

ARTICLES

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FOREIGN TRADE POLICY OF THE EUROPEAN UNION -EU Agreements on free trade-

I GENERAL REVIEW OF EUROPEAN UNION TRADE POLICY

1. Introduction: Globalisation and changes in international economic relations

One of the properties of international economic relations, in addition to their exceptional development, is the fast transformation of legal framework regulating interstate economy and trade. The phenomenon of accelerated increase in international trade in the last 50 years is clearly visible, influencing the formation of new international institutions, such as World Trade Organisation, in the last decade of the XX century. In the last five decades, world trade has been increasing at a 6% rate, i.e. much faster than the world gross product (GDP), which has been increasing at a rate of 3.7%. The share of trade in GDP has increased from 7% in 1950 to 22% at

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the end of the XX century¹. This trend continued at the end of the previous and beginning of this century, but contents of the world trade are changing as well. For example, there has been an exceptionally large increase in trade in services², as well as an »explosion« of international financial transactions worldwide³.

Changes in the globalised world economy also bear the following characteristics:

- Swift development of information, telecommunication and technology in general,
- Development of specific operations within multinational companies (»intra-trade« within the same company in different countries on different continents),
- Fast increase in direct foreign investment⁴.
- Further liberalisation of trade on a multilateral, bilateral and autonomous level
- new trade powers emerging in the third world countries (China, India, Brazil) in addition to the existing trade powers (EU, USA and Japan).

These and other changes affect modifications in the regulation of international trade flows. For instance, the share of services in the domestic product and employment of EU countries has reached 77%, while the share of agriculture represents a mere 2%⁵, which shows, beyond a doubt, where the current focus of economic power lies. The EU covers approximately one fifth of international trade, being the largest world trade power. It

¹ V. Ossi Tuusvuori, "International trade relations and the multilateral trading system: key elements", in H.P. Tchani and O. Tuusvuori Ed, *Principles and Elements of Free Trade Relations*, EFTA, Geneva, 2000, p. 13.

² Services comprise approximately 70% of the GDP of developed countries (OECD members) and approximately 50% in a large number of developing countries (DC).

³ Jacques Attali states that international financial transactions in 2006 were 80 times greater than international trade (while the same ratio in 1997 was only 3.5 to 1). In other words, the amount of annual world trade represents only 4.3 days of world transactions in foreign currency and stocks and bonds, see. J. Attali, *Une breve histoire de l'avenir*, Fayard, 2006, p. 106.

⁴ Ossi Tuusvuori, *op.cit.*, p. 17-18.

⁵ Pursuant to WTO, Trade Policy Review, *EC, Report by the Secretariat*, Geneva, WT/TPR/S/177, 22.01.2007, at. IX.

participates in international investments and financial operations with an even higher share. If the »internal« trade of EU member states is added to these numbers, their total participation in world export rises to over 40%⁶. Export of goods from EU countries into the world (excluding the internal trade between member states) has reached approximately 1,200 billion euros.⁷ The import has reached a similar level as well.⁸ USA is European Union's most significant partner in the trade in goods (with a share of 24% in EU export), followed by Switzerland, China, Japan, Russia etc. Approximately three quarters of EU import are primary products, while 87% of EU export represents modified industrial products.

The aim of this treatise is to present the achievements and changes in EU foreign trade policy, particularly when it comes to its bilateral trading agreements. EU trading regime has a direct impact on international trade system regulation. Conversely, changes in the world institutional system also have a direct impact on the Union's trade regime and policy.

With the failure of negotiations held so far in the WTO ("Doha Round"), great trade powers (USA, EU etc) are turning towards bilateral regulation of their trade relationships with other countries or trade blocks. In the words of Pascal Lamy, Director General of the WTO, "***There has been a veritable flurry of negotiating activity around regional trade deals in the last several years***"⁹. The number of regional free trade agreements (as they are named in WTO terminology) has already surpassed 200, of which a considerable number were signed by the EU.

⁶ In 2004, share of the EU (foreign trade) in the world trade in goods was 18%, in comparison to 12.3% share of the USA and 8.5% share of Japan. This, however, does not include the "internal" trade in goods between EU member states (on the Common Market) which is about two times larger than the trade between EU and the rest of the world (2,510 billion US dollars compared to 1,280 US dollars or 66.2% to 33.8%).

⁷ More precisely, 976 billion in 2003 compared to 882 billion euros in export in 2001. Source: WTO, *Trade Policy Review, EC, Report by the Secretariat*, 23. June 2004, WT/TPR/S/136.

⁸ Import of EU member states in 2003 amounted to 987 billion euros, compared to 920 billion in 2001. Among the member states, the largest share in world export is that of the Federal Republic of Germany (second in the world), followed by France (fifth in the world) and Great Britain (sixth). These three countries also have the highest share in world import. Of the new EU members from Central and Eastern Europe, highest share is that of Poland, followed by Czech Republic and Hungary,

⁹ P. Lamy, Speech at the Conference on "Multilateralizing Regionalism", Geneva, WTO, 10.9.2007, at http://www.wto.org/english/news_e/sppl_e/sppl67_e.htm.

In the first part of this text, we will point out basic institutional changes in EU competencies in the field of international trade, as well as strategic orientation of the EU in this field, including the changes in content of regional trade agreements in the Union. In the second part, we will present trade relations of the EU in individual regions.

2. Evolution of European Union jurisdiction in international trade following the conclusion of the Lisbon treaty

Like any other international organisation, the EU bases its international jurisdiction on foundation treaties¹⁰. Founded as a customs union¹¹, the European Economic Community started concluding agreements with third countries in the fields of customs and trading.

It can be said that the trade policy has played a key role in the development of EU's international role for decades, especially in world trade relations¹². The basis for the common trade policy of the EU is in »Chapter IX« of the Treaty establishing the European Community (Articles 131 - 134)¹³. Key provision of this chapter is Article 133, item 1, which states that »**The common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements...**« It is important to point out that the common trade policy of the EU is one of

¹⁰ This is the Treaty of Rome on the establishment of the EEC from 1957, with all following amendments and additions (Treaties of Maastricht, Amsterdam and Nice). See *Treaties Establishing the European Communities*, OOEPC, Luxembourg, 1987; R. Vukadinović, *Pravo Evropske unije (European Union Law)*, Kragujevac, 2006; B. Košutić, *Uvod u evropsko pravo (Introduction to European Law)*, Zavod za udžbenike, Belgrade, 2006, p 283; P. Mathijsen, *A Guide to European Community Law*, Sweet and Maxwell, London, 1990, 5th ed, 543 p.

¹¹ Article XXIV of the GATT Agreement, i.e., the WTO defines a customs union as a substitution for several custom territories with "a unified customs territory, wherein this modification leads to the abolishment of customs and other restrictions for the most part of trade between the territories that comprise such a union, as well as to universal application of identical custom tariffs and other restrictions, by all union members, to the countries outside of the union". In other words, a custom union has both its internal, and its external aspect (common tariff).

¹² "C'est d'abord dans les relations économiques internationales que l'UE a affirmé sa présence au monde", ("At first, the EU confirmed its presence in the world through international economic relations") see Franck Petiteville, *La politique internationale de l'UE*, Science Po, Les Presses; Reference, Paris, 2006, p. 151.

¹³ Nomenclature stated as per the Treaty of Nice. This was formerly title VII, Articles 110 – 115 of the Treaty on the European Economic Community.

few Union policies that are in *exclusive jurisdiction* of the EU. In other words, member states of the EU may not have their own policies in this field, nor can they enter into independent international trade agreements (treaties)¹⁴, which does not mean that they have no influence over the formulation of this policy within the decision-making system of the EU¹⁵.

The issue of scope of the common trade policy was opened very early on, bearing in mind a certain imprecision of the definition provided in Article 133, as well as the evolution of international trade character in the second half of the last century. In its »opinion« issued on the conclusion of the World Trade Organisation Treaty in 1994, EC Court of Justice pointed out that, except for the exclusive jurisdiction in the field of custom tariffs and trade in goods, Community and its member states share jurisdiction over entering into General Agreements on Trade in Services (the so-called "GATS"), as well as trade-related aspects of intellectual property rights ("TRIPS"¹⁶). With this opinion, the EC Court of Justice has introduced the concept of so-called "mixed jurisdiction" in the field of trade in services and trade in intellectual property rights – but has not provided a clear definition of boundaries between the European Community on one hand and its member states on the other hand. Jurisdiction boundaries issue, i.e. the issue of the scope of EC jurisdiction in these matters, presented a legal dispute that went on for decades between member states and EC bodies (especially the EC Commission, as the main enforcer of the common trade policy)¹⁷. The later Treaties of Amsterdam and Nice did not provide a definite solution to this issue, even though

¹⁴ For more on the character of common trade policy, see D. Lopandić, *Trgovinska politika Evropske unije i Jugoslavija* ("Trade policy of the European Union and Yugoslavia"), Institut ekonomskih nauka, Begrade, 1997, p. 185.

¹⁵ On the distribution of jurisdiction between the EU and its member states in foreign relations, see E. Volker (ed), *Division of powers between the EC and their Member States in the field of external relations*, Kluwer, 1981, p. 149.

¹⁶ *Opinion* 1/94, 15.11.1994, *ECR* (1994), 5276, see commentary by N. Neuhwal, "Shared powers or combined incompetence? More on mixity", *Common Market Law Review*, 33, 1996, 667-687.

¹⁷ In the vast diverse volume of literature written on this subject, for example, M. Maresceau, *The European Community Policy after 1992, The Legal Dimension*, Martins Nijhoff Pub, European Institute Gent, 1993, 472 can be singled out.

certain amendments that reflected the spirit of the existing »mixed treaty«¹⁸ were entered into the Treaties.

The new »Treaty of Lisbon« on the reform of the EU (concluded on December 13, 2007)¹⁹ should provide a clear delineation of jurisdiction between the EU and its member state, taking into consideration EU practice up-to-date as well as the drastic changes in international trade character. Main amendments introduced into this field by the new Treaty of Lisbon are:

- Common trade policy will be included in a single chapter entitled »Foreign Activities of the Union« leading to a better coherence between different international policies of the EU²⁰,
- European Union is granted the status of a »legal person«, i.e. its international personality²¹,
- It is clearly defined that »commercial agreements pertaining to trade in goods and services, as well as trade-related aspects of intellectual property rights, as direct foreign investments«²² are also a part of the common EU trade policy; trade in services and foreign investments are clearly brought into exclusive jurisdiction of the EU, which was previously not the case,
- Decision making process for the conclusion of trade agreements of the EC has been changed, by conferring a greater role in this process to the European Parliament. When it comes to the decision making process in the EU Council, it is governed by the qualified majority system, with the exception of the unanimous decisions necessary for certain

¹⁸ For a critical analysis of the amendments to the Treaty of Nice in this field see Y. Gautier et I. Lianos, "La revision de l'article 133, une révision à haut risque?" in V. Constantinesco et al, *Le Trate de Nice, premieres analyses*, PUS, Strasbourg, 2001, 175/207

¹⁹ Due to the negative outcome of the referendum in Ireland, the Treaty of Lisbon will probably not come into force by the end of 2009.

²⁰ Title V, the so-called "consolidated version" of the Treaty on the EU, see Council of the EU, 6655/18, Brussels, April 15, 2008, published in *Official Journal C*, 115, 9. May 2008.

²¹ So far, international personality was granted to the European Community, which was only one aspect/part of the EU.

²² Article 207 of the consolidated version of the EU Treaty (former Article 133 of the EC Treaty).

sensitive issues relating to the services sector (issues of national culture protection, healthcare, etc)²³.

These amendments will strengthen the position and the efficiency of the European Union as a single participant in international economic relations, especially in the EU, but in other forums and in her bilateral relations with other countries as well.

3. Types of bilateral trade agreements of the EU – "pyramid of preference"

In principle, international trade agreements can be classified in two major groups. The first group is the »non-preferential agreements«, which contain the clause of the so-called "most favoured nation (MFN)" but, in essence, do not go any further than guaranteeing non-discrimination between the two partners, pursuant to the treatment granted to the members of the WTO/GATT²⁴. Second major group are the so-called "preferential trade agreements" or regional agreements through which, pursuant to WTO rules, customs unions (rarely) or free trade zones (so-called Free Trade Areas (FTA), formed very frequently). The system of economic and trade relations of the European Union represents a very important component of the international economic system. For the most part, it is harmonised with the general principles of the WTO, but at the same time, it reflects specific interests of developed European countries, formed during several decades of the XX century and at the beginning of this century. Bilateral trade agreements represent an element of EU strategy towards third countries. Created in the beginning as a way of regulating cooperation between EU countries and their former colonies, once the customs union of the EC was formed, EU trade agreements became very numerous and very diverse.

²³ On the changes in trade policy see S. Woolcock, *The potential impact of the Lisbon Treaty on EU External Trade Policy*, EPA, Swedish Institute for European Policy Studies, June, Issue 8, 2008.

²⁴ On the classification of EU agreements and the clause of most favored nation, see D. Lopandić, *op.cit.*, p. 20. For the definition of the most favoured nation, see Walter Goode, *Dictionary of Trade Policy Terms* (translated by S. Zubić-Petrović *et al*), MEOI SCG and Centar za evropsko pravo, Belgrade, 2005, p. 241-242.

In 2007, EU had 22 regional trade agreements (FTA), concluded with 24 countries or territories²⁵, as well as over 70 non-preferential arrangements. According to the classification of trade agreements presented by P. Messerlin, which can serve as a basis for illustrating Union agreements of today as well, there are six »tiers« on the »pyramid of preference« of the European Union²⁶. They are classified according to the level of privileges²⁷ granted to individual countries at the time they enter the Union market. The lowest, first tier comprises the countries that are not members of the WTO, which have no privileges and which receive the most favoured nation treatment in the field of custom tariffs (mostly ex-socialist states, such as Russia and other members of the Commonwealth of Independent States, North Korea and others). At the next, slightly more favourable, second tier are those members of the WTO that are EU partners in the OECD (developed countries, like USA and Japan), to which normal MFN custom tariffs apply (as guaranteed by their membership in the WTO), without any limitations pertaining to quotas and similar limitations. According to WTO report, only nine WTO members (those most developed) trade with the European Union exclusively on the basis of the MFN status (therefore, not enjoying any bilateral or multilateral preferences²⁸, while all other members of the WTO enjoy certain privileges in their export into EU pursuant to their bilateral agreements). Countries in development, which enjoy multilateral privileges pursuant to the so-called »general preference scheme«, comprise the third tier. Fourth tier encompasses Mediterranean countries, which have concluded bilateral trade agreements (on free trade). The next tier (fifth tier) is occupied by the countries in Africa, Caribbean and Pacific (ACP – mostly former colonies of the EU members), which were granted benefits pursuant to their former multilateral »Lomé Convention«, which has later evolved into »Cotonou Agreement« (economic partnership agreements with the ACP). Finally, at

²⁵ According to WTO, *Trade Policy Review, the EC*, Geneva, 2007, WT/TPR/S/177, p. 15.

²⁶ P. Meserlin, *Measuring the cost of protection in Europe*, European Commercial Policy in the 2000s, Institute for International Economics, Washington, 2000, p. 205-206.

²⁷ These are mostly customs tariffs privileges and elimination of various quantitative limitations, such as customs quota and the like

²⁸ These countries include: USA, Australia, Canada, Taiwan, Hong Kong, Japan, Korea, New Zealand, and Singapore. These 9 countries cover approximately 36% of EU foreign trade. WTO, *Trade Policy Review*, European Communities, Geneva, 2007, WT/TPR/S/177.

the top of the pyramid, with the highest level of privileges, or integration into the EU market are the countries of the EFTA (European Economic Area), as well as those European countries that have signed the Agreements on Association into EU (Western Balkans and Turkey).

The previous classification into six tiers of »preference« is quite schematic and has changed over time²⁹. Within each of the tiers there were slight variances in treatment of individual countries or regions, especially when it comes to the so-called »sensitive« agricultural products, or to the »new« liberalisation sectors (e.g. services).

It's important to emphasize that, regardless of the large number of preferential agreements, approximately three quarters of EU import is realised based on non-preferential rules (i.e. on the MFN basis)³⁰ meaning that the multilateral regulations prescribed by the WTO have kept their significance.

4. Strategic objectives of the European Union in international trade system in the first decade of the XXI century

It needs to be kept in mind that EU trade policy is primarily developing in a multilateral context, i.e. within the framework set by World Trade Organisation rules. EU was one of the key participants of the Uruguay round on World Trade Organisation Agreements (1993), which it signed together with its member states (so-called »mixed agreement«). EU and its members are represented by the EU Commission within the WTO. The Commission leads any trade negotiations (bilateral and unilateral) in the name of EU. EU member are presented as a single entity in the WTO, but when it comes to voting, each member state casts its own vote, although in coordination with others (in other words, the EU has 27 votes, which is the number of its member states in the WTO). EU took an active role in the current development round of the WTO (Doha round - DDA) which started

²⁹ For example, a little more than two decades ago, Central European countries that had already been accepted into EU membership were at the lowest, sixth tier of the "pyramid of preference".

³⁰ This would mean that a large part of trade with the so-called preferred partners does not, for various reasons, enjoy the prescribed privileges (e.g. privilege exceptions or application of strict rules on the origin of goods, or the goods in question may be goods that are not subject to any custom tariff etc.)

in 2001³¹. In principle, EU advocates further liberalisation of international trade relations. The main objectives of the EU during the Doha round were: elimination of high custom tariffs and »tariff peaks«, not only in the exchange between developed countries, but also in the relations »between north and south«; general expansion of access to the services market (liberalisation); reduction in subsidies for agriculture (promise of elimination of export subsidies of the EU by 2013) and providing special support measures to the least developed members of the WTO. However, regardless of numerous attempts to reach an agreement in a large number of Ministers' meetings, the Doha round yielded no results, primarily because a compromise between the developed countries (USA and EU) on one hand, and most important developing countries, with respect to trade (such as Brazil, India, South Africa and others)³².

Even though negotiations within the WTO remain a key element of EU strategy, difficulties encountered during the Doha round were one of the reasons why the European Commission announced its international trade relations strategy in 2006, with emphasis on the conclusion of bilateral agreements on free trade³³. This document is also the result of gradual changes in EU trade policy. For example, in the last decades, EU has increased its insistence on reciprocity in its relations with less developed countries (i.e. mutual abolishment of customs etc). EU trade policy (which encompasses numerous regional agreements) also shows a trend of a certain decrease in WTO multilateralism. While the EEC (EU) entered into preferential agreements on free trade only in Europe and Mediterranean countries in the first decades of its existence, in the last few years it has also

³¹ On WTO, see Bhagirath Lal Das, *An Introduction to the WTO Agreements*, Zed Books, London, 1998, 138 p. Snezana Zubic Petrovic, A. Rakovic, (ed), *Svetska trgovinska organizacija, pravni instrumenti i savremene tendencije* ("World Trade Organization, legal instruments and modern tendencies"), MEOI SCG, Belgrade 2005, p. 499; Predrag Bijelić, *STO* ("WTO"), Prometej, Belgrade, 1996, p. 264

³² On the failure of WTO negotiations see J. Wheatly, "Collapse of Doha forces acceptance of second best", *Financial Times*, 4.8.2008; H. Stewart, "Doha: India accuses US of sacrificing world's poor at trade talks", *The Guardian*, 31.7.2008.

³³ It needs to be stated that this trend was also present in the previous period, as can be concluded from the documents on effects in the field of trade policy of the "Prodi Commission", see European Commission, *Trade Policy in the Prodi Commission 1999-2004, An assessment*, Brussels, November 19, 2004, <http://trade.ec.europa.eu/doclib/html/120087.htm>.

been concluding such agreements with countries on other continents (e.g. South America)³⁴.

In a document entitled »*Global Europe – competing in the world*«³⁵ the European Commission has confirmed its principal commitment to WTO negotiations and the open market. At the same time, the document points out new aspects of trade relations, important for the competing ability of regions and countries, such as: intellectual property, services, non-customs measures, investments, public procurements and competition regulation. These issues are encompassed by the so-called »*new agreements*« on free trade. The document predicts strengthening of bilateral relations, i.e. conclusion of free trade agreements outside traditional regions with which the EU had concluded these agreements in the past (neighbouring countries in the Mediterranean, as well as African and Pacific countries). Economic interest in Asian markets is particularly emphasised, primarily in China. Market potential and degree of protection (customs etc.) of certain markets were taken as the main criterion for the selection of priority partners for Free Trade Agreements (FTA). The following countries were identified as partners that EU could, in the future, conclude preferential agreements (FTA) with: countries of the ASEAN, South Korea, India, Arabian countries in the Persian Gulf, Mercosur countries (South America) and Russia. Regarding the *content* of such agreements, the document emphasises the need to achieve a high degree of liberalisation, not only regarding customs, but also regarding services and investments; in addition, non-customs measures, intellectual property, competition rules and rules of origin are also mentioned. According to the S. Evenett's assessment, the EU Commission document does not represent an actual break from the previous policy, more of a step towards a further transformation (evolution) of the EU trade policy³⁶.

³⁴ "In the mid-1990s, the EU began to change its strategy toward developing world, a policy shift which was completed in 2006" in A. Sbragia et al, "The EU and trade agreements: development and competition in a post-WTO/post-NAFTA World", Conference "*Europe and management of Globalisation*", Utah, May 2008, <http://www.ucis.pitt.edu/euce>.

³⁵ See Commission of the EC, *Global Europe: Competing in the World, Communication to the Council*, Brussels, 4. October 2006, COM (2006) 567 final and SEC (2006) 1230, at <http://ec.europa.eu/trade>.

³⁶ S. Evenett, "Global Europe: An initial assessment of the European Commission's new trade policy", *Aussenwirtschaft, Special Issue*, January 2007.

Even though it is not implied in the document, expanding free trade agreements outside EU's »traditional« areas (Europe, Mediterranean, ACP) is a form of an EU response to the sometimes aggressive policy of the USA in concluding FTAs with numerous countries throughout the world³⁷ (USA has 11 FTAs in effect, including the NATA, as well as 3 signed agreements and 15 agreements at various stages of the negotiation process)³⁸. Foreign trade policy of the EU is also a product of the relations between the two greatest trading powers in the world, EU and USA.

5. Certain significant elements of »new trade agreements« of the EU

Compared to classic trade agreements that primarily or even almost exclusively regulated the trade in goods, i.e. issue of customs tariff liberalisation and other equivalent taxes on goods, content of the »new« trade agreements encompasses other issues and new fields, in addition to customs liberalisation. These are newer areas of trade (services), as well as issues that provide a more detailed regulation for the »functioning of the market« in free trade, which, in a certain way, supports what the EU has accomplished through the development of its »internal (common) market«, which comprises the markets of EU member states.

Introduction of these new areas has lately been referred to as *deep free trade*. According to A. Spragia and others in the aforementioned study *»The EU, however, is not only negotiating reciprocity in merchandise trade. It is also trying to include “competition policy, protection of intellectual property rights, standardization and certification, sanitary and phytosanitary measures; trade and environment, labour standards, investment, public procurement and data protection in the negotiations...»*³⁹

³⁷ Messerlin states that “inclination of the EU towards FTA can be understood in the context of a struggle for influence for the leadership over the multilateral system between the EU and USA ” P. Meserlin, Measuring the cost of protection in Europe, European Commercial Policy in the 2000s, Institute for International Economics, Washington, 2000.

³⁸ USA has FTAs with: Israel, NAFTA (Canada and Mexico), Jordan, Australia, Chile, Singapore, Bahrain, Morocco, Oman, Peru and the Dominican Republic. In addition, agreements with Panama, Colombia and Korea have been signed (but have not yet been ratified).

³⁹ A. Sbragia et. Al, "The EU and trade agreements...", *op. cit.*, p. 7.

a) **Trade in services.** According to the WTO classification, there are over 100 different types of services that are subject to a GATS agreement, but in essence, there is no unique definition of services which can often be non-material in their character. Regulation of this sector is very specific; each field is regulated differently, through numerous regulations⁴⁰. The process of international liberalisation in services is, therefore, far more complex and far less transparent than when it comes to trade in goods⁴¹. Services are provided, whether across borders (**cross border services**), whether at the spot, by opening a company/branch in the country in question (the right to open business/right of residence). In addition, states tend to leave certain services out of the liberalisation process, or to postpone such a process (e.g. in financial services, especially in insurance, traffic etc.), rendering the complete image on negotiations in this field even more complex. Within the EU, freedom to provide services, right of residence and freedom of capital flow have been regulated. In international agreements, the clause of most-favoured nation is approved in general, as is the »national treatment« (e.g. identical approach to the market of a certain service for domestic and foreign residents), rules of transparency (in adopting regulations pertaining to services) etc. Recent agreements of the EU (on association or on free trade) generally prescribe a process of gradual liberalisation in the services sector (evolution clause), gradual expansion of rights of residence (establishment) for companies or free professions (dentists, lawyers, architects etc.), rules on capital flow, as well as certain rights in the area of employment (e.g. for company management etc).

b) **Direct foreign investment** Classic trade agreements do not regulate the issue of foreign investments directly. Pursuant to the WTO rules (**TRIMS** agreement), recent trade agreements prescribe non-discriminatory approach (often the national treatment), openness of the market to foreign investments as well as guarantees pertaining to capital flow and possibility of repatriation of invested funds.

⁴⁰ See Ph. Metzger, "Services and investment" in H. Tschani et al, *Principles and Elements of free trade relations, loc. cit.* pp. 159-180.

⁴¹ On the other hand, sometimes certain services don't even exist yet in less developed countries (e.g. IT services), or have not been regulated in any way (e.g. there are no regulations for providing engineering services), which leads to often absurd situations in which the undeveloped countries are asked to "liberalise" something they have not even regulated yet.

c) **Rules on protection of intellectual property.** This field is regulated through separate organisations (WIPO) or agreements (UPOV), including the WTO (TRIPS). Fast development of new technologies and products makes this field very important in harmonisation of international legislation. Within the EU, this is an area whose regulation is often closely related to the freedom of flow of goods (rights to trademark etc. often enable companies to influence the freedom of flow of goods). Developed countries insist on the respect of intellectual property with third world countries (China, Brazil, Indonesia, Thailand and others), both within the WTO and in bilateral agreements concluded by the EU.

d) **Rules on respecting competition.** This is a field that is one of the »accompanying« policies in the creation of a free market. The freedom of commercial action may often lead to the formation of commercial monopolies and abuse of market position by powerful companies, which the rules on competition are intended to prevent. In certain agreements of the EU there are very elaborate competition protection rules, which, in some cases comprise the creation of a special body that would have jurisdiction over this issue (e.g. Agreement on European Economic Area).

e) **State aid.** State aid measures can also affect the competitive position of certain enterprises. This issue is, thus, regulated in detail within the EU and is, to a certain degree, included in its bilateral agreements on free trade. This is a particularly sensitive issue in the relations between EU and developing countries, as they cannot be subject to the same rules as the developed economies.

f) **Public procurements.** Public procurement sector (public tenders) is of extreme economic importance (as these are often the largest infrastructural undertakings, local government activities etc) and is often covered by national regulations that discriminate between foreign and domestic suppliers. This field is partially covered by the WTO (there is a special agreement that is, however, not mandatory for all WTO members), as well as in bilateral arrangements of the EU.

g) **Technical obstacles to trading** (standards, certificates of conformity). The freedom of flow of goods is, in these times, far more influenced by various technical rules, standards and the like, than customs and tax restrictions. Therefore all recent agreements on free trade insist on regulating and harmonising these matters. Sometimes these issues become dominant in

bilateral economic relations, as is the case in agreements between the EU and USA.

h) **Dispute regulation.** Recent trade agreements of the EU comprise ever more complex provisions prescribing the manner of settling any disputes that may arise between the parties (rules on arbitration etc). These mechanisms reflect, as a miniature copy, the very complex structure of resolving disputes within the WTO.

II REVIEW OF EU TRADE AGREEMENTS BY GEOGRAPHICAL AREAS

We will now consider trade relations of the European Union with the following geographical areas: Europe, Mediterranean and Middle East, Africa, Asia, South America and North America. It should be emphasised that this is primarily a review of trade and other economic agreements between the EU and these countries, not a review of overall bilateral relations of the EU with individual countries which are frequently diverse and complex. It should be kept in mind that, when developing relations with certain countries, EU often takes into consideration other types of interests besides economic interests, which can be political or economic in their character⁴².

1. Trade agreements of the EU in Europe

As a whole, it could be said that the EU has preferential-type agreements (customs union and free trade area) with most of its neighbours in Europe (EFTA countries, West Balkans and Turkey), while when it comes to the countries of the former USSR (Commonwealth of Independent States) these agreements are, for the most part, non-preferential. In his analysis of recent trade policies of the EU, S. Evenett states that by using preferential agreements »*the EU has persistently strengthened economic relations with practically every country it borders with or is geographically close to*«⁴³. In

⁴² Thus, for example, EU trade policy in the Western Balkans is aimed at stabilisation of the region through economic and other measures, as can also be said of its relations on the Mediterranean etc.

⁴³ S. Evenett, *The Trade strategy of the EU: time for a rethink?*, University of St. Gallen, April 2007, p. 17.

principle, the EU strives to additionally physically expand its Common market through a network of free trade agreements that geographically »surround« the Union in Western Europe, in the Balkans and in the Mediterranean.

a) *European Economic Area.* Agreement on the European Economic Area (EEA) from 1994 is the most general and, by its effects on economic integration, the most detailed agreement of the EU with any of its partners. It applies to the relations between EU and three EFTA countries, Norway, Iceland and Lichtenstein⁴⁴. This agreement replaces the former agreements on free trade, concluded with the EFTA countries in the early nineteen seventies. Essentially, EEA allows for a complete economic integration of these three countries into the Common Market of the 27 EU member states, through a complex institutional and legal mechanism. All EU legislation pertaining to the Common Market automatically applies to the three countries of the EEA as well. There is a separate mechanism of judicial control, as well as competition rules monitoring⁴⁵.

b) *Switzerland.* Even though it is a member of the EFTA organisation, Switzerland did not adopt EEA, but instead opted to conclude more than ten bilateral »sector« arrangements on freedom of exchange in services, labour, capital as well as in other matters (standards and technical regulations, etc) at the end of the last and beginning of this decade, based on its original EFTA bilateral free trade agreement with the EU (from 1973)⁴⁶. There is a high degree of integration in EU relations with Switzerland, practically comparable to the EEA⁴⁷.

⁴⁴ The EEA formerly applied to a larger number of EFTA countries, of which the majority has since joined the EU (Sweden, Austria, and Finland).

⁴⁵ On the relations of EU and EEA and Switzerland, see E. Evtimov, "The EEA and Switzerland" in: A. Ott, K. Inglyis, *Handbook on European Enlargement*, Asser Press, The Hague, 2002, 155-165; O. Tuusvuori, "EFTA, Relations with other countries and the EEA" in H. Tschani et al, *Principles and Elements of Free Trade Relations*, EFTA, Geneva, 2000, 71-87.

⁴⁶ In the first block of agreements (1999), arrangements on the flow of labour, on agriculture, on public procurements, on technical regulations, on air transport, on road transport, on scientific cooperation were concluded. In the second block of agreements between EU and Switzerland (2004), arrangements on the Schengen rules, environment, media, statistics and tax evasion issues were concluded.

⁴⁷ Switzerland is not an EEA member due to the failure of its referendum on EEA.

c) EU customs unions: Turkey, Andorra, San Marino. Customs union agreements, as a rare exception in EU practice, exist in their entirety only between the EU and small states-enclaves, Andorra and San Marino. With Turkey, the country which is the oldest candidate for EU membership, EU has also concluded a principal customs union agreement (Agreement on Association from 1963, with additions from 1995), but it is essentially incomplete as it does not encompass the agricultural sector and common customs tariffs of the EU and Turkey towards third countries are not established automatically. From 2005, Turkey has been negotiating conditions for its acceptance into EU membership, but it still remains uncertain whether Turkey will become a member of the European Union and if so, when.

d) Countries in the Western Balkans. Even before the conclusion of individual agreements on »Stabilisation and Association« (ASA), the countries of the Western Balkans⁴⁸ enjoyed unilateral concessions in their export to the European Union market (entitled »Special trade measures of the EU«). So far, ASA have been signed with Macedonia (in force since 2004), Croatia (in force since 2005), Albania (trade section in force since 2006), Montenegro (trade section in force since 2007), Bosnia and Herzegovina (trade section in force since 2008), while the ASA with Serbia was signed in 2008. The EU sees Western Balkans region as a future part of the Common Market, which will probably become so in the second decade of the XXI century⁴⁹. To increase the level of integration of this region and to prepare it for membership in the European Union, the EU has encouraged the signature of a regional trade agreement entitled "New CEFTA" (or "CEFTA 2006")⁵⁰ between countries in the Balkans.

⁴⁸ This name is given to the former Yugoslavian Republics (except Slovenia) as well as Albania.

⁴⁹ On the relations between EU and the WB, see D. Lopandić: *Reforma EU, Zapadni Balkan i Srbija*, ("EU Reform, Western Balkans and Serbia") ECPD, Belgrade, 2007; S. Marković (ed), *Evropa i Zapadni Balkan polse velikog proširenja* ("Europe and Western Balkans following the great expansion"), IES, Belgrade, 2006; M. Drouet, X. Richet, *Vers l'elargissement de l'UE a l'Europe du Sud-est*, PUR, Rennes, 2007; M. Emerson, "Recalibrating EU Policy towards the WB", CEPS, Policy brief, No. 175, October 2008.

⁵⁰ "CEFTA 2006" was concluded between the countries of the West Balkans (Serbia, UNMIK-Kosovo, Bosnia and Herzegovina, Croatia, Montenegro, Albania, and Macedonia) as well as Moldova. See *Zona slobodne trgovine u jugoistočnoj Evropi* ("Free trade area in South-East Europe"), Serbia and Montenegro Office for Association with the EU, Belgrade, 2006, p. 106

e) ***Russia and the other countries of the Commonwealth of Independent States.*** EU has not yet concluded a preferential agreement on free trade with Russia, although it has been hinted at for a long time. One of the obstacles facing such an agreement lies in the fact that Russia, as well as the majority of CIS states have not yet become members of the WTO and have thus not yet fully adapted their economic systems to the WTO requirements. Relations of the EU with Russia are regulated through a partnership and cooperation agreement from 1997 which was valid for a period of 10 year and which should be replaced by a new type of agreement. There is also a plan for the development of a »common economic area« of the EU and Russia, based on »economic dialogue« of the two parties on diverse issues – from standardisation to competition, as well as on the preparations for the (future) free trade area.

Bilateral, non-preferential agreements on partnership and cooperation have been concluded between the EU and all other countries of the CIS (except Belarus). All these countries also enjoy certain additional unilateral EU customs concessions of a lesser degree, as they are on the General List of Preference of the European Union. In the upcoming period, it can be expected that the EU will conclude preferential agreements on free trade with some of these countries as well, according to its economic and political interests (probably primarily with Ukraine⁵¹).

2. Trade agreements with the countries of the Mediterranean and the Persian Gulf

»Mediterranean policy« of the EU is one of the first »regional policies« of the former European Community, defined as early as nineteen seventies, in the first place as the manner of allowing former colonial powers (primarily France) to maintain economic relations with Arabic and other Mediterranean countries. In this period, the »first generation« of Mediterranean agreements on association was concluded, through which certain concessions were provided for the export of Mediterranean

⁵¹ On the perspective of cooperating with Ukraine see M. Emerson et al, *The prospects of deep free trade between the EU and Ukraine*, CEPS, Brussels, March, 2006, www.ceps.be. On the other hand, following the conflict in S. Ossetia, the issue of when the EU will open negotiations on FTA with Russia.

agricultural products into the EU («non-reciprocal preferential arrangements»). Mediterranean policy of the EU received a fresh incentive in the »Barcelona process«, which began in 1995 and which was based on the so-called »euro-Mediterranean partnership«. This new EU step into the Mediterranean region was aimed, among other things, at the creation of a free trade area between the EU and Mediterranean countries by 2010⁵². In the last ten years, the EU concluded a series of (nine) bilateral »euro-Mediterranean« agreements on free trade, which prescribe, in addition to the opening of the EU market, gradual reciprocal liberalisation of import of goods by the EU's Mediterranean partners⁵³.

Euro-Mediterranean agreements are quite similar in structure, although not identical to the so-called European agreements on association which the EU concluded with the countries of the Central and Eastern Europe in the nineties. The basis of the agreement is trade liberalisation, with the Mediterranean countries being granted a transitional period of 12 years to eliminate their customs tariffs. These agreements also comprise provisions on political dialogue, right of residence and services, on capital flow, competition, economic, social and cultural cooperation. At a special »trade conference« of the Ministers of Economy within the Barcelona Process in 2006, additional negotiations for liberalisation of trade in services and freedom of residence (establishment) were announced. Finally, an additional incentive to the cooperation will come from the creation of »Mediterranean Union« (2008) between the EU and the countries of the South Mediterranean⁵⁴, which was decided at the EU-Mediterranean summit in July 2008⁵⁵.

Israel is a special case in EU trade cooperation in this region, due to its high development. The EU has, therefore, concluded the first Euro-

⁵² V. D. Lopandić, *Trgovinska politika EEZ* («EEC Trade Policy»), op.cit, p. 47.

⁵³ Agreements have been concluded with: Israel (1995), Algiers (2002), Egypt (2001), Jordan (1997), Lebanon (2002), Morocco (1996), Palestinian authorities (1997), Syria (2005) and Tunisia (1995).

⁵⁴ V. P. Brenton, M. Manchin, "Trade policy issues for the Euro-Med Partnership", *Working Paper*, No. 7, CEPS, Brussels, Middle East and Euro-med Project, May 2003.

⁵⁵ See Commission of the EC, *Barcelona process: Union for the Mediterranean, Communication*, Brussels, 20.5.2008, COM (2008) 319 fin. Main areas of cooperation within the Mediterranean Union (projects) comprise: environment, traffic, civil protection, energy, education and small enterprises. See also M. Emerson, "Making sense of Sarkozy s Union for the Mediterranean", *CEPS Policy brief*, No. 155, March, 2008.

Mediterranean reciprocal agreement with Israel (that was concluded back in 1995), creating a complete free trade area. In addition, a science and technology cooperation agreement was also concluded, as were a number of arrangements in different sectors, within the »neighbourhood policy« and Mediterranean policy of the EU (the so-called Euro-Med projects).

Contrary to the bilateral relations with the countries on the Mediterranean shores, EU agreements with the countries of the »*Gulf*« (Persian Gulf) should be multilateral (one agreement concluded by the EU and its member states on one side and all countries of the *Gulf Cooperation Council*⁵⁶ on the other). Conclusion of a free trade agreement was announced as early as in the cooperation agreement from 1989, which introduced the Ministerial Council of the Cooperation Council for the Arab States of the Gulf. Negotiations began back in 1990. A large number of negotiation rounds were organised, but without the final result (primarily due to the problems in free trade of fuels, as well as due to the relations with Saudi Arabia).

3. EU and »Africa, Caribbean and Pacific« (ACP)

Relations with the countries in Africa, Caribbean and Pacific (ACP) arose, on one hand, as an extension of close relations of EU member states with their former colonies and on the other hand, as an attempt of the EU to help the development of these countries, many of which are classified among the least developed countries in the world. The first agreement of what was then EEC with eighteen African countries was concluded as early as 1960 (First Yaounde Convention). In the decades that followed, several new conventions were concluded (Lomé⁵⁷ Conventions), with ever more states joining in. These conventions prescribed privileged, often customs-free treatment of export coming from the countries in this region into the EEC (without reciprocity).

The global, multilateral agreement of the EU with this region that is in force is entitled "*ACP-EU Cotonou Partnership Agreement*". The agreement was

⁵⁶ "Gulf Cooperation Council" encompasses United Arab Emirates, Bahrain, Saudi Arabia, Oman, Qatar and Kuwait

⁵⁷ There were four Lomé conventions, signed in 1975, 1979, 1984 and 1989.

signed with over 78 states from Africa, Caribbean and the Pacific⁵⁸ for a period of 20 years. Unlike the previous Lomé conventions, EU prescribed that, based on the framework of the Cotonou Agreement, it should enter *regional negotiations on free trade* with the ACP countries, which are classified into regions, i.e. by regional organisations they are a part of. This will be the first time in the long developing relations of EU and ACP, that European Union will request application of reciprocity in mutual relations (allegedly, to satisfy requests set by the WTO). However, EU made a distinction between the *least developed ACP* countries that were not required to provide any reciprocity – and other countries, which should have concluded special preferential agreements with the Union by the end of 2007. The proposed structure of these arrangements should generally be as follows: EU will abolish customs and other restrictions to 100% of its import; on the other hand, EU partners are obliged to liberalise at least 80% of their import from the EU in a fifteen year period (of which the majority needs to be abolished within 10 years).

First agreement on »*economic partnership*« (EAP) was concluded between EU and the CARIFORUM region (Caribbean island states) at the end of 2007⁵⁹. In addition to customs liberalisation, the agreement comprises trade in services, investments, e-commerce, technical obstacles to trading, sanitary and phytosanitary measures, competition rules, intellectual property, public procurements, environment and others. Interim EARs were concluded at the end of 2007 between the EU and four African regions: South African organisation *SADC*, East-African Community (*EAC*), East Africa (*ESA*) West Africa and Pacific countries (Papua – New Guinea, Fiji).

South African Republic (SAR), as the most developed African country and a special case, has already begun forming its free trade area with the EU. In October 1999, *Trade, Development and Cooperation Agreement (TDCA)* was signed by the EU and SAR. TDCA prescribes creation of an asymmetric free trade area (to the benefit of SAR) between the two parties to the agreement,

⁵⁸ Of these, 48 are African states, 15 are countries in the Caribbean and 15 are various islands in the Pacific.

⁵⁹ These are 15 island-countries including Haiti, Dominican Republic, the Bahamas, Jamaica and others.

during a transitional period of 12 years. TDCA measures pertaining to trade are implemented on an interim basis since January 2000.

4. European Union and South America

Cooperation of the EU with South American countries is additionally intensified since Spain and Portugal joined the Union in 1986⁶⁰. It is characteristic that the EU has been intensively developing relationships with certain regional groups from South America: cooperation agreement from 1984 with the countries of the “Andean pact”⁶¹, framework agreement from 1986 on trade, cooperation and development with the countries of the Common Central-American market⁶², declaration from 1990 on the permanent dialogue with the “Rio Group”⁶³, framework agreement from 1995 on inter-regional cooperation with the countries of the “Mercosur”⁶⁴. With some of the Latin-American countries, the EU has entered into a series of bilateral non-preferential agreements on trade and economic cooperation. “Third generation” bilateral agreements were concluded in the early nineteen nineties between the EU and Chile, Mexico, Paraguay, Uruguay and Brazil. EU then entered into “fourth generation” agreements (with Mexico in 1996).

The only two Latin-American countries (apart from the Caribbean countries) with which the EU has realised free trade are Mexico and Chile. Free trade agreement between Mexico and the EU came into force in 2000. It represents an effort on behalf of the Union to compensate for the privileged status that the USA enjoys on the Mexican market pursuant to the NAFTA agreement. Pursuant to the established asymmetric liberalisation dynamics, all customs tariffs to industrial import from Mexico into the US have been abolished in 2003. It was prescribed that Mexico

⁶⁰ N. Moussis: *Accès à l'Union européenne*, op.cit. , p. 557.

⁶¹ Bolivia, Colombia, Ecuador, Venezuela, Peru.

⁶² Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua.

⁶³ Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela.

⁶⁴ Common market of Argentina, Paraguay, Brazil and Uruguay.

would eliminate customs and other dues by 2007. Abolishment of customs tariffs on agricultural and fishery products will be realised by 2010.

On June 21, 1996, a framework agreement on cooperation was signed, which served as the basis of creation of a very specific association of Chile to the European Union⁶⁵. The two parties signed an agreement on association in 2002, finalising negotiations initiated in November 1999. When it comes to trade in goods, a gradual and reciprocal establishment of a free trade area has been prescribed, to be accomplished through a ten year transitional period, for 97.1% of the bilateral trade. As one of the most recent agreements of the EU, this agreement prescribes new solutions to numerous issues, such as services. For example, the agreement prescribes a free trade area and liberalisation of investments, payments and capital activities. In addition, it also prescribes reciprocal opening of the public procurement market and adequate and effective protection of intellectual property rights. General rules have also been adopted in areas such as customs and similar procedures, as well as standards and other technical regulations. Measures have also been put in place for the cooperation of competition protection bodies, as well as a mechanism for settling disputes. The agreement came into force on an interim basis on February 1, 2003.

Negotiations on Association Agreement between EC and MERCOSUR (comprising the main countries in South America: Argentina and Brazil, as well as Paraguay and Uruguay) began in June 2000, with the objective of establishing a political and economic partnership that would cover political issues, cooperation and trade. The part relating to trade promotes reciprocal liberalisation of trade in goods and services. When it comes to agriculture, cooperation between the two sides aims to promote mutual trade in agricultural products and to increase compatibility of sanitary and phytosanitary regulations. Negotiations also encompass protection of intellectual property rights, competition policy and establishment of an efficient and mandatory mechanism for settling disputes. However, even after eight years, negotiations have not yet been completed, mostly due to the difficulties between EU and Brazil or Argentina, similar to those that are seen between EU and CIS in the World Trade Organisation.

⁶⁵ *Ibid*, p. 357.

5. EU and Asia and Australia

China has become a key economic partner of the EU (holding a second place in trade). For this reason, great care is given to the relations between the two sides. However, EU has not yet concluded a new trade agreement with China, as trade relations are, for the most part, regulated by the acceptance of China into WTO membership⁶⁶. Negotiations on »Agreement on Partnership and Cooperation« (non-preferential arrangement) began in 2007. Open bilateral issues, among which the largest problem lies in the vast trade deficit of the EU (50% of the total Union deficit in the world⁶⁷) are discussed within »high level economic and trade mechanism« - which is a bureaucratic name for the meetings between EU Commission and Chinese Deputy Prime Minister in charge of commerce, at which matters such as foreign investment treatment, market access, respect of intellectual property rights and others.

India is, in addition to China, the second growing economic giant, with whom the EU has a longer tradition of bilateral agreements, based on a non-preferential agreement on trade cooperation. As part of its »**Global Europe**« strategy, the EU has begun negotiations on free trade with India (June 2007). The result of these negotiations is still uncertain.

Negotiations on free trade have also been initiated with **Republic of Korea** in May 2007. At present, »General program on trade and cooperation« with this country, from 2001 (non-preferential) is in force.

Relations with **Japan**, one of the most important economic partners of the EU are (similarly to the relations with USA) for the most part regulated multilaterally - through WTO, OECD and within the »Group 8«. In addition, bilateral »dialogue« is conducted in accordance with the »Joint Declaration« from 1991 and the ten year »action plan« from 2001, based on which regular summits are held, as well as other, more technically oriented meetings. The two sides have concluded a very important »agreement on mutual acceptance« of tests on conformity of products (from 2002) which allows an easier market access to certain goods. An agreement on

⁶⁶ China and EEC formed a non-preferential agreement on trade and economic cooperation in 1985, even before China joined WTO.

⁶⁷ Over 60 billion euros.

cooperation in the field of competition protection has also been signed (2003).

ASEAN countries. Apart from an economy-related dialogue between Ministers and experts, the EU has started a number of initiatives with organisations of countries of South-East Asia - *ASEAN*⁶⁸, such as TREATI initiative (dialogue and cooperation in the field of sanitary and phytosanitary issues, standardisation, technical obstacles to trade, commercial concessions and investments). In 2007, negotiations on a free trade agreement between the EU and ASEAN countries began.

EU and *Australia* have no general bilateral trade agreement. Their relations are regulated through WTO and OECD rules, as well as through the »Joint Declaration« on cooperation from 1997. In addition, numerous arrangements have been concluded in individual sectors, such as: agreement on mutual recognition of product conformity, coal agreement, agreement on cooperation in NT sector, atomic energy agreement, wine trade agreement and veterinary agreement.

6. EU and North America

USA and EU are each other's largest economic partners, whose mutual relations affect the international economic system and the world economy as a whole. Economic relations between EU and USA are based on long-term partnership, but, at the same time, have numerous elements of competition, which sometimes evolve into open conflicts on certain issues. These relations have three general characteristics: large volume, tendency towards economic disputes and strategic importance of mutual direct investments⁶⁹. These two economic »superpowers« haven't so far concluded a general trade agreement; their relations are, as is the case with other developed members of the OECD, regulated pursuant to multilateral rules of WTO and OECD, as well as through regular summits of the »Group 8«. The need to provide more specific regulation of certain issues, as well as the desire to intensify the transatlantic partnership have

⁶⁸ Members of the ASEAN are Indonesia, Cambodia, Brunei, Malaysia, Philippines, Singapore, Thailand and Vietnam.

⁶⁹ See European Commission, Trade Policy in the Prodi Commission 1999-2004, An assessment, Brussels, 19 November 2004, p. 13.

encouraged a certain »institutionalisation« of cooperation, based on regular summits of the two sides at the highest level, meetings of key economy representatives (trade, finances) and others. At the summit held in April 2007, »Framework for advancing transatlantic economic integration between the EU and the USA« was signed. Based on this document, a separate »Transatlantic Economic Council« was formed at the ministerial level. As strategic areas of cooperation, issues of intellectual property, secure trade⁷⁰, financial markets, innovation and technology, as well as foreign investments. Through »transatlantic dialogue« other topics are discussed as well, such as legislation, consumer protection, cooperation of business associations etc. There is an idea, still in its early stages, that the two sides should conclude an agreement on free trade, which would (if it came to life) mean further minimisation of the multilateral system promoted by the WTO. Among *numerous sector disputes* between the two sides, we can point out: the issue of hormone use in cattle feed, state subsidies in aviation industry (Airbus), protection of steel industry, trade in bananas, genetically modified organisms, trade in audio-visual services etc.

Canada was one of few developed countries - members of the OECD outside Europe with which the EEC has concluded a *framework agreement on economic cooperation* (non-preferential) as early as 1976. In 1990, following the trend of the relations between EU and USA, the two sides signed the »Transatlantic declaration«. Based on this declaration, regular summits are held, which include trade discussions (there is also a Joint Cooperation Committee). Trade-related agreements signed by the two sides include customs cooperation (agreement from 1997), fight against forgery and smuggling, as well as veterinary cooperation (agreement from 1999). Agreements in the fields of wine and alcoholic beverages (2003) and civil traffic safety (2007) were also concluded. In 2005, negotiations on an »agreement on strengthening trade investments« began. These negotiations have not been completed yet, in expectation of the results from the Doha Round. Canada has expressed interest in the conclusion of a free trade agreement.

⁷⁰ These are measures implemented by the USA pertaining to the war on terrorism, following the events of September 11, 2001, such as control of containers prior to their shipment, automatic tracing of goods in the transport chain etc.

III CONCLUSION

Basic conclusion that can be drawn based on the previous analysis of EU foreign trade agreements is that this is a constantly evolving field, dependant on many internal (internal market, EU competencies) and external factors (negotiations within WTO, geostrategic objectives of the Union, influence of the foreign trade policy of USA etc). With the creation of the Common Market (since 1992) and the trend of expanding the competency of a joint trade policy of the EU to new sectors (such as services, intellectual property etc), the Union is generally striving to provide the best possible business conditions on the foreign markets for its enterprises, using basic multilateral and bilateral mechanisms: agreements of the WTO on one hand and bilateral trade agreements, on the other. The number of these agreements is ever increasing, increasing the complexity of the EU foreign trade system, i.e. the diversity of treatment for imported products on the Union market, dependant on the country of their origin.

In general, conditions of international and internal business activities should become comparable and similar through constant liberalisation of foreign trade, which is one of the objectives of eliminating various obstacles to trade, to achieve the »free trade« regime. However, this objective is not so easily achieved in practice. On the contrary, business conditions for foreign enterprises on a certain market will depend on ten or more factors, of which some are »discriminatory« in their nature, discriminating between domestic and foreign businesses⁷¹.

The Union has created a complex, dense network of agreements on »free trade« with the neighbouring countries (European Economic Area, customs union agreements, Agreements on Stabilisation and Association, Euro-Mediterranean agreements). In addition, the Union gradually expands the network of »new« free trade agreements with other regions in the world. These agreements prescribe a »deeper/wider free trade«, in other words, they encompass new sectors of liberalisation (services, public procurements, investments and capital flow). They also provide a more

⁷¹ M. Brulhart and A. Matthews state that "*Regardless of the liberalisation, EU continues to provide intense protection to sensitive products*", such as textile import from India or import of agricultural products from Australia and New Zealand, beef from Argentina etc. see M. Mrulhart, A. Matthews, "EU External Trade policy", in El-Agraa Ali (ed), *The EU: Economics and Policies*, 8th edition, Cambridge University Press, 2007, p. 963.

detailed definition of certain issues that directly affect trade (standards, sanitary regulations, competition, intellectual property and the like).

With the countries in Africa, Caribbean and the Pacific, the Union has concluded new »agreements on economic partnership« that, for the first time, prescribe reciprocity (mutual abolishment of customs) between the EU and the countries of these regions. With the countries in Asia and South America, as well as with Arabian countries (countries in the Gulf), the EU strives to provide adequate access to their markets, with conditions that would not be any less favourable than the concessions granted to USA (e.g. agreement on free trade with Mexico), or which would provide the Union with a »comparative advantage« (negotiations on FTAs with countries of the ASEAN, Gulf, Mercosur, as well as with India, South Korea etc). When concluding FTAs, the Union must always evaluate positive and negative impacts of such policies, as well as the geo-economic balance in its economic relations with its biggest partners (USA, Japan). The degree of benefits that the Union may gain from the new FTAs⁷² will depend on the »depth and width« of the free trade achieved.

Failure of global trade regulation and further liberalisation within the Doha Round will certainly additionally promote bilateralism in the foreign trade of the EU. However, a complete »failure« of the WTO multilateral system is not in the best interest of the EU and its economic partners, as it would, without a doubt, encourage a general reinforcement of protectionism, thus rendering international trade and world development more difficult.

ANNEXES

I Geographic distribution of trade in goods of the EU (2005)

Country/region	EU Import	EU Export
World (bil. Dol)	1,328	1,462

⁷² To this end, see the assessment of S.S. Guerin, "Prospects for the EU's New generation of FTAs", *CEPS Commentary*, 28. April 2008, CEPS, Brussels.

	Share in %	
USA	23,5	14
EFTA	11	12
Russia	5,3	9
Africa	8	9,3
Middle East	8,2	5,6
China	4,8	13,4
Japan	4,1	6,2

II Trade agreements of the EU by type

Type of trade regime	Name of the agreement/arrangement	Countries involved
1. Reciprocal bilateral agreements		
1.1. Common Market	1.1. European Economic Area (EEA)	1.1. Iceland, Lichtenstein, Norway
1.2. Customs union	1.2. Agreements on association	1.2. Turkey, Andorra, San Marino,
1.3. Free Trade Area	1.3. "European agreements" - agreements on stabilisation and association - Euro-Mediterranean agreements	1.3. Croatia, Macedonia, Bosnia and Herzegovina, Montenegro, Serbia, Albania Israel, Jordan, Lebanon, Tunis,

	<p>- agreements on association (free trade)</p> <p>- agreements on free trade</p> <p>- Economic partnership agreements (EAP) with the ACP countries</p>	<p>Palestine, Algiers, Egypt, Morocco, Syria,</p> <p>Mexico, Chile South Africa</p> <p>Switzerland</p> <p>CARIFORUM countries (interim agreements of the countries of the SADC, countries of the Pacific, West Africa, ESA, EAC)</p>
<p>2. Non-reciprocal preferential trade measures</p> <p>Agreements (unilaterally preferential, non-reciprocal agreements)</p> <p>Unilateral EU measures (customs concessions)</p>	<p>Cotonou Agreement</p> <p>"Exceptional trade measures"</p> <p>General preferential system</p> <p>Initiative: "<i>Everything but arms</i>" (EBA)</p>	<p>Least developed countries in Africa, Caribbean and the Pacific</p> <p>Western Balkans</p> <p>Countries in development and certain other countries (CIS)</p> <p>50 of the least developed countries</p>
<p>3. Non-preferential agreements and other</p>	<p>- Agreements on partnership and</p>	<p>- Russia and members of the CIS</p>

arrangements of the EU – most favoured nation clause	cooperation	- Countries in Asia, South America, Canada etc.
4. Pure MFN treatment pursuant to multilateral provisions of the WTO (most favoured nation clause)		Australia, Canada, China, Hong Kong, Japan, Republic of Korea, New Zealand, Singapore and North America

III Review of »regional trade agreements« of the EU (i.e. preferential agreements on customs unions or free trade areas) notified by the WTO pursuant to Article XXIV GATT⁷³

1. European Union (Community) – internal market

Country	Agreement	In force since
12 countries of the EEC	Treaty of Rome	1.1.1957.
Accession of Austria, Finland, Sweden into EU (EC15)	Membership Agreement	1.1.1995.
Accession of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia (EC25)	Membership Agreement	5.1.2004.

⁷³ From: European Commission, External Trade, <http://ec.europa.eu/trade/>

Accession of Bulgaria and Romania (EU 27)	Membership Agreement	1.1.2007.
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2. Customs unions

(Note: the customs union with San Marino is not notified in the WTO)

Country	Agreement	In force since
Andorra	Exchange of letters	7.1.1991.
Turkey	Decision 1/95 of the EC-Turkey Association Council	12.31.1995.

3. Free trade agreements (FTA)

- Europe

Country	Agreement	In force since
Denmark (Faroe Islands)	Free Trade Agreement	1.1.1997.
Switzerland	FTA	1.1.1973.
Macedonia	Stabilisation and Association Agreements (SAA)	5.1.2004.
Croatia	SAA	2.1.2005.
Albania	SAA	12.1.2006.
Montenegro	SAA	1.1.2008.
Bosnia and Herzegovina	SAA	7.1.2008.

- Mediterranean

Country	Agreement	In force since
Algeria	Association Agreement (AA)/Euro-Mediterranean Agreement (EMA)	9.1.2005
Egypt	AA/EMA	6.1.2004.
Israel	AA/EMA	9.20.2000.
Jordan	AA/EMA	5.1.2002.
Lebanon	AA/EMA	3.1.2003.
Palestinian authorities	AA/EMA	7.1.1997.
Syria	Cooperation agreement	7.1.1977.
Tunisia	AA/EMA	3.1.1998.

- Other regions

Country	Agreement	In force since
Overseas territories of EU member states	Association Agreement	1.1.1971.
Chile	Association Agreement	2.1.2003.
Mexico	Economic Partnership, Political Coordination and Cooperation Agreement	7.1.2000.
South Africa	Trade, development and co-operation agreement	1.1.2000.

4. Agreements in preparation for WTO notification in the EU (30.6.2008)

Country	Agreement	In force since
CARIFORUM (Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Christopher and Nevis, Suriname, Trinidad and Tobago)	Economic partnership agreement (EPA)	1.1.2008
Central Africa (Cameroon)	Interim EPA	1.1.2008.
EAC (Burundi, Kenya, Rwanda, Tanzania, Uganda)	Interim EPA	1.1.2008.
ESA (Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe)	Interim EPA	1.1.2008.
Pacific (Papua New Guinea, Fiji)	Interim EPA	1.1.2008.
SADC (Botswana , Lesotho, Namibia, Mozambique, Swaziland)	Interim EPA	1.1.2008.
West Africa (Cote d'Ivoire, Ghana)	Interim EPA	1.1.2008.