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# The EU Deep Trade Agenda

## Law and Policy

BILLY A. MELO ARAUJO

OXFORD STUDIES IN EUROPEAN LAW

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# The EU Deep Trade Agenda

*Law and Policy*

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Para a minha filha Suzana Rose

# *Series Editors' Preface*

This book provides a thorough and informed account of the pursuit by the European Union since 2006 of a 'deep trade agenda'. The author describes how this agenda, whose introduction was marked by the publication of the Global Europe strategy that year, has meant a shift away from the multilateral trade regime to pursue a new generation of bilateral and regional trade agreements containing a whole range of regulatory provisions on matters such as competition, services, intellectual property, procurement, health and safety but also a whole host of other areas of domestic regulation.

The author identifies his objective as being to explore the rationale of this deep trade agenda of the EU from a political economy perspective and to critically examine its implementation, as well as to reflect on its implications for the way the EU is characterized and viewed as an international actor, and its implication for the multilateral trade regime more broadly.

Following an introduction to the post-war international trade system and the eventual creation of the WTO, the book depicts the shift in the international economic system 'from shallow to deep integration' and in particular the EU's move in this direction in its trade policy. It provides an account of the legal framework governing the EU's trade policy, and how that legal framework potentially affects and frames its pursuit of a deep trade agenda. This is followed by five chapters which examine the EU's promotion of particular issues or disciplines within its deep trade agreements: the first focusing on services, the second on investment, the third on intellectual property, the fourth on competition, and the fifth on procurement. The analysis contained in these five chapters focuses on a range of the new-generation EU trade agreements, in particular those concluded with Korea, Singapore, Peru–Colombia, Canada, the CARIFORUM states, and the Central America Association agreement.

The author concludes that the EU is indeed using these new generation trade agreements as a way of expanding its regulatory space and of aggressively pursuing its commercial interests. He finds that the EU does not generally use these agreements to promote its own norms but rather norms based on already existing international legal instruments, except that where the regulatory standards imposed within the EU are more burdensome than those imposed at the international level, it tends to promote its own norms abroad to try to level the playing field. Overall, he describes the EU's promotion of deep disciplines abroad as operating through a 'feedback loop system' whereby the EU 'participates in the development of international rules, which are then incorporated into the EU regulatory framework and re-exported into its deep trade agreements'. Thus the EU's self-confessed aim is to set rules at a plurilateral level so that they can later be multilateralised. He notes that in some cases when it regulates subject matters in trade agreements

which were not previously covered by EU law, it may actually be harmonizing Member States laws and in so doing circumventing more cumbersome (but also possibly more participatory and democratic) domestic decision-making rules.

The findings of Melo Araujo's study suggest that, at least in this field, the EU is not distinctive in any way as an international actor, and that it acts in many respects as the kind of 'market power' that has been described in some of the international relations literature. Further, he suggests that while the EU has not given up on the promotion of multilateral standards, it has effectively given up on the multilateral *process*. Thus the EU in its deep trade agreements promotes *certain* aspects of the WTO agreements but makes no attempt to address the disagreements over contentious issues and instead seeks to impose its own preferred solution to these contentious issues. His conclusion is crisp and biting: that 'the EU advocates multilateral trade liberalization whilst actively contributing to the fragmentation of the international trading system and advocates market openness whilst considering protectionist policies'.

This is both a highly informative and also a timely book, coming as it does at a moment when the EU and the US are negotiating the Transatlantic Trade and Investment Agreement, and the US is advancing towards the conclusion of a Trans-Pacific Partnership.

The book should be of considerable interest to lawyers and political scientists alike, and in particular to students of EU and international trade law and policy, as well as all those interested in the EU as an international actor.

The book attempts to state the law and case law as of June 2015.

Paul Craig and Gráinne de Búrca

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# *List of Abbreviations*

| | |
|---|---|
| ACP | African Caribbean Pacific |
| ACTA | Anti-Counterfeiting Trade Agreement signed on 1 October 2011 in Tokyo, Japan |
| ASEAN | Association of South East Asian Nations |
| BIT | Bilateral Investment Agreement |
| CAP | Common Agricultural Policy |
| CARICOM | Caribbean Community and Common Market |
| CARIFORUM | The Forum of the Caribbean Group of African, Caribbean and Pacific States |
| CCP | Common Commercial Policy |
| CEPA | Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part signed on 15 October 2008 in Bridgetown, Barbados. |
| CETA | Comprehensive Economic Trade Agreement between the EU and Canada |
| Colombia–Peru FTA | Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part signed on 26 June 2012 in Brussels, Belgium |
| Cotonou Agreement | Partnership Agreement between the members of the African, Caribbean and Pacific Group of States on the one part and the European Community and its Member States on the other part signed on 23 June 2000 in Cotonou, Bénin |
| Doha Round | Doha Development Round |
| ECJ | European Court of Justice |
| EEC | European Economic Community |
| ENP | European Neighbourhood Policy |
| EPA | Economic Partnership Agreement |
| EU | European Union |
| EU–CA FTA | Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America signed on 29 June 2012 in Tegucigalpa, Honduras |
| FDI | Foreign direct investment |
| FTA | Free Trade Agreement |
| G8 | Group of Eight (comprising Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States) |
| GATS | General Agreement on Trade in Services |
| GATT 1947 | General Agreement on Tariffs and Trade in force between 1948 and 1994 |
| GATT 1994 | General Agreement on Tariffs and Trade in force since 1995 |
| GDP | Gross domestic product |
| GPA | Government Procurement Agreement |
| ICN | International Competition Network |

| | |
|---|---|
| ICSID | International Centre for Settlement of Investment Disputes |
| ILO | International Labour Organization |
| IMF | International Monetary Fund |
| IP | Intellectual property |
| KOREU FTA | Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part signed on 10 May 2010 in Brussels, Belgium |
| MERCOSUR | Mercado Comun del Sur (Southern Common Market) |
| MFN | Most-favoured nation |
| NAFTA | North American Free Trade Agreement |
| NGOs | non-governmental organizations |
| OECD | Organisation for Economic Co-operation and Development |
| PTA | Preferential Trade Agreement |
| SMP | Single Market Programme |
| TDCA | Trade, Development and Cooperation Agreement |
| TEU | Treaty on the European Union |
| TFEU | Treaty on the Functioning of the European Union |
| TRIMs | Agreement on Trade Related Investment Measures |
| TRIPS | Agreement on Trade Related Aspects of Intellectual Property Rights |
| UNCITRAL | United Nations Commission on International Trade Law |
| UNCTAD | United Nations Conference on Trade and Development |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNESCO Convention | UNESCO Convention on the Protection and Promotion of Diversity on Cultural Expressions signed on 20 October 2005 in Paris, France |
| WIPO | World Intellectual Property Organization |
| WPDR | Working Party on Domestic Regulation |

# 1
# Introduction

## 1.1 Research Question

On 24 June 2013, the EU Council gave the Commission a mandate to negotiate what would be a historic Transatlantic Trade and Investment Partnership (TTIP) with the US (European Commission (2013b)). The idea of a transatlantic free trade agreement (FTA) itself is nothing new—it has been in the making for the better part of the last two decades (Hindley (1999), pp. 45–60). However, although EU and US leaders have previously been reticent about the prospect of signing a full-blown FTA, they have proved more receptive to the idea in the aftermath of the global economic downturn—an agreement between these two of the world's largest trading blocs may provide a much-needed boost for these flagging economies. And beyond the potential benefits that could be accrued from further trade liberalization, a transatlantic deal would be significant because of what it represents for international trade relations. It signals a recognition of the need to respond to the challenges posed by a multipolar international order where the trade power that was once exerted by the US and (to a lesser extent) the EU in international trade politics is being eroded by the rising importance of Asia and the BRIC (German Marshall Fund, 2012). It is also indicative of how far down in terms of choice of venues for trade liberalization the WTO has fallen since the turn of the century. In the absence of common ground between 'established and emerging powers' (US National Intelligence Council (2012), p. 7), multilateralism has clearly given way to bilateralism and regionalism as the main instruments for trade governance.

One area where 'common ground' is lacking concerns the direction of future trade liberalization. Developed countries, led by the EU and the US, have over the course of the past three decades consistently called for 'deeper integration'—that is, the convergence of behind-the-border or domestic policies and rules such as competition, public procurement, intellectual property (IP), investment, health and safety standards, and financial regulation (Lawrence (1996a), p. XVIII). Underlying the need for deep integration are fundamental changes that have occurred in the international trading system; from the diversification of international economic exchanges and the successive multilateral rounds of tariff cutting (complemented by unilateral tariff reductions) which have highlighted the importance of barriers resulting from divergences in domestic regulation, to the significant advances in transportation and information technology which have enabled

the fragmentation of production processes. These factors have all contributed to an increased focus on the harmonization and dissemination of pro-competitive regulatory frameworks in order to facilitate market access and the operation of firms doing business abroad. Developing countries have by and large not heeded such calls, however, arguing—inter alia—that the type of regulatory reforms entailed by deep integration would deprive them of the autonomy and flexibility to implement policies that address their developmental needs (Gallagher (2012), p. 17). This fundamental rift is certainly one of the principal reasons behind the collapse of the WTO Doha Development Round (Doha Round).

The EU has been one of the strongest proponents for the inclusion of deep disciplines within the realm of the WTO both during the Uruguay Round (e.g. services, intellectual property, and investment) and the Doha Round negotiations (e.g. 'Singapore issues'—investment, public procurement, competition, and trade facilitation) (WTO (1996)). Notwithstanding the successful conclusion of the WTO 'Bali package', comprehensive reform of the type envisaged in the Doha Round remains an unlikely prospect (Donnan (2014a)), and the focus of the EU's deep trade agenda—that is, the EU's attempts to introduce regulatory disciplines within the sphere of international trade law (Peterson and Young (2007), pp. 795–814)—has shifted towards bilateralism and regionalism. In 2006, the EU launched the Global Europe strategy (European Commission (2006a)), which signalled a significant change in its external trade policy by putting the emphasis on the conclusion of deep and comprehensive FTAs (DCFTAs). The departure from the EU's previous policy approach is twofold: first, the EU has abandoned its policy of focusing exclusively on multilateral trade liberalization by following the lead of the US and Asia in concluding bilateral and regional trade agreements; and secondly, whereas the EU had historically tended to conclude FTAs as a means to achieve political and security goals (e.g. trade agreements concluded with neighbouring countries), the FTAs envisaged by the Global Europe strategy are 'commercially driven' (Woolcock (2007b)) insofar as they seek to increase market access in the lucrative markets in Asia and the emerging economies more generally.

With this new generation of DCFTAs, the EU is keen to pursue its deep trade agenda by going beyond what is currently provided at WTO level and regulating behind-the-border issues, including the Singapore issues. Because tariff barriers between the EU and the US are already relatively low, it follows that any agreement would put tackling barriers resulting from divergences in domestic regulation at the very top of its agenda. In this sense, the TTIP may possibly come to represent the culmination of the EU's deep trade agenda. If these two economic powerhouses are able to agree on the adoption of key common deep disciplines, it is likely that these rules will set the standard that will be followed by the rest of the world. At one fell swoop, the EU and the US could singlehandedly determine the rules of international trade and the core features of domestic market regulation in liberal economies.

Of course, all of this remains very speculative. Given their considerable differences of opinion on key trade issues, as well as the increasingly hostile domestic

opposition to the TTIP, there is no guarantee that the EU and the US will sign the agreement, and even less that such an agreement would contain the sort of deep disciplines put forward by the EU. In the meantime, the EU is happy to continue signing EU DCFTAs with the smaller fish in the pond. The fact that these EU DCFTAs are being concluded in the context of considerable power asymmetries in favour of the EU means that, theoretically, they offer an opportunity for the EU to implement the type of deep disciplines it has always wanted to push through at the multilateral level. They therefore present an opportunity to analyse whether and how the EU's deep trade agenda can materialize in practice. Such is the overarching objective of the present book.

The main question that the book seeks to answer is the nature and content of the disciplines being grafted onto the new generation of EU DCFTAs. Do they simply require the adoption of basic common regulatory disciplines or—like the Europe Agreements, which were designed to ease the process of integration of candidate Member States into the EU—are they being used as tools for the expansion of the EU's regulatory space? Are the rules being sourced from the EU acquis, regulatory models found in other existing international instruments, or a mixture of both, or can the EU DCFTAs be seen as a laboratory for the development of innovative rule-making? A second, related, question concerns how the EU's deep trade agenda, as formulated and implemented in the aftermath of the Global Europe strategy, impacts on perceived notions of what the EU is and how it acts in the international sphere. As a foreign policy power, the EU has typically been portrayed in opposition to the US's hegemonic power based on military power and self-interest. The EU has been variously described as a civilian power, a normative power, or even an ethical power, whose foreign policy goals are achieved through the dissemination of rules and the promotion of governance structures that replicate its own normative values, rather than through military power or other forms of coercion (Bickerton (2011), pp. 75–80). This question has become all the more relevant since the Treaty of Lisbon confirmed the idea of the EU as an external actor motivated not only by mere self-interest but also concerned by the promotion of supposedly European values. Article 3 TEU provides that the EU's external action must contribute 'to the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter'. Article 21 TEU then acknowledges the distinctiveness of the EU as an international actor that promotes its values and norms abroad by providing that the EU's external action must 'be guided by the principles which have inspired its own creation, development and enlargement', namely 'democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law'. Finally, in order to remove any doubts that the EU's trade policy should be used to pursue the overall objectives of the EU, it is specified in Article 207 TFEU that the

common commercial policy must be conducted 'in the context of the principles and objectives of the Union's external action'. In the context of the deep trade agenda, this approach to foreign policy has in the past manifested itself through a policy of 'managed globalisation' (Meunier and Abdelal (2010), pp. 350–67), which—drawing inspiration from the balance struck between liberalization and social policies in the internal market—seeks to accommodate free trade imperatives with the need to promote non-trade values such as the promotion of democracy, rule of law, human rights, multilateralism, sustainable development, and environmental protection. Yet, as will be seen throughout this study, as the EU's trade policy becomes ever more commercially driven and, arguably, less imbued with narratives concerning non-trade values, it may be questioned whether such representations of the EU's approach to external relations are entirely reflective of reality. By looking at the type of deep disciplines included in its deep FTAs and how the regulatory reforms implicit in these deep disciplines take (or do not take) into account non-trade values, the book aims to shed some light on the nature of the EU's 'actorhood' (Telò (2007), p. 302) in international trade relations.

This book attempts to provide the first comprehensive examination of the deep disciplines included in the new generation of EU FTAs. It provides a legal analysis of the implementation of the EU's supposed deep trade agenda through these FTAs and, in doing so, determines whether there is any substance behind the EU's foreign policy rhetoric regarding the need to introduce regulatory issues within the remit of international trade law. A further distinctive feature of the book relates to the interdisciplinary nature of the research, as the doctrinal legal analysis is conducted in the context of political economy and international relations literature. The objective thus pursued is, on the one hand, to explore the rationale of the EU's deep trade agenda from a political economy perspective and to enquire whether the implementation of the agenda in the FTAs is justifiable and, on the other hand, to question whether the various conceptualizations of the EU as an international actor correspond to the EU's current practice in the context of its FTAs.

## 1.2 Research Methodology

The book undertakes a doctrinal legal analysis of the EU's current attempts to disseminate regulatory disciplines in the context of its trade relations. The main objective is to establish how the EU's deep trade agenda is being implemented in practice. There is, furthermore, a constitutional dimension to the research as it aims to determine the extent to which the EU's deep trade agenda complies with the new requirement under the Treaty of Lisbon for EU trade policy to complement the values and general objectives of EU external action. The legal analysis relies on a number of primary sources such as WTO agreements, EU Treaties, existing bilateral trade agreements entered into by the EU, and the relevant case law of the European Court of Justice (the Court) and of the WTO Dispute

Settlement Body. Moreover, the research also focuses on soft law sources such as communications, speeches and working documents issued, individually or jointly, by the EU and its trading partners. The book also refers to existing legal literature relating to EU external relations law, international trade law, IP law, competition law and public procurement law.

However, the very nature of the deep trade agenda means that the research must adopt an interdisciplinary approach. First, since the rationale for the deep trade agenda is rooted in political economy, the legal analysis must also take into account wider political economy considerations by way of context. Although there is broad recognition among political economists concerning the welfare gains associated with trade liberalization through non-discriminatory treatment ('shallow integration'), the same cannot be said with regard to deep trade integration. This is reflected by the difficulties encountered by the EU in pushing through deep disciplines in the context of the WTO, particularly during the Doha Round. An analysis of the political economy underlying deep trade issues is required in order to understand the objectives pursued by the EU's current policy and to determine the extent to which such policy takes into account objections expressed by various actors (states, non-governmental organizations, academics, etc.). The book thus explores the rationale for the promotion of the various regulatory areas (services, public procurement, IP rights, and competition) in trade policy, examines the arguments for and against the introduction of regulatory disciplines in international trade rules as well as the difficulties encountered by the EU in pushing through this policy in the past. In order to achieve this, recourse is made to existing political economy literature concerning international trade and the external trade relations of the EU. Finally, the book analyses the EU deep trade agenda in the wider context of international relations literature which has over time developed numerous narratives regarding the manner in which the EU seeks to act and influence other international actors through its foreign policy. As external trade policy is one of the core components of the EU's foreign policy, the research aims to contribute to such literature by examining whether the implementation of the EU's deep trade agenda fits with any of the prevailing conceptualizations of the EU as an international actor.

## 1.3 Boundaries of the Research

A few preliminary comments regarding the limits of the present study are required. Although the book aims to examine the EU's deep trade agenda as a whole, it will focus mostly on the EU DCFTAs. This is, first, because time and space constraints render an in-depth analysis of the multitude of tools and fora utilized by the EU in the context of its deep trade agenda impossible. Secondly, this is because, following the Global Europe strategy, it has become clear that EU DCFTAs now take pride of place in the EU's trade policy. Multilateral trade liberalization might still be identified as the number one priority of the EU's

trade policy but the reality is that the prospects of accomplishing the comprehensive reforms initially envisaged in the Doha Round in the short to medium term are—to put it kindly—very slim. In the meantime, the EU's enthusiasm for EU DCFTAs shows no signs of abating. Thirdly, the EU DCFTAs envisaged by the EU are comprehensive, covering both border and behind-the-border measures and essentially revisiting all of the regulatory issues that it sought to include in the Doha Round. As a result, contrary to unilateral instruments such as the General System of Preferences (GSP), which tend to focus on the promotion of good governance reforms, protection of labour rights, and environmental protection, as well as multilateral agreements such as the World Intellectual Property Organization (WIPO) conventions, soft law arrangements such as the UNCITRAL Model Law on Public Procurement, which are all single-issue legal instruments, the EU DCFTAs provide a window into the deep trade agenda as a whole. This is not to say that the study turns a blind eye to other legal instruments where these represent an important avenue for the EU to pursue its deep trade agenda or where these complement in a significant manner what is being done in EU DCFTAs. For example, in the context of IP enforcement regulation, the book examines certain aspects of the Anti-Counterfeiting Trade Agreement (ACTA) (European Commission (2011d))—a plurilateral agreement requiring higher enforcement standards than those set under TRIPS—which was rejected by the European Parliament but has had a considerable impact on the content of EU DCFTAs.

Since 2006, the EU has launched FTA negotiations with a number of countries or country groupings which broadly fit the economic profile set out by the Global Europe strategy in that all such agreements are justified by commercial considerations. These include ASEAN, Canada, Gulf Cooperation Council (GCC), India, Korea, MERCOSUR, and, more recently, the US (European Commission (2013c)). So far, the EU has struggled to turn these negotiations into fully fledged FTAs. Most of the negotiations remain ongoing processes whilst some have been abandoned (the FTA negotiations with GCC were suspended in 2008, whilst the negotiations with the idea of an ASEAN–EU FTA has been temporarily abandoned in favour of bilateral negotiations with individual ASEAN member states).[1] To date, the EU has only signed one FTA with one of the priority partners originally identified under the Global Europe strategy: the EU–Korea FTA (KOREU FTA) which was signed on 10 May 2010 and entered into force on 1 July 2011. Both parties had significant vested interests in the swift conclusion of an agreement. From the EU's side, there was the fact that Korea and the US were negotiating an FTA which, once concluded, could lead to the discrimination of European firms in favour of their US competitors. For Korea, the main driver for the negotiations was the promise of enhanced access to the EU market, particularly in the automotive sector (Elsig and Dupont (2010), pp. 500–1). The final

[1] Negotiations are currently ongoing with India, Japan, Malaysia, MERCOSUR, Thailand, the United States, and Vietnam.

outcome is a comprehensive and WTO-plus FTA covering trade in manufactured goods (including standardization of safety and environmental automotive standards eliminating tariffs for most manufactured goods), trade in agricultural goods, services, IP and public procurement, competition, and sustainable development (Cooper (2011); Harrison (2013), pp. 57–65). That the EU has thus far failed to conclude FTAs with the majority of the countries identified by the Global Europe strategy suggests that its comprehensive deep liberalization agenda may have been too ambitious from the outset. This is particularly relevant in the context of negotiations with emerging economies in Asia and South America that have opposed the EU's attempts to introduce deep disciplines at the multilateral level.

However, the EU has concluded, and continues to negotiate, a number of FTAs which, whilst being driven primarily by political and development considerations and not targeting countries identified by the Global Europe strategy, apply the Global Europe ethos insofar as they are comprehensive in scope and have a strong regulatory dimension focused on WTO-plus issues (European Commission (2006b)). This is the case of the economic partnership agreement signed by the EU and the CARIFORUM group of states[2] (CEPA), the FTA signed with Peru and Colombia (Colombia–Peru FTA) and the FTA component of the EU–Central America Association Agreement (EU–CA FTA). The CEPA is underpinned by the Cotonou Agreement signed on 23 June 2000[3]—an association agreement governing the trade, development cooperation, and political relationship between the EU and the countries currently making up the African, Caribbean and Pacific Group of States (ACP) (Bartels (2007), pp. 715–56). The signing of the Cotonou agreement signalled a shift away from the focus on trade and development that had characterized the previous EU–ACP regime under the successive Lomé Conventions (Ibid) as they (i) provided for the expiry of the non-reciprocal trade preferences (which were deemed to violate the General Agreement on Tariffs and Trade[4]) which are to be replaced with FTAs which will be signed with separate regional groupings (so-called economic partnership agreements) and (ii) added a political pillar to EU–ACP relations which places greater emphasis on strengthening dialogue concerning security issues, including conflict prevention and peacekeeping, respect for human rights, and good governance. The CEPA, signed on 15 October 2008, was the first and remains to date the only economic partnership agreement concluded with an ACP regional grouping. It departs from the Lomé trade regime in two fundamental aspects. First, insofar as it puts an end to the non-reciprocal preferential access of Caribbean States to the EU market. Secondly, the negotiations of the CEPA were informed by the Global

[2] The CARIFORUM Group refers to the Caribbean States currently including the Member States of the Caribbean Community and the Dominican Republic. See http://www.caricom.org/jsp/community_organs/cariforum/cariforum_main_page.jsp?menu=cob.

[3] Partnership agreement 2000/483/EC between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, OJ, L 317.

[4] GATT Panel Report, *EEC—Import Regime for Bananas*, DS38/R, 11 February 1994.

Europe strategy as the agreement is a comprehensive, WTO-plus FTA covering a number of deep disciplines in the area of services, IP, public procurement, and competition (Sauvé and Ward (2009)). In fact, as the first deep FTA concluded by the EU following the Global Europe strategy, the CEPA has set the template for all subsequent EU DCFTAs (Hoffmesiter (2013), p. 13).

Likewise, in 2007 the EU launched negotiations for the conclusion of Association Agreements with the Andean Community (Bolivia, Colombia, Ecuador, and Peru) and six Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama) in order to provide a framework for political dialogue, cooperation, and trade. The negotiations with the Andean Community were suspended in 2008 because of disagreements between Andean countries and were thereafter re-launched only with Colombia and Peru, which, led to the signing of the Colombia–Peru FTA on 26 June 2012.[5] The EU–Central America Association Agreement was signed on 29 June 2012, although it is yet to be ratified by all Central American countries involved (European Commission (2013c), p. 4). Again, it must be noted that the content of the Colombia–Peru FTA as well as the EU–CA FTA follow the template set out in the KOREU FTA and the CEPA by including rules that far exceed what is currently provided under WTO law. Finally, the book also examines the EU–Singapore FTA concluded in December 2012.[6] The EU–ASEAN FTA negotiations, launched in 2007, collapsed two years later partly because the ASEAN countries were unable to agree on a common negotiating position and partly because they were reluctant to acquiesce to the EU's demands that countries whose economic development was deemed insufficient (Cambodia and Laos) or whose human rights record was considered poor (Burma) should be excluded from the negotiating process. This forced the EU to pursue negotiations on an individual basis with Singapore, Malaysia, and Vietnam. The EU–Singapore FTA remains to date the only trade agreement concluded by the EU with an ASEAN country. Significantly, it is one of the first EU DCFTAs to make use of the extension of the EU's external competence in the area of foreign direct investment by including investment protection provisions and investment arbitration clauses. Negotiations were concluded on 17 October 2014 but the approval and the ratification of the EU–Singapore FTA have been delayed as a consequence of the Commission's decision to request an opinion of the Court of Justice on whether the EU has the competence to conclude the agreement alone.[7] The outcome of this procedure will have a huge bearing on the future development of the EU's external trade policy

[5] The Colombia–Peru FTA will enter into force once ratified by all Member States. It has been provisionally applied with Peru since 1 March 2013 (IP/13/173) and with Colombia since 1 August 2013 (IP/13/749).

[6] The EU–Singapore FTA is yet to be formally approved by the Commission, the Council of Ministers and the European Parliament. Ratification is expected at the end of 2014 at the earliest (European Commission (2014)).

[7] Commission Decision, requesting an opinion of the Court of Justice pursuant to article 218(11) TFEU on the competence of the Union to sign and conclude a Free Trade Agreement with Singapore, C(2014) 8218 final.