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The EU as Promoter of Environmental Norms in the Doha Round

ARLO POLETTI and DANIELA SICURELLI

This article investigates the reasons why the EU tried to promote environmental norms in the Doha round. It argues that the EU's support of a 'greener' World Trade Organization stems from tensions between the rigidity of the domestic dynamics of positive integration in the EU and the increased bindingness of negative integration commitments undertaken under the WTO. Consensual decision-making procedures in the EU led societal groups to push for stringent food safety and environmental regulations in the EU, and made them very resistant to change. These dynamics of positive integration, however, produced rules that were inconsistent with negative integration commitments undertaken under the WTO, at a time when the creation of a quasi-judicial dispute settlement mechanism in the trade regime had greatly increased the bindingness of WTO rules. As a result of the twofold effect of domestic and international institutional constraints, EU decision-makers were subject to compelling incentives to try and strengthen legitimate exceptions from WTO rules and immunise European regulation against WTO legal challenges. Empirical evidence on how the EU shaped its trade-and-environment agenda in the run-up to the Doha Round in 2001, as well as how it negotiated in the subsequent period, lends support to the argument.

Introduction

Throughout the 1990s, increasing public awareness of environmental issues and the entry into force of major Multilateral Environmental Agreements (MEAs) prompted governments to address bi-directional links between trade and environmental protection. As a result, the environment became part of the work programme of the nascent World Trade Organization (WTO) when the General Agreement on Tariffs and Trade (GATT) 1994 ministerial meeting created a Committee on Trade and Environment (CTE). Environmental concerns were given further prominence on the multilateral trade agenda in November 2001, when a chapter of the Doha Declaration was

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devoted to setting out the mandate for negotiations on 'trade-and-environment'.

The European Union put itself forward as the most prominent advocate of the environmental agenda in the multilateral trading system. Although the EU had begun developing this position in the mid-1990s, in 1999 it started fervently supporting the inclusion of an environmental agenda in the Doha Round, calling for MEA trade-related measures to be accommodated in the world trading regime and for increased legitimacy of the precautionary principle in WTO law. Several studies have investigated the role of the EU as an environmental norm promoter in the UN bodies (Falkner 2007; Vogler and Stephan 2007; Zito 2005), but the question as to why the EU promoted such norms in the WTO remains surprisingly underexplored. This paper addresses this overlooked question. We contend that efforts by the EU to upgrade the trade-and-environment debate into a central negotiating item of the Doha Round largely reflected an attempt by its policy-makers to immunise European food safety and environmental regulations against WTO legal challenges. The European position was a response to the twofold pressure exerted by domestic and international institutional incentives. Consensual decision-making procedures in the EU led societal pressures to drive the stringency of food safety regulation in the EU, and made it very resistant to change. These dynamics of positive integration, however, produced rules that were inconsistent with negative integration commitments undertaken under the WTO,¹ at a time when the creation of a quasi-judicial dispute settlement mechanism (DSM) in the WTO had greatly increased the bindingness of WTO rules. After the mid-1990s, conflicts between free trade rules and EU domestic environmental rules became apparent when a number of high profile 'trade vs. environment' WTO disputes were initiated or threatened against the EU. In this context, EU decision-makers were subject to compelling incentives to try and strengthen legitimate exceptions from WTO rules in order to accommodate domestic environmental measures. We argue that the EU's support of a 'greener' WTO stems from tensions between the rigidity of the domestic dynamics of positive integration in the EU and the increased bindingness of negative integration commitments undertaken under the WTO.

Some authors have already noted that, by promoting environmental norms in the WTO, the EU tried to shield itself against WTO legal challenges (Kelemen 2010; Skogstad 2001; Vogel 2002). Yet these analyses hint at pressures generated by actual or potential WTO rulings only as a passing reference, without investigating how such constraints feed into the EU's domestic political arena, interacting with domestic institutional incentives and affecting policy preferences of organised societal actors and policy-makers. Indeed, whilst these studies rightly point out that the EU strategy was also driven by defensive motivations, they neither theoretically specify nor empirically trace the causal mechanisms connecting

pressures from WTO rulings with the EU's negotiating position on trade-and-environment. This article aims to fill these gaps by offering a theoretical explanation and an empirical illustration of how the interplay between domestic and international institutional incentives induced organised societal groups to advocate the inclusion of the precautionary principle and other environmental norms in the WTO, and of why EU policy-makers gave in to their demands. Hence, rather than developing an alternative explanation, this article aims to complement the existing literature.

Besides offering an explanation for one specific policy outcome, several implications of our treatment warrant attention. First, we connect strands of literature that to date have remained surprisingly separated, suggesting new avenues for research on the mutual effects of domestic politics in the EU and political developments in the international arena. That institutional hurdles largely account for why the EU finds it difficult to change domestic food safety policies when challenged in WTO disputes is well established in the literature (Daugbjerg and Swinbank 2008; Young 2004). Yet, that this institutionally driven policy rigidity might also affect the EU's international stance and feedback on the cooperative dynamics in the international trade arena has been overlooked. Second, this study introduces a comparative perspective into the debate on the domestic effects of WTO judicialisation (De Bièvre 2006; Goldstein and Martin 2000; Zangl 2008), showing how domestic institutional structures influence actors' responses to 'the shadow of WTO law'. Third, this article speaks to the literature on EU foreign policy, highlighting the set of incentives and constraints brought about by the international embeddedness of EU trade policy-making.

The paper proceeds as follows. In the first section, we provide an overview of existing explanations as to why the EU has promoted environmental rules in the WTO. In the second section, we develop our theoretical argument. In the third section, we analyse empirical evidence concerning how the EU came to shape its trade-and-environment agenda in the run-up to the Doha Round in 2001, as well as how it negotiated in the subsequent period. The final section summarises the key findings of the paper.

Existing Explanations

Despite the EU's highly active role as a promoter of environmental norms in the WTO, this topic has received surprisingly little attention in the literature. Most studies concentrate on the role of the EU in UN bodies and conventions. Despite this, two potential explanations for this empirical puzzle can be identified in the literature.

One strand in the literature relies on ideational explanations. Some of the literature on EU foreign policy considers the EU to be an international actor with a value-based or normative foreign policy (Lucarelli and Manners 2006). From this perspective, EU environmental diplomacy and the EU's

effort to make the WTO 'greener' can be conceived of as projections of its identity as a green power onto the international stage (Vogler and Stephan 2007). Falke (2005) suggests that ideas embedded in a 'post-modern trade paradigm' can account for the EU's promotion of environmental norms in the WTO. Finally, Gabler (2010) stresses the importance of social learning processes fostered by institutional innovations that have heightened the voice of pro-environmental forces within the EU. A number of problems, however, cast doubts on the explanatory power of these arguments and suggest that other factors deserve attention. These studies claim that ideational factors and socialisation processes do not exclude strategic motivations or material interests; yet they do not specify whether these factors were necessary or sufficient conditions for the EU to develop such a strategy. Moreover, this explanation is of little help in accounting for the timing of the EU's strategy. The international environmental leadership of the EU is a relatively recent phenomenon (Falkner 2007: 511). This is particularly evident in the context of the WTO. Several authors convincingly argue that the EU's position on environmental norms in the WTO changed substantially and suddenly in the late 1990s (Halle 2006; Shaffer 2001; Thomas 2004). Finally, the explanation of the EU's position at Doha as the result of policy learning, which implies an incremental commitment to norm promotion, does not account for the recent weakening of the environmental focus of EU negotiators in the Doha Round.

Another strand in the literature stresses the political-economic dynamics that underlie governments' choices concerning international environmental policy. These studies argue that such choices are driven by the pressures of organised societal groups (Falkner 2007; Kelemen 2010; Kelemen and Vogel 2010). According to Kelemen (2010), the EU's promotion of environmental rules at the international level, including in the WTO, can be explained by a model of regulatory politics that combines the effects of domestic politics and international regulatory competition. This model states that the dynamics of domestic environmental regulation in the EU have affected its international regulatory stance, creating incentives to engage simultaneously in offensive and defensive regulatory strategies in order to spread domestic norms internationally, as well as to maintain its desired level of environmental protection at the domestic level. The strength of environmental constituencies in the EU, magnified by domestic institutional structures, account for the stringency of European environmental regulatory standards. These strict domestic environmental standards, in turn, have produced two effects. On the one hand, they have compelled domestic producers to support offensive international regulatory strategies aimed at imposing similar costly standards on foreign competitors, joining environmental constituencies in Baptist-bootlegger coalitions (DeSombre 2000; Vogel 1995).² On the other hand, incentives have arisen to engage also in defensive strategies, i.e. supporting environmental norms in the WTO, in order to immunise the EU against challenges arising in the form of WTO litigation.

While we essentially agree with this view, we contend that additional efforts are needed both to specify theoretically the political-economic dynamics that underlie the defensive side of this twofold international strategy and to provide a more complete account of the EU's position regarding trade-and-environment in the Doha Round. The regulatory politics argument provides a compelling theoretical explanation as to why trade actors might engage in positive integration efforts at the international level, fostering race-to-the-top regulatory dynamics so that foreign competitors would be subject to similar regulatory burdens.

However, the causal mechanisms through which domestic regulatory developments and WTO-level institutional incentives have interacted to produce a defensive international regulatory strategy aimed at granting immunity from WTO ruling for its own norms concerning precautionary risk regulation remain theoretically under-specified and are poorly traced empirically. What exactly are the causal mechanisms that have unleashed pressures for the EU to support such an environmental agenda in the WTO? What societal actors have mobilised in order to 'green' the WTO when WTO legal challenges threatened the domestic regulatory status quo? How have domestic institutions in the EU filtered these societal pressures? Why have policy-makers upheld their demands, rather than seeking to bring domestic rules into conformity with WTO provisions? In other words, the existing literature needs to be complemented so as to gain better insight into why and how the EU has sought to strengthen the legitimate exceptions to existing WTO rules in order to obtain greater leeway in pursuing its domestic environmental policies under the constraints of the WTO quasi-judicial system of dispute settlement. In the remainder of this article we deal with this set of questions.

The Argument

The roots of the EU's support for an environmental agenda in the WTO lie in the inherent tensions between the domestic dynamics of positive integration and the biting force of WTO negative integration commitments.

Consensual decision-making rules in the EU system tend to create political dynamics that press for regulatory approximation at a high level (Scharpf 1988). This is particularly the case when products are subject to detailed common rules, because when these rules are negotiated, any government with more stringent regulatory standards is in a strong bargaining position. As Young (2004: 401) argues, 'its industry is protected from foreign competition, while those of its trading partners are hurt by being denied access to its market'. Governments with stringent regulatory standards can therefore hold out for a good deal while those with most to gain have stronger incentives to compromise. Pressures for approximation derive from the negative impact of diverging national rules on trade within the EU and the incentives that these create to negotiate common rules. Since there is usually a blocking minority in favour of stricter standards, this creates

incentives for the ‘trading up’ of EU rules (Vogel 1995). These dynamics are particularly prominent in issue areas such as risk management in the field of food safety and environmental protection, where harmonised product regulations are required. EU rules concerning the use of hormones in meat production and genetically modified (GM) crop approvals illustrate these dynamics. It is widely acknowledged that societal pressures combined with consensual decision-making rules have led to the adoption of strict rules in these two areas (Kelemen 2010; Kelemen and Vogel 2010; Pollack and Shaffer 2009; Princen 2002; Young 2004).

These dynamics of positive integration produce rules that are also difficult to modify in the face of changed domestic or international circumstances. Since changes in EU regulations require a qualified majority of the member states and the European Parliament’s approval, once a binding rule has been agreed upon, the veto of a small blocking minority of governments prevents the others from correcting or abolishing the rule in response to changed circumstances or preferences. Two types of problem further contribute to the rigidity of the European regulatory framework. First, because these rules concern issues that rest firmly on widespread social values and are highly salient to the European public, they tend to be conceived as non-negotiable and therefore tend to be regarded as all-or-nothing issues (Guzmann and Simmons 2002). Second, since they often touch upon issues salient for the mass public, regulatory policies tend to prompt the political mobilisation of a wide array of constituencies, including diffuse interests (Hocking 2004). It is therefore not unlikely that diffuse interests build coalitions with producers in order to defend domestic regulations (DeSombre 2000). Indeed, several analyses show that these institutional hurdles and the dynamics of societal mobilisation largely account for why the EU finds it particularly difficult to comply with WTO obligations concerning food safety regulatory issues (Daughbjerg and Swinbank 2008; Young 2004, 2009).

A problem arises when these domestic policies happen to be inconsistent with WTO negative integration obligations. With the establishment of the WTO in 1995, the GATT’s political–diplomatic system of dispute settlement was replaced by a system that greatly enhanced WTO members’ ability to challenge WTO-inconsistent policies pursued by other trading partners (Zangl 2008). States pursuing WTO-inconsistent policies can no longer consider the status quo, namely the defence of their regulatory system, to be a cost-free strategy. The setting up of a panel against those states is likely to result in the issue of an authoritative recommendation to put an end to the targeted policy. If the targeted WTO member fails to comply, the complainant can be entitled to retaliate or cross-retaliate by raising tariffs on goods originating from that member. This means that WTO members can expect to bear high adjustment costs if trading partners initiate legal proceedings against their WTO-inconsistent policies.

As a result of the twofold impact of domestic institutional incentives driving the stringency and rigidity of positive integration rules and

international institutional pressures increasing the bindingness of negative integration commitments, compelling incentives arise for the EU to 'search for immunity' and press for changes to, or interpretations of, negative integration commitments. These incentives are of two closely interrelated but conceptually different types.

The first set of incentives takes the form of sustained societal pressures. Because these rules concern politically salient issues, an external threat to the domestic regulatory status quo such as a WTO dispute is likely to elicit the mobilisation of a wide array of societal actors, including diffuse interests such as consumers' organisations and (non-governmental organisations) NGOs. As for concentrated interests such as domestic producers, their degree of attention to this problem varies according to the extent that a reversal of the domestic regulatory status quo is likely to cause adjustment costs for them. The more domestic producers have adjusted to the costly requirements of these regulations, the more they are likely to suffer from domestic policy change in terms of both investment losses and decreased protection from foreign competitors. Therefore, the Baptist-bootlegger coalition that mobilised to promote stricter regulation is also likely to mobilise in response to external challenges to request that negative integration commitments in the WTO do not endanger the domestic regulatory status quo.

The second set of incentives is related to institutions. Societal pressures are not a sufficient condition for policy-makers to decide to pursue a defensive international regulatory strategy. Decision-makers may have a preference for a change of domestic regulations, and they may even strategically use a powerful international constraint such as the WTO DSM to make such change more likely (Goldstein and Steinberg 2008). Yet powerful institutional obstacles further reduce the room for manoeuvre. As already mentioned, policy change to bring domestic regulation into conformity with WTO rules is not an available strategy because societal actors with a stake in maintaining the domestic regulatory status quo can make use of the multiple veto points offered by the EU's institutional system. Decision-making rules in the EU also empower these domestic groups vis-à-vis policy-makers in a second stage, namely when the negotiating position in WTO rounds is defined. Indeed the de facto consensual procedure through which the EU adopts its negotiation position in the multilateral trade negotiations provides a favourable environment for these groups to influence EU negotiators, because capturing one or a few member states suffices to ensure that their requests will be included in the negotiating agenda (Dür 2006).³

In sum, when the dynamics of positive integration in the EU are found to be inconsistent with WTO law, powerful incentives arise for domestic constituencies and decision-makers alike to adopt a defensive strategy, with the primary aim of immunising the domestic regulatory status quo against the biting negative integration commitments of the WTO.

Our explanation complements the ‘regulatory politics’ argument in different ways. First, we more clearly specify the political economy dynamics whereby – in parallel with adopting a full-fledged strategy of spreading costly domestic environmental standards through positive integration commitments in diverse international forums – the EU also seeks to increase legitimate exceptions to negative integration commitments to WTO rules. We do so by showing how WTO-level institutional incentives may affect societal mobilisation and how domestic institutional incentives in the EU interact with such pressures, producing compelling incentives for policy-makers to uphold the demands of domestic constituencies.

Second, our argument allows us to specify clearly what the empirically observable implications of offensive and defensive strategies are, in terms of both what groups mobilise in support of such strategies and what rationales drive their mobilisation. In the offensive case, one should expect producers to mobilise, and that their main concern is the increased international competitiveness resulting from the internationalisation of domestic standards. In the defensive case, one can expect diffuse interests and only a certain set of concentrated interests to mobilise, and that their main concern will be defence of the domestic regulatory status quo rather than its internationalisation. Moreover, when defensive strategies are at stake, we should find evidence that the policy-makers’ strategy has also been affected by the anticipation that changing the domestic regulatory status quo is not a feasible option. Finally, we expect to observe that societal mobilisation in support of such defensive strategies and the resulting responses of policy-makers occurs largely in response to an external threat to the domestic regulatory status quo.⁴

Third, assigning causal relevance to the constraints of the WTO system of rule enforcement allows us to specify theoretically why the EU has pursued such a defensive strategy in the WTO rather than in other international organisations. Whilst an offensive strategy of spreading costly domestic regulations abroad can be pursued in different forums, immunity against WTO legal challenges and the adjustment costs that these can bring about can only be achieved through changes to, or interpretations of, WTO rules.

The EU’s Trade and Environment Agenda in the Doha Round

In this section we subject our argument to empirical scrutiny by analysing evidence concerning mainly how the EU came to define its environmental agenda in the run-up to the Doha Round. We present this evidence so as to construct as clearly as possible a sequential analytical narrative reflecting the causal chain described in the previous section. First, we briefly trace the evolution of food and consumer safety regulations in the EU, highlighting how it has been affected by domestic institutional incentives and, subsequently, how that domestic regulatory status quo has come to be challenged in the form of actual and potential WTO disputes. Second, we

show that WTO legal challenges have triggered the mobilisation of a wide array of societal actors advocating a defensive strategy aimed at creating new 'environmental' rules in the WTO that would lend legal cover to the domestic regulatory framework. Third, we describe how, as a result of the twin pressures of societal mobilisation and domestic institutional obstacles to policy change, introducing 'environmental' norms in the WTO has appeared to be the most feasible option for European policy-makers.

In the fourth sub-section, we also analyse how the EU's position on trade-and-environment evolved during negotiations. Again, we develop an analytical narrative to show that the causal chain described in the theoretical section also accounts for actual political developments during this phase. In this section we again provide evidence of how resistance to regulatory change within the EU and the societal mobilisation elicited by the 2003 WTO dispute initiated by the US against the EU's rules on GMOs affected the position of the European negotiators in the Doha Round. We also show that the adverse ruling by the WTO panel on GMOs challenged the effectiveness of the EU as a norm promoter.

Consistent with our expectations, analysis of both the agenda-setting and the negotiation stages lend strong support to the view that the EU advocated the inclusion of 'environmental' norms in the WTO with the aim of shielding domestic constituencies from legal challenges against WTO-incompatible domestic food safety and environmental rules.

EU Food Safety Regulations and WTO Pressures for Reform

Consensual decision-making rules have led to the stringency of European food safety regulations. The ban on hormone-treated beef and approval procedures of genetically modified organisms (GMOs) well illustrate how institutional incentives affect the dynamics of positive integration in the EU.

In the 1980s, economic and political pressures arose for the EC to adopt common rules on the use of hormones in raising beef. The member states had very different risk assessments of the use of hormones, which resulted in different national practices (Young 2004). In the early 1980s the Council decided to ban the use of some hormones, while permitting the national governments to maintain their national rules regarding the use of other hormones. These differences impeded the free circulation of beef within the EU and raised concerns about the feasibility of the objective of achieving a single European market. While the Commission had in 1984 proposed banning synthetic hormones and permitting the controlled use of natural hormones, a formidable alliance of consumer groups, the European Parliament, the Economic and Social Committee and most of the member states forced the Commission to revise its proposal and to ban all hormones (Princen 2002). In the end, risk-averse member states outvoted those who opposed the ban, and the internal political contest led to a precautionary regulatory outcome.

The evolution of EU procedures for GM crops approval exhibits similar patterns. In 1990 Directive 90/129 and Directive 90/220 drafted a regulatory framework for the approval and labelling of GM crops. In 1997, a new regulation (258/97) on GMO processing and consumption supplemented this regulatory structure. With these regulations the EU created the world's most stringent biosafety rules and put itself at the forefront of precautionary risk regulation. Given the strong support for strict GM regulation in the majority of member countries and EU decision-making rules, downward harmonisation to levels preferred by pro-GM countries was simply not possible (Interview with DG Agriculture official, February 2009). The EU's approval procedure for GM crops was further tightened after a series of food crises boosted opponents of GM products. In 1996 events such as the 'mad cow disease' crisis, the first shipment of US GM crops to the EU, and the world's first successful reproduction of a cloned mammal contributed to generating extraordinary public awareness about food safety issues. Against this background, environmental groups were able to build a composite anti-GM coalition with minority farmers' groups, anti-globalisation NGOs, consumer groups and some religious organisations which in 1998 forced the EU to impose a moratorium on the production and importing of GM food products (Skogstad 2003; Tiberghien 2009).

When the enforcement mechanism of rules was strengthened with the creation of the WTO, however, these rules soon became subject to external challenges in the form of actual and threatened WTO disputes. In 1996 the US requested a dispute settlement panel case against the EU, claiming that its ban on hormone-treated beef was inconsistent with the Sanitary and Phytosanitary Standards (SPS) agreement. Both the WTO dispute settlement panel and the appellate body supported the US claims, respectively in April 1997 and February 1998.

This ruling set an important precedent for GMOs. The political developments that led to the European moratorium against GM crops in 1997–1998 raised concerns in the US, home to major producers and exporters of GMOs. In 1997, US companies began to complain about the EU's slow and opaque approval process, inducing industry representatives and congressmen from both parties to condemn the EU's regulatory framework as protectionist (Young 2003). The US government responded to these pressures in 1998 by threatening to take legal action in the WTO against the EU's regulatory regime for GMOs on the grounds that it provided for unjustified trade restrictions. This threat was pressing at the time for a variety of reasons. The hormone dispute had demonstrated that the DSM and the Appellate body could not take invocation of the precautionary principle as justification for overriding the provisions of the SPS agreement. Moreover, when in 1998, largely as a result of the moratorium, the EU developed an offensive international regulatory strategy aimed at enhancing the legitimacy of its own domestic approach to GMO regulation by institutionalising the precautionary principle in the Cartagena negotiations (Falkner 2007), it was

clear that new rules in this context could not lend full legal cover against WTO legal challenges. There was no guarantee that, if activated by a non-member of the Protocol on Biosafety such as the US, the WTO DSB would not rule against the EU's policies (Isaac and Kerr 2007). The WTO Appellate Body restated the principle of the supremacy of WTO law over MEAs such as the Cartagena Protocol in the Shrimp–Turtle case in November 1998. Although in this ruling the Appellate Body generously interpreted the scope of environmental exemptions to WTO rules, it also reiterated that 'parties to MEAs do not have the ultimate authority to decide when trade rules should be waived in the interests of more effective global environmental protection' (Eckersley 2004: 37).

In sum, at the end of 1998, EU policy-makers were confronted with the problem of how to ensure compatibility between domestic and international trade rules.

Societal Mobilisation for Legitimate Exceptions to WTO Negative Integration

The outcome of the hormone-treated beef dispute, coupled with the threat to bring a legal case against EU GM regulations, fostered strong societal mobilisation to change international trade rules so that they could accommodate domestic food safety rules in the WTO framework. These external challenges, rather than a desire to spread costly regulatory standards internationally, engendered the mobilisation of societal actors supporting an increased scope of legitimate exception to WTO rules and to the threats these could pose to the domestic regulatory status quo in the EU. Thus, Friends of Earth (FOE 1999a, 1999b) forcefully supported the view that US threats to activate the DSM could restrict the right of states to protect their environment from the effects of free trade and asked for new rules granting deference to international environmental and national health laws. World Wide Fund for Nature (WWF 1999a, 1999b, 2001) warned about the unintended consequences of WTO rules on environmental protection, urging WTO members to integrate environmental concerns in the Doha Round by recognising the primacy of MEA rules, as well as of specialised environmental and health organisations, in determining how the precautionary principle should be applied.

After the US had threatened to initiate a WTO case against the European GMO regulation, farmers' associations also started expressing their concerns and pressed for new WTO rules. The most vocal representative of the anti-GMO movement was a farmers' organisation, Confédération Paysanne, which had succeeded in tilting the balance of domestic farmers' interests in France against GMOs (Tiberghien 2009). This organisation and its leader Jose Bové warned against the damage that a WTO ruling on GMOs might cause and supported the incorporation of the precautionary principle into WTO law (Bové and Dufour 2001). Italian farmers,

represented by Coldiretti, also asked for the adoption of WTO provisions such as labelling requirements for goods containing GMOs and the precautionary principle (Ansa 1999a). In 1998, the Danish Ministry of Food, Agriculture and Fisheries was subject to strong domestic pressures from farmers' groups for improved environmental protection in the WTO (Søgaard and Toft 1998).

The US threat to challenge European GMO regulations also motivated COPA-COGECA, the European farmers' organisation, to take a stance in favour of WTO rules that would immunise the EU against legal challenges. This organisation had kept silent with regard to the GMO debate in the mid-1990s because of differences in views among national farmers' associations on how best to approach the GMO issue (Interview at COPA-COGECA 2010). However, in 1998 COPA-COGECA started to ask for 'the recognition of EU food safety, SPS standards in the WTO so that EU consumers are guaranteed safe food' (COPA-COGECA 1998a, 1998b, 2000).⁵ At that time COPA-COGECA expected the US to take legal action and feared an adverse ruling against the EU (Interview at COPA-COGECA, June 2011). Moreover, by the late 1990s key European retailers and food processors had decided no longer to deal with GM food (Princen 2002), adding even greater weight to the coalition of domestic producers with a stake in maintaining the status quo.

Interestingly, not all domestic producers favoured the EU approach. Besides the obvious opposition of the weakly organised European biotechnology sector (Falkner 2007), the Union of Industrial and Employers' Confederation in Europe argued against the inclusion of the precautionary principle in the WTO (UNICE 2000: 5). Moreover, position papers of the European Roundtable of Industrialists and the European Services Forum made no reference to this debate. That other organisations representing European producers' interests were silent on this issue further underscores the inability of a regulatory politics perspective to account for this particular outcome. Even COPA-COGECA's stance reflected more a public relations exercise to respond to both European NGO (ENGO) campaigns and consumers' concerns than a well-defined, interest-based approach, because farmers were divided on the issue of the use of GM technology in agriculture and it was difficult to weigh the short-term costs and potential long-term benefits of both the use of such technology and the opening up of the European market to GM imports (Interview at COPA-COGECA 2010).

Policy-makers' Reactions and Trade-and-Environment in the Run-up to Doha

Institutional obstacles to reform of the domestic regulation and strong societal pressures to increase the scope of legitimate exceptions to negative integration commitments affected the EU decision-makers' positions in the run-up to Doha, and made the trade-environment issue a cornerstone of their negotiating strategy.

Institutional obstacles to EU policy change. Given the number of veto points in the decision-making process, reforming domestic rules in conformity with WTO rules was not a realistic option. The status quo was certainly not the preferred option for the Commission. At that time, many within the Commission favoured the opening up of the European market to GM imports (Kelemen 2010). However, the dispute with the US on hormone-treated beef showed not only that the EU was unlikely to win a case on GMOs but also that taking the WTO litigation route might entail substantial costs for the EU. The EU had conducted a risk assessment study to address the WTO ruling. Yet, when it had not succeeded in completing its scientific review by the deadline, the EU decided it would not remove the ban before conducting additional reviews. In July 1999, following authorisation from the WTO DSB, the US implemented 117 million dollars-worth of retaliatory trade measures against the EU. Because of the high number of institutional actors whose consent was necessary, it was not politically feasible to change EU rules.

A similar logic applied to the GM case. Although the Commission formally still had the authority to approve GM varieties, it did not exercise that authority because it feared antagonising public opinion (Interview with DG Agriculture official, May 2011). Promoting a reform of the EU biotechnology regulations did not appear a realistic option for the Commission. It was clear that opening the European market to GM products would raise opposition among the member states and in the European Parliament. As shown by the Commission's struggle to change domestic policy to comply with WTO rulings on hormones, the decision-making rules that had enabled anti-GM forces to drive the stringency of domestic regulation would also enable them to veto the adoption of new legislation.

The EU negotiating position in the run-up to Doha. The content of EU positions shows that these were largely in line with societal demands, and that they aimed at increasing the scope of legitimate exceptions to negative integration commitments of the WTO.

EU Trade Commissioner Leon Brittan had introduced the debate about the relationship between MEAs and the WTO in 1996 on the occasion of a dispute against the EU policy on fur imports (Mann 1996). Yet before 1999 the EU had only timidly supported the idea of including environmental concerns in the WTO (Shaffer 2001).

It was in 1999, concomitantly with the successful US dispute against hormones and its threat to initiate legal proceedings in the WTO against European GMO regulations, that trade-and-environment had become a priority for the EU in the new round of trade negotiations. The European Council (1999) advocated the launch of trade negotiations on the basis of a broad agenda, including environmental issues. Trade-and-environment figured prominently in the first official document outlining the Commission's approach to the new trade round (European Commission 1999).

Basically mirroring requests by both ENGOs and farmers, the July 1999 Commission Communication set the general objective that ‘environmental considerations should be integrated into the EU’s approach to avoid the establishment of requirements that would unduly constrain the development of effective environmental policies by WTO Members’ (European Commission 1999). The Commission further argued in favour of recognition that MEAs are not subordinate to WTO rules and advocated the strengthening of the precautionary principle within WTO rules (WTO 2000a, 2000b).

Statements by EU member states supported the view that activism to include ‘environmental’ provisions in the WTO responded to the need to immunise the EU against WTO legal challenges. In December 1999, the Italian Minister for Agriculture remarked that there should be no hierarchical relation between WTO law and multilateral agreements (Ansa 1999b). In March 2000 the Italian government also proposed that international trade agreements should be coherent with the precautionary principle adopted in the Biosafety Protocol (Ansa 2000). The French government was very active as well. Hubert Védrine, Minister of Foreign Affairs, stated that ‘for the first time, at the insistence of the Europeans and more especially of France, strengthening environmental rules has become an integral part, like improving market access, of the unique commitment without which there won’t be any agreement on the round’ (Védrine 2001). Even the British government, which did not apply the moratorium, pushed for the inclusion of environmental issues in the Doha Round, ‘to prevent disputes arising in the future’ (UK Government 2001).

In this context the Commission could not but give in to societal demands for ‘defending the European approach to precaution’. The prospect of adjusting the European food safety legislation to WTO free trade requirements threatened the ‘credibility of the Commission in a time of contestation of the legitimacy of the EU food safety legislation’ (Interview with DG Health and Consumers official, May 2011). A DG Trade official involved in the definition of the EU strategy in the run-up to the Doha Round, further elaborated that:

We brought the trade–environment chapter in the Doha Declaration because we had an interest in having MEAs integrated in the juridical system of the international trade regime. The need to cope with what was perceived as an illegitimate threat against our own values was a key determinant of our position. At the time it was not politically feasible to avoid this debate, not having it on the agenda, not showing to be doing whatever possible to push it forward. Undoubtedly, the political dimension was crucial for our decision to push the trade–environment debate so forcefully in the Doha Round. (Interview with DG Trade official, Brussels, February 2009)

The European attempt to legitimate its own position on GMOs was evident even in the eyes of US negotiators. According to the words of the then trade

negotiator of the EU, Pascal Lamy, in 2001 the US trade representative Robert Zoellick informed him of the US's 'deep concern that Europe might use the negotiations decided on in Doha to justify illegitimate barriers to trade, particularly trade in biotechnological products and application of the commercial clauses of present or future multilateral agreements on biosecurity' (Lamy 2001). More recently, Pascal Lamy has acknowledged that 'the fact that the nexus between trade and the environment ... was finally elevated to a negotiating stage in Doha is in large part due to civil society' (WTO 2007).

In sum, by supporting the view that WTO and MEAs should be conceived as equal bodies of international law, the EU was *de facto* proposing to rebalance the relationship between the two sources of international law in favour of the latter. As largely requested by ENGOs and other societal groups, had the negotiating process ended with an agreement on the trade-and-environment chapter of the Doha Declaration on the basis of the EU's initial platform, the EU would have found itself immune to legal challenges brought against its domestic food safety regulations.

The Negotiation Phase

The negotiation phase illustrates how tensions between the rigidity of EU domestic positive integration provisions and the negative integration commitments undertaken in the WTO continued to exert their effects.

The Doha Declaration narrowed the scope of the environmental agenda. The US succeeded in attaching a provision that future negotiations concerning WTO–MEA relations would only affect the parties of MEAs. The European proposal to debate the precautionary principle was rejected by its partners. However, in the immediate aftermath of the adoption of the Doha Declaration, both the WWF and FOE praised the political leadership of the EU in putting MEAs and other environmental issues on the WTO agenda (FOE *et al.* 2002; WWF 2001), suggesting that ENGOs perceived a correspondence of views between their policy preferences and how the EU dealt with negotiations in Doha.

Meanwhile, frustration at the fragmentation of the single market and concerns about the potential effects of a WTO legal challenge gave impetus to the Commission's efforts to reform the domestic regulatory framework for GMO approvals. Whilst its aim was to reassure the public about the completeness and rigour of the EU regulatory regime while resuming the approval of GM foods and crops, the reform process which began with the Commission's White Paper on Food Safety in 2000 and culminated in the adoption of Directive 2001/18 and Regulation 1829/2003 further tightened existing GMO regulations, making things worse for US growers (Pollack and Shaffer 2009).

Not only did anti-GM forces block the domestic reform initiated by the Commission; they also continued to press for new WTO rules providing

legal cover for the EU's domestic regulatory status quo. In April 2002 a number of ENGOS restated the need to save MEAs from WTO takeover (FOE *et al.* 2002). The Foreign Affairs Committee of the French National Assembly published a report stressing the lack of coherence between WTO law and the Cartagena Protocol, underscoring 'the absence of articulation between the various rules of international law and the imbalance caused by the existence of the single WTO arbitration body' (Assemblée Nationale 2002). The Department for International Development of the British government reiterated that WTO agreements and MEAs should have equal status. 'Otherwise', the Department feared, 'the *case law* of the WTO's DSM will become the only source of clarification of this important relationship' (UK Government 2003). The formal complaint to the WTO further spurred societal mobilisation supporting new WTO rules that would provide legal cover for EU regulations (COPA-COGECA 2004; FOE Europe 2004, 2005).

Institutional rigidity and societal pressures again induced the Commission to take action. Despite the narrow negotiating mandate agreed in Doha, the Commission had continued to advocate that MEAs' provisions be used for the interpretation of WTO law in disputes involving non-parties to those MEAs (WTO 2002) and defending a broad interpretation of the notion of 'specific trade obligation' in the context of the debate concerning the WTO/MEA rules relationship (WTO 2002). The EU also took a constructive stance and submitted proposals in other areas of these negotiations, such as fisheries subsidies, liberalisation of environmental goods and services, eco-labelling, and capacity-building in the field of trade-and-environment to developing countries (Najam *et al.* 2007).

The Commission's efforts to increase the legitimate exceptions to WTO negative integration rules intensified when the WTO dispute was formally initiated. In May 2003 the US, Canada and Argentina filed a complaint with the WTO, arguing that the refusal of EU governments to accept GM crops violated the SPS agreement, rather than challenging the EU's legislative framework. At the September 2003 WTO Ministerial Conference in Cancùn, the EU once again tried to 'forge an agreement incorporating environmental protection into WTO rules', with a focus on 'the precautionary principle and clear labelling laws' (Euractiv 2004). Subsequently, the European Commission (2004) reiterated its invitation for closer cooperation between the WTO and 'other international organizations to promote the overall goal of sustainable development'.

In September 2004, Pascal Lamy (2004) argued in favour of new WTO rules to allow its members to derogate from WTO obligations when they clash with domestic policies reflecting values strongly rooted in a given community, listing environmental protection, food safety and precautions in the field of biotechnology among Europe's collective preferences. Once again the EU was trying to change international trade rules to grant immunity to its own domestic regulatory framework.

In May 2004, the Commission again started to approve GM varieties. Peter Mandelson, the newly appointed Trade Commissioner, took a position on the precautionary approach which was more flexible than that of his predecessor. However, key member states continued to impede the commercialisation of GM foods.

In 2006, the WTO panel issued a ruling on the GMOs case in favour of the complainant, but on procedural rather than substantive grounds. The ruling argued that whereas the EU legislation was consistent with WTO rules its applications were not, finding that the EU had engaged in 'undue delay' in its approval process and that the moratoria were not based on risk assessment. This ruling, coupled with the WTO ruling on hormones, has further challenged the ambition of the EU as an environmental norm promoter in the WTO.

COPA-COGECA and the European Food and Drink Industry Association expressed their increasing worries about the legal and commercial risks of the dispute with the US (Euractiv 2010a; GMO Compass 2008) and took a more open stance on GMOs. These concerns increased in 2010, when the US ambassador threatened retaliation against France and the EU member states for their ban on Monsanto's corn (Interview at Greenpeace, European Unit, June 2011). The impact of retaliation for the hormones dispute became increasingly evident in 2009, when the US announced that it would use 'carousel' provisions against the EU⁶ (Interview with DG Health and Consumer official, June 2011). As a reaction to these challenges, the EU started to reconsider its hormones and GMO policies, and the trade-and-environment issue was finally taken off its agenda for the Doha negotiations (Interview with DG Trade official, June 2011). In May 2009 the EU reached an agreement with the US on the hormones case, and in July 2010 the Commission put forward a proposal for the speeding up of the GM crop approval process.

Yet institutional rigidity within the EU creates insurmountable obstacles for the Commission. The Commission has on many occasions tried to force member states to remove their bans on GMOs, but has not succeeded (ibid.). Furthermore, the strong opposition of both ENGOs and key member states such as Germany and France suggest that the Commission will find it very difficult to pursue the path of reform (Euractiv 2010b). The stalemate in the EU decision-making process on novel foods regulation, whose compromise agreement between the European Parliament and the Commission failed in March 2011 (Interview at Greenpeace, European Unit, June 2011), further confirms these obstacles to policy change.

Conclusion

This article has offered an explanation as to why the EU started to fervently advocate the inclusion of an environmental agenda in the multilateral trading system in the late 1990s. We have shown that, in parallel with a

broader offensive strategy driven by a desire to spread costly environmental standards abroad, in this particular instance the rationale behind the EU's international stance was mostly defensive. With its support for an environmental agenda in the Doha Round the EU sought to increase the scope of existing 'environmental' exceptions to WTO negative integration commitments in order to gain immunity from legal challenges against its food safety regulatory framework. The motivation for this strategy stems from the tension between the incisive force of international trade rules and the institution-driven dynamics of regulatory politics in the EU.

These findings have several broader implications. First, our contribution complements the existing literature. While some authors have already highlighted that the EU's approach to the trade-and-environment debate in the Doha Round may have been motivated by 'defensive' rationales, for the first time we have theoretically specified and empirically evidenced the dynamics that underlie this strategy. Second, our analysis suggests new avenues for systematic comparative research on how the quasi-judicial institutions that govern the WTO affect the prospects for cooperation in the trade regime. Whilst we hold that the increased bindingness and credibility of WTO rules should make the members of this organisation more prone to engage in positive integration efforts, domestic consensual institutional structures may instead create compelling incentives for its members to seek greater latitude in circumventing WTO obligations.

Finally, by shedding light on the institutional and political-economic dynamics underlying the notion of 'green' normative power in Europe, our analysis also has implications for the debate on EU foreign policy. On highlighting that the content and objectives of the EU's environmental diplomacy vary considerably across international venues, we suggest that the analysis of EU foreign policy has much to gain from a firmer grounding in the analysis of constituency mobilisation, and of how the latter interacts with, and is affected by, domestic and international institutional structures.

Notes

1. The term 'positive integration' refers to the process by which new rules that harmonise previously diverging rules and standards are created to correct externalities that these regulatory differences may engender. The term 'negative integration', by contrast, refers to the establishment of new rules that prohibit certain sets of rules at the national level, i.e. tariff barriers and quotas.
2. The concept of a 'Baptist-bootlegger coalition' refers to cases where the preferences of societal actors driven by opposing principles and goals converge on the same position. Thus, in the context of political economy, a Baptist-bootlegger coalition is an alliance of groups representing heterogeneous and generally conflicting constituencies, i.e. producers and civic groups.
3. The Amsterdam and Nice Treaties codified new trade policy-making rules. They introduced the concept of 'mixed competence' for a number of issue areas (i.e. cultural and audiovisual

services, education, social and human health services and the non-commercial aspects of intellectual property rights) in which unanimity applies for the adoption of any agreement, as opposed to 'exclusive competence' issues, which are decided by qualified majority voting in the Council of Ministers. This variation, however, is of little empirical relevance because there is a political understanding and practice in the EU that, in comprehensive multilateral negotiations covering both types of issue, the final agreement is adopted by consensus. The Treaty of Lisbon streamlined rules governing EU trade policy, confirming that all key aspects of external trade are under the EU's exclusive competence, and hence subject to qualified majority voting (Woolcock 2010). However, because unanimity still applies to some politically sensitive sectors, and because the consent of the European Parliament is now required for the adoption of trade agreements, consensus is likely to remain the accepted rule. Besides, any trade agreement approved during the negotiation stage can be vetoed by single member states at the ratification stage. Thus the European Commission must take account of the preferences of each member state in the shaping of a common position (da Conceição-Heldt 2010).

4. The WTO incompatibility of a given domestic rule per se does not necessarily cause this mobilisation. An external threat to the domestic regulatory status quo triggering a defensive mobilisation arises only when damaged exporters in a WTO partner mobilise and press their government to seek the removal of such measures through the activation of the DSM.
5. Even though the SPS agreement was the key reason for the US legal action against the EU, its reform was not on the EU agenda. A COPA-COGECA official pointed out the dangers of extending the scope of the agreement's application to the environment, including close constraints on EU trade policy (Interview, June 2011).
6. Carousel retaliation, according to US legislation, implies that, when the US is the winner of a WTO case, it may raise tariffs against foreign products on a rotation basis, selecting different products every six months.

References

- Ansa (1999a). 'Coldiretti lancia Progetto Qualità Globale', 22 July, available at https://mida.ansa.it/midagate/ansait_europa_free.jsp (accessed September 2011).
- Ansa (1999b). 'De Castro, fallimento non colpa agricoltura', 6 December, available at https://mida.ansa.it/midagate/ansait_europa_free.jsp (accessed September 2011).
- Ansa (2000). 'UE; Italia chiede impegno su OGM e paesi poveri', 17 March, available at https://mida.ansa.it/midagate/ansait_europa_free.jsp (accessed September 2011).
- Assemblée Nationale (2002). 'Promoting Fair Globalization', Rapport d'information, 1279, 18 September, available at http://www.assemblee-nationale.fr/english/rap-info/globalisation_i1279.asp (accessed September 2011).
- Bové, José, and Dufour François (2001). *The World Is Not For Sale: Farmers Against Junkfood*. London and New York: Verso.
- COPA-COGECA (1998a). 'A Revision of the Commission's Agenda 2000 CAP Reform Proposals', Pr(98)56F1, Brussels, 11 September.
- COPA-COGECA (1998b). 'COPA Turns 40 and Warns about Too Much Free Trade', 5 December, available at <http://www.europolitics.info/agriculture-copa-turns-40-and-warns-against-too-much-free-trade-artr1156574-10.html> (accessed September 2011).
- COPA-COGECA (2000). 'Position of COPA and COGECA on the Use of Gene Technology in Agriculture', PR(00)06F1, Brussels, 21 January.
- COPA-COGECA (2004). 'Position Paper for the WTO Public Symposium, Multilateralism at a Crossroads', WTO(04)21S3/DB/EL, 13 May, available at http://www.wto.org/english/tratop_e/dda_e/symp_devagenda_prog_04_e.htm (accessed September 2011).
- Da Conceição-Heldt, Eugenia (2010). 'Variation in EU Member States' Preferences and the Commission's Discretion in the Doha Round', *Journal of European Public Policy*, 18:3, 403–19.

- Daugbjerg, Carsten, and Alan Swinbank (2008). 'Curbing Agricultural Exceptionalism: The EU's Response to External Challenge', *World Economy*, 31:5, 631–52.
- De Bièvre, Dirk (2006). 'The EU Regulatory Trade Agenda and the Quest for WTO Enforcement', *Journal of European Public Policy*, 13:6, 847–62.
- DeSombre, Elizabeth (2000). *Domestic Sources of International Environmental Policy*. Cambridge, MA: MIT Press.
- Dür, Andreas (2006). 'Assessing the EU's Role in International Trade Negotiations', in *European Political Science*, 5: 4, 362–76.
- Eckersley, Robyn (2004). 'The Big Chill: The WTO and MEAs', *Global Environmental Politics*, 4:2, 24–50.
- Euractiv (2004). 'Sustainable Trade', 23 March, available at <http://www.euractiv.com/en/socialeurope/sustainable-trade/article-117546> (accessed September 2011).
- Euractiv (2010a). 'EU Governments Seen Opposing GM Crop Proposals', 30 July, available at <http://www.euractiv.com/en/cap/eu-governments-seen-opposing-gm-crop-proposals-news-496823> (accessed September 2011).
- Euractiv (2010b). 'EU GMO Proposals Draw Widespread Criticism', 16 July, available at <http://www.euractiv.com/en/cap/eu-countries-get-more-leeway-gmos-news-496263>
- European Commission (1999). 'Communication from the Commission to the Council and to the European Parliament: The EU Approach to the Millennium Round', COM (99) 331 final, 08.07.1999.
- European Commission (2004). 'Trade, Removing Barriers, Spreading Growth – The European Union, A Global Player', the European Commission Delegation to Barbados, available at http://www.delbrb.ec.europa.eu/en/eu_global_player/4.htm (accessed September 2011).
- European Council (1999). 'Conclusions of the Presidency', Cologne, 3–4 June.
- Falke, Andreas (2005). 'EU–USA Trade Relations in the Doha Development Round: Market Access Versus a Post-Modern Trade Policy Agenda', *European Foreign Affairs Review*, 10:3, 339–57.
- Falkner, Robert (2007). 'The Political Economy of "Normative Power" Europe: EU Environmental Leadership in International Biotechnology Regulation', *Journal of European Public Policy*, 14:4, 507–26.
- FOE (Friends of the Earth) (1999a). 'Free Trade at What Cost? The World Trade Organization and the Environment', 19 October.
- FOE (Friends of the Earth) (1999b). 'EU Trade Ministers Told to Say No to New World Trade Round', press release, 10 May.
- FOE (Friends of the Earth) Europe (2004). 'GM Trade War Delayed. Bush Fails to Win GM Case Before Election', press release, 26 August, available at http://www.foeeurope.org/press/2004/AB_26_August_trade_war.htm (accessed September 2011).
- FOE (Friends of the Earth) Europe (2005). 'EU Urged to Lead the World to Avoid Trading Away the Planet', press release, 12 December, available at http://www.foeeurope.org/press/2005/joint_12_Dec_EU.htm (accessed September 2011).
- FOE (Friends of the Earth), Greenpeace International, Northern Alliance for Sustainability, Sierra Club and Third World Network (2002). 'Johannesburg Earth Summit Must Agree that the WTO Will Respect MEAs', press release, April, available at http://www.foe.org.au/media-releases/2002-media-releases/mr_03_04_02.htm (accessed September 2011).
- Gabler, Melissa (2010). 'Norms, Institutions and Social Learning: An Explanation for Weak Policy Integration in the WTO's Committee on Trade and Environment', *Global Environmental Politics*, 10:2, 80–117.
- GMO Compass (2008). 'Approval of GMO Crops: US and EU Seek Agreement, EU Farmers' Associations Press for Speed', 21 February, available at http://www.gmo-compass-org/eng/news/337.approval_gmo_crops_us_eu_seek_agreement.html (accessed September 2011).
- Goldstein, Judith, and Lisa Martin (2000). 'Legalization, Trade Liberalization and Domestic Politics: A Cautionary Note', *International Organization*, 54:3, 603–32.
- Goldstein, Judith, and Richard H. Steinberg (2008). 'Negotiate or Litigate? Effects of WTO Judicial Delegation on US Trade Politics', *Law and Contemporary Problems*, 71, 257–82.

- Guzmann, Andrew, and Beth A. Simmons (2002). 'To Settle or Empanel? An Empirical Analysis of Litigation and Settlement at the World Trade Organization', *The Journal of Legal Studies*, 31:1, 205–35.
- Halle, Mark (2006). 'Trade and Environment: Looking Beneath the Sands of Doha', *Journal of European Environmental and Planning Law*, 3:2, 107–16.
- Hocking, Brian (2004). 'Changing the Terms of Trade Policy-making: From the "Club" to the "Multistakeholder" Model', *World Trade Review*, 3:1, 3–26.
- Isaac, Gran, and William Kerr (2007). 'The Biosafety Protocol and the WTO: Concert or Conflict?', in Robert Falkner (ed.), *The International Politics of Genetically Modified Food*. Basingstoke: Palgrave Macmillan, 195–213.
- Kelemen, Daniel (2010). 'Globalizing European Union Environmental Policy', *Journal of European Public Policy*, 17:3, 335–49.
- Kelemen, Daniel, and David Vogel (2010). 'Trading Places: The Role of the United States and the European Union in International Environmental Politics', *Comparative Political Studies*, 43:4, 427–56.
- Lamy, Pascal (2001). 'Letter to Zoellick, Doha, 14 November 2001', quoted in *Inside U.S. Trade*, Arlington, 19:4, 23 November.
- Lamy, Pascal (2004). 'The Emergence of Collective Preferences in International Trade: Implications for Regulating Globalisation', Mimeo.
- Lucarelli, Sonia, and Ian Manners (2006). *Values and Principles in the European Union Foreign Policy*. London: Routledge.
- Mann, Michael (1996). 'Brittan Bids to Dovetail Trade Rules with Environment Laws', *European Voice*, 22 February.
- Najam, Adil, Mark Halle, and Ricardo Melendez Ortiz (2007). *Trade and Environment: A Resource Book*. Winnipeg: International Institute for Sustainable Development.
- Pollack, Mark, and Gregory Shaffer (2009). *When Cooperation Fails: The International Law and Politics of Genetically Modified Foods*. New York: Oxford University Press.
- Princen, Sebastian (2002). *EU Regulation and Transatlantic Trade*. The Hague: Kluwer Law International.
- Shaffer, Gregory (2001). 'The World Trade Organization under Challenge: Democracy and the Law and Politics of the WTO's Treatment of Trade and Environment Matters', *Harvard International Law Review*, 25:1, 1–93.
- Scharpf, Fritz (1988). 'The Joint-decision Trap: Lessons from German Federalism and European Integration', *Public Administration*, 66:3, 239–78.
- Skogstad, Grace (2001). 'The WTO and Food Safety Regulatory Policy Innovation in the European Union', *Journal of Common Market Studies*, 39:3, 1–21.
- Skogstad, Grace (2003). 'Legitimacy and/or Policy Effectiveness? Network Governance and GMO Regulation in the European Union', *Journal of European Public Policy*, 10: 3, 321–38.
- Søgaard, Villy, and Toft Jesper (1998). 'Policy Influences on Technology for Agriculture: Chemicals, Biotechnology and Seeds', Denmark National Policy Report.
- Thomas, Urs (2004). 'Trade and the Environment: Stuck in a Political Impasse at the WTO after the Doha and Cancun Ministerial Conferences', *Global Environmental Politics*, 4:3, 9–21.
- Tiberghien, Yves (2009). 'Competitive Governance and the Quest for Legitimacy in the EU: The Battle over the Regulation of GMOs since the Mid-1990s', *Journal of European Integration*, 31:3, 389–407.
- UK Government (2001). *Trade, Development and Protecting the Environment*. Department for International Development Background Briefing, September, available at http://www.acp-eu-trade.org/library/files/DFID_EN_092001_DFID_Trade-Development-and-Protecting-the-Environment.pdf (accessed September 2011).
- UK Government (2003). 'The Doha Development Agenda', Background Briefing, March, available at http://www.acp-eu-trade.org/library/files/DFID_EN_032003_DFID_Doha-Development-Agenda.pdf (accessed September 2011).
- UNICE (2000). 'Discussion Paper on the Precautionary Principle in International Trade', 20 November.

- Védrine, H. (2001). 'Environmental Protection', speech at the Paris International Conference Centre, Paris, 30 November.
- Vogel, David (1995). *Trading Up: Consumer and Environmental Regulation in the Global Economy*. Cambridge, MA: Harvard University Press.
- Vogel, David (2002). *The WTO, International Trade and Environmental Protection: European and American Perspectives*. EUI-RSCAS Working Papers, No. 34.
- Vogler, John, and Hannes Stephan (2007). 'The European Union in Global Environmental Governance: Leadership in the Making?', *International Environmental Agreements: Politics, Law and Economics*, 7:4, 389–413.
- Woolcock, Stephen (2010). *The Treaty of Lisbon and the European Union as an Actor in International Trade*. ECIPE Working Paper, 1/2010, Brussels.
- World Trade Organization (WTO) (2000a). 'Resolving the Relationship between WTO Rules and MEAs', submission by the European Community, Committee on Trade and Environment, WT/CTE/W/170.
- World Trade Organization (WTO) (2000b). 'Communication from the European on the Precautionary Principle', submission by the European Communities, Committee on Trade and Environment, WT/CTE/W/147.
- World Trade Organization (WTO) (2002). 'MEAs: Implementation of the Doha Development Agenda', submission by the European Communities, Committee on Trade and Environment, TN/TE/W/1.
- World Trade Organization (WTO) (2007). 'Lamy: Civil Society is Influencing the WTO Agenda', speech at the WTO Public Forum, Geneva, 4 October.
- WWF (World Wide Fund for Nature) (1999a). 'WWF Urges Urgent WTO Reform', 11 March.
- WWF (World Wide Fund for Nature) (1999b). 'A Reform Agenda for the WTO Seattle Ministerial Conference', Position Paper, September.
- WWF (World Wide Fund for Nature) (2001). 'Can the World Trade Organisation Live Up to the Challenges of a Globalizing World?', Position Statement, October.
- Young, Alasdair (2003). 'Political Transfer and Trading Up? Transatlantic Trade in Genetically Modified Food and US Politics', *World Politics*, 55:4, 457–84.
- Young, Alasdair (2004). 'The Incidental Fortress: The Single Market and World Trade', *Journal of Common Market Studies*, 2:2, 393–414.
- Young, Alasdair (2009). 'Confounding Conventional Wisdom: Political Not Principled Differences in the Transatlantic Regulatory Relationship', *British Journal of Politics and International Relations*, 11:4, 666–89.
- Zito, Anthony (2005). 'The European Union as an Environmental Leader in a Global Environment', *Globalizations*, 2:3, 363–75.
- Zangl, Bernhard (2008). 'Judicialization Matters! A Comparison of Dispute Settlement Under GATT and the WTO', *International Studies Quarterly*, 52:4, 825–54.