Trade policy in the Prodi Commission, 1999-2004

An assessment

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Foreword

Trade Policy and the Politics of Trade

At the very start of the Prodi Commission, in my European Parliament hearing in September 1999, I set myself the goal or theme of *"la globalisation maîtrisée" [pour être à la fois efficace et juste; cette globalisation doit être maîtrisée; pilotée; gérée en fonction des intérêts collectifs des citoyens européens"]*.

When I said this, it was immediately dubbed a European version of the rather woolly concept of "putting a human face on globalisation". But it was always more than that. And while it may have sounded ambitious, Romano Prodi and I felt at least that we had a responsibility to try. Why? Because European Union trade policy has been properly integrated, has given the EU not just the power but the duty to act together. And most of the responsibility for that lies with the European Commission: not just to negotiate with third countries, but to ensure we manage properly the interface between our external policy and the internal EU market, and of course the European model.

Simply rejecting globalisation is not an option for countries or communities. We do have to be ready to open our own markets, particularly to developing countries – and to encourage others to do likewise, to ensure access to new markets for the European Union, for both better growth and more jobs. But the opening of markets is not an end in itself, but is a way of making progress. Moreover, while necessary, market opening is not sufficient. It does not by itself ensure development. Internal policies have to be right too, not least to ensure that the distribution of its benefits is more equitable.

> *Most of all, government has to ensure that globalisation is not a zero-sum game. The right way forward is removing obstacles to trade gradually, settling disputes peacefully, building up a body of rules which allow for fair play and transparency in world trade, and always ensuring that our policies and politics help those who are affected by the "globally" more efficient division of labour.*

Translating these objectives in concrete terms is critical to keeping a solid majority of the public in support of an open trade policy. Given the various intense, and justified, degrees of sensitivity in European public opinion to looking after those who have lost out in trade opening, to addressing environmental and social questions, to problems of health, consumer safety and protection, it means that we have to ensure that trade works in favour of sustainable development, and – more concretely - does not work *against* such fundamental objectives.

> *If trade policy were a plane, the trade negotiators - 'pilots' - flying today's modern, complex jet aircraft have to keep their eyes on many more dials than simply the altimeter, airspeed, and the trim of the wings. There are at least 20 or so gauges that have to be watched closely, including questions concerning passenger comfort. The pilot has to be ready not only to make the necessary adjustments but to keep the plane on a steady path, as well, of course, as knowing where he wants to go.*

So trade policy has expanded, has become much more complex. Hence the focus in this assessment, not just on market opening, multilateral trade policy, etc, but also on questions of development, transparency and legitimacy, the impact on key sectors, and social / societal questions. This can reveal for how far trade policy drives our collective preferences, and also

the point of interaction with the preferences of others. This paper therefore sets out six groups of topics where we have focused our efforts under the Prodi Commission[1]:

1 Multilateralism

2 Opening of markets

3: Development

4: Transparency / legitimacy

5: Key sectors

6: Social / societal questions.

The results

One beauty of trade policy, as opposed to diplomacy, for example, is that the subject matter, and the bilateral and multilateral tools we possess, allow us to achieve rather concrete, and hence measurable, results in terms of both market opening, and development of new or improved rules. A number of statistical analyses of these results can be found in the annexes to this assessment, including an analysis of the degree of support in public opinion, essential in our democracies. Everyone is not only entitled to an opinion – increasingly in this business, they *have* an opinion.

In assessing the results, I am, for my part, inclined to consider that the Prodi Commission has worked well on trade policy. But here, I have to point out my deep debt to the rest of the Commission College, starting with Romano Prodi who has always backed me; to Franz Fischler, with whom it was a great pleasure to work together in tandem in so many negotiations, and who handled the agriculture portfolio, which is an essential part of the overall trade kaleidoscope, with determination and skill; and to all my Relex Commissioner colleagues, but most notably Chris Patten and Poul Nielson. Nor could anything at all have been achieved without two great Director Generals, Hans-Friedrich Beseler and Mogens Peter Carl, and their teams in DG Trade with whom it has always been a enormous pleasure to work. I thank them all.

> *The lesson to be taken from the experience of the past five years is that, when it chooses to pursue a truly federal policy, the EU can play a decisive role on the world stage. Together, we have a far greater 'weight' than the sum of the Member States. We have the ability, not only to resist initiatives that we do not support, as in the case of the action taken by the United States on steel in 2002, but also to set the international agenda. The priority given to development in the Doha Agenda, or the agreement on medicines are evidence of this pivotal European role. This shows just how 'profitable' teamwork can be for Europeans.*

[1] It is self-evident that a number of topics could be classified under different headings. Just to take reforms to the Generalised System of Preferences, are they more about *development* ? more about *opening [our] markets* ? or more about *social and societal questions* (as we have tried to strengthen the links between trade preferences and the observance of core labour standards, for instance) ? The answer, of course, is all of the above, so we have had to take some arbitrary classification decisions – in this case, GSP appears under "development issues".

If there is one regret, it is that while we have fought to strengthen the European Union's work in the international arena in those areas connected to international trade, whether in economic policy, international financial policy, or indeed the environment or core labour standards, too often we have lacked a suitable multilateral reference point. Our arguments in favour of a better regulated multilateral world have thus been less effective. Indeed, arguably as a result, trade policy or the WTO has too often been the sole focus for efforts to strengthen international governance, which risks weakening its legitimacy both internally within the Union, and in the outside world. I don't believe the WTO can or should remain the sole island of governance in a sea of unregulated globalisation.

Taking the rest together, I think we have both advanced the intellectual case for the need to manage, or harness, globalisation *and* achieved a number of key goals along the way. But although I feel we have achieved a lot, only time (and the determined pursuit of the European Union's agenda) will tell whether or how much our policy actually delivers on the objective of *la globalisation maitrisée.*

Pascal Lamy, November 2004

1 Multilateralism

The Doha Development Agenda

Since the launch of negotiations in November 2001, the principal story of multilateral trade of the last five years is of the battle for its future direction, as exemplified in the battle over the Round. The EU and the Commission in particular have played a key role in launching the Round, and in keeping it going (e.g., post Cancun failure). And multilateralism remains to the fore, despite the new trend, notably in Asia, of bilateral and regional Free Trade Agreements. The EU, itself the first regional community, encourages initiatives for regional arrangements, as they contribute to better regulation overall.

1.1 DDA: struggles to launch, ultimately succeeding. Seattle and Doha

Even at the hearing in September 1999, the Commission made clear its intention to pursue the launch of the Round in Seattle along the lines of the Council conclusions which were already in preparation (confirmed weeks later, just before Seattle). That meeting turned out to be a comprehensive disaster in the total absence of consensus on any forward move, although the EU attracted little criticism. The meeting, which was badly prepared, essentially failed because of the antagonism between the United States and developing countries regarding a possible social clause. This failure unfortunately had a harmful effect, although the EU tried to convince developing countries that working together on core labour standards was in their interest: without Seattle we might have been able to achieve a good result on this at Doha.

Thereafter, it took a long time for the talks to resurface (there was not much US action until United States Trade Representative, Robert Zoellick, came on stream in late spring 2001). But even then, a positive result at Doha remained in the balance until a series of successful mini-Ministerials (Mexico and Singapore), and the global shock of 9/11 persuaded world leaders, including those sceptical of multilateralism, to look for an international governance success. In retrospect, a deal was always going to be possible in Doha. It was not ideal from a European perspective: a fudged compromise was necessary on Singapore issues (trade facilitation, investment, competition, procurement); and core labour issues were dropped, with US support for them notably absent and developing countries' mistrust remained strong. But everyone made the concessions necessary to achieve a balanced result.

But it was clear that the new Round was going to have to tackle both classical market access and rules questions, and therefore a major down payment on *la globalisation maîtrisée* was achieved in Doha.

1.2 Pursuing the Round – running into problems in Cancun and beyond

The 22 months between Doha and Cancun were a study in frustration. The capacity of Ministers to push an increasingly unwilling and misfiring Geneva process via Mini-Ministerials (in Sydney, Tokyo, Sharm-el-Sheikh, Paris and Montreal) was reduced, and a lot of energy was expended in a long struggle to secure a deal on access to medicines for developing countries. And as spring 2003 approached, it was clear that the agriculture dossier was nowhere near ready for agreement (see separate fiche 5.1). The international situation, notably in Iraq, worsened, and geopolitical factors combined with the activism of Brazil, India and South Africa to challenge the established major players such as the EU, US and Japan.

We were all collectively slow to realise the impact of the demands on cotton made by the West African countries, and a number of NGOs moved from protests outside the hall in Seattle to a strong negative internal pressure on developing countries not to make a compromise in Cancun. We were all slow to recognise or find solutions for concerns held by the weaker and more vulnerable developing countries, many of whom were fearful of losing preferences or of new rules they could not implement. Finally, in the immediate run-up to Cancun, and at the request of a number of countries, the EU and US put out a joint paper on agriculture in August 2003: but the G20 and others immediately attacked this, refusing to enter into negotiations, further worsening the atmosphere.

Faced with this unpropitious backdrop, it was not all that surprising that the Cancun meeting was unsuccessful, although the shock at the time was considerable. Following Cancun, and after an important and lengthy internal consultation by the EU (in which Member States confirmed their support for the Commission's negotiating mandate), the Prodi Commission's efforts to re-launch the Round intensified. Further compromise was needed, most notably on the Singapore issues, but the CAP reforms meant that the EU was able to offer major cuts in trade distorting domestic support, and to commit to abolishing export subsidies, as long as others (notably the US) were ready to make equivalent efforts. In putting forward the idea of a Round For Free (see 1.4), the EU finally achieved something of a breakthrough in starting to convince the Least Developed Countries that the round did not represent a threat to them.

1.3 The changing geography of multilateralism – from old Quad to new Quad - the G20 and the G90 come of age

The so-called Quad (EU, US, Japan, Canada) has met for precisely 20 minutes in the last five years, in the margins of the OECD meeting in Paris in 2001. In its place has come a flexible feast of mini and micro Ministerials, ad hoc small groupings, always with EU, US, Brazil and India at the core, but with other countries heavily involved such as South Africa, China, Singapore, Japan, Mexico, Kenya, Costa Rica, Bangladesh, Mauritius, Canada, Chile, New Zealand and Australia. This has meant two things: first, developing countries became more mainstreamed into the decision-making processes; and secondly, Ministers themselves taking much more active responsibility for the process. The latter, in turn, reflects the intrinsic weaknesses of the WTO and Geneva itself that such heavy and detailed Ministerial involvement was necessary to push the process forward, and there is always the risk that it could weaken the official level Geneva process if officials felt they had little incentive to make risky moves because their Minister would shortly take over the seat.

It is worth noting, if only in passing, that Japan and Canada remained extremely important partners with whom we have much in common. As recently as fifteen years ago, EU-Japan trade relations were particularly anguished. Happily, this has now been replaced with a high level of cooperation at both Ministerial and official level.

1.4 Half way there: success in Geneva on the framework

Even after the efforts to save the Doha Round post Cancun, an enormous amount of work was needed to pull the deal off. Although the General Council meeting in Geneva was not a WTO Ministerial as such, an extremely serious week of work ensued – 25 Ministers present, around 50 hours of political level negotiation, starting with two days of talks between the EU, US, Brazil, India, and Australia and finishing with a 24 hour long Green Room.

On substance, the deal on agriculture used existing CAP reform efforts to leverage change in others' policies, notably the US. (For more details see 5.1). Of course, this progress actually helps prop up CAP. It demonstrates how the reforms made by the Commission over the past few years has enabled an acceptable compromise between internal desire to support farmers and the external necessity of not causing trade distortion and not penalising developing countries.

On industrial tariffs, we successfully (but only just) defended the non-linear formula, i.e., deeper reductions for higher tariffs. We succeeded in launching the negotiations on trade facilitation, , but it was confirmed that the other Singapore issues were lost from the agenda. Finally, we inserted a date for tabling new offers on services.

But we have also taken care to ensure that the Doha Development Agenda lives up to its name. For example, on Special and Differential Treatment (SDT), giving developing countries certain exemptions from the rules, we have worked hard on a package of SDT measures based on coherent underlying rules that ensure that developing countries integrate into the system and take commitments in line with their ability to do so. We have also moved to address developing country concerns about their capacity to implement the Uruguay Round. After a lot of reflection, the Commission also decided to launch an initiative called the Round for Free, recognising that many countries need to be reassured that the process will not be too onerous for them: for example, the idea that the poorest and most vulnerable countries should not have to contribute more than consolidating their tariffs, for example. (See Section 3 for more on development.)

As we move into the second half of the Round, other issues come into the limelight and in particular, services and anti-dumping.

Services play an increasingly central role in the global economy and in the EU it constitutes the single most dynamic economic activity accounting for at least two thirds of GDP and employment. Moreover, although services currently account for over 60 percent of production and employment worldwide, they still represent no more than 20 per cent of total global trade. Various entry barriers still hamper trade in services and act as a brake on economic growth. The EU therefore has much to gain from further opening of trade in services and it is consequently one of its key priorities in the Doha Development Agenda.

So we have taken a leading role in these negotiations, submitting a comprehensive initial services offer in Geneva at the end of April 2003 which was, and remains, one of the most substantive offers on the table, including elements of particular interest to developing countries such as in mode 4 (temporary movement of personnel). To move the services negotiations to a successful conclusion the EU must provide continued leadership and ensure that more countries are drawn into the negotiations and that those countries that have not yet submitted offers will do so. In addition, the current imbalance in the quality of offers is not sustainable and it is therefore equally important that a process be established for improving the quality of offers. At the initiative of the EU, the WTO General Council in the Decision adopted on 1 August 2004 calls for revised offers to be tabled by May 2005. The EU must now build on this result and try to inject more ambition into the negotiations, including possibly seeking agreement on benchmarks of a more qualitative nature.

Trade defence, and notably anti-dumping, are now also coming to prominence. The Doha Declaration mandates the relevant working group to clarify and improve the disciplines, while

preserving the basic concepts and the effectiveness of the instruments. Progress is very limited in the so-called "issue-identification" phase before Cancun, many of them aiming at a wholesale re-negotiation of the agreements. Following the resumption of the Rules Group negotiations in March 2004, discussions have now shifted to a more substantive stage. The EC's interests are determined by its high standards as a user of the instruments and also, increasingly over the last 5 years, by being a target of other countries' measures (so-called "new users", such as e.g. India, Egypt, South Africa, Argentina - see section 5.8). Throughout the last 5 years, the Commission has therefore focussed on strengthening the rules on recourse to trade defence instruments, and have made a number of submissions to the Rules Group in this respect, so as to limit as much as possible the abuse of trade defence instruments by third countries. This agenda remains largely unfinished – perhaps along with trade facilitation the area of the WTO rule-book which most requires updating.

It clearly proved harder to launch a new Round than we thought in September 1999, and even harder to make progress. Seattle at the time looked like a blip, but turned out to cost us two crucial years in the timetable, and more importantly, turned out to be the reflection of a deep-rooted disagreement about what the future WTO should be. Doha at the time appeared a decisive breakthrough but it took us almost another two years, after another flop Ministerial in Cancun, to make real progress on some of the "core" issues of the Round, although clearly not enough on areas like protection of geographical indications.

However, while the last five years will go down as the most tumultuous by far in the history of the GATT / WTO, we have emerged with a Round which remains intact, and which retains broad support from both developed and developing countries. The fact that it is a year or two behind the Doha schedule is less important: the results will last for many years, and we have to get it right. And the EU has held together well, including through enlargement.

Other WTO issues

1.5 An inclusive WTO: the accession process

The entire WTO accession process is a much bigger deal than it used to be . To enter now, the "price" for major emerging economies has become very high – an average trade-weighted tariff level of around 10%, commitments on IPR for example. This in turn raises question of enforcement and implementation on the one hand, and the level of incentive that acceding countries have to play an active part in multilateral negotiations like the Doha Development Agenda ("we don't want to pay twice").

But the WTO accession process has both been a lever for some countries to drive internal reform, and, for the EU, sometimes our own best means of entry into hitherto firmly closed markets. And politically, the process has brought the WTO positively to prominence, and made it be seen as a club worth joining. In the medium term, this growing diversity of the WTO is the gauge of its legitimacy and therefore, the efficacy of its actions.

For the Commission, how to handle and use WTO accession negotiations became a key political choice. Politically for the Commission and the EU, both the China and Russia negotiations have been amongst the most difficult, drawn-out, and at times frustrating for both sides. But ultimately they were arguably the most successful negotiations of the five years : a deal with the EU on market access was often the key to unlocking the WTO door. We were the first major trading partner to conclude with Cambodia, Saudi Arabia, Russia, Ukraine, and with Vietnam. But in terms of political significance, we should also not forget the accession

of Cambodia, the first least developed country to come into the WTO since its foundation, while the bilateral agreement reached on 8th October with Vietnam, thus bringing it closer to its ASEAN colleagues, has especial significance. A number of other countries have come into the WTO since 1999.

Nepal	23 April 2004
FYR Macedonia	4 April 2003
Armenia	5 February 2003
Chinese Taipai	1 January 2002
China	11 December 2001
Lithuania	31 May 2001
Moldova	26 July 2001
Croatia	30 November 2000
Oman	9 November 2000
Albania	8 September 2000
Georgia	14 June 2000
Jordan	11 April 2000
Estonia	13 November 1999

1.6 Enforcing the rules: dispute settlement

This has been a key theme of the last five years. We have consistently stressed the importance of compliance with regulations accepted by all. The EU has continuously been more on the offensive than defensive (average of 4-5 offensive against 2-3 defensive cases a year since 1999, although fewer than in the relatively frenetic period of 1997-98). The current position (13 offensive cases in progress, 9 defensive) is fairly typical, with a wide spread of trading partners involved. But the key factor has been the EU success rate, winning a very high percentage of completed panels. From 1999-2004, the EU lost only four cases (and then only very partially) – two to India, one to Brazil, one to Peru - and won in 13 completed cases (full summary of the statistics at Annex 3).

Understandably, the US has frequently been a target: this is the result of the high volume of trade and investment. From 1999-2004, the EU has won 8 cases in the WTO against the US, and has lost none. Developing countries have not, for the most part, been the target of EU Dispute Settlement cases. Partly, this is because the markets are less important to EU exporters, but equally it reflects our concern not to bully developing countries, many of whom are finding their feet in the WTO. And we have never taken a case against a Least Developed Country.

It is also worth noting that the Trade Barriers Regulation (TBR), by which European trade associations or firms can bring foreign trade barriers directly to the attention of the Commission, form the basis for one in eight of our WTO complaints.

We have used the theme of compliance for three purposes: to push others to move to rectify certain practices; to stress the importance of the WTO as a rules-driven organisation (and to build up this arm of the WTO's activity) and finally, where necessary drive our own side in a WTO compliant direction (whether on old cases such as bananas – see fiche 5.2 - or on new potential cases such as chemicals and ongoing cases such as the moratorium on GM – see 6.5).

Apart from the US 'Foreign Sales Corporation' (FSC) subsidy, which is worth $4bns, the major success story with the US has been steel, where the EU effectively used the tools available to assemble an international coalition against US tariffs, which were duly lifted before sanctions were imposed. The EU has imposed sanctions, for the first time, in order to

speed up US compliance (Foreign Sales Corporation), and threatens to do so again on Byrd (where seven complainants, including the EU, have been given the right to retaliate with sanctions). The same goes for '1916' (where foreign companies, including at different times EU companies, have been threatened with WTO illegal action under the US 1916 Anti-Dumping Act, but where hopes have recently risen that the US will repeal the offending measure).

Reform of the WTO's Dispute Settlement Understanding has been much discussed, but has not got far - there was little appetite amongst our partners during negotiations for such a review, either on radical ideas (alternatives to sanctions) or lower key ideas (making consultations work better).

2 Opening markets

Trade opening can take place in a number of ways. This section looks at regional and bilateral trade negotiations during the last five years.

Encouraging regional integration enlarges markets, reinforces healthy competition between neighbouring countries of comparable levels of development and competitiveness, favouring industrialisation, development and regional stability. It is less an alternative to multilateral liberalisation, and should rather be seen as complementary. In many respects, the regional dimension can serve as an opportunity to test out innovations, which, if successful, can then be applied in the multilateral framework.

We have taken a principled position in support of multilateralism but one of responsibility in seeking to complete each of the bilateral / regional negotiations already launched, and not yielding to pressure to open up new Free Trade Area (FTA) vistas at the expense of ongoing WTO negotiations. This has enabled us to confirm our position as the greatest supporters of multilateralism, while keeping an extensive network of FTAs (though not the highest percentage of trade conducted through FTAs, nor the biggest number of FTAs). However, we have also been active on a bilateral level: with the conclusion and entry into force of FTAs with Mexico, Chile, South Africa, and Euromed and Balkan Countries; with the launch of all the Economic Partnership Agreements (EPAs) with the ACP countries; with the advanced state of negotiations with both Mercosur and Gulf Co-operation Council negotiations. We have also begun to experiment with agreements on regulatory alignments with the "new ideas" of the Trans-Regional EU-ASEAN Trade Initiative (TREATI) and the EU-Canada Trade and Investment Enhancement Agreement (TIEA). We have also advanced the notion of *region to region* agreements, which plays back into sustainable development, south-south trade and the development of international regulation.

2.1 China post WTO

Even without the WTO accession deal (see fiche 1.6), China would have been a major theme of the last 5 years. In 1999, the size of China's total external trade was no larger than that of the Netherlands. It is now the 2nd largest EU trading partner, with a bilateral deficit running at 50% of the total (more than 60 billion euro), while total trade is growing faster than US-China or US-Japan. Moreover, China's whole *role in the system* has been transformed, economically and politically.

That said, trade relations have not always been easy since WTO deal, with tough problems to sort out on food safety issues, steel and coke taking up a lot of time and press attention. We have focused on three areas in particular since the WTO deal:

(a) seeking the proper implementation of commitments made by China during the WTO accession process. The EU approach of providing practical support (15m euro spent on TRA) and reminders about rules (and particularly our readiness to go to the WTO when justified) has generally been effective.

(b) better trade policy dialogue at different official levels, and ensuring this is a regular part of the Ministerial exchanges.

(c) cooperation on WTO: understandably because of her recent accession, China has limited herself to carefully finding her place in the system, but has been more active e.g. in the G20.

China herself has made clear that recognition of Market Economy Status is a priority, while pledging to address the rather long list of other trade problems that the EU side has raised on a number of occasions.

2.2 US

EU-US trade relations have three overwhelming characteristics: firstly, sheer size; second, the tendency for bilateral disputes to have a systemic impact; and thirdly, the strategic importance of foreign direct investment in both directions. The framework for EU-US trade relations has remained stable, and largely successful, although we have sought to sharpen the focus on *deliverable* results with the Positive Economic Agenda, e.g., focusing on the concrete, regulatory issues, such as trade in organics, poultry, wine agreement, electronic tendering, etc. and using the annual summits as a progress chasing mechanism to push work forward (on hormones and bananas at the start of the Prodi Commission). But as transatlantic trade reaches higher and higher levels (nearly $2 billion a day in trade, nearly $1.5 trillion total stocks of Transatlantic investment), the importance of dialogues, and not just the re-launched Transatlantic Business Dialogue, will become ever more important.

Transatlantic trade relations under the Prodi Commission have generally succeeded because both sides have laid the stress on a calm, low-key, rules-based method of solving disputes. But the key word is dispute *resolution*, not dispute *avoidance*, or indeed escalation of disputes. This has been true since the beginning of the mandate, with the resolution of such difficult disputes as bananas (see 5.2) and hormones (see 6.5). EU readiness to be firm in pursuing our WTO rights on steel, when the US imposed illegal safeguards, for instance, was directly responsible for satisfactory resolution of the matter. And on FSC (Foreign Sales Corporation, which is a subsidy that favours American companies), our calm but determined approach has been personified in a readiness to give the US more time, but ultimately we have remained ready to impose sanctions in a progressive manner. On both FSC and steel (see 5.5), by laying the stress on WTO compatibility, we have also set the bar high for not just the future conduct of EU-US relations, but maintained the integrity of the dispute settlement mechanism overall (see 1.7 on WTO and dispute settlement).

This approach has again been put under intense pressure with the USA's decision to denounce the bilateral 1992 Aircraft Agreement that delimited state intervention in favour of Boeing and Airbus, and to launch a WTO case (see 5.7). As with steel, this decision, with a strong media impact, was taken in the context of the imminent elections. Confronted by this situation, we are taking a firm stance (the EU has rejected the unilateral abrogation of an agreement and has criticised illegal aid given to Boeing), without entering into undue polemic.

Moreover, while there remain a number of possibilities for future development of the relationship, we have followed the step by step approach of tackling concrete issues, one by one, in the context of the Positive Economic Agenda, bearing in mind that many regulatory issues are side-stepped by foreign direct investment. This approach was preferred to that of a grander initiative (particularly when such initiatives have not prospered in the past), and have the capacity to send the wrong signals to developing countries about our attachment to multilateralism, without producing tangible results.

2.3 Russia

Trade policy towards Russia has become much more active during the 5 years of the Prodi Commission, not least because enlargement has meant that more than half Russian trade is now with the EU. Access to each others' markets has therefore become a front line issue. A strong personal relationship developed with Gref that has helped to create negotiating space on both sides, and greatly facilitated progress. Difficult negotiations were the norm for five years over Siberian over flights, scrap, steel, enlargement, Kaliningrad, energy, Kyoto, veterinary certificates. But at the same time, the contours of a future EU-Russia 'Common Economic Space' are taking shape.

On Kyoto in particular, although no explicit cross conditionality was made between Russia's ratification and our bilateral deal on WTO accession, not least because it would have been deeply unproductive, it is no coincidence that these issues were considered together, and advanced together. It was clearly essential for the EU to promote a market based energy policy in Russia and to create, as far as possible, a level playing field on environmental issues: looking ahead, we hope one day that the European and Russian economies will be much more closely integrated. With the decision taken in October 2004 by Russia to ratify the Kyoto protocol, Russia has played its own part in bringing that vision closer, as well as moving Kyoto's own vision closer to reality.

2.4 Euromed

The beginning of the Prodi Commission was characterised by sluggish movement on the Barcelona process, which envisages the establishment of an integrated free trade zone between the EU and countries to the south of the Mediterranean Sea: only four association agreements (with Morocco, Tunisia, Jordan and Israel) had been signed and the regional dynamic was absent.

This Commission has seen the conclusion of a string of EU association agreements with third countries in the Mediterranean (the negotiation of agreements with the remaining Mediterranean countries, their entry into force and implementation). Trade between the EU and Mediterranean countries has risen by 35% between 1999 and 2003. The EU is both the Mediterranean countries' biggest exporter and biggest importer (accounting for about half their imports and exports).

Med Country	**Status of Association Agreement**	**Date signed**	**Entry into Force**
Algeria	Signed	April 2002	Ratification in progress
Egypt	Signed	June 2001	June 2004
Israel	Signed	Nov 1995	June 2000
Jordan	Signed	Nov 1997	May 2002
Lebanon	Signed	June 2002	Interim Agreement March 2003
Morocco	Signed	Feb 1996	March 2000
Palestinian Auth.	Signed	Feb 1997	Interim Agreement July 1997
Syria	Negotiations concluded Oct 2004	-	-
Tunisia	Signed	July 1995	March 1998
Turkey[2]	Customs Union January 1996	Customs Union	Customs Union

[2] On 6th October 2004 the Commission recommended that Council open accession negotiations with Turkey.

More fundamentally, the Prodi Commission has been characterised, from the ministerial conference in Brussels in 2001 onwards, by the launch of a regional dynamic towards integration that focused on cumulation of origin, trade facilitation, standards and services, with notable advances (e.g., the adoption of the Pan-Euromed protocol on cumulation of origin in 2003 and the protocol on a services framework in 2004). At the same time, the Mediterranean is increasingly looking like a genuine area of economic integration, providing, on both sides of the Mediterranean, an opportunity to work more closely together. The way in which the textile industry has used this as a means of controlled restructuring and of maintaining its capacity for innovation and development is an interesting example.

The challenges remain immense: South-South integration (set in motion by the Agadir agreement and reinforced thanks to leverage over cumulation of origin – cf. Morocco-Turkey and Tunisia-Turkey, agreements – but still very limited); implementation (cf. the size of industrial customs duties six years after the association agreement entered into force); and trade in services, where there is considerable unexploited economic potential and we are likely to see more gains from trade opening than from even a total trade opening in the goods sector, but on which negotiations have yet to really begin. A delay in greater regional integration has led to a low level of trade between Europe and the Mediterranean, and most of all between the Mediterranean countries themselves: (intra-Med trade only accounts for about 8% of total trade for these countries). Likewise foreign direct investment remains a long way from its true potential: although it seems to have caught up in recent times, it remains much lower than in other regions).

2.5 Balkans

The Prodi Commission has played an important role in the economic and political recovery in the Balkans. It was the Commission that proposed to Council a strategy involving "stabilisation and association accords" – crucial if we were to bring the EU and the Balkans together, with trade policy playing a central role in this. The first stage, once peace had been restored to the region, was to pursue the unilateral opening of the EU market to Balkan goods. The second stage was to support the reintegration of these countries into the global economy by making their WTO accession a priority, and by inviting them, under the aegis of the EU/US/UN Stability Pact, to resume the trading links that had been destroyed by the separation of the former Yugoslavia and by war. The third stage, which is still ongoing, is the negotiation and conclusion of stabilisation and association agreements with each of the Balkan countries (apart from Slovenia, which opted for the accession route very early on), with an additional benefit coming from a progressive alignment with the rules and policies of the EU. The fourth stage, which was reaffirmed by Council at Thessalonika in 2003, would be EU accession.

Over the last 5 years the outcome is largely positive. Trade relations have been restored progressively, including between countries within the region itself. The EU concluded two Stability and Association Agreements (Croatia and Macedonia), is in the process of negotiating a third (Albania), albeit slowly, and has begun work on a fourth (Bosnia Herzegovina). It is the largest country in the region (Serbia-Montenegro) that has turned out to present the greatest difficulties as a result of differences of opinion between the two entities (Serbia and Montenegro) regarding their relative autonomy vis-à-vis relations with the EU. Lastly, Croatia has been given candidate status to the EU, and will begin accession negotiations at the start of 2005.

2.6 Mercosur

Launched in March 1999 on the basis of a negotiating mandate set by the Council, the negotiations with Mercosur have lasted throughout this Commission, and seen many highs and lows, largely as a result of domestic economic upheavals (Argentina in 2002) and organisational complexities within Mercosur. The stakes, economically and politically speaking, were very high for both parties, considering that the aim was to create the biggest region-to-region free trade area. In addition, the concurrent negotiations of the DDA and Free Trade Area of the Americas (FTAA) made matters more difficult. These problems were reinforced by internal conflicts within the Mercosur countries, and by the difficulty which those developing countries whose markets are even less open, have in successfully concluding both internal and external liberalisation, particularly in more heavily regulated sectors like services and investment, or in heavily protected industrial sectors. The agricultural factor also played a role, particularly in its link with the multilateral negotiations. At this stage, the fact that we have been unable to conclude remains a real disappointment, considering how much we have invested in this bilateral priority. The negotiations are nevertheless at this stage close to completion, and, with the necessary political commitment at the highest level, could yet be concluded quickly and definitively.

2.7 Mexico and Chile Free Trade Agreements (FTAs)

These represent the two major Free Trade Agreement achievements of the Prodi Commission. The Mexico Agreement (November 1999, ratified by Council in 2000) came at an invaluable time, when the EU was fast losing market share to the US in NAFTA. The deal was very comprehensive (covering 97% of bilateral trade) + procurement + dispute settlement, but with less coverage on services (negotiations have now re-started), and the investment chapter needs more work. The effect on trade has been positive with 28% increase in trade with EU since entry into force in July 2000.

Negotiations with Chile, launched at the same time as those with Mercosur, were completed in record time (April 2000 – April 2002) and resulted in the most ambitious agreement ever concluded – 100% tariff dismantling on industrial products, 80% on agricultural products and much stronger in terms of coverage of services, procurement, competition, etc. This deal, accompanied by a genuine set of rules, has set the standard for all other FTAs, particularly in terms of its sustainable development provisions.

2.8 Andean Community and Central America

These two sub-regions of Latin America are the only two that are not in the process of establishing a Free Trade Agreement with the EU. They nevertheless benefit from the most favourable trade arrangements under the GSP (Generalised System of Preferences) scheme (see fiche 3.6). However, the article that deals with combating drugs has just been condemned by the WTO (see Annex 3). Both regions consider the current level of trade relations with the EU to be unsatisfactory, offering less transparency and certainty than a bilateral FTA.

The EU, for its part, has sought to concentrate on the regions' modernisation via greater regional integration, prior to pushing for market opening. Furthermore, we gave priority to concluding the Doha Round before launching any further bilateral negotiations. During the two EU-Latin America summits in 2002 and 2004, there were lively discussions over the

interconnections of bilateralism, regionalism and multilateralism. These discussions led, in 2004, to an agreement to begin a process of joint assessment on the level of regional market integration in each of the two regions. A positive evaluation is a prior condition for the launching of negotiations at some point for a Free Trade Agreement with each of the regions, when the conditions were favourable, and obviously once the DDA has been concluded.

2.9 Gulf Cooperation Council FTA

Although rarely in the headlines, the Gulf States represent an important trade partner for the EU (the EU's 5th largest export market). The negotiation was foreseen in 1990, delayed until 2000, at which point we insisted on their prior customs union (agreed 2003), and negotiations in earnest only began thereafter. This is important geopolitically, particularly since the second Iraq War, and could (if agreement is reached before Mercosur) become the first FTA between regions (even if the EU is of course more than that). Problems, however, remain on major issues such as services, and dual pricing of gas in Saudi Arabia (which has also stalled that country's WTO accession process).

2.10 EU / Canada TIEA (Trade and Investment Enhancement Agreement)

This is an important innovation: an enhanced cooperation agreement which is more focused on rules than classical market access such as tariffs (it is not a Free Trade Agreement). Classical market access is only to be negotiated in the area of public procurement where the EU looks to improve access in Canada, especially in provincial procurement contracts; everything else will be left to the DDA. The focus is therefore on rules and regulatory cooperation and investment. We should be close to a position whereby mandates are agreed on both sides before the end of 2004. But negotiations will take some time – Canada is insisting on not completing before the DDA is completed. However, these talks have the potential to realise interesting benefits, with the chance to apply them bilaterally and multilaterally.

2.11 SE Asia/TREATI

Trade relations with S.E. Asia as a group were not an issue at the beginning of the Prodi Commission, and only came onto the radar screen when (post Seattle in 1999), South East Asian countries began launching FTAs. The initial pressure came from Thailand and Singapore for a bilateral FTA with the EU.

There has been close contact, which has been strengthened and regularly followed up with ASEAN Economic Ministers - the first ASEAN-EC consultations (Chiangmai in Oct. 2000) began with lobbying from the EU side on the WTO round. The following regular meetings gradually allowed to improve mutual understanding of the integration processes on both sides and to build up some form of trust between participants, e.g., using EU experience to build up further ASEAN integration.

Recognition of ASEAN integration process (variable geometry, the difficulty of tariff elimination and the increasing focus on regulatory issues, reflecting the trading realities of the 21st century) allowed development of co-operative strategy building on what ASEAN is trying to achieve amongst themselves: In Luang Prabang in April 2003, we presented to the ASEAN Ministers the Trans-Regional EU-ASEAN Trade Initiative (TREATI), which basically foresees regulatory co-operation ("Everything but Tariffs"), based on ASEAN-style variable

geometry in areas where ASEAN itself has decided to align its rules more closely, with the future perspective of an FTA. At Jakarta, in September 2004, it was agreed that TREATI should be focused on shared priorities (food and phytosanitary standards for agricultural and fisheries products, technical standards for electronics and forestry products, trade facilitation and investment).

3 Development

If there is a single issue on which we have set out to make a profound and lasting difference, it is development, and the essential task of integrating developing countries better into the global economy. This has meant, in the jargon, mainstreaming development objectives into trade, but also – as it turned out – mainstreaming trade into development as well. Not for nothing is the new trade round called the Doha Development Agenda. It is about ensuring that developing countries can benefit from trade, and using trade as a key element of every country's drive to achieve poverty reduction and sustainable development (see fiche 1.4).

So we in the EU and elsewhere in the developed world have to learn to walk on two legs not one, and ensure that the two legs work in reasonable harmony with each other. Both trade and development.

3.1 Everything But Arms (EBA)

It took the failure at Seattle and an analysis of the positions of the least developed countries to realise that without their agreement, the round could not be launched. It was then that the idea arose amongst 4 of the most developed countries for a package specifically targeted at LDCs and, with the help of the 3rd UN Ministerial Council in Brussels on LDCs, the European Commission took the initiative of proposing full market opening to LDCs without any restrictions whatsoever, whether through tariffs or otherwise. The only restrictions would be on trade in arms, hence the moniker, which stuck: Everything But Arms.

The objective was to mark the newly solidified commitment of the EU to the integration of developing countries, in particular LDCs, with a fundamental and rather radical act, independently from the multilateral negotiations. This followed a fierce internal debate, centring on the full opening of the of the agricultural market in sensitive products: sugar, bananas and rice. This debate, moreover, for the first time pitted the supporters of agricultural interests and development NGOs against each other. As a result of this initiative, Europe succeeded in taking a decision to open our markets totally to LDCs. We gave practical help to the economies and traders of the LDCs. We regained a credible negotiating position that directly benefited the EU during the Doha negotiations. At the same time it put the EU's largest competitors under pressure to match the EU's offer.

What is the result after 3 years? Under this unilateral preferential regime, the world's 49 poorest countries, of which 34 are Sub-Saharan, export to the EU duty-free and quota-free. EBA preferential imports into the EU have steadily increased. Clothing and textile products represent the lion's share of this total and have also increased (83% of total EBA imports into the EU in 2003; 79% in 2002). EBA is of particular importance for the LDCs which are not signatories to the Cotonou Agreement. The 6 biggest EBA beneficiaries were non-ACP countries including Bangladesh, Cambodia, Laos PDR, Nepal, Yemen & Maldives (who are now graduating in fact from LDC status in part as a result of this).

Bangladesh is the main beneficiary of EBA : its preferential imports increased by 30% from 2001 to 2003; it accounted for 80% of EBA total effective imports and consisted mainly of clothing (86% of Bangladesh preferential imports).

It is also worth recalling that the EU is the world's leading tariff preference donor for developing countries as a whole. In 2003, the global amount of EC preferential imports from these countries amounted to more than €80 billion (total GSP: €52 billion + Cotonou Agreement: €28.5 billion). The EC also ranks top as a donor of preferences for the LDCs thanks to GSP/EBA (€2.5 billion worth) and Cotonou Agreement (€7.7 billion worth).

3.2 Trade related assistance

In 2002, the Commission set out a new strategy on trade and development. In essence, the goal is to ensure that we prioritise better our spending on trade related assistance (TRA): to ensure that countries have better help in WTO accession and multilateral trade negotiations; in support for the implementation of existing and future WTO agreements; and in support for policy reforms in developing countries. TRA is administered now through both bilateral and multilateral channels: including both multi-annual framework programmes with partner countries and regions, and – at the multilateral level – through things like the Integrated Framework, by which we, together with the WTO, World Bank, IMF, UNCTAD and others seek to help least develop countries better integrate trade into poverty reduction programmes.

Since 2001 in particular, the EU has sharply increased TRA funding – from 700 million euro over the 1996-2000 period to around 3 billion euro for the period between 2001-2004 – a four fold increase. The EU is now the largest single donor for TRA, and success stories are starting to come through with increasing regularity.[3]

3.3 Help desk

An idea born under the Spanish Presidency, the Help Desk has its origins in a question posed by Swedish Minister, Leif Pagrotsky: why is it so difficult for green oranges and camel cheese and other products from developing countries to find a niche in EU market? The solution eventually found was to "reverse engineer" the Market Access Database, and create a new online database to assist exporters from developing countries to access the EU market. Phase One was launched in February, provides information on customs duties, documentation, rules of origin and trade statistics. The second, more extensive phase is ongoing, and covers specific products, for example, the EU's Sanitary and Phytosanitary (SPS) requirements – see 6.5 on food and safety standards.

3.4 Access to Medicines

The questions relating to intellectual property and public health were almost entirely absent from the debate surrounding trade policy at the start of the Prodi Commission. They did not figure at all in the negotiating mandate given to the Commission when negotiations were launched. It was at Seattle that the question reared its head, raised by the NGOs in order to challenge the impact of patents on the price of medicines, notably those used in the fight against AIDS. In the subsequent year, these NGOs mobilised themselves to demand the reduction in the prices of medicines and the lifting of obligations to respect patents in order to bring about this reduction.

[3] See the Commissions' paper: "**Making Trade Work for Development: Putting Theory into Practice – Case reports of European Union trade development projects around the world**", which can be found at http://europa.eu.int/comm/trade/icentre/publications/Trade_Dev_Interieur_EN_14-04-03%20final.pdf

The Commission got to grips with this question in the course of 2000 and organised, even initiated, a public debate in order to help formulate a strategy that would go beyond access to medicines and respond to the requirements of sustainable development in the fight against the main transmissible diseases. The Commission decided to bring all the relevant EU policies - development, trade and research – together in a comprehensive strategy. Thanks to this debate, and in so far as the question of intellectual property is concerned, the Commission received the explicit support of member States, but also, less explicitly, of industry, and even certain NGOs. This allowed us to propose, in 2001, a lighter touch on intellectual property rules in the WTO framework. Similarly, by mobilising the other main players in the WTO (the US) and thanks to a close dialogue with developing countries, especially African countries, India and Brazil, the WTO adopted a declaration on intellectual property and public health at Doha in 2001. It established a clear change of policy, and a strong political signal, by stating that it was necessary to ensure coherence of political objectives, rather than giving priority to either intellectual property rules or public health objectives. This is further evidence that the trading system is not purely mercantile in nature, but can also take public interest into account.

But at this time, the Commission came to identify the level of price of medicines as one of the key factors in access to medicines for the most deprived populations in the fight against transmissible diseases, and therefore took the decision to contribute actively to the negotiations in the WTO, which finally led to an agreement in August 2003 on compulsory licences which would permit those countries without manufacturing capacity to import generic medicines at low prices. Even though no compulsory licences have yet been granted in the framework of this decision, the impact on prices has not been negligible. Malaysia and Mozambique have made use of their new flexibility to import generic medicines. And as Brazil has shown, the usefulness of compulsory licenses lies principally in the influence they give to developing countries to negotiate prices with pharmaceutical companies, thereby having the desired effect of rendering medicines more affordable. With a view to rendering the situation permanent and more legally solid, this decision has still got to be confirmed by an amendment of the intellectual property agreement in the WTO (the TRIPS). But as far as the EU is concerned, in March 2003 the EU adopted rules which create a system of differentiated prices in order to provide better access for developing countries to the necessary medicines and vaccines. And this has started to show real results – the price of retro-virals has considerably declined over recent years. Finally, we are seeing the granting of *voluntary* licences by pharmaceutical companies for the development of production capacity in regional markets in southern and eastern Africa, from Kenya to South Africa. These developments, however modest, demonstrate that a strategy based on imports as much as local production is starting to take shape.

So the price and the availability of medicines of an adequate quantity and quality remain a challenge, and there are also real problems regarding adequate public health research into vaccines and new medicines in developing countries. This question is one of the biggest problems facing global sustainable development over the next decade. The EU has made this question one of its priorities on development.

3.5 Economic Partnership Agreements (EPA)

The Trade, Development and Cooperation Agreement (TDCA) with South Africa partially entered into force at the beginning of the Prodi Commission (Jan 2000) and was followed by

the Wine and Spirits Agreement in Jan 2002. Since then trade between the EU and South Africa has increased in both quality and quantity.

Regarding the revision of the whole framework of EU-ACP (African, Caribbean and Pacific countries) relations, this was carried out at the beginning of the Prodi Commission with the Cotonou Agreement in June 2000. The middle of the Commission was absorbed by a slow and gradual implementation of this process: the negotiating mandate was adopted in June 2002 and the first preparatory phase, at the level of all ACP countries, was formally concluded, after extended dialogue with ACP countries, in October 2003. At this point, the central achievement is the successful launch of negotiations with the six sub-regions of the ACP: West Africa; eastern and southern Africa, south Africa, central Africa, the Caribbean and the Pacific Region.

Apart from the question of whether the negotiations can now be carried out quickly throughout all the sub-regions, the remaining challenges are linked to (1) the outcome (can we have Everything But Arms (EBA) in the EPAs?) and (2) the persistent criticism from civil society in the north, with the post Cotonou process becoming in part a victim of the larger debate on globalisation. The management of the negotiations will also be difficult because of the intrinsic institutional weakness of the regional process of integration, particularly in Africa, which requires in the medium term a greater coordination of efforts between trade, aid and development policies.

3.6 Reform of Generalised System of Preferences (GSP)

The Generalised System of Preferences (GSP) is a key instrument in helping developing countries reduce poverty by stimulating their exports to the EU. On 23rd October, the Commission announced its proposal for an improved GSP, which is intended to provide a simpler, more predictable, more targeted system, with expanded product coverage but one which takes us further in the direction of sustainable development. This will replace the current system of 5 separate arrangements, one of which, the current drugs regime has been found to be WTO incompatible following the Indian challenge. The new system is designed to grant GSP+ to those vulnerable countries who have ratified key international conventions relating to good governance and core labour standards, for example, in addition to EBA (Everything But Arms) for the 49 LDCs, as well as the basic GSP arrangement. In addition, the graduation mechanism would be much simpler to use (based on a simple market share criterion, known as the "lion's share clause"), and would enable GSP benefits to be concentrated on those countries that need it the most. The proposal will now be considered by Council, with the aim being for it to come into force in July 2005, and will then remain in force without further modifications until 2016, in order to provide a greater degree of certainty.

As part of the same area of work, we will relax the rules of origin in order to enable developing countries to use the preferences given more effectively.

The other important part of GSP is the capacity to withdraw GSP from those countries that have systematically violated core labour standards. Hence the continued withdrawal of this benefit from Burma, and the ongoing enquiry in relation to Belarus, at the request of the European Trade Union Congress (ETUC). This confirms that, although the EU did not include social questions in the Doha Agenda, it is nevertheless continuing to try to make it an integral part of international governance.

3.7 **Commodities**

The question of trade and commodities, or raw materials, was another issue which did not figure prominently in the debates at the start of the Prodi Commission, and only appeared in the public arena again recently, although it is not a new topic in the history of the questions relating to development and trade. It therefore lay dormant at the WTO, in an obscure discussion group demanded by developing countries to look at the coffee crisis and its consequences for West Africa, but it was to become a key theme for NGOs (such as Oxfam) in illustrating the potential iniquities of international trade.

Equally, it was only during the summer of 2003, that the question of cotton was really tackled as a priority for the Commission: following participation in a more limited study by the World Bank, the Commission published a communication intended to take a comprehensive approach on this issue, by incorporating EU developmental and agricultural, as well as trade concerns. This approach had the merit of permitting the Union to weigh in with some credibility in Geneva in the case of cotton, and to promote a balanced approach in acting as an intermediary between the Africans and the US (which had a weaker case since the WTO panel, launched by Brazil, had severely condemned US practices) at the heart of the WTO negotiations that led to a framework agreement in August 2004 in Geneva.

It is highly likely that commodities overall will remain a recurrent theme that will only be settled with international cooperation and a coherent, coordinated EU policy. The particular case of sugar is at this stage high on the agenda, with the combined effects of the internal European reforms, a WTO panel which directly touches on the interests of the ACP countries, and the deadlines set out in the next Sugar protocol.

3.8 Kimberley Diamonds

A unique initiative started in May 2000 to find a practical way of preventing illicit (conflict) diamonds from entering diamond trade. Given that trade rules were presented as a potential problem from the start, it was a key chance for us to demonstrate that trade rules are not an obstacle to progress (see access to medicines), particularly in pursuance of a UN resolution. The outcome was more satisfying on the substance than the process - we succeeded in tying down agreement to a certification scheme which imposes tough requirements on participants to ensure that conflict diamonds cannot enter the pipeline. Ultimately, the solution was to manage the process via a waiver of the relevant WTO requirements.

4 Transparency / legitimacy

As trade policy has changed from a focus on tariffs on goods to a wide variety of complex and often contentious subjects of interest to all citizens, EU trade policy has obviously had to become much more transparent, and much more legitimate.

Transparency, in terms of access to documents, good web-sites, etc, is relatively easy to achieve in form, but less easy to ensure in reality. It means spending a lot of time on a proactive communications strategy. But it also means trying to de-bug often complex subjects, to make them comprehensible to citizens, and to ensure that the overall objective ("harnessing globalisation for the benefit of all") comes across, and not just the detail of a particular negotiation.

And legitimacy is absolutely crucial to a successful EU trade policy. For example, it is scarcely credible that in 2004, nearly fifty years after the Treaty of Rome, that the European Parliament *still* has no formal involvement in EU trade policy. That will change once the Constitution is ratified, but in the meantime, we have sought to behave *as if* the Parliament had a more formal role.

4.1 Changing EU trade policy legal framework

Trade policy, perhaps more than any other EU area, has seen its legal framework subjected to considerable constitutional change during two intergovernmental conferences during the lifetime of the Prodi Commission. This is undeniably because of the determination of the Commission to modernise the legal framework of trade policy which has remained virtually unchanged since 1957. These two conferences have been followed very closely in order to ensure that democratic control of trade policy should be reinforced, and a reduction achieved in the right of veto for Member States, which, when exercised, are as ineffectual as they are symbolic

Each time, our efforts were in two directions: to increase the *efficiency* and effectiveness of the EU's trade policy mechanisms, including both competence and the mode of decision-making; and to increase its *legitimacy* by extending real powers to the European Parliament. But the two exercises (the Treaty of Nice, and then this year with the Constitution) emerged with substantially different results.

In the first IGC, the Commission took an offensive position that we should extend Community competence following the decision in 1994 by the European Court of Justice which defined Community competence on trade in a very precise way.[4] As a result of resistance from Member States, the Nice Treaty saw Community competence extended in a very complicated manner, particularly as regards services relating to movement of people and trade related intellectual property. The result certainly put into question the whole nature of an exclusive Community competence on trade and excluded some areas altogether[5]. This mediocre result on the substance was made worse by timid progress on, and even greater complexity in relation to the question of decisions by qualified majority. And finally, despite

[4] Trade in goods; trade in services that do not involve movement of people, apart from transport; border measures for dealing with contraband.

[5] Agreements on transport services that remain outside trade policy; agreements on cultural, audiovisual, social, educational and health services, that concern trade policy, but for which competence is shared by the Commission and Member States.

the efforts of the Commission, the Nice Treaty brought no progress as regards the powers of the European Parliament.

The open and public process of the Convention, however, gave the Commission the opportunity to plead her case once again on the need for the rationalisation and clarification of the Nice Treaty, and thereby to avoid a direct confrontation with Member States. The objectives were the same, but allies – notably the European Parliamentarians – were more numerous. And the result was clearly more satisfying too – the draft Constitution carried a clear improvement in the way the enlarged Union would carry out its trade policy, both on the questions of legitimacy and efficiency.

The most substantial progress was achieved in the installation of a real Parliamentary control. On one hand, trade legislation will be adopted by "the legislative procedure" (what used to be known as "co-decision"). On the other, trade agreements, when concluded, will be put forward for Parliamentary approval and the Parliament will be kept clearly informed on the conduct of negotiations.

The Constitution draft, moreover, pursued the work which had begun in Nice on the clarification of competences. For one thing, the draft includes the notion that trade policy is an exclusive competence of the EU, and the draft also clearly expands the definition of trade policy: trade in goods and services, trade related intellectual property and foreign direct investment.[6] For another, the draft establishes a clearer distinction between legislative and executive acts, which is important to guarantee uniform conditions of implementation.

Finally, the scope for qualified majority voting is really enlarged, with the exceptions defined more clearly than in Nice, and limited to three kinds:

- in the area of trade in services, trade related intellectual property and foreign direct investment, when the agreement relates to policy areas where unanimity is required for the adoption of internal rules (in other words, the principle of parallelism is followed);

- in the area of trade in cultural services or audiovisual services, but – from now on – only when the agreements risk having an impact on linguistic or cultural diversity in the EU;

- and in the area of trade in public services, education and health, when there is a risk of seriously undermining the organisation of the provision of such services at the national level and to undermine the competence of Member States to provide such services.

In the last two cases, if a Member State estimates that there is a risk, the Council has to concretely verify if the Member State is right. These provisions therefore are more about the right to a rational debate rather than an actual veto over subjects which are rightly considered as very sensitive in relation to the European economic and social model.

4.2 Trade Defence: Reforming Decision-Making Process

[6] As in the Nice Treaty, trade agreements relating to transport policy remain governed by the specific provisions of the Constitution on transport, and will therefore fall within exclusive EU competence when there is sufficient harmonisation of internal rules in this area.

When it comes to using trade defence mechanisms, the gap between Member States from the 'North' of Europe, and those from the South (see the fiche at 5.8 on trade defence) is evident even at the level of the Commission's internal decision-making processes

Although this gap has reduced over the course of the Prodi Commission, one incident bears witness to this difficulty. In January 2003, the Commission could not get the Council to endorse its proposition for the imposition of definitive duties on two products, even though the Commission's analysis was clear on the existence of dumping and the injury caused was uncontested. This unfortunate experience led to the adoption by Council, at our initiative, in March 2004, of a change in the decision-making process on anti-dumping in the Council. From now on, when voting occurs in the Council on the proposals of the Commission, abstentions are considered as positive votes. This enables Member States to fully stake out their positions.

Already, the impact of the change in the decision making process (abstentions counted as positive votes) is noticeable. Indeed, out of 20 proposals on which MS have been consulted: 1 proposal received a positive majority under the new regime while it would have been rejected under the old one; 8 proposals received a larger positive majority than they would have had under the old regime.

4.3 European Parliament

The European Parliament has been annoyed for some time at its marginal role in trade policy-making and has let this be known in no uncertain terms. at the hearing in September 1999, with the EP clamouring for better access to documents, notably 133 documents, and a commitment to more consultation.

At the beginning of the Commission there was an exchange of letters with the Chair of the Industry, Trade, Research and Energy Committee (ITRE) in order to improve co-operation between the Commission and Parliament. There has been regular dialogue, in committee and informal settings, we have included a sizable EP group in our delegations at WTO Ministerials and provided proper briefings to them, and the Commission has supported a parliamentary assembly to the WTO. Moreover, our commitment to push in the IGC and in the Convention for enshrining the practices established in the revised Treaty, helped to build up a relationship of trust. We have moved as far as we can, in the light of Member States' attitudes and with the Treaty unchanged, towards equal treatment with the Council, preparing the ground for the entry into force of the Constitution which will bring full co-decision for the EP on trade legislation, a right to consultation and a requirement of its assent to the conclusion of trade agreements (see 4.1).

On substance, the investment in building up a close partnership with the EP has paid off as it helped us to gather a broad consensus around the EU negotiating position. We took a constructive approach which meant that the EP could vote on all major occasions or sensitive topics, such as services, within the trade negotiations. And liaising closely with the EP was also useful for the trade negotiator, as the EP acted as an early warning system (for instance on Singapore issues) and helped make the criticisms of civil society more constructive.

4.4 NGOs

In 1999 there was still very little contact between trade people and civil society

We therefore took the opportunity to innovate by establishing a real, continuous dialogue with "civil society" (in the broadest sense of the term) on trade policy. We got off to an early start, by taking along, a first for the Commission, a group of civil society advisers to Seattle – a group that we later maintained as the civil society contact group to help structure the dialogue process. This was not a smooth process and is one under constant revision, but gradually, meetings have become more substantive and interactive, with ups and downs mirroring the progress (or lack thereof) in the DDA negotiations.

The dialogue has inevitably led to differences between those elements who are content to work within the structure available to them, and those who fear what they see as an attempt to co-opt them. But overall level of participation remains strong and people obviously think the meetings are still worth their time. Despite continuing criticism from some quarters about lack of "results" from the consultation (in terms of clear indications as to where Commission changed its views following civil society input), the dialogue is regarded by civil society as a benchmark for the rest of the Commission, and has been used as a model by other countries.

In terms of substance, divergences remain, of course, but at least there is a better mutual understanding of positions. For example, we have – in partnership with the NGO community – come up with the Sustainable Impact Assessment (SIA), which provides an important analytic tool for assessing the potential and actual results of trade negotiations from the broader perspective of sustainable development.

But it remains the case that since Seattle, NGOs have focussed considerable critical attention on the WTO, often painting it as being responsible for some of the worst effects of globalisation and for favouring rich countries and multinationals. Although the debate has become less polemical than it was in 1999, civil society scepticism over the WTO system does continue to have an impact on public opinion, press and political institutions (e.g. parliaments). Several development NGOs have also tended to take on a self-appointed advisory role with certain developing countries, sometimes encouraging radical and/or unrealistic positions that have contributed to slowing down progress in the negotiations.

4.5 Business Community

Over the course of the Commission, there has been a marked difference between business engagement and commitment on very specific, often sectoral problems (steel, textiles, shipbuilding, services, trade defence cases), and the less than consistent interest in multilateral negotiations. Some thought that there would not really be that much in it in terms of market access, and that the rules part of the agenda might actually result in restrictions on business (competition, for instance). For many, WTO rounds are too slow and do not deliver results quickly enough. Moreover, business federations have often felt cowed by NGO antipathy, while some sectors fear that opening negotiations might only result in backtracking on certain areas (notably on TRIPs). But cooperation remains concrete, and rather constructive, on a range of bilateral and multilateral issues.

4.6 **Trade Unions**

We have sought throughout the five year period to engage the trade union movement, whether nationally, at the European level, or internationally, on trade policy issues. At times, a more substantive European trade union voice on globalisation issues – for example on core labour standards before the Doha WTO Ministerial – might have helped both promote the issue vis-à-vis developing countries, and avoided leaving the stage clear for US trade unions, who wanted to embark on a much more confrontational, sanctions-based approach. Recent signals are more encouraging, where the ETUC has been active on how the social incentives should work in relation to the Generalised System of Preferences (GSP), and – in particular – in areas where GSP should be withdrawn for failure to observe fundamental labour freedoms, as in the case of Belarus. A more active trade union position on trade policy seems more likely in future.

4.7 European Economic and Social Committee (ECOSOC)

ECOSOC has remained outside the framework of EU trade policy making. And yet, the Committee offers a useful framework and forum for debate of a number of social issues relating to trade, which can help clarify complex questions and can also give the Commission a clear idea of the views of 'civil society'.

The highpoint of the Commission's collaboration with ECOSOC was over the committee's opinion on role in core labour standards, adopted in 2001. The Commission has made a point of consulting ECOSOC on a number of other key issues. The Committee also played a valuable role in the process of reassessment and reflection that followed Cancun.

4.8 Member States

Of course, as an established part of the authorizing environment for EU trade policy, both through the 133 Committee and the Council mechanism itself, there has been relatively little need for institutional innovation in our arrangements with the Member States. But small improvements have been sought and made. For example, given that there is no Trade Ministers' Council of the EU, with trade business conducted (rather occasionally) through the General Affairs and External Relations Council (GAERC), we have pushed for regular informal meetings of the twenty five ministers and the Commission. These have provided a useful forum for dialogue, and an informal sounding board for the Commission at the political level. We have also sought to work better together with Member States, particularly in capitals like Washington and Tokyo, in terms of information-gathering and analysis.

More generally, there has been a genuine convergence of policy approaches and economic philosophy between Member States and indeed the Commission. At one time, the Trade Commissioner had to spend two thirds of his time negotiating inside the Council, leaving only one-third of his time for negotiations with external partners. Fortunately, thanks to greater unity of purpose, these ratios have effectively been reversed nowadays. Problems with Member States are less with policy than with symbolism or bureaucratic interests: should the Commission, for example, be accompanied in certain circumstances by ministers or officials from all Member States ? hardly an issue which touches on substance.

Paradoxically, the process has been aided and abetted by enlargement from fifteen to twenty-five Member States. Firstly, the new Member States "map" quite well onto the existing

Member States, representing close to the same shades of grey between ardent market openness and those who are less enthusiastic. Secondly, the Commission and candidate countries have worked hard to prepare for Enlargement in terms of trade policy at both bilateral and multilateral levels. Ministerial conferences held in Budapest (1999), Warsaw (2000), Ljubljana (2001), Malta (2002) and Bucharest (2003) progressively built up a level mutual trust that enables the sharing of negotiating positions. The 10 new Member States started participating in the 133 Committee a year before enlargement and de facto enjoyed all the rights and recognition of the EU-15: an approach that was invaluable in integrating them rapidly into the EU's trade policy mechanisms. Thus, and contrary to many pessimistic predictions, EU Enlargement went ahead without a hitch and it can only have a positive impact on the EU's trade with third countries. The level of border protection measures amongst new members has been reduced overall, while negotiations in the WTO (under Article XXIV: 6) will only relate to a few products where we may have to pay some compensation under the rules of the WTO.

5 Key sectors

5.1 Agriculture

Agriculture was universally considered a sensitive topic and a priority during the launch of negotiations for the new WTO round (see Section 1), not least because it, along with services, was one of the only two sectors for which renegotiation of the Uruguay Round Agreements have been envisaged ever since 1994. The start of the Prodi Commission saw the adoption of the recent CAP reform in 1999, which was the lynch pin of the negotiating position at the WTO. The key message was that it is internal reform that determines the international negotiating position, and not vice versa.

These internal debates did not prevent the EU from supporting the Doha agreement, albeit under immense pressure on the symbolic point regarding export subsidies. This pressure became the subject of debate at the very heart of the EU, where the NGOs increasingly present themselves, rightly or wrongly, as the legitimate representatives of developing countries. The debate was magnified by successive health scares and the GMO debate that questioned the Common Agricultural Policy's regard for society's concerns (health, environment, balanced rural development) - see separate fiche 6.5. These discussions, as well as the role played by agriculture during the enlargement process, led the Commission, in 2002, to propose agricultural reforms that built on the direction taken since 2002: decoupled income support measures, encouragement of agricultural developments that are in accordance with principles of sustainable development, and increase in support for rural development. These proposals in turn triggered the adoption in October 2003 by the European Council in Brussels of a capping of the agriculture budget up to 2013.

Although the EU set out, at the beginning of 2003, a frontline WTO negotiating position, the debate that occupied the EU during 2002-2003 slowed down the pace of the WTO negotiations, putting the partners in the situation of being able to wait for us. The reform finally adopted by the EU in July 2003 was significant and allowed the EU to demand similar concessions from others (largely the reform of US agricultural policy), in order to get 'two reforms for the price of one'. But unfortunately the reform came just too late to allow other participants to adjust their positions at Cancun.

The Prodi Commission, however, brought about a positive development for the EU's international position: the debate on multifunctionality, in which 'G10' countries participated, notably Japan, Korea, Switzerland and Norway, evolved to widen the horizons of European alliances, embracing the concerns of developing countries (food security, tariff protection), yet all the while gaining legitimacy for European society's choices (and in particular, the sustainability of the EU's rural areas). This strategy of reconfiguring the debate towards a 'quadrilateral' negotiation (EU, US, Cairns, and LDC) came about at Cancun, with the Cairns group moving into the background as it was confronted with a new configuration of the 'South', divided into more advanced (generally export oriented) developing countries (G20) and less advanced Developing Countries including the LDCs (G90).

This reconfiguration of the *landscape* of negotiations – to which the Commission applied itself after the failure of Cancun (the work it pursued with the G20 and G90) – finally came to a head with the agreement in August 2004. Success came about, because we successfully hammered home our demand, finally accepted, that the US match the EU's efforts, and because of our concession granted on the abolition of export subsidies (the Lamy-Fischer

letter in May 2004). In the end, the agreement conformed with the EU's objectives. By preserving domestic support, in particular decoupled support (blue and green box), it allowed us to accept commitments to opening markets whilst maintaining the protection of sensitive products, and gave pride of place to developing countries' concerns (with exemptions for least developed countries in particular). The next stage of negotiations will however involve two difficulties: the need to prevent agricultural negotiations from advancing at a faster rate than the rest of the agenda; and internally to bring the sugar reforms to a positive conclusion, under extreme external pressure. And in the first place, we have to manage the loss in the WTO panel (requested by Brazil, Thailand, and Australia) on sugar.

5.2 Bananas

Too often the subject of mirth ("how can these guys spend all their time arguing about *bananas?"),* meteorological factors, colonial history and high consumer demand - not forgetting the multinationals' constant arbitrage between different markets - have made bananas a regular subject of contention. The EU imports a third of all traded bananas, and remains the only major regulated market in the world. Some producers are in the EU, in the Canary Islands, Martinique, Guadeloupe, Madeira, the Azores, Crete, and now Cyprus. Just as importantly, the EU has traditionally imported bananas from former colonies in Africa and the Caribbean, and the Community has always stood by past commitments even if these producers lagged well behind the most efficient new producers, notably in Ecuador.

So the Prodi Commission began in difficult circumstances, with an outstanding dispute with the US (although not a banana producer), and with the US having imposed $120m of trade sanctions against the EU for failure to comply with previous WTO rulings. We reached an understanding with the US, and Ecuador, who had also successfully taken a panel against the EU, only in April 2001, which meant the sanctions were lifted, but we still needed a waiver from the WTO to be able to maintain our preferences in favour of ACP countries, which was obtained after a long struggle in Doha as we launched the Round in November 2001. So a major problem could be laid to rest - for the time being.

But there remains plenty of banana related work ahead. With enlargement of the EU to 25, we have extended the licensing system to the new Member States; we are now moving towards the final phase of the 2001 agreement - a tariff only regime, to apply from 2006; and we need to match up the various regimes offered to developing countries - such as tariff free, quota free access for all least developed producers from 2008, and to incorporate the ACP preferences into the Economic Partnership Agreement negotiations.

5.3 Textiles and Clothing

The Prodi Commission has been characterised by the removal, slice by slice, of textile quotas by 1st Jan 2005. It is one of the most striking paradoxes of the Uruguay Round: this decision, regarded as the most important victory for developing countries during the preceding round, has gradually transformed into an increasing source of anxiety for the most vulnerable producers in developing countries, the majority of whom are having to contend with the mounting strength of Chinese industry, particularly in clothing. At the same time, European industry continues to witness the erosion of its competitiveness in areas of lower quality goods and is seeing a constant fall in employment (sector production has fallen by more than 4% and employment by more than 7% in 2003).

The European Commission's response to these trends has been to re-launch the textile sectoral approach towards European industry's competitiveness. After an open debate over the developments in the sector (the International Conference in Brussels in May 2003), the Commission, along with industry, other key players in the sector and other society stake-holders, has carried out an exercise to identify measures to encourage competitiveness. In terms of trade policy, the Commission proposed, for the period until end 2004, to accompany the removal of quotas by a series of measures directly inspired by development considerations: to improve the commercial benefits for producers granted by the Community to third countries (within the framework of GSP- Generalised System of Preferences – see separate 3.6), and to relax the conditions imposed on textiles sourcing by the EU's rules of origin. These measures were balanced by other trade policy measures aimed at benefiting EC industry: the conclusion of the integration of the Euromed zone in textiles and clothing; and clarification of trade defence mechanisms appropriate to the sector. Linked, in a co-ordinated way, with other EU policies (research, innovation, cohesion), these initiatives are also a down payment towards a European response to the problems of de-industrialisation or outsourcing in the sector.

5.4 Shipbuilding

In 1999, at the start of the Prodi Commission, European shipbuilders still held about 20% of the global market, and it was not yet considered a sensitive topic. The effects of the Asian financial crisis, however, started to make themselves felt, while at the same time, a price war was kicked off and subsidies were beginning to be poured into Korean shipyards. At first, the Community's response to these problems was to hesitate between resorting to trade defence instruments (although anti-dumping measures were not applicable for shipbuilding), and trying to cooperate with the Koreans, the latter leading to the "agreed minutes" of June 2000. But the lack of concrete progress, short of resorting to a WTO case, subsequently led to the launch of a Trade Barriers Report (TBR) enquiry in November 2000, which concluded, in May 2001, that there were actionable subsidies and illegal export subsidies. In the meantime, the Commission decided on a temporary defence mechanism, the TDM, which was adopted in June 2002 because operating subsidies that had previously been permitted by European rules on State Aids, could no longer apply from that date. The first move towards a WTO case began in October 2002 with our demand for WTO consultations, a Panel being established in July 2003; meanwhile the TDM was extended to natural gas transporter ships in May 2003, and then extended for a year in May 2004. The results of this panoply of measures were mixed. Europe's market share fell to 7% in 2003, although it did rise again to 13% in May 2004 as a result of market adjustments following strong growth in Chinese demand for transport goods. On the other hand, Korea mounted its counter-offensive at the WTO challenging the TDM. Initial decisions are expected before the end of 2004.

That said, the Commission has sought to complement attempts to modernise this sector, mainly in order to favours 'value-added' products such as cruise liners and high-tech gas transporter ships. The determination of the Community in the face of unfair Korean competition has at least allowed the industry the necessary time for reorientation.

5.5 Steel

An industry marked by severe restructuring over recent decades, and once again facing new challenges, with China assuming the lead (250m tonnes) in global production (but at the same time, sucking in so much imported steel that the effects have been not fully felt). The EU

remains a (small) net exporter, exporting 26m tonnes, and importing 21m tonnes. If anything, the supply squeeze meant that export restrictions on key inputs (ferrous scrap, coke and iron ore) became politically sensitive questions, and in some cases, nearly ended up in WTO action.

The main challenge under the Prodi Commission were the US safeguards, illegally and unilaterally imposed in 2002, and the tough action taken by the EU and other trade partners in response, which successfully saw the US measures withdrawn at the end of 2003 following a unequivocal WTO condemnation of the US. The EU, which had brought in its own safeguard measures to avoid diversion of steel onto the EU market, withdrew its own immediately thereafter. Work began in the OECD to enhance disciplines concerning government subsidies, but was not concluded, the talks stalling over US insistence on keeping its full range of trade remedies, while Brazil and others wanted a generous package of special and differential treatment, and Russia, Ukraine and China expressed their doubts about a blanket ban on steel specific subsidies. It remains possible that the reopening of the steel talks can lead to an early conclusion of a Steel Subsidy Agreement, but our experience shows that the upswing in the economic cycle is unfortunately not the most propitious moment to tackle over capacity or market distortions.

The EU, although largely free of quantitative restrictions on imports, is renegotiating bilateral arrangements with Russia, Ukraine and Kazakhstan.

5.6 IPR (Intellectual Property Rights)

At the start of the Prodi Commission, the question of intellectual property was not generally seen as a priority. It is still evident, from the relatively recent adoption of the TRIPs (Trade Related Aspects of Intellectual Property Rights) agreement in 1995, that as far as the EU and its industry is concerned, the priority is its implementation in developing countries, and to make progress on geographical indications. The subject gained in importance mostly under pressure from NGOs, whether under the auspices of development (access to medicines) or the environment (biodiversity, the rights of farmers and traditional knowledge or folklore). In the face of this, the different industries adopted a more and more distant attitude, and ended up by concentrating on essentially two subjects: the fight against counterfeited goods which threaten to undermine European industry's competitiveness and, as far as agriculture was concerned, geographical indications (both in a multilateral and bilateral context)

It was thus that the subject made itself felt and it was by a series of adjustments that a doctrine evolved and stabilised towards the end of the mandate, best summarised as follows: intellectual property is an essential public good for European industry (innovation, competitiveness); it must not, however, damage other public goods that reflect the European concept of sustainable development (health, the environment, food safety, education, research, development). So it is a question of balance. The international conference to mark the 10th anniversary of the TRIPS agreement which took place in Brussels in June 2004 confirmed this necessity.

Apart from the issue of access to medicines and some success in cooperation with a number of third countries (on implementation with China, geographical indications with Japan), the level of progress in multilateral negotiations in intellectual property has been unsatisfactory, including on the EU's primary (offensive) interests (geographical indications, biodiversity, implementation) where there have been no significant breakthroughs. One important

exception in this context, however, is the new Enforcement Strategy which was recently put to the Commission for approval. This strategy will set the guidelines for fighting piracy and counterfeiting in third countries for the years to come.

5.7 Airbus and Boeing

In September 1999, the Prodi Commission began with a US threat to put "an end to Airbus subsidies." But Boeing backed off trade action at the time, fearing the consequences in relation to their own relationships with suppliers and customers. Our approach has been to manage and control the situation, arguing to the US that it is not in her interests to launch a major trade conflict in this sector. This has been largely successful over the five year period, but the US position has changed in the heat of the 2004 election campaign, and they have now crossed the Rubicon, heading for Geneva.

The sector is of course a European success story, with Airbus making great strides in this sector, becoming ever more competitive and successful, breaking Boeing's traditional hegemony in the large civil aircraft sector (defined as planes with more than 100 seats), and Airbus has successfully launched the A380 to compete with Boeing in the 400+ seat segment of the market.

But as the industry has moved from hegemony to hotly contested duopoly, government support to both major players, Airbus and Boeing, has become an ever greater source of contention between the EU and US. Allegations of unfair, government led pressures on other governments to buy "national" aircraft are rife. The 1992 Agreement has succeeded in reducing tensions by allowing a ceiling of 33% of development costs for new aircraft programmes, in the form of royalty based loans and strict repayment conditions. Airbus, who have used launch aid of this kind, has consistently complied with the obligations. At the same time, the Agreement also sets limits (at 3% of turnover) on indirect forms of support – such as the spin off benefits that the US aircraft industry gets from participation in NASA projects, for example. The US has consistently flouted this limit, and has refused to discuss the problems which exist.

The immediate cause of contention has been Boeing's decision to construct a new plane, the 7E7 (and to use a variety of supports, for example from Washington State and others, in doing so), and Airbus's declared intention to build a plane which would compete for the same market segment, the so-called A350. In rapid succession, the US has sought to engage in a renegotiation of the 1992 agreement (but refused to agree on anything which would discipline the 7E7 for which Boeing had just secured massive funding). Just when these discussions were taking place, the US tried to abrogate the 1992 agreement, while at the same time launching a WTO dispute settlement process against the EU. For its part, the EU has made clear that it believes the US's unilateral denunciation of the agreement is invalid (because such action is incompatible with the Agreement and international law), and has launched its own WTO case against subsidies given to Boeing, focusing on the $7billions subsidies for the 7E7.

5.8 Anti-Dumping Measures

Looking at the figures concerning usage, it is clear that the EU continues to use anti-dumping in a resolute, but controlled manner. Our goal has been quite simply to be fair, and to enforce the rules we have. It has made difficult decisions, such as Hynix, possible, by rallying

Member States behind the position of the Commission. Although rarely to the forefront of Community trade policy, trade defence instruments remain important.

But even so, since 1999 the EU has made very little use of anti-dumping measures. Between 1999 and 2003 inclusive, the EU has opened 150 enquiries (out of a total of 1485 amongst WTO members). Usage fell sharply between 2002 and 2003 (this was no doubt made up for by the return of the safeguard). The EU has, since 1999, imposed definitive antidumping measures in 99 dossiers, once again an example of a falling off since the mid-1990s. Statistically, it is also useful to note that launching an EU enquiry clearly leads to a less frequent imposition of anti-dumping measures than in enquiries launched by the majority of developing countries.

As far as the position of Member States is concerned, the statistics for the past 3 years show consistent support for Commission proposals in the imposition of anti-dumping measures. The percentage of votes in favour of a Commission proposal averages at about 60% (71% in the first half of 2004 as a result of a change in voting rules - see section 4.2 and Annex 4).

The level of use of trade defence instruments has remained stable, to the point where it reflects, with a dip in the middle of the mandate, the current economic trends. The EU has fallen to the rank of 3rd or 4th largest world user, but the new context is that new users are coming onto the scene, notably from the South. The trade defence system will really come under heavy pressure, when quotas are lifted on textiles and clothing at the end of 2004.

5.9 Regional Impacts: A new approach to anticipating and managing the effects of market opening.

While market openings are, overall, beneficial, they also bring about transformations that are costly for those businesses and employees who are affected. The need for society to collectively take these transition costs into account is of course an economic imperative (anticipating developments minimises their costs, facilitates the transition, and ensures that market opening can have full effect). But it is also a social imperative (it is often the most vulnerable individuals who are affected the most by any adverse effects) and a political one (the asymmetry between minimal transition costs, which are nevertheless very visible, tangible and concentrated, and the increase in overall benefits, which are intangible and diffuse, feeds opposition to market opening).

At the start of the Prodi Commission, the link between market opening and complementary policies had still to be made, although in the USA, as early as 1962, there had been a vote on the first *Trade Adjustment Assistance programme* when the Kennedy Round was launched.

The preparation of financial perspectives for 2007-2013 in the second half of the Prodi Commission provided the opportunity for mature consideration within the Commission which has resulted in the effective mobilisation of structural funds for this purpose from 2007. Redressing imbalances is in effect an essential dimension in cohesion policy, as is the regional dimension, which is particularly important when managing the effects of market opening (transition costs are disproportionate in those regions that have underdeveloped and non-diversified economies).

The Commission's proposals for the period from 2007 onwards are therefore intended to mean that the effects of market opening will be anticipated at a regional level, albeit operated

within the framework of the structural funds programme, and with a reserve fund (1% of Objective 1 funds, 3% of Objective 2) being put aside for intervention in case of unexpected shocks. The Commission proposed the creation of a 'growth adjustment fund' expected to total about 1 million euros per annum, and is mainly intended to protect against unexpected trade shocks. Thus, if Member States agree to this approach, the EU would be equipped with a mechanism for anticipating and managing transition, in the medium term (via regional policies), and a mechanism for dealing with crises (via the growth adjustment fund').

6 Social Questions

6.1 Cultural Diversity

After the difficulties that arose during the Uruguay round, and the polemic over the failure of the MIA (Multilateral Investment Agreement) barely a year before, there was still a great deal of concern expressed at the beginning of the Prodi Commission about the undermining of the ability of Member States to develop autonomous cultural policies. In such circumstances, the achievement of a consensus at Council on a negotiating mandate for Seattle constituted the first success story, which formed the basis for the protection of cultural diversity in the realm of trade: no commitment would be made that could lead to a challenge to the autonomy of European cultural policies.

The wording of this mandate remained ambiguous, however, and the consensus that was achieved concealed certain nuances of position between Member States, which came to the surface after Doha, during the preparation of offers and requests on services (and in particular the debate on the status of musical works). The achievement of a clear and explicit Community standpoint on services (apart from audiovisual, music, education and health), thus constituted a second success for the Commission, and all the more significant because it corresponds to a real convergence of Member State views (support from Germany, little hostility from the Scandinavians, acceptance from the British). This development has been reinforced by the negotiating mandate given to the Commission for the UNESCO negotiations on a convention on cultural diversity, and by having agreed on a EU position regarding the relationship between WTO rules and the principles that will be established by UNESCO.

There was sympathy with European viewpoints from beyond Europe's borders: only six WTO members included audiovisual in their offers on services, making it one of the least 'offered' sectors of the DDA. Similarly, commitments on audiovisual remain exceptional in WTO accession negotiations, with the majority thereafter not making any commitments in this sector.

These internal and external successes will be consolidated by:

- The adoption of an EU Constitution in which the wording in the areas of trade policy and cultural diversity constitute an excellent result (exclusive competence and Qualified Majority Voting except when conclusion of agreements might endanger cultural diversity - see 4.1);

- The development in UNESCO of an internationally recognised instrument for the protection of cultural diversity (which is in the process of being negotiated), that would reinforce the international legitimacy of the EU's viewpoints and remove the risk of taking a purely defensive a standpoint.

6.2 Defending public services

A key theme of the Prodi Commission has been the defence of public services. The GATS (General Agreement on Trade in Services) negotiations in 2002-3 were directly confronted with pressure from many NGOs who felt the GATS was undermining public services. These fears have never been corroborated by the facts. From the beginning, the Commission has actually taken a very firm line in refusing to negotiate any commitment that would undermine

public service provision in any way in Europe, and by refusing to negotiate a general exemption for public services in the WTO framework. In effect, the launch of such a negotiation would provide our partners with the opportunity to demand the establishment of a limited list of services. This would militate against the EU's wish to preserve its ability to define the parameters of its collective preferences. Thus, the Commission excluded making any offer on cultural diversity, education and health.

The overall argument is not yet won, but the brochures and communications counter-offensive we launched at the time were in retrospect a paradigm of how to confront a campaign of this sort. The debate will undoubtedly continue, notably given the very different way public services are treated across the European Union (not to mention third countries), and the continuing debate about environmental services liberalisation in developing countries. However, the adoption of the Constitution would provide some comfort on this (see fiche 4.2) All this has had to be considered against a background of services as perhaps *the* EU offensive interest (they account for, in effect, 2/3rds of European jobs) in the DDA negotiations and bilateral talks.

6.3 Environment

This was an issue that featured prominently on the political agenda at the beginning of the mandate. The environmentalists, whether in government or in NGOs, feared that WTO rules were trumping environmental rules and called for the establishment of a hierarchy of norms subordinating the WTO to MEAs (Multilateral Environmental Agreements). Any sort of WTO rules were seen as a hostile take-over of environmental issues (see the total over-reaction from EU Environment Ministers and NGOs as to the idea of the establishment of a biotech working group in the WTO at Seattle 1999).

The EU's objective was an ambitious one: to codify current WTO case law on trade and environment into WTO agreements themselves so as to avoid leaving it to panels to fill in the loopholes. Essentially, we were trying to seek a presumption of conformity of MEAs with WTO rules. This was a fight along the lines of "EU against the rest of the world", as DCs accused us of green protectionism and the US were unwilling to have environmental agreements (to many of which they are not a party) trump the WTO, although it is difficult to see why either of these preoccupations should be in conflict with our objective.

The Doha mandate limited the clarification of the WTO/MEA relationship to members of both the MEA in question and the WTO and to the "specific trade obligations" set out in MEAs. This led to concerns that negotiations could actually lead to a result worse than the status quo of a WTO Appellate Body jurisdiction: negotiations in Geneva on the mandate were thus a slow and painful affair, with the EU continuing to fight a lonely battle. We drew the consequences: after the failure of Cancun and the following review of our negotiating objectives, we adapted our approach by suggesting a move away from a legalistic and technical debate towards one on global governance principles.

On eco-labelling, we have essentially gone for confidence building measures with developing countries. On environmental goods and services, work continued with a view to promoting the opening of environmental goods and services as a contribution from the WTO to the achievement of global environmental objectives. The EU is taking a leading role in this work. In addition to the multilateral route, we have increasingly tried to pursue sustainable development objectives in our bilateral and autonomous policies. Examples include EU's

attempt to integrate sustainable development provisions in the agreement being negotiated within Mercosur, and the Forest Law Enforcement, Governance and Trade Initiative (FLEGT). The GSP's environmental aspect has clearly been reinforced by the Commission's latest proposal.

One of the most significant achievements of the Commission in this field was the finalisation of far-reaching legislation on GM food, which is still compatible with WTO obligations. As in agriculture, the EU has showed that it could reconcile its collective preferences on food security with its international obligations on transparency.

6.4 Fundamental Social Rights

The promotion of the effective application of core labour standards (as defined by the ILO – International Labour Organisation - conventions) was part of the "harnessing globalisation" agenda from the beginning of the mandate, reflecting growing domestic pressure to address the interface between social development and trade. In contrast to the US, domestic pressure did not go as far as pushing for trade sanctions against countries that do not respect social and labour standards: in the EU, there was a fairly large consensus, including on the trade union side, to focus on positive incentives and the development aspects. The EU can also count on the support of progressive countries like New Zealand, who are also firm believers in international action to address problems in core labour standards. The issue has been extremely sensitive to developing countries, who fear that drawing linkages between labour standards and social development and trade policy would be a disguise for protectionism by the industrialised world. It was therefore clear from the beginning that we could not just rely on the WTO negotiations to promote respect of core labour standards: the July 2001 Commission policy paper on trade and social development set out the various approaches that could be used (multilateral with the focus on ILO, bilateral, and autonomous policy).

After Singapore and the failed Ministerial Conference in Seattle in 1999 (a failure at least in part attributable to the sanctions-based approach to trade & labour of the Clinton Administration), the issue was again on the table at the Ministerial Conference in Doha in 2001, albeit in a far less confrontational way. The result of those discussions however was that the Doha Declaration was somewhat meagre on Core Labour Standards:

In line with the 2001 Communication on trade and social development, we have continued to demonstrate the importance of addressing the issue at multilateral level, outside the DDA negotiations proper:

a) Support for the (voluntary) inclusion of the issue in the Trade Policy Review Mechanism (TPRM) for WTO members. The EU itself included reference tothe social dimensions of trade policy, and the link between social protection and market opening it in its own TPRM this year;

(b) Support further co-operation between international organisations, including, for example, observership of the International Labour Organisation (ILO) in the WTO. This is, however, a medium-term objective, as it would necessitate agreement from ILO members to apply for observership, and from WTO members to accept it. The World Commission on the Social Dimension of Globalisation set up by Somavia (ILO) helped to keep the issue alive and kicking, and the Council's follow-up to a Communication by the Commission in spring 2004 provided a tool to take a comprehensive view of the issues raised;

(c) To better understand the impact of our multilateral negotiations on social development (as well as economic and environmental aspects), the Commission has launched 'sustainability impact assessments' of the individual DDA subjects, and is introducing measures into its trade related assistance programmes to help countries that liberalise to adjust to any negative consequences for their labour markets or for levels of social protection.

More importantly, we have been pushing the link between trade and social development in our autonomous and bilateral trade policy: by strengthening the social clause of the GSP in 2002. A further reform of the scheme, to be applicable from 2006, will focus on maximising benefits to recipients and promoting inter alia the full application of CLS in beneficiary countries.

Most of the EU's *bilateral agreements* also include a social chapter, and possibly references to CLS, which, for some of them, still need to be fully exploited and implemented, for example Cotonou, Chile. Most recently, the blueprint for the future EU Canada Trade and Investment Enhancement Agreement (March 2004) establishes a dialogue on sustainable development, including its social dimension. In ongoing or future bilateral or regional negotiations, the Commission intends to pursue its efforts to put sustainable development at the heart of these agreements (Mercosur). SIAs provide the tools to assess impacts of such bilateral agreements on social development inside the EU and in partner countries. We are also working on promoting ethical and fair trade labelling schemes at the European level. We are also promoting Corporate Social Responsibility (*CSR*) as a means of promoting social development essentially through dialogue.

The debate on trade & core labour standards is coming back on the international agenda, not least in connection with the disappearance of textiles quotas 1 Jan 2005, and rising concern lest countries gain comparative advantage through the relaxing or non application of labour rights and standards, including in export processing zones.

This is an area where we stayed the course as far as our objectives are concerned but cleverly adapted our strategy to what was feasible at multilateral level, developing credible alternative tracks and policies. Our commitment to promoting trade & labour is clearly recognised by our various constituencies.

6.5 Food safety standards (Sanitary and Phytosanitary – SPS)

The start of the Prodi Commission in 1999 saw us collectively still struggling to deal with the aftermath of the first legal applications of the Sanitary and Phytosanitary (SPS) agreement in the WTO, from hormones in beef to asbestos. The issues concerned the insufficient recognition of the precautionary principle to protect human health and came to prominence at the same time that the EU was shaken by crises over food safety (mad cow disease, foot and mouth, dioxins). This in turn led Europeans to ask themselves fundamental questions on their approach to precaution, reflected in the Commission and Council pronouncements on the precautionary principle in 2000. The precautionary principle became the major focus of European policy in terms of consumer health after becoming a key principle in the environment debate after the Treaty of Amsterdam.

Although the Commission tried to promote this approach in the international arena, we were only partially successful in convincing our partners, despite the fact that they were often themselves confronted by the same sort of problems and pushed, often, to the point of closing

their own borders, including to European exports (for example, the embargos placed after the mad cow disease outbreak). In any case, even if the precautionary principle was part of the Commission's mandate on which to try to secure a negotiation within the WTO, the state of WTO law allowed us, without any modification of the rules, to pursue our approach towards precaution.

But the question extends to two other areas. Firstly, Europe has been accused of erecting new "food safety barriers" to agricultural exports from developing countries. There too, we have been forced to clarify our position, and to adjust our policies. As the Doha Declaration indeed recognised, each country is free to fix its own level of health protection. The EU is not ready to lower her standards simply to help international trade if that does not correspond to society's choices. However, at the same time, we were also ready to communicate better about EU decisions which had an impact on third countries, and further, to help developing countries adapt to European standards. SPS questions have come to the fore in terms of overall trade related assistance with a number of countries (mostly in Africa and Asia).

By contrast, accusations of « health protectionism » were added to the accusation of «green protectionism » which was crystallized in the debate over genetically modified organisms (GMO). Third countries are of course opposed to any restriction which would pose a problem for them, but are still unconvinced by our new policy of traceability and labelling established in 2003, for instance; the battle over the Biosafety Protocol has also left its marks on the credibility of the European position aimed at clarifying the link between the WTO and multilateral environment agreements. The EU approach has, however, received certain echoes of support in Africa and China.

The debate on the European approach on risk management and its consequences for the EU's economic links with the rest of the world has not permitted a real reconciliation of the two poles. Maintaining the current relative calm depends on the results of the WTO trade disputes on the GMO moratorium. Moreover, the impasse reached on these issues at the international level (except the accession of the EU to the Codex Alimentarius) leaves the international system deprived of the appropriate arena for treatment of these questions if the WTO, and trade questions, are not to be the only focus.

6.6 The Fight Against Corruption

Anti-corruption has not been not an explicit item on the trade or WTO agenda, though one might say that the GATT, since 1947, *has* been working to fight corruption, without using the term: The very purpose of the WTO is to enhance the transparency and predictability of laws, regulations, judicial decisions and administrative rulings related to trade, and to reduce the latitude of governments for arbitrary and discriminatory decisions, a latitude that corruption presupposes.

The only force pushing for the WTO tackling this issue more upfront and asking the EU to take this debate forward is Transparency International (TI). They have focused in particular on the potential for negotiations on transparency in government procurement to limit the opportunities for corruption. But despite their efforts, since 2002/3, to develop an explicit anti-corruption strategy in the WTO, TI have failed to rally other civil society forces around this issue. One can only speculate as to why development NGOs, who should be concerned about the corruption as a hidden tax on the poor, resisted the very issues in the DDA that could help tackle corruption. There are two possible explanations:

(a) the government procurement agenda was highly suspicious for civil society because it started off as a market access issue – the limitation to transparency was seen as a largely tactical move by the industrialised countries and a slippery slope towards pushing DCs to finally accept market access commitments.

(b) the in-built bias of the WTO in favour of tackling the demand side of corruption: as long as WTO disciplines apply only to states and not directly to private parties, the WTO would only be able to tackle the problem of government officials abusing their power to elicit bribes - but not the problem of private companies offering such bribes.

Given the resistance from DCs as well as from EU civil society, our assessment was that it would be counterproductive if the EU were to push an explicit anti-corruption agenda in the WTO. The only way that such an issue can be successfully brought into the WTO is on the basis of a very broad coalition of interests, involving WTO members from North and South, civil society, and business (which so far hasn't exactly been clamouring for the WTO to impose obligations on companies, be they on corruption or other issues…). As a first step, the Commission has, as announced in its recent EU Trade Policy Review in the WTO, signalled its intention in the months ahead to open a fresh international debate covering both the supply and the demand side of corruption.

6.7 Collective Preferences

At the end of the mandate, a process of overall reflection has been launched on the impact that market opening and international integration have on the capacity of WTO member states to defend their collective preferences, arguing that it is up to each Member State to define which are legitimate. International trade has changed radically and in recent years it has become the focal point for the interaction between collective preferences of countries that participate in trade. Increasingly one finds that behind the traditional trade in goods, there are different perceptions regarding risk, the environment, food, culture, or public services; ethnologists view these differences as significant cultural markers interacting with one another.

This interaction has, in certain cases, resulted in trade disputes of such sensitivity and severity, that the WTO's efficient dispute settlement procedure is hard pushed to respond adequately. The outcome of these disputes has often been misunderstood and has stoked opposition to market opening.

Although the WTO has not dodged the issue when dealing with conflicts on collective preferences, its system of rules and regulations was put in place gradually, in a series of stages, at a time of international integration when such conflicts were less evident; today, the system would benefit from being reconsidered in the light of these new issues. Indeed, it now seems like an essential pre-condition for ensuring the legitimacy of market opening and international economic integration.

This process of reflection was launched in September 2004 within the framework of a public conference, and accompanied by the publication of a paper on the issues at stake and the potential means of resolving them.

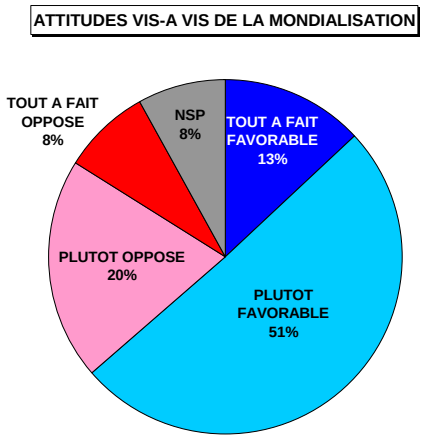
Annex 1
Europeans and Globalisation

1. A demand for rules

Process favourably welcomed…

According to a poll taken for the Commission in 2003, two thirds of Europeans declared themselves favourable to the process of globalisation whereas less than 30% expressed their opposition. Support is at more than 50% in all of the 15 (at the time) EU Member States, with the exception of Greece.

Moreover, even though globalisation was bound to intensify in the future, 52% of those polled estimated that this would be globally positive for them and their families, while 32% take the opposite view. Pessimism carried the day in three countries – France, Greece and Belgium, who were also (on most tests) generally more critical than the average EU Member State.



Source: Eurobarometer, Nov 2003, Special Edition: Globalisation

… but with anxieties clearly still present…

The majority of Europeans estimate that the effects of globalisation on economic growth will be generally positive, but this view tends to be more negative in terms of the impact of globalisation on the environment, on the North-South divide, and on jobs. This last point can be ascribed to the increase in unemployment in France and in Germany.

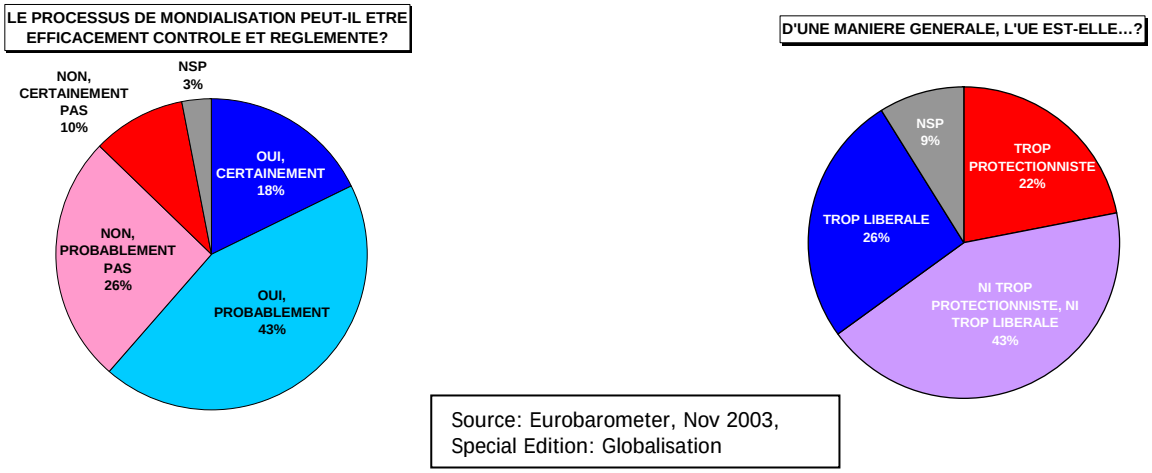
Can you say if you think globalisation has a more positive effect or a more negative effect on the following areas ?

	More positive	More negative	No impact (volunteered)	No response
Scientific and technical progress	**83 %**	12 %	1 %	4 %
Cultural exchange between countries	**80 %**	15 %	1 %	3 %
Solidarity between countries	**63 %**	31 %	2 %	4 %
Global democracy	**59 %**	31 %	3 %	7 %
Economic growth in our country	**57 %**	37 %	2 %	4 %
Health	**56 %**	34 %	4 %	6 %
Quality of public services	**51 %**	37 %	5 %	7 %
Environment	44 %	**48 %**	2 %	5 %
Disparities between northern countries and southern countries	41%	**48 %**	3 %	8 %
Jobs in our country	40 %	**50 %**	3 %	5 %

If faced with the choice between considering market opening as a n opportunity, or as a threat to jobs and businesses in their country, 56 % consider that market opening opens opportunities, and only 39% believe that it presents a menace.

… and a strong demand for rules…

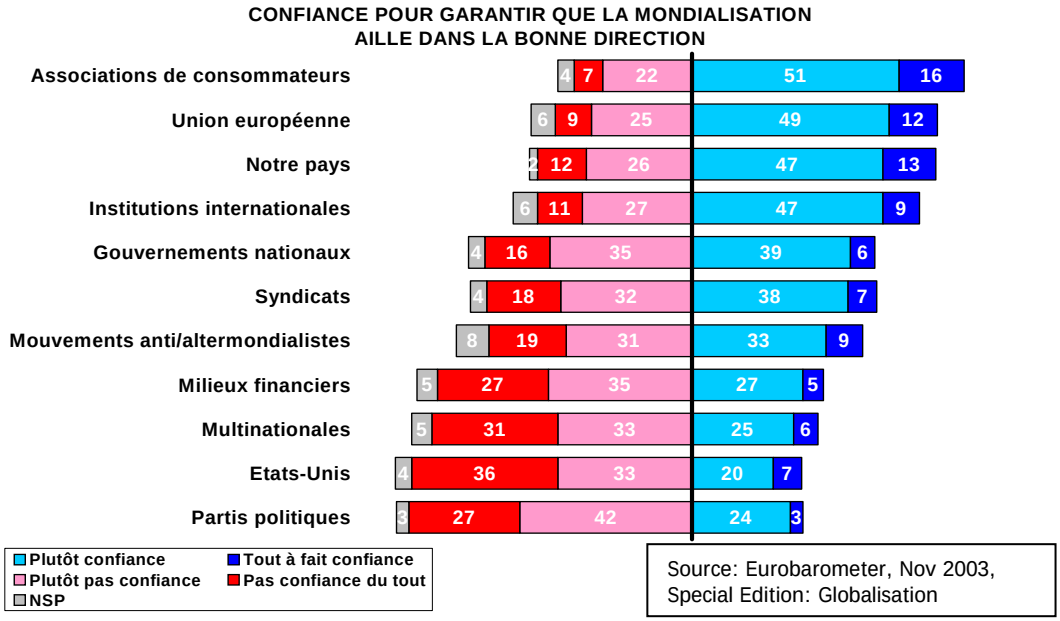
There is a strong feeling that globalisation can be efficiently controlled and regulated (62%), but only 20% of the population think that the current level of rules is sufficient, and if 17% estimate that we need fewer rules and regulation, 56% would like to have more. This should not however be taken as a desire to return to protectionism: only 28% of those polled judge the EU to be too liberal, against 22% who see it as too protectionist, and 43% estimate that a good balance has been achieved.



Source: Eurobarometer, Nov 2003, Special Edition: Globalisation

2. In this framework, the EU has built up a strong credit in terms of *confidence*

After consumer associations, the EU is the institution in which citizens are ready to put the most confidence to guarantee that globalisation goes in the right direction: more than 60 % of them are of this opinion, putting the Commission well ahead of national governments (45 %), or the anti-globalisation movements (41%), whose arguments are listened to, but which suffer from a credibility deficit: 79% of Europeans accept that they are raising important points which deserve to be debated, but only 39% of Europeans believe that they have concrete solutions to problems of globalisation, and only 36% believe that they succeed in slowing globalisation down.



One third of Europeans consider that the EU should increase its influence over globalisation, although a further third also consider that we already have a sufficient influence, while 20% think we have too much influence. Inversely, 75% of Europeans think that the US has too much influence.

Three Europeans in five support the fact that the European Commission negotiates on international trade questions in the name of Member States, as this gives the EU the chance to apply greater weight in the negotiations. However, just 37% believe that it is a bad thing because the Commission will tend not to take sufficient account of the interests of their country.

Annex 2

Five Years in the evolution of the EU's External Trade in Figures

The past five years have been marked by a sea-change in the world economy. The developing countries, with China leading the way, no longer restrict themselves to a few sectors like textiles and clothing, but are getting more and more involved in core industrial activity: all the industrialised countries are showing a trade deficit on office equipment, electrical machinery and telecommunications with the G20. There has also been an increasingly marked specialisation of industrialised zones: each of the three large industrialised blocs (EU, US, Japan) are reinforcing their respective strengths, which results either in higher sector deficits or surpluses. A more efficient division of world labour is evolving.

International trade is these days structured around four, rather than three, industrial 'poles': the EU is building on its strengths in chemicals, pharmaceuticals, cars and non-electrical machinery; Japan is holding on to its position in electrical and non-electrical machinery, cars, and plastics, but has lost some ground to China on office equipment and telecommunications; the United States, where manufacturing continues to decline, is holding out well on non-electrical machinery and plastics; China is strengthening its dominant position in textiles and clothing and various manufactured items (games, shoes, sports goods) and has confirmed its position in office equipment and telecommunications, albeit slightly less so in electrical machinery and equipment.

The key points to note are the following:

- **An improvement in the balance of payments in manufactured goods in the EU25 has not been sufficient to compensate for the rise in oil prices.** Taking all areas together, between 1998 and 2003, an increase of 36bn euro in manufacturing in the EU25 could not make up for an increase of 78bn euro in energy costs, but the agricultural deficit has remained stable at -20bn euro. The deterioration in the trade deficit to a total of 42.5bn euro during this period should, however, be seen in context: firstly, the deficit only counts for 5% in trade in goods and 0.5% of European GDP; secondly, it is mostly generated by oil prices; and finally, it is by and large compensated for by a registered surplus in services. In total, the balance of payments actually shows a structural surplus of more than 1.2% GDP. The picture in Europe therefore tells a very different story to the continual deterioration in the balance of payments in the United States, where the deficit went over 4% of GDP in 2003.

- **In manufacturing industry, the EU25 increased its surplus by applying itself to its strong points: chemical products, pharmaceuticals, automotive industry, and non-electrical machinery.** Although the automotive, non-electrical machinery, chemicals, pharmaceuticals, and paper sectors are already benefiting from export levels between 2 and 2.5 times higher than imports, it is these traditional strong points that are causing the improvement in EU manufacturing. The trade balance has improved by 23bn euro for cars, by 17bn euro for chemical products other than pharmaceuticals, by 14bn euro for non-electrical machinery, and by nearly 12bn euro for pharmaceuticals.

  On the flipside, the greatest deterioration can be seen in those sectors that have traditionally run the biggest trade deficits. With an export-import ratio of more than 50%,

the office equipment and telecommunications sector, and the textiles and clothing sector, have both seen deteriorations in their balance of 14.5bn euro and 9.5bn euro respectively.

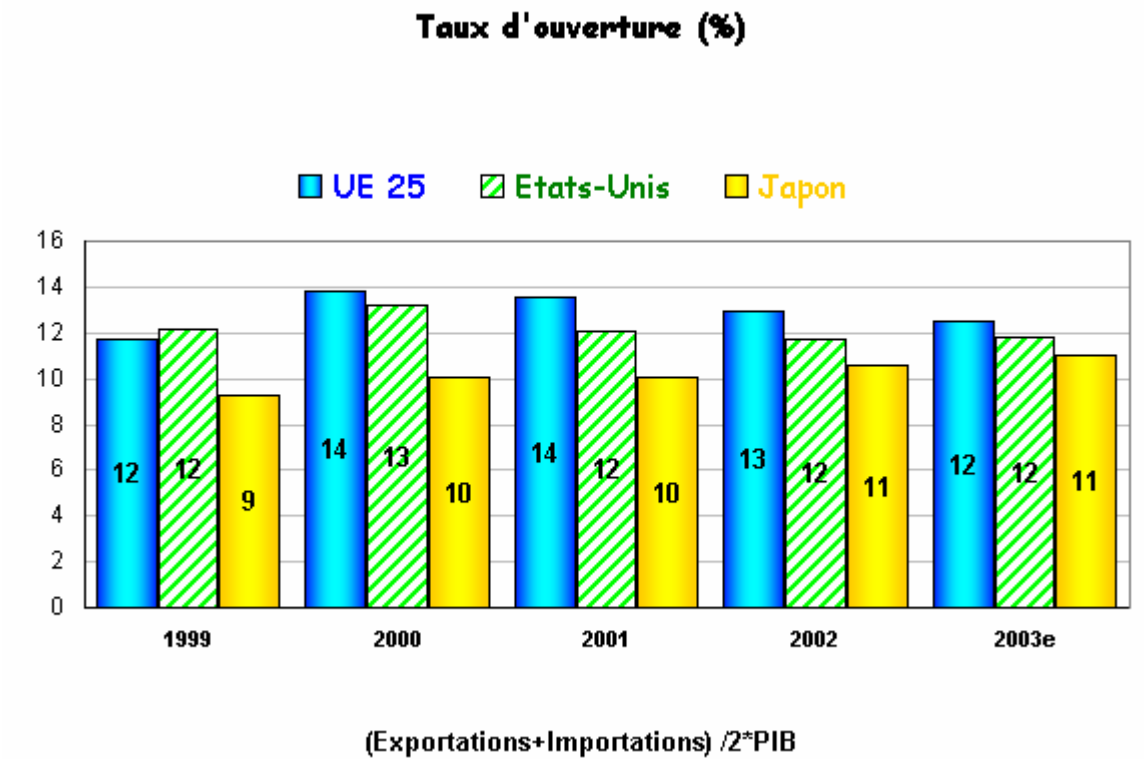
- **Unlike the situation in relation to the world as a whole, EU25 trade with developing countries is characterised by the emergence of a considerable trade deficit (almost 48 billion euro) for manufactured goods.** Two sectors are responsible for this change: office and telecommunications equipment (deficit increased by almost 27bn euro) and 'miscellaneous manufactured goods', which essentially groups together games, shoes and sporting items (11bn euro). Less dramatically, the deficit in textiles and clothing has grown by 6bn, while electrical machinery has gone from balanced books to a deficit of 4.5bn euro. There have been modest improvements vis-à-vis developing countries in the automotives sector, and the chemicals and pharmaceuticals sector (+2.2bn euro and +1.4bn euro respectively.

  The developments between Japan and G20 countries have followed a similar pattern, but have been less marked. Coming from what is already a very imbalanced situation, the US is showing a decline in trade on almost all its industrials sectors with the exception of chemicals. In total, the three big industrialised blocs are seeing their export-import ratio sink below 100 with G20 countries on office and telecommunications equipment, and also electrical machinery and equipment. On the other hand, non-electrical machinery, automotives, chemicals and pharmaceuticals, steel and paper sectors already give the EU and Japan an export-import ratio with the G20 of far more than 100, even though many of these sectors have seen clear deteriorations in this ratio. From this list of trade surpluses, steel and the automotives sector must be excluded in the case of the United States.

  - **China alone accounts for most of these developments in trade with G20 countries.** The EU25's trade deficit with China in manufactured goods increased by 38bn (to 63bn euro) between 1998 and 2003. This development by itself accounts for four-fifths of the EU's ballooning trade deficit in manufactured goods with the G20. At the top of the list are, office and telecommunications machinery (-23bn euro extra deficit) textiles and clothing (-6bn euro extra, to -14bn deficit), miscellaneous manufactured items, and electrical machinery.

  China is also responsible for the underlying cause of the decline in trade in manufactured goods by the United States and Japan: in the case of the US, 60% of the change in their manufactured goods deficit can be explained by trade with China; for Japan, the decline in trade is largely accounted for by China, more than by the G20 together. The deterioration in the manufactured goods deficit in trade with China is much marked for the United States in comparison with the EU: the American deficit reached almost 118bn euro in 2003, as opposed to 62bn euro for the EU, following deterioration of 65bn and 40bn since 2002 respectively.

(Market Openness %)

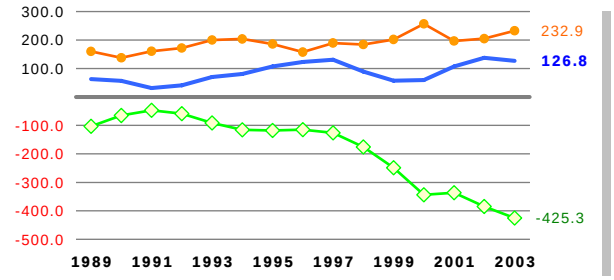


Manufactured Products - Bilateral Trade balances

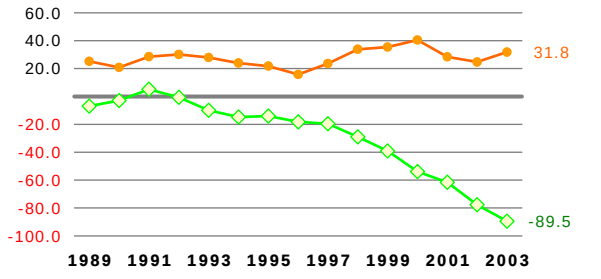
European Union — United States — Japan

(billion euro)

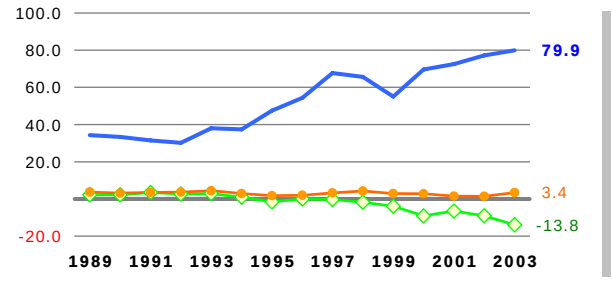
WORLD



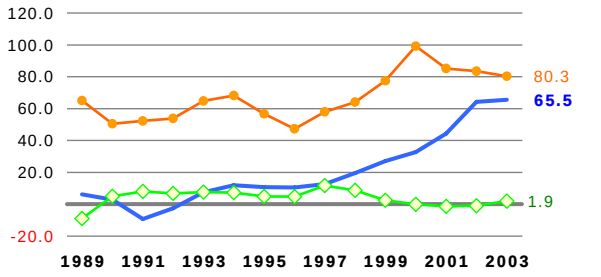
EUROPEAN UNION



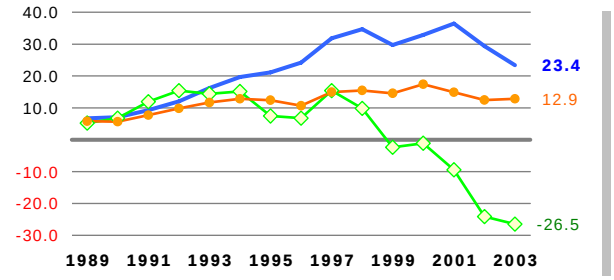
Other Europe, CIS and Med.



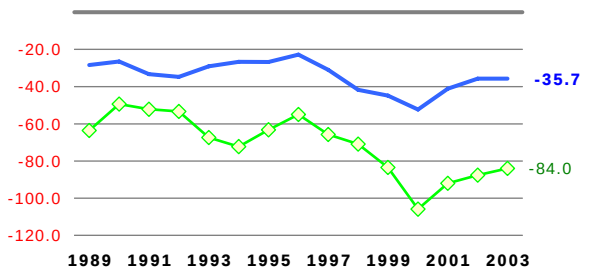
North America



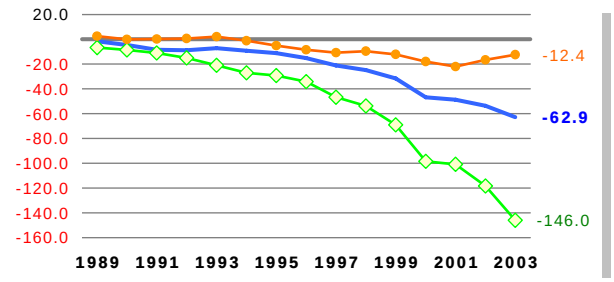
Latin America (20 countries)



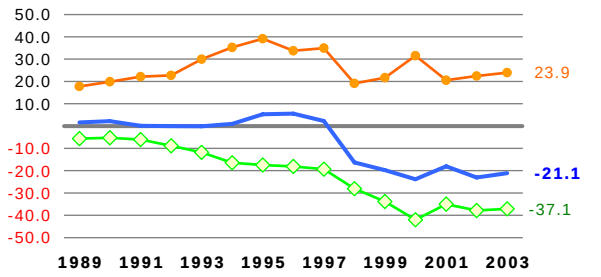
Japan



China



ASEAN



Source : Eurostat, UN

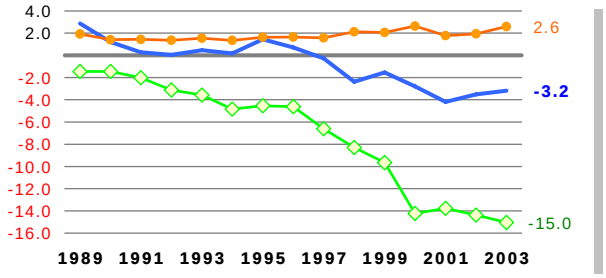
DG TRADE H3

Manufactured Products - Bilateral Trade balances

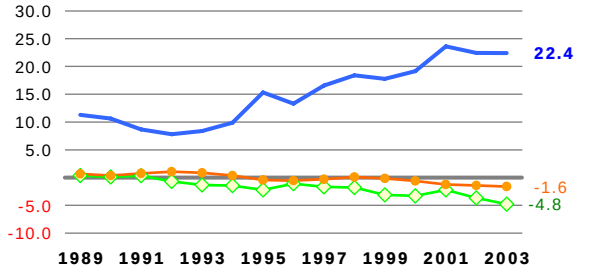
European Union — United States — Japan

(billion euro)

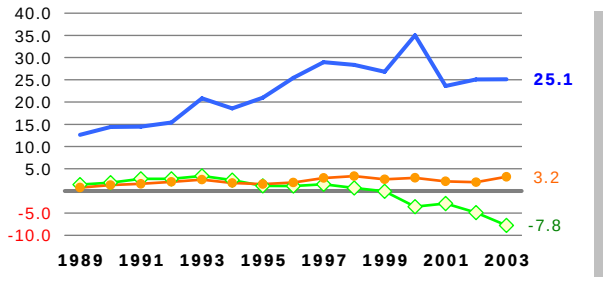
South Asia



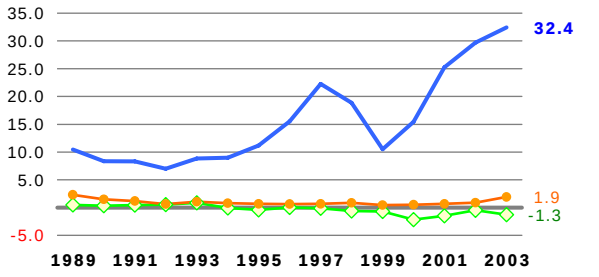
EFTA



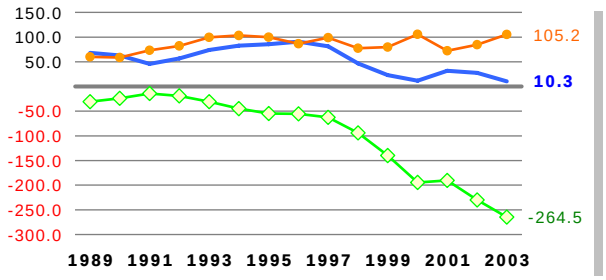
Mediterranean Countries



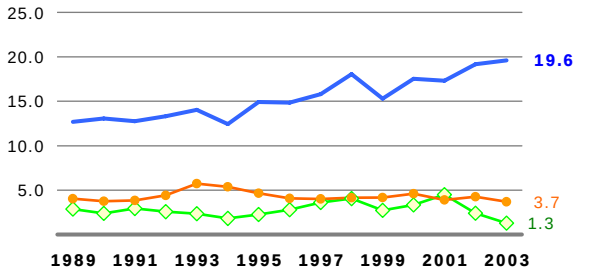
CIS



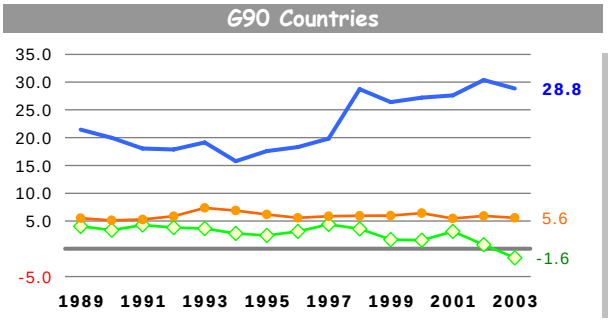
Developing Countries



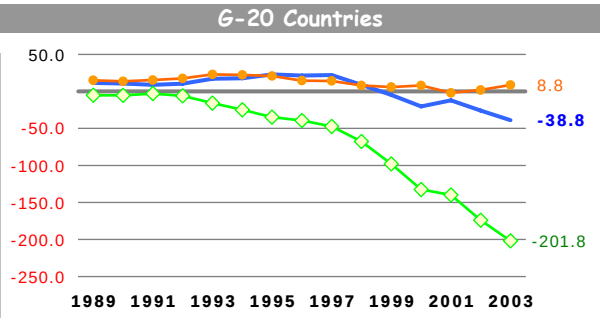
ACP Countries (incl.S.Afr.)



G90 Countries



G-20 Countries

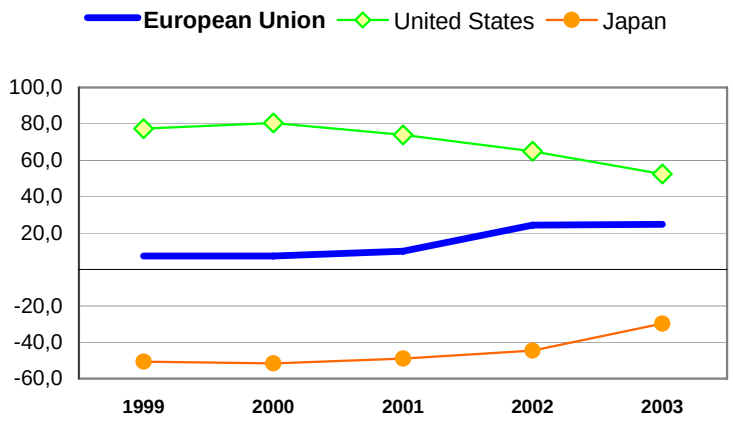


Source : Eurostat, UN

DG TRADE H3

(Annual Change in Trade Balance in Services)

Evolution annuelle du solde des échanges de services avec le monde



5 years in the development of the EU's agricultural and agri-food trade in figures

The EU is the world largest importer of agricultural goods and the largest importer of farm products from developing countries: it imports from developing countries more than the US, Japan, Canada, Australia and New Zealand put together. The EU absorbs 85% of Africa's agricultural exports and 45% of Latin America's. Africa exports 10 times more agricultural goods to the EU than to the US. The EU is the largest importer of agricultural products from Least Developed Countries

Although the European Union's trade balance has improved a bit between 1998 and 2003 for agricultural and agri-food products, it is primarily because of an improvement in relation to industrialised countries. The EU25's trade balance with the G20 continues to deteriorate and remains stable with the G90 (but with a high deficit that reflects the magnitude of trade between the EU and these countries).

The situation is the opposite for the United States, with a move from a surplus to a deficit in the agriculture trade balance, between 1998 and 2000, which can basically be accounted for by a deterioration in trade with industrialised countries.

The key points to note are:

- **Over the period from 1998-2003, the total EU agricultural and agri-food exports have been advancing slightly faster than imports** (6.bn as opposed to 2bn euro) which results in a small reduction in the EU deficit, which nevertheless remains high – at -20.2bn as opposed to -20.8bn in 1998

  In contrast with the relative stability of the EU deficit, the United States has gone from a surplus of almost +5bn euro in 1998 to a deficit of -5.6bn in 2003, while Japan's deficit has increased a little bit – to -54bn euro. Finally, while the difference between the gains made by EU exports and imports is +0.6bn euro over this period, it is -7.3bn euro for Japan and -10.5bn for the US.

- **From a sectoral point of view, the balance of payments has strongly improved in the 'tea, coffee, cocoa and spices' sector, as a result of the fall in prices for these products.** A more structural change can be seen in the 'drinks and tobacco' sector, with the balance improving by 2.3bn euro. On the other hand, the EU25's trade balance has deteriorated by 1.5bn euro in meat, animal fodder, and fruit & vegetables, and by 1bn euro in the sugar and fisheries.

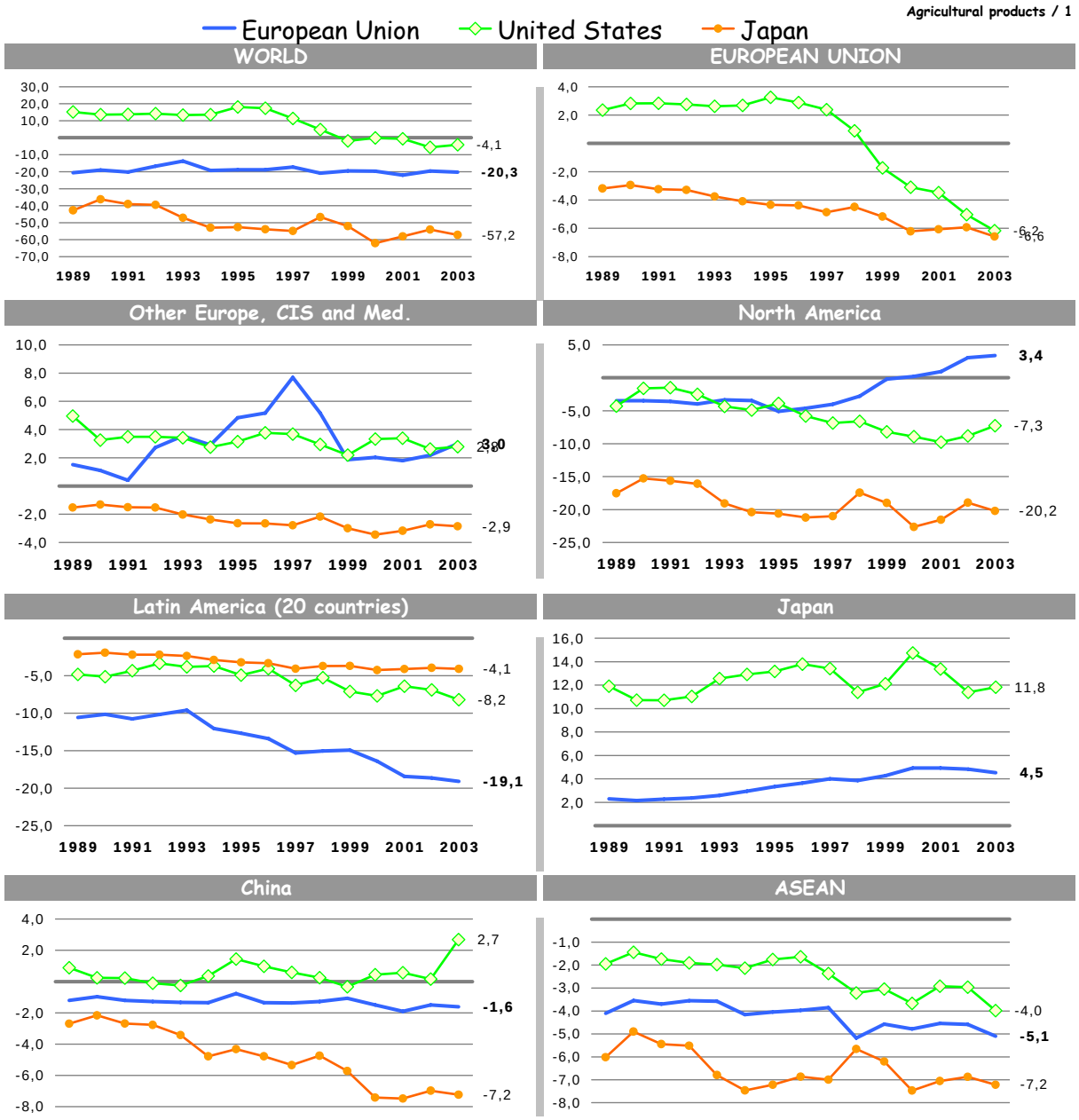
- For the United States, a notable point is a 6.7bn euro deterioration in the trade balance in the drinks and tobacco sector to the benefit of, in particular, European producers. Japan's trade balance has especially deteriorated in fisheries (-2.6bn euro) and meat (-2.3bn euro).

- **From a geographical point of view, the deficit in European agricultural trade has increased with G20 countries** (-3.6bn euro extra deficit over the period, with 22.3bn euro in2003 as opposed to 18.7bn in 1998) although it has remained stable at -8.4bn euro with the G90.

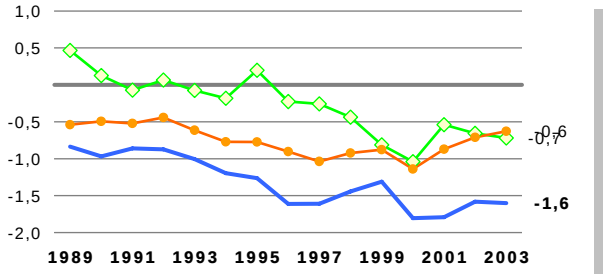
- Japan has witnessed a similar development: -3.8bn euro extra deficit vis-à-vis the G20 and a stable deficit with the G90, but at a higher level as a result of a low level of trade with these countries. For its part, the United States has slightly increased its surplus vis-à-vis the G90 (+0.4bn euro in 2002 as opposed to +0.2bn euro in 1998. Its balance has

deteriorated by 1.1bn euro with the G20, basically because of the increase in deficit in fruit &vegetable, fisheries and drinks and tobacco sectors.

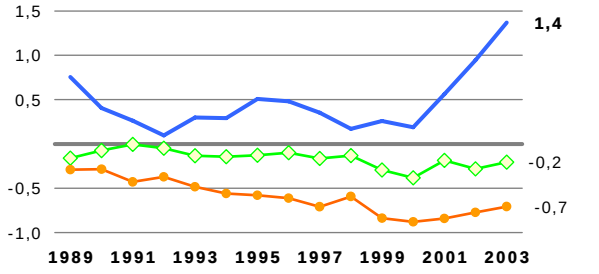
Agricultural products - Bilateral Trade balances 1989-2003



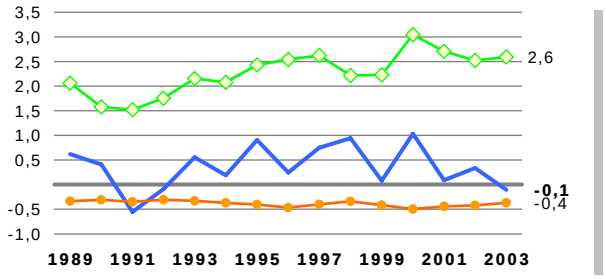
South Asia



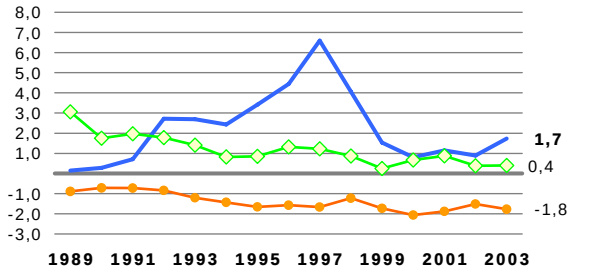
EFTA



Mediterranean Countries

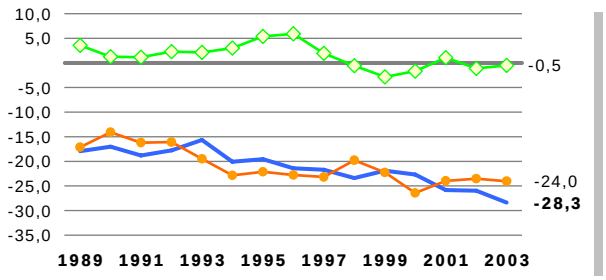


CIS

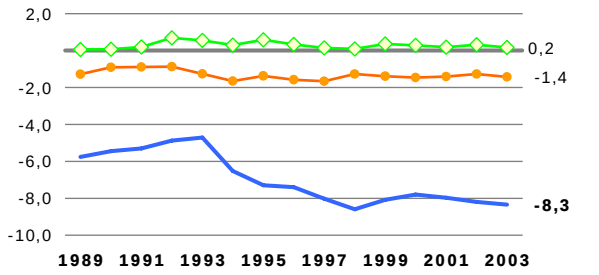


Soviet Union 1989-1993, CIS since 1993.

Developing Countries



ACP Countries (incl.S.Afr.)



European Union: 15 members since 1989 + Czech Repub. and Slovaquia since 1989, Estonia since 1995, Hungary since 1991, Latvia since 1994, Lithuania since 1994, Malta since 1990, Poland since 1992, Slovania since 1992.

(Sitc Rev3 : 0 + 1 + 21 + 22 + 231 + 24 + 261 to 265 + 268 + 29 + 4)

16-sept-04

Source : Eurostat, UN

DG TRADE H3

Annex 3

OVERVIEW OF WTO CASES INVOLVING THE EUROPEAN COMMUNITIES (in the period 11/99-11/04)

6 - resolved (or being resolved) without Panel ruling:	(1) DS304 – Anti-Dumping Measures (India); (2) DS279; 149 – Import Restrictions maintained under India's EXIM policy 2002-2007 (India); (3) DS287 – Quarantine Regime for imports (Australia) (4) DS193 – Swordfish (Chile – *Panel Request but arrangement with Chile*); (5) DS210 - Belgium Rice imports (US) (*Panel request + Mutually agreed solution*); (6) DS209; 154 – Measures Affecting Soluble Coffee (Brazil).
13- EU won[7]:	(1) DS248 – Safeguard Measures on Steel (US) ; (2) DS217 - "Byrd Amendment (US); (3) DS213 – German Steel CVDs (US); (4) DS212 – CVDs on EC Products (US -"Privatization Subsidies"); (5) DS189 –Definitive AD Measures on Imports of Ceramic Floor tiles from Italy (Argentina); (6) DS176 – Section 211 of the US Omnibus Appropriations Act (US -"Havana Club"); (7) DS166 - Safeguard Measures on Imports of Wheat Gluten (US); (8) DS165 - Certain EC Products (US); (9) DS160 –Section 110(5) of the US Copyright Act (US -"Homestyle exemption"); (10) DS155 – Measures on the export of bovine hides and the import of finished leather (Argentina) ; (11) DS146 – Autos (India); (12) DS142 - Automotive Industry (Canada); (13) DS135 – Asbestos (Canada)
4- EU lost:	(1) DS246- Tariff Preferences (India); (2) DS231- Sardines (Peru); (3) DS219-EC Pipe fittings (Brazil); (4) DS141 – EC bed-linen (India); In case DS246 the RPT has not yet expired. In the other 3 disputes the EC has complied promptly.
9- in panel stage:	(1) DS294 – Zeroing methodologies in the establishment of dumping margins (US); (2); DS273 – Shipbuilding subsidies (Korea) (3) DS301– Shipbuilding subsidies (Korea); (4) DS299 - CVD measures on DRAMS (Korea); (5) DS293, 292, 291 –GMOs (US, Canada, Argentina); (6) DS290, 174 - Trademarks & geographical indications (US; Australia); (7) DS269, 286 – Frozen chicken cuts (Brazil); (8) DS265, 266, 283–Sugar Subsidies (Australia, Brazil, Thaïland); (9) DS212 – 21.5 Panel on CVDs on EC Products (US -"Privatization Subsidies")
3- in consultations:	(1) DS 314 - Mexico - CVDs on olive oil; (2) DS307 – EC - Shipbuilding subsidies (Korea) (3) DS 315 EC-Customs procedures (US) ; (4) DS316 – EC Measures affecting trade in large civil aircraft (US); (5) DS317 – US – Measures affecting trade in large civil aircraft
5 - resolved (or being resolved) at pre-WTO stage[8]	(1) Colombia tax discrimination on cars (TBR),; (2) Canada-lack of protection of Gis (Bordeaux-Medoc-TBR); (3) US sps ban on clementines; (4) China export restrictions on coke; (5) Egypt-breach of tariff bindings and licensing restrictions on textiles

[7] It is not always easy to determine whether a case is lost or won. In this overview, an objective criteria was used: a case is considered won if the EC prevailed in at least one claim. For example, DS213 (*German Steel CVDs*) is considered won because the EC prevailed on one claim even if it lost on the others.

[8] This is not an exhaustive list.

Annex 4 – Statistics on use of trade defence measures

The following tables give a clear impression of the evolution of trade defence measures, from an international perspective, both for the initiation of AD proceedings, and for the imposition of measures.

TABLE 1
Main initiators of anti-dumping proceedings 1995 –2003 (new investigations only)

Initiator	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
India	6	21	13	27	65	41	61	79	48	**361**
USA	14	22	15	36	47	47	76	35	35	**327**
EC	33	25	41	22	65	31	27	20	7	**271**
Argentina	27	22	15	8	24	45	27	15	3	**186**
South Africa	16	33	23	41	16	21	6	4	6	**166**
Australia	5	17	42	13	24	15	20	20	8	**164**
Canada	11	5	14	8	18	21	25	6	15	**123**
Brazil	5	18	11	18	16	11	17	9	4	**109**
Mexico	4	4	6	12	11	7	5	11	15	**75**
Indonesia	0	11	5	8	10	3	15	8	9	**69**
Total initiations by WTO members	**157**	**224**	**243**	**254**	**356**	**272**	**339**	**299**	**218**	**2.356**

Source: statistics from the WTO Secretariat General database and semi-annual reports on anti-dumping action by WTO members

The number of worldwide initiations of anti-dumping investigations in 2003 was at its lowest since 1995. The drop is particularly marked in respect of India (which is still, however, the main initiator by far), the EC, Argentina and Australia. The United States maintained the same level as in 2002, while initiations by South Africa, Australia and Canada have increased.

TABLE 2
Main users of anti-dumping by definitive measures imposed in 1995 –2003

User	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
USA	33	11	20	16	24	32	37	57	17	**247**
India	7	2	8	22	22	56	38	59	52	**266**
EC	14	19	23	25	18	41	12	25	3	**180**
South Africa	0	8	18	14	34	13	6	21	1	**115**
Argentina	13	20	11	13	9	16	15	15	20	**132**
Canada	7	0	7	10	10	14	25	0	5	**78**
Brazil	2	6	2	14	5	9	16	5	1	**60**
Mexico	16	4	7	7	7	7	3	1	7	**59**
Australia	1	1	1	7	6	5	8	9	10	**48**
Turkey	11	0	0	0	1	8	5	11	28	**64**
Total def. measures by WTO members	**118**	**86**	**124**	**162**	**181**	**235**	**183**	**245**	**224**	**1.558**

Source: statistics from the WTO Secretariat General database and semi-annual reports on anti-dumping action by WTO members

While the number of definitive anti-dumping measures imposed worldwide in 2003 has gone down compared to 2002, it is still at a relatively high historic level. Measures imposed by the EC, the US and South Africa have decreased dramatically. The increase in the number of

Turkey's measures is particularly worth noting. The number of measures imposed by Mexico and Argentina has also gone up.

TABLE 3
Initiations of anti-dumping proceedings by developing/developed countries, 1995-2003

	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Developing countries	75	132	103	161	175	143	160	179	131	**1.259**
Developed countries	82	92	140	93	181	129	179	114	87	**1.097**
Total initiations by WTO members	**157**	**224**	**243**	**254**	**356**	**272**	**339**	**293**	**218**	**2.356**

Source: statistics from the WTO Secretariat General database and semi-annual reports on anti-dumping action by WTO members

In 2003 developing countries initiated 131 anti-dumping investigations against the 87 initiated by developed countries. This is not a continuously ascending trend, as for example in 1999 and 2001 developed countries initiated more investigations, albeit with a rather smaller difference between the figures for the two groupings, and in 2002 the number of initiations was higher in respect of both developing and developed countries. It is particularly worth noting that, of the 131 actions initiated by developing countries, 51 targeted other developing countries.

TABLE 4
Definitive anti-dumping measures imposed by developing/developed countries, 1995-2003

	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Developing countries	45	46	63	88	121	125	91	132	154	**709**
Developed countries	73	40	61	74	60	110	92	113	70	**623**
Total def. measures by WTO members	**118**	**86**	**124**	**162**	**181**	**235**	**183**	**245**	**224**	**1.558**

Source: statistics from the WTO Secretariat General database and semi-annual reports on anti-dumping action by WTO members

When definitive measures are taken into account, the role of developing countries as users of the instrument is even more prominent. Developing countries imposed more definitive measures in all of the years considered, with the exception of 1995 and 2001. Of the 154 definitive anti-dumping measures imposed by developing countries in 2003, 65 were aimed at other developing countries.

A first-hand, rough analysis of these figures suggests that initiations by developing countries lead more often to definitive measures than initiations by industrialised countries. Developing countries initiated 179 investigations in 2002 and imposed 154 definitive measures the following year (a ratio of 86%), while developed countries initiated 114 cases in 2002 and imposed 70 definitive measures in 2003 (a ratio of 61%). Even if a full one-on-one comparison between initiations in 2002 and measures imposed in 2003 cannot be made, such a divergence could mean that standards for imposing measures once a case is initiated are less stringent among "new" users of the anti-dumping instrument.

TABLE 5
Main targets of anti-dumping proceedings 1995 –2003 (new investigations only)

Target	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
China	20	43	33	28	41	42	50	53	46	**359**
EC+ Member States[9]	22	25	30	31	34	33	28	23	20	**246**
Korea	14	11	15	24	34	19	18	18	17	**170**
USA	12	21	15	15	14	12	13	10	21	**133**
Chinese Taipei	4	9	16	10	22	14	18	13	13	**119**
Japan	5	6	12	13	22	9	10	9	13	**99**
Indonesia	7	7	9	5	20	13	14	13	8	**98**
India	3	11	8	12	13	10	12	14	13	**96**
Russia	2	7	7	12	17	10	7	17	2	**81**
Thailand	8	9	5	2	19	10	13	12	6	**84**
Total initiations by WTO members	**157**	**224**	**243**	**254**	**356**	**272**	**339**	**299**	**218**	**2.356**

Source: statistics from the WTO Secretariat General database and semi-annual reports on anti-dumping action by WTO members

TABLE 6
Main targets of definitive anti-dumping measures 1995 –2003

Target	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
China	26	15	33	24	20	30	35	42	34	**259**
EC+ Member States[1]	13	4	7	22	26	24	25	16	25	**162**
Korea	4	5	3	12	13	22	15	17	26	**117**
Japan	5	6	5	7	10	19	8	9	11	**80**
USA	8	4	9	11	8	13	5	13	7	**78**
Chinese Taipei	2	2	6	11	7	18	9	15	11	**81**
Russia	8	3	9	4	15	9	8	5	12	**73**
Brazil	9	10	6	5	5	8	3	7	4	**57**
Thailand	5	7	2	5	1	13	7	10	9	**59**
India	4	1	5	6	9	7	7	8	6	**53**
Total def. measures by WTO members	**118**	**86**	**124**	**162**	**181**	**235**	**183**	**246**	**224**	**1.558**

Source: statistics from the WTO Secretariat General database and semi-annual reports on anti-dumping action by WTO members

If initiations and definitive measures against the Community and its Member States are added up, it becomes clear that the Community is the second most important target of anti-dumping action, well behind China but ahead of Korea, Taiwan and the United States. This trend has been constant ever since 1995, although in 2002 and 2003 slightly more measures were imposed on Korea than on the Community (17 against 16 and 26 against 25 respectively).

[9] Proceedings have been aggregated at Community level, i.e. if a proceeding by a WTO member concerning a certain product is targeted at several Member States, it is only counted once.