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Efficient multilateralism or bilateralism? The TTIP from an EU Trade Policy perspective

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Abstract: The EU bilateral trade strategy since 2006, including the TTIP, has been justified by the European Commission on the bases that deep and comprehensive trade agreements are compatible with efficient multilateralism. The Commission argument is the following: in a context marked by international supply-chains, preferential agreements that allow for progress on what has been achieved at the multilateral level (topics WTO +) and in areas not already covered by the WTO (items WTO- X) may be considered as a stepping stone, not a stumbling block for multilateral liberalization. In other words, EU recent bilateral negotiations and agreements should be seen at worst as complementary to multilateral negotiations and at best as promoters.
This paper challenges this argument by pointing out that the multilateralization potential of a bilateral agreement may not be a sufficient condition for compatibility between the bilateral and multilateral approaches. Their complementarity may also be influenced by what is happening at the multilateral level. Content analysis of a primary source of information - the Bridges Weekly reports - shows that there has been a change in EU actions in the Doha Round towards Brazil, India and China since 2009. Though the EU did not preclude the inclusion of these emerging powers in the high table of negotiations at any time and was in favour of the Bali agreement of 2013, its willingness to respond to their demands reached a plateau in 2008. That may signal a change in the nature of its bilateral strategy. Indeed, from 2006 until 2009 the EU may have sought bilateral partners among new important trade players (India, ASEAN and South Korea) to complement or even facilitate a multilateral agreement. Since then, however, the EU may have focused on reaching agreements with even more important trade partners: the old Quad members (Canada, Japan and the USA) as a way to ensure the market access opportunities that it cannot longer expect to obtain from the Doha Round. Following this analysis, the TTIP should be read, at least in the short time, as an example of efficient bilateralism.
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JEL Codes: F13, F53, N44.

Keywords: EU, TTIP, Trade policy, multilateralism, bilateralism, regional agreements.

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1. Introduction

The Transatlantic Trade and Investment Partnership (TTIP) is part of the maelstrom of bilateral trade negotiations that the European Union (EU) has launched since mid-2000s. There are two major differences between these and other agreements signed in the past. The first is that the EU has sought to establish new-generation free trade areas with non-European developed countries while its traditional approach was bilateral or regional agreements with neighboring and developing countries. The agreement with South Korea entered into force in 2011 and, in 2013, the EU reached an agreement with both Canada and Singapore and started negotiations not only with the United States (US) but also with Japan.

The second difference is that these agreements represent a change in the trade strategy followed by the EU in previous years. From the late 1990s to the mid- 2000s, the EU tried to "manage globalization" following the doctrine of the then Trade Commissioner Pascal Lamy (Meunier, 2007). It froze the opening of new bilateral or regional trade agreements (although it continued with the already initiated) and focused in shaping the new multilateral agenda or multilateral round of negotiations, even though the U.S. was pursuing a more favorable policy towards bilateral agreements. From the mid -2000s, however, both the "Global Europe" strategy promoted by Commissioner Peter Mandelson (2004-2008) and the "Trade, Growth and World Affairs" strategy promoted by Commissioner Karel De Gucht (2010-2014), recognize the need for the EU to sign preferential agreements with key partners (Woolcock, 2012). In the words of Conceição -Heldt (2013: 122): ""Officially, multilateralism was the favourite EU trade strategy until July 2006".

The EU bilateral trade strategy since 2006, including the TTIP, has been justified by the European Commission on the bases that deep and comprehensive trade agreements are compatible with efficient multilateralism. The Commission argument is the following: in a context marked by international supply-chains, preferential agreements that allow for progress on what has been achieved at the multilateral level (topics WTO +) and in areas not already covered by the WTO (items WTO- X) may be considered as a stepping stone, not a stumbling block for multilateral liberalization. In other words, EU recent bilateral negotiations and agreements should be seen at worst as complementary to multilateral negotiations at the Doha Round and at best as promoters.

In page 10 of its Communication "Global Europe" of 2006, the European Commission specifically states that:

Free Trade Agreements (FTAs), if approached with care, can build on WTO and other international rules by going further and faster in promoting openness and integration, by tackling issues which are not ready for multilateral discussion and by preparing the ground for the next level of multilateral liberalisation. …To have a positive impact

FTAs must be comprehensive in scope, provide for liberalisation of substantially all trade and go beyond WTO disciplines. The EU's priority will be to ensure that any new FTAs, including our own, serve as a stepping stone, not a stumbling block for multilateral liberalisation.

In its 2010 Communication "Trade, Growth and World Affairs ", the message remained the same: “the bilateral is not the enemy of the multilateral. The opposite may hold truer: liberalisation fuels liberalisation.” (European Commission, 2010: 5).

Regarding the TTIP, the US-EU Presidents joint press statement of 13 February 2013 is quite clear: “Through this negotiation, the United States and the European Union will have the opportunity not only to expand trade and investment across the Atlantic, but also to contribute to the development of global rules that can strengthen the multilateral trading system” (EU, 2013). The European Commission memo published that same day explains that one of the key objectives of the TTIP is to address WTO+ and WTO-X areas (European Commission, 2013).

This paper challenges this argument that EU bilateral strategy in general and the TTIP in particular are compatible with the EU *leitmotif* of efficient multilateralism. It attests that the fact that these preferential agreements have the potential to be multilateralized is not a sufficient condition for compatibility between the bilateral and multilateral trade approaches. By taking into account what is happening in the Doha Round (DR), it shows not only that there may be multilateral determinants to EU bilateral agreements but also that their compatibility with efficient multilateralism may have changed in 2009. The article is divided into four more sections. In section two, we recognize that the European Commission reasoning is sustained by a large part of the literature. In section three, we justify the interest of adding an analysis of the DR into the equation and explain a way to do it. In section four we present the results. We conclude in section five.

2. The pillars of the European Commission reasoning

The line of reasoning of the European Commission is backed by a large part of the academia and derives from a debate on the complementarity of bilateral and multilateral approaches to trade that has been ongoing since the birth of the multilateral trading system after World War II. It is a debate that has been addressed from different perspectives by experts in international law and international economic policy as well as EU scholars. Most of them agree that both strategies need not be mutually exclusive and that a key condition for compatibility is whether preferential agreements have the technical capacity to bolster or undermine the WTO.

2.1. Bilateralism and multilateralism need not be mutually exclusive

What is to be a pro-multilateralism actor in the trade arena? If that meant both to be a member of the WTO and not having bilateral agreements, only a country or territory in the world would meet the definition: Mongolia. Currently all other WTO member countries have at least one free trade agreement (FTA) with another member. Therefore we can assume from the beginning that you can be an advocate of the multilateral system while having preferential trade agreements with third countries.

Indeed, the multilateral trading system established after World War II in the form of the GATT agreement contemplated the possibility of breaking with its fundamental principle of non–discrimination in certain circumstances. Article XXIV in particular allowed for bilateral agreements establishing free trade areas or customs unions. In the 1970s, moreover, the GATT agreement introduced, as a result of pressure from developing countries, the possibility to grant special trade treatment to developing countries.

Therefore, the EU having (bilateral or regional) preferential agreements with third countries does not automatically mean that it is conducting a trade strategy contrary to the multilateral system. According to Pascal Lamy (2013: 29), Director General of the WTO in 2005-2013 and Trade Commissioner of the EU from 1999 to 2004, “multilateralism is opposed to protectionism not regionalism." However, the multilateral system is only willing to accept bilateral or regional agreements if they allow for greater trade liberalization. More specifically, these agreements must meet certain conditions to be accepted: [1]

1) They must affect all commercial exchanges or an "essential" part of them.
2) In the case of customs unions, the common external tariff should not imply greater protection against third countries. If this is so, the union should compensate for the added protection with tariff reductions in other tariff headings.
3) Regional arrangements should be carried out within a maximum of 10 years.

The validity of these conditions has been endorsed by the analysis of the bilateralism-multilateralism rapport conducted from an economic policy perspective. Economists such as Baldwin (1993, 2006, 2013) have argued that bilateralism and multilateralism may feedback each other and in fact have done so. This position feeds largely on the effects of trade creation that ensue from bilateral agreements and considers that these arrangements may be building blocks of multilateralism in the medium to long term. Other authors such as Bhagwati (1991, 2008) argue instead that bilateralism can erode multilateralism mainly due to trade diversion effects, that is, to the inherent discrimination in market access these agreements imply. This view sustains that

[1] Article XXIV taking into account the Understanding signed at the Uruguay Round intended to clarify and specify some aspects of the article that had led to controversies and different interpretations.

bilateral agreements are stumbling blocks to the multilateral system as such a tangle of agreements - ' spaghettis bowls' - hinder trade. As both positions are based on empirical evidence, one can conclude that the nature of bilateral agreements can determine their compatibility with the multilateral system: the more trade creation versus trade diversion an agreement entails the more likely it is to support the multilateral system (WTO, 2011). [2]

So, one way to ascertain that the EU's bilateral strategy does not run against its pro-multilateral stance would be to analyze whether its bilateral agreements -signed or in negotiation- comply with the rules of the multilateral system. The problem is that such a study is very difficult from the moment that there is a legal limbo on this issue following the establishment of the EEC as a customs union in 1968 (WTO, 2011). That regional economic integration led to disagreements on the method to use for calculating the impact of the common external tariff in third countries. Agreement on that was never achieved and there exists no formal decision on the compatibility of the EEC with the GATT. Although several other preferential trade agreements have been examined by GATT working parties since then, only a few have been deemed to be compatible with Article XXIV and no agreement has been censured as incompatible with GATT rules. In the words of Woolcock (2007: 11): "the scope for different interpretations of Article XXIV GATT is such that there is no effective WTO discipline." [3]

2.2. Technical capacity to bolster or undermine the WTO

With the evolution of the GATT to the WTO and the widening of trade liberalization scope, doctrine has sought ways to determine whether a bilateral agreement complies with multilateral rules in this new framework (Estevadeordal *et al*, 2013). Starting from the basic condition of Article XXIV that bilateral agreements should not hinder multilateral achievements, there is some consensus among experts that bilateral trade agreements should only enable progress in trade liberalization, never a pull back. So, the more a bilateral agreement allows to progress on what has been achieved at the multilateral level (topics WTO +)[4] and in areas not already covered by the WTO (items WTO- X)[5], the more susceptible it is not to undermine the multilateral system (Horn *et al*, 2009).

[2] It should be noted that for some authors like Baldwin, trade diversion, that is, any bilateral or regional agreement inherent discrimination against third countries, can trigger a domino effect by encouraging third countries to participate in the preferential agreement.

[3] In the DR, the WTO members raised preferential agreements to "systemic problem" or problem that affects the entire global trading system and needs to be addressed as such (Estevadeordal *et al*, 2013). However, all that has been achieved in this regard is a DR pre-agreement on a transparency mechanism for preferential trade agreements (WTO, 2006).

[4] For example, the total elimination of tariffs and the liberalization of more trade in services.

[5] Following the World Trade Report 2011, the main policy areas covered by WTO-X provisions are: competition policy, investment, movement of capital and intellectual property rights not covered by TRIPS. The next largest group of policy areas are: environmental laws, labour market regulations and measures on visa and asylum.

Several comparative analyses of EU preferential trade agreements with third countries indicate that the EU bilateral agreements would fulfill the requirement of being WTO+ and WTO-X (Woolcock, 2007 and 2014; Horn et al, 2009). These studies show that, unlike the US, the EU does not have an FTA model. The agreements are adjusted according to the partner and, in particular, to the partner's level of development. Moreover, the EU does not use its rules aggressively with developing countries. These are asked, at least at first, to implement international rather than EU standards. Finally, in recent years, the EU has been including WTO- X items in its preferential agreements negotiations with both emerging economies (Chile, South Africa, India and Brazil) and developed countries (USA, Japan, South Korea and Singapore) as well as with its traditional partners (new agreements with the countries of the southern Mediterranean).[6] EU FTAs also try to go beyond what has been achieved in the field of services under the GATS (WTO+ issues).

From this perspective, therefore, mega-regional negotiations, including the EU-US and EU-Japan ones, could be a step towards the transformation of ' spaghetti bowls ' (chaos resulting from many different FTA) into ' lasagna dishes ' (Estevadeordal *et al*, 2013). These would be separate processes from the WTO but complementary in their aim of reducing transaction costs inherent to the ' spaghetti bowls '. As Abbott (2007: 582) put it: "The WTO might, in effect, 'free-ride' on all the PTA activity taking place." In fact, one frequent example to how bilateral agreements can be regionalized and even become multilateral is the creation of the Pan-European system of rules of origin in 1997 (Baldwin, 2013). [7] Following the metaphor, creating lasagna would be a step in the development of a multilateral super pizza.

It is interesting to note, in this sense, that while the TTIP is expected to have a negative impact on both the EU and US trade with third countries in the short term; in the long term the impact is to be positive thanks to a multilateralization of norms. The Bertelsman Foundation commissioned study on the macroeconomic impact of the TTIP estimates that EU and US trade with the rest of the world would drop in the short term by more than 10% (Felbermayr *et al*., 2013). The Centre for Economic Policy Research study calculates, however, that by 2027 the TTIP would increase GDP in the rest of the world by almost €100 billion (compared to €120 billion for the EU and €95 billion for the US) (Francois, 2013). This change in the nature of the TTIP impact on the rest of world would be the result of positive spillover effects derived from the EU and the US developing common regulatory approaches. The economic importance of the TTIP market will mean that their trade partners would have an incentive to move towards the new transatlantic standards…making it easier to multilateralize them either *de jure* or *de facto*.

[6] According to Horn *et a*l (2009), however, EU agreements show a significant amount of "legal inflation", i.e. commitments that are not legally enforceable.

[7] Another way to "multilateralizing" bilateral agreements would be to make them irrelevant by bounding "most favored nation tariffs" or WTO tariffs to zero for a set of goods (as the Agreement on Information Technology did in 1996). If tariffs are zero for all imports irrespective of origin, granting bilateral or regional preferences would no longer make sense. (Baldwin, 2006) This is in fact the case for nearly 50 per cent of world trade (Subramaian and Kessler, 2013).

This body of literature has of course detractors. Some researchers have argued that these mega- regional agreements, for all the WTO + and / or WTO -X topics they may cover, can also make the coexistence between the bilateral and multilateral systems more difficult, at least in the short term. As Bhagwati (2008: 94-95) remarks: "Lasagna cannot be made from spaghetti: it needs flat pasta. And pizza cannot be made from lasagna either!" On one hand, these agreements can create new trade diversion effects, especially through different norm recognition schemes and a plurality of norms of origin (Lawrence, 2013; Subramanian and Kessler, 2013). In particular, countries that tend to lose more decision-making power in the context of bilateral negotiations are the least economically powerful (UNCTAD, 2014; Bhagwati, 2008; Abbott, 2007). Moreover, these agreements can divert multilateral negotiating capacity and create valid alternative market access for key economic actors (Conceição - Held, 2013). Last but not least, as Dr. Supachai -former WTO director-general (2002-2005) - has recently pointed out during an interview,[8] they may set-up too forward-looking rules in areas that less developed economies would struggle to accommodate. Their impact would depend largely on whether they are more or less exclusive towards third countries.

Despite this criticism, however, bilateral agreements have tended to be looked at with increasing benevolence. This is in part due to globalization and the emergence of value added chains of production. While Director General of the WTO, Lamy (2013) claimed that mercantilism was dead because in order to be a competitive exporter a country must be a large importer. In a context marked by transnational production chains what was needed is a clear regulatory framework in areas such as services and investments. He argued that this governance demand was being met by the conclusion of preferential agreements. The key condition is that these agreements promote coherence between divergent regulatory regimes. In that case, the preferential and multilateral approaches would be mutually supportive. This was in fact one of the recommendations presented in April 2013 by the reflection group on the Future of Trade established by Lamy in 2012 (WTO, 2013).[9] Regarding the TTIP, an ECFIN Economic Brief (Galar, 2013) brings out that the EU exports and imports from the US are higher in value added than in gross terms. The author contends that by forwarding the TTIP (and an agreement with Japan) the EU would be strengthening global production networks and by so doing reinforcing the case for multilateralism (assuming that these would be agreements open to new members).

[8] Business Desk of *The New Zealand Herald,* "TPP risk weaker world trade system –ex WTO boss", 21 July 2014.

[9] Another group of reflection on how to strengthen the multilateral trading system, The E15 Initiative of the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum, reached similar conclusions in December 2013.

2.3. Equation 1

The European Commission rationale regarding the affinity of the EU bilateral strategy and efficient multilateralism is based on a rich body of research on the effects upon the multilateral system not only of preferential tariffs but also of deep integration areas regarding non-tariffs barriers and value added chains of production. In other words, its bilateral strategy justification, including the TTIP, cannot be accused of lack of analytical support.

The argumentation of this strand of the literature, however, relies upon the potential technical feasibility of multilateralization of bilateral or regional agreements. In fact, one may argue that for those researchers the main condition for bilateralism and multilateralism compatibility is the potential for multilateralization of preferential agreements as encapsulated in Equation 1. This is where several questions emerge: Is the only issue a technical one? Is it possible that multilateralization does not take place despite the fact that bilateral agreements are technically compliant? Can potentially compatible regional agreements become stumbling blocks because multilateralization does not take place?

Equation 1

Bilateral and multilateral trade approaches compatibility = (depends upon) the potential for multilateralization of regional trade agreements (the more WTO+ and WTO X the more possibilities).

Some authors have started to put the comprehensiveness of this equation in doubt. Ash and Lejarraga (2014: 81), for example, have pointed out: "whether, when, and how to multilateralize WTO-plus and WTO-beyond provisions in RTAs is primarily a political question…" If the technical condition is not enough: What other conditions should be taken into account? How can we improve this equation? As we already have a condition regarding the nature of bilateral agreements, we propose to include a condition regarding the nature of the multilateral context, that is, a condition linked to the other side of the coin.

3. Including the Doha Round into the equation

In this section we justify the need to include the multilateral context into the equation on which the European Commission reasoning is based and propose a way to do so. The former is done by highlighting a less developed body of literature that stresses that the multilateral regime may bear on the formation of bilateral or regional agreements. The latter is done by defining a new independent variable.

3.1. A significant independent variable

Bergsten and Schott (1997: 3), in their preliminary evaluation of NAFTA, argue that "The startup of NAFTA negotiations in 1991 gave renewed impetus to the Uruguay Round in the GATT, which had stalled in 1990 because of US-Europe differences over agriculture, by reminding the Europeans that the United States could pursue alternative trade strategies." The authors further argue that the congressional passage of NAFTA in November 1993 together with the launching of a new era of cooperation via the APEC summit in Seattle "played a critical role" in bringing the Uruguay Round to a successful conclusion in the following month.

Some years later, Mansfield and Reinhardt (2003: 829) argued, following a systematic approach, that "developments at the heart of GATT/WTO encourage its members to form PTAs as devices to obtain bargaining leverage within the multilateral regime". Reciprocal preferential arrangements would both furnish states with insurance against the emergence of conditions within GATT/WTO that could threaten their economic interests (such as a failure to reach agreement in multilateral talks) and give them a greater voice in multilateral trade talks by increasing their market power. Their econometrical analysis indicates that developments within the multilateral regime that can create incentives to preferential trade agreement creation include the growth of GATT/WTO membership, trade disputes among GATT/WTO members and the periodic multilateral trade negotiations sponsored by GATT/WTO.

Last but not least, Baldwin and Evenett (2011) have recently argued that regionalism can be complementary to multilateralism when the multilateral system is active but becoming a substitute when the multilateral system is stagnant. In their words:

... regionalism per se was not the problem. Multilateralism and regionalism have gone hand in hand throughout the GATT/WTO's history. Regional and bilateral arrangements were embedded in a vibrant and reactive multilateral system – a system that could and frequently did update its disciplines on preferential arrangements. Regionalism in a world where multilateralism was permanently deadlocked would be a very different proposition – regionalism would begin to act as a substitute to multilateralism rather than a complement. ... (Baldwin and Evenett, 2011: 5-6)

That may be due to the fact that these preferential agreements, by increasing the bargaining power of the participants can also made them less willing to make concessions. As Conceiçáo-Held (2013: 114) puts it: "the better the outside option of an actors, the less dependent it will be on a multilateral trade agreement".

In any case, these studies signal that the multilateral context may be a good independent variable to add to the compatibility equation for at least two reasons: its lack of correlation with the European Commission independent variable and its impact capacity on the dependent variable. Regarding the first, any bilateral agreement, including the TTIP, could be either a strategy to get an accord at the multilateral level or a substitute to the multilateral accord independently of the WTO+ or WTO-X aspects of the

agreement. The inclusion of the multilateral context does not predetermine the sign of the technical variable; the results of both variables are not necessarily correlated. The fact that an agreement is WTO+ and/or WTO-X does not preclude a negative multilateral context.

As to the second, these studies highlight that the multilateral context may be favorable or unfavorable to the compatibility between bilateralism and multilateralism. In particular, they seem to indicate that the more difficulties at the multilateral negotiations, the more possibilities members will negotiate bilateral agreements as a strategy to get the accord at the multilateral level or at least as an insurance against the round stalling or failing to ensure certain market access results. However, if these difficulties are too severe, they may lead towards the bilateral agreements becoming substitutes to a multilateral accord.

Table 1 summarizes this analytical framework using the building and stumbling blocks terminology and Equation 2a encapsulates it. Both highlight the importance of being able to distinguish between difficulties severity to determine the positive or negative impact of this new independent variable to the compatibility nexus. When do difficulties at multilateral negotiations become too severe?

Table 1. Link between compatibility (dependent variable) and multilateral negotiations (new independent variable)

Multilateral negotiations difficulties	NOT too severe difficulties	Too severe difficulties
Incentive to bilateral agreements	Bilaterals as building blocks for multilateralism	Bilaterals as stumbling blocks to multilateralism

Equation 2a

EU bilateral strategy and efficient multilateralism compatibility = potential for multilateralization of EU regional trade agreements + difficulties severity in the Doha Round (too severe difficulties go against compatibility)

3.2. Defining and measuring the new independent variable

The literature does not provide for a definition of what should be considered too severe multilateral negotiations difficulties. Nevertheless, one would expect these difficulties to be at least apparent, that is, to be recognized by observers as especially severe, that is, as preventing any possibility of agreement in the short or even medium term. In the DR case we can find such a period after the 2008 informal ministerial meeting –"the most serious attempt to date to bring the negotiations towards finalization" (Ahnlid and Elgström, 2014: 81). Though the DR had been declared dead by some analysts at different times, it became *vox populi* after 2008 (Narlikar, 2012; Schwab, 2011). In fact, according to *Bridges Weekly* of 11 January 2012, the Ministerial Meeting of the WTO in December 2011 formally concluded that DR was in a "stalemate". Although the financial crisis that broke out in 2008 did not challenge the idea that trade should be as free as possible (Subramanian and Kessler, 2013; De Ville and Orbie, 2011), the difficulty in reaching agreements at the multilateral level put into question the ability of the WTO to be effective (Narlikar, 2012; Bhagwati, 2008). It may even be argued that the difficulties to enact the mini-package agreement achieved in December 2013 in the Bali Ministerial Meeting have not done much good to restore the WTO image (Herwig, 2013). Can we therefore consider that since 2009 and at least up until 2013 the DR negotiations difficulties were too severe?

The answer to this key question is not as straightforward as one may think because stalemates in multilateral negotiations are not so rare (Herwig, 2013). As most GATT rounds have tended to be declared in danger at different points in time and have finally led to agreement (Mansfield and Reinhardt, 2003; Cohn, 2002), it is difficult to judge the severity of negotiation difficulties on the bases of the number of years without progress. It may be that one year of stalemate in the Uruguay Round is equivalent to four years in the DR due to the higher number of participants, the scope of the negotiations or the impact of the 2009 financial crisis. For this reason, to be able to answer this key question we need further evidence that the severity of the negotiation difficulties became intense enough at least for the EU.

To do so, we propose to look at EU reaction to that negotiation juncture. If the negotiations difficulties had become too severe, one would expect the EU to react. No reaction or change in its DR strategy would be taken as a sign that the difficulties were not perceived as too severe by the EU. In that case, the EU would have been expecting an agreement at the multilateral level that would have made possible the multilateralization of its bilateral agreements (at least in the area of market access), reducing the potential trade diversion effects and making its bilateral strategy compatible with efficient multilateralism. Alternatively, a reaction or change in the EU DR strategy would be taken as a sign that the difficulties had become too severe. In that scenario, bilateral agreements after 2009 would have been undertaken without any expectation of reaching a multilateral agreement in the short or medium term. If this is the case, its bilateral strategy after 2009 may have become a substitute to multilateralism. This method is encapsulated in Equation 2b.

Equation 2b

EU bilateral strategy and efficient multilateralism compatibility = potential for multilateralization of EU regional trade agreements + EU responses to the stalemate in the Doha Round (change goes against compatibility)

That leaves us with the task to define EU DR Strategy so as to be able to establish whether it has changed. To do so we propose to focus on what most analysts consider to be the main reason for the DR stalemate: the emergence of Brazil, India and China (BIC) as key veto players in the negotiations (Ahnlid and Elgström, 2014; Narlikar, 2012; Schwab, 2011; Van den Bossche and Alexovicová, 2005; Evenett, 2003). Up until 2003, despite concessions to developing countries, consensus building in the GATT rounds of negotiations and in the DR was determined by the US and the now EU, along with Japan and Canada, the so called Quad (Ehlermann and Ehring, 2005).[10] In the Cancun Ministerial Meeting of 2003, however, several developing countries, under the leadership of India and Brazil, challenged the classic Western leadership in the trade arena. Their opposition led to the removal of new topics of interest to developed countries from the Round Agenda, the rejection of the agreement on agriculture proposed by the US and the EU and to a shift from the Quad to new groupings of consensus-building that include the BIC (Garcia-Duran *et al*, 2014; Narlikar, 2011b; Blackhurst and Hartridge, 2004). How did the EU react to the emergence of these new key players in the negotiations? Did it oppose or welcome their inclusion into the decision-making core? Did it make new concessions to satisfy their demands or took a passive role in the negotiations? Did the EU attitude towards the emerging new players change from 2009 onwards?

Esther Barbé, Oriol Costa, Anna Herranz and Benjamin Kienzle (2014) have designed an analytical framework to study how the EU copes with the changing distribution of power in multilateral institutions. It assumes that this power shift adversely affects the EU and advances that there are two ideal-type strategies that the EU can pursue. The first is accommodation: EU policy adjustment seeking compromise with newly empowered actors. The second is entrenchment: maintaining the policy held prior to structural change. In our case, as Table 2 summarizes, accommodation would mean that the EU is trying to seek compromise with the new actors so that its DR strategy would be to welcome their inclusion into the decision-making core and make new concessions to satisfy at least some of their demands. Entrenchment, on the other hand, would signify that the EU is trying to maintain the old way of doing things so that either it does not welcome the new players into the decision-making core or it does not make an effort to make concessions so as to foster the negotiations.

[10] On the formation of the Quad see Cohn (2002).

Table 2. EU possible reactions to BIC in the DR

EU Reaction to BIC	DR negotiations
Accommodation	Welcome inclusion of BIC in decision-making core AND concessions to at least some of their demands
Entrenchment	Reluctant inclusion of BIC in decision-making core OR no concessions to BIC demands

This analytical framework can help us establish whether there has been a change in the way the EU has reacted to the BIC and whether the change took place after 2008. As established previously, no change would mean that the negotiations difficulties are not perceived as too severe and therefore that EU is expecting a multilateral agreement to be reached. In that case, bilateral agreements may be devices to get the accord at the multilateral level. For our independent variable to be negative in terms of compatibility we should find that there has been a change in the EU reaction to the BIC after 2008. Equation 2c encapsulates this proposal.

Equation 2c

EU bilateral strategy and efficient multilateralism compatibility = potential for multilateralization of EU regional trade agreements + EU responses (accommodation or entrenchment) to BIC in the Doha Round before and after 2009 (change goes against compatibility)

3.3. Summing up

We propose to add a new independent variable into the compatibility equation of the European Commission: the reaction of the EU to difficulties in the DR negotiations. The inclusion of this new variable is justified by a body of literature that indicates that there may be a link between multilateral negotiations difficulties and bilateral agreements objective. This literature indicates both that difficulties in multilateral negotiations lead toward new bilateral agreements and that when these difficulties become too severe bilateral agreements become substitutes to the multilateral agreement.

Is this what has happened in the case of the EU? Could it be that its bilateral strategy started as complement and then became a substitute? From 2006 until 2009 the EU sought bilateral partners among new important trade players (India, ASEAN and South Korea). Since then, the EU has focused on reaching agreements with countries which

are even more important trade partners (Canada, Japan and the US). Are we talking about the same bilateral strategy or has there been a change?

4. The reaction of the EU to the BIC since 2003

To carry out this analysis of the EU position versus emerging countries along the DR negotiations from 2003 to 2013, we have used a primary source of information: the *Bridges Weekly* reports. This publication of the International Centre for Trade and Sustainable Development (ICTSD) weekly summarizes what happens in the context of the WTO on the bases of both interviews with participants in the negotiations and news from Reuters and several prestigious newspapers. The account of the negotiations we employ for the analysis is entirely based on this source of information.

The narrative indicates that the position of the EU towards emerging countries has gone from accommodation in 2004-2008 to entrenchment. As we explain below, though the EU did not preclude the inclusion of new actors in the decision-making mechanisms of the DR at any time, its willingness to make concessions in negotiations seemed to reach its limit in 2008. On the bases of our compatibility equation, this change in attitude indicates that the EU bilateral strategy could have also changed in nature: from compatible to efficient multilateralism to substitute.

4.1. Decision-making accommodation

In rounds of international trade negotiations, meetings to negotiate the content and make closer the positions are held at two levels: the technical and the political. The first takes place at the WTO headquarters in Geneva and is usually carried out by senior officers of member countries and / or appointed ambassadors. The second takes place at the level of trade ministers who meet in different forums: in the biannual ministerial conferences of the WTO and in the so-called mini-ministerials that host no more than 30 countries and aim to give political impetus to the negotiations. Generally, mini-ministerials take place several times a year in many different scenarios: in Geneva, when the Director General considers it appropriate, and in annual international meetings such as Davos, OECD, G8, Cairns,[11] APEC (Asia-Pacific Economic Cooperation) and, since 2008, the financial G20.

The system to reach consensus on these trade negotiations, either at technical or political level, is commonly divided into three phases. First, the consensus is sought among key market players, i.e. between members of the so-called Quad or mini-groups of key countries. The second step is to broaden the consensus to the 20-25 countries

[11] The Cairns Group is a coalition of countries which was born in the Uruguay Round to push for the liberalization of agricultural trade. It consists of both developed and developing agricultural exporter countries.

most affected by the measure through 'green room' meetings.[12] Finally, the agreement is laid out to the rest of the countries participating in the Round so as to reach a final general consensus. Unlike other international economic organizations, these consensus-building phases are informal. In other words, their existence and composition are not determined by any rule or agreement (Blackhurst and Hartridge , 2004).

Emerging countries were regular participants in the 'green room' meetings before the Cancun Ministerial Meeting (Blackhurst and Hartridge, 2004; Watal and Schott, 2000), but the transition to the "high table of multilateral negotiations" (Narlikar, 2010: 718) occurred only in 2004. As already pointed out in the third section of this article, the breakdown of the traditional system of consensus-building at the Cancun Ministerial led to the integration of the emerging economies in the decision making core.

As the *Bridges Weekly* recounts, it was necessary to agree on some commitments in the agricultural area, the cornerstone of the Round, to re-launch the DR negotiations in 2004. Consensus was generated under the G5, also known as the ' Five Interested Parties', which includes the US, the EU, Brazil, India and, the leader of the Cairns Group of agricultural exporting countries, Australia. The result of this consensus was the so-called July 2004 package. While this pre-agreement allowed the reactivation of the DR, it was not sufficient to reach a final deal in 2005 as planned.

Difficulties in reaching agreement have been constant. In the fourteen years since the start of DR negotiations, member countries have regularly pledged to end them and failed in their objective. Efforts have been made to achieve this goal by modifying several times the composition of the consensus groups so as to try to adjust them to the progress of the negotiations.

In 2005, the G5 was still the reference consensus-building core for agricultural issues but in September of that year the new Quad made its debut. Composed by the US, the EU, Brazil and India, this group received its name in memory of the old Quad (USA, EU, Japan and Canada). Soon, however, the G6 appeared, consisting of the G5 countries plus Japan, to try to reach agreement not only on agricultural products but also on non-agricultural ones (NAMA)[13]. The declaration of the Hong Kong Ministerial in 2005 had made it clear that results in the agriculture negotiations were contingent upon progress on NAMA negotiations as the EU needed to justify its agricultural concessions with benefits both in industrial goods and services.

[12] The term 'green room' comes from the color of the walls of the meeting room attached to the office of Mr Arthur Dunkel, Director General of the GATT in the 1970s (Blackhurst and Hartridge, 2004). In those years, these meetings usually covered less than 8 countries delegations. Although it no longer designates a specific physical space, this term is still used to designate informal meetings, now of 20-30 members, convened by the Director-General or the President of one of the areas of negotiation, to try reach a consensus which can then be extended to the rest of the membership. (Narlikar, 2011b; Schott and Watal, 2000).

[13] NAMA (non-agricultural market access) refers to all products not covered by the Uruguay Round Agreement on Agriculture: it includes manufacturing products, fuels and mining products, fish and fish products, and forestry products.

In 2007, the consensus leadership was assumed again by the new Quad or G4 because, by then, the major controversies in agriculture and NAMA were mainly among these four countries. It was the failure in 2008 of this four-sided strategy that led to the re-integration of more countries into the consensus-building core. Moreover, China joined the core of the negotiations that year for the first time, bringing about the G7. This strategy was almost successful. Agreement was nearly achieved in both July and December 2008. The confrontation between the U.S. and India, with disagreements on issues related to food security and the full liberalization of certain industrial sectors, prevented it.

In 2009 the DR dropped into lethargy. Despite commitments to terminate the Round both in 2009 and then in 2011, there was no real willingness to negotiate for it. No consensus-building core formations were called for; meetings were bilateral or among broader groups of countries. In fact, a Plan B was brought forward in 2011: to focus negotiations on a mini-package so as to achieve some partial agreements. Two and a half years after, that accord was reached in the Bali Ministerial.

It is interesting to note that, following the *Bridges Weekly* Reports, Bali negotiations were mostly carry out in mini-ministerials and in technical meetings. No meeting of any of the mini-groups (Quad, G5, G6, G7 or G8) is accounted for in the Reports. In other words, Bali negotiations seem to have skipped the first usual stage in international trade negotiations and to have directly gone to the second phase. This is probably due to the contents of the negotiations as the focus was on specific topics of especial interest to developing and least developed countries.

In any case, the EU has been a member of all the different consensus-building groups created since 2003. Our review of *Bridges Weekly* reveals that once it had accepted the emerging countries as necessary interlocutors in the negotiations after the break in Cancun, [14] the EU never opposed to integrating the BIC into the consensus-building nuclei; there is no evidence of rejection of this new structure. In the decision-making area, therefore, the EU reaction to emerging countries has been one of accommodation and thence of recognition of their veto power.

[14] According to the *Financial Times*, Pascal Lamy, then EU Trade Commissioner, declared in December 2003 that the G20 was a necessary negotiating partner. (FT 14/12/2003). Formed exclusively of developing countries, the G20 was formed to reject the US-EU pact on agriculture presented at the September 2003 Cancún Ministerial Conference. Led by Brazil and India, this was the first coalition to include China. The original countries of the G20 were: Argentina, Brazil, Bolivia, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, and Venezuela. Later there were changes in the composition of the group: Egypt and Kenya joined, but various South American countries withdrew under pressure from the US.

4.2. From accommodation to entrenchment in the negotiations

In the field of the DR negotiations, our analysis of the events through the *Bridges Weekly* indicates that we can distinguish between two different EU positions. The first reaction after the Cancun Ministerial was to adapt. Until 2008, the EU offered substantial concessions in two areas: the Singapore issues and the agricultural negotiations, so as to allow for progress at the DR. From 2009 until 2013, however, the EU adopted a position of entrenchment: it was unwilling to offer new concessions thereby accepting the risk of the DR stalling.

After the failure of the Cancun Ministerial in September 2003, the EU took a time-out to decide on whether to agree to the demands of other WTO partners, especially of the emerging countries, so that the round could continue. It formally adopted its new position on December 8 of that year following a statement by the European Commission adopted in November 2003: "…the EC remains committed to the multilateral trading system and will engage in re-launching talks, with the expectation that other parties show flexibility to negotiate and go beyond initial positions..." (*Bridges Weekly* Vol. 7, No. 40, 26/11/2003). By so doing, the EU accepted both that most of the Singapore issues might be dropped from the negotiating agenda and that it should make further concessions on agricultural issues to allow for progress at the DR. This commitment, together with the one of the US in January 2004, cleared the way for resuming the DR negotiations.

The intention to wrap up the DR was renewed each year from 2004 to 2008. In most of these negotiation developments, the EU had to make concessions so that the process could continue. These concessions are summarized in Table 3 taking into account that agricultural negotiations are structured in three axes: market access (tariffs and quotas), domestic support and export subsidies. It should also be noted that it was widely accepted that the outcome of the round was contingent upon a "triangle of issues" (*Bridges Weekly* Vol.10, Nº 19, 31/5/2006): EU efforts in agricultural market access, US efforts on domestic farm subsidies and emerging powers efforts regarding tariffs on industrial products.

Table 3. EU concessions in the DR negotiations 2003-2013

Year	Concessions
2004: July Package	The EU accepted to remove all or some of the Singapore issues from the Agenda and to eliminate export subsidies for agricultural products (although without a deadline). Finally, Trade Facilitation was the only Singapore theme included in the DR Agenda.
2005 **Hong Kong Ministerial**	The EU accepted 2013 as the deadline to remove export subsidies for agricultural products.
2006	The EU agreed to reduce tariffs on agricultural products by 46 %. It was a percentage close to what the BIC were demanding (54%) but far away from what the US requested (75%).
2007	Resistance by both the EU and US to expand their concessions in agriculture but eventually both expressed their willingness to do so: the EU regarding tariff reductions and the US in relation to domestic support.
2008	The EU accepted to reduce its agricultural tariffs at the level requested by the BIC and to cut down domestic agricultural support by 80%. Agriculture negotiations were almost completed but differences between the US and India on a topic related to food security and rural development prevented the deal.

Source: Bridges Weekly 2004-2008.

One can debate the degree of generosity of the EU negotiating positions but one can hardly question that they implied concessions, at least from the point of view of the EU. In fact, as recounted in *Bridges Weekly*, concessions in agriculture were made at the expense of great internal tensions within the EU. France led a strong opposition to all of them, accusing the European Commission of lack of mandate to perform, and tried unsuccessfully to achieve a blocking minority to prevent them:

In a further complication to a potential accord, however, nine EU countries, led by France and Italy, formed a coalition on Monday to push for better terms in a Doha Round deal, Reuters reported. EU Trade Commissioner Peter Mandelson has maintained that he has the support of EU member states in the negotiations, but the creation of the new alliance could nonetheless undermine his credibility at the talks.(Bridges Daily Update of July Negotiations, nº 9, 29/7/2008)

2008 was the year a final deal was almost attained. It was also the time when the EU made clear that it had reached its negotiating limit: it would offer no more concessions in the agricultural field. To advance the negotiations other actors should make more efforts. As publicly acknowledged by the then Trade Commissioner De Gucht, at a conference at the London School of Economics in March 2010, the EU no longer had domestic political support to go beyond (*Bridges Weekly*, Vol. 14, No. 11, 24/3/2010).

True to its avowal, the EU has not made any concessions in the negotiations since 2008. It should be noted, however, that it has always tried to facilitate meetings and potential agreements between other international actors.[15] In truth, the 2013 Bali mini-package was the result of a European proposal. As soon as 2006, the then EU Trade Commissioner Mandelson recommended to close some deals on issues that favored developing countries and especially the least developed, so as to make some progress in the DR and to prove the pro-development nature of the negotiations. This idea began to take shape in the WTO as a real plan B in 2011, in a context of negotiation fatigue.

This EU mediation or even leadership in the mini agreement is consistent with its traditional attitude towards multilateralism. Nevertheless, it does not imply accommodation from our analysis perspective because it did not signify any additional concession. Indeed, despite the pressures, the EU did not agree to include in the Bali package its previous commitment to eliminate export subsidies by 2013. It argued that this was part of its concessions for a global agreement on the DR.

5. Conclusion

The European Commission has repeatedly argued since the mid-2000s that bilateralism and multilateralism need not be mutually exclusive and that the key condition for compatibility is whether preferential agreements have the technical capacity to bolster or undermine the WTO. As EU new bilateral agreements allow for greater trade liberalization than the existing multilateral accords they can be seen as a form of enhanced cooperation in trade that would later on be susceptible of multilateralization. This paper has not disputed that claim. On the contrary, it has recognized that it is based on a solid research body and that the WTO+ and WTO-X nature of the agreements

[15] Ahnlid and Elgström (2014: 87) allege that the EU role in the negotiations changed at the end of the 2008 meeting: "becoming more a mediator than a leader".

should be taken into account to establish the compatibility of bilateral and multilateral trade approaches.

This paper however has challenged the comprehensiveness of the European Commission argument. It has argued that the potential for multilateralization of regional trade agreements is not a sufficient condition for compatibility and proposed a new independent variable to complete the analytical equation: difficulties severity in the multilateral negotiations. This variable is based on the idea that difficulties in multilateral negotiations lead toward new bilateral agreements as a strategy to get the accord at the multilateral level but when these difficulties become too severe bilateral agreements may be a way to substitute the multilateral agreement and ensuring new market access.

To establish whether the stalemate of the DR since 2009 can be considered to represent too severe difficulties from the perspective of the EU, we have used a proxy. We have looked at whether the EU has changed its actions at the DR from that moment in time, that is, at whether there has been a change in EU responses (accommodation or entrenchment) to BIC in the DR before and after 2009. According to the results, there has indeed been a change in the EU strategy towards the new trading powers. Until 2008 the position of the EU can be considered accommodative to the new trading powers. From 2009 onwards, however, the attitude of the EU in the Doha negotiations shifted to entrenchment. Having exhausted its scope to negotiate in agriculture in 2008, the EU has not offered more concessions at the multilateral level.

From the viewpoint of the compatibility equation, these results indicate that EU bilateral agreements initiated in the twenty-first century can be justified from the perspective of the multilateral system until 2008. The latest EU bilateral agreements or negotiations, however, would be read as substitutes to a multilateral strategy. In other words, potential free -trade agreements with Japan or the US would hardly be defensible from the point of view of effective multilateralism, at least in the short term. Through these bilateral agreements, the EU would be looking for the market access opportunities that it used to obtain from multilateral agreements and that have become even more important in a context of economic crisis. Hence instead of efficient multilateralism the main aim of the EU would be efficient bilateralism.

Anecdotal evidence lends support to our hypothesis that the nature of EU bilateral strategy has changed. Since 2006, the EU reaction to difficulties in the DR seems to have been the same: bilateral agreements. Yet from 2006 until 2009 the EU sought bilateral partners among new important trade players (India, ASEAN and South Korea). Since then, the EU has focused on reaching agreements with the old Quad members (Canada, Japan and the USA) which are even more important trade partners. Moreover, these results are in line with the conclusions reached by some authors (Siles-Brügge, 2014; De Ville and Orbie, 2011) that policy-makers in DG Trade at a time of economic crisis are being more sympathetic to the arguments of exporters than import-competitors. They are also in alignment with recent research on how the reciprocity

agenda of the EU, recognized in 2006 by the European Commission in 'Global Europe', varies depending on the degree of economic development of the partner. Following Woolcock (2014), the market access interests play less of a role the less developed the partner the EU deals with and vice-versa.

It may be that this new bilateral strategy would lead towards a multilateral agreement in the medium to long term by provoking a domino effect. The danger of the old Quad partners establishing a preferential market through bilateral agreements may lead the new trade veto players to lower their expectations and facilitate a multilateral compromise. But this may also not happen. By opening these negotiations or signing these agreements the EU has taken the risk of endangering the multilateral system.

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