

Testing the EUROPUB democracy indicators: the case of EU trade policy

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Content

| | | |
|-----|---|----|
| 1 | Introduction | 2 |
| 2 | Trade policy and transparency | 3 |
| 2.1 | Trade policy in the EU | 3 |
| 2.2 | Lack of democracy? NGO Criticism | 5 |
| 2.3 | Efforts to foster transparency in EU Trade Policy Making | 6 |
| 2.4 | Drivers of Change - Cancún, Enlargement and the EU Constitution | 6 |
| 3 | Trade Policy in the Member States | 7 |
| 3.1 | Main actors involved in trade policy making | 7 |
| 3.2 | Member States' interests and positions in trade policy | 10 |
| 4 | Indicators to measure democracy and Trade policy making | 12 |
| 4.1 | General Evaluation of Strategic Objectives | 13 |
| 4.2 | Detailed Evaluation of the Strategic Objectives | 14 |
| 4.3 | Conclusions | 18 |
| 5 | Bibliography | 18 |

1 Introduction

Trade policy is highly useful for testing the EUROPUB European democracy indicators because (1) it is a highly contested policy area and has given rise to considerable public debate and (2) at the global level, the EU is a key player in this policy area. Public contestation of trade policy is most visible in the the anti-globalisation movement, including organisation such as ATTAC. Also, social, environmental and development organisations are highly concerned about trade policy's negative impacts and try to influence and even impede further trade liberalisation. The public protests and collapse of the WTO negotiations in Seattle gave probably the most visible testimony to civil society groups' concerns about international trade policy. The discussions and debates crystallise mainly around three partly overlapping issues:

- ◆ The social and political implications of trade liberalisation and economic globalisation, such as the threat to national welfare systems;
- ◆ The relationship between trade and the environment. This includes conflicts between international environmental agreements and national measures on the one hand and WTO obligations on the other; and
- ◆ The effects of trade liberalisation on development of third world countries.

As the EU has powerful influence in the area of trade policy, it is deeply involved in decision-making relating to all of these issues.

EU trade policy is often suspected of being opaque, of lacking participatory elements and thus, even of being illegitimate. This is due to a variety of reasons. First, the tactics of engaging in trade negotiations need - by their very nature - to be developed with a certain degree of secrecy. Furthermore, trade policy-making traditionally relies on mechanisms such as delegation and executive authority, which contribute to blurring the decision-making process. Also, groups gaining from trade policy decisions are generally much broader and more diffuse than groups losing from such decisions. This results in a stronger articulation of the groups negatively affected by trade liberalisation than of those benefiting. This so-called collective action problem leads to an unbalanced representation of interests on trade issues, which do not necessarily represent all social interests.

A number of arguments speak in favour of strengthening participation and transparency in trade decision-making. As mentioned above, trade policy touches upon a range of other policies, such as environmental, health and consumer protection policy. Often these policies follow a different reasoning than trade policy. Nevertheless, or rather precisely for this reason, it is the more important to create opportunities for other policies to voice their interests within trade policy by integrating them into trade policy-making. Trade-related issues often concern society in general and are decisive for the future development of Europe. Therefore, these issues have to be addressed through processes which are transparent, accountable and democratic. Within the European Union, the EU has the exclusive competence for trade policy, and the influence of Member State governments is therefore limited. This means that, although the delegation of trade competencies to the EU has been agreed on by the Member States, the day-to-day decisions on EU trade policy are not necessarily indirectly legitimised through the Member States. This fact stresses the importance of a democratic and accountable EU decision-making.

2 Trade policy and transparency

Trade is a policy area that frequently arouses suspicions of illegitimacy as trade policy-making has often given the impression of shutting off, by design, popular input from the process. This is due to its traditional reliance on delegation, executive authority and technicality. The main argument for this isolation is the so called collective action problem. According to trade theory, those who benefit from trade liberalisation are diffuse, and their gains are small, whereas those who lose from trade are concentrated and well organised in small, but effective pressure groups. Given this chronic imbalance between those who benefit from trade protection and those who pay the costs, participation of stakeholder groups may lead to undesired outcomes, not representing the social optimum. In fact, rent seekers were, however, frequently able to take advantage of their close links to trade policy makers and to influence trade policy to their benefit.

Also, there is a perceived trade-off between efficiency and legitimacy, as every enhancement in terms of broader participation and legitimacy would reduce the room for manoeuvre within negotiations and impede the negotiators' ability to conclude complex international agreements.¹ However, the involvement of non-governmental actors in the making of trade policy is nothing new. Trade unions, industry associations and business groups have long lobbied on trade policy, at national, European and international level. However, concerns about trade policy making strongly increased in the last decade. Given the shift in focus of international trade policy from traditional trade barriers, namely tariffs and quotas, to new types of non-tariff barriers, trade policy has come under scrutiny from other interest groups. This trend was strengthened by the inclusion of sensitive issue areas, such as services and intellectual property rights, in the WTO, which created the perception of a gradual loss of national sovereignty over issues such as food safety and environmental protection. Moreover, anti-globalisation movement continues to point to a structural imbalance in the world trading system between the industrialised countries and the developing world. As a result, there is not only an increased awareness of the importance of trade rules, but also a louder and stronger demand for a more democratic and transparent trade policy making. These demands are aimed at the national level, the European Union and the WTO.

2.1 Trade policy in the EU

In contrast to foreign policy or security policy, external trade policy has been dealt with at the European level since the beginning of the European Community. At its creation in 1957, trade policy was assigned as a Community responsibility. It was recognised that Europe would achieve greater international influence if it were, among others, to negotiate trade deals with one voice. Moreover, a joint external trade policy was seen as prerequisite for a single common market with free movement of goods. As a result,

¹ Meunier (2003), p. 7.

the EU trade policy making process was highly centralised.² However, the relationship between the Commission and the Member States has always been a standing debate.³

In this regard, it is crucial to differentiate between two different forms of European trade policy making. The 1957 Treaty of Rome formally transferred the authority to negotiate and conclude international agreements on trade in goods from the individual Member States to the collective entity. This is often referred to as “exclusive EU competence”, which prevails in all negotiations on trade in goods and in certain services.

Under the EU trade policy, the Commission elaborates proposals for the initiation and content of international trade negotiations. These proposals are issued to the so-called 133 Committee. Composed of senior civil servants and trade experts from the Member States, as well as Commission representatives, the Committee examines and proposes amendments to Commission proposals on a consensual basis. Then, the Committee submits the proposal to the Committee of Permanent Representatives (COREPER) and subsequently to the General Affairs and External Affairs Council (GAC, GAERC) who deliver the negotiation mandate to the Commission. Legally, this mandate could be adopted by qualified majority. In practice, however, Member States have always managed to reach consensus on a common text at this stage of the process.⁴ During negotiations, the Commission acts on the mandate agreed upon by the Council of Ministers. Depending on the Council mandate, the Commission has an exclusive, highly autonomous authority, and Member States offer little input to discussions and negotiations. At the ratification stage, individual Member States no longer have the power to formally ratify international agreements, but instead delegate this power to the Council of Ministers, which approves or rejects the trade agreement by qualified majority.⁵ The European Parliament itself is completely absent in the process, with neither prior nor final say on the making of European trade policy.⁶

In other cases, such as on issues of investment and certain services, trade policy is governed by the regime of “mixed competence”. In contrast to exclusive competence, all issues which fall under shared competence are negotiated by the Commission together with the Member States. Under shared Community competence, the trade policy making procedures work as follows: The negotiation mandate is initiated and elaborated by both the Council (voting unanimously) and the Member States. Although agreeing on the mandate follows a different procedure under shared competence, the proposal for such an issue is still taken to the 133 Committee. During the negotiations, the Commission still represents the Member States. However, Member States are more actively involved in the shared negotiation process than in the case of exclusive competence, and Member States and the Community are required to co-ordinate and co-operate closely. Once negotiations are concluded, the resulting agreement is ratified by the EC voting unanimously in the Council, as well as separately by the Member States.⁷ Negotiations under mixed competence were frequently believed to complicate both their conclusion and their administration⁸, and the Commission, with help of some

² Ahearn (2002), p. 1; WWF (2003), p. 6

³ See for example Meunier and Nicolaidis (1999 and 2000), Young (2000); Leal-Arcas (2001); Smith (2001); MacLeod et al. (1996).

⁴ Ahearn (2002), p. 4; Meunier (2003), p. 10.

⁵ Meunier (2003), p. 9.

⁶ WWF (2003), p. 15.

⁷ Leal-Arcas (2001), p. 11.

⁸ Leal Arcas (2001), p. 3.

Member States, has tried repeatedly to widen the scope of Article 133 TEC.⁹ However, others observe that mixed competence has not translated in the fragmentation of unity and loss in power of the European Commission.¹⁰

2.2 Lack of democracy? NGO Criticism

One of the most frequent criticism of EU trade policy is that it has large impacts on other policy areas, such as the environment and consumer policy, but does not sufficiently take such concerns into account. In addition, it is perceived that the EU trade policy process is dominated by trade technocrats from the EU Commission and lacks democratic control. This is partly due to the lack of transparency and participation in trade policy making under both exclusive and mixed competence. Moreover, NGOs complain about the bias towards economic interests, given the closer links and privileged consultation methods between the makers of EU trade policy and groups representing European business.¹¹

At the centre of criticism is the Article 133 Committee, which prepares decisions on both shared and exclusive procedures. In the committee, matters tend to be discussed until a clear consensus or effective majority has been reached, and the Commission tends to follow its advice. Since the Article 133 Committee is an advisory body, no formal votes are recorded and its deliberations are not published.¹² As a result, the Article 133 Committee is frequently regarded as a closed shop that considers voices speaking for non-trade-related issues, such as the environment only insufficiently. This view is underpinned by the perception that the 133 Committee is strongly influenced by Commission officials. Due to the Commission's initiative in drawing up proposals and its greater technical expertise compared with national trade officials, Council representatives on the 133 Committee need to act strongly, usually with a group of countries approaching a qualified majority, in order to significantly change Commission proposals.¹³ Moreover, it is said that depending on the negotiation and the mandate provided by the Council, the Commission has considerable flexibility in deciding on negotiating tactics.¹⁴

Yet another criticism is that the allegedly undemocratic policy making process, and the extreme complexity of decision-making procedures of European Institutions, make EU institutions hard to understand for the citizens.¹⁵ The European Parliament – the only body that is directly elected – has limited powers in trade policies, as the European Parliament is not involved at all in the negotiation procedure, neither under exclusive nor shared competence.¹⁶ Additionally, national parliaments are not formally consulted on European policies for international trade agreements – they are merely informed. Given the complex technical nature of international trade issues and somewhat varying interests among the EU member states, there has been little formal involvement of

⁹ Meunier and Nicolaidis (2000), p. 338.

¹⁰ Young (2002), p. 12; Meunier and Nicolaidis (1999), p. 329.

¹¹ Meunier (2003), p. 14.

¹² Ahearn (2002), p. 5.

¹³ WWF (2003), p. 13.

¹⁴ Ahearn (2002), p. 3.

¹⁵ Meunier (2003), p. 2; See also: European Commission (2002)

¹⁶ Meunier (2003), p. 2.

national parliaments, despite the effects of international trade agreements on national policy issues.¹⁷

In regard to transparency, civil society actors also point to the slow flow of information that comes on a very short notice. In response to criticism, the 133 Committee has introduced a 10-day rule for consultation on proposals relating to the current WTO round. However, NGOs, including the Friends of the Earth, International Co-operation for Development and Solidarity (CITSE), GermanWatch and the WWF, perceive this as inadequate to permit proper consultation within the commission or Member States.¹⁸

2.3 Efforts to foster transparency in EU Trade Policy Making

In order to rein in some of these critics and address its perceived lack of political legitimacy, the Commission has engaged in an ambitious program of consultation with civil society in the specific area of trade. Launched in 1998, the “Trade Dialogue with Civil Society” organised a larger number of general and thematic meetings. In these events on trade issues in Brussels, European Commissioners, senior officials and negotiators come together with representatives of NGOs, research institutes and other civil society groups. Usually there is exchange of views on current trade issues and the civil society groups are able to present to the Commission proposals of their own. However, some observers regard this process as merely a PR effort to convey the message that “civil society” is heard and is from now on included in the process. It is frequently claimed that the actual effect that this dialogue has on policy, if any, is most likely very limited.¹⁹

Yet another channel of participation is the Sustainable Impact Assessments (SIA) Programme, which was launched in 1999 as an effort to better integrate sustainability concerns into trade policy making. Given the broad impacts of trade on environmental and social issues, it was acknowledged that public participation plays a crucial role in SIAs. However, it is again unclear how participation in SIAs feeds into the negotiation process and several NGOs are uncertain as to whether participating in SIAs is an effective and efficient exercise. While SIA processes theoretically might provide a structure and framework for an institutionalised public participation in the trade and sustainability area²⁰, it is still too early to gauge the impacts of participation in SIAs on EU trade policy making.²¹

2.4 Drivers of Change - Cancún, Enlargement and the EU Constitution

At present, several forces are pushing for reform of the EU trade policy making process.

- First, the anti globalisation movement continues to strongly criticise the international trading structures in place. WTO ministerial conferences are currently not conceivable without the presence of a large number of protesters and critics whose demands for fair trade, benefits sharing and transparency are difficult to be overheard.

¹⁷ WWF (2003), p. 15.

¹⁸ Here: WWF (2003), p. 14-15.

¹⁹ Smith (2001); Meunier (2003), p. 13.

²⁰ WWF (2002).

²¹ Knigge and Leiprand (2003).

- Second, the collapse of the trade negotiations in Cancún led to a period of intense discussion about the ways of international trade negotiations. This includes also the process of EU trade policy making and the relation between the commission and the member states during WTO negotiations.
- Third, the European enlargement in May 2004 will add new national traditions and interests to the existing union. With respect to trade policy, this increased diversity is likely to put a strain on the current institutional mechanism and voting procedures.
- A fourth strong push for reform stems from the debate about the future European constitution. Currently, the final constitutional draft mainly simplifies the Articles on Common Commercial Policy. Competencies mainly stay as before, with a slight shift towards centralisation. Trade in services and commercial aspects of intellectual property rights, as well as all foreign direct investment, now regularly fall under the exclusive competence of the EU. Suggestions for stronger democratic control by the European Parliament, for example through consultations in the drafting process of the mandate, participation in the 133 Trade Committee or consultations before approval of all trade agreements, were not considered to their full extent. The conclusion of international trade agreements now requires the consultation of the European Parliament, and the European Parliament will be immediately and fully informed at all stages of the procedure.

3 Trade Policy in the Member States

Although the extensive powers of the EU limit their own flexibility, the Member States are heavily engaged in trade policy making. This is certainly true for all trade issues negotiated under shared competence, such as investment and certain services. However, even under exclusive authority, the Commission does not negotiate in isolation; rather, its mandate is based on the priorities, knowledge and needs of the EU Member States. Thus, they remain important actors in making European trade policy.

The member states' interests and priorities in trade policy making hinge upon a large number of factors, such as geographic location, natural resources, market size and economic structure. In addition, different actors, institutions and decision making structures in place have an impact on the relation towards European trade policy. The following gives a rough overview of the variety of actors and institutions in place and a brief introduction into some of the more important trade-related issues currently debated within the European Member States.

3.1 Main actors involved in trade policy making

Trade policy making has sizeable impacts on other issue areas which are of governments' concern, such as agriculture, consumer policy, the environment, health and development. Given the distribution of knowledge and power over different ministries, a large number of governmental institutions and actors have a substantial interest in participating in the policy making process, where they attempt to ensure more balanced positions that represent a broader set of societies' needs and interests. Usually, the economic ministries are the main governmental institutions involved, while other ministries only participate if their area of interest is affected. On the national level the economic ministry remains the main governmental institution in charge of trade

policy. For instance, in Austria the most important governmental actors aside from the Federal Chancellor include the Minister of Economics and Labour, the Minister of Finance, the Minister of Social Affairs and the Minister of Agriculture and Forestry. In the Czech Republic, the Ministry of Industry and Trade co-ordinates bilateral foreign trade policy, as well as relations with the European Community, the GATT/WTO and other international organisations, while, for example, questions related to agricultural products are dealt with in co-operation with the Ministry of Agriculture. In Spain the Ministry of Industry, Tourism and Trade is responsible for trade policies and foreign trade in co-operation with other ministries, such as the Ministry of Agriculture. In Sweden, the main government ministries involved are the Ministries of Trade and Economic Affairs, Labour Affairs, and the Minister for Infrastructural Affairs. Here it might be noted that environmental concerns in trade policy are only present in relation to labour law. In Germany, the Ministry of Economics and Labour is in charge of trade policy. However, the involvement of other ministries was demonstrated, for instance, by the presence of a number of ministers, including the German ministers of the Environment, Agriculture and Consumer Policy as well as the German Minister for Development and Economic Co-operation, in Cancún during the 5th WTO Ministerial negotiation. In the United Kingdom, a number of institutions, such as the Department of Trade and Industry, Treasury, Foreign and Commonwealth Office and the Department for Environment, Food and Rural Affairs, are involved in the policy making process. However, the Prime Minister himself is the single most important part of the EU-oriented policy-making process, given his power to override all other actors at any point.

In order to better represent the national economic interest and to effectively influence trade policy on the European level, a number of member states have set up bodies with a central co-ordination function. For example, the Austrian 'Center 2 – Foreign Economic Policy and European Integration', situated within the Federal Ministry of Economics and Labour, has this function at the supranational and international level. Other states, such as the Czech Republic, have not set up any central authority of state administration to administer its relations with the organs and institutions of the European Union. Decision making processes have essentially been left to the relevant responsible ministries and other administrative offices, while the foreign affairs ministry has a co-ordinating function in the process. Moreover, the degree of participation of the Czech Republic in EU bodies is closely related to the fact that it has only recently become a member of the European Union.

With respect to democracy, national parliaments play a crucial role in decision making processes. Nevertheless, parliaments tend to be relatively uninvolved in the trade policy making processes on the European and national level. The German parliament, therefore, fears a shift from the legislative to the executive bodies on the national level.²² Parliamentarians see their fears justified because several submissions from the Parliament *inter alia* had little impact on the government's position. Some of these proposals were to include the right to food in the preamble of the WTO²³, and to include the Singapore issues (investment, competition policy, transparency in government procurement and trade facilitation) on the negotiation agenda only after achieving substantial results in the spirit of a development round²⁴. Moreover, several German

²² GATS-Verhandlungen – Transparenz und Flexibilität sichern. – Antrag der Fraktion SPD und Bündnis 90/DIE GRÜNEN online available at <http://dip.bundestag.de/btd/15/005/1500576.pdf>.

²³ Bundestagsbeschluss (III/7 - 15/1317).

²⁴ Bundestagsbeschluss (III/22 – 15/1317).

Members of Parliament perceive a general atmosphere of secrecy in the Ministries for Economy and Labour. In Sweden, the representatives of parliamentary parties are represented in a so-called EU Board, where government and parliamentarians come together. However, independent of their political convictions, opposition parties maintain that the EU Board is often used by the government to deliberately keep the opposition in the dark regarding potentially difficult and thorny EU issues. Moreover, even national governments do not feel adequately informed and involved. In a leaked internal UK Government report on the Ministerial negotiations in Cancún, frustration was expressed that “[t]he relationship between the Commission and member states came under strain at Cancun. Debate was stifled, and information flows were poor”²⁵.

Still governments, represented through the different ministries, are the most powerful actors in national trade policy making, while several institutions and organisations are also involved that do not directly work for or in the name of the state, but nevertheless strongly support the objectives concerning external trade through their work with and for businesses. Several of these have direct or indirect links with governments and are of major importance given their experiences in policy implementation. Examples include foreign trade banks, such as the *Banque française du commerce extérieur*, and export credit agencies like the German Euler Hermes or the French COFACE (*La Compagnie française d'assurances pour le commerce extérieur*). In Spain, the Spanish Foreign Trade Institute promotes and facilitates international trade by providing information and legal advice. The variety of further institutions promoting foreign trade range from networks of foreign trade advisors in France to Chambers of Commerce Abroad to German embassies and consulates which support German exporters in the respective countries.

Yet another important player is the broad range of non-governmental actors, such as labour unions, business associations and development and environmental NGOs. The degree of institutionalisation of these groups and their influence on trade policy making differ widely among Member States. This is also true for the presence of institutionalised structures for stakeholder participation in trade policy making. In France, the strongest and loudest lobby groups seek to preserve the status quo in the major economic sectors, namely agriculture, culture and services. Particularly well known is the FNSEA - Fédération Nationale des Syndicats d'Exploitants Agricoles - which is well organised and fights to preserve the high subsidies provided by the French government. German farmers, though not as forceful as their French counterparts, also play an important role in “agri-trade” policy formulation processes on the national level. On the European level, national farming lobby groups combine their voices in the COPA (Comité des Organisations professionnelles agricoles de l'UE). Swedish Industry (SI) as an interest group calls consistently for a removal of barriers to trade, including customs duties on Swedish exports and red tape. In these areas, the differences between the Confederation of Trade Unions and the SI on trade policy tend to be insignificant since primarily Swedish employment is at stake. In most countries, as in Austria or Germany, trade unions are concerned about the effects of trade liberalisation on national employment and social standards. In addition, there is a large variety of organisations lobbying for more development-, socially- or environmentally-friendly trade, such as Fair Trade organisations in Germany, Austria and the UK. Next to social and environmental organisations, business advocacy groups certainly play a

²⁵ WWF (2003).

major role in influencing trade policy making. For example, in the United Kingdom the International Financial Services, London (IFSL) represent a crucial actor, promoting the further liberalisation of financial services.

3.2 Member States' interests and positions in trade policy

Generally speaking, all Member States defend a liberal stance in trade negotiations. In the past, Member States have embarked on a process of economic liberalisation and privatisation due to EU requirements, external pressures and global competition, as well as ineffectiveness under former economic systems. Based on the positive effects of trade liberalisation within the European Union and with its trading partners, governments tend to agree that the reduction of tariffs and other trade barriers is in most areas beneficial to national economies. The differences in economic structure, trading links and market size among the member states are mainly expressed in the priorities setting. In 2002 during its presidency, Spain for example pushed forward the trade negotiations with Latin America, one of its traditionally most important trade markets.

However, fears persist about trade impacts on economies and areas of national policy. For instance, there is a frequently mentioned fear that foreign companies will buy up industrial branches and brand names in order to move them to third world countries, with their comparatively low labour costs, less powerful trade unions and few environmental regulations. This is also frequently expressed by trade unions trying to maintain national jobs. Other fears include the decline of national public services or the reduction of national health safety and security standards. Against this background, some countries, such as Austria, banned certain agricultural products from their market, which have in the meantime been approved by the European Commission. Also, the Austrian government has ruled out lifting the ban on imports of cattle treated with hormones, regardless of whether the ban is lifted by the EU. Similarly, Sweden applies protectionist measures with regard to alcohol and farm products. In sum, it seems fair to say that all EU Member States try to benefit from trade in terms of economic growth and positive effects on the national labour market, and thus support a process of continuing liberalisation mainly through multilateral negotiations. However, given the fears mentioned above, governments also seek to protect certain sensitive sectors from liberalisation.

Agriculture is one of the most sensitive issues dealt with in European trade policy. Depending on the role of agriculture within Member States' economies, their positions on the liberalisation of the agriculture market differ slightly. For example, France is the largest agricultural producer in the EU, and the industry's interests are advanced by a strong farming lobby. With its large part of workers employed in the agricultural sector, Spain benefits strongly from the European Common Agricultural Policy (CAP) and is thus in favour for the current system in place. Also, Sweden takes the view that unless agrarian resources are produced in Europe, there will be a potentially very serious loss of self-subsistence and the vanishing of an agrarian culture with open and well-managed landscapes. Austria, for instance, sees itself committed to negotiations on additional liberalisation efforts in the agricultural sector. However, this is only conditional on other issues, such as the continuation of safeguarding for small family farms, which are the norm in Austria. Yet another proposal was supported by the German Ministry for Development and Economic Co-operation, which publicly

demanded a fast and complete phasing out of cotton subsidies in OECD countries and China.

Particularly closely watched by almost all Member States are the negotiations under the General Agreements on Services (GATS), given their potential impacts on sensitive public services such as water, energy, education and health, but also television and tourism. In WTO negotiations, the European Union regularly asks some countries to liberalise certain markets and open up their service sectors to foreign competition. However, at the same time, most European Member States consistently resist a liberalisation of their own markets. Moreover, a broad coalition of actors and institutions, ranging from water and waste services to education, environmental NGOs and Members of Parliament, accuses the GATS of subordinating environmental protection, regional and developmental policy, co-determination and democratic participation, and equal rights for women. Many of these actors are organised in the 'Stop GATS' campaign on the international level. However, while there is a relatively loud voice within national social lobbying groups in this matter, the influence on national or European policy making is yet to be seen.

Yet another issue debated in the area of trade is core labour rights and social standards, which are frequently viewed as a means to improve the quality of life for all and contribute to global sustainable development. In this area, the Austrian government is pushing for the social dimension to be included in the WTO negotiations and strongly supports the creation of a Joint ILO/WTO Standing Working Forum to deal with the issue of core labour rights. Also, Germany pushes strongly to integrate further thematic issues into the WTO. In particular, it is attempting to solve potential conflicts between international trade and other societal interests, such as environmental protection, labour standards and rights, health security, and consumer protection, which are all gaining increasing attention in the negotiations. However, a large number of developing countries fear that labour and social rights, once included in the trade agenda, will be used as a new trade barrier. However, improving trade relations with the developing world is a concern shared by many Member States. Currently, international trade policy is frequently seen as a negotiation process through which rich countries force poor countries to open their markets, rather than providing the opportunity to develop their own economies. Developing countries' economies thus become unsustainable and export-oriented, which leads to environmental destruction and poverty. Against this background, France emphasises co-operation with and help for developing countries, Africa in particular. Issues of particular interest are access to medication and the basis for private sector engagement. The Austrian government continuously demands that developing countries be fully included in the WTO negotiation process. Moreover, the Austrian Ministry of Finance supports the demand by developing countries to simplify and standardise trade and customs practices, as well as better integrate these countries into world trade.

Although trade policy embraces too large a number of issues to be analysed here in greater depth, a number of observations can be made. In general, there is a consensus about liberal trade policy among moderate political parties and Member States' governments throughout Europe. Given the reliance of several European countries on exports and open markets, many European Member States supported the introduction of the so-called Singapore Issues, namely procurement, investment, competition, and trade facilitation into the current WTO negotiations. In particular, Germany was one of

the main driving forces behind the EU demand to include negotiations on investment in the Doha round. With regard to non-governmental actors, most environmental and development organisations are today subscribing to more liberalised trade, emphasising the role of the state and the necessary framework conditions which have to be in place. Compared to the other member states, France seems to face the strongest anti-globalisation movement, rendering it difficult for France to balance public opinion and international trade policy. However, as elsewhere there is a cross-party consensus between the main parties not to change trade policy, but to combat people's fear of a huge and chaotic world, as expressed in the anti-globalisation movement, through information and education. The fact that trade plays such a decisive role in the development of the state's economy has - so far - led the Czech Republic to consistently adopt a liberal approach to matters and commit itself to the elimination of tariff and non-tariff barriers, not only on a multilateral basis, as part of GATT or more specifically the WTO, but also on a bilateral basis.

4 Indicators to measure democracy and Trade policy making

In the framework of the EUROPUB project, a set of indicators was developed with the aim of establishing a system for monitoring democracy in the EU. In order to test these indicators' effectiveness in monitoring democracy in the EU, a selection of indicators was checked in three different policy areas. This case study presents the results of assessing and testing the selected indicators in the area of trade policy.

The following paragraphs give a short summary of the methodology used for testing the indicators.

As a first step, 46 out of the nearly 300 indicators were selected as being relevant to trade policy. This selection was double-checked by two Ecologic experts with relevant backgrounds in trade policy. In a second step, this selection of indicators was sent to 58 trade policy experts in Austria, the Czech Republic, France, Germany, Spain, Sweden and the United Kingdom; this group consisted of academics, policy-makers, politicians, NGO members, speakers of parties and administrators.

The return rate of the questionnaires was low. Overall, nine experts answered the request: Two experts from Austria, one from the Czech Republic, none from France, two from Germany, one from Spain, two from Sweden, none from the UK and one from a European NGO. The respondents included politicians, administrators, chambers of commerce, NGOs and universities.

In order to get an overview of how the experts evaluated the indicators, the arithmetic average of the answers per indicator was calculated. Then, the indicators were grouped according to the range of the arithmetic average (2,2-2,7 = low; 2,8-3,3 = medium; 3,4-3,8 = high). Since the sample was small, a strict interpretation of their relevance according to the arithmetic average can be misleading. Therefore, the following qualitative aspects were also considered: the highest and lowest answer per indicator, the most frequent answer per indicator and the relation between the answers. The qualitative aspects helped to deal with the problem that the relevance of an indicator was not always agreed on by all experts. This is the case, for example, when, out of nine experts, three assess an indicator as highly relevant, three assess the same

indicator as relevant and three assess it as irrelevant. This assessment does not say much, although the arithmetic average might show that it is relevant. Furthermore, qualitative aspects were used in cases where the arithmetic average shows a high relevance, but the distribution of indicators gives a different indication.

The original set of indicators is grouped according to seven key dimensions or so-called strategic objectives. The following analysis of the return of the questionnaires will first show a general assessment of the relevance of the strategic objectives. Afterwards, the indicators for each of the objectives are analysed in depth. Taking the qualitative aspects into account, this analysis will show which indicators within what objective were assessed as highly relevant, relevant and less relevant.

4.1 General Evaluation of Strategic Objectives

The original set of indicators is grouped according to seven key dimensions or so-called strategic objectives. These build the framework for a series of intermediate objectives and indicators of the EUROPUB monitoring system. They include:

- Subsidiarity;
- Coherence and effectiveness;
- Effective, independent, representative legislature;
- Openness and participation;
- Civil, corporate and media responsibility;
- Rule of law and access to justice; and
- Citizenship.

Two of these strategic objectives, namely “civil, corporate and media responsibility” and “citizenship”, were not applicable for trade policy. Consequently, none of these indicators were included in the questionnaire.

Of the remaining strategic objectives, none, according to the arithmetic average, was assessed as being highly relevant, but all were assessed as being of relevance (= all or a majority of the indicators of the respective area were evaluated as being relevant). Nevertheless, the precise assessment of the indicators varies.

The objective with the largest number of indicators assessed as highly relevant is “**coherence and effectiveness of policies**”, with four out of thirteen indicators being evaluated as highly relevant. This objective is closely followed by the objective “**subsidiarity**”, which includes three out of fourteen indicators under the heading “highly relevant”. This order is also confirmed by the assessment of the indicators of general relevance. “Coherence and effectiveness of policies” includes nine indicators assessed as relevant, none being assessed as less relevant, and “subsidiarity” contains eight of relevance and three of less relevance. The objectives “**effective, independent, representative legislature**” as well as “**openness and participation**” show more indicators of general relevance than of less or high relevance. Three indicators out of six under “effective, independent, representative legislature” were assessed as being relevant and two as being less relevant. “Openness and participation” contains eleven indicators. Seven of them were assessed as relevant and three as less relevant. A particular case is the “**rule of law and access to justice**”

because this objective only contains two indicators, of which one was assessed as being important while the other was assessed as being of medium relevance.

4.2 Detailed Evaluation of the Strategic Objectives

4.2.1 Subsidiarity

Out of the fourteen indicators tested for the strategic objective "subsidiarity", three indicators were assessed as highly relevant. Eight indicators were assessed as being relevant, while three were assessed as being less relevant.

Highly Relevant

There seems to be a consensus among experts that the following three indicators are highly relevant:

- Adherence to rules on institutional reform at aggregate level
- Mechanisms for consultation with EP, CoR and Social Committee at policy proposal stage
- Role adhered to citizen consultation and public inquiries at stages of policy proposal and formulation at national levels

These results show that, first of all, the involvement of the European Parliament (EP), the Committee of the Regions (CoR), the Social Committee and citizens in decision-making is deemed an important indicator in assessing how democratic trade policy is. Consultation of the mentioned institutions, however, focuses on the policy proposal stage, while consultation of citizens relates both to the stages of policy proposal and formulation. Furthermore, the role of the institutions clearly refers to the European level, while citizen involvement concerns the national level. Apart from the existence of consultation mechanisms, the results show that the adherence to rules on institutional reform is assessed as being more important than their existence.

Relevant

Among the eight indicators assessed as relevant, the evaluation of five shows no consensus among the experts. The remaining three are as follows:

- Scope of co-voting vs. Consultation with European Parliament
- Existence of rules on institutional reform at European level at the aggregate level
- Mechanisms for consultation with EP, CoR and Social Committee at policy formulation stage

The indicators assessed as being relevant closely relate to the indicators assessed as being highly relevant. Among the indicators perceived here as relevant, the existence rather than the application of rules on institutional reform is highlighted, and the mechanisms of consultation with EP, CoR and the Social Committee here relate to the stage of policy formulation compared to the policy proposal stage in the first group. Although the establishment of rules cannot be thought without assuming that they will

be applied, sometimes rules are not adhered to in practice. The remaining indicator concerns the scope of co-voting in the European Parliament. This gives new support to the statement that its involvement in general is important for democratic trade policy-making. The scope of co-voting in the European Parliament of course touches upon one of the main issues with regard to European trade policy making from a democratic perspective and is one of the most frequently mentioned allegations towards European trade policy.

Less Relevant

Out of the three indicators assessed as less important according to the arithmetic average, only one showed a consensus between the experts:

- Consistency of above mechanisms (efficiency and transparency of mechanism of consultation between national governments and national parliaments at policy proposal and formulation stages) across Member States.

4.2.2 Rule of Law and Access to Justice

Of the two indicators within this category, both show no clear preference of the experts. The existence of specialised commercial courts shows a weak tendency to being relevant, while the consistency of legislation with WTO standards gives no clear indication. The former indicator was highlighted as being unclear to one expert. The second was deemed as not being a problem of democracy at the national or European level, but rather a problem with the standards set by trade officials, because the WTO illegitimately limits the opportunity to create new legislation (e.g. on the environment).

4.2.3 Coherence and Effectiveness of Policies

Within the objective “coherence and effectiveness of policies”, fourteen indicators were tested. According to the arithmetic average, four indicators were assessed as being highly relevant, nine were assessed as being relevant and none was assessed as being less relevant.

Highly Relevant

Of the four important indicators, only one gives a clear indication, and the other three are more ambiguous. The indicator of high relevance is the “role of societal actors: social partners and civil society organisations”. This assessment clearly confirms the aforementioned discussions concerning the lack of civil society participation in the EU trade policy making process. Experts in the area of trade regard the role of societal actors, social partners and civil society organisations as highly important for an equitable and democratic trade policy making process.

Relevant

Of the nine relevant indicators, the following were agreed to be relevant by the experts:

- Examples of decisions taken at government level as a consequence of pressure from civil society
- Number or percentage of policy decisions in which input from consultation was taken into account

- Existence of international regulations or agreements setting standards or targets and adherence to these by EU or Member States
- Number and scope of legislation concerned with regulating deregulation
- Number and scope of economic measures targeting the sector

The first two of these indicators, which were assessed as being relevant to measuring how democratic trade policy is, refer to consultation, although they differ in one important respect. The first refers to the number of policy decisions in which input from consultation was taken into account, and the second asks whether decisions were made as a direct consequence of pressure from civil society. The next indicator asks for the existence of international regulations or agreements setting standards or targets and adherence to these by EU or Member States. International regulations or agreements can also include participatory standards or targets. If this is the case, it is important that Member States or the EU also apply these standards. This indicator was highlighted as difficult to understand by one expert. The last two indicators deal with the amount and scope of legislation regulating deregulation and the number and scope of economic measures targeting the sector. The fact that these indicators are evaluated as relevant to saying how democratic trade policy is, is closely related to this specific policy field. International trade liberalisation frequently requires deregulation in national markets. The final outcome of this process is highly influenced by the design and the implementation of the deregulation process itself. One expert, however, remarked that market openness and economic regulation / de-regulation does in his view not directly relate to democracy / openness and citizen participation.

4.2.4 Effective, Independent, Representative Legislature

Within the objective "effective, independent and representative legislature", one out of the five indicators tested, according to the arithmetic average, was assessed as being highly relevant; two were assessed as being relevant and two as being less relevant.

Highly Relevant

The only indicator assessed as highly relevant within the objective "effective, independent, representative legislature" is the scorecard of citizen access: (a) do citizens have access to records of meetings; (b) are citizens able to find out who or what group is responsible for particular areas or decisions; (c) are citizens able to obtain voting records of MPs; (d) are citizens granted access to meetings of parliament; (e) are citizens granted access to committee meetings; (f) are plenary and committee meetings open to press?

Relevant

Of the two indicators assessed as relevant, only one shows agreement between the experts: The average number of meetings per year held by legislators in which citizens / constituents are invited, or the percentage of MPs who meet with NGOs and constituents more than x times a year.

Less Relevant

Of the two indicators regarded as less relevant, also only one was evaluated in agreement by the experts: The number of committee meetings where citizens are invited to actively participate or provide input.

4.2.5 Openness and Participation

Out of the eleven indicators chosen for the objective “openness and participation”, one was assessed as highly relevant, seven as relevant and three as less relevant.

Highly Relevant

The only highly relevant indicator within the objective “openness and participation” is: Legislation on the availability and access to information regarding the executive branch of government.

Relevant

Out of the seven indicators assessed as relevant according to the arithmetic average, five were assessed as relevant in agreement:

- Legislation on the availability and access to information regarding the judiciary branch of government
- Legislation on the availability and access to information regarding societal actors (like NGOs, trade-unions, etc.)
- Existence and description of mechanisms of consultation and participation
- Legislation on stakeholder consultation
- Number of NGOs saying they experienced a valid engagement with the executive branch of government in the process of policy formulation and implementation

Two of these five indicators deal with legislation on access to information, while two deal with mechanisms for consultation. The fifth, in contrast, asks for the application of these mechanisms. While the indicators on access to information look at two different branches, the judiciary branch of government and societal actors, the fifth concerns the executive branch of government.

Less Relevant

Of the three indicators assessed as being less relevant according to the arithmetic average, all three showed a consensus between experts:

- Use of mechanisms of consultation and participation
- Perception of citizens with regard to having adequate information on key policy issues
- Examples of decisions taken at governmental level as a consequence of pressure from civil society.

4.2.6 General Assessment

The general pertinence of the full set of indicators is assessed as being relevant, as well as the scope of the indicators, at least from a formal point of view. Concerning the scope, one expert stated that it was very difficult to assess if the indicators listed are sufficient for assessing the trade policy from a democratic perspective, as there might be hundreds of additional indicators. Two additional indicators were suggested, which mainly refer to European trade policy:

- the number of international treaties and WTO conferences where parliament debated before the negotiations about what should be achieved in the negotiations and decided on the mandate, and
- the number of trade agreements rejected by a legislature against the wishes of the trade minister.

One expert suggested considering the self-perception of policymakers and Parliamentarians in the indicators.

4.3 Conclusions

In general, the indicators were assessed as useful for assessing how democratic trade policy is. However, some aspects hamper their application, which are highlighted in the following:

- Often it is difficult to assess the indicators without any reference to trade; an adaptation to the policy field in question should be considered when applying the set of indicators.
- Because the indicators are sometimes very abstract, giving some more concrete examples for the addressees of the questionnaires could be helpful.
- The set of indicators contains many repetitions, ie the difference between P29 and P30 is unclear, some indicators even are identical, ie O15 and P45.
- Some of the indicators contain unclear terms. Indicator S19 for example refers to the “scope of co-voting” with the European Parliament; probably it was intended to refer to the co-decision procedure. Similarly, indicator S27 refers to the “Social Committee”, which should be the “Economic and Social Committee”.
- In some cases a definition of terms would be helpful. For example, it is not always clear what the difference is between civil society, societal actors, NGOs, citizens, public, etc.

In conclusion it should be noted, that the low number of answers and the absence of answers from the UK and Spain only permits an initial evaluation of the indicators and does not allow to draw firm conclusions.

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