



# How far is it from Rome to Lisbon? EU trade policy and bargaining power from 1958 until today

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# The road from Rome to Lisbon...

- Treaty of Rome (1957)
  - EC-6 rise to trade policy power
- From GATT Kennedy Round (1964) to Uruguay Round, creating the WTO (1995)
  - EU shapes multilateral trade regime with US
- Status quo power (1996 - 2020) & the Treaty of Lisbon (2009)
  - Failure of Doha Development Round (2006)
  - Bilateral trade negotiations (S-Korea, CETA, TTIP, Japan, etc.)



# Two sources of trade policy bargaining power

- a) Attractiveness of internal market, *relative* to other trading entities in the world: *varies over time...*
- b) Consensus decision rule in Council: *a constant*
  - Reinforces bargaining power when attractive
  - Reduces bargaining when *relative* attractiveness is lower: a paradox of weakness
    - Large autonomy of negotiator, small bargaining power
    - Small autonomy of negotiator, large bargaining power



# EU as co-shaper of multilateral trade regime with US 1958-1994 (1)

Obtaining transatlantic trade liberalization,  
whilst protecting agriculture & textiles

- Kennedy Round & **USA** liberalization:

- US as *demanding* market access to EC
- US having to accept absence of liberalization in agriculture

- **Developing countries:**

- subject to quota for tariff free market access, flanked with development aid
- blocks long-term trade development
- locks-in oligopolistic reliance on primary products, often consolidating autocratic political systems



# EU as co-shaper of multilateral trade regime with US 1958-1994 (2)

- **Expansion of WTO's regulatory reach**
  - Rules limiting abuse of antidumping & subsidies (Tokyo/Uruguay Round)
  - Agreements with large adjustment costs for others: services, IPR, public procurement, TBTs, rules of origin, SPS, investment (Uruguay Round)
- **Institutionalization** of these policy preferences through stronger dispute settlement in WTO

*Why?*

- **Threat of exclusion** from GATT liberalization
- **Issue linkage** in 'Single Undertaking' (with US)



## Status quo power: 1997-2020 (1)

- Why no longer in driving seat?
  - Threat of exclusion no longer available
  - UR obligation to re-open agriculture negotiations
  - Political rise of emerging economies
  - Bindingness of rules turns against EU, esp. in agriculture
- For 1st time, EU is *demandeur* for a Round
- EU attempts but fails to broaden agenda & functional scope of WTO
  - Services, IPR & geographical indications, trade-and-environment
  - Government procurement, competition, investment
  - 'Millennium Round' becomes 'Doha Development Agenda'
- EU turns to bilateral & regional negotiations in 2005 (with Korea, Japan, Canada, US, Mercosur, ...)



# Constraining effect of EU decision-rules under Lisbon Treaty of 2009

- **Consensus** practice
  - under the shadow of a QMV vote for 'exclusive' competences'
  - broad interpretation since ECJ Singapore Opinion (May 2017): including environment, labor, intellectual property, outward investment
- **Unanimity** for:
  - 'mixed' agreements: e.g. with investment arbitration
  - Agreements that take the legal form of association agreements (= a strategic choice of EU member states, not the Commission)
- Largely remained constant over time



# Effects on EU bargaining power

- A 'paradox of weakness' in negotiations
  1. *If other side wants a deal, small margin of manoeuvre of Commission negotiator = large EU bargaining power*  
→ *surprise / frustration in negotiation partner*
  2. *If not: collapse*  
→ *recriminations EU cannot get its act together*
- **Strength in enforcement: quasi automatic**
  - Threat of retaliation in response to WTO violations  
→ EU Reg of 2014: reverse majority!!
  - Reaction to WTO panel rulings, now without AB rulings
- **Weakness:**
  - Investment arbitration; association agreement
  - Inward investment (only screening)





## References

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