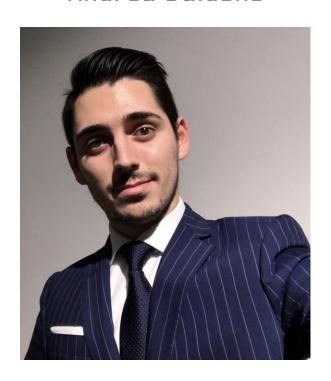
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EUROPEAN PREFERENTIAL TRADE AGREEMENTS: A TOOLBOX FOR TRADE, DEVELOPMENT, AND FOREIGN POLICY Andrea Daidone





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1. INTRODUCTION

The present document consists of a process of synthesis and critical analysis, based on the current academic and institutional literature, to understand how the Preferential Trade Agreements (PTAs) have changed our way to trade and deal with others.

Starting by investigating how globalisation turned into regionalism, the purpose of this analysis consists of understanding how the EU employs PTAs and what importance it attaches to them. I scrutinise how the EU pursues its interests in international negotiations and spreads its norms and values abroad. To this end, I utilised the following bibliography.

On the institutional side, I considered the relevant documents of the European Parliament, the European Commission, the EU Council, and the World Bank. On the academic side, I started with the research of Sophie Meunier and Kalypso Nicolaïdis on the EU as a trade power. For the investigation of the trade-development nexus, I relied on Maurizio Carbone and Jan Orbie, while on the European approach towards FTAs, I leaned Stephen Woolcock.

Besides, I cited Maurizio Carbone on the approach to development of the EU, Arvind Panagariya on EU PTAs and Developing Countries, Vollmer on EU-ACP EPAs, and the research of Kohnert on African Agency and EU-African EPAs.

I drew on John Peterson and its examination of trade policy as foreign policy and on Fabienne Bossuyt to assess the coherence in the trade-foreign policy nexus. Finally, Jordi Mas Elias, Meunier, and Nicolaïdis have been precious to gauge the EU cohesiveness and contraction as a global trade power.

About the paper's structure, firstly I analyse how the global economy switched from multilateralism to regionalism and the increasing importance that PTAs gained as trade tools for the EU. Next, in two different chapters, I focus on the of PTAs to achieve non-trade goals, e.g. foreign and development.

Throughout my dissertation, I refer to some case studies to underpin my thesis. I mention the Lomé Conventions concluded with the ACP group and the EPAs negotiated under the Cotonou Agreement. Furthermore, I quote other European partners, most notably in South America. The reason for my choice is that development synthesises well the willingness to integrate developing countries in the global trade and the desire to spread domestic values.

Obviously, because of the market size, the EU possesses a precious bargaining chip and can afford to impose challenging conditionality. Lomé Conventions portraits the conceptual evolution of the European approach towards the developing world and allow to understand the different priorities over time. Conversely, the EPAs under Cotonou reveal an evolving interest towards Africa, but also the ACPs' dwindling enthusiasm for tougher conditionality in return for lower privileges.

2. FROM GLOBALISATION TO PTAS

The EU is primarily a trade power with a longstanding inclination to influence the external environment and to impact the world (Keukeleire and Delreux, 2014). This is possible because of its 'presence' conferred by the internal market (Bretherton and Vogler, 2006). Trade represents the EU's *raison d'être*, the source of its actorness (ibid.) and civilian power (Duchêne, 1973).

Moreover, trade liberalisation has always been the cornerstone of the European external action, as stated by the Rome Treaty, which called for "the harmonious development of world trade, the progressive abolition of restrictions (...) and the lowering of customs barriers". Soon, Brussels found that global leadership was best exerted by negotiating international agreements to promote market access, integration, and prosperity (Heydon and Woolcock, 2014).

Two factors contributed to improving the European appeal. First, the Commission's expertise in international negotiations made the EU the first global commercial bloc (Meunier and Nicolaïdis, 2005). Second, the magnetic force of the domestic market increased its relative power vis-à-vis that of others (Rosecrance, 1998).

Multilateral agreements have played a decisive role in making Europe a pillar of global trade, but circumstances were to evolve. In fact, despite the appointment of the WTO (1995) was initially seen by Brussels as an opportunity to promote multilateralism (ibid.) and take the lead of the international trade (Woolcock, 2014), the unlucky outcome of the Doha round marked a dramatic turn in the European commercial strategy (Jordi, 2018).

Since 1996, the Commission succeeded in uploading some of its priorities to the WTO agenda, i.e. services, IPR, investments, and the 'Singapore issues' (Garcia-Duran et al., 2014) as well as to launch the Doha round. This pro-activism was favoured by the stronger normative authority of the *aquis communautaire* and the economic vitality that

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¹ https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11957A/TXT&from=EN

followed the completion of the Single Market Programme under the Single European Act (ibid.).

Furthermore, Commissioner Pascal Lamy inaugurated the 'Managing Globalisation' agenda, prioritising 'effective multilateralism 'over bilateral trade (Lamy, 1999), and embraced a four-year moratorium on PTAs to prevent trade diversion and avoid interference while shaping a rule-based, multilateral trading system (Lamy, 2002). However, despite considerable efforts and concessions, the EU failed to halt the race to the bottom triggered by some countries, nor it succeeded in uploading its priorities.

Accordingly, negotiations stumbled and finally collapsed at the Cancun Ministerial (2003). Multilateralism ceased to be the key-vehicle of trade liberalisation (Jordi, 2018), and the EU revived its interest in bilateral talks also because the booming of Asian economies and the conclusion of FTAs by other actors challenged Brussels, empowering its competitors to its detriment (Woolcock, 2007).

In 2006, the new Trade Commissioner Mandelson adopted a new commercial strategy, *Global Europe*, inaugurating an era of bilateral agreements (Woolcock, 2012). PTAs turned out to be extremely useful to export European norms and principles through trade, profiting from the size of the common market, and to influence others' incentives and expectations (Jordi, 2018). Furthermore, the condition of reciprocity increases the European relative power and enables the Commission to influence others' policies (Damro, 2012; Woolcock, 2012).

The PTAs negotiated by Brussels meet a double necessity. Primarily, they pursue commercial objectives, i.e. inhibiting trade diversion, ensuring market access, upholding international trade rules, increasing domestic export, and securing better conditions for European investors. Secondly, they allow to realise political or developmental objectives (Jordi, 2018).

Finally, through PTAs, the EU can negotiate issues that, although under the WTO mandate, have been dropped in multilateral negotiations, such as the tariff cuts agenda (Messerlin, 2013), or issues outside the WTO competence, i.e. labour standards (Horn et al, 2010). Moreover, PTAs can help Brussels in stimulating pro-growth domestic reforms (Messerlin, 2013) and in persuading other countries to implement the '21st-century trade agenda' (TBTs, IPRs, regulatory barriers, investments policies, and environments).

3. PTAs: A DEVELOPMENTAL TOOL

Europe has always emphasised development even before the EU's establishment. Indeed, the Rome Treaty created the first foreign aid programme: the European Development Found (EDF). This is due not only to a probable sense of obligation towards former

colonies, but mainly to the necessity to promote the European commercial interests, opening up African markets to European investments, and securing a reliable source of goods (Carbone, 2005).

The manifest objective of this new partnership was the creation of a New International Economic Order (NIEO), as the current one was deemed harmful for developing countries because not respectful of their sovereignty and ownership of natural resources (Langan, 2016).

Here, trade is intended as a device to combine commercial and developmental policies by promoting European values together with prosperity. However, rather than applying bilateral and symmetrical openings, as usual in trade agreements, Brussels opted for the unilateral lowering of tariffs to support the developing process (Jordi, 2018). The new trade regime implied that ACPs enjoyed preferential access to the European market according to their development level, without having to reciprocate (ibid.).

The system provided three access levels. First, GSP (Generalised System of Preferences) targeted low-income states, offering tariff reduction. Second, GSP+ granted major tariff reduction in return for the commitment to respect human rights, labour and environmental standards, and good governance. Third, EBA (Everything But Arms) was reserved to the LDCs and allowed duty- and quota-free access on everything but ammunitions.

Most notably, the GSP+ underpins my thesis, as the Commission rewarded the compliance with European principles by offering concessions tailored to the counterparts' progress. Market access became thus the vehicle to export values and standards, under the principle "the bigger the commitment, the greater the reward".

Despite the initial optimism, EEC aid per capita decreased steadily over time, due to constant population growth in the face of little increase in the amount of EDFs (Jordi, 2018). Besides, the interest in ACPs started to decline, as since the 1980s the Commission turned the attention elsewhere and established contacts with Central and South America as well as with the increasingly dynamic ASEAN (Ibid.).

Furthermore, the poor industrial capacity of ACPs and the Asian emerging markets resulted in the declining importance of the former colonies for both political and economic reasons, since ACP markets accounted for only 2.8% of total EU import in 2000, compared with nearly 8% when the first Lomé Convention was signed in 1975 (Langan, 2016). Moreover, very few countries proved able to gain from the preferential trade system (Holland and Doidge, 2012).

Finally, the introduction of the GSP in 1971 and the increasingly severe protectionist tendency of the Common Agricultural Policy resulted in restricted market access and the weakening of the preferential regime. Since the overwhelming majority of

ACP economies was agriculture-based, these conditions prevented economic diversification (Carbone, 2005), ultimately contributing their failure to and underperformance.

At the end of the century, acknowledging that the non-reciprocal trade regime had failed to produce the expected results, moreover violating the Most Favoured Nation WTO principle, the Commission proposed to give a fresh start to the development agenda (Ibid.). Accordingly, the Parties negotiated the Cotonou Partnership Agreement (CPA), signed in June 2000 and into force for 20 years.

The Agreement, which mainly serves European rather than ACP interests (Forwood, 2001), has three pillars: trade, development, and cooperation (Babarinde and Faber, 2005). However, it worth noticing that, for Brussels, the boundary between trade and development was increasingly nuanced (Jordi, 2018), thus trade liberalisation could be well mixed with development aims and trade agreements growingly embodied development ones (Sbragia, 2010).

Unilateral openings were replaced by a new, reciprocal approach, compatible with WTO rules: the Economic Partnership Agreements (EPA). The Commission's plan envisaged that, during a transition period with provisional unilateral liberalisation, ACPs had to create six regional groupings and negotiate EPAs with the EU by December 2007.

The purpose of EPAs was to encourage domestic changes and reforms in return for market access (Meunier, 2007). The idea was that the EPAs were to strengthen regional integration, the inclusion of ACPs in the global trade (Kleimann, 2013), and promote compliance with European expectations about democracy, human rights, labour, and social standards.

Under the new regime, the unfair competition within ACP markets was over, since European firms were granted access (Taylor, 2015). Plus, the CPA allowed the EU to export its regulatory schemes, values, and policies including trade in services, qualitative standards, IPR, and the 'Singapore issues', i.e. health, competition policy, government procurement, and investments policy (Ibid.), in the agreement's final draft. Although these fields are not WTO requirements for EPAs, the Commission put a strong emphasis on them. After the agreement's enforcement, outcomes proved to be far from the Commission's expectations. Indeed, the 10-years balance is terrifying: out of 77 ACP countries, only 36 signed *interim* EPAs and only the Caribbean states concluded the *final* EPA (CARIFORUM). Thereafter, definitive EPAs have been achieved only with SADC and part of the ESA.

These delays were not accidental, as African countries became ever less willing to sign EPAs, perceiving them as an asymmetrical imposition to exploit developing markets

(Taylor, 2015) and the price to pay to maintain preferential trade relations with the EU (Ramdoo and Bilal, 2013).

In conclusion, the EU conceived EPAs as tools to deliver sustainable development, growth (Commission, 2006), and socio-economic progress (Langan, 2016). EPAs were considered extensive instruments to stimulate sound reforms, regional market integration, and economic involvement of the developing world in the world economy (Ramdoo and Bilal, 2013).

However, many blamed the Commission for seeking trade liberalisation and reciprocity over development and for including behind-the-border issues (Heron, 2013 and Woolcock, 2007), rather than focusing on regional integration, environmental, social, and labour standards (Carbone, 2013). Others clarified that Brussels simply pursued its self-interest (D'Erman, 2018), fuelled by realist, geo-economic, and mercantilistic considerations (Zimmermann, 2007).

Even some European Members and the European Parliament flanked the critics, stating to be "very concerned that too rapid reciprocal trade liberalisation (...) could have a negative impact on vulnerable ACP economies" and that "liberalising trade between unequal partners as a tool for development has proven to be ineffective and even counterproductive" (European Parliament, 2006).

Although in a negative sense, also these criticisms confirm my initial thesis, namely that trade is a strategic tool to pursue (geo)political goals, sometimes to the detriment of others, and that the EU truly exerts influence, trying to shape the world on its image, by means of its trade power (Jordi, 2018).

4. PTAs: (ECONOMIC) FOREIGN POLICY

When assessing countries, IR doctrine classifies them according to the nature of their power. We distinguish between hard (military) power, typical for instance of the US, and soft (civilian) power, usually attributed to the EU (Duchêne, 1973), which is first and foremost an economic power.

The EU is also defined as a normative power, since it prefers persuasion over coercion and tends to promote norms and values through economic tools (Whitman 1998; Manners 2002; Obie 2006; Laïdi, 2008). Besides, it is seen as a soft power for its capacity to attract others, exercise influence, and shape the external environment (Maull, 2005).

The trading power of the EU can be distinguished between power *in* trade, and power *through* trade. Since power *in* trade has been discussed in the first chapter, I am to focus here on its second declination.

Power *through* trade is usually linked to the structural foreign policy conducted by the EU. It represents a long-term strategy directed to influence, shape, and radically change the political, legal, economic, and social structures of other countries (Keukeleire and Delreux, 2014). Implementing such a strategy means changing how the others are structured and their behaviours. This implies a long-term, patient game, best performed with soft tools, such as trade (Peterson, 2007), as it usually works through the establishment of economic relationships (Nuttall, 2005), understood as a vector of change.

This is an intrinsic aspect of the EU's external action since it seeks non-material objectives, also known as 'milieu objectives', namely greater respect for international law, stronger human rights, and multilateralism (Wolfers, 1965). Trade is thus largely perceived as the most suitable instrument, as it confers both the 'inherent power 'and the 'normative power'. These two facets represent the two paths to export policies and values.

Inherent power represents the easiest way to promote policies, standards, and rules of governance abroad (Schimmelfennig, 2012). Here, the size of the internal market and its relative power vis-à-vis other trading blocks work as the driving force of the structural power (Meunier and Nicolaïdis, 2005).

This is self-explaining, as the bigger the market, the more attractive it becomes for other countries, and the more willing they are to accommodate EU requests in return for access (Ibid.). Indeed, the ability to grant or withhold market access makes Brussels a powerful bargainer, as it allows the imposition of conditionality, and the request to adopt European norms, principles, and regulatory models.

On the other hand, we find the *normative power*, which is more challenging, as it is about projecting European preferences through the negotiation of wider trade agreements. However, it is much more pervasive because rather than forcing others *to do* what we want, it pushes them *to be willing to do* what we expect (Meunier and Nicolaïdis, 2005). Additionally, it implies the capacity to use trade to upload the domestic agenda to the global arena persuading others (Peterson, 2007).

Soon, the experience led the EU to the conclusion that its interests were best served through the negotiation of preferential trade agreements, rather than multilateral ones. PTAs are a valuable way to impose conditionality to third parties, connecting trade concessions to the satisfaction of specific requirements (Peterson, 2007). Another salient feature of the European approach to PTAs is the increasing tendency to punish states that infringe agreed provisions (Gillespie and Youngs 2002; Youngs 2004).

Coming to the practice, since Lomé IV, the most distinctive trait of European PTAs is the introduction of human rights clauses that imposed the respect of human rights and fundamental freedoms as a prerequisite for maintaining trade privileges (Bartels, 2013).

The tendency of the Union to export human rights standards dates back to 1977 when Brussels tried to adjust STABEX compensation to human rights records, but that contravened the provisions of Lomé I (1975-1980). Thus, the Commission tried to persuade ACP countries to introduce *ex-post* human rights clauses enabling the suspension or termination of concessions in case of violations. These attempts proved however unsuccessful until Lomé IV (Ibid.) although, also in this case, human rights provisions were mainly symbolic.

The first, truly operative human rights clause ever introduced by the EU was that in the framework of the Argentina-EU Cooperation Agreement (1990). Since then, Brussels has started to include more proactively human rights requirements in new agreements with other partners (Ibid.).

Two essential turning points occurred in the 1990s and changed the EU stance. The first one was the human rights policy adopted by the EU in 1991, according to which the Commission would commit to include operative human rights clauses in new agreements with the rest of the world (EU Council, 1991). As a consequence, Lomé IV-bis was the first cooperation agreement to have an effective human right provisions (Bartels, 2013).

The second turning point was the EU Council's ratification of a fully-fledged policy to introduce effective human rights provisions in *all* cooperation and trade agreements (EU Council, 1995). This new policy became the European flag in international negotiations, at the point that it included human rights as a conditionality to gain preferential treatment under the GSP, financial and technical assistance, and development aid (Bartels, 2013).

The direct result of this new course is the Cotonou Agreement, which includes human rights and other important conditionality, under the wording 'essential elements', at articles 9 and 96 (Ibid.).

The CPA is innovative because it introduces several standards and norms that ACP countries have to comply with to obtain assistance. From social and governance criteria to environmental protection, from labour standards to security norms and sustainable development (Peterson, 2007), the EU goes beyond, adding several 'core provisions'. Indeed, Article 9 lists the points on which Brussels seems to be uncompromising:

"Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development."²

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² https://www.europarl.europa.eu/intcoop/acp/03_01/pdf/mn3012634_en.pdf

Another relevant example of trade used as a vehicle to project EU norms is represented by the 2012 EU-Central America Agreement, which at Article 1 states:

"Respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, underpins the internal and international policies of both Parties and constitutes an essential element of this Agreement"³

The EU committed to implementing such clauses by envisaging the possibility to undertake 'appropriate measures' under the 'non-execution clause', authorising the partial or total suspension of the Agreement, should the counterpart(s) violate the 'essential elements' (Bartels, 2013). That is foreseen in Articles 96 of the CPA, 355 of the EU-Central America Agreement, and 8 of the EU-Colombia/Peru Agreement.

These provisions prove the importance that Brussels attaches to trade and economic assets as devices to export its priorities, but also to punishing noncompliance. In this instance, Zimbabwe and Mauritania provide clear evidence.

In 2002, while negotiating the EPA with the Eastern-Southern Africa (ESA) group, the EU tried to address the issue of the breaching of the CPA democratic requirement by the Zimbabwean regime through political dialogue (Ibid.) but, failing it, soon opted for more severe measures. Indeed, under CPA article 96, Brussels suspended assistance projects and established CFSP sanctions (arms embargo, suspension of contacts, and individual restrictions).

Thereafter, since the regime refused to comply and kept violating CPA essential elements, the EU worsened its response up until 2008 when finally the regime started to cooperate. As a means of appreciation, in 2012 the EU eased sanctions and restarted political dialog (Bossuyt et al. 2018).

Similarly, in 2006, the Mauritanian government violated provisions on democracy and human rights as of CPA article 9. The Commission availed of the political dialog to urge the counterpart to respect the agreed provisions. In response, the government promised to hold free and fair elections and to establish an independent National Commission on Human Rights. In 2007 the promise has been maintained (Aaronson, 2011).

In conclusion, we can not say that, through PTAs, the EU is making African regimes devoted to human rights and democracy, but at least conditioning trade

³ https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:346:0003:2621:en:PDF

concessions to the respect of some principles empowers Brussels, providing the grip to influence others' choices and policies (Hafner-Burton, 2009).

5. CONCLUSION

After having examined the three declinations of the European trade policy and its utility to achieve commercial and non-commercial objectives, the first lesson we can draw is that Brussels represents a fully-fledged trade power, with full actorness, as it possesses decisional power, institutional and implementation capabilities, and the capacity to employ resources to project power worldwide.

The second lesson is the undeniable nature of the EU as a power *in* trade since the magnetic power of its market confers the ability to influence others and to export norms and values. However less clear is whether the EU is also a power *through* trade, and what kind of power it exerts. Some posit that the EU is a normative power (Damro, 2012), a sort of *'force for good'*, committed to shaping the world to its image (Manners, 2002).

Others see in the EU simply a self-interested power, pushed by mercantilist and realist calculations to realise its (geo)political agenda and whose choices are driven by positional competition (Zimmermann, 2007). Others again believe that the emphasis on democracy, human rights, etc, is nothing else than a benevolent mask to hide its neocolonial plans (Jordi, 2018).

Thirdly, it is noteworthy that, although the EU attaches great importance to human rights provisions, such a commitment is more rhetorical than real (Carbone, 2005). Apart from sustainable development, democracy and human rights provisions are often non-binding and the relative sanctions are patchily imposed (Bartels, 2005).

More generally, the Commission frequently sacrifices long-term normative goals to immediate commercial objectives and, although some agreements as the CARIFORUM are taken as models of the European serious commitment to human rights (Aaronson, 2011), the lack of dispute settlement mechanisms and monitoring systems prevents the EU from truly challenging others' noncompliance (Zimmermann, 2007).

Despite the pressure of NGOs to avoid agreements with regimes that openly violate European principles, Brussels is not eager to break fruitful trade flows in the name of human rights (Aaronson, 2011). Indeed, it rarely happened. More frequently, the European approach consists of using trade and political dialog to shape and ultimately change others' behaviour (Commission, 2001).

Finally, the EU has not yet overcome its intrinsic contradictions (e.g., DG Trade vs. DG DEVCO agendas, or MSs vs. Commission preferences, etc) and still has to achieve the required coherence to exert effective normative power. However, trade is ever and ever

essential to export our principles, and norms and also recent PTAs (even with developed countries) provide evidence of it. Over time, however, these efforts will probably succeed in influencing others' actions and behaviours. After all, we are getting better at it.

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