] and for 10% of EU imports.

What can the EU offer Brazil? The EU could grant tariff preferences in agriculture and other goods where Brazil is competitive. For example, in biofuels and ethanol as environmental goods Brazil is by far the world's most important producer of fuels made from plants, and it has the greatest potential worldwide for affordable biofuels. The country's traditional sugar cane cultures provide biomass for the production of ethanol, and soy beans are used to make fuel oils.[50] However, granting tariff preferences to Brazil in agriculture may present difficulties. The reasons for these difficulties are: 1) the Doha round should have priority over regionalism or bilateralism; 2) it is only reasonable to liberalize agricultural subsidies multilaterally in the context of the Doha round; and 3) agricultural tariff preferences to Brazil would strongly go against the interest of the poorer developing countries.

V. Conclusion

In my opinion, there is not much scope to use trade policy as a "carrot" in a policy area-centered approach in addition to what is currently being done. The European Commission's Directorate-General for external trade is already very active. Hence, few new initiatives seem possible. Nevertheless, there is some, although limited, room for trade policy concessions with Brazil for the case of agriculture and the Doha round. The EU could offer additional incentives to Brazil by granting larger concessions or demanding fewer concessions than would be the case in a purely reciprocal give-and-take situation. However, even if the EU concessions were possible, what would the EU want to obtain in return? Market-access seems to be the evident answer. This is what trade negotiations are about. The European Commission's Directorate-General for external trade would come under pressure if EU concessions were not used to enhance market-access for European exporters in growing and important emerging markets.

What remains to be done? In my opinion, it is not about *what*, but *how* you negotiate: the European Commission should negotiate more constructively, without patronizing and instead accepting Brazil as an equal player. Brazil is not yet an economic superpower; it is only starting to grow into a more powerful role. The EU should try to foster this positive development in a cooperative stance.

---

[48] European Commission, "Brazil," available at http://ec.europa.eu/trade/issues/bilateral/countries/brazil/index_en.htm (last visited May 19, 2008).

[49] OECD, "Brazil would gain from freer agricultural trade but small farms need to adjust," available at http://www.oecd.org/document/62/0,3343,es_2649_34487_35584190_1_1_1_1,00.html (last visited May 19, 2008).

[50] EurActiv, "EU, Brazil join in strategic partnership," 5 July 2007, available at "http://www.euractiv.com/en/trade/eu-brazil-join-strategic-partnership/article-165263 (last visited May 18, 2008).