

# **Impacts of the Lisbon Treaty on the EU Trade Policy**

**E-Leaders**

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# Identification of Problems in the EU Trade Policy after the 1 December 2009

Sources of possible problems:

- **Amended Treaty on EU (TEU)**

(= Maastricht, Amsterdam, Nice and Lisbon amendments)

- **Amended Treaty on the Functioning of the EU (TFEU)**

(=Treaty of Rome on Establishing the European Communities) and following amendments)

- ∑ **Strengthened goals of the EU Common Commercial Policy (CCP)**

(in the framework of EU common policies)

# TEU amendments with impacts on the CCP

- Legal personality of the EU  
(juridical subject of the international law)
- CCP – one of the external actions of the EU  
(together with the foreign and security policy, international environmental policy, development cooperation, economic, financial and technical cooperation with third countries and humanitarian aid)

## EU External Aims Applicable to the CCP

- encourage the integration of all countries into the world economy through the progressive abolition of restrictions on international trade
- promote an international system based on stronger multilateral cooperation and good global governance
- foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty
- cohesion among areas of external action and among these areas and other policies
- relations and partnership with third countries and international and regional organization

# TEU amendments with impacts on the CCP - **Institutions**

## Functioning and activities:

- **European Council**  
(strategic interests and goals of the EU)
- **Council**  
(guidelines and coordination of politics, legislative and budget competences)
- **European Parliament**  
(political control and consultations, legislative and budget competences)
- **High representative for the foreign and security policy and European External Action Service**
- **Commission**

## TEU amendments with impacts on the CCP - **Decisions**

- Decisions: qualified majority
- Unanimity in specific defined cases (rare)
- Ordinary legislative procedure

## TFEU amendments with impacts on the CCP – **Goals**

- progressive abolition of restrictions on international trade and on foreign direct investment
- lowering of customs and other barriers  
(underlined = new)

## TFEU amendments with impacts on the CCP - **Uniform Principles**

- customs tariffs (customs union)
- customs and trade agreements related to the trade in goods and services, trade aspects of the intellectual property rights, foreign direct investment (underlined = new)
- the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies

# TFEU amendments with impacts on the CCP – **Framework for Measures**

- EU Regulations
- Adopted by the European Parliament and the Council
  - Ordinary legislative procedure = co-decision of the EP and the Council

## EU Competences in the CCP

**Exclusive only** (conferred by Msto the EU, mixed do not apply more)

- **Enlarged** on investment, trade aspects of intellectual property rights and on services
- **External** (respective to the international trade agreements)
- **Internal** (for the implementation of international agreements and autonomous measures in trade policy)

## EU Actions within the CCP

- **Negotiations** with third countries
  - Multilateral
  - Regional, Bilateral
- **Implementation** of trade and investment measures
  - Trade remedy – antidumping
  - Subsidies
  - Etc.

## CCP institutional specificities

- Council – Foreign Affairs Council (FAC) provides guidelines on negotiations
- FAC is chaired by presidency (for the CCP only, other external issues: High representative)
- Commission is always entitled to lead negotiations with third countries (designed by the Council)
- Trade Policy Committee shall be consulted and informed (negotiations and new measures)
  - TPC = experts of governments of Member States

## Problems overview: Investment

- Liberalization or also protection ?
- Bilateral investment agreement
  - compliance ?
  - abolishment or co-existence? grandfathering clause ?
- New EU investment agreements
  - content ? level of commitments ?
  - „Minimum platform on investment“
  - relationship to the WTO multilateral agreements

## Problems overview: IPR and Services

- EU Competences in other than international trade organizations ?
- Qualified majority decides (unanimity cannot be appealed)
- GATS – individual EU Member States commitments excluded ?
- IPRs and services in bilateral agreements (agreements signed at the EU level only)

# Problems overview: European and national parliaments

- European Parliament
  - Co-decision, with the Council
  - Implementation of new measures
  - Informed about negotiations
  - Consent with trade and investment agreements
- No say of national parliaments to the EU trade policy
  - subsidiarity and proportionality do not apply to common policies

## Problems overview: Member States role in the EU Trade Policy

- Governments influence the CCP only through the TPC and the Council
- Influence through the European Parliament very weak
- Σ *de facto* decreased power of the EU member states in the external trade and investment policy

# Problems overview: is there any Trojan horse ?

- „lowering of customs and other barriers“ = common approach to other areas out of the CCP ?
- Investment = extended to the investment incentives ?
- „uniformity in measures of liberalisation, export policy ... = common EU export promotion policy ?

# Future

- Not everything clear - what is needed:
  - binding explanation of the Treaties provisions
  - time for procedural practices, including the European External Action Service and its delegations abroad
- „Regulation adjusting decision-making in the field of trade policy in the light of the entry into force of the Treaty of Lisbon” (drafted by the Commission)