

**Rival Globalizations?:**  
**An Analysis of US-EU Post-Cold War Trade Disputes**

**Ayse Kaya.**

**The London School of Economics and Political Science.**

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# **Rival Globalizations?: An Analysis of US-EU Post-Cold War Trade Disputes**

## **Abstract**

This dissertation examines how the USA and the EU shape, or try to shape, globalization in divergent ways. In other words, it seeks to understand whether the two powers produce *rival globalizations*. Towards this end, the thesis utilizes US-EU trade disputes at the World Trade Organization (WTO) as case studies. The WTO provides a good basis to study the *manifestations of globalizations*. Moreover, WTO disputes provide for good data—the documentation on the disputes illuminates the positions of the USA and the EU in a dispute.

The two specific disputes the thesis studies are the conflicts over bananas and genetically modified organisms (GMOs). In addition, the dissertation investigates the two powers' bilateral and regional trade agreements (RTAs). While the first two case studies analyze specific disputes, the third case study investigates *rival globalizations* from a general perspective. The variables of analysis in the case studies are *core of the dispute* and *competing outlooks*. In operationalizing *rival globalizations*, the dissertation examines the two powers' *impact on the WTO* and explores whether the two powers *utilize international organizations other than the WTO as well as trading partners divergently*.

In each of these case studies, the discussion investigates the assumption that two powers produce *rival globalizations*. Also, the dissertation examines how the two powers impact on globalization divergently. Moreover, the thesis enquires as to whether the presence of rival globalizations is relatively more pronounced in some situations. If so, it explores the reasons as to why this may be the case.

The dissertation pursues empirical over theoretical analysis. Nevertheless, it was inspired by and relates to a theoretical debate. It relies on a combination of the transformationalist approach to globalization with a basic realist understanding of international relations.

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## **Abbreviations**

<b>ACP</b>	<b>African, Caribbean and Pacific</b>
<b>AGOA</b>	<b>Africa Growth Opportunity Act</b>
<b>APEC</b>	<b>Asia Pacific Economic Cooperation</b>
<b>ASEAN</b>	<b>Association of South East Asian Nations</b>
<b>BFA</b>	<b>Banana Framework Agreement</b>
<b>BSE</b>	<b>Bovine Spongiform Encephalopathy</b>
<b>BW</b>	<b>Bretton Woods</b>
<b>CACM</b>	<b>Central American Common Market</b>
<b>CAFTA</b>	<b>Central American Free Trade Agreement</b>
<b>CAP</b>	<b>Common Agricultural Policy</b>
<b>CARICOM</b>	<b>Caribbean Community and Common Market</b>
<b>CBD</b>	<b>Convention on Biological Diversity</b>
<b>CEEC</b>	<b>Central and Eastern European Countries</b>
<b>CIS</b>	<b>Commonwealth of Independent States</b>
<b>COMESA</b>	<b>Common Market for Eastern and Southern Africa</b>
<b>DG</b>	<b>Directorate General</b>
<b>DSB</b>	<b>Dispute Settlement Body</b>
<b>DSM</b>	<b>Dispute Settlement Mechanism</b>
<b>EAEC</b>	<b>European Atomic Energy Community</b>
<b>EC</b>	<b>European Community</b>
<b>ECJ</b>	<b>European Court of Justice</b>
<b>ECOWAS</b>	<b>Economic Community of West African States</b>
<b>ECSC</b>	<b>European Coal and Steel Community</b>
<b>EEA</b>	<b>European Economic Area</b>
<b>EEC</b>	<b>European Economic Community</b>
<b>EFTA</b>	<b>European Free Trade Association</b>
<b>EPA</b>	<b>Economic Partnership Agreement</b>
<b>EPA</b>	<b>Environmental Protection Agency (of the USA)</b>
<b>ETI</b>	<b>Extraterritorial Income Exclusion Act</b>
<b>EU</b>	<b>European Union</b>
<b>FAO</b>	<b>Food and Agricultural Organization (of the United Nations)</b>
<b>FDI</b>	<b>Foreign Direct Investment</b>
<b>FSC</b>	<b>Foreign Sales Corporation</b>
<b>FTA</b>	<b>Free Trade Area</b>
<b>FTAA</b>	<b>Free Trade Area of the Americas</b>
<b>GATT</b>	<b>General Agreement on Tariffs and Trade</b>
<b>GATS</b>	<b>General Agreement on Trade in Services</b>
<b>GCC</b>	<b>Gulf Corporation Council</b>
<b>GDP</b>	<b>Gross Domestic Product</b>
<b>GMO</b>	<b>Genetically Modified Organisms</b>
<b>IMF</b>	<b>International Monetary Fund</b>
<b>ITC</b>	<b>International Trade Commission</b>
<b>LAIA</b>	<b>Latin American Integration Association</b>
<b>LMO</b>	<b>Living Modified Organism</b>

<b>NAFTA</b>	<b>North American Free Trade Area</b>
<b>NGOs</b>	<b>Non-governmental Organisations</b>
<b>NTBs</b>	<b>Non-Tariff Barriers</b>
<b>PCA</b>	<b>Partnership and Cooperation Agreement</b>
<b>R &amp; D</b>	<b>Research and Development</b>
<b>ROO</b>	<b>Rules of Origin</b>
<b>RTA</b>	<b>Regional Trade Agreement</b>
<b>OECD</b>	<b>Organisation for Economic Co-operation and Development</b>
<b>SAARC</b>	<b>South Asian Association for Regional Corporation</b>
<b>SACU</b>	<b>Southern African Customs Union</b>
<b>SADC</b>	<b>Southern African Development Community</b>
<b>SCM</b>	<b>(Agreement on) Subsidies and Countervailing Measures</b>
<b>SEC</b>	<b>Securities and Exchange Commission</b>
<b>SPS</b>	<b>Sanitary and Phyto-sanitary</b>
<b>TABD</b>	<b>Transatlantic Business Dialogue</b>
<b>TACD</b>	<b>Transatlantic Consumer Dialogue</b>
<b>TBT</b>	<b>Technical Barriers to Trade</b>
<b>TPA</b>	<b>Trade Promotion Authority</b>
<b>TRIPS</b>	<b>Agreement on Trade-Related Aspects of Intellectual Property Rights</b>
<b>UFC</b>	<b>United Fruit Company</b>
<b>UK</b>	<b>United Kingdom</b>
<b>UN</b>	<b>United Nations</b>
<b>UEMOA</b>	<b>West African Economic and Monetary Union</b>
<b>USA</b>	<b>United States of America</b>
<b>USEU</b>	<b>United States Mission to the European Union</b>
<b>USDA</b>	<b>United States Department of Agriculture</b>
<b>USTR</b>	<b>United States Trade Representative</b>
<b>VRA</b>	<b>Voluntary Restraint Agreement</b>
<b>WEU</b>	<b>Western European Union</b>
<b>WHO</b>	<b>World Health Organization</b>
<b>WTO</b>	<b>World Trade Organization</b>

## **Chapter 1: Introduction<sup>1</sup>**

### **1.1 The Overview of the Dissertation**

The end of the Cold War ushered in an era whose defining characteristics still remain a topic of widespread debate. While some saw the demise of the Soviet Union and the victory of capitalist ideology as heralding a “new world order,” many others still find elusive the “new” as well as the “order” in this age.

“Globalization” is the signal label for the trends that define this new era. To many, “globalization” signifies something beyond the reach of humans. Zygmunt Bauman (2005) describes a common reaction to the sense of insecurity the unruly nature of the post-Cold War world order engenders:

Unable to slow down the mind-boggling pace of change, let alone to predict and determine its direction, we focus on things which we can, or believe we can, or are assured that we can, influence: we try to calculate, and minimize the risks of falling victims of uncounted and uncountable dangers which we suspect the opaque world and its uncertain future to hold in store. (17)

As Bauman indicates, for many, globalization is the “mind-boggling pace of change,” or the cause of such transformations. It encompasses an amazingly diverse set of developments in the post-Cold War world, ranging from the strengthening of non-governmental actors and movements, to global warming, to rapid technological improvements, and to the perception and the reality that the world is highly interconnected. Globalization is at once everything—what one sees, feels, and experiences—and nothing. It is by definition hard to capture, to define, and to

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<sup>1</sup> I am indebted to my supervisors—Professors David Held and Dominic Lieven—for being tremendous mentors. I feel most privileged to have been their supervisee. I am grateful to Dr. Richard Carden for his advice on certain chapters of the dissertation. I acknowledge the support of the University of London Central Research Fund. I also thank Dr. Indraneel Sircar, Dr. James T. Walker, Dr. Nina Caspersen, Camille Monteux, Amudha Poola and Andrew Orloff for their great compassion and intellectual support.

comprehend. For some commentators “globalization” is nothing less than a radical transformation of life and politics (see discussions in Chapter 2). For others it is simply a bogus term. Most agree, however, that globalization and the contestations over its very existence, let alone its nature, mark the post-Cold War era.

### *1.1.1 A Two-tiered Understanding of Globalization*

This thesis assumes that globalization can be more productively understood as a two-tiered phenomenon. The first tier of globalization is what remains beyond human control. This is the globalization of Bauman’s observation above. The unmanageability of the first tier of globalization derives not from any extra-human force, but from the myriad unintended consequences of very human actions. Although unintended consequences have always been possible, in the contemporary era the interdependence of different parts of the world and the subsequent complexity of the issues that confront citizens and policy-makers enhance the potency of such consequences. For instance, the daunting problem of global warming is accepted as the consequence of human actions even as humans struggle to come up with viable solutions to this same problem they have engendered. Considered in this regard then, the first tier of globalization is the unmanageable product of innumerable unintended consequences of human action.

Yet, what is striking about the post-Cold War world is that, alongside the diffusion of power through globalization, there exist remarkable concentrations of power. In those realms where it is without rival—most notably in the military realm—American power is mighty enough to appear as yet another empire (see, for example, Bacevich 2002, and also contributions to Held and Koenig-Archibugi 2004). But while the USA remains the sole power in the military realm, the EU parallels its strength in the political economy. Regional economic powers that threaten to become rivals, particularly China and India, further complicate this picture. Thus, in the era of globalization, although power has been redistributed, there remain remarkable concentrations of power.

The second tier of globalization, then, explores *globalization as a political project*. Globalization understood as a political project is the product of state action. As in previous historical periods (see Chapter 2) major states, especially the great powers, exercise considerable influence over the international environment. This is not to suggest that globalization is what powerful states make of it. Neither is it to argue that the second tier of globalization remains immune from the first. Substantial unintended consequences haunt states, and even in the second tier states face structural constraints. Nevertheless, the two tiers have different emphases: while the first tier describes the uncertainty of globalization, the second allows one to observe the discernable aspects of it.

The influence of states on globalization has been explored with a focus on how the West, especially the USA, shapes globalization. The prevalent feeling, especially in the developing world, is that “the West has driven the globalization agenda, ensuring that it garners a disproportionate share of the benefits at the expense of the developing world” (Stiglitz 2002, 6). The view that the architecture of globalization has served American interests the most is commonplace (see also Bacevich 2002, 38; Friedman 1999). In fact, some authors have equated globalization with Americanization—the spread of American culture and corporations to the rest of the world—and the subsequent backlash (for instance, see Barber 1996). Moreover, authors, such as Wade (2003) and Gowan (2001), have made compelling arguments about the unique position of the USA in the global financial architecture. While not denying the role of Europe, these works have not explored the implications of US-EU struggles to determine globalization. This dissertation shares the view that globalization has most readily benefited the USA, since as a superpower the USA has enjoyed easy pursuit of its interests through institutions it created itself (with allies). But, embracing a more complex understanding of globalization than simply

globalization-as-Americanization, it sets out to examine how clashes within the West affect globalization.<sup>2</sup>

### *1.1.2 The Working Definition of Globalization*

But, what is understood here by globalization? Let us start with the definition of “globalization” provided by Held, McGrew et al. (1999). According to these authors, globalization denotes the set of processes that have stretched authority, participation, activity, and resolution beyond the borders of the (nation-)state (see especially page 49). As these authors explain, the recent cultural, economic, political, and military interconnection of different parts of the world has occurred with historically unprecedented intensity, extent, velocity, and impact. Thus, in the most basic sense, globalization is what I will call “hyper-interdependence.” But as the discussions below and in Chapter 2 highlight, Held, McGrew et al. emphasize that globalization is not just about interdependence. It is also about the political reconfigurations on different levels of society that accompany increasing levels of interdependence.

Based on the Held, Mc Grew et al. definition, globalization also embodies *the processes* that produce this interdependence. This emphasis on *processes* is useful in understanding globalization. Yet, it makes the reliance on a single definition of globalization difficult. Such processes could be a variety of things at a given time. Moreover, commentators can easily disagree on the importance of different processes. The challenge, then, is being able to rely on a single definition of globalization.

However, the question of *what globalization is* may in fact be distracting in the efforts to understand it. What matters more than seeking a definite answer to this question is how to operationalize the term. Towards operationalizing the concept of globalization, I will propose to focus on the “manifestations of globalization.” These

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<sup>2</sup> Although I am aware of the literature that examines the USA as a “hegemon,” there is no time or space here to discuss whether it is a hegemon or not. The assumption here is that the USA can be considered as a hegemon in all but the political economic sphere.

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manifestations, listed in Table 1 below, are by no means the only ways in which one observes globalization, but they are the major ways in which globalization is apparent. Even if the manifestations of globalization are simply a matter of perception, this does not detract from their potency.

**Table 1- Manifestations of Globalization**

<b>Institutional</b>	<b>Political</b>	<b>Economic</b>	<b>Psychological/ Political Rhetoric</b>
-Increased influence of supranational, international, and transgovernmental organizations, primarily as a result of increased interdependence.	-“Hyper-interdependence.”  -Increased influence of non-governmental actors.  -Emergence of complex and interlocking issue areas (see Chapters 2 and 5).  -Diminishing demarcation between the “foreign” and the “domestic” (see Chapter 2).	-“Hyper-interdependence.”  -Unanticipated repercussions of globalization. The 1997 financial crisis is an example to this point.	-Perception, rhetoric, or feeling that events are beyond the control of states.

Source: Information in this table was compiled based on discussions in Chapter 2.

Overall, then, the focus of this dissertation will be the second-tier of globalization, and when discussing globalization I will be referring to the manifestations of globalization. Of those listed in Table 1, I am primarily interested in the political-economic and institutional manifestations. Although I will be cognizant of “psychological/political rhetoric,” I will largely ignore that dimension since the dissertation does not constitute an analysis of official speeches; rather, it relies on official documents only to guide the empirical analyses. Also, although cultural globalization is of great importance, since this dissertation will not touch upon it at all, I have left it out of the table.

### 1.1.3 The Research Question(s)

The primary research question taken up by this dissertation is:

*In what ways do the USA and the EU, as two great political-economic powers, (try to) impact upon globalization in divergent manners?*<sup>3</sup>

To put the question differently, do these great powers produce “rival globalizations”? “Rival globalizations” does not necessarily mean there is one globalization under the influence of the USA or produced by the USA and another by the EU. Rather, the thesis explores the ways in which the USA, a state, and the EU, a state-like entity (see Chapter 2 for an explanation), try to shape the same structure differently. In the Conclusion, I will address the possibility of the existence of two paradigms of globalization, one pursued by the USA and another endorsed by the EU.

The thesis includes three core components based on the research question. First, the dissertation asks whether the USA and the EU impact upon globalization differently. Second, it discusses the primary features of putative “rival globalizations”. Third, the thesis asks whether the presence of “rival globalizations” is relatively more pronounced in some situations. It then explores the reasons as to why this may be the case. As implied in the research question, the dissertation does not explore “intentionality.” It does not ask whether the USA and the EU purposefully impact upon globalization (divergently). The study of intentionality (that is, proving that the two powers actually set out to shape globalization differently) is elusive. In addition,

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<sup>3</sup> For the sake of consistency and clarity, I will refer to the European Union as the EU, although it only acquired that name with the Maastricht Treaty signed in 1992. Previous to that, the EU was most commonly known as the European Community (EC). The EC consisted of three different communities: the European Coal and Steel Community (ECSC), the European Economic Community (EEC), and the European Atomic Energy Community (EAEC). With the Maastricht Treaty, these different communities were merged into three different pillars: Economic; Common Foreign and Security Policy; and Justice and Home Affairs. As Tsoulakis (1997, 1) notes, “a neat separation between the EC and the EU is practically impossible, especially when policies are discussed in a historical context.” Hence the use of the term the EU.



the distinction between intentional and inadvertent impact on globalization does not change the outcome of interest—“rival globalizations.”

Centring the discussions of the dissertation on “globalization,” as opposed to another term, is justified for various reasons. A rich body of literature has delineated how the era of globalization differs from previous periods (see Chapter 2). The “manifestations of globalization” above encapsulate some of the ways in which politics has changed. Such changes have their origins in historical developments that have grown to affect life and politics in novel ways. In studying US-EU clashes, reliance on the literature on globalization offers useful analytical tools and important insights (see Chapter 2 for distinctions within this literature). Overall, the reliance on the concept of globalization not only allows the dissertation to use the analytical tools offered by the literature on globalization in the empirical studies, it also relates this dissertation to a theoretical debate by emphasizing the continued importance of states, specifically the USA and the EU (see Chapters 2 and 3).

The dissertation’s focus on the WTO serves different purposes. In analyzing the disputes at the WTO, the study explores how the USA and the EU may view and approach the world differently. In this sense, the analysis of WTO disputes functions as a window to globalization. Moreover, the examination of how US-EU disputes affect the WTO allows one to draw conclusions about how the two powers’s influence over globalization. Also, WTO disputes provide good data, since they are well-documented. (Chapter 3 expands upon these points).

The dissertation focuses on the USA and the EU, as opposed to other potential centres of power, because as the biggest actors they have greater leverage than other actors. Other actors can also have an influence on globalization. Particularly China, as it continues to grow, is likely to have a bigger effect. Yet, for the time being, not only do the USA and the EU possess superior economic powers, but also the extent of their links to other regions grants them a unique position (see Chapters 2 and 3 for a discussion of “great powers” and the choice of the USA and the EU).

Trade clashes between the USA and the EU, popularly known as “trade wars,” have attracted much attention. Yet, most accounts have not considered a comprehensive picture of the two powers’ relationship and, further, located it in the context of globalization. Studies on US-EU trade wars have mostly tackled the rivalry from the perspective of “strategic trade theory,” which is inspired by mercantilism. In simple terms, the theory contends that due to imperfect competition in international markets, it is possible to gain economic advantage “at the expense of rivals by displacing or preempting them” from certain key markets (such as technology). By promoting domestically certain markets of particular international importance, governments can outdo their rivals (Irwin 1992, 135; see contributions to Krugman 1986). Importantly, proponents of “strategic trade theory” portray these strategic sectors as being of limited supply, and thus they portray economic competition as a zero-sum game. American-Euro-Japanese trade relations have generally been analyzed from this perspective. For instance, Thurow (1992, 30) foresees a “head-to-head” competition between the USA and its competitors in which there will be clear winners and losers. Similar works by Luttwak (1994) and Garten (1992) maintain that governments should take the lead in certain sectors, specifically technology, in order to ensure the welfare of their citizens in a zero-sum game. This thesis proposes to go beyond the zero-sum understanding of US-EU trade tensions. It aims to elucidate these tensions as being about far more than simple distributional matters such as who gets to control what percentage of the technology sector (see Chapters 2 and 3).

## 1.2 Methodology

In order to pursue the outlined research agenda, the dissertation uses case study analyses. The first two case studies explore the question of “rival globalizations” within two specific disputes brought to the WTO—namely, the conflict over bananas and the clash over genetically modified organisms (GMOs). The third case study analyzes the USA’s and the EU’s bilateral and regional trade agreements (RTAs). This study examines the existence of “rival globalizations” more broadly, and in this

also expands upon some points in the first two case studies. Chapter 3 outlines the criteria for case study selection.

Case-study analysis is suitable in this instance, as the number of relevant cases—US-EU disputes—remains too small for a quantitative method (Ragin 1987, 49). Still, case study methodology contains certain weaknesses. To begin with, exactly because the number of cases considered is small, some commentators find this method problematic for its “lack of ability for scientific generalization” (Yin 1994, 10). Moreover, Ragin (1987, 37) finds “multiple conjectural causation” can detract from the efficacy of qualitative comparative works. “Multiple conjectural causation” means the combination of a number of specific factors at a specific point in time can lead to a particular outcome (cited in Hopkin 1995, 262). Therefore, studies should be cautious about making gross generalizations based on a small number of observations. The researcher needs to be cognizant of how certain observations may only apply to the unique particularities of the phenomenon under study. This dissertation remains sensitive to such potential shortcomings of the methodology (see Chapter 3) and addresses the extent to which the findings of this dissertation can be generalized in the Conclusion.

Despite its potential pitfalls, the comparative case study method allows for a holistic approach with which a wide scope of evidence can be analyzed relying on different sources (Yin 1994, 8). Capitalizing on the advantages case study analysis offers, this dissertation relies on a number of sources, which range from primary and secondary academic publications, to interviews with key officials and private sector members on both sides of the Atlantic, to newspaper articles, to speeches by politicians (see Appendix C for more detail on Interviews). The qualitative analyses in the case studies illustrate as many dimensions of the issue as possible. Because it allows for such a multi-faceted analysis, the qualitative case study method is beneficial. In further increasing the utility of the comparative case study analysis, the cases can be analyzed “along the same lines” (Eckstein 1975, 85). The research requires establishing a number of key dimensions around which the case study analyses can

be centred. The choice of some variables as opposed to an endless list allows the discussions to be focused (Bennett and George 1997; Lijphart 1971, 690). Thus, the dissertation utilizes some specific criteria in pursuit of the research agenda.

### *1.2.1 The Choice of the Variables of the Analysis*

The object of measurement/observation—the two powers’ impact on globalization—is broad and therefore requires refining. In pursuit of how the two powers try to shape globalization, the dissertation will study: a) how the two powers impact upon the WTO and, relatedly, the multilateral political economy; b) the way in which the two powers utilize international/supranational institutions other than the WTO; and c) the two powers’ utilization of their trading partners.

The study of the “impact on the WTO” will examine whether or not the dispute led to a change in the rules and regulations, or in the approach of the WTO. Also, it will explore how the WTO constrained and/or altered the behaviour of the USA and the EU. The study posits that an impact on the WTO will lead to an influence on the multilateral political-economic system. However, discussions in each case study will qualify this assumption, exploring the degrees as well as the extent of that impact.

Since the two powers may be affecting globalization not through the WTO but via other international/supranational organizations, the dissertation also analyzes what the disputes reveal about the two powers’ utilization of other institutions. This focus is also useful in assessing whether or not the utilization of other platforms brought about the disputes’ impact on the WTO. Specifically, one would expect that if the USA and the EU made different use of international organizations other than the WTO in order to resolve their dispute, this would, in turn, influence the WTO. Nevertheless, it could also be the case that the utilization of other platforms relieves the stress on the WTO, reducing any potential impact on it.

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In trying to understand “rival globalizations,” the analysis of the disputes will also explore how the two powers have utilized their bilateral and regional relationships, in other words their trading partners. The examination of how the two powers’ partners were involved in the disputes will likely illuminate the way in which the two powers are *trying* to shape globalization.

Although just one of these variables could illustrate the behaviour of the two powers, a reference to all three dimensions of analysis strengthens the conclusions reached.

Table 2 summarizes the criteria for establishing the presence of “rival globalizations.”

**Table 2- Rival Globalizations**

<b>Rival Globalizations of the USA and the EU</b>
<ul style="list-style-type: none"><li>• <b>Impact on the WTO</b><ul style="list-style-type: none"><li>▪ Does the dispute lead to a change in the rules and the regulations, or the approach of the WTO? If so, did this putative change come about as a result of the divergence between the USA and the EU?</li></ul></li> <li>• <b>Utilization of other supranational/international organizations</b><ul style="list-style-type: none"><li>▪ Do the two powers utilize international organizations other than the WTO in competing manners? If so, how?</li></ul></li> <li>• <b>Utilization of bilateral/regional relationships</b><ul style="list-style-type: none"><li>▪ Do the two powers utilize their bilateral and regional trading partners differently?</li></ul></li></ul>

In its quest to explore the existence of “rival globalizations” (the dependent variable), the dissertation adopts two key variables (independent variables), which are summarized in Table 3 below. The two variables—the “core of the dispute” and the

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presence of “competing outlooks” by the two powers—were chosen because they provide a systematic way of analyzing the criteria set out above in Table 2. Each case study also includes a background narrative on the dispute under study (bananas and GMOs), illustrating as many dimensions of the conflict as possible. The discussion now turns to an explanation of what these variables mean and the potential inter-relationship between them.

**Table 3- Dimensions under Study in each Case Study**

<p><b>The Core of the Dispute</b></p>	<ul style="list-style-type: none"> <li>• Does the conflict lie in domestic politics?</li> <li>• Does it lie in foreign policy?</li> </ul> <p>(It is possible that a domestic issue becomes foreign or vice versa during the course of the dispute but has to be either/or at the start of the dispute)</p>
<p><b>The presence of Competing Outlooks</b></p>	<ul style="list-style-type: none"> <li>• Do the two powers understand or approach the issue of concern with divergent perspectives and/or tools?</li> </ul>

*The Core of the Dispute*

In the first place, the investigation aims to capture the core of the dispute—the origins of the conflict. The disputes between the USA and the EU are highly complex, allowing scholars potentially to produce a number of credible narratives regarding their origins. Nevertheless, for the sake of understanding the fundamentals of the dispute one can ask a simple question: did the dispute begin as a repercussion of foreign policy or domestic policy concerns/priorities (“domestic to the EU” here means inside the Union)? Obviously, all disagreements between the USA and the EU are bound to be by definition foreign policy concerns. But the focus here is different: did the dispute ignite internally—out of a policy, action, or approach of the USA/EU within the USA/EU—or externally—outside of the USA/EU? Again, the

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policy may be outside as well as inside the USA/EU, but the issue is what was primarily at stake: a foreign or domestic policy?

This variable may at first seem a bit problematic, as the boundaries between domestic and foreign are blurred; especially concerning issues of globalization, as I will explain in Chapter 2. Nevertheless, it is a useful distinction to make in distilling potentially diverse accounts of the essence of the origins of the conflict into more manageable categories. Also, precisely because the boundaries between the domestic and the foreign become ever more precarious in the age of globalization (Rosenau 1997; see Chapter 2), it is of particular interest to analyze the interaction of the two levels over the course of the dispute. Determining the “core of the dispute” is of importance not only for understanding how a certain dispute came about, but also because it aids the exploration of whether or not disputes with different origins lead to different degrees of rival globalizations. The expectation will be that the dispute will progress differently depending on the causes of the dispute, which will be analyzed in narrating the background of the dispute and also focusing on the “core of the dispute.” The study expects that disputes that involve strong “domestic” cores (and again, in the case of the EU domestic here means intra-EU) will be harder to resolve.

### *Competing Outlooks*

Additionally, the case studies will examine whether the USA and the EU hold competing outlooks in the disputes. On first consideration, it may seem inevitable that the two powers have competing outlooks, given that the dissertation analyzes disputes. However, the fact the USA and the EU clash does not necessarily suggest that the two powers embrace competing approaches towards what is being disputed. For instance, disagreement about tariffs (for instance, high steel tariffs) does not entail different outlooks on what should be done with high tariffs. Presumably, whichever side is subjected to high tariffs would like to have them lowered. Instead,

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“competing outlooks” suggests that the two powers interpret the same issue differently, or that they would like to affect the *status quo* in different ways.

The study expects to find that strong/weak “competing outlooks” may respectively exacerbate/mitigate the impact of the “core of the dispute” in determining the outcome of “rival globalizations.” Moreover, analyzing how the “competing outlooks” change over the course of a dispute will help bring understanding to the nature and the strength of the divergences between the two powers. For instance, do the two powers’ outlooks come closer or grow further apart through the course of the dispute? How does such a change take place? The study assumes that if the two powers continue to hold competing outlooks throughout the dispute and manage successfully to pursue their perspectives, then competing outlooks may evolve from being a cause of disputes at *time zero* to a manifestation of “rival globalizations” at *time one*.

### *Why Not Other Variables?*

The variables chosen are most suited to explore the research question because they directly aid the enquiry into the formation of rival globalizations. Moreover, the dimensions along which the case studies are analyzed encompass other aspects of US-EU trade disputes of concern. In this regard, the dissertation does not study the two variables in isolation.

The thesis could have chosen other lines of enquiry, but different dimensions of analyses would not have necessarily advanced the study. For instance, the duration of the dispute could have been one of the dimensions of study. However, since this criterion was already of consideration in the selection of the disputes, using it as a separate line of analysis would have contributed little to the findings (see Chapter 3).

The presence or the amount of retaliation in a dispute could also have been a line of enquiry. The study did not require the choice of “retaliation” as a variable because



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the background narratives on the disputes already study this factor. In addition, “retaliation” would not have provided the best tool for understanding the ways in which the two powers may be trying to shape globalization (see Chapter 3).

The same can be said of the “timing of the dispute.” The background narrative on each case study pays attention to any potential significance of the timing of the dispute being brought to the WTO. Having this factor as a separate line of investigation would not have enriched the study.

A crucial component of the disputes has undoubtedly been the involvement of third parties, such as other WTO members. Again, the background on each dispute addresses this factor. As a separate dimension of analysis, it would have been too broad and hence of limited contribution to the dissertation.

The role of non-governmental actors—non-governmental organizations (NGOs) and private companies—is also of interest. For instance, NGOs play a crucial role in influencing the agenda of governments. One of the ways in which globalization has manifested itself is through the increasing importance of non-state actors. Also, most disputes involve governments protecting the profits of national (in the EU case, supranational) companies against other countries’ companies. In general, the extent to which non-governmental actors play a role should undoubtedly be a concern in the study of disputes. Thus, in understanding the origins and the evolution of each dispute, the chapters of this dissertation address the involvement of these actors.

In general, since many of the important criteria in the formation and life of a dispute will be addressed in the background of the dispute, it is not necessary to re-address these factors as separate lines of enquiry. The two variables chosen not only equip the study with the most suitable tools for analyzing the change the USA and the EU bring to the systemic level, but they also encompass the study of other factors of importance to the research project.

*1.2.2 Caution About Strict Causal Connections*

The discussions so far imply a link: the independent variables lead to the dependent variable. To some extent, this is true. The expectation of the research is that the way in which independent variables—the “core of the dispute” and “competing outlooks”—occur will determine the nature of “rival globalizations.” However, this observation is useful only with a detailed understanding of the complex dynamics that lead to “rival globalizations.” Not only is a strict causal theorizing not feasible, given the pitfalls of case study methodology (see above and Chapter 3), but also such theorizing may only be useful to the extent that it orders the study. To gain a better understanding of how “rival globalizations” come about, the devil lies in the details of the qualitative study. The case studies will therefore discuss other potential variables that helped contribute to the outcome of “rival globalizations” (or not).

Furthermore, the direction of causality is problematic. It may be the case that “rival globalizations” precedes what seems to produce it in the first place. Or “rival globalizations” as an outcome may in turn strengthen the circumstances that led to its formation in the first place. In order to gain a better sense of cause-effect, the dissertation will examine the disputes and the variables at different times—at the beginning of the dispute, or even prior to the dispute being launched on the WTO platform, and at the end of the dispute (when possible). The variables that appear to determine the outcome of the dispute at *time zero* may be impacted by the dispute at *time one*. In fact, Scholte (2005, 395) argues that the study of globalization encourages a “complex and qualified understanding of causality” and that something can “figure as both cause and effect” (394). With due attention to dilemmas of cause-effect, the case studies of the dissertation yield the results summarized in Table 4 below.

**Table 4- Variables by Case Study**

Case Studies	Independent Variables? Dimensions of Analysis in the Disputes		Dependent Variable? Rival Globalizations		
	Core of the Dispute	Competing Outlooks	Divergent impact on the WTO?	Divergent utilization of international organizations other than the WTO?	Divergent utilization of bilateral and regional trading partners?
<b>Bananas</b>	Foreign	Yes	No	No	Yes
<b>GMOs</b>	Domestic	Yes	Yes	Yes	Yes
<b>RTAs</b>	N/A	N/A	Yes	N/A	Yes

### 1.3 The Contribution of each Case Study to the Dissertation

The cases demonstrate how the two powers try to influence the WTO divergently (Chapters 4, 5, 6) and how they utilize their relations with their bilateral and regional trading partners differently (Chapters 4 and 6 in particular, but also Chapter 5). The case study on GMOs (Chapter 5) also illustrates that the two powers have relied on different international institutions to pursue their “competing outlooks.” Although it is difficult to make conclusive remarks, the dissertation also finds that the “core of the dispute” played a key role in bringing about the outcome, especially when the strength of “competing outlooks” remained strong through the course of the dispute.

Here I will briefly discuss the unique contribution of each case study to the dissertation; the concluding Chapter examines the common findings across the cases. The banana dispute (Chapter 4) reveals a geopolitical competition—one that pits the geo-political-economic ties of the USA against those of the EU. The dispute demonstrates that not only do the two powers emphasize relations with different regions, but also that their ties differ qualitatively. Moreover, the dispute shows that the two powers have embraced different understandings of how economic development concerns can be achieved via trade policy. The dispute even reveals subtle differences over the purpose of “free trade”—whether it should simply

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liberalize, or liberalize while ensuring certain conditions for labourers and the environment. The dispute also exposes struggles (on both sides) to adjust to and mould the infant multilateral system of the WTO. Overall, the banana dispute elucidates the perpetuation of unresolved tensions between the two great powers' historical political-economic commitments and the demands of multilateral trade liberalization. Despite the US-EU divergences embedded in the dispute, I will claim that the banana dispute constitutes a weak case of rival globalizations, as the positions of the two powers grow closer through the dispute (the competing outlooks were tamed), rendering the impact of the dispute on the WTO weak at best.

Chapter 5 analyzes the GMO dispute in conjunction with the “beef hormone” dispute—the dispute in which the USA complained against the EU’s ban of hormones in beef—, arguing that the beef hormone dispute foresaw the GMO clash and that without attention to it, the GMO dispute cannot be properly understood. The examination of the GMO dispute demonstrates that the two powers have endorsed and promoted divergent understandings of what is safe for consumers and for the environment. They have also differed in the tools they have adopted to assess safety—the EU has relied on the “precautionary principle,” whereas the USA has not adopted this approach. While the EU regards its stance on GMOs as a legitimate barrier to trade, the USA sees it as an unwarranted violation of multilateral trading principles. Hence, the two powers have also diverged on what constitutes a legitimate barrier to trade. The “domestic” core of the dispute has sustained the differences between the two powers’ outlooks (untamed “competing outlooks”), leading to the utilization of different international platforms by the two powers. The reliance on international fora other than the WTO has in turn impacted the WTO.

By examining the USA’s and the EU’s RTAs, the case study on bilateral and regional trading agreements (Chapter 6) studies the issue of “rival globalizations” with a general approach, as opposed to focusing on a single dispute. This chapter finds that despite some similarities, the USA and the EU employ their RTAs differently. Most importantly, the two powers encourage the formation of different types of regional

structures. The case study claims that not only do the two powers utilize RTAs to overcome some of the obstacles raised by multilateral trade liberalization, as has been widely argued, but that their RTAs impact the nature of the multilateral trading system. By demonstrating that the two powers produce “rival globalizations” not just on the multilateral level but also on the bilateral and regional levels, the chapter elucidates the different vehicles for “rival globalizations.”

Overall, the dissertation analyzes how the systemic level interaction of the USA and the EU—captured in their disputes at the WTO—impacts upon the system in return. Through empirical studies, the dissertation substantiates claims on the putative US-EU divergence. There have recently been studies that explore the US-EU divergences in the political-economic realm (see Chapter 2 and the Conclusion for a review of some of these works), and there have also been studies that predict a European challenge of the US power without necessarily exploring the *hows* and the outcomes of this challenge (see, for example, Kupchan 2003a). Although globalization may still remain difficult to capture, the insights the US-EU disputes provide into the trajectory of globalization lessen its mystery (see Chapter 2).

#### **1.4 The Organization of the Dissertation**

The rest of the dissertation is organized as follows:

Chapter 2 outlines the theoretical framework, defining the relationship of this dissertation to relevant literatures. Chapter 3 discusses the methodology and the choice of case studies. Chapter 4 comprises the case study on the banana dispute, followed by the discussion on the dispute on GMOs in Chapter 5. Chapter 6 analyzes the USA’s and the EU’s regional and bilateral trade agreements. Chapter 7 concludes the dissertation by re-visiting the main conclusions of the empirical chapters and locating these discussions in the context of the broader US-EU

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relationship. While doing so, it also outlines the limitations of the research project and sketches a plan for future work.

Each chapter opens with a brief paragraph that explains its particular importance for this dissertation.

## Chapter 2: The Theoretical Framework

### Chapter Summary

This chapter lays-out the theoretical framework of the dissertation. The dissertation does not aim to prove the primacy of one theory over others. Nevertheless, it was informed by and relates to existing literatures. It draws in particular on the literature on globalization and the realist approaches to international relations. This chapter does not undertake the task of comprehensively reviewing globalization theory (an impossible task given how prolific this field has become), or realist theory (also an impossible task). Rather, it engages with the major viewpoints in these literatures for the purposes of the research agenda of this dissertation. In discussing the theoretical framework, the chapter further clarifies the definitions and conceptualizations central to the dissertation.

### 2.1 Introduction

The multitude of attempts to comprehend and explain the post-Cold War era has generally been preoccupied with globalization.<sup>4</sup> Globalization has become a generalized term for changes which scholars have tried to understand, interpret, demonstrate, contest, and accept. In this regard, the contemporary period is the era of globalization. This chapter does not attempt to prove or deny the existence of globalization, although it summarizes some prominent works that do. Rather, it accepts globalization as a given of our time.<sup>5</sup> As noted in Chapter 1, this dissertation

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<sup>4</sup> It is no doubt true that the field is rife with “definitional issues” in that different authors comprehend globalization differently. Nevertheless grounding discussions in a debate of definitions not only renders further academic discussion almost impossible, it simply is not a very useful endeavor. Most authors who write and talk about globalization generally concur that it is a phenomenon that foregrounds interdependence such that the reality—or the perception—of living on a single globe cannot be denied.

<sup>5</sup> While there have arguably been different phases of globalization, in which open borders and the exchange of goods and movement of peoples have engendered shrinking political and economic

uses the following definition of globalization as a basis for discussions: “globalization” denotes the set of processes that have stretched authority, participation, activity, and resolution beyond the borders of the (nation-)state (Held, McGrew et al. 1999, 49 especially). Again, Held, McGrew et al. highlight that globalization is not simply about interdependence but also about new loci of authority empowered by the processes of interdependence and the reconfiguration of politics.

The rest of the chapter is organized as follows: Section 2.2 provides an overview of some prominent approaches to globalization. Section 2.3 outlines and then critically assesses the way in which the transformationalist approach understands the role of the state. Section 2.4 discusses how realist insights into the transformationalist approach could be useful. Section 2.5 briefly outlines the ways in which the transformationalist literature could enrich the discussions of the realist perspective. The final section locates this dissertation in the overall relevant literature.

## **2.2 Theories of Globalization**

For the sake of parsimony, I will discuss the literature that directly or indirectly addresses globalization using three broad categories borrowed from Held, McGrew et al. (1999).

### ***2.2.1 Hyperglobalists***

*Hyperglobalists* enthusiastically embrace globalization as a powerful phenomenon and claim that the world has changed substantially thanks to globalization elevating the status of actors other than states to the forefront of prominence. From this perspective, the rule of globalization prevails and states are fading stars. In order to

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spaces (for instance, the period leading up to 1914), here I use “the era of globalization” to denote the post-Cold War period. It is at this point that globalization has become a signal reference point in academic and non-academic deliberations and conceptualizations.



## Chapter 2: Theoretical Framework

understand international relations today, it no longer suffices to focus solely on states. In fact, to grasp international relations, one must also investigate the role of actors other than states. *Hyperglobalist* authors underscore that a remarkable degree of homogenization has taken place in the world. For instance, Fukuyama's attempt (1992) to explain and understand a shift in world politics does not explicitly deal with globalization, but can nevertheless be interpreted as hyperglobalist in thought. According to Fukuyama, the post-Cold War order allows the coming together of humanity under the globalization of liberal democracy—a radical structural change. In this regard, the world has become politically borderless. The following passage is evidence to this point:

Technology makes possible the limitless accumulation of wealth. ...This process guarantees an increasing homogenization of all human societies, regardless of their historic origins or cultural inheritances...All countries undergoing economic modernization must increasingly resemble one another. (xiv-xv)

Kenichi Ohmae, whose guiding interest is clearly globalization, finds that globalization indeed creates a “borderless world” (1990). The financial and economic integration of different parts of the world through the activities of multinational corporations and “global citizens” along with global “consumers” render physical borders obsolete. Ohmae claims that “today's global corporations are nationalityless, because consumers have become less nationalistic” (195). Although Ohmae acknowledges that the world is not yet completely “borderless,” he claims that it has achieved remarkable development towards that end (see Chapter 12). Despite the fact that Ohmae's research focus is very different from that of Fukuyama's, similar to Fukuyama, Ohmae finds that increased interdependence between different parts of the world spurs homogenization. Governments, Ohmae argues, should facilitate open borders in order to derive the greatest benefits for their citizens.

In *Lexus and the Olive Tree*, Thomas Friedman (1999) focuses heavily on the changes in technology, such as the development of the Internet, and the growing

importance of financial markets and large corporations to comprehend and depict globalization. While conceding the continued importance of nation-states and local and national identities, Friedman finds states in a unidirectional change in the hands of globalization: “In the era of globalization...you need a smaller state, because you want the free market to allocate capital, not the slow, bloated government” (134). Friedman claims that the downsizing of the state is inevitable. Once countries recognize the existence of globalization as manifested by markets, they will put on “the Golden Straitjacket.” This straightjacket, which has its origins in Thatcherite and Reaganite eras, basically prescribes deregulation, privatization—in short, a rigorous free trade achieved by substantially opening all sorts of borders (86-87). In this regard echoing Ohmae, Friedman depicts the path of globalization as forcefully one-way (albeit with room for backlash) in the direction of shrinking states, growing markets, and unprecedented interdependence.<sup>6</sup>

### 2.2.2 Sceptics

*Sceptics* sit opposite the hyperglobalists on the spectrum of globalization interpretations. Although coming from different perspectives, these authors all share the judgement that there is nothing new about our contemporary world; it is no more global or interconnected than in some previous eras. Their emphases on a primarily historical perspective problematize globalization. These authors find that in order to understand international relations today, scholars can continue to focus on states and inter-state relations.

Although Samuel Huntington’s *Clash of Civilizations* (1996) does not explicitly discuss globalization, in that account “globalization” implies a world in which increasing exposure to fellow-inhabitants of the world foregrounds differences and ignites hostilities, much like in previous eras of human history. In this narrative, states retain the importance they had in the Cold War period by clothing themselves

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<sup>6</sup> As will be noted by publication dates, most hyperglobalist accounts belong to the 1990s.

with cultural labels and identities. In this new world, instead of states as such vying with each other for power, civilizations, with states as their skeletons, compete.

Albeit with a quite different approach, world-systems theory can also be categorized as sceptical. This theory holds that the current international economy is another phase of the movement of capitalism through time. Therefore, relying on globalization to understand contemporary world politics is a “gigantic misreading of current reality” (Wallerstein 2000, 250). Immanuel Wallerstein contends that in the progression of capitalism through history and time, the current era represents only a “transition,” even though what will become of the capitalist system remains unclear. Wallerstein argues that although the dominant literature on globalization focuses on the 1990s, the analysis should instead emphasize the period from 1945 through today and from 1450 through today. This long-term perspective, Wallerstein contends, demonstrates that the current period is not one of globalization but one of “terminal crisis” in the capitalist system (263).

Recently, a new wave of criticism against theories of globalization has arisen from a highly sceptical Marxist camp, particularly from Justin Rosenberg. Rosenberg’s criticism (2005) of the theorists of globalization, particularly the transformationalists (discussed below), builds on his perception that these theorists have proposed a single theory of globalization—the “Theory of Globalization”—as opposed to a set of analytical tools for understanding globalization (12). With this contention Rosenberg makes several primary points. First, echoing Wallerstein, Rosenberg claims that globalization can only go as far as being a “conjunctural phenomenon of the 1990s—reflecting, but not explaining, the experience of those years” (4). Second, Rosenberg asserts that globalization as a term lacks explanatory power. Rather it is simply a convenient word for reflecting on some changes underway in the 1990s. Thus, Rosenberg writes a “post mortem” for globalization.

Rosenberg’s interesting challenge leaves some important questions unanswered. Because his theory has already received ample criticism (see in particular Callinicos

2005; Scholte 2005), I will not go into a critique here, but only highlight some of the main points of importance to this dissertation. Rosenberg usefully reminds the reader the ways in which Marx foresaw certain aspects of globalization as the continuous expansion of capitalism. Yet, it is less clear as to why a Marxist perspective is more useful than other candidate theories in explaining the contemporary era. What really undermines the value of Rosenberg's approach is the lack of empirical examples. As Scholte (2005) points out, Rosenberg publishes an obituary without fully explaining why he believes certain developments of the 1990s are over and whether what he sees as now over can properly be named "globalization." Moreover, Rosenberg's arguments on the difference between "conjuncture" and "epoch" are not clearly substantiated (see also Callinicos 2005 on this point). More importantly, Rosenberg does not seem to acknowledge that the theorists of globalization could be making an effort to challenge standard analytical tools for analyzing the contemporary world without aiming to impose a single theory of globalization on the discipline.<sup>7</sup>

Coming from a different perspective but also with a degree of scepticism about how great a change globalization has wrought, Linda Weiss (1998) asserts that globalization is better understood as "internationalization," and that apart from the financial sector the contemporary era of internationalization differs little from comparable historical trends (11). She contests the view which argues that

states are now virtually powerless to make real policy choices; transnational markets have so narrowly constrained policy options that more and more states are being forced to adopt similar fiscal, economic and social policy regimes. (118)

In this regard, she ultimately contests the perspective of *hyperglobalists*. However, by disputing the existence of globalization (see 169-184) and challenging the view that globalization has tampered with the powers of the state, Weiss's position also

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<sup>7</sup> It will be noted below that I implicitly agree with some of Rosenberg's concerns regarding the transformationalist approach.

opposes the *transformationalist* approach, which I discuss below. In the end, Weiss finds herself in a somewhat uneasy spot:

The final strand in my argument is that we are witnessing changes in state power; but these changes have to do not with diminution but with reconstitution of power around the consolidation of domestic and international linkages. (209)

While on the one hand denying globalization any true force (as she sees it merely as internationalization), Weiss also feels uncomfortable rejecting it completely. Thus, her final verdict where she decides state power is being re-configured is close to the transformationalist perspective but her scepticism is not.

To some other authors who prefer to understand globalization as internationalization, globalization is simply a bogus term, a buzzword with no substance that fails to capture reality (Hirst and Thompson 1999). With a political-economic focus, Hirst and Thompson demonstrate that interdependence remains primarily a phenomenon amongst the developed nations. These authors essentially question whether framing contemporary issues in a global framework is justified. They regard the nation-state level or the regional level as relatively more appropriate reference points than the global for discussions on political economy (Thompson forthcoming 2006). Their argument is important for the purposes of this dissertation and hence deserves further attention.

The analysis provided by Hirst and Thompson is useful in raising awareness of the limitations in the “global-ness” of the contemporary world economy—interdependence does not encompass the whole globe and it is more intense in certain places than others. They also rightly highlight the continued importance of states. In these respects Hirst and Thompson’s “moderate skeptical” (1999, 1) approach is useful. For instance, I am sympathetic to these authors’ emphasis that great powers continue to matter (1999, 2-3).

However, despite this affinity to their viewpoint, this dissertation parts from the Hirst and Thompson analysis in important ways. Hirst and Thompson analyze “globalization” as an outcome rather than a process.<sup>8</sup> Because they do not find the *whole* world integrated into a single world economy, they argue that a globalized economy does not exist (see 16 and Chapter 7). In this regard, I contend, they under-emphasize the movement towards a global economy into which an exceeding number of countries are integrated. For instance, while the General Agreement on Tariffs and Trade (GATT) had a membership of about twenty countries in the 1940s, today the WTO has 149 members.<sup>9</sup>

Also, the dissertation does not accept the notion that the continued importance of states or state-like entities disproves the existence of globalization, rendering it a mere “myth” (1999, 6). Hirst and Thompson deny the existence of globalization primarily because they reject the notion of “an ungovernable world economy” (6). Yet, a rejection of globalization based on these grounds is only a contestation of the hyperglobalist viewpoint. Although the authors acknowledge that they challenge “extreme globalization theorists like Ohmae,” they do not fully engage with more balanced accounts, such as the one of transformationalists (discussed below). As a matter of fact, Hirst and Thompson appear to be discussing what the transformationalists define as globalization (Held, McGrew et al. definition above) without recognizing it as such. This not only compromises the integrity of their argument but it also detracts from its complexity, over-emphasizing the *sceptical* rather than the *moderate* component of their stance. The following excerpts from Hirst and Thompson, for instance, suggest an acknowledgement of globalization, or at the very least a world under profound change:

The society of states has passed from an anarchical condition to a quasi-civil one. The vast majority of states are bound together in

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<sup>8</sup> They do emphasize the need to “identify the dominant trends” (16) but discuss trends as outcomes in most of their work.

<sup>9</sup> The GATT provided the main forum for the coordination of commerce and the settlement of disputes from 1947 until 1995, when the WTO was formed (Babai 2001, 926).

## Chapter 2: Theoretical Framework

numerous ways in what amounts to an international political society, and in the case of major advanced states...a virtual standing of states with its own rules and decision procedures. (265)

Modern communications form the basis for an international civil society, people who share interests and associations across borders. (266)

Politics is becoming more polycentric, with states merely as one level in a complex system. (268-269)

In this respect, the Hirst and Thompson analysis is weakened by the same problem that plagues Weiss's account: rejection of the concept of "globalization" despite the fact that the arguments they make border dangerously close to what other authors have defined and understood as "globalization."

Moreover, and more importantly for the purposes of this dissertation, Hirst and Thompson do not grant the systemic level any autonomy. The structure remains only a function of state actions. To accept their argument that "nation-states, and forms of international regulation created and sustained by nation-states, still have a fundamental role in providing the governance of the economy" (271) does not necessarily mean accepting that there is no globalized economy, as the authors contend. Rather, as this dissertation maintains, the study of how the independent forces of the systemic level interact with the manipulations of great powers is a worthy endeavour. As will be argued below, in the pursuit of this research agenda, the transformationalist perspective can elucidate aspects of the changing world and equip scholars with valuable analytical insights.

### 2.2.3 Transformationalists

The *transformationalists* deliver a balanced account of globalization. I am most sympathetic to the transformationalist account of globalization, as it comprehensively explains the novelties of the contemporary era and the complications of global politics.

## Chapter 2: Theoretical Framework

As already emphasized (just above and in Chapter 1), according to leading transformationalists, particularly Held, Mc Grew et al., globalization denotes the set of processes that have stretched authority, participation, activity, and resolution beyond the borders of the (nation-)state. The recent cultural, economic, political, and military interconnection of different parts of the world has occurred with historically unprecedented intensity, extent, velocity, and impact (1999, especially 49). In a similar vein, Keohane and Nye (1977; 2001) argue that globalization has increased the “thickness” of interdependence, allowing for “different relationships of interdependence to intersect more deeply at more different points” (243). Globalization, Held, Mc Grew et al. emphasize, is a *process*.<sup>10</sup> Chapter 1 discussed the potential pitfalls of focusing on a “process” definition of globalization, arguing that it makes reliance on a single definition of globalization difficult.

It should be noted that wide variation and differing degrees of enthusiasm for globalization exist within the transformationalist camp. For instance, some authors who hold the transformationalist viewpoint at times portray globalization as enabling the transcendence of time and space—an approach also found in the hyperglobalist literature (see, for instance, Scholte 2000; Giddens 1999). The nuance between “compression” and “transcendence” is unclear at times, but it is fair to say that transcendence denotes a higher state in the process of “compression,” alluding to a brand new world. In general, though, transformationalists describe a world in which heightened levels of interdependence lead to the “compression” (“shrinkage”) of the time and space where we engage in political, economic, and cultural activities.

Transformationalists explain that globalization grew out of historical processes that were revolutionized by unprecedented developments in communications and transportation technology (see Giddens 1999; Held and McGrew et al. 1999). “Instantaneous electronic communication” alters not just how information is communicated, Giddens argues, but also how humans live their lives (11). For

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<sup>10</sup> For a “process” understanding of globalization, see also Hoogvelt 1997, 114-131; Mittelman 2000, 4. Both Hoogvelt and Mittelman can be said to have Marxist inspirations in their work, though Hoogvelt’s is an explicit engagement with Marxist accounts and “dependency theory.”



instance, the global economy, much of it captured in electronic, abstract space, as opposed to real, tangible space, makes economics a whole new game. Moreover, transformationalists emphasize that the volume and speed of financial flows (9) and the spread of trade to previously untouched corners of the globe (Held, Mc Grew et al. 1999, 149-187) attests to the fact that the interdependence of our era supersedes what preceded it.<sup>11</sup> In this regard, they find that a “global” and not simply an international economy is in the making, if not already in existence.

Transformationalists also highlight that the spread of globalization is not even (Held, McGrew et al. 1999). Not only are some countries more embedded in the processes of globalization, but there are also different strands of globalization, which have varying impact. For instance, as the historical formations that underlie them would suggest, the effects of cultural globalization differ from military globalization. Other authors have also underscored the uneven spread of globalization. For instance, Buzan and Little (2000, 316) emphasize that “societal structures were conspicuously more resistant to globalization, and much slower to adapt” than economic structures. The cultural influences of globalization remain ambiguous. For instance, Appadurai (2000, 237) illustrates that the ways in which locals interpret the products of Hollywood or Bollywood remain ambiguous and multi-faceted; such products do not therefore necessarily facilitate the globalization of culture. Thus, it comes as no surprise that economic globalization and its political context appear to be the most robust components of globalization. Although transformationalists rightly point to the diverse nature of globalization with its many levels, most of the literature implicitly or explicitly refers to the political-economic aspect of globalization, as is the case in this dissertation.

Most significantly, according to transformationalists, globalization is not merely about processes that have far-reaching influence. Globalization specifically ushers in

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<sup>11</sup> In Friedman’s simplified analogy: “If the first era of globalization [pre-1914] shrank the world from a size “large” to a size “medium,” this era of globalization is shrinking the world from size “medium” to size “small” (1999, xvi).

a re-configuration of political power. Transformationalists argue that “globalization is transforming the nature and form of political power” (Held, Mc Grew et al. 1999, 105; see also Sassen 1998, 81 especially). From their perspective, globalization subverts sovereignty and autonomy.<sup>12</sup> The next section will discuss this issue.

### **2.3 The State and Political Power in a Transformed World**

In understanding the way in which political power has changed, transformationalists implicitly or explicitly refer to the attrition of the Westphalian state. The Westphalia Treaties signed in 1648 led to the construction of modern states. The Westphalian state governed a community located within a bounded space. As Michael Mann (1992) explains, while related to other forms of power—such as economic, ideological, and geographic—the political power of the state “derive[d] from the usefulness of centralized, institutionalized, territorialized regulation of many aspects of social relations” (26). In its ideal form, the Westphalian state exercised supreme (with no higher authority), unqualified (without intervention), exclusive (without power-sharing) and comprehensive (controlled all aspects of life) power (Scholte 2000, 135).

The Westphalian notion of the state has been challenged by Stephen Krasner (1996) who argues that this type of state, where “domestic political authorities are the only arbiters of legitimate behavior,” never actually prevailed (119). The numerous deviations from the Westphalian ideal, such as big states coercing small states, prohibited it from being a reality. Although the Westphalian model was compromised in different times and on many different levels, no analytical category survives without violations and no power lives without certain restrictions. The point is, as Krasner admits, Westphalia was a “reference point” (147). In this regard, the transformationalist account should not be burdened to prove the Westphalian state

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<sup>12</sup> Autonomy here denotes the state’s “capacity...to articulate and achieve policy goals independently.” Sovereignty explains the state’s “entitlement to rule” over a demarcated territory which contains the governed political community (Held, McGrew et al. 1999, 52).

existed in reality, as Rosenberg seems to suggest (2005, 17-19). Instead what matters is that the Westphalian notion was the dominant paradigm, despite the many problems associated with it, before the era of globalization challenged its status.<sup>13</sup>

Analyzing the era of globalization, transformationalists seriously question whether sovereignty and autonomy can survive as sources of political power. Transformationalists highlight that the control of the state over its territory “is juxtaposed, to varying degrees, with the expanding jurisdiction of institutions of international governance and the constraints of, as well as the obligations derived from international law” (Held, McGrew et al. 1999, 8). In this regard, understanding international relations today requires a grasp of how globalization empowers actors other than the state.

Many works embrace a similar concern about teasing out the role of non-state actors. For instance, Keohane and Nye’s seminal *Power and Interdependence* (1977; 2001) emphasizes the importance of “different governmental units” in advocating different national interests (30). The authors develop a research agenda that incorporates the neglected role of domestic politics and trans-governmental and transnational links into the study of world politics. Jessica Matthews (2003) writes that in the era of globalization “the realm of most rapid change is hybrid authorities that include state and non-state bodies such as the International Telecommunications Union, the International Union for the Conservation of Nature, etc” (211). The same notion of hybridity is found in Anne-Marie Slaughter’s (2003) work. She argues that nowadays the state is “hydra-headed, represented and governed by multiple institutions’ complex interaction with one another abroad as well as home” (190). Echoing the spirit of these analyses, Rosenau (2003) finds that authority is being disaggregated with the mushrooming of different loci of authority (224). He argues states’ “capacities have been weakened by a pervasive trend towards ever greater

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<sup>13</sup> A very useful essay on Westphalia is Richard Falk’s “Revisiting Westphalia, Discovering Post-Westphalia” (2002). In it Falk highlights the distinct understandings of Westphalia as an “event,” an “idea,” a “process” and a “normative score sheet.”

complexity” (227). Similarly, Cerny (1995) finds the state has metamorphosed into the “residual state” (598).

Transformationalists find that given multiple nodes of decision-making, overlapping political commitments (for instance, on the national and multinational levels), and the cross-border empowerment of actors, ideas and influences, politics in the global age has become increasingly convoluted. The Westphalian state has been replaced with an entity endowed only with a truncated, diffused, and often times undermined political power. In this regard, transformationalist accounts tend to emphasize that “the power of national governments...is being reconstituted and restructured *in response* to growing complexity of governance in a more interconnected world” (Held, Mc Grew et al., 9, emphasis added).

### 2.3.1 States as Reactionary Agents

As the above examples indicate, transformationalists underline that the state is being squeezed between the “top-down” and “bottom-up” pressures globalization engenders.<sup>14</sup> Thus, the transformationalist approach, generally, portrays states as reactionary players. By analyzing the changes inflicted upon the state from its days under Westphalia to its adventures in the global age, most of the scholars studied above clarify what is meant by the state by emphasizing what the state is no longer capable of doing. They essentially hold that if state power stemmed from sovereignty and autonomy in the past and if globalization has undermined those sources of power, then the state has been weakened, or it has been complicated to the point where its authority has become a messy ordeal, or it has simply lost its appeal. Because the focus rests heavily on the incapacities of the state in the face of the empowerment of other actors, as Krasner (1995a) complains, these analyses at times have “multinationalized, transnationalized, bureaucratized, and

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<sup>14</sup> Consider the following quote: “The state is being re-formed from above by the tugs of economic globalization and from below by the pull of subnationalism” (Mittelman 2002, 26).

transgovernmentalized the state until it has virtually ceased to exist as an analytic construct” (19).

Moreover, because the state remains weakened with an ambiguous ability to control affairs, globalization is marked by a substantial degree of uncertainty. This uncertainty renders a globalized world a “runaway world” (Giddens 1999, title of the book: *Runaway World*). Joel Krieger (2005), for instance, notes: “I think it is fair to say that globalization contributes to a pervasive, chronic uncertainty about the future at every level of society everywhere, although by no means equally” (9). Similar to Giddens’s “runaway world,” Rosenau’s analysis of politics in the global age identifies a “turbulent” world (1997, title of the book: *Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World*). And Held, Mc Grew et al. underscore that while globalization is reconfiguring the state, “the direction of this ‘shake-out’ remains uncertain” (1999, 7). In a process where non-state actors and markets carry remarkable influence and where social factors, such as technology, hold profound importance, uncertainty becomes inevitable. Moreover, de-globalization always remains a possibility too. I argue, however, that although transformationalists rightly underscore that globalization should not be taken for granted and attributed immortality, they overemphasize the uncertainties associated with globalization.

The uncertainty embedded in these accounts of globalization partially stems from the fact that transformationalists also analyze the different “tiers” of globalization together. Most of the transformationalist literature does not make a distinction between the “first tier” of globalization, where one witnesses complex high-impact unintended consequences and hence uncertainty, and the “second tier” of “globalization as a political project” (see Chapter 1). To some extent these two tiers are inextricably linked because what happens in the first tier of globalization affects the second tier. For instance, the unintended consequences of global warming substantially affect the powers of the state. But to analyze the repercussions of global warming (“first tier” issue) and states’ tackling of transnational economic

changes (“second tier” issue) as if they are the same face of the same coin poses problems. These challenges represent different sides of the same coin. By focusing on the second tier of globalization, one can reduce the uncertainty.

Overall, the level of complexity which makes the transformationalist account compelling, at the same time does not aid in the answering of such crucial questions as: How can we make sense of the world, if every actor, every variable matters? Where is globalization taking us?

#### **2.4 Bridging Transformationalism with Realism**

The complexities of the transformationalist approach are made relatively more manageable by drawing on the insights of the realist theory of international relations. Realist insights into transformationalism can also help reduce the rhetoric of “uncertainty” that marks the transformationalist analysis. Realism is of course a diverse field within International Relations (see for instance Walt 1997 for a discussion of the diversity within the approach; see Guzzini 2004 for a critical analysis of the “diversity” of realism).<sup>15</sup> For the purposes of this discussion, I am interested in the basic tenets of realism. In realist accounts, the state is central and power relations matter (Grieco 1997, 164-165; Walt 1997, 932). Grieco also finds that realists broadly agree that the international system is anarchical and that states are “rational, autonomous, and unitary agents.” These are the aspects of realism I will address below. “The state” is the starting point because of its centrality.<sup>16</sup>

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<sup>15</sup> Here, I use the terms realist and neo-realist interchangeably for the sake of simplification, but no doubt the nuances within realist theory remain important in other contexts (see, for instance, Dunne and Schmidt 2001).

<sup>16</sup> Institutionalists such as Keohane also accept the primacy of states.

### *2.4.1 Re-visiting the State in the Era of Globalization*

*While not denying the importance of the study of how globalization has challenged the state, I contend the opposite perspective of investigating how the state shapes globalization also provides useful insights.* Both approaches are necessary to tackle the puzzle of globalization. In focusing on what the state can do in the era of globalization, I will a) suggest that shifting away from a focus on sovereignty and autonomy may be useful; b) emphasize the role of great powers; and c) analyze the state-globalization relationship on a temporal spectrum.

To begin with, I accept that globalization curbs autonomy in certain ways (for instance, states are much more vulnerable to financial crises beyond their borders today than in the past). Yet, in order to fully discuss changes in state power, arguments on sovereignty, and not autonomy, are critical. Autonomy seems less of an issue in the re-configuration of the state in the hands of globalization because it, to a certain extent, derives its power from sovereignty. Also, diminished autonomy may highlight a temporary failure in state behaviour as opposed to a fundamental shift; whereas, transformations on sovereignty likely underscore permanent changes. Moreover, autonomy was always “compromised”—even as a reference point and as an expectation.

Even when it comes to sovereignty, moving beyond an assessment of the state through an emphasis on sovereignty could be useful. Sovereignty is not wholly useful in illustrating changes in state power because it either continues to exist as-we-know-it, or it has changed without affecting the underlying dynamics in inter-state relations.

The state today continues to possess the power to impact lives more broadly than any other entity. In this regard, its sovereignty, at least in a relative sense, remains intact. While it is true that the media, non-state actors, human rights organizations, and multinational corporations penetrate politics and social life, none of these powers

have the capability to hold influence over as many realms of social interaction as the state. Moreover, the effectiveness of these actors often depends to some degree on the state's cooperation. It may be the case that today the state's influence is relatively more constrained or less robust than it was only a few decades ago. Nevertheless, states today continue to achieve a considerable degree of control over the lives of their citizens in diverse areas: family life, education, travel, economic relations, etc. Hence, sovereignty-as-we-know-it continues to exist.

Today states may no longer *expect* to govern with reference to the Westphalian ideal due to globalization. As Daniel Philpott (1999) points out, sovereignty may not be possible over all matters (571). As the transformationalists argue, the shrinking of the world has led to an increasing awareness by publics and policy-makers that incidents in one corner of the world affect other corners of the world, no matter how distant. Hence Held, Mc Grew et al.'s understanding that globalization engenders "overlapping communities of fate" (1999, 445). This increasing awareness (on the part of both politicians and publics) that different entities and phenomena across the world inter-permeate has chipped away at the luxury of politics within neatly demarcated units of existence. I assert that such changes underscore a paradigm shift in the way in which states perceive themselves in relation to the Westphalian ideal (see Mittelman 2002 for a discussion of authors that embrace globalization as a paradigm shift and those that do not). The Westphalian state may no longer be the ideal reference point for states, but this paradigm shift, I argue, is uniform—it has affected almost all participants of globalization. Thus, states continue to view each other in the same manner. Also, today the legal implications of being a sovereign state remain intact in inter-state relations (Philpott 1999). In the era of globalization, this recognition still survives.

This notion of a paradigm shift is similar to arguments that analyze the evolution of sovereignty, finding that sovereignty means different things in different epochs. David Held (2002) argues that globalization has ushered in a transition from "classic sovereignty," as endorsed in its ideal form by the Westphalian state, to "liberal



international sovereignty.” In this liberal understanding, “a legitimate power is marked by an impersonal, legally circumscribed structure of power, delimited nationally and internationally” (32). Environmental law and human rights law constitute some of the significant manifestations of liberal sovereignty and demonstrate how states can no longer simply rely on control over their people and territories as sources of legitimization. Held demonstrates that within a modified legal and conceptual framework, sovereignty endures instead of diminishing.

Additionally, different disciplinary leanings often rely on different understandings of sovereignty. For instance, as Robert Jackson notes (1999a, 424), the notion of sovereignty could be taken to mean “authority and right” and/or “power and capability.” Political economists, he explains, tend to rely on the latter understanding of it. There have also been attempts to explain institutions like the EU by relying on concepts such as “shared” or “pooled” sovereignty (for instance, see Wallace 1999). Such different definitions of sovereignty (with political economists and other political scientists assessing sovereignty slightly differently) do not advance the analysis of the state in the era of globalization.

There is little doubt that the era of globalization has compelled scholars to elaborate on their notions of sovereignty, however, sovereignty seems to prove useful only up to a point. Moreover, discussions on sovereignty highlight the *changes* in state power. In gaining a broader understanding of the state-globalization relationship with the purpose of analyzing *continuities* alongside changes, the study of the state via sovereignty and autonomy would benefit from supplementation (see Dunleavy and O’Leary 1987; Camilleri and Falk 1992, 241 in particular; Rosenau 1997, 344 for discussions on how to define the state).

#### *2.4.2 The Meaning of the State in This Study*

In this dissertation, for the sake of exploring how states continue to function as states, I emphasize the role of the state as an actor. In this I follow perspectives that

understand the state as “a set of central decision-making organizations and actors” (Krasner 1995b, 258). Moreover, the dissertation posits that if some institutions and actors, which may fall out of the official state apparatus organizationally-speaking, contribute to the attainment of the goals of the state, then they *de facto* function as the state. Hence, here the emphasis rests more on the fulfilment of the agenda of the state, rather than on which set of institutions or individuals achieves the state’s goals (see Dunleavy and O’Leary 1987, 3).<sup>17</sup> In short, I postulate that central decision-makers and key organizations act as the state. Specifically, in analyzing the US-EU systemic level interactions at the WTO, the dissertation captures the state’s goals and preferences in the behaviour of the United States Trade Representative (USTR) and the EU Commission. In this regard, the question essentially becomes not how one can define the state, but how one can pinpoint the goals and ambitions of the state and demonstrate the ways in which the state is able to pursue its agenda. Such an approach could usefully supplement the discussions on sovereignty in the exploration of the meaning of the state in the era of globalization.

This understanding of the state frames the empirical analysis in this dissertation. The chapter on the banana dispute (Chapter 4) discusses the ways in which both the USA and the EU pursued the interests of American and European corporations in their dispute over the trade of bananas. Specifically, some analyses claim the USA agreed to take the banana disagreement to the WTO, exacerbating the conflict, simply because an American corporation, Chiquita, suffered serious losses from the EU’s banana regime. Hence, the argument may be that a non-state actor had enough political influence, or enough economic significance, to affect the way in which the American government exercised its trade policy. From this perspective, the banana dispute illustrates the impact of a non-state actor on state autonomy and the way in

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<sup>17</sup>As the dissertation will later discuss (Chapter 5 in particular), some authors have argued that states “substitute” different international institutions and fora on the international realm to achieve their goals (see Princen 2005; and Drezner 2004, amongst others). This point about “forum shifting” is related to state behavior on the systemic level. In discussing how actors can *de facto* be the state, I do not refer to systemic level interactions; rather, I refer to how the state domestically utilizes certain actors, or rather pursues the goals of these actors, or lets them pursue their own goals, when these aims overlap with those of the states.

which the state serves the interest of corporations. However, while, as Chapter 4 will emphasize, the significance of Chiquita's interests cannot be denied, this focus provides only a partial picture of the dispute. To gain a relatively more complete picture, it is necessary to focus on the ways in which Chiquita fulfilled the American government's goals and aims. In this perception, Chiquita *de facto* becomes the state.

### *2.4.3 The EU as a State-like Entity*

Discussions up to this point make clear that I attribute a significant degree of coherence to the EU. If the claim is that the EU can rival the USA on the politico-economic arena, then it must be able to act with substantial uniformity and consistency. Euro-sceptics would of course disagree, claiming the EU is internally divided, erratic, and foot-dragging. This dissertation acknowledges that the EU's decision-making process can get cumbersome and indecisive because it involves actors operating on different levels (see Chapters 4, 5, 6 and the Conclusion). Nevertheless, when it comes to commercial policy, the EU exhibits remarkable unity. Article 113 (now 133) of the European Treaty defines commercial policy as comprising tariffs, anti-dumping, and subsidies and places it at the exclusive competence of the supranational level, the Commission (see Woolcock 2001). Similarly, Article 228 (now 300) grants the supranational level the authority to conduct trade agreements with third parties (Woolcock 2001, 374). Thus, the Council mandates the Commission to conduct agreements on behalf of the Union. Although this mandate is sometimes seen as a "principal-agent" problematic between the Council and the Commission, based on the interviews (see Appendix C) I conducted I agree with the following analysis:

When talking to Commission trade officials and their member state counterparts, one is struck by the discrepancy between the prominent place of the negotiating mandate in the literature and its more equivocal role in reality. (Kerremans 2004, 49)

In addition, practice has reinforced the supremacy of the supranational level over the national level in the EU's commercial policy, allowing the EU to act like a state in the realm of political economy. As Tsoulakis explains (1997, 17), by the Kennedy Round of trade negotiations in the sixties, the economic community of Europe had become a "concrete economic reality...now manifested through a strong presence on the international economic scene." The Commission has also utilized other opportunities to fortify its role as the economic policy maker, proactively pursuing certain policies, such as the steel policy (30). Over time the Commission has developed the necessary institutional capacity to navigate EU commercial policy with coherence (see also Peterson 2001). There is now a burgeoning literature that analyzes the EU as a single unit (Pollack and Shaffer 2001, 23, 25). Also, Mattli and Bütte (2003) employ "institutional complementarities approach" to demonstrate the significant but divergent roles played by the USA and the EU in the formulation of international standards.

Nevertheless, I do not refute the fact that national differences continue to prevail within the EU or that the maturation of the EU remains a fragile process (at times inflicted with such serious setbacks as the referenda in the summer of 2005 on the European Constitution). Still, for the purposes of this thesis, in which the systemic level interaction lies at the core of the analysis, it makes total sense to assume a good degree of uniformity to the EU and leave the analysis of national differences in EU policy-making to other studies. I come back to the issue of the future of the EU in the Conclusion of the dissertation.

In defending the EU's "state-like" standing, it is also important to highlight that in the USA, trade policy-making can also be very complicated. US trade policy-making is an inter-agency process, involving the USTR, Departments of State, Commerce, and the Treasury, as well as Congress. On the one hand, the US Congress matters greatly because congressional legislation governs import and export policies (Featherstone and Ginsberg 1993, 252-3). On the other hand, the onus is on the Executive branch, specifically the USTR, to negotiate on the international level. In

order to do so, it needs to receive Trade Promotion Authority (TPA, also known as “fast-track”) from Congress. In order to ensure TPA, the Executive treads a careful line, balancing national and sub-national interests. The point is that in both the EU and the USA trade policy is prone to substantial internal divisions but it still remains possible to analyze these entities as capable actors (see Grieco 1997, 169 for a survey of works that demonstrate how the Commission in the EU and the Executive in the USA can act with coherence).<sup>18</sup>

The discussions so far reveal that I embrace not only the “centrality of the state,” as realists do, but also their assumption that states are rational. Grieco (1997, 165) explains that rationality in this context means that “states have...goals and devise strategies specially aimed at their achievement.” Moreover, in emphasizing the coherence of the state and state-like entities, I have agreed with the general realist assumption that states have the “capacity for unity of action” and that they can pursue their goals and interests with a degree of independence from the fractions within their institutions and societies (166). In this regard, I have emphasized that states and state-like entities continue to impact profoundly upon international relations even in the era of globalization.

Yet, up to this point, I have discussed states as if all states have the same power, even though the dissertation has implied otherwise by focusing on the USA and the EU as great powers. The implied assumption has been that the rise of great powers coincides with the sweep of globalization in the post-Cold War era. In the global era, as Susan Strange remarks (1996, 4), “the declining authority of the state is reflected in a growing asymmetry between the larger states with structural power and weaker ones without it.” But, what is a great power?

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<sup>18</sup> Still, I acknowledge that the types of internal divisions the EU faces are likely to be larger than those faced by the USA, given the ontological differences between the two powers.

#### 2.4.4 *The Role of Great Powers*

This dissertation postulates that the USA and the EU are great powers.<sup>19</sup> According to Daniel Drezner (2002, 11-13), great powers have large internal markets, and consequently the ability to impose economic sanctions while being relatively less vulnerable to economic coercion by others. I accept the basic premise of Drezner's definition that a large internal market is necessary to be a great power, but find it does not suffice. As Chapter 3 will demonstrate, the USA and the EU comprise the world's largest markets. Yet, the dissertation depends on the assumption that how the two actors leverage their large internal markets contributes to their great power status. Specifically, the extent of the USA's and the EU's links with the rest of the world and their embeddedness within the institutions of globalization (see Chapters 3 and 6 in particular) place them in a unique position in the era of globalization. Although Japan has a huge internal market, it is difficult to argue that it is a great power. To employ Keohane and Nye's terminology (1977; 2001, 220), great powers possess both "resource" and "behavioural" power; that is, both the means and the ability to use those means to achieve the desired outcomes. Guzzini (2004, 541) argues that the implication in realism is that what makes great powers great is their "overall power," as opposed to "a great variety of capabilities." He criticizes Waltz for claiming that "power may be only slightly fungible for weak states, but it is highly so for strong ones" (cited in Guzzini 2004, 541). By virtue of choosing the USA and the EU as great powers, the dissertation accepts that being a great power is possible with capability over some domains only (the EU is not a military powerhouse). Yet, at the same time, the dissertation implies that power is more fungible for strong actors—the EU's economic power grants it political power and vice versa.

However, Drezner's premise that the influence of great powers stems, to a large degree, from their ability to threaten sanctions is a bit problematic. While sanctions

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<sup>19</sup> See the Introduction and Chapter 3 as to why the USA and the EU, and not another formidable force in world politics such as China, are the foci of this research project.

remain important, the institutionalized structure of global political-economic relations lessens their desirability. In the era of globalization, sanctions can in the long run damage great powers by detracting from their “soft power” (Nye 2002) and reputation. Nevertheless, it is fair to say that great powers, by virtue of their capacity and influence, can more effectively shield themselves from the affects of the external world. They also possess the equipment to fashion the outside world.

Even though this dissertation departs in some respects from realist works that focus on great powers, in focusing on great powers I have embraced yet another common realist approach. The realist literature, which Drezner also relies on, underlines the role of great powers in shaping the external technological, political, and economic interdependencies understood as globalization.<sup>20</sup> For instance, Robert Gilpin writes that “the nature of the global economy will be strongly affected by the security and political interests of, and the relations among, the dominant economic powers, including the United States, Western Europe, Japan, China, and Russia” (2001, 12).

Making a firmer association between (strong) states and the global political economy, Stephen Krasner essentially argues “the structure of international trade is determined by the interests and powers of states acting to maximize national goals” (1991, 20). Yet, if one were to analyze the nature of international trading systems over time, Krasner emphasizes, one would not find a perfect overlap between the distribution of power among different states and the structure of the system. In explaining this disjuncture, Krasner claims that while the trading orders emerge as a result of power dynamics amongst states and state interests in the first place, they remain at the mercy of external factors, such as systemic shocks (35-36). In this regard, Krasner, like Gilpin,<sup>21</sup> is fundamentally concerned with understanding open versus protectionist trading systems and the role of states in creating these structures. These

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<sup>20</sup> In general, the International Relations literature is replete with examples in which great powers are defined based primarily on military power. For instance, John Mearsheimer (2001) cannot conceive of a great power without military power. English School theorists like Hedley Bull (1977) and Martin Wight (1963) also equate power with military power. Yet, Stefano Guzzini (2004, 543-544) lists a number of realists who do not accept the military power equals power equation.

<sup>21</sup> Gilpin’s *The Challenge of Global Capitalism* (2002) explicitly concerns itself with the maintenance of an open global political-economic system and the political will necessary to maintain it.

works address the question of how states cooperate, and how and why hegemony maintain liberal systems. Answers to these questions have been explored in great detail (see especially Keohane 1984; Krasner 1983), and the reasons as to why states cooperate under a common structure have been thrashed out. This dissertation, as previously highlighted, explores the conflicts within a common system.

#### *2.4.5 The Temporal Spectrum of Globalization*

In looking at the intersection of globalization and great powers, I propose to analyze the globalization-great power relationship on a temporal spectrum. That is, the relationship of great powers to globalization will be analyzed at different points in time in order to grasp the change-over-time factor. The dissertation posits that over time, great powers exhibit a learning process and becoming more skilled at directing their impact upon globalization. Thus, the conclusions one draws about the relationship are likely to differ depending on which stage of the great power-globalization relationship is under scrutiny.<sup>22</sup> The notion of the temporal spectrum provides important insights for the study of disputes. As Chapter 1 noted, the dissertation looks at the impact of the USA and the EU on globalization at different stages within each dispute. The evolution of the GMO dispute in particular demonstrates the way in which the two great powers “learn” over time. An example to this point is the change in the EU’s tactics during the GMO dispute (see Chapter 5). Yet, it is important to note that great powers’ successes in shaping globalization will vary from one issue to the next. For instance, the financial global world remains further from states’ reach than other realms, such as trade.

The temporal aspect of the state-globalization relationship is not applicable only to great powers. Studies demonstrate that states in general learn to handle globalization

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<sup>22</sup>Looking at the state-globalization relationship in this way could perhaps challenge Justin Rosenberg’s claim that globalization was a phenomenon of the 1990s. This view suggests globalization exists today, just like it did in the 1990s, but states have learned how to address certain challenges the structure poses.



better over time. For instance, Weiss (1998) argues that all states exhibit a “learning curve.” And recent studies indicate the centrality of the 1997 financial crises in bringing about a change in state strategies (see contributions to Weiss 2003). Nevertheless, these studies focus on how states learn to shield themselves better from globalization, while this dissertation emphasizes how they shape globalization.

## 2.5 Insights of the Transformationalist Perspective for Realism

If one is to begin combining the transformationalist approach with realist theory, then the following questions emerge: What, if anything, has globalization altered in power dynamics? How can we make room for globalization in realist accounts?<sup>23</sup> In this section, I briefly discuss works that have combined globalization and some form of realist analysis, before concluding with a discussion that locates this dissertation in the existing literatures.

How can the literature on globalization be inserted into realist accounts? Different realist approaches would provide diverse answers to this question, but it is fair to say that in general realist accounts have made little room for globalization. Some realists reduce the role of globalization to a negligible analytic note. For instance, John Mearsheimer, writing in 2001 about “the tragedy of great power politics,” finds that post-Cold War systemic qualities maintain pre-Cold War traits of the international system: military might continues to dominate in a world where security is the utmost concern (Mearshemier 2001; see also Waltz 1979, 126 for security as the “utmost concern”). Within this framework, he finds the balance of power in Europe to be bipolar— with Russia and the United States the two poles and no mention of the EU as a potential power (362). In this regard, globalization, even if real, has had no

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<sup>23</sup> I have not discussed what *power* as such means but rather dwelled on the definition of “great power” because, as Barry Buzan explains, the realist approach can accommodate various understandings of power. Buzan highlights that power can denote relative capabilities or strengths of states, or can be about the actual interests of these actors. Evidence of power can also be seen in how “the system itself—that is, the arrangement of the system—actually shapes the behaviour of units within it” (Buzan 1996 in debate with Held).

impact. Realists who analyze globalization and embrace state-centric approaches either deny the novelty or the potential forcefulness of globalization (for instance, see Waltz 2000).

Even the realists who concede the significance of globalization, however defined, do not thoroughly investigate how globalization has impacted the state and altered interstate dynamics (for instance, Gilpin 2001; Krasner 1995a).<sup>24</sup> However, recent empirical and theoretical studies have begun to fill in this gap. Joseph Grieco (1990) analyzes US-EU cooperation and discord during the Tokyo Round. Grieco's primary concern is to engage with the game theory literature on cooperation in order to highlight the explanatory power of realist theory (see below for a discussion on the game theory literature). Also, Drezner (2002), in addition to focusing on the role of great powers in globalization, critically assesses theories of globalization that argue for regulatory convergence/divergence. In the spirit of this dissertation, he argues that "current debates about the global political economy ignore the pre-eminent role of the great powers," and that "an approach that concedes the significance of globalization" but incorporates states into its analysis would be useful (2002, 4-5). Nevertheless, despite his usage of the word globalization and his acknowledgement of the technological changes marking globalization (4), Drezner does not expound in depth the ways in which globalization has altered relations among great powers as-we-know-it.

There remains room and need for further contemplation on the implications of globalization for the realist perspective. While the constraints of time and space do not allow for a comprehensive analysis here, I will begin to explore this topic with the following questions of relevance to this dissertation: a) How do great powers define "interest"?; b) What role do international organizations play in determining great power interest?; and c) Do great powers aim for absolute or relative gains? These questions help further elucidate the theoretical framework.

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<sup>24</sup> Mittelman (2002, 3) makes the point that the realists do not address even the main literature on globalization, even when discussing globalization.

*2.5.1 Great Power Interest*

In agreement with most realists, I believe survival constitutes the most fundamental great power interest (Grieco 1993, 127; Mearsheimer 2001, 46; Waltz 1979, 105). Yet, in analyzing the globalized political economy, I depart from the realist understanding that survival simply equals security, which in turn results from obtaining relative power, and sympathize with those realists who argue states could aim for more than this bare notion of survival (Krasner 1982). This is perhaps an obvious point but one worth emphasizing. Sticking to security concerns and consequently military power only, relegates the explanatory value of realism to only certain parts of the world, where traditional-style conflicts prevail. In parts of the world where open borders and interdependence have substantially advanced, military power explains little (Buzan and Held 1996). In a purely realist world, it would be inconceivable to think of potential military adversaries such as the USA and China under the same roof of a multilateralist organization, for instance the WTO. If the great economic powers of our contemporary era are the USA and the EU, security relations between the two can hardly be our primary concern.

Given the fact that under study here are great powers with post-industrial societies, the analysis requires a more complex understanding of survival than relative-power capability-triggered security concerns. Globalization not only compels an elaboration on the notion of survival, it also complicates the pursuit of it. As the transformationalists explain, increased interconnectedness renders prosperity, growth, identity and other elements the state may consider critical for its survival much more susceptible to “outside” forces of globalization. In this regard, many authors emphasize the barriers between the domestic and the foreign have diminished remarkably (for instance, see Held, Mc Grew et al. 1999; Rosenau 1997; Strange 1996). To invoke the temporal-spectrum analysis made above, as states perceive and accept globalization over time, they realize survival is not only about the preservation of what is considered internal (what globalization should leave untouched), but also about fashioning the external in accordance with the internal. The penetration of

globalization into the previously untouched corners of society necessitates that if the outside world does not go as far as mirroring the internal, then it should at least be conducive to it.

On the one hand, this argument fundamentally affirms the realist understanding that state interests and powers contribute remarkably to the shaping of structures of the international system (for instance, see discussions on Krasner above). On the other hand, it emphasizes that not only has it become more challenging to differentiate the internal and the external, but also that globalization enhances the independence of the structural forces from the state. Thus, the questions of which great power moulds the contours of the external global political-economic environment, and to what extent it can do so become crucial.

### *International Organizations*

Transformationalists emphasize the role international/supranational institutions play in reconfiguring state power. Basically, if one accepts the prevalence of globalization, one inevitably concedes the importance of certain international institutions. Institutionalists, for instance, go as far as claiming international institutions play a part in “changing conceptions of self-interest” (Keohane 1993, 271). I postulate institutions usually fall short of defining self-interest for great powers, even in the era of globalization. Yet, they can delay the pursuit of certain interests, constrict the number of ways those interests can be followed, and tame their ardent pursuit. They may even compel great powers to abandon the pursuit of some interests.

Above all, state interactions under the roof of well-established multilateral institutions complicate the notion of anarchy. Realists concern themselves with anarchy, most basically understood as the lack of a world government (Waltz 1979). Anarchy in this sense persists even in the era of globalization. Nevertheless, in interacting within the confines of multilateral institutions, as in trade relations, states

engage in non-anarchical relations. In this regard, without giving proper attention to such institutions, our understanding of great power interest would remain incomplete.

Within this dissertation, the international institution of interest—the WTO—performs two functions—one narrow and one broad. In the narrow sense, the WTO is considered as a multilateral organization. There exists a very rich literature today that explains international organizations and their interactions with states. A balanced view of these institutions—a perspective with both liberal and realist elements—sees that organizations both provide states with opportunities to pursue their interests as well as constrain them in the pursuit of these interests.<sup>25</sup> Certain authors explain this problematic as the “principal-agent” dynamic (see Reinalda and Verbeek 2004). States as principals confer roles on organizations, their agents, but agents have independence and do not carry out their mandate from states precisely in the way in which states envision. Basically, supranational organizations have “policy autonomy” (11, 24 in particular). While great powers place certain issues on the agenda of the WTO (a good example being the GMO case), they cannot calculate the exact impact this will in turn have on their interests. In this sense, great powers not only contribute to the shaping of these forces, but they also remain at their mercy. In the narrow sense, then, the WTO-adjudicated disputes between the USA and the EU aid in the understanding of how states and international organizations interact. Nevertheless, I do not find the principal-agent approach wholly suitable for the WTO because the WTO acts as an arbiter rather than an agent of great powers. But, I do assume the WTO has “policy autonomy” primarily based on its position as a legal authority. The point is that in the narrow sense the dissertation uses the WTO as an institution.

The dissertation is interested in this narrow function of the WTO only to the extent that it supports the general role of the WTO. In the general sense, the WTO embodies and represents issues, forces, and influences of globalization on a micro-

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<sup>25</sup> The constraint may not have the same impact for all of the powers and may vary depending on the issue at hand.

scale. Many commentators recognize how the WTO provides a basis for studying globalization. For instance, crowds protesting at the Seattle Ministerial of the Uruguay Round (1999) and more recently at the Hong Kong Ministerial of the Doha Round (2005) strongly expressed their disagreement against not just specific trade rules that were in the making but what they considered to be globalization in the making. The WTO is my shortcut to globalization, as it embodies the “manifestations of globalization” (see Chapter 1).

The above discussions on the WTO suggest that the considerations of the dissertation could benefit from the literature on regime theory.<sup>26</sup> The dissertation does not extensively engage with this literature, as this study does not aim to explain either where regimes come from or how regimes change. Rather, the thesis explores within-regime movements that may or may not lead to a regime change in the long run (see the Conclusion of the dissertation). Nevertheless, the perception of the WTO in this dissertation is reminiscent of some arguments in the literature on regimes. For instance, the regime literature has argued that state behaviour when a regime is in place differs from that if the regime did not exist, even if the “interests are unchanged” (Krasner 1983, 361). Similarly, this literature has underscored that regimes can gain autonomy from their creators (357). However, despite the similarities of some of the underlying assumptions in this study and those in the regime literature, the study of regime change would require a different research design than the one in this dissertation.

### *2.5.3 Relative versus Absolute Gains?*

What about relative versus absolute gains concerns? As exemplified by exchanges between Keohane and Grieco (see Baldwin 1993) one of the divisive, and hence defining, issues between neo-liberals and neo-realists lies in the former’s assertion

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<sup>26</sup> Regime defined as “principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area” (Krasner 1983, 1).

that states aim for absolute gains and the latter's insistence on the significance of relative gains. For the purposes of this dissertation, this question is not so significant. Enhanced interdependence makes it more difficult for states to differentiate between absolute and relative gains. It also renders such a distinction less meaningful.

Robert Jervis (1999) explains why the relative versus absolute gains debate may in fact be less important than it seems even for the purposes of realist theory. As Jervis notes, some realists concede the importance of other types of gains, for instance, envisaging the potential of mutual gains in security (46). In connection with this point, in my analysis, given the importance of globalization and thus interdependence, international relations is a non-zero-sum game. In any case, strict adherence to a zero-sum understanding of the world explains the approach of only a certain strand of the realist thinking (Krasner 1982). In differentiating between structural realist approaches, Krasner argues that a certain strand of thinking (what he calls the "tectonic plates" approach) analyzes power relations within a non-zero-sum context. Overall, this dissertation assumes that states interact in a non-zero-sum game and that enhanced interdependence makes it difficult to differentiate between relative/absolute gains.

## **2.6 Why Not a Liberal Approach to International Relations But a Realist One?**

One may wonder why I do not utilize liberalism<sup>27</sup> to link the transformationalist theory of globalization to theories of international relations. This is a valid question, as liberals tend to focus on interdependence, international institutions and how these two factors lead to a more tamed and peaceful world (McGrew 2002, 267-269). In fact I have relied on a liberal analysis for some of my explanations. For instance, in line with liberal institutionalists I have emphasized how international institutions remain important for our analyses (see McGrew 2002, 276-277). Also in agreement

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<sup>27</sup> See Anthony McGrew (2002) for a discussion of different types of liberalism and the nuances between them.

## Chapter 2: Theoretical Framework

with most liberal theories, my discussions of globalization have accepted the significance of non-state actors as influential players in world politics. More importantly, the above discussions on security bring to mind the liberal understanding that the clash of state preferences, and not necessarily security concerns, generates conflict on the international realm (Moravcsik 1997, 547). Thus, liberalism may seem like an appropriate partner for the transformationalist approach to globalization.

Nevertheless, what makes the transformationalist thesis seem so compatible with a liberal view of international relations also weakens it. The inherent bias in the transformationalist thesis for a liberal view of the world makes the thesis too complicated and indeterminate because it means the role of the state remains ambiguous. With a liberal inclination, the transformationalist perspective rightly encourages one to look beyond the state to understand global politics. However, the plethora of variables and actors to consider do not allow for a simplified and orderly analysis; they thereby de-theorize the theory and leave it mainly descriptive. Liberals argue that in order to unpack state preferences, one needs to focus on actors other than governments in the era of globalization (Moravcsik 1997, 513). In line with this liberalist inspiration, transformationalists generally focus on actors other than states to explain politics and governance in the era of globalization. However, constant referral to these actors once preferences have been formed and translated on to the systemic level deduct from the strength of the theory in explaining relations on that level. Moreover, the transformationalist theory deliberates the progressive diffusion of power away from state to non-state actors, such as multinational corporations. Yet, the relative importance of these actors and their place in world politics remains unclear, making it a bit difficult to see the wood for the trees. Therefore, while relying on liberal insights in places, my approach calls for modifying the realist understanding via the transformationalist approach.

Ultimately, the insights of realism in this dissertation serve as “meta-theory,” since the dissertation focuses on systemic level interaction (see Ikenberry 1988, 220 for a



distinction between meta- and micro-theory). A micro-theoretical approach to this dissertation would emphasize the role of transnational actors as well as the role of domestic factors in state behaviour. For instance, Putnam's "two-level" approach has been highly influential in demonstrating how domestic level actors and situations interact with and impact the international level (Putnam 1993a; see also Risse-Kappan 1995 on the role of domestic structures; and Pollack and Shaffer 2001 for the employment of two-level game approaches to US-EU relations). Putnam's Level I examines the negotiations between different actors on the international level. Level II is where the ratification of these negotiations takes place (Putnam 1993a, 436). According to Putnam, a "win-set" denotes all possible agreements that would "win" when voted up or down, and in order for an agreement to take place the win-sets on the two levels should overlap (436-438). The dissertation essentially discusses "Level I" interactions between the USA and the EU. The dissertation is less interested in how preferences get translated on to the international level, but how the USA's and the EU's positions (be they based on their interests or preferences) impact upon the system. Ultimately, the dissertation aims to examine the "manipulation of interdependence" by the great powers (Keohane and Nye 1977; 2001, 16).

## **2.7 Why Does the Dissertation Not Rely on Game-Theory Cooperation Literature?**

Most of the literature which studies US-EU relations in the context of the global political economy relies on the cooperation literature. Why do I not rely on this literature?

The most common definition of cooperation in this particular literature remains too vague for the purposes of this dissertation. Most of this literature refers to cooperation as situations in which "actors adjust their behaviour to the actual or anticipated preference of others" in the midst of both harmonious and conflicting interests (Baldwin 1993, 85). While useful in terms of assessing situations of

## Chapter 2: Theoretical Framework

adjustment, this definition is general enough to be applicable to many situations and the lack of adjustment does not necessarily suggest conflict, which I am interested in studying. This dissertation does not assume conflict necessarily equals the breakdown of cooperation. Conflict is not defined via the cases where lack of cooperation stands out, but rather situations in which disputes have surfaced.

Moreover, this dissertation is interested in addressing different questions than the ones addressed by the game-theory literature on cooperation. Most of the literature on cooperation, as exemplified by prominent contributions to David Baldwin's edited volume (1993), actually primarily analyzes the conditions which lead to systemic level cooperation in the first place. This literature provides answers to questions such as: Why does the WTO exist?; Why is there an International Criminal Court? It aids in the exploration of the puzzle as to why purely self-interested utility maximizing states would create entities which curbs their powers. Even when this literature analyzes sub-systemic cooperation issues—such as: why did the “chicken war” between the USA and the EU proved long-lasting (Conybeare 1987)—it approaches the enquiry as if dealing with the wider systemic level question. In this sense, cooperation, to adopt Renan's famous saying about the nation, becomes a daily plebiscite. Sub-systemic breakdowns of cooperation lead us to invoke the systemic level questions concerning it. If, let us say, states fear cheating and that is why they shy away from systemic cooperative arrangements, this does not mean sub-systemic level breakdown occurs due to fears of cheating. However, this is not to deny the relevance of certain tools for understanding systemic cooperation for the sub-systemic level. For instance, in both cases concerns for reputation may induce actors to “comply” rather than to “defect” (Keohane 1984, 106).

This dissertation, in a sense, posits that many states are now in the cooperation-assumed phase of politics. Given the institutionalized structure of global political relations—for which the WTO provides an excellent example—a level of cooperation should be assumed. No matter what the *how's* and *why's* of cooperation

were, a certain degree of willingness to “adjust behaviour” has flourished. The “cooperation-assumed world” simply explains the overall systemic quality—it underscores the fact that cooperation occurs widely enough to lead to the emergence of multilateral institutions with substantial reach and jurisdiction.

This depiction of a “cooperation-assumed world” resembles G. John Ikenberry’s argument (2001) that the post-Cold War world order remains, generally, “constitutional.” Ikenberry defines political order as “the ‘governing’ arrangements among a group of states, including its fundamental rules, principles, and institutions” (23). In a constitutional order, Ikenberry explains, one finds “shared agreement exists over the principles and rules of order” (30). This notion of a constitutional order and the arguments I have presented above share the fundamental assumption that the industrial world of states, the USA and the EU in my analysis, operate in a framework of agreed rules which are extensive and established enough that some of the questions the relevant academic debate asks are no longer as crucial (17). Ruggie’s “embedded liberalism” defines the nature of these common institutions. “Embedded liberalism” denotes the economic world, which is “multilateral in character; unlike the liberalism of the gold standard and free trade, its multilateralism [is] predicated upon domestic interventionism” (1982, 393). The question I set out to explore is how the great powers, operating within a common set of rules and institutions, bend the rules in accordance with their own priorities, affecting the contours of globalization. Chapter 7 addresses the implications of the manoeuvrings within the system for “embedded liberalism.”

## **2.8 Conclusion**

This thesis has at its core a motivation to analyze the impact of great powers on globalization. Andrew Hurrell (2002) succinctly captures the theoretical and analytical need to re-visit the literatures on states and globalization and find a middle ground:

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On the one side, ideas about ‘post-sovereign states’ or ‘multi-layered geo-governance’ do indeed point to potentially very important changes, but they are embedded in a discourse of transformation that is in most cases extremely difficult to pin down.

On the other side, those who stress continuity within the Westphalian order often rely on such a one-dimensional view of the role of the norms and such a very thin notion of the legal order that it becomes impossible to make sense of the tremendous changes that have indeed taken place, above all in the period since 1945. (xvii)

As Hurrell argues, scholars face the challenge of finding a middle ground in the literatures analyzing world politics. Scholars are also confronted with the struggle to explain an exceedingly complex world, without over-simplification or over-complication. On the one hand, it has become exceedingly difficult to rely on a single perspective and a simple analysis to understand and explain the contemporary era. On the other hand, in analyzing the intricacies of our time, scholars also face the challenge of achieving lucidity.

In an effort to demonstrate the ways in which different approaches to world politics and globalization can elucidate our contemporary era, the thesis proposes to combine the transformationalist approach with realist theory. Main discussions in this chapter are summarized in Table 5 below. The bridging of transformationalism and realism not only enriches the methods for critically assessing our contemporary theories, it can also help to better define globalization. Perhaps in this way the novelties and the complexities of the post-Cold War era of globalization can become more manageable and thus less gloomy.

**Table 5- Theoretical Discussions Summarized**

Approach	Benefits of the Approach	Potential Problems of the Approach	How the Approach Relates to This Dissertation
Transformationalism	<ul style="list-style-type: none"> <li>-Comprehensive account of globalization.</li> <li>-Emphasis on the role of actors other than states draws attention to changes in world politics.</li> <li>-Emphasis on interdependence.</li> <li>-Highlights importance of international institutions.</li> <li>-Highlights importance of different issue areas and non-military relations.</li> </ul>	<ul style="list-style-type: none"> <li>-Granting many actors importance makes it difficult to see the forest for the trees.</li> <li>-Makes clear state is being re-configured, but leaves unclear what remains of the state. Emphasizes importance of other actors, de-emphasizes the state.</li> <li>-The uncertainty of globalization over-emphasized.</li> </ul>	<ul style="list-style-type: none"> <li>-Non-zero-sum interactions.</li> <li>-International institutions matter. This dissertation uses the WTO as a basis for analyzing globalization.</li> <li>-Globalization has autonomy.</li> </ul>
Realism	<ul style="list-style-type: none"> <li>-Recognizes continued importance of states.</li> <li>-Recognizes continued importance of conflict.</li> <li>-Recognizes importance of great powers.</li> </ul>	<ul style="list-style-type: none"> <li>-Generally discusses world politics as if not much has changed. Even when discussing globalization, it is unclear as to what globalization has changed.</li> <li>-The system is what great powers make of it. The autonomy of regimes and institutions is recognized but the implications of this autonomy for globalization remains unclear.</li> </ul>	<ul style="list-style-type: none"> <li>-Great powers and conflict matter, but:                             <ul style="list-style-type: none"> <li>a. The structure is not just what states make of it.</li> <li>b. Great power clashes also matter.</li> </ul> </li> <li>-To understand world politics, one must examine the intersection of globalization and great powers.</li> </ul>

## Chapter 3: Methodological Framework

### Chapter Map

This chapter expands upon the discussions in the Introduction to explain the methodological framework in greater detail. It begins with further clarifying the focus on trade, as opposed to another aspect of political-economic globalization. It also analyzes US-EU disputes in the post-Cold War era for the sake of explaining how the cases of the dissertation were chosen.<sup>28</sup>

### 3.1 Why the USA and the EU

In our current world, two powers exist which are *within* globalization, and which have the capacity to shape globalization in accordance with their own visions: the USA and the EU.<sup>29</sup> These two powers, while unlike historical empires that controlled grand territories without the consent of the governed, constitute “beyond the nation-state” designs (Lieven 2001). The USA remains the only superpower with unquestionable supremacy in the military realm, a lead in the ideological and cultural fields, and a forceful presence in the economic world. The EU represents the most formidable and successful attempt at governance on a transnational scale. Chapter 2 proposed to see the EU as a state-like entity, given the extent to which it can manage to behave like a state in some issue areas on the international platform.

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<sup>28</sup> It was not possible for the dissertation to keep abreast of all current affairs regarding US-EU relationship as well as disputes. Research on the disputes was finalized by Winter 2004. It was updated in Fall 2005 only to include the crucial information.

<sup>29</sup> The dissertation does not claim their ambitions or capabilities equal each other in every way and in every realm. Rather, it discusses how with differing structures and capabilities, they compete with each other.

I do not overlook the importance of other powers, such as China or India.<sup>30</sup> Yet, none of these powers are as “within globalization” as the USA and the EU, and at this point in time their effects on global institutions remain limited. Neither do I underestimate the importance of other factors within globalization, such as diseases like AIDS or global warming, but I am concerned about influential actors’—great powers’—struggles to control and shape globalization.

A number of different factors contribute to the unique position of the USA and the EU in the global political-economy. To begin with, the USA, along with Western Europe, created the current politico-economic multilateral system, embedding their goals and visions in globalization. As Gilpin explains (2001, 86), “leadership, cooperation, and ideological consensus—were important to the creation of the post-World War II liberal international economy.” Had it not been for Western Europe’s willingness to follow the USA’s lead, primarily due to the fear of a Soviet takeover, the current politico-economic design would have been difficult to establish, if at all possible. Similarly, as Castells points out, political construction nurtured, if not created, globalization: “The political interest of new leaders coming to government in the late 1980s and early 1990s favoured the globalization option....So, the political economy was politically constructed” (2003, 328-329). In a similar spirit, Giddens remarks,

economic influences are certainly among the driving forces [of globalization]...Yet they aren’t like forces of nature. They have been shaped by technology and cultural diffusion, as well as by the decision of governments to liberalise and deregulate their national economies.” (1999, 14)

It was the policies of the USA and the EU that allowed for political-economic globalization to emerge in the first place. Also, globalization flourished partially thanks to the efforts of the two powers to institutionalize it.

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<sup>30</sup> China’s rise to economic superpower status will depend on how the Chinese governments manage to tackle a number of important internal problems, such as gross urban-rural inequality, non-performing loans to the state sector, and shortcomings in macroeconomic management (Breslin 2000; Cable and Ferdinand 1994).

The USA and the EU are giant economies with remarkable negotiating power on international and multilateral fora, such as the WTO. In terms of numbers, the EU and USA together encompass the wealthiest nations of the world. In 1999 their total share of world exports was 38 per cent and of world imports 41 per cent.<sup>31</sup> 2002 figures show the two powers accounted for 37 per cent of world merchandise trade and 45 per cent of world trade in services. With a population of about 370 million people and a gross domestic product of about \$8.5 trillion, the EU constitutes the largest market in the world (CRS July 27, 2001). With a combined population of over 650 million people, the two powers generate a Gross Domestic Product (GDP) that approximately equals 57 per cent of the world's GDP (CRS May 25, 2001).

Keohane and Nye's "complex interdependence" (1977; 2001, 21) applies to US-EU relations, where the use of military force still remains a distant possibility and the interdependence is remarkable. The two-way investment between the USA and the EU, according to 1999 figures, reached \$1.27 trillion, making the companies of each the largest investors in the other's markets. In 2000, \$853 billion worth of trade flowed between the two—a level that was unsurpassed by any other trading partner. After Canada, the EU is the USA's second largest partner in merchandise trade. When trade in services is added into the calculations, the EU becomes the largest trading partner for the USA, consisting of 36.6 per cent of total US services in imports and 32.1 per cent of services in exports (CRS July 27, 2001). In summary, in terms of their political clout as well as in sheer numerical terms, the two powers are *within* globalization.

The dissertation utilizes the term globalization, as opposed to any other term, for understanding the structure which governs the US-EU trade relations. It posits that reliance on this term proves useful not only because globalization has become one of the most widely-employed concepts for understanding the changes and contestations that mark the post-Cold War era (see Chapters 1 and 2). Framing the discussions

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<sup>31</sup> Source: [http://europa.eu.int/comm/external\\_relations/us/intro](http://europa.eu.int/comm/external_relations/us/intro). These numbers will become more pronounced now that the EU has enlarged its Union to 25 members.



around globalization answers another need in that in spite of the popularity the term has enjoyed, the understanding of it is beset with certain gaps. Although the manifestations of globalization generate great uncertainty, which leads to a sense of gloom about the post-Cold War order, globalization can to some extent be captured in our analyses and in reality by focusing on the intersection of great powers and the manifestations of globalization (see Chapter 2).

### 3.2 Why Political-Economic Globalization and Why Trade?

Previous chapters have already emphasized that although globalization is a diverse phenomenon, the dissertation focuses on a single aspect of globalization—political-economic globalization and, more specifically, trade and trade-related issues. This section outlines the justification for choosing this angle of study.

Michael Mann (1992) explains that all polities rely on four primary sources of power—ideology, politics, economics, and military. All these sources of power are inter-related. Yet, during certain periods one source of power appears to supersede the others. For instance, while pre-modern empires thrived on military power and its blessings, such as land, in the modern times, as Lieven (2001) indicates, military power [and other sources of power] began to “appear to a considerable extent to depend on economic strength,” and economic strength determines the primary contours of international politics (416).

The role of economic power is striking especially in the post-Cold War order. To repeat a well-known point, during the Cold War the USA had an interest in keeping a united, peaceful Europe against the Soviets.<sup>32</sup> With the demise of the Soviet empire,

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<sup>32</sup> Despite this strong motive, American attitudes towards European integration contained ambiguity. On the one hand, American administrations have been supportive of European integration, though at varying degrees. On the other hand, at times they have perceived the EU to be a “fortress.” Moreover, the diversity of European governments and the cumbersome decision-making process in the Union have frustrated the Americans—most famously articulated in Kissinger’s remarks that he does not know who to call when he wants to talk to Europe (cited in Hoffman 1993, 66). While today, especially

the USA's military attention diverted to other areas of the world, as Europe ceased to be the "epicentre of the superpower antagonism" (Cox 2003b, 49). At the same time, the end of the Cold War ended the European dependence on the USA against the Soviets, allowing for sources of power other than military to resume relative importance. The capture of other countries' economies has acquired greater significance than the capture of actual physical space in the post-Cold War era (Strange 2000; Cooper 2002). Moreover, as Nye (1993) underscores, "threats or promises concerning force are very difficult to use on issues of trade barriers, macroeconomic policy coordination and environmental protection" (47). This partial immunity of the political-economic sphere from military relations has meant that the EU has become a master with its own talents and has ceased to be an apprentice at the US world-workshop. While the rising importance of economic-related issues in the post-Cold War period provides the rationale for studying non-military type disagreements between large players in current world affairs, the dissertation primarily focuses on the *political* element of political-economy.

Also, as already discussed in Chapter 2, it is particularly the political-economic side of globalization which has prompted many scholars to re-visit the notion of the state. Saskia Sassen, for instance, notes that one sees the historical peculiarity of the current period of the world economy, if one assesses "the impact of globalization on territorial organization of economic activity and on the organization of political power" (1998, 81). As a matter of fact, the political-economic side of globalization has become so strong that it has become synonymous with globalization as a whole. The management of economics, from the nineteenth century onwards, has compelled the proliferation of political institutions and has remained embedded in these political institutions as well as the related social dynamics. Had it not been for the opening up of economic borders and increased economic exchange which allowed for the diffusion of science and technology to different parts of the world, other aspects of globalization that are currently under discussion—such as the movement of ideas and

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on trade, Americans know who to call, as this thesis will point out, a similar type of frustration continues.

the emergence of a global civil society on certain issues—would have taken much longer to flourish, if they had been possible at all. While it remains to be seen whether the political, ideological, and societal repercussions of economic globalization will in turn support it, the trajectory of economic globalization has potentially momentous importance for the overall livelihood of globalization.

Why trade and not another strand of political-economic globalization? Interdependence through enhanced trade has been one of the most prominent generators as well as manifestations of globalization. As displayed in Table 6 below, statistics demonstrate a steady and spectacular increase in international trade. Trade is very significant for the world political economy and its significance is likely to persist.

**Table 6- International Trade Statistics**

<b>Year</b>	<b>1948</b>	<b>1953</b>	<b>1963</b>	<b>1973</b>	<b>1983</b>	<b>1993</b>	<b>2002</b>
<b>Value Export</b>	58	84	157	579	1835	3671	6272
<b>Value Import</b>	66	84	163	589	1881	3768	6510

Source: WTO 2003 International Trade Statistics.

Trade is increasingly important not just because of its intrinsic value, but also due to its indirect relationship with other factors. These factors range from Foreign Direct Investment (FDI), to environment, to labour standards, to food safety policies (see Irwin 2002 for a discussion). Trade lies at the heart of many strategies, such as development policies pursued by the developed world in the developing world (see Chapters 4 and 6). Consequently, the study of trade is of instrumental value.

Also, the study of trade is relatively reliable and amenable to investigation. As the most institutionalized and integrated aspect of the global political economy, the instruments available for the study of trade (for instance, WTO decisions and documents, negotiation results, documentation from trade rounds) produce reliable results. I come back to this point below.

### **3.3 Why Study Disputes at all?**

This dissertation will focus on the potential of trade issues to divide, not unify. Admittedly, trade issues are not the most conventional places to look for clashes in the context of globalization. Due to its perceived ability to integrate different regions of the world, trade has been sacrosanct in some of the pro-globalization literature with liberal tendencies. This perspective regards trade as an efficient means towards a more unified world. Trade has been a generator of interdependencies, which many liberal accounts assume subdue differences and generate peace (see Angell 1911 for the basis of the liberal perspective on the futility of war in an interdependent world).

Ultimately, the thesis focuses on disputes because it is in essence a study of discord and the potential repercussions of conflict for globalization. Since the main research question tries to understand whether the two powers try to shape globalization in divergent manners, situations of differences/conflict provide for an appropriate starting point. The dissertation presupposes the existence of a set of common rules, here represented by the WTO, which states have agreed to abide by, but explores the way in which and the extent to which great powers manipulate the rules and bend them to their advantage within this common framework (see Chapters 1 and 2).

Moreover, the examination of conflictual trade relations is vital because, as emphasized above, trade issues are very tightly linked to a number of non-trade issues. As the economies of the USA and the EU have become more complex, trade

policy has become intertwined with other policies. Moreover, multilateral rounds of negotiation have largely lifted tariffs, bringing new issues to the fore. The future of a cohesive world of trade now depends on agreement on economic issues that are more deeply embedded in what is traditionally understood as the domestic issues of the EU and the USA. Such issues range from non-tariff barriers of anti-dumping and countervailing duties to domestic understandings of competition policy (see below). Thus, the study of trade conflicts allows one to analyze non-trade related matters.

The dissertation concentrates specifically on disputes in the context of the WTO because in the absence of conflict on the WTO level, it is assumed that tensions are either unimportant, can be tamed via other methods, such as bilateral negotiations, or they simply do not exist. The USA and the EU will introduce major issues to the WTO mechanism, while the minor ones will be resolved without leading to litigation.

The WTO disputes also provide clean data. The WTO disputes allow for the relatively easy examination of the USA's and the EU's positions and stances on a given issue. WTO disputes elucidate the difference(s) between two or more actors' *expressed* positions and preferences. While acknowledging these positions change over the course of a dispute and different sub-actors within a unit may hold different preferences, this dissertation relies on the stances the USA, the EU, or the WTO took on a given issue and how these stances differed from each other and interacted with one another over the course of a dispute.

This sort of an analysis postulates that the two great powers aggregate the disparate preferences voiced within their borders when engaging with each other on the systemic level (see Chapter 2). This does not mean the disparate preferences within each power's domestic constituencies never surface on the systemic level, but it does suggest what is on the table as the US or the EU position in a given dispute represents the ultimate position taken by either power. Extrapolating the expressed American and European stances is not very complicated. Since WTO disputes

involve one side making a formal complaint about another side, the complainant's expressed preferences are easy to detect. The defendant, on the other hand, also has to put forward her own case, revealing at least some of her preferences. Moreover, speeches by top-level officials help illuminate aspects of the dispute.

How can the dissertation discern the WTO's position and how can it claim this position ultimately helps us infer something about globalization? The answers to these questions are relatively more complicated. The WTO most fundamentally aims to ensure the continuation of free trade and the multilateral rules governing it. Thus, in each dispute, it will invoke relevant WTO articles and provisions and assess the claims of the parties to the dispute against these rules and regulations enshrined in the WTO system. However, the matter may not be so straightforward. In maintaining its status as the platform for making global decisions on trade and trade-related issues, the WTO cannot risk estranging the large players, specifically the USA and the EU (see especially Chapter 5 on the GMO dispute for an elaboration of this point). In this spirit, the WTO ruling on a dispute will likely represent a balance between the perpetuation of the WTO's self-professed goals and the WTO's struggle for the preservation of its status as the primary platform for making global trade rules. Each chapter analyzes the specific dispute in light of the "manifestations of globalization" outlined in Chapter 1 to assess the dispute's relevance for globalization.

### *3.3.1 What is the Importance of US-EU Trade Disputes?*

The quantitative significance of US-EU disputes remains a topic of debate. Hufbauer and Neumann note that "relative to global magnitudes, the overarching feature of US/EU trade relations is stability" (2002, 3). The authors go on to explain,

Related to total US exports to Europe in 2000, US complaints about European merchandise barriers over the decade concerned less than 5.4 percent of trade. Conversely, related to total European exports to the United States in 2000, European complaints involved less than 5.1 percent of trade. (5)

Analyzed from this perspective, the US-EU trade relationship goes undisturbed most of the time and remains strong. The marriage survives with a few fights here and there. However, the emphasis on the weak quantitative importance of US-EU trade disputes underestimates the significance of the study of disputes.

The emphasis on the low monetary significance of US-EU trade disputes is reminiscent of arguments that dismiss the importance of disputes simply as cyclical. Some authors remark that “the cyclical trade tensions that have occurred between the United States and the European Community [Union] are *merely* reminders of their economic interdependence” (Gaud 1990, 1, emphasis added). Such comments rightly suggest that in the absence of interdependence, relations and tensions would be almost absent. Without trade relations in the first place, there would be less opportunity for disagreements to mushroom. Nevertheless, the point about the cyclical occurrences of US-EU disputes also undermines the importance of studying the disputes.

This dissertation assumes that US-EU trade disputes contain great qualitative importance, despite the fact that their quantitative role in the overall US-EU relationship may remain miniscule and despite the fact that they may merely be periodic blips in the two powers’ relationship.<sup>33</sup> The dissertation postulates that the nature of the disputes could illustrate aspects of US-EU divergence. To invoke the marriage analogy again, it is important to know whether the few fights involve serious issues of domestic strife, or petty bickering over who last did the dishes. Moreover, a qualitative analysis of the disputes may have things to say beyond the specific disagreements between the USA and the EU. As Kohler (2002) explains, disputes are also of “vital importance...through their signaling effect to third countries, and to the world-trading-system as a whole” (2). This thesis endorses the perspective that beyond being illustrative of the nature of the US-EU trade relationship, the study of disputes also helps illuminate the two powers’ relations

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<sup>33</sup> The discussion of the banana dispute will talk about *potential* economic impact and argue that even though the real economic fight between the two powers may not be so large, the potential economic (and political) implications may be great.

with the rest of the world as well as about the world political economy in general (see Conclusion of the dissertation in particular).

So what has been the evolution of US-EU disputes in the post-Cold War era?

### **3.4. Post-Cold War US-EU Trade Disputes**

#### *3.4.1 Numerical Overview of US-EU Trade Disputes*

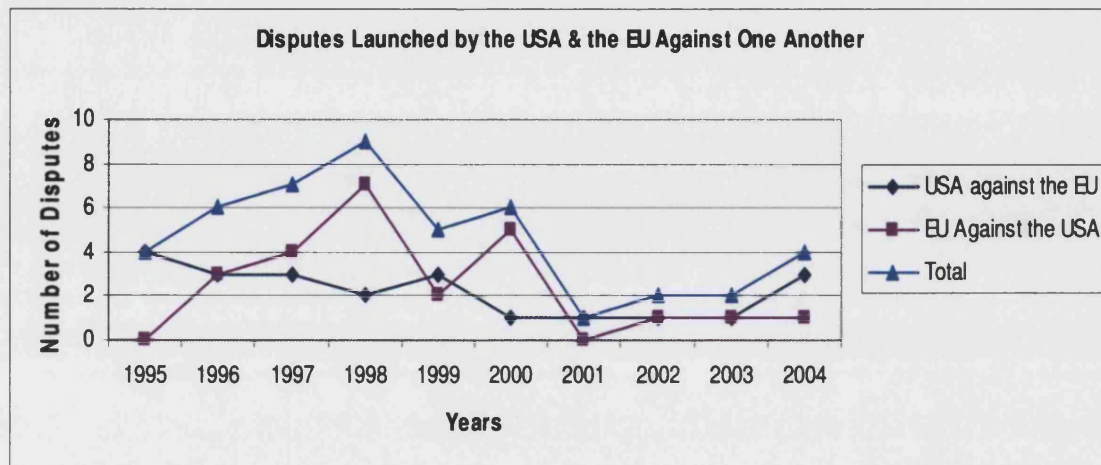
A numerical overview of the disputes of the two powers demonstrates that they have utilized the WTO more than other participants. According to my calculations,<sup>34</sup> out of the total 277 disputes introduced to the WTO Dispute Settlement Mechanism (DSM) from 1995 to 2002, the USA and the EU together waged approximately 60 per cent of the disputes. Of note, the USA has had to defend itself more than other members of the WTO. Of those 277 cases, approximately 27 per cent of them were complaints against the USA, while only 10 per cent of the total cases were complaints against the EU. Moreover, the USA and the EU have used the WTO DSM fairly often to resolve disputes with each other. Out of all disputes against the EU, in approximately 49 per cent of them, the USA was the complainant. And in approximately 41 per cent of the disputes, the USA defended itself against the EU.

Graph 1 below provides an overview of the total number of disputes launched by the USA and the EU against each other.

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<sup>34</sup> These calculations were made directly from the WTO's website in November/December 2002. I have included the cases the USA launched against the EU as a whole as well as EU-member countries individually. This makes sense given the fact that with the European Single market, most domestic laws became regulated on the EU-level. A more up-to-date Table that displays all US-EU disputes to 2005 is included in Appendix A.



**Graph 1- Disputes by the USA and the EU**

Source: The graph is based on the number of disputes collated from the WTO webpage between November-December 2002.

Graph 1 embodies several stories all of which are potentially interesting. The Graph suggests that the EU, as Chapter 4 will also argue, exhibits a “learning process”—it gradually adapts to operating on the WTO level. During the first years of the WTO, as the graph shows, the USA exhibits a lot more willingness to refer to the DSM. This perhaps comes as no surprise since the EU’s effectiveness as a global actor has developed over time and the USA backed the WTO because it foresaw that it would serve its purposes. The dissertation claims that the USA initially utilized the WTO to rein the EU in to the multilateral system (see Chapter 4).

Also, in analyzing the three different lines in Graph 1 (the total number of disputes measured against the number of disputes launched by the USA and the EU against each other in a given year), one can see that the total number of disputes followed a trajectory very similar to the number of disputes launched by the EU against the USA until 2003. After 2003, in the lone two years examined, the USA launched a number of disputes against the EU. These disputes consist of US complaints against the EU’s continued suspension of beef hormones as well as the one against the approval and marketing of biotechnology products, the GMO dispute (Chapter 5). In addition to

these two disputes, the USA complained about the EU's alleged civil aircraft subsidies, to which the EU responded with its own WTO complaint (see Appendix A).

Moreover, the graph shows that until recent years, up until about 2000, the USA and the EU displayed either a "defensive" or an "offensive" pattern. To elaborate, when the USA had launched a number of disputes against the EU, the EU did not necessarily retaliate with a similar number of disputes the same year. Years 1995, 1998, and 2000 in particular exemplify this point. However, it may also be the case that lagging retaliatory reactions to disputes may exist. To explain, Years 1996, 1999, 2001 show a numerical convergence between the USA and the EU, suggesting a "tit-for-tat" dynamic in the disputes.

A number of reasons could explain why the two powers resort to the WTO level relatively more frequently than other members of the WTO. Quick explanations, of cynical and benign nature, include: because they are able to do so given their relatively fat budgets for negotiation and representation in the WTO; because they would like to resolve disagreements in a multilateral setting; because they disagree with each other on issues that cannot be easily resolved more often than others; and because they trade with each other and others more than most other powers.

Although the numerical snapshots of US-EU disputes are valuable in terms of understanding the crude contours of US-EU confrontation on the WTO level, they are neither conclusive nor directly related to the points of the dissertation. Only further research would yield a relatively less tentative understanding of the association between the frequency of disputes and other aspects of the US-EU trade relationship. More importantly, the dissertation does not primarily concern itself with numbers. It does not seek answers to why the two rely on the WTO dispute settlement more than others. Rather, the thesis utilizes disputes to examine whether the two powers diverged in their approaches to globalization. The case studies address this primary concern of the dissertation in detail, but here it is necessary to

gain a sense of the broad framework of the US-EU trade relation in the post-Cold War period for the sake of explaining case study selection.

### 3.4.2 Overview of post-Cold War Trade Disputes between the USA and the EU

The literature on contemporary US-EU trade relations detects a change in the nature of US-EU relations during the post-Cold War period, although the literature does not concur on the exact nature of this change.

Hufbauer and Neumann (2002), for instance, group US-EU trade disputes in three categories based on the primary cause of dispute: market access, industrial policy, and ideology. The first two groupings are self-explanatory; the third grouping, in accordance to the authors, includes disputes with a “commercial core, but that are inflamed by wider public concerns” (8). In general the authors find a shift in the nature of the disputes from being primarily economic to having a more political component. Thus, the authors find that increasingly more disputes fall under the “ideology” category. “Ideological” disagreements encompass a wide range of issues—while some of these disagreements between the USA and the EU stem from US laws, such as the use of Section 301, others concern the spill-over of foreign policy into trade areas, such as the Helms Burton Act of 1996.<sup>35</sup> Table 7 below summarizes Hufbauer and Neumann’s discussions.

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<sup>35</sup> Under Section 301, the President can “retaliate against unfair trade practices...of US trading partners” (Gaud 1990, 13). Unfair trade practices primarily include *dumping*, which occurs if a company exports a product at a price lower than the price it normally charges on its own home market. Also regarded as unfair trade, *subsidization* takes on two major forms: 1) recipients of subsidies may be asked to meet certain export criteria or use domestic goods instead of foreign goods; and 2) pre-competitive research and development assistance to certain industries (www.wto.org). Alternatively, the country can launch its own investigation and ultimately charge *extra duty (countervailing duty)* on subsidized imports that are found to be hurting domestic producers. The Omnibus Trade and Competitiveness Act (1988) transferred the “authority to retaliate from the president to the USTR and strengthened Section 301 by adding... ‘Super 301’ and ‘Special 301’” (Cohen et al. 1996, 154). While the “Super 301” compels the USTR to take action against foreign barriers to US exports, “Special 301” requires the USTR to maintain a list of countries that fail to meet the criteria of US intellectual property rights (154). Current WTO dispute records demonstrate that USA’s trading partners complain the most about unjustified use of Section 301 (www.wto.org). Moreover, continued friction between American domestic laws and WTO laws arises because of: a) anti-dumping laws which are used to curb specific imports; and b) Section 201 of the 1974 Trade Act, under which the President

**Table 7- A Classification of US-EU Disputes in Accordance with Hufbauer and Neumann's Analysis**

<b>Market Access</b>	<b>Industrial Policy</b>	<b>Ideology</b>
-Tariff escalation in sectors such as steel, processed foods, textiles, leather and glass.	-Agricultural support systems—the Common Agricultural Policy (CAP) and US farm legislations	-Extra-territorial application of US laws.
-Labelling requirements for wine, duty, rebates on rice imports.	-Export credits.	-Unilateralist policies by the USA: for instance, the use of Section 301.
-Fish import quotas.	-Aircraft manufacturing shipbuilding	-Iran-Libya Sanctions Act of 1996.
-Restrictions in trade of services.	-Investment restrictions in defence, television, airlines.	-Helms-Burton Act of 1996.
-Government procurement.	-Foreign Sales Corporation Tax (FSC) (the authors argue more of a <i>negotiating tactic</i> ).	-“Cultural industries” and the question of Multilateral Agreement on Investment.
-Bananas.		-Beef hormone dispute, GMOs.
-Safeguard practices.		-Biotechnology issues.
		-Other issues involving public opinion.

Source: Table compiled based on Hufbauer and Neumann (2002).

Pollack (2003) also finds a transition in the nature of US-EU trade disputes in the post-Cold War period. He analyzes US-EU trade tensions under two main divisions: “traditional” types of disputes versus “new style” disagreements (70). While disputes over quotas and tariffs fall under the first category, regulatory disputes are primarily determined as new style issues. As the author explains, “regulatory disputes implicate national laws and regulations that are often adopted for legitimate reasons of consumer and environmental protection and public health...” (71). Writing before the elevation of the GMO dispute to the WTO stage and curiously leaving out the dispute over beef hormones of the category of regulatory tensions, Pollack concludes that regulatory issues do not make it to the WTO. The author explains that the USA and the EU deal with these issues on the bilateral level. Overall, Hufbauer and

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possesses the power to establish trade barriers to save industrial pressures on the American economy (Emmott 2002).

### Chapter 3: Methodological Framework

Neumann's "market access" and "industrial policy" categories correspond to Pollack's "traditional" type of disputes, while the "ideology" column compares to "new style" tensions.

Similar to Pollack, Guy de Jonquières also makes a distinction between traditional fights and new-type disagreements. While the old-style conflicts revolve around agricultural or industrial trade, de Jonquières explains, the qualitative change in US-EU trade disputes in the mid-1990s has been the spill-over of disagreements into new areas, such as environmental protection, personal privacy, and services (email communication 2004, 1).<sup>36</sup> De Jonquières's synopsis resembles that of the previous two sets of authors. His discussions demonstrate the diversity of issues which plague the new type of disagreements.

A report authored by a committee on transatlantic relations (HM Treasury 2003) also recognizes the differences between traditional and new-style issues, but further explores the nuances within these two broad categories. The results of this report are presented in Table 8 below.

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<sup>36</sup> This communication with De Jonquières is listed in Appendix C, the list of interviews.

**Table 8-Transatlantic Studies' Classification of US-EU Trade Disputes**

		<b>Agriculture</b>	<b>Industrial Goods</b>	<b>Services</b>
<b>Traditional</b>	<i><b>Border Measures</b></i>	Bananas (also GATS), Belgian rice duties, Tariff rate quota corn gluten feed	Harbour tax, Anti dumping (steel, uranium), CVD (steel), Safeguard Actions (Steel)	
	<i><b>Subsidies</b></i>	Export Subsidies	Airbus, FSC	
<b>New-Style</b>	<i><b>Regulatory Barriers</b></i>	Beef Hormones		Audio-visual, Professional Services, Telecommunications, Data privacy
	<i><b>Intellectual Property Rights</b></i>		Havana Club	Irish Music/copyright, Greek protection of movies

Source: Table 5, page 15 of the report of the HM Treasury.

Table 8 displays the different types of both “traditional” and “new-style” issues, such as the disagreements over border measures and subsidies. The table also displays that the clashes over subsidies can involve both agricultural and industrial goods. In general, US-EU disagreements over the scope of the Agreement on Subsidies and Countervailing Measures (SCM) have persisted since the Tokyo Round (Grieco 1990), surfacing as a number of disputes over subsidies. Today the tensions over subsidies do not just concern state support to certain industries, creating market access issues for trading partners. They also underscore a long-running disagreement between the USA and the EU as to what subsidies mean and the role they should play. In this regard, I judge that the disagreements between the USA and the EU over what constitutes a subsidy sit at the border of “traditional” and “new-style” issues.

Table 8 also reveals that “new-style” issues concern the new globalizing industries, concentrated under services. This picture is in agreement with the expectation that as the global structure of trade changes, with services becoming increasingly important, the nature of disputes also changes. Also of importance to note is the enhanced

significance of disagreements on intellectual property rights, alongside regulatory barriers. Overall, Table 8 draws attention to the emergence of new type of conflicts, and a new wave of “traditional” disagreements.

The aforementioned different classifications of the US-EU trade disputes reveal two important points. First, there is no one way to categorize the same dispute. For instance, while Hufbauer and Neumann define the beef hormones issue as an ideological battle, the authors of Table 8 above as well as Pollack regard it as a regulatory battle. Here the difference may be one of phrasing, as regulatory disagreements can often point to underlying “ideological” differences. However, the diverse number of ways in which the disputes could be categorized underscores the complexity of the issues a single dispute can embody as well as the availability of a number of credible interpretations.

Yet, the way in which one understands these tensions matters greatly for the framing of the debate. In general the dominant academic rhetoric affects the way in which commentators perceive these disputes. Thus although a number of different ways of classifying the dispute are available, one should be aware of the way in which the categorizations affect the debate over the nature and the source of US-EU tensions. For instance, as pointed out above, assessing the banana dispute as only a market access issue may cause one to miss the big picture.

Second, obviously, the different categorizations provided above concur on the point that the nature of disputed issues has changed. Whether one calls it the transition from “old” to “new” issues or from less ideological to more ideological battles, the authors agree on the existence of a transformation. I also find a shift in US-EU trade relations from old (or “traditional”) to new types of disagreements. Yet my classification differs slightly from the aforementioned studies.

*A Re-classification of US-EU Trade Disputes*

Expanding upon the above literature, I find that US-EU disputes can be analyzed under the following headings: “narrow” disputes and “wide” disputes as well as “distributional issues” and “distributional-plus” conflicts.

“Narrow disputes” denote cases where the conflict primarily arises from the defence of certain domestic sectors at the expense of free trade rules. These types of disputes usually involve a single sector, such as steel (although trade in steel is diversified, ranging from pipes to wires, etc.) “Wide disputes,” on the other hand, explain situations where the dispute stemmed from more encompassing disagreements than the protection of certain domestic industries. An example of such a disagreement may be the EU grievances over certain US laws, such as Section 301. “Distributional issues” simply mean that the tensions between the USA and the EU concern the division of market shares. These disputes do not stray too far away from what Hufbauer and Neumann (2002) call their “commercial cores.” “Distributional-plus” type conflicts involve disagreements more than just distributional issues—the slices of the pie—and usually involve disagreements over the features of the market—the type of pie. For instance, an inherent disagreement over the SCM belongs to this category. These categories are not collectively exhaustive. Nevertheless, a dispute can be either “narrow” or “wide” and either “distributional” or “distributional-plus.”

These new categorizations, which are displayed in Table 9 below, expand upon the literature by allowing one to analyze a number of different dimensions inherent in the fight. While it remains useful to say “beef hormones” is a “regulatory issue” (see Table 8 above for instance), this observation is not very revealing about the nature of the fight. Rather, it explains the technical category to which the dispute belongs. Moreover, in looking at disputes across categories (Table 9 below contains both traditional and new-style disagreements), one can examine whether cross-cutting themes troubled the USA and the EU in their “old” and “new” clashes. More



### Chapter 3: Methodological Framework

importantly for the purposes of this dissertation, the classifications in Table 9 relate to the discussions on the choice of case studies below.

**Table 9- An Overview of US-EU Trade Disputes**

		Narrow	Wide	Distributional	Distributional-Plus
<b>By the USA Against the EU</b>					
2004	<i>Civil Aircraft</i>	x			x (subsidies)
	<i>Custom Matters</i>		x	x	
2003	<i>Biotech products</i>		x		x (product safety)
2002	<i>Steel</i>	x		x	
2001	<i>Tariff-rate quota on corn</i>	x		x	
1999	<i>Protection of trademarks and geographical indications</i>		x		x (TRIPS rules of concern)
1999	<i>Development of Flight Management System</i>	x			x (subsidies)
1999	<i>Bananas</i>	x			x
1998	<i>Intellectual Property Rights for motion pictures and TV programs</i>	x			x (intellectual property)
1997	<i>Exportation of cheese</i>	x		x	
1996	<i>Customs Classification of Certain Computers</i>	x		x	
1996	<i>Hormones Dispute</i>		x		x
1995	<i>Bananas</i>	x			x
1995	<i>Duties on Imports of Grains</i>	x		x	

*Continued on the next page*

Source: This Table was condensed from the Table in Appendix A.

Table 9 - continued

		Narrow	Wide	Distributional	Distributional-Plus
<b>By the EU Against the USA</b>					
2004	<i>Section 776 of US Tariff Act</i>		x		x (US laws)
2004	<i>Civil Aircraft</i>	x			x
2003	<i>Calculation of Dumping Margins</i>		x	x	
2000-2	<i>Steel</i>	x		x	
2000	<i>US Offset Act (Byrd Amendment)</i>		x	x	
2000	<i>Section 306<sup>37</sup></i>		x		x (US laws)
2000	<i>Section 337<sup>38</sup></i>		x		x (US laws)
1999	<i>Safeguard measures on import wheat gluten</i>	x		x	
1999	<i>Section 110 (5) of the US Copyright Act</i>				x
1999	<i>Section 211 Omnibus Appropriations Act</i>		x		x
1998	<i>Sections 301-310 of the Trade Act of 1974</i>		x		x
1998	<i>Anti-dumping act of 1916</i>		x		x
1998	<i>Harbour Maintenance Tax</i>	x		x	
1998	<i>Copyright and neighbouring rights</i>		x	x	
1997	<i>FSC</i>		x		x (subsidies)
1997	<i>Poultry products</i>	x		x	
1997	<i>Government procurement (Massachusetts rule on Myanmar)</i>		x		x
1997	<i>Textile and apparel products</i>	x		x	
1996	<i>Anti-dumping measures on solid urea from Germany</i>	x		x	
1996	<i>Cuban Liberty and Democratic Solidarity Act</i>		x		x

<sup>37</sup> Section 306 of the 1974 Trade Act, in its amended form, "provides for a mandatory and unilateral revision of the list of products subject to suspension [concessions]" (WT/DS200/1 2000, 1). To give an example, in its retaliation against the EU in the banana dispute, the USA suspended concessions by subjecting certain products to higher tariffs. Section 306 requires the list of such products to be renewed and changed periodically.

<sup>38</sup> Section 337 aims to determine whether foreign imports violate American intellectual property rights (Cohen et al. 1996, 113,151).

By summarizing all major disagreements between the USA and the EU, Table 9 allows for the observation of some general trends. First, this table displays the co-existence of “distributional-plus” type of concerns makes the conflicts more intractable. For instance, the case study on the banana dispute (Chapter 4) reveals the dispute involved a geo-political-economic competition—one which pitted the geographic-historical ties of the EU against those of the USA. The dispute also contained struggles on both sides to adjust to and mould an infant multilateral system—the WTO in its early days. Thus the dispute does not contain only a “distributional” tension. In the GMO dispute distributional concerns have compounded differences in regulatory approaches (Chapter 5), again leading to a “distributional-plus” issue. (While the USA has a commercial interest in opening up foreign markets to genetically-engineered crops, the EU does not.)

The Foreign Sales Corporation (FSC) dispute (which the thesis does not take on as a case study) also encompasses a number of different battles. Hufbauer and Neumann give a succinct diagnosis of this dispute. They judge the EU used the FSC retaliation endorsed by the WTO against the USA as a bargaining chip to hinder expected American attacks on the Common Agricultural Programme (CAP): “the big bargain is a *modus vivendi* on farm supports in exchange for a *modus vivendi* on tax preferences” (2002, 16). However, elsewhere Hufbauer mentions that the dispute emphasizes actual differences. He notes that in the Tokyo Round “as a major concession, the [USA] accepted the European territorial system as applied to export sales...., provided that the [USA] could take advantage of a similar system for its own exports” (2002, 4). As mentioned above, there exist underlying disagreements between the two sides over the subsidies code and the FSC dispute involves that broader tension as well.

The US-EU fights over aircraft also contain different types of tensions. Although the commercial importance of these disputes cannot be overlooked, the disputes between the two powers also include attempts to define the proper place of subsidies. Overall, then, in the “new style” disagreements between the USA and the EU, one observes

the juxtaposition of different types of disagreements in one dispute. Such complications likely contribute to the protracted nature of most disputes and the difficulties in analyzing them within parsimonious categories.

Second, Table 9 illustrates that the EU frequently disputes the application of domestic US laws in the USA's trade external trade relations. For instance, the USA's anti-dumping laws have repeatedly generated tensions. The EU also disagrees with the trade application of some US laws, particularly those concerning Cuban companies. The Conclusion of the dissertation addresses this point in the context of US-EU disagreements over key foreign policy issues.

Third, Table 9 shows that there are some long-running US-EU disputes at the WTO with a number of evolutionary phases. (This point becomes much clearer if Table 8 is analyzed in conjunction with Appendix A.) Among these prolonged fights between the USA and the EU are the disputes over beef hormones, bananas, steel as well as aircraft disputes. I will explore such long-lasting disputes in greater detail below when discussing case study selection. Here it suffices to point out that despite a huge number of disputes, the same themes re-emerge in US-EU trade disputes.

The findings of Table 9 are even more telling when they are analyzed in comparison to the most important US-EU trade disputes prior to the end of the Cold War. Although there is no room here for an extended comparison between Cold War and post-Cold War disputes, a brief analysis is useful for the purposes of this dissertation. Table 10 below summarizes key pre-post Cold War era trade disputes between the two powers in accordance with the criteria set out for the above discussions.

**Table 10- Pre-WTO/-end of Cold War Disputes between the USA and the EU**

	Narrow	Wide	Distributional	Distributional-Plus
Steel (1969-1974)	x		x	
Canned Fruit (1981-1985)		x	x	x (subsidies code)
Wine (1985-1986)			x	x (subsidies code)
Carpet and Glass (1962)	x		x	
Poultry (1963-1964)	x		x	
Gas Pipeline Embargo (1981-1982)		x	x	x
Pasta (1982-1986)	x			x (subsidies code)
Mediterranean Tariff Preferences for Citrus (1982-1986)	x			x (what constitutes as discrimination)
Spanish and Portuguese Accession to the EU (1986-7)		x		x
Meat (1987-)	x		x	x
Wheat Flour (1981)	x		x	
Aircraft (1986)	x		x	x
Soybeans (1988)	x		x	
Apples (1988)	x			x

Source: Table based on Featherstone and Ginsburg (1993, 176-198). The start and the end year of the dispute are indicated, where possible.

In comparison to Table 10 (pre-WTO/-end of the Cold War disputes), Table 9 (post-Cold War trade disputes) includes a much higher number of disputes. However, it appears that the sectoral disputes over the protection of specific industries existed then, just like they continue to survive today. Also, post-Tokyo Round, the disagreements over the subsidies code emerge.

Yet, the Cold War era (Table 10) includes more “narrow” disagreements—that is fights over a specific industry or sector—than the post-Cold War era (Table 9). Moreover, the post-Cold War period includes a greater number of disputes in general and the range of the disputes has expanded from “narrow” disagreements to a wide variety of issues that contain tensions beyond such “distributional concerns.” Still, the EU-launched disputes concern US laws in general rather than specific grievances.

A number of structural reasons, some of which have already been alluded to, explain these developments from pre-WTO to post-Cold War/WTO period. Ginsberg and Featherstone (1993) point out that the increasing number of US-EU disputes in the post-Cold War underscored a number of influential developments. The end of the Cold War ushered in a structural change which reduced incentives for the West to be united against a common enemy, shifting the focus to differences within. At the same time, as the authors emphasize, the US-EU relationship has gradually become more symmetric, as the world has moved world into a “post-hegemonic” order. Compounding these shifts in world politics was the “ascendancy of the EC itself” (197). These transformations in power relations allowed the EU to become a more assertive actor in the international setting, increasing the number of US-EU trade disputes. The dissertation repeatedly highlights these well-known points, emphasized by Featherstone and Ginsburg as well as other authors.

Additionally, globalization can account for the increasing number of US-EU trade disputes. Since globalization has meant enhanced interdependence of economies and the exposure of previously untouched areas of states’ economies by global forces, a new host of issues have emerged. Chapter 5 will argue that the dispute over GMOs (listed as “biotech products” above) constitutes one such issue. In general, manifestations of globalization have ushered a move from “traditional” to “new” style issues. Most of these new disputes underline wide disagreements and not narrow tensions over simple protection of a certain domestic sector.

The strengthened dispute settlement mechanism of the WTO can also account for the increasing number of disputes and their variety. It may be the case some disagreements listed in Table 9 above existed prior to the foundation of the WTO, but it was the establishment of the WTO in 1995 itself that made it possible for these disputes to surface. A combination of the aforementioned reasons has ushered in a new era of US-EU disputes.

This chapter has so far provided an overview of US-EU trade disputes in the contemporary era. Now the discussion turns to the selection of case studies, locating them in the wider context of US-EU post-Cold War trade tensions.

### 3.5 Case Study Selection Criteria

*Out of the multitude of US-EU trade disputes at the WTO, long-lasting disagreements initially ignited my interest the most.* As Greg Frazier, the special trade negotiator for the USTR on banana and beef hormone disputes, remarked in 2000:

...these [disagreements over bananas and beef hormone] are difficult problems. They have...been around for a long time. If they were easy and simple problems, somebody long before would have solved them. And it may be somebody long after me that solves them, and it may be that you all are writing about these things for a long, long time... (Frazier 2000)

The fascination with Frazier's diagnosis that it may take generations to solve these problems prompted me to enquire into the sticky nature of these disputes. Also, the protracted nature of these issues suggests they may reveal aspects of the core differences between the USA and the EU. Therefore, they are particularly suited to studying whether or not the USA and the EU impact upon globalization divergently. Hence, the case studies on bananas and GMOs (analyzed in comparison to the beef hormone case) explore perpetual troublespots.

The utilization of prolonged disputes as lenses through which to view differences between the USA and the EU reveals an underlying assumption: minor differences are resolved relatively quickly. From a benign perspective, in the absence of conspiracy theories, the assumption is that both sides are committed to resolving conflicts. Minor conflicts will be resolved with consultations, informal arrangements, and diplomatic efforts. More challenging problems which plague the relationship will turn into disputes on the WTO stage. The dispute settlement



mechanism is itself a testament to the two sides' desire to expose and settle disputes by the arbitration of a third party.

However, it has been convincingly argued that some disputes on the WTO level have been launched as “bargaining chips” for other disputes already underway (see earlier point in regards to the FSC dispute). Although this point about the utilization of disputes as political bargaining tools remains valid, it tends to explain more the timing of the dispute than its reasons for being. Disputes in the WTO, which are costly, highly public, and critical to the image and legitimacy of actors within the WTO, cannot be launched without substantive content. The point here is that even when employed as tactical moves, the disputes cannot be void of some degree of disagreement.

Bananas and GMOs are surely not the only problems which have consumed energies on both sides of the Atlantic over long periods of time, but they provide a rich enough analysis to justify the exclusion of other case studies. The banana case study (Chapter 4) includes more issues than just the specific dispute at hand. Such issues range from the EU's preferential trade agreements with its ex-colonies, to the potential legal loopholes in the WTO system, to how the two sides stamp their influence on the multilateral institution as they manoeuvre their way through such weaknesses. The case study on GMOs also discusses the dispute over beef hormones, thereby analyzing two disputes (Chapter 5). Moreover, this case study allows for a comparison and contrast of the American and European attitudes over the relationship of trade and the environment and the application of certain principles, such as the precautionary principle, to trade. *In short, by virtue of enabling rich studies, these case studies do not leave out conclusions other case studies would have produced, even though they by no means touch upon every single issue.*

As is well-known, the two powers have disputed over steel and agriculture time and time again (see Appendix B). Nevertheless, this study leaves out the disputes over

the liberalization of agriculture and steel for good reasons. Both disputes have been studied in detail and in a more than adequate manner. While it seems fair to leave out case studies which have been studied widely and in depth, one may wonder whether the dissertation reaches different conclusions about the two powers' attitudes towards globalization by leaving out certain case studies and focusing on others. For instance, one may say that if the focus were on American or European resistance to liberalizing their agricultural, textile, and/or steel industries, the issue would perhaps *not* be the powers' desire to shape globalization (differently). Rather, the issue would simply constitute the internationalization of narrow domestic interests—the surfacing of unilateral decisions to protect domestic industries at the expense of multilateral commitments—and the two powers would be seen to be united in their recalcitrance to liberalize some of those sectors despite pressures from their trading partners.

Yet, the potential criticism that the choice of different case studies would yield different conclusions is not justified. Every dispute that could be studied—GMOs and bananas included—would involve the expression of certain domestic interests surfacing in the international realm. These relics of the pre-Cold War period of US-EU trade relations, the remnants of a pre-liberal-global trade regime, have relatively less demonstrative capacity about US-EU trade disputes in the post-Cold War era (although they do highlight how the developed countries do not give developing countries adequate market access). In this regard, the exclusion of traditional fights over steel and agriculture, for instance, does not mean the dynamics involved in these disputes goes unstudied in this thesis.

Moreover, the steel case and those like it are non-disputes to a certain extent. They are cases in which both sides, the USA and the EU, agree that liberalization is necessary in principle but blocked by certain political forces in practice. Also, efforts to stop these “non-disputes” from being continual irritations have been underway on both sides of the Atlantic. For instance, although with serious hiccups, the EU has been transforming its CAP to conform to the expectations of the liberal multilateral

political economic system. Similarly, the USA has been pressuring its steel sector to restructure. The latest steel tariffs raised by US President G.W. Bush in 2002 contained substantial restructuring requirements requiring traditional inefficient steel giants to become more efficient with the hope of making them less dependent on government assistance in the future. Other authors, though with slightly different diagnoses and emphases, echo my point about these issues being non-disputes. Hufbauer and Neumann, for instance, classify steel, textile, leather, etc. issues which concern market access as “*relatively* easy to resolve” and single out the banana dispute as the “most prominent market access case” (9-10). These authors also succinctly point out, “transatlantic retaliation against the core elements of agricultural support policy has been practically unknown since the famed (but now forgotten) “Chicken War” of the 1960s” (13).

Still, I should emphasize that by calling these issues “non-disputes,” I do not underestimate the continued importance of any of the mentioned sectors, such as agriculture, steel, or textile. These sectors preserve their significance just by virtue of comprising a sizeable portion of both American and European economies. In fact, the case studies on bananas and GMOs both involve the agricultural sector. Yet, these case studies reveal that the new generation of disputes goes beyond struggles to liberalize protected areas, taking on a more complex nature. As Hufbauer and Neumann underscore, “the agricultural disputes brought to the WTO generally involve second-level questions, such as US rights when EU enlargement extends CAP restrictions to countries where the United States had significant agricultural exports” (13). In this respect, the fights are no longer about CAP *per se*, but new ramifications that may arise from a structural change, such as EU enlargement. The case studies chosen address these more complex types of questions.

Overall, disputes which stem from well-understood, well-studied, and well-known dynamics (the “narrow,” “distributional” disputes) provide little demonstrative power. They appear as disputes which are in essence non-disputes. To reiterate, *the*

*case studies chosen provide a rich multi-faceted analysis, which could have potentially eluded other studies.*

*Also, the case studies provide for some variation.* Although I analyze long drawn-out issues, both of which include “distributional-plus” concerns, one of the case studies examines a case which is resolved as far as the WTO ruling is concerned. In the banana dispute, the complainants welcomed the end of the dispute with the final European modifications to its banana regime. In this regard, as protracted as it may have been, it is resolved in theory. In contrast, the GMO dispute remains unresolved, awaiting a WTO ruling, and so does its predecessor, the beef hormone case, despite a ruling. The choice of a resolved as well as an unresolved case ensures a stringent test of the hypothesis—if one finds the tendency to form “rival globalizations” even in issues which appear resolved, then the conclusions reached are even stronger. In addition, the banana dispute comprises a “narrow” and “distributional-plus” concern, while the GMO dispute comprises a “wide” and “distributional-plus” tension (see Table 9 above). Moreover, as the introductory chapter indicated, the banana dispute has a “foreign” core, whereas the GMO dispute has a “domestic” core.

Some readers may be concerned that because both of the specific disputes I study were launched by the USA, my discussions are biased. The fact that both disputes were put on the WTO-platform by the same party potentially provides a methodological strength and not a weakness, as it allows for relatively better comparability between the two disputes. Moreover, the fact that the two disputes studied embody different dynamics and conclusions (varying independent variables as well as dependent variables—see Chapter 1), despite both being launched by the USA, suggests the importance of other factors at work.

Furthermore, since I am analyzing the dynamics of discord between the USA and the EU and the powers’ impact on the multilateral framework, it ultimately makes little difference which side launched the disputes, as the underlying issues remain the same. I say “little difference” as opposed to “no difference” because, to a certain

extent, the increasingly strong presence of the EU on the international platform poses challenges for the USA (see the concluding chapter). The EU challenges the *status quo*, which—to a great extent—reflects rules and regulations dating back to the days when the USA was the sole economic power.<sup>39</sup> In the disputes where the USA challenges the EU's trade policy, this point may be relatively more apparent. Nevertheless, the point is that in examining the nature and the extent of divergences between the two powers, it does not matter who launched the dispute, since the qualitative analyses generally remain the same.

*The chosen case studies also allow for the examination US-EU trade disputes over a period of time.* While the banana case coincides with the first days of the WTO, the GMO dispute and the study on RTAs illustrate the current phase of the US-EU relationship. Avoiding snap shots of the relationship and instead relying on a relatively longer term observation has important advantages. It allows the investigator and the reader to examine the disputes and the US-EU trade relation on a continuum. Capturing adjustment periods, learning curves, and the maturation of the US-EU trade relationship, as well as the role of the WTO within that relationship, is useful (see Chapter 2 on the “temporal spectrum” argument).

*Finally, the cases studied unearth elements of the US-EU trade interaction beyond the specific parameters of the dispute or in other disputed areas.* For instance, the EU extends preferential access to its former colonies in the developing world in areas other than bananas (Chapter 4), such as sugar, rice, and rum. The GMO dispute (Chapter 5) also elucidates tensions in other areas. One of those areas constitutes the EU's plans for testing chemicals and the American opposition to the European method. In November 2003, the EU announced a new plan for more strictly managing approximately 30,000 chemicals. The USA fears that the testing criteria envisioned by the new EU plan will substantially increase costs as well as make it

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<sup>39</sup> Hudec (1990, 287) writes that the USA affected the GATT substantially since the USA had the economic power, which in turn allowed it the “political leverage and the commercial incentive” to impose its own perspectives on the institution.

much tougher for products to gain authorization. This issue resembles the GMO case in that in both situations the EU embraces a “precautionary” approach for managing risk. The National Foreign Trade Council in the USA contends in a report on approximately a dozen European regulations that the EU’s precautionary approach “effectively banned US and other non-EU exports of products deemed hazardous, stifled scientific and industrial innovation and advancement” (cited in Alden 2003). However, since the testing of chemicals is not as much of a public issue as food safety, there may be relatively more room for conciliatory approaches (Dombey 2003). The case studies are as representative of other US-EU disputes in the post-Cold War era as possible.

In summary, in the selection of case studies “balance and variety are important; opportunity to learn is of primary importance” (Stake 1994, 244). The chosen case studies achieve these objectives.

### *3.5.1 What if Disputes Exist Because the WTO’s Dispute Settlement Mechanism is Inadequate?*

One final primary question, which I raised earlier on and did not answer: How can one safely assume attempts at resolution in the disputes failed, when they did, because of the core differences which separate the American position from the European one, rather than due to the lack of ability on the part of the WTO to arbitrate effectively?

The WTO’s institutional capabilities may have direct relevance for the US-EU relationship. For instance, it may be the case that a given dispute between the USA and the EU remains unresolved not because of insurmountable disagreements between the two powers but because the institutional capacities of the WTO remain too inadequate to resolve the tensions. In this regard, the WTO may simply magnify the problems between the two powers. Such a concern is valid to some extent. The WTO, in fact, like most other institutions, suffers from certain shortcomings. To list

a few, given the breadth and depth of questions it needs to address it does not have a large enough budget for the smooth running of the multilateral trade agenda. The failure of Seattle and Cancun meetings underscore the precarious nature of the organization and the profound challenges it faces in the effective pursuit of its agenda (Ehlermann and Ehring 2005, 53). Also, Ehlermann and Ehring draw attention to some substantial problems which result from the consensus-based decision-making at the WTO. They claim this type of decision-making to an extent prevents the WTO from delivering on some pressing issues (68). Moreover, the limited ability of the dispute settlement mechanism for flexible interpretation can hamper the effectiveness of the WTO (68). In brief, there may be concerns as to whether some of the US-EU disputes owe their long healthy lives to the inadequacies of WTO dispute resolution.

As valid as this concern may be, the dissertation, implicitly or explicitly, deals with this question. In cases where the WTO mechanism proves prone to manipulation by the two powers, particularly because of its unclear provisions or lack of established expertise in some situations, the dissertation acknowledges it.<sup>40</sup> For instance, the discussions on the banana dispute (Chapter 4) underline the way in which the WTO's unclear provisions affected the dispute. More importantly, the WTO does not shape or alter the underlying divergences between the two powers. The WTO does have its own specific position (as suggested by the above discussions), and the WTO ruling may alter the position of the great power in the course of a dispute. Yet in the first instance, the WTO provides for a platform for the airing of the differences between its members. The USA's and the EU's continued preference for relying on the WTO to air disagreements attests to the fact that the WTO, despite its shortcomings, constitutes the most substantial and desirable platform for rule-making. In any case, if the WTO prolonged the disputes or created them in the first place, the two powers remain free to resolve their disagreements on other platforms. No doubt

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<sup>40</sup> Conybeare in his analysis of trade wars introduces four main reasons as to why disputes last long (1987, 40). Couched in game theory rhetoric, he, first, attributes the length of disputes to the potential "structure of the game," which may be resistant to cooperation. Second, he believes time introduces factors that prevent resolution. Third, "cognitive and informational difficulties may make contingent retaliation problematic." Fourth, a large number of actors may contribute to the decline in the chances for cooperation.

strengthening the WTO could equip it with better powers to more effectively tackle complicated fights between its members. One could only speculate as to whether a much stronger WTO could have prevented the disputes in the first place, and speculations do not suffice.

### **3.6 Conclusion**

The discussions in this chapter underscored that US-EU trade disputes have moved from “traditional” concerns such as market issues to new types of disagreements. These new types of disagreements involve a wide range of issues, ranging from intellectual property rights to regulatory barriers to disagreements over the application of foreign policy to trade issues. The chapter has highlighted the role of the end of Cold War, as well as the onset of the “era of globalization” (Chapter 2), in bringing about these disputes.

This chapter has provided a summary of the post-Cold War trade disputes between the USA and the EU for the sake of explaining the choice of case studies and locating these case studies in the context of other disputes. As the discussions above demonstrated, the choice of other case studies would not have invalidated the findings of the chosen case studies, although it is doubtful whether they would have been able to provide a similarly fruitful discussion. In summary, via a rich analysis on two complex disputes—the bananas and GMOs—the case studies provide a strict test of the premises of this dissertation. The case study on RTAs, which this chapter did not emphasize, complements the findings of the studies on bananas and GMOs, while also providing a viable testing ground to see the formation of “rival globalizations” (see Chapters 1 and 6 for an explanation). The chosen case studies also unearth elements prevalent in other disputes. Overall, in addition to elaborating on case study selection, this chapter (and Appendices A and B) provides an updated and comprehensive summary and discussion of US-EU post-Cold War trade disputes, contributing to the overall literature on US-EU disputes. The dissertation now turns to the specific case studies.



## **Chapter 4: The Dispute over Bananas**

### **4.1 Dispute and Chapter Summary**

This chapter examines the banana dispute between the USA and the EU. The disagreements between the USA and the EU over the EU's banana regime pre-date the WTO. Tensions escalated and made it to the WTO stage in 1996, when the USA, Guatemala, Honduras, and Mexico brought a case against the EU. Ecuador joined these complainants after becoming a member of the WTO. In May 1997, the WTO panel found the EU regime to be in violation of GATT and GATS rules (Salas and Jackson 2000, 150-151). In September of the same year, the WTO Appellate Body upheld the findings of the panel, leading to the adoption of these decisions by the WTO DSB. In January 1998, the WTO arbitrator indicated the EU needed to comply with the ruling by January 1, 1999 (The United States Mission to the EU (useu) December 21, 1998). At the time of the writing of this dissertation, the EU was still engaged in efforts to do so.

The chapter begins with an analytical summary of the dispute. The dispute comprised a number of different stages. In essence it stemmed from a straightforward disagreement between the USA and the EU: the EU's banana regime, the USA alleged, favoured bananas from its former colonies and European producers at the expense of Latin American bananas, which were exported by American companies, Chiquita being the most important one. The dispute also exposed a political struggle by both powers to retain their historical influence over certain regions of the world. Moreover, the dispute evolved to include a struggle for "good" (multilateralist) versus "bad" (violation of multilateralism) reputations at the WTO. The dispute was officially resolved in that there was agreement on all sides—the USA, the EU, and third parties—as to the course of action necessary to bring the EU's banana regime into compliance with the WTO. Yet the points of contention which underlay the dispute continue to survive.

#### Chapter 4: The Dispute Over Bananas

The chapter finds the “core of the dispute” to be foreign (see Chapter 1 for an explanation). It also finds that the powers embrace “competing outlooks” towards the global political economy. This presence of “competing outlooks” can be observed in the following ways:

- a) The two sides emphasize geo-political-economic ties with different parts of the world—the USA with the Western Hemisphere and the EU with its former colonies. The different methods the USA and the EU have relied on to integrate the developing world into the world economy also point to the different nature of their bilateral/regional relations.
- b) The two powers embrace divergent understandings of the role development concerns should play in trade policy.
- c) The dispute even reveals subtle evidence which suggests that the two powers have at times diverged on how “free trade” should occur—whether it should simply liberalize or liberalize while ensuring certain conditions for the environment and laborers.

Overall, the chapter finds that the banana dispute reveals *weak rival globalizations* (see Chapter 1 for a discussion of variables of analysis). The weakness of the formation of rival globalizations stems from two primary points. First, the “foreign” nature of the core of the dispute made it relatively easy for the EU to comply with WTO demands. This was especially the case because there was already a movement within the EU towards reform of its policies towards the African, Caribbean and Pacific (ACP) group of states prior to the end of the dispute. Hence, the dispute’s “impact on the WTO” was tamed, as the EU moved closer to the *status quo*, understood as the position of the WTO. Second, the dispute witnessed the inclusion of the EU’s ties into the WTO, rendering the impact of the dispute on the bilateral and regional levels, herein referred to as the “sub-multilateral level,” significant. Yet, this impact on the sub-multilateral level did not widen the existing divergence between the USA and the EU. The chapter will claim that instead of resolving

## Chapter 4: The Dispute Over Bananas

tensions, the banana dispute contained the tensions between the USA and the EU. Hence, it provided short-term relief, while embedding long-term troubles into the multilateral political economic system.

### 4.2 The Background and Evolution of the Dispute

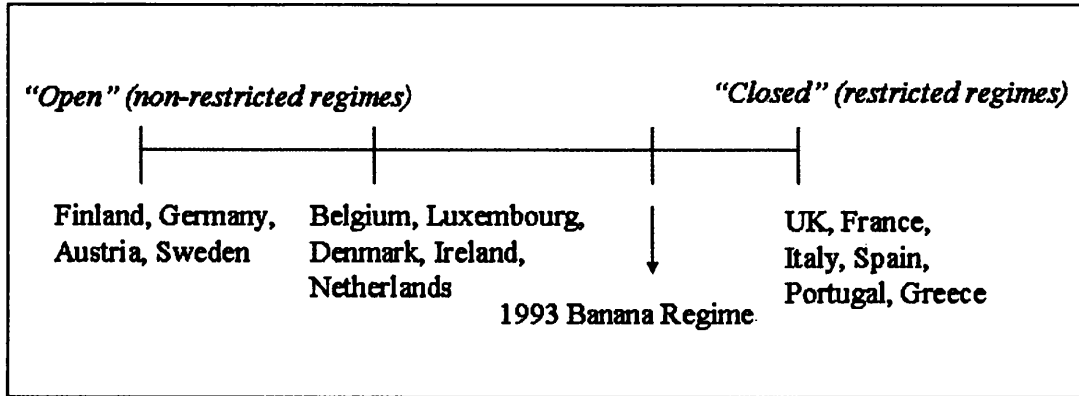
#### 4.2.1 *Historical Overview of the Banana Regime*

In preparation for the European Single European Act, in February 1993, the EU Regulation 404/93 created a common European banana regime. Prior to this common regime, countries had different types of banana importation regimes, although all imports from the ACP countries enjoyed duty free access. Some countries—Austria, Germany, Finland, and Sweden—had open regimes that allowed the importation of bananas from anywhere in the world without restrictions (Badinger et al. 2001, 2). Other countries allowed duty free access to bananas from the ACP, while imposing a twenty per cent ad valorem tariff on imports from other countries (Badinger et al. 2001, 5). In contrast, the closed regime countries, France, the UK, Italy, Portugal, Spain, and Greece, applied quantitative restrictions and licensing requirements (Salas and Jackson 2000). Although these closed regimes varied, they served the purpose of protecting EU banana producers as well as banana producers from the former colonies, specifically in the ACP countries.<sup>41</sup> Diagram 1 below provides a rough sketch of this fragmented banana regime.

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<sup>41</sup> The main banana producing regions in the “domestic” EU banana production are French Overseas Territories, Spanish Canary Islands, Portugese Madeira and Greece (Badinger et al. 2001, 4-10).

**Diagram 1- Banana regimes of different EU states**



In understanding the origins of the “closed banana regimes,” it is worthwhile to highlight the British organization of banana importation because the UK, alongside France, imported the highest percentage of ACP bananas in Europe (Badinger et al. 2001). The British “closed regime” evolved out of the British Empire’s banana regime. The imperial regime facilitated a barrier-less flow of bananas within the British Empire. Thus, in essence, the “closed” banana regimes within the EU contained their roots in an “open” imperial system (Grossman 1998). Grossman (1998) explains that in the beginning of the twentieth century the British government became fearful of American corporate influence in some of its colonies, such as Jamaica. In an effort to thwart such American economic interference, the British Empire backed its own corporate arrangements (which later on became Geest Company) to take over banana trade from the Americans (35). Grossman states that by the end of 1952 the British government had instituted an “open license” regime. This regime allowed all bananas from the sterling area to be imported without the need for licenses. However, “importation of...bananas produced in Central and South America (except Brazil) that required the expenditure of U.S. dollars and thus were a drain on foreign currency reserves, required the issuance of specific licenses” (39). Hence the British banana regime was “open” within the Empire but “closed” to “dollar bananas.” Grossman finds that the British banana policy derived its impetus from both commercial and non-commercial concerns. First, it aimed to promote

## Chapter 4: The Dispute Over Bananas

Geest and other British suppliers of bananas. Second, it intended to achieve poverty-relief, especially in high-poverty colonies like the Windward Islands. In this regard, the British regarded the banana regime as contributing to economic stability in these countries (42). Overall, the European banana regime grew out of imperial commercial concerns, woven into a unique sense of duty and obligation the empires held for the development of their colonies.

In the post-Empire period, the UK as well as France and other countries maintained their preferential ties to their former colonies. After the creation of the EU, these ties became the business of the EU as a whole and special agreements began to govern the EU's relations with its former colonies. Most importantly, in accordance with the Lomé Conventions between the EU and the ACP countries, ACP countries have enjoyed duty free access to European banana markets since 1975.

### *4.2.2 Emergence of the Banana Disputes*

The EU's banana troubles began before the WTO came into being and even before an EU-wide banana regime was established in 1993. With backing from the USA, Costa Rica, Columbia, Nicaragua, Guatemala, and Venezuela challenged the fragmented European system, explained above as the pre-1993 arrangement. A GATT panel was established to review this complaint. The panel ruled (ruling known as 'Bananas I') that the national European regimes in place violated the GATT's rules (Salas and Jackson 2000, 147-149). The ruling could never take effect because the EU blocked the decision from being adopted.

Soon after the GATT ruling, EU Regulation 404/93 came into place, creating an EU-wide banana regime. This change in the management of banana imports was prompted more by the overall European move to a single market than GATT negotiations. Table 11 summarizes the main features of the EU-wide banana regime that came into place in 1993. This regime also contained an arrangement for

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licenses. While the dollar bananas could get up to 66.5 per cent of the licenses, 30 per cent went to ACP and EU bananas and 5 per cent to what EU envisioned as “new importers” (Grossman 1998, 54-55).

Basically, this regime permitted the European banana producers and their counterparts in the former colonial world to gain preferential access into the European common banana market. The issuing of licenses ensured some preference for the bananas from European producers and former colonies over bananas from Latin America. Also, this new system allowed the European countries to “grant aid through prices,” as market interventions allowed for higher-than-market banana prices in their former colonies (Borrell 1994, 23).

**Table 11- Regulation 404/93**

<b>Imports from Central and South America (the “dollar bananas”)</b>	<b>Traditional ACP suppliers of Bananas</b>	<b>EU Producers</b>
<ul style="list-style-type: none"> <li>▪ Initial annual tariff quota of 2.0 million metric tons with a tariff of ECU 100 per ton.</li> <li>▪ Beyond this point, tariff of ECU 850 per ton applied.</li> </ul>	<ul style="list-style-type: none"> <li>▪ These traditional ACP suppliers are St.Vincent, St.Lucia, Dominica, Grenada, Cote d’Ivoire, Cameroon, Suriname, Somalia, Cape Verde, Madagascar, Belize, Jamaica.</li> <li>▪ These suppliers were allowed tariff-free importation but each country had its own quota, based on previous exports.</li> <li>▪ Beyond the quota, each country was subject to a tariff of ECU750 per ton.</li> <li>▪ Total amount of quotas for ACP producers were set at 857,700 tons.</li> </ul>	<ul style="list-style-type: none"> <li>▪ These included Greece, Spain and overseas EU territories (Martinique, Guadeloupe, Canary Islands, Madeira).</li> <li>▪ These suppliers were allowed tariff-free entry into the European market but each region had its own quota.</li> <li>▪ Beyond the quota, each country was subject to a tariff of ECU750 per ton.</li> <li>▪ Total amount of quotas for EU producers were set at 854,000 tons.</li> </ul>

Source: This table was compiled based on the information provided by Grossman (1998, 54-5).

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The EU banana regime achieved a precarious balance between divergent groups within the EU while at the same time responding to external pressures. As Christopher Stevens (2000) explains, the fragmented banana regime in place before 1993 created complex relationships and an “intricate set of interest groups” with different aims (409). Within the Commission, three different Directorate Generals (DGs) vied for influence over the banana policy. DG Agriculture wanted mainly to protect the EU producers of bananas (for instance, small-scale banana farming in Greece and Spain), whereas DG Development prioritized support for ACP producers. In contrast, DG Trade was concerned with GATT negotiations (410). The member states were also divided over what kind of regime Europe should have. On the one hand, the countries with “closed” banana regimes wanted to maintain a preferential system. On the other hand, Germany and Belgium preferred an open regime. The Netherlands positioned itself somewhere between these two groups of countries, preferring unrestricted imports of bananas but also voicing concern over the development of Surinam and the Caribbean countries.

Cadot and Webber (2002) argue that DG Agriculture, alongside Council of Agricultural Ministers, had more influence over the banana negotiations than the other directorates in the creation of a single European banana market. The authors explain that the European-wide banana regime was accepted as part of a “package deal” on agricultural issues (2002, 13-14). Belgium, the Netherlands, Denmark, and Germany—countries with relatively liberal banana regimes—were compensated on other agricultural issues. While these countries did not really have substantial banana producer interests, others such as the UK, had developed strong relationships with banana trading companies, Geest and Fyffes respectively (15). Thus, from one perspective, the 1993 European banana regime can be seen as the product of the competition between different interests within the EU (see Cadot and Webber 2002 for such an emphasis). No doubt interest-based calculations played an important role in the creation of the banana regime. But, as will be emphasized throughout this chapter, the banana regime also reflected the historical political-economic commitments EU countries felt towards their former colonies (Interviews at the EU

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Commission; see Appendix C for details). As the following discussions will emphasize, this commitment did not merely stem from the commercial benefits it provided, it also related to the EU's identity.

Despite the balance it tried to achieve, the EU's banana regime was contested straight after its formation. However, although Germany challenged this system twice at the European Court of Justice (ECJ) after 1993 (Salas and Jackson 2000, 161), the ECJ's decisions silenced the internal dissent on the new regime, essentially giving support to the European-wide regime.<sup>42</sup> Yet the EU banana regime received critical scrutiny also on the international level. With American support, the Latin American importers of bananas (Costa Rica, Columbia, Nicaragua, Guatemala, and Venezuela) once again challenged the EU at the GATT. In January 1994, with "Banana II," the GATT once again ruled in favour of the complainants (Salas and Jackson 2000, 147-9). Moreover, against the EU's wishes, the WTO panel found that the EU's regime could not be accepted within Article 24 of the GATT, which allows for the formation of bilateral and regional trade groupings as long as they meet certain conditions (48-9). The EU again blocked the adoption of the ruling by the GATT Council.

#### *Temporary Cool-down in EU's Banana Troubles*

Despite the two GATT rulings against the EU during the Uruguay Round, as the Round of trade negotiations drew closer to an end in 1994, the EU was on its way towards appeasing complainants and finding at least minimum acceptance for its banana regime in the international setting. For one thing, the EU and the ACP countries managed to extract from the GATT General Council a five-year waiver for the Lomé Convention (under Article I). Moreover, the EU offered the Latin American complainants the Framework Agreement on Bananas (BFA). These framework agreements envisioned an increase in the tariff quota for non-ACP banana

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<sup>42</sup> The ACP countries' stance on the banana issue was not without internal divisions either. Given their different production costs and conditions, the Caribbean and African banana exports disagreed on the extent to which the new regime should be preferential (Stevens 2000, 411).



#### Chapter 4: The Dispute Over Bananas

imports on a country-by-country basis and a system of import licenses (Salas and Jackson 2000, 149-150). The agreements also established “a tariff quota of 2 million tons (increased in 1994 to 2.1 million tons and to 2.2 million tons in 1995) (EU Memo 00/40 2000).” The licenses played an important role in placating Latin American countries’ concerns because these countries could issue licenses themselves and determine which “suppliers could take advantage of the EU’s import licenses” (Stevens 2000, 413). Thus, the agreements in theory would allow Latin American countries to have a relatively larger share of the European banana market. In this way, the Latin Americans positioned themselves favourably compared to American companies. Costa Rica, Columbia, Nicaragua, and Venezuela signed on to the Banana Framework Agreements, dropping their GATT complaint against the EU. With this, the EU’s banana troubles seemed well on their way to an end.

Yet, soon after the signing of the framework agreements, new developments reversed the EU’s temporary success in finding international acceptance for its banana regime. The emergence of the WTO lay at the heart of the EU’s waning fortunes. The WTO offered a strengthened dispute settlement mechanism. Due to this relatively more robust settlement mechanism, the EU could no longer block the adoption of the rulings, since a single voting member could no longer block panel findings (The United States Mission to the EU (useu) December 21, 1998).<sup>43</sup> Utilizing this new settlement mechanism, in 1996 the USA, Guatemala, Mexico, and Honduras brought a WTO case against the EU. Ecuador joined these complainants after becoming a member of the WTO.

The USA’s direct contestation of the EU’s banana regime also substantially affected the course of events. The “banana dispute” spilled over to direct US-EU relations in 1994, when the USA launched a Section 301 investigation against the EU’s banana regime.<sup>44</sup> The investigation aimed to ascertain whether the regime harmed US economic interests, as claimed by Chiquita Brands International and Hawaii Banana

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<sup>43</sup> All citations of the documents from the website of the United States Mission to the EU ([www.useu.be](http://www.useu.be)) are listed by date in the Bibliography in a separate section.

<sup>44</sup> See footnote 35 for an explanation of Section 301.

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Industry Association, two American companies whose Latin American operations exported bananas.<sup>45</sup> Although the USA did not pursue the 301 investigation and rather brought the WTO case against the EU, the petition by the two banana exporters instigated the direct confrontation between the USA and the EU over bananas. The rest of the discussions on the background of the banana dispute will centre on the question of why the USA launched the WTO case against the EU.

### 4.2 Why Did the USA Launch a WTO Dispute against the EU?

The reasons as to why the USA launched a WTO case against the EU are neither straightforward nor apparent. No doubt there was a distributional concern in the dispute—commercial interests did matter, but the extent to which they mattered is disputable. To begin with, the real economic damage of the EU regime to the US banana exporters was ambiguous. The USA, in an official document, indicated that the EU satisfied only eight per cent of its banana needs from the Caribbean market, the rest being supplied largely by Central and Latin American bananas that were marketed by US companies (The United States Mission to the EU (useu) March 18, 1997). Surely, from the US perspective, the access Central and Latin American bananas enjoyed into the European market could be improved, and hence the position of the American companies marketing their bananas could be enhanced. Yet, one can argue that both the commercial damage to the US companies as well as the opportunities for improved access were limited. As a matter of fact, the WTO ruling in 1997 found the EU banana regime cost American companies around 190 million dollars a year, instead of the initial American estimates of around 500 million dollars a year—a negligible amount in the grand scheme of US-EU trade relations. All in all, the ostensible economic importance of the issue was at best disputable, at worst

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<sup>45</sup> The other American companies who traded bananas out of the region were Del Monte and Dole. Chiquita's business was concentrated heavily on bananas, whereas the other companies had diversified their exports. Although the dispute concerned all American companies (see for instance Barclay 1999), Chiquita was the most visible complainant.

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irrelevant. Yet, if not “dollars and cents” *per se*, what motivated the American decision to elevate the disagreement with the EU to the WTO level?

The Chapter will answer this question in steps, providing partial answers that eventually lead to a synthesis of the dispute. In the first step, I will explore a dominant explanation in the literature: the USA elevated the dispute to the WTO level because certain American politicians received campaign donations from Chiquita. In the second step, I will assess a more convincing argument, which argues that the banana issue pitted the geo-political-economic ties of the USA against those of the EU. Even though the economic damage of the EU’s banana regime to the USA was negligible in numbers, the wider political-economic implications of the EU’s policy and the future *potential harm* of the EU regime were significant. However, I will contend this argument does not wholly explain the dispute because it does not dwell adequately on the multilateral dimension of the dispute. Thus as a final step the chapter will focus on the ways in which the dispute included a fight about the multilateral system.

### *4.2.1 Explanation 1: The USA Elevated the Disagreement with the EU to the WTO Level Because Chiquita was Providing Election Campaign Funds*

Some commentators have argued that the USA challenged the EU because of “soft money.” “Soft money” denotes the funds companies and individuals contribute to American political parties.

This argument, elaborated by *Time* magazine in 2000 alleges that had it not been for the Lindner family’s contributions to the Democratic Party, the banana issue would have always remained tangential (see Barlett and Steele 2000 in *Time*). According to this report, at the time the US-EU dispute broke out, Karl Lindner headed a corporate conglomeration comprising companies such as the American Financial Group, the Provident Financial Group, American Heritage Homes, and, more importantly, the Chiquita Brands International Inc, a major exporter of bananas. As Chiquita’s profits

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plunged in the early 1990s, *Time* reports that Lindner blamed the European regime. Thus, Lindner initially pressured the USTR to launch a Section 301 investigation, and later in 1998 he pressed for retaliatory measures against the EU.

While it remains difficult to prove a direct causal link between campaign contributions and the USTR's decision to launch a dispute on the WTO level, one can deduce that a domestic dimension to the dispute existed. First, there was undoubtedly pressure on President Clinton and the USTR to act on this issue; that is, to hold the EU accountable by pressing for retaliatory measures. For instance, in October 1998 Newt Gingrich and Trent Lott put pressure on President Clinton in a letter, threatening Congressional action against the EU if the USTR did not pursue retaliatory measures (cited in Salas and Jackson 2000, 155). *Time* states that Lindner was not only cosy with the President, but he also had influential allies from Congress, such as Trent Lott, John Glenn, and Jim Bunning. Rich and influential interest groups can permeate the congressional structure, since members of Congress depend on funds for their campaigns and votes for their re-election. The banana case reveals this fact. While it is unclear to what extent these individuals campaigned against the EU's banana regime simply based on their ties to Lindner, one can safely suggest that Congress accelerated confrontation with the EU. Even if one accepts that soft money played a role, it is a different matter to argue had it not been for soft money, the dispute between the USA and the EU would not have existed. That sort of a counter-factual analysis underestimates the importance of the fact that the USTR felt they had a "legitimate" case (Interview with former US trade official). The rest of the chapter explores why the USA felt their case was legitimate, or at the very least worth a fight at the WTO.

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### 4.2.2 Explanation 2: *Geo-political-economic Competition for Influence Between the USA and the EU*

The USA launched a high profile dispute against the EU over the bananas because of geo-political-economic interests. These geo-political-economic interests were two-fold.

#### *Potential Commercial Harm*

First, the USA found the *potential harm* of the EU's banana regime high enough to challenge it on the multilateral round. As emphasized above, the actual economic dimension of the dispute was not overwhelming. But, the potential political as well as economic harm of the EU's politics was substantial. The USA perceived itself being closed out of its traditional markets. Hence Chiquita's interests collided with the interests of the state, represented by the USTR. Not only did a non-state actor, Chiquita, seek to remedy its vulnerabilities in the face of a globalizing world market, but at the same time the state took the opportunity to pursue the case of this one company because it found the case compelling for the overall interests of the state. Recalling a point made in Chapter 2, the company was *de facto* serving state interests. Both Chiquita and the representatives of the American government regarded the EU as a rival with a plan to seek commercial gains at the expense of American companies. Chiquita's then President, Steve Warshaw remarked that:

It is well accepted that the EU's banana regime was *especially designed to expropriate market share from the U.S. banana interests to benefit European multinationals and other interests within the European market.* (cited in Barlett and Steele 2000, emphasis added)

Chiquita perceived that the European regime at best disregarded and at worst threatened American interests purposefully. Moreover, according to this perception the European regime served nothing but the interests of the EU. USTR statements

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suggest that the USTR also saw the EU system as solely benefiting European interests and with an aim to harm non-EU interests:

Prior to the implementation of the EU banana regime in 1993 nearly 100 percent of bananas exported by Latin America to Europe were distributed by U.S. and other non-EU companies. The EU also knew that EU companies controlled nearly all banana shipments from the ACP and EU domestic territories...The EU's licensing system transferred one-half or more of a U.S. or Latin American companies' import rights to principally EU firms. (The United States Mission to the EU (useu) March 18, 1997)

From the USA's perspective, because the EU had designed a system to expropriate American profits and transfer them to the hands of European companies and their counterparts in the former colonies, Chiquita's problem became the USA's problem, convincing US policy-makers of the legitimacy of their case. The *potential* commercial harm of the EU's policy was evident to the Americans, making the banana dispute a worthwhile fight.

#### *Geo-political-economic Competition Between the USA and the EU*

Second, it was not just merely the potential commercial harm of the EU's regime that alarmed the Americans but its wider geo-political-economic implications. The bigger fight the USA waged in the banana dispute was to keep the Western Hemisphere as a secure source of commercial gains. In order to demonstrate this point, one needs to examine Chiquita's historical importance for the USA.

Chiquita, a major exporter of bananas from Latin America, was not just any American company. Chiquita emerged from the ashes of the United Fruit Company (UFC). UFC was a corporate giant, which produced and shipped bananas and other foods from Central and Latin America. "During the mid-1900s era of rising U.S. hegemony, United Fruit became a significant political as well as economic force in the [Western] hemisphere" (Raynolds 2003, 26).

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The UFC was not just any banana empire; it had huge political influence in the domestic politics of the countries from which it traded. From the beginning of the twentieth century, in order to keep its banana business healthy, it intervened in the domestic politics of Central and Latin American countries, sometimes on behalf of the US government. The company's shipping boats, known as the "Great White Fleet," even defended the USA in World War II (McCann 1976, 24). The company's ties to the American government constituted a point from which the Americans intervened in the economic and political affairs of Central and Latin America.

Thomas McCann, a former Vice-President of the UFC, has narrated the historical relationship between the company and the American government. McCann writes that by 1952, five decades after its formation, the UFC had created an empire that not only employed workers in Central and Latin America (especially in Guatemala and Costa Rica), but also owned companies that sold houses, clothes, hardware, and groceries to these employees and others. Spreading from bananas to other goods, the company had infiltrated the economic and social structure in those countries. The maintenance of the company's imperial position also required the penetration of the political structures in these countries. For instance, the company got involved in regime change in Guatemala. McCann's description of the company's response to Guatemala's planned land reform summarizes the company's then relationship with the country:

[It] was related to the expropriation of [the company's] lands...The Department [of public affairs of the UFC] had only one task: to get the word out that a Communist beachhead has been established in our hemisphere. Our efforts would contribute eventually to the overthrow of the Guatemalan government. (1976, 45)

The land UFC owned and operated from in Guatemala was especially valuable because it was the company's primary site of development activity, given the country's banana-conducive land and weak government, both of which allowed for the company to grow with ease.

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However, as McCann reports, UFC's fortunes turned around when Jacob Arbenz became president of the country in the early fifties with a plan for land reform. McCann explains that the land reform's "obvious purpose was to break up large land holdings, and the company properties more than met that definition" (45). Thus, the UFC began a campaign against the Arbenz government. The UFC's quest to protect its profits intersected with the American concern to keep Guatemala free of communism. Ed Whitman, the company's main public relations person, is quoted by McCann to have claimed that "whenever you read 'United Fruit' in Communist propaganda, you may readily substitute 'United States'" (1976, 50). While no doubt the American government had an interest in keeping Guatemala free of communism regardless of the UFC, the aim of protecting UFC profits contributed to the general struggle to protect American national interest in the country. The end result was that the Arbenz government was toppled. McCann writes that:

I can't really say whether the company was the prime mover in what followed [change of government in Guatemala], or simply the prime beneficiary. In any event [the CIA] mounted a secret invasion of Guatemala, and [the UFC] was involved at every level. I was even told the CIA even shipped down the weapons by Fruit Company boats. (1976, 59)<sup>46</sup>

Historically speaking, American political and economic interests were served through the company, which in turn enjoyed access to American presidents and other high-level officials. In 1959, as the largest landowner in Guatemala, Costa Rica, and Honduras, "[in] word and deed, United Fruit mirrored American economic and political determinism" (McCann 1976, 160). In the end, the tight collusion between UFC policies and US governmental policies were broken when the UFC went bankrupt both financially and reputation-wise (McCann 1976). Already as early as 1954, the US Department of Justice had sued the company under anti-trust laws, challenging its monopoly status (Bucheli 2003, 91). According to McCann, the UFC's declining finances were hurt, among other factors, by reduced shareholder

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<sup>46</sup> Other accounts in Moberg and Striffler 2003, 6, provide a similar synopsis of the involvement of the UFC in Guatemala.



#### Chapter 4: The Dispute Over Bananas

trust in the company and the growing exposition of the company's dubious (or, dark) role in the politics of the "banana republics." Moreover, the US Securities and Exchange Commission (SEC) revealed the bribing of the President of the Republic of Honduras in exchange for reductions on export tax on bananas. The SEC also uncovered the making of payments in Italy to retain the company's advantageous position (1976, 233). Following these stabs at its finances and already broken reputation, the UFC lost its powerful allies within US politics and economics by the seventies (date inferred from McCann's book).

The point of the above discussions is not to assess the role of Chiquita from a normative perspective, but rather to highlight the nature of the USA's historical political-economic links with Central and Latin America. From a certain perspective, the UFC can be regarded as the exploitative capitalist machine. A different perspective could highlight the company's contribution to the local economies through its factories and help with the building of roads, railways, and houses. It is also crucial to acknowledge that "throughout most Latin America and the Caribbean, it was rarely possible for even the most powerful and infamous expression of foreign capital—the United Fruit Company—to simply dictate the terms of its presence" (Moberg and Striffler 2003, 2-3). The disputable moral dimension of the role of the corporation is beside the point here. The point is that until it lost its reputation and became an embarrassment, the UFC contributed substantially to maintaining US economic and hence political ties with Central and Latin America.

Overall, the story of the UFC demonstrates that the US policy in the Central and Latin American region has historically been endorsed and pursued by regional American companies, the UFC being the most visible but by no means the only one of such companies (Dole was another one).<sup>47</sup> Moreover, American policy towards

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<sup>47</sup> I should also re-emphasize here a point already alluded to above: Obviously, American interest in the region was historically neither solely to protect UFC interest nor was it exclusively expressed through the UFC. As a matter of fact, as Zevin neatly demonstrates, American expansion aimed at the Western Hemisphere from the early days of the foundation of the Republic. Some examples to this

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these countries in the Western Hemisphere has traditionally aimed to keep them politically and economically within the American sphere. This observation, in turn, emphasizes a larger point: private companies such as the UFC were not merely private in that they *served state interests* as well at times. To invoke the discussions in Chapter 2, such private actors *de facto* contributed to the state, even functionally serving as the state at times. Thus, when the US government decided to pursue Chiquita's request for a Section 301 (which eventually led to the dispute on the WTO level), it was *partially* acting based on historical-political ties with the Central and Latin American region which emphasized the geo-political-economic dimension of the dispute.

The timing of the USA's complaint at the WTO also highlights the importance of the geo-political-economic dimension. As mentioned above, the EU's banana regime, which allegedly harmed American interests, was incorporating the Latin Americans into its network through the Banana Framework Agreements (BFAs). Through the BFAs the Europeans had successfully bargained with Latin Americans, granting them a potentially more advantageous position (through the licensing arrangements) vis-à-vis the American companies (Stevens 2000, 413). The fact that the USA launched Section 301 investigations also against Costa Rica and Colombia, which had signed on to the BFA, provides further evidence to this point. Such Section 301s would potentially deter more Latin American countries from signing on to the agreement. Two other countries, Venezuela and Nicaragua, had signed BFAs but had not implemented them. From the US perspective, the EU had designed a banana regime that "discrimant[ed] against U.S. firms exporting bananas to the EU" (The United States Mission to the EU (useu) January 9, 1995, Document 95-04). In this regard, there not only existed an EU regime that the Americans perceived to counter their own interests but this regime also began to spread its way through the Latin American continent through the BFAs. In this regard, the USA saw the EU as

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extension include the Louisiana Purchase in 1803, the annexation of Texas, reciprocity treaties with Mexico, Cuba, Puerto Rico, the British West Indies, Santo Domingo, Colombia and El Salvador (Zevin 1972, 323-326). Over such territories the USA fought with well-established imperial powers. It was clear that for the emerging superpower, the Western Hemisphere was perceived as and soon became a backyard, essential to the maintenance of internal American dynamics.

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infiltrating the Western Hemisphere markets, which had traditionally been under US influence. This perception (and the reality of it) strengthened the USA's motivation for launching the dispute.

Interestingly, then, the banana dispute—a fight in the twentieth century—pitted the historical geo-political-economic ties of the USA and the EU against each other and revealed the challenges in maintaining these ties in a globalized economy. The EU's attempts to preserve its banana regime, as already alluded to, were essentially an effort to maintain its geo-political-economic links to its traditional “sphere of influence.” As explained, the preferential EU banana regime dated back to the days of European empires. The European countries did not see the banana regime merely as a tool to maintain their unique ties with and influence over their former colonies. They also regarded it as an essential component of the way in which they saw themselves as providing for these junior partners.<sup>48</sup> I re-visit this point below. The EU regime's political economic interference with the American geo-political-economic sphere highlighted the potential harm of the regime.

### *4.2.3 Completing the Picture: A Fight about the WTO*

The discussions now turn to explore how other long-term ramifications of the EU's banana regime also provided cause for a fully-fledged dispute. *The main contention here is that the banana dispute evolved to be primarily about the WTO and reining the EU in to the WTO.* In order to explore how the banana dispute involved a fight about the WTO and the EU's terms of inclusion into it, the analysis focuses on what happened after the WTO ruling in 1997.

In May 1997, in response to the plaintiff countries, the WTO panel found the EU regime to be in violation of GATT and GATS rules. In essence, the WTO found the EU non-compliant not because of the preferential access the EU regime provided to

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<sup>48</sup> The interviews I conducted on this issue emphasized the importance Europeans placed on the role the banana regime played in the development of their former colonies (see Appendix C for a list of interviews).

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the former colonies; rather, the WTO found the licensing system and the methods for determining this system as well as ACP country-specific quotas illegal (Raynolds 2003, 46). In September 1997, the WTO Appellate Body upheld the findings of the panel, leading to the adoption of these decisions by the WTO Dispute Settlement Body (DSB). In January 1998, the WTO arbitrator indicated the EU needed to comply with the ruling by January 1, 1999 (The United States Mission to the EU (useu) December 21, 1998).

In January 1998 the European Commission's approval of a proposal to reform the banana regime towards meeting WTO demands, later adopted by the Council of Agricultural ministers, alarmed the USA. From the USA's perspective, this new proposal did not resolve the WTO-incompatibility of the EU's system. The new EU regime, to go into effect on January 1, 1999, would be "based on 2.553 million tons tariff quota with an additional quantity assigned globally to the ACP." The criticisms of the new regime stemmed primarily from the presence of a quantity exclusive to the ACP and the preservation of the licensing system (EU document April 11, 2001, No. 27/01). A statement issued by the USTR claimed this European proposal was "primarily cosmetic" (The United States Mission to the EU (useu) July 1, 1998).<sup>49</sup> The adoption of a reformed system by the EU, still unacceptable to the USA, seems to be the point where the USA changed negotiation tactics and raised the stakes involved.

After that point the USA turned the battle into one over "good" (multilateralist) versus "bad" (unilateralist) reputations at the multilateral arena. The USTR emphasized that the struggle the USA was waging was no longer about the protection of American banana exporters. Rather, it was about the legitimacy of the WTO. The USA advanced its own past record of compliance as a reason alone for European

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<sup>49</sup> Moreover, the USA appeared frustrated with the perception that the EU stymied US efforts to bring its reformed banana regime under scrutiny immediately after its adoption. As an USTR document asserted, since the Agriculture Council accepted the Commission's proposal for reform of the banana regime, the EU had blocked efforts to reconvene a WTO panel to judge the compatibility of the EU's new regime with the WTO (The United States Mission to the EU (useu), January 12, 1999).

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compliance. USTR's Peter Scher contended that the USA's attitude towards the WTO contradicted that of the "delinquent EU"s:

in the three cases which the [USA] lost in the WTO, we are in compliance with the findings in each case. We withdrew offending practices within the reasonable time period, and we did not try to replace those with more WTO-inconsistent measures. (The United States Mission to the EU (useu) November 19, 1998)

Similarly, on another instance, the USTR's office put the whole WTO system on the table by claiming that: "If the global system is to have credibility, if it is to retain public confidence, if it is to work as a global rules-based system, when you lose you comply" (The United States Mission to the EU (useu) March 3, 1999). Here, the USA emerged as a defender of the multilateral system through the WTO and portrayed the EU as a violator of its multilateral commitments. This polarization of images raised the stakes. A failed dispute would have damaged the EU's overall reputation.

The struggle between the US Executive and Congress further emphasized the WTO dimension of the fight. The USTR struggled to tie the EU in to the WTO and compel it to comply with the ruling not just because of the interests involved on the international level but also because the Executive needed to demonstrate to Congress that the WTO could serve as a legitimate platform for disputing and winning on crucial issues (Interview with US official). The Clinton administration had already lost a battle with Congress over Trade Promotion Authority (TPA: known as "fast-track"; see Chapter 2 for explanation). Because the USTR's priority was to regain fast-track authority, it had to appease Congress. As a result, it could not hold off retaliating against the EU, since Congress paid close attention to trade disputes with the EU. With pressures from Congress, the USTR resorted to retaliation, suspending trade concessions on key European products.

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Thus, through the banana dispute the USA did not merely try to protect its interests. It also struggled to integrate the EU into the new multilateral framework of the WTO. The USA had to ensure that the EU did not jeopardize American interests on this newly created multilateral institution. After all, the EU, with its strong regional preferences and its unique style of maintaining ties to other regions, altered multilateral dynamics.

However, when the US imposed retaliatory measures on the EU, it also presented the EU with an opportunity to claim the USA was the one being “unilateral.” In order to legally seek compensation under WTO rules, the USA would have to rely on Article 22.2 of the DSM, which outlined the way in which “compensation and suspension of concessions” could occur. Under this article, in January 1999 the USA asked the DSB to authorize the suspension of “tariff concessions and related obligations...covering an amount of US\$520 million” (WT/DS27/ARB 1999, 1).<sup>50</sup> In order for the WTO to rule on the level of suspension, it would need to be in a position to judge the reformed EU banana regime. According to the DSB, “setting the level of nullification or impairment may require consideration of whether there is a nullification or impairment flowing from a WTO-inconsistency of the new banana regime” (WT/DS27/ARB, 10). When the USA decided to retaliate, the WTO DSB was still in the process of trying to determine the amount of the damages American businesses suffered because of the EU’s regime (*The Economist* March 6, 1999).

The EU rejected the US move towards retaliation, labelling it as “unilateral,” since the WTO decision on the amount of the damages was not yet determined. In a letter to the WTO, the EU claimed that the USA had decided to impose trade sanctions “despite the absence of any *multilateral determination* that the EC implementing measures fail[ed] to comply with the DSB recommendations and rulings” (WT/DS27/40 1998, 2, emphasis added). The US move to retaliation allowed the EU to participate more effectively in a “reputation struggle.” In the spirit of previous

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<sup>50</sup> All WTO documents are cited by their official abbreviations and listed under “WTO Documents” in the Bibliography.

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statements from the USTR's office, Stephen Byers, the then UK Secretary of State for Trade and Industry, claimed the USA's move to retaliation risked the whole WTO system:

[The US action] is completely unauthorized by any WTO procedures and wholly ignores the arbitrator's appeal for discussions to continue. Even now, it is not too late for the United States to reverse its decision. It should do so, in the interests not only of the EU-US relationship *but to safeguard the whole framework of dispute resolution and settlement within the WTO*. (cited in Barclay 1999, 19, emphasis added)

The commencement of the "reputation struggle" between the two powers with the legitimacy of the WTO on the table marked the beginning of the winding road to the end of the dispute.<sup>51</sup>

#### *Loopholes of the WTO system*

The infancy of the WTO perhaps delayed the ending of the dispute, allowing both sides to manipulate the system in accordance with their own wishes and desires. Once the USA announced its decision to act under Article 22 for the imposition of retaliatory measures, the EU alleged that Article 21.5 was a prerequisite to act under Article 22. Article 21.5 of the WTO indicates,

Where there is disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings such dispute shall be decided through recourse to these dispute settlement procedures, including wherever possible resort to the original panel. ([www.wto.org](http://www.wto.org))

In December 1998, the EU requested the WTO to convene a panel under Article 21.5 "with a mandate to find that the above-mentioned implementing measures of the [EU] must be presumed to conform to the WTO rules unless their conformity has

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<sup>51</sup> Later on in July 2000, a WTO panel found that in the imposing of retaliations, the USA had acted "prematurely" (*The Economist* July 20, 2000).

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been duly challenged under the appropriate DSU procedures” (WT/DS27/40 1998, 2). Thus, the EU sought clarification on the relationship of Articles 21.5 and 22, exposing a legal loophole in the WTO dispute settlement mechanism. While the battle over the interpretation of Article 21.5 carried on, the EU objected to the level of trade suspension the USA planned to impose. As *The Economist* pointed out, ambiguous guidelines for compliance in rulings constituted a pitfall of the WTO system, leading to divergent interpretations of the WTO requirements (*The Economist* March 6, 1999).

### 4.3 The Resolution of the Dispute?

Once the dispute involved the legitimacy of the WTO, it was the beginning of the end for the dispute. Retaliation accelerated this process of resolution. The list of European products to which the USA began to apply increased tariffs (that is, suspension of concessions) included high-end European goods, such as cashmere products and handbags (The United States Mission to the EU (useu) December 12, 1998). The targeting of certain European sectors increased pressures from within the EU to find a resolution to the dispute for the sake of the removal of the retaliatory barriers.

All parties finally agreed on a regime in April 2001, officially ending the dispute. This regime is summarized in Table 12 below. The chapter will later argue that this arrangement fell short of a resolution. Nevertheless, for the purposes of the WTO system, the banana dispute had ended. As Table 12 shows, the new regime reserved Quota C solely for ACP bananas (April 11, 2001, No 27/01). Under this system, companies would receive licenses to fill quotas based on their imports from 1994-1996. All quota levels would be open to bananas of any origin, with ACP countries having a “tariff preference both within and out of quota of euros 300/t” (April 11, 2001, No 27/01). The revised system (see Table 12) became effective from July 1, 2001 and the licenses were allocated on the basis of historic import volumes in 1994-



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1996. The second step of the system, to go into effect in 2006, planned to create a flat tariff regime only.<sup>52</sup>

**Table 12- The Revised EU Banana Regime**

<b>The Revised System, transitional, Step 1:</b>	
Quota A	2,200,000 tons at a tariff of euros 75/t
Quota B	353,000 tons at a tariff of euros 75/t
Quota C	850,000 tons at a tariff of euros 300/t
<b>The Revised System, Step 2:</b>	
Quota A	2,200,000 tons at a tariff of euros 75/t
Quota B	453,000 tons at a tariff of euros 75/t
Quota C	750,000 tons at a tariff of euros 300/t

Source: April 11, 2001, No 27/01.

Under Article I of the GATT, the EU was able to continue tariff preferences for ACP imports, while Article XIII permitted the reservation of Quota C (see above) for ACP bananas (April 11, 2001, No 27/01). In order for Quota C to be reserved solely for ACP bananas, the EU had to obtain a waiver under GATT Article XIII. The Commission successfully obtained this waiver at the Fourth Ministerial WTO meeting in Doha in November 2003. The WTO did not actually find the European preferential market access to the ACP countries non-compliant—in fact, with a waiver the WTO allowed the EU to be legally non-compliant—rather, the WTO simply objected to the way in which this preferential access was administered via licenses. As of October 2005, the EU had applied to have its waiver renewed at the WTO. Although the decision is pending at the time of the writing, there is no reason to assume the waiver will not be renewed.

The end of the dispute emphasized the importance of the WTO as a platform for dispute settlement. It also saw the reining of the EU in to this platform. Yet, it left some key tensions inherent to the dispute in tact. The ending of the resolution meant

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<sup>52</sup> During the writing of this dissertation, negotiations for this tariff regime are still underway. It has been so difficult for the EU to come up with a regime acceptable for both the ACP and the Latin American banana producers that the WTO arbitration will determine the appropriate level of the tariff. The USA is no longer a party to these ongoing disputes (BBC September 26, 2005).

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the WTO had survived a crucial test. During the protracted banana dispute, the US-EU relationship progressed from the less structured grounds of the GATT to the relatively more firm multilateral level of the WTO, equipped with a strong dispute resolution system. Specifically, when the legitimacy of the WTO was at the table, both the USA and the EU moved towards a resolution, maintaining the status of the WTO as the only multilateral platform for trade disputes.

##### *The EU's Growth as a Multilateral Actor*

Through the dispute, the EU grew more cognizant of crime and punishment in the multilateral system.<sup>53</sup> As Stevens (2000, 415) states, the dispute demonstrated to the EU that its “trading agreements could no longer be passed ‘on the nod,’ and would need to be justified in the multilateral fora.” As the banana issue wound down, the EU more readily embraced its multilateral commitments, woven into the rhetoric of free trade. On the one hand, the end of the dispute coincided with the ascendance of the new trade commissioner, Pascal Lamy. Lamy’s emphasis on global trade impelled the resolution of the banana dispute. Yet, Lamy’s personal motivation represented a more general shift in the EU’s stance towards trade. By the end of the dispute, the EU had already begun to calculate and think in terms of the multilateral agenda. Thus, it is no coincidence that the resolution of the banana dispute preceded the launch of the Doha Round. As a matter of fact, Lamy envisaged it would be difficult to receive American support for a new round of trade negotiations with the banana dispute lurking in the background. Marking the end of the banana dispute, Lamy commented in an interview that “the EU and the US have a common interest in working together to advance the trade agenda worldwide” (Lamy 2001). Such remarks signalled that the EU would be pursuing its goals on the global level, not on a local or regional level.

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<sup>53</sup> By the end of the dispute not just the EU but also the ACP countries more readily accepted the WTO framework (Interview with EU officials).

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Nevertheless, the end of the dispute left intact important tensions which had triggered the dispute in the first place. To begin with, although keen to resolve the dispute after many years, the EU Commission did not judge the resolution of the dispute to substantially challenge the EU's preferential system towards ACP countries. As Commissioner Franz Fischler explained, the new regime's level of preference

will protect ACP interests without involving a level of tariff which would be prohibitive. In case this assessment proves to be wrong, the Commission will have the power to reduce the maximum level of tariff during the year should this prove to be necessary. The Commission's intention is, on the basis of the most up-to-date information, to *establish a level of tariff which would provide a level of protection and hence of trade which is as close as possible to that provided by the system of tariff quotas.* (cited in December 20, 2000 No.83/00, emphasis added)

Fischler's comments, to some extent, signify the perpetuation of the EU's historical-economic responsibilities towards the ACP countries alongside a desire to fulfil WTO requirements. As discussions in this dissertation will suggest, the role of development in the EU's trade policy is not wholly clear and sometimes there is a tension between the two policies (in cases where liberalization means fewer benefits to the EU's developing country partners, or in cases where the EU does not allow adequate market access to developing countries). In fact, some commentators have remarked that the banana dispute revealed that the EU's trade policy and development policy remain at odds (Paemen 1999). While the extent to which EU policies benefit these regions (and how other EU policies, such as its closed agricultural markets, may jeopardize them) remain open to dispute (see Borrell 1994), the commitment the EU feels towards these regions runs deep (this point was emphasized in the interviews).

Thus, the EU's change of focus to the multilateral arena did not mean sub-multilateral goals would be discarded. Rather, the EU envisioned the incorporation of such commitments into the multilateral level. In this spirit, the Cotonou Agreement of 2000, which included the new ACP-EU Partnership Agreements,

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aimed to retain the EU's preferential ties with the ACP region, while rendering them WTO-compatible. Nevertheless, this rapprochement was not to be without its caveats, as the nature of the EU's commitments, such as development goals woven into trade policy, remained fundamentally at odds with the non-preferential opening up of the banana market by the WTO. Chapter 6 explores the EU's bilateral and regional trade agreements in greater depth. Here, it suffices to say that the resolution to the banana dispute, without leading to a shift in the EU's intentions or attitudes, rendered the EU regime WTO-compatible by incorporating the EU's unique character with its special regional and global ties into the WTO framework.

The USA's attitude towards the inclusion of the EU's special and preferential ties into the WTO in the aforementioned manner contained some contradictions. On the one hand, the USA claimed it did not contest the EU's preferential ties *per se*, but rather the extent to which they were employed by the EU to block off American companies. As one official US document contended, "[the USA] has never advocated a policy that would reduce the size of the EC market for bananas from developing countries, including the ACP" (The United States Mission to the EU (useu) November 1998 Discussion Paper). The USA claimed its major problem was with the licensing system as well as tariff rated quota system and found it acceptable to have higher tariffs for non-ACP bananas (The United States Mission to the EU (useu) November 1998 Discussion Paper). On the other hand, as the discussions above highlighted, the fight was ultimately about the fact that the EU provided a preferential system. Hence a European diplomat's diagnosis of the issue was that "the US says they don't mind our preferential treatment, but they are not ready to accept its consequences" (Paemen 1999). If the fight was just about the WTO, the USA had won. If the fight also involved rendering the multilateral trading system immune to influence from the EU's presence, there seemed to be no clear winners and losers.

The chapter will now turn from an account of the dispute to its implications for the concerns of this dissertation.

#### 4.4 The Banana Dispute and Globalization

The exploration of how the two powers have (tried to) impact(ed) upon globalization in divergent ways requires an examination of the way in which the banana dispute involved globalization. In other words, the examination of how the USA and the EU differed in their impact on the WTO requires an analysis of how the dispute involved “manifestations of globalization.”

##### *Manifestations of Globalization*

Chapter 1 summarized that one of manifestations of globalization is the increasing importance of international organizations. As the above discussions emphasized, the banana dispute contained a struggle on the part of the USA to utilize the WTO as *the* platform for settling the dispute. The WTO presented the USA with an opportunity to rein the EU in. Both powers, as argued above, utilized the WTO platform to pursue their goals. In doing so, not only were both powers pursuing their interests more effectively. They also at least partially yielded to the views embodied in this institution. Both the USA and the EU had to concede conditions against their interests and wishes. While the USA allowed the inclusion of the EU’s preferential ties on the multilateral forum via WTO waivers, the EU agreed to revise those preferential ties in accordance with WTO rules. Although the geo-political-economic tensions embedded in the banana dispute are historical, the presence of the WTO reshaped this aged fight.

Beyond this institutional symptom of globalization, the dissertation suggested that the enhanced interdependence of the world today, in other words the extent and the intensity of links between different regions, creates “hyper-interdependence” (Chapter 1 Table 1; Chapter 2). The banana case produces mixed observations in regards to “hyper-interdependence.” On the one hand, the USA and the EU maintain their own set of unique links with their preferred partners. Because the two powers’

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geo-political-economic links remain sub-global, disconnected units within the global political economy persist. On the other hand, the impact of the WTO's decision, which is triggered by the contestation of the EU's policy by the USA, has long-term institutionalized ramifications for countries in the ACP region. The EU's preferential trading system for ACP countries does not just comprise bananas. It also includes sugar, rum, rice, beef and veal (The Cotonou Agreement).

Also important for discussions on globalization, non-governmental actors have played an important role in the banana dispute. The chapter did not discuss all of these actors, but it argued that the influence of these non-state actors, such as Chiquita, remains closely linked to the fact that their goals coincide with those of the states'. Therefore such non-state actors are empowered not by global forces but rather by domestic opportunities. For instance, American laws allow for countries to petition the US government for action against other states. Yet the repercussions of this domestic empowerment have been global.

The manifestations of globalization accentuate the fact that different issue areas overlap and inter-relate (Table 1). The banana dispute allows for the examination of this provision. In this case, trade and development concerns (such as poverty relief through preferential trade ties) are intertwined. True, this is not a new phenomenon engendered by the current phase of globalization—for instance, the British Empire had all along regarded its banana regime as aiding poor countries in the ACP region. However, what marks the global-ness of the issue is that while previously it may have been possible to address the development aspect of the European banana regimes separately from the trade angle, this is no longer possible. The difficulty of tackling those issues separately does not simply stem from the fact that the WTO provides a platform for making rules on trade and has not yet managed to incorporate development concerns. It also stems from the fact that in the global era the interdependence of economies and the pressing need to address key issues on a global basis (development is an example) makes it difficult for actors to differentiate solutions to inherently linked problems.

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Finally, the dispute revealed how the EU could no longer deal with intra-EU matters solely with concern to intra-EU considerations. The transformationalist literature refers to this phenomenon as the diminished demarcation between “domestic” and “foreign” (see Chapter 2). This “domestic” and “foreign” is not to be confused with the way in which I utilize these terms below in assessing the “core of the dispute.” Rather, as above discussions have alluded to, the banana dispute underscored the pressures on the different EU states not to simply conform with EU regulations, but also to multilateral ones. The bargains struck at one level may be incompatible with other levels (see Putnam 1993a and Chapter 2).

In sum, the banana dispute provides insights into the “manifestations of globalization.” Did the USA and the EU impact upon globalization divergently? If so, how strong was their divergence?

### **4.5 The Analysis of the Dispute Along the Dimensions of the Dissertation**

The dissertation postulated that two variables—the “core of the dispute” and the presence of “competing outlooks”—could focus the analyses in the case studies and allow for a more systematic comparison (see Chapter 1). These two variables help explore whether the powers produced “rival globalizations.” The narrative of the dispute has already alluded to these key variables but here the discussion will directly engage with them.

#### *4.5.1 The Core of the Dispute: Foreign Policy*

The dispute at its core stemmed from a foreign policy of the EU. This foreign policy found both strong acceptance (as discussed, France and UK were ardent advocates of the EU’s preferential market access to their former colonies) and opposition (Germany and other countries did not prefer this closed system for the market of bananas) within the EU.

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The fact that the banana dispute remained a foreign policy issue essentially allowed the Commission to push for compliance with the WTO. This push for compliance was far from being straightforward and unequivocal. Nevertheless, the Commission kept to its course of WTO compliance without abandoning its historical-political-economic commitments and habits. Because the issue was a foreign policy one, the EU was open to modification of some of its policies and rules, as domestic constituencies (with the exception of small banana producing communities in Greece and Spain) favoured an end to the dispute. The American strategy of aiming at certain sectors, such as the Scottish cashmere industry, in its retaliation played a role in compelling WTO-compliance (Interview notes emphasized this point; Barclay 1999 narrates the pressure from the cashmere industry on the UK government). Such industries pressured the EU towards compliance with the WTO for the sake of lifting of the retaliatory barriers.

While emphasizing “retaliation” as a weapon used towards formal resolution, the dispute also contained clues as to how retaliation could be futile in a different context. In this case, retaliation worked because the EU responded more swiftly to the retaliatory card than it did to the diplomatic pressure the USA imposed. The EU’s frustration with having products with no connection to the banana dispute placed on the USA’s retaliation list accelerated the road to resolution. The EU responded to retaliatory pressure because the banana issue was relatively unimportant due to the lack of adequate public/private pressure within the EU to leave it unreformed.

Yet, it is hard to assess to what extent the “core of the dispute” instigated an end to the dispute because other factors were at work. As already explained, the legitimacy of the WTO was at stake, with a new multilateral round of trade negotiations pending. Moreover, a movement within the EU to revise EU-ACP relations had already been underway. The thinking in the EU had already begun to show a shift in favour of the WTO ruling even before the banana dispute rulings in 1997. The 1996



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Green Paper on EU-ACP relations expressed this change of mindset in the EU as follows:

As the 21<sup>st</sup> century nears, the Union must redesign its aid policy towards the ACP countries from scratch, not only as a result of changes in the economic and political conditions governing development or rapid development in other regions of the world but because Europe's motives are no longer the same. (1996, 11)

The same report explained that

The value of the Lomé trade preferences has, however, declined, and stands to suffer further erosion, as a result of multilateral liberalization (with the implementation of the Uruguay Round agreement), pre-accession arrangements with the Central and Eastern European countries, and the surge in EU-centered, regional trade agreements. (17)

The Lomé preferences, as the report captured, had over time become less valuable because in the first place the nature of the world economy had altered with increased interdependence, namely globalization. In addition, as the quotes above suggest, the EU's expansion has created new responsibilities towards new regions. There has been fear in some circles that the 2004 European enlargement has further accentuated the shift in EU's policy away from the ACP countries, making it easier for the Commission to overlook ACP interests (Interview). The EU's strongest links can no longer be said to be with its former colonies, as the Union has enhanced its geographical reach. In this regard, a shift occurred from the ACP region to the continent of Europe and its neighbours, without severing ties with the ACP. This point is explored in greater detail in Chapter 6.

It was not just that the multilateral challenges to the EU's banana regime made it a liability, it was also that the EU had already assessed the need to revise its regime in order to render it more suitable to the era of globalization. Coupled with the

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domestic sector's opposition to the hurt brought by the US retaliation, the EU moved towards the revision of its regime in alignment with WTO demands.

### 4.5.2 *Competing Outlooks*

Nevertheless, the dispute revealed and left unchanged a number of “competing outlooks” between the USA and the EU. First, the EU's outlook on the role of trade policy in the ACP has remained the same in essence. As the chapter emphasized, the EU has regarded preferential access to its banana market by its former colonies as serving some development goals. As already discussed, the EU has internally questioned the efficacy of preferential trade in aiding development and has recognized the mixed results (Green Paper 1996). Yet it has maintained a development angle in its trade policy (see also Chapter 6 on this point). Moreover, the EU's external image remains closely linked to such ties in the developing world. The Green Paper on EU-ACP relations also emphasizes this point:

ACP-EU relations are still a key part of the Union's identity. The post-colonial era is coming to an end but *our responsibilities towards the ACP countries continue*, for deep rooted reasons. (ii, emphasis added)

As a force for stability, a model of cooperation and regional integration, a leading trading power and the largest single source of official development assistance, the Union has a major role to play in the development of less fortunate regions. (6)

It is not just that the EU's ties with the ACP region retain their important implications for the EU's identity but also they signify the importance of commercial ties. The Green Paper expressed such an interest in unequivocal terms: “Tomorrow the ACP states might enjoy significant economic growth so it would be very short-sighted to reduce the weight of Europe's influence there” (38). Chapter 6 further explores this kind of a juxtaposition of commercial and philanthropic interests.

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Second, the banana dispute also highlighted the different nature of the USA's and the EU's geo-political-economic ties. In other words, their unique geo-political-economic links differed qualitatively as well. As a regional unit, the EU relies on relatively more formalized regional ties. Its policies, as Chapter 6 will emphasize, have essentially created the ACP as a region (Schmuck 1990, 49). The USA, on the other hand, utilizes private company power to maintain ties with different regions. Trade that the company has generated contributes to the development of those regions. In this sense, the American perspective maintains that open borders naturally facilitate development. The positions the USA and the EU have adopted in the role development should play in trade policy towards weaker third parties, as revealed in the banana dispute, underscores their divergent outlooks. If globalization is about the spreading and deepening of interdependence (see Chapter 1), the banana dispute reveals how the USA and the EU have pursued different outlooks on who should get integrated and how (see Chapter 6 for more discussion on this point).

Third, during the banana dispute, the discussions on both sides of the Atlantic also revealed the subtle debate over the purpose of "free trade." The dispute exposed the stark differences between the ways in which the Caribbeans and the Latin Americans produced bananas. While there has been no dispute about the fact that Latin American banana production is much more efficient than the Caribbean, there has been a debate over the method of production of bananas in Latin America. Some commentators on the European side have found the pay and work conditions to be significantly better in the Caribbean than in Latin America. A Research Paper prepared by the House of Commons encapsulates the essence of this debate:

Almost all Latin American export crops are grown in ways that some might find unattractive. For example, plantation workers do not have many rights and are very badly paid....Free traders argue that low-wage countries are even worse off if we do not buy from them, and that the profits from exports will trickle down to benefit the country generally, including the poor. (Barclay 1999, 11)

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The view that large (American) corporations did not facilitate “just” working conditions in Latin American countries found widespread support within EU countries, as the popularity of the “Fair Trade Movement” in Europe demonstrates (Murray and Reynolds 2000). The Fair Trade movement promoted “bananas produced under more socially and environmentally sustainable conditions and marketed through alternative channels” (65). Murray and Reynolds (2000) explain that the movement for such bananas gained more support in Europe than in the USA, even though the US public embraced organic production and “environmentally sensitive” products (69). The authors argue that a true Fair Trade movement, which they consider as critical for imposing the right set of stringent conditions on corporations for the production of socially and environmentally responsible products, remains largely absent from the USA. The overall point here is that the US-EU banana dispute was also part of a larger debate about the role free trade should play in bringing “social justice.”

### 4.6 Conclusions: Weak Case of Rival Globalizations

In the exploration of “rival globalizations,” the dissertation proposed to rely on three criteria that assessed a) whether the USA and the EU divergently impacted the WTO, b) whether the two powers utilized other supranational/international organizations divergently, and c) whether they utilized their bilateral and regional trading partners differently.

#### 4.6.1 *Impact on the WTO*

The banana dispute’s impact on the WTO was absent in the way defined in this dissertation (Chapter 1, Table 2). In other words, the dispute did not lead to a change in the rules and regulations, or the approach of the WTO. Nevertheless, the dispute revealed the ambiguity of certain WTO rules and regulations and institutional inexperience in dealing with complicated legal challenges.

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The “competing outlooks” the USA and the EU had throughout the dispute did not strongly impact the WTO for reasons already discussed. To re-emphasize, within the EU there was already a movement towards WTO compliance of its relations with the ACP countries. Moreover, because the banana dispute adversely affected domestic EU constituencies, domestic pressures to leave it unreformed did not exist. It was essentially a foreign policy issue that disadvantaged domestic groups. Also, the Chapter highlighted that as the dispute became exceedingly draining on the WTO, both sides emphasized the importance of multilateralism and compliance with rules to rein the other side in. This “reputation struggle” put the whole WTO system at risk, thereby leading to a taming of the competing outlooks. Overall, parties sought for accommodation within the WTO framework. In conclusion, combined with a number of other factors, the “core of the dispute” impeded the ability of “competing outlooks” to strongly impact on the WTO.

### *4.6.2 Utilization of other Supranational/International Organizations*

The analysis of the dispute does not suggest anything about the USA’s and the EU’s utilization of international organizations other than the WTO. The dispute was waged only at the WTO platform. As a matter of fact, the chapter argued that the dispute grew to be about the WTO.

### *4.6.3 Utilization of Bilateral/Regional Relationship*

Does the dispute reveal that the two powers utilize their bilateral and regional trading partners differently? The answer is both affirmative and negative. Although the dispute reveals the substantial differences in the way in which the two powers engage with their trading partners (see discussions on “competing outlooks” above), throughout the dispute these divergent positions grew closer. As explained, the banana dispute contributes to the modification of the EU’s ties with the ACP countries. The EU conceded the modification of its relations with the ACP countries

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to meet the WTO demands. Hence, it moved closer to the US position on the issue than further away.

Nevertheless, the resolution of the dispute did not eliminate the causes of the tensions between the USA and the EU. Before and after the dispute, the USA and the EU both maintained their unique sub-global ties to different regions.<sup>54</sup> In any case, at the time of the writing of the dissertation, the EU is still struggling to comply with the WTO ruling without jeopardizing its unique ties to the ACP (see, for instance, BBC September 29, 2005 and October 8, 2005).

The chapter has overall demonstrated that the dispute between the two powers over the bananas reveals the USA and the EU have different outlooks on the globalized economy based on their different political-economic interests and historical political-economic ties. Nevertheless, a combination of factors led to the rival globalizations between the USA and the EU to be not strong. I regard the “rival globalizations” in this case to be “weak” because the “foreign” “core of the dispute” along with the internal impetus the EU had towards reform of its relations with ACP countries tamed the impact of the “competing outlooks.” Moreover, as the dispute evolved to be a struggle about the legitimacy of the WTO as the multilateral platform, the potential impact of “competing outlooks” on the WTO and the bilateral and regional levels was mitigated. Although the tensions inherent in the banana dispute continue to survive today, in the banana dispute these divergences did not evolve into a “war.” The chapter has shown that the two great powers and the struggle between them shaped important debates that lie at the core of globalization, such as the trade agreements between developed-developing country markets. The banana dispute is a testament to international relations as the “realm of power, of struggle, and of accommodation” (Waltz 1979, 113).

Table 13 below summarizes the discussions of this chapter.

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<sup>54</sup> Chapter 6 picks up this point again and explains that although the USA’s and the EU’s traditional geo-economic links continue to matter, one witnesses the diversification of the geographies with which the two powers form geo-political-economic ties.

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Table 13- US-EU Conflict Over Bananas

<b>Rival Globalizations?</b>		
<b>Outcome: Weak Case of Rival Globalizations</b>		
Divergent impact on the WTO?	Divergent utilization of international organizations other than the WTO?	Divergent utilization of bilateral and regional trading partners?
<p>Yes, but potential impact in the future.</p> <p>On the one hand, the two powers' competing outlooks got integrated into the WTO. On the other hand, the two powers' positions grew closer during the dispute, not leading to a change in the rules, regulations or the approach of the organization.</p>	<p>No. In fact, the dispute grew into a fight about the WTO, establishing the institution as the platform for US-EU disputes.</p>	<p>Yes, but this divergent utilization seemed to be tamed at the end of the dispute compared to the beginning of it. Further research on the two powers' bilateral and regional trading partners could provide useful insights. Chapter 6 explores this point.</p>
<p>Outcome: Despite the prevalence of "competing outlooks," the foreign core of the dispute along with an intra-EU movement towards reform of its relations with the ACP, produced "weak rival globalizations."</p>		

## Chapter 5: The US-EU Dispute over GMOs

### 5.1 Dispute Summary and Chapter Summary

This chapter examines the dispute between the USA and the EU over genetically modified organisms (herein referred to as GMOs).<sup>55</sup> In May 2003 the USA and Canada (and later Argentina) requested consultations through the WTO on the EU's system of authorization for GMOs (Young 2003, 466-467; Falkner et al. 2003, 8). Since consultations did not resolve the disagreements between the parties, a WTO panel was formed to rule on the complaint of the USA and Canada.

The WTO complaint against the EU in essence aimed at the *de facto* moratorium the EU maintained on GMOs. In June 1999 five EU members (Denmark, France, Italy, Greece, and Luxemburg) placed a *de facto* moratorium on approvals of GMOs, following a 1998 EU Directive on rules on mandatory labelling of GMOs (see Shaffer and Pollack 2004, 26). As the Chapter will discuss, this Directive was revised in 2003 with an aim to eventually remove the moratorium, but the complainants decided to pursue the case at the WTO nevertheless. During the writing of this chapter, the WTO is considering the case against the EU. In essence, the USA argues that the EU's approval process on GMOs is "slow and opaque" (Young 2003, 466). According to the Americans, this cumbersome system creates "disguised protectionism." Moreover, the US position finds the EU approach lacks scientific rigor. On the other hand, the EU's suspension of GMOs stems from its management of societal concerns with the "precautionary approach."

Since the literature on this dispute is extensive, this chapter draws on other works in providing a background for the dispute. The chapter does not concern itself with the merits of the case the two parties are putting forward at the WTO. Rather, it explores

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<sup>55</sup> The dispute is over both GM crops and foods. Unless a distinction is made, I refer to both. The formal phrasing of the WTO dispute is as follows: The European Communities' Measures Affecting the Approval and Marketing of Biotech Products. Biotech products "refers to plant cultivars that have been developed through recombinant deoxyribonucleic acid (recombinant DNA)" ("First Submission of the [USA]" 2004, 7).



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the existence of “rival globalizations.”

In the examination of “rival globalizations,” the chapter relies on the dimensions of analysis outlined in Chapter 1. The chapter also briefly examines the beef hormone dispute between the USA and the EU. The chapter posits that a relatively more comprehensive understanding of the implications of the GMO clash requires an understanding of the beef hormone dispute, which preceded the GMO dispute and contained similar dynamics. Overall, the chapter argues that the study of the GMO dispute reveals the existence of a strong case of “rival globalizations” between the USA and the EU, as the two powers’ competing outlooks have impacted the WTO and the two powers’ bilateral and regional trading partners divergently.

The “competing outlooks” manifested themselves in the following ways:

- a) The two powers have endorsed and promoted divergent understandings of food and environmental safety.
- b) The two powers have also differed in their tools of assessment of this safety. While the EU has embraced the “precautionary principle,” the USA has objected to this approach.
- c) They have also disagreed on what constitutes a legitimate governmental barrier to trade.

### 5.2 The Background of the Dispute

The disagreement between the USA and the EU over the trade of GMOs has generated a rich literature. The literature, which will be discussed below, primarily concerns itself with the following puzzle: Why is there a substantial divide between the US and EU regulation of GMOs? The answers to the question generally suggest the differing approach to regulation in the US and EU regimes. The literature on the whole agrees that up to the eighties the American standards were more conservative

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and stringent than their European counterparts. However, starting from the eighties, the EU has embraced standards more demanding than those of the USA. The question then becomes: how can one explain the contradictory movement in the two powers' regulatory approaches?

### *5.2.1 Food Safety Scandals and Government Responses*

The literature generally focuses on food safety scandals and varied governmental responses to such scandals as the primary shaper of regulatory differences between the USA and the EU. According to Spriggs and Isaac (2001, 30), the food contamination crises in the USA (such as 1985, 1991, 1994, 1996 salmonella outbreaks, and the 1993 and 1997 ground-beef related E-coli contamination) have compelled “an increased focus by both governmental and non-governmental agencies to improve the institutional arrangements for food safety in order to regain consumer confidence.” The authors explain that the subsequent reform of the American management of food-related risk has concentrated on streamlining the various agencies working on human health, food safety, and environmental protection. For example, in 1994 the United States Department of Agriculture (USDA) was reorganized to create an under-secretary for food safety to address crises such as the ones mentioned above. Moreover, the 1996 regulation, “Final Rule on Pathogen Reduction and Hazard Analysis Critical Control Points,” has developed standards for detection and limitation of salmonella and E-coli (30-34). The President's 1997 Food Initiative is another example of a response to the outbreaks (36). In the implementation of such regulation, American administrations relied on voluntary compliance by businesses. For instance, the 1996 Farm-to-Table and 1998 Safe Food, Healthy Families initiatives envisioned voluntary adoption of regulations. To sum up, American officials responded to food crises by streamlining certain agencies. Moreover, policies require the “voluntary compliance” of business, thereby letting business play a significant role in preempting and preventing food safety scandals.

As the USA relaxed the heavy government involvement in the regulation of the food

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safety and environment beginning in the eighties, the EU moved in the opposite direction, tightening somewhat loose standards. Vogel (2003b) explains that the EU's move towards stricter standards can primarily be attributed to the initially unsuccessful European regulations related to food safety, which failed to predict and effectively tackle important food safety scandals, such as the outbreak of the BSE (Bovine Spongiform Encephalopathy) crisis in the UK in 1996 and dioxin contamination of food products produced in Belgium in 1999 (12). Thus, European regulators were risk-averse, given consumer doubts and the uncertainties associated with the novelty of the technology used (Buckingham and Phillips 2001, 2). These studies emphasize the contextual risk-aversion of the EU regulations.

Other authors emphasize relatively more general (that is, non-contextual) differences between the regulatory systems of the two powers. For instance, Patterson and Josling (2002) assert that “[b]ecause the rule-making is more open and input from the scientific community is easier to obtain [in the American system compared to its European counterpart], the system allows for a flexible response to new knowledge” (8). In contrast to the American system, these authors claim, the European system remained closed because consumer concerns “captured” the policy-making (9-10). Pollack and Shaffer (2001) make an argument similar to that of Patterson and Josling: “...the US system is characterized by strong central institutions such as the FDA [Food and Drug Administration], heavy reliance on science in decision making, and considerable independence of regulators from political pressures—all of which stand in stark contrast to the relatively decentralized and politicized food safety systems of the [EU]” (157). In this regard, some viewpoints in the literature tend to see the American decision-making system as relatively more objective and scientific and the European one as relatively less scientific and more objective.

### *5.2.2 Institutional Dynamics*

Vogel (2003b) underlines the role of institutional dynamics within the EU in bringing about the divergence between the USA and the EU. He stresses that European public

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resistance found and even gained expression given the prominent role of environmental and consumer NGOs in European policy-making. In contrast, similar NGOs could not be as influential in the American context. Vogel explains this phenomenon with reference to the evolution of the EU itself. He argues that the enhanced position of the NGOs in the European context to some extent demonstrates efforts by the Europeans to render the European system more transparent and acceptable to the public. Thus, “green” NGOs were able to enhance their impact on EU policy-making, bringing to the fore concerns associated with the environmental repercussions of GMOs.<sup>56</sup> According to Vogel (2003b, 15), starting with the Treaty of Rome, every single treaty revision of the EU has “accorded civic interests greater weight in the policy process.”

Moreover, Vogel explains that the European treaties have over time enhanced the role of the European Parliament (EP). With increased powers, the EP has enjoyed the chance to more effectively express public concerns over GMOs and environmental protection on the Union-level. The Parliament has also allowed the national green parties (such as the German one) to gain a voice on the supranational level.<sup>57</sup> While Europe has traditionally had strong green parties, which have gained more power over time, the American two-party system lacks a similar institutionalized green voice.

Also, Patterson (2000, 325-331) highlights that green voices were hugely influential in the Commission. In the early days of biotechnology policy-making Directorate General (DG) Environment, Nuclear Safety, and Civil Protection enjoyed a “free rein to draft the directives” concerning biotechnology with little interference from other branches of the Commission. The influence of the environmental DG waned over time, as other directorates such as Trade have increased their impact and

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<sup>56</sup> Greenpeace, for instance, has run an influential anti-GMO campaign.

<sup>57</sup> One should insert a note of caution here as to the role of the EP. As was drawn to my attention in an interview with an EU official, the EP knows “how far they can go.” To elaborate, they will not advocate for an outright ban on GMOs, since they know this is not feasible. Rather, they work within the parameters of feasibility and lobby for less drastic measures, such as “co-existence.” Rules on co-existence govern the co-habitation of GMO and non-GMO plant varieties in nature.

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pressure within the Commission. Nevertheless, the European directives concerning biotechnology were originally steeped in environmental concerns (see also Paarlberg 2001, 5 for an acknowledgement of the influential role of the green lobby in the EU).

In summary, the literature argues that the visibility of the GMO issue increased within the EU countries due to the governmental and non-governmental political outlets available to environmentally-friendly voices. From this perspective, the causes of the GMO dispute appear to lie once again in a problem of “capture” on the European side of the Atlantic—politicized environmental voices and social concerns have prevented the EU from embracing less stringent standards.

It is important to emphasize that the roots of the conflict between the USA and the EU point to “double-capture,” rather than “capture.” Just as environmental voices have found an easy inlet to European policy-making, on the American side of the Atlantic business has influenced American attitudes towards regulation on GMOs, creating pro-GMO pressure on the American government. There were two main reasons why business could gain a greater voice in the USA as opposed to in the EU. First, Americans have had a greater economic interest in keeping a GMO-friendly world trading system than the Europeans. American businesses have heavily invested in the biotechnology necessary for the production of GMOs. Speaking in terms of business interests, in Europe, with the exception of the UK and a few German companies perhaps, the GMO issue is negligible. In terms of millions of hectares in 2002, the USA controls 39 per cent of the GM-cultivated land, followed by Argentina owning 13.5 per cent of such land. The same figure for Canada is 3.5 and for China 2.1. The equivalent statistic in Germany and Spain is respectively less than 0.1 and 0.3 (de Jonquières et al. 2003). Not only have American companies heavily invested in GM-land but also these investments are expensive with the real economic benefits realized over the long-term.

One should insert a note of caution here as regards causality. While it is not in doubt that the European biotechnology sector suffers from “the relative backwardness of

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large firms and low rate of formation of new start-ups,” the lack of European business enthusiasm for GMOs can also be interpreted as a result of the lack of a European market due to prevalent consumer aversion. The European biotechnology industry has preferred to invest in “non-plant areas, where mechanisms for product approval are in place and functioning” instead of in agricultural-business (Enterprise Papers 2002, 83, 84). Hence, there may be a tautological problem. When it comes to investing in agricultural-business, strict governmental regulation and lack of consumer interest in such technologies may have discouraged European companies.

Second, American business interests found easy access to the American political system. These business voices managed to “capture” the American political system in a way in which some commentators claim green voices and consumer concerns have captured the European side. American agricultural-business companies have over time achieved a good level of institutional representation. The influence of these business groups has occurred both in direct and indirect ways. Directly, it is not uncommon for decision-makers in the American agricultural policy-making to come from or end up in the agricultural-business sector. As one passionate GMO-sceptic has complained, a previous Deputy Commissioner for Policy at the FDA, Michael Taylor, worked as a lawyer representing Monsanto, the leading agri-business firm. Many current Monsanto board members were once high-level US trade policymakers. Such examples include: Mickey Kantor, who is a former USTR; Marcia Hale, who was President Clinton’s assistant and a Director of Intergovernmental Affairs; William Ruckelshaus, who was the chief administrator for the US Environmental Protection Agency (EPA); and Linda Fisher who also held a position at the EPA (Monbiot 2001, 239-241). The previous Secretary of Agriculture Ann Veneman served on the board of Calgene Inc. until 1995. Calgene was bought by Monsanto in 1994.

These personal connections between American governmental officials, who in principle serve a wide variety of interests, and agricultural-business, which serves its own interests like any other business does, do not necessarily suggest that

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governmental policy-makers uphold the interests of business concerning critical decisions. One can argue that actors take on the requirements of their roles, disassociating themselves from previous professional commitments. Nevertheless, the listed personal connections provide sufficient evidence to claim that American governmental officials and agricultural-business are closely sympathetic to one another. A prominent work on “elite theory” of American politics by Dye and Zeigler (1993) supports the contention that the American government and the business elite share similar visions. As Dye and Zeigler explain, not only do these elites come from similar socio-economic and educational backgrounds, they are also in many cases the same people (also see, Dye 2003). Most of these elites have “...sequential interlocking [institutional experiences], where individuals hold a number of leadership positions over their lifetime” (Dye 2003, 140). The elite bond between governmental and corporate actors runs deep, often making them the same people, if not merely highly sympathetic to each others’ concerns. In any case, Prakash and Kollman (2003, 2) find the United States Department of Agriculture, disputably the most influential authority in US biotechnology policy-making, as generally “business-friendly.”

In terms of exerting indirect influence on the government, in the nineties the US agricultural-business community gained influence in agricultural trade policy-making. Traditionally, farmers or commodity groups enjoyed greater access to the government than these business groups. As Moyer and Josling (1990, 134) explain, agricultural-business has been less influential in *domestic* agricultural policy-making than farmers and commodity groups. The authors attribute the relatively weak position of agricultural-business to the fact that it “seldom exercises its full potential, probably because the stakes are usually not large. Agricultural legislation generally has less clear effects on the welfare of large diversified companies than it does on farmers and commodity groups.” However, while this might remain true for domestic policy, agricultural-business does play a larger role than before in the making of American agricultural *trade* policy. For instance, in 1994, over one hundred trade associations and agricultural-business companies formed the Coalition

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for a Competitive Food and Agricultural System. This organization was a testament to the fact that a new type of lobby group had gained strength as agricultural-business proved to be profitable for the USA.<sup>58</sup> The coalition contributed to efforts to back the 1996 US Farm Bill, which essentially aimed to reduce government subsidization of American farmers. With the increasing interconnectivity of agricultural trade and domestic agricultural policy-making since the Uruguay Round when agriculture was introduced on the multilateral agenda, agricultural-business interests have gained yet more influence.<sup>59</sup>

### 5.2.3 Public Opinion

Another factor that helps illustrate why the USA and the EU took divergent stances on the GMO case, or have moved in opposite directions in regulations as such since the eighties, is public opinion. This factor has been implied already, but deserves further attention.

Public opinions on both sides of the Atlantic are, on the whole, aligned with elite attitudes towards the regulation of GMOs. The European public has shown scepticism against big agricultural-businesses. For instance, according to the Eurobarometer (December, 2001), the food industry in Europe received the greatest blame from the European public in the mad-cow disease, followed by politicians and farmers. This finding is surprising because governments in Europe, especially in the UK, were at best slow and ambiguous in their response to the mad-cow crisis (see Wiener and Rogers 2002 for an account of slow and indecisive government responses).

In explaining this paradox, it is useful to remember that the agricultural-business-sceptic attitudes in Europe coincided with a general anti-big business (“anti-

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<sup>58</sup> For instance, see

[http://agriculture.senate.gov/Hearings/Hearings\\_2001/July\\_12\\_\\_2001/712miller.htm](http://agriculture.senate.gov/Hearings/Hearings_2001/July_12__2001/712miller.htm).

<sup>59</sup> I would like to acknowledge the help of Dr. Heidi Ullrich's LSE Lectures on US agricultural policy in gaining these insights.



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globalization”) movement. Interviews conducted on this topic underlined that Monsanto’s initial marketing campaign in Europe contributed to an anti-big-business sentiment. Many regarded Monsanto’s marketing technique of its GM products to be “arrogant.” Certain European NGOs integrated their anti-GMO stance into a larger fight against what they perceived to be globalization—the spread of big businesses. Kevin Watkins (1996), the then senior policy adviser at Oxfam, criticized Monsanto’s struggle at the WTO to lift the EU ban on the use of bovine somatotropin (BST). Watkins argued that WTO trumped governments’ abilities to make decisions on matters that concerned consumers and the environment, arguing that “behind that dense fog of trade jargon, the environment, your rights as a consumer and those of the world’s poorest people are under attack.” Other authors have also emphasized such negative public sentiments against GMOs. These attitudes have played a particularly important role in bringing about the decisions of some European countries to place a *de facto* moratorium on GMOs, leading to an EU-wide suspension of GMOs (Shaffer and Pollack 2004).

The aforementioned Eurobarometer findings also suggest that the European public would like to see greater EU involvement in consumer protection and science (2001, 8). To recap, the literature on GMOs tends to focus on failed European regulations in the face of food safety scandals as the one of the primary causes of the anti-GMO sentiment in Europe. Based on this perspective, one would expect to find Europeans becoming less trusting of their governments and more open to other avenues for food safety regulations. Yet the surveys demonstrate the opposite. The European public appears highly concerned about the ambiguous role science can potentially play in business-driven initiatives related to consumer protection such as GMOs. Gaskell et al.’s study on European public opinions on biotechnology finds “[s]upport for genetic testing of life threatening inherited diseases and for cloning human cells and tissues for reparative medicine stayed high, notwithstanding the public’s recognition of associated risks” (2003, 2). Scepticism towards science, however, increases in issues such as GMOs, where the role of science, according to the public, is relatively more

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open to dispute. The scepticism towards GMOs also stems from a distrust of big business, as suggested above. I will reiterate the relevance of this point below.

Although I could not find American surveys comparable to the Eurobarometer, some trends in American public opinion can be discerned. Young (2003) highlights changes in American public opinion in light of European public perceptions of GMOs. He argues that over time NGOs have managed to raise public awareness in the USA on the impact of biotechnology. Among such NGOs are the Transatlantic Consumer Dialogue (TACD), The Consumers Union, The Consumers Federation of America, the Center for Food Safety, the Foundation on Economic Trends, the Union of Concerned Scientists, Friends of the Earth, Greenpeace, and the Sierra Club (474). Young does not extensively discuss to what extent and how these groups have managed to alter US public opinion on GMOs other than noting that large corporations such as Gerber, Heinz, McCain and Frito Lay have responded to US consumer concerns by declaring that their products will be GM-free (469). Prakash and Kollman's work (2003, 4-5) also finds that the USA's position on the GMOs is "inching toward the EU's biotech policy mode in terms of the core issues of labeling and the segregation of GM and non-GM-crops." The authors hold that public attitudes partially responsible for this.

Nevertheless, overall US public food safety scandals related to GMOs have remained contained with short-lived public opposition. For example, while the Starlink incident—in which genetically modified corn recommended for feed use only was found in food for humans—was very much a public affair, trust in the American institutions was easily restored (Interviews with US and EU trade officials; Segarra and Rawson 2001). Therefore it is hard to judge what the US public attitudes would be in the face of a large-scale food safety scare, such as the BSE crises in Europe. While public opinion remains malleable and difficult to capture, generally speaking, public opinion trends on the opposite sides of the Atlantic help explain the divergent stances taken by the two powers.

#### 5.2.4 *The Role of Political Culture?*

While analyses can tease out the different social, political, and institutional reasons for the origins of the dispute between the USA and the EU, a number of unanswered questions still confound the study. For instance, why do the European publics remain sceptical towards food biotechnology but relatively more enthusiastic about life-saving technologies? Why did the GM issue receive relatively little or short-lived media attention in the USA? Some of the remaining pieces of the puzzle can be explained by political culture. As Jasanoff acknowledges:

Differences between countries and cultures are now recognized as reflecting important differences in the *values* and *commitments* of democratic societies, particularly as regards the certification of public knowledge, the management of uncertainty and the distribution of benefits and burdens. (2002, 369, emphasis added)

Political institutions, the balance of power between those institutions and the nature of public participation all affect the way in which science is reflected in policy-making (370-371). The discussions above have demonstrated this point. Jasanoff explains that culture tells about the choice of “dominant modes of policy discourse” in which scientific questions are translated into policy as well as “evidence and proof” demanded from science (371). Some political scientists regard culture as a dubious term, as they find that it lacks the academic rigor political *science* demands. Nevertheless, for the purposes of this study at least, it retains its significance.

Specifically, political culture elucidates the informal influences in formal decision-making. For instance, the relatively larger role played by NGOs in the European decision-making on the issue of GMOs does not just stem from the official routes available to European NGOs into the formal processes. It also suggests some European policy-makers’ willingness to give them a voice and integrate “non-scientific” concerns into the formal decision-making process. Gaskell et al. (2003) claim that Europeans’ attitudes on GMOs are likely to be formed not just by political

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perceptions and market calculations but also by “values,” which political culture encompasses. These authors maintain that “a combination of citizen (fundamental values) and consumer (confidence in food regulation, production and distribution) concerns are likely to influence whether or not people opt for GM foods” (17). While political culture is likely to fall short of providing an ultimate explanation of how the USA and the EU grew to adopt conflicting policies on the GMOs, it has explanatory power. At the very least, it helps answer the remaining *why*'s of the analysis.

### *5.2.5 The Essence of the Divergence Between the USA and the EU*

The divergent experiences, habits, and political systems of the Americans and Europeans, already alluded to in the above discussions, culminated in substantial differences between the USA and the EU on *what is safe* and *how to determine what is safe*. The EU has embraced what is known as the “precautionary principle” in determining the safety of GMO products. The precautionary principle denotes the tool for a decision taken in the face of “insufficient, inconclusive, or uncertain” scientific information that makes it difficult to ascertain the “possible effects” of a policy, product, or process on humans, animals, and plants (COM (2000)1, 8). Although the principle initially emerged as a part of environmental policy-making, the scope of its application was later widened (COM (2000)1, 3). Hence, the precautionary principle applies not just to the issue of GMOs or the environment but could cover any area that the EU judges to concern environmental and societal issues. As the “Communication from the Commission on the precautionary principle” states:

Applying the precautionary principle is a key tenet of [the EU's] policy, and the choices it makes to this end will continue to affect the views it defends internationally, on how this principle should be applied. (COM (2000)1, 3)

More importantly, Europeans consider the precautionary principle to comprise not just a scientific assessment but also a political one. The “Communication from the

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Commission on the precautionary principle” makes this point evident by emphasizing that “the appropriate response in a given situation is thus the result of a political decision, a function of the risk level that is ‘acceptable’ to the society on which the risk is imposed” (16). Although the role of the precautionary principle is still evolving it is fair to say, based on documentation and practice, the EU foresees its application on different levels of decision-making and considers it a political decision in the face of both scientific and societal uncertainty.

While precaution plays a role in American regulation and exists at different levels of policy-making in the USA, its role differs substantially from that in the EU (Interviews with US and EU officials; see Wiener and Rogers 2002 for the application of the precaution in American regulation). In defining precaution, the American approach focuses on potential “hazard” as opposed to “risk.” In contrast, the Americans believe the Europeans emphasize “potential risk” (Interviews with US officials). Such a focus, Americans argue, renders the European system not scientifically rigorous enough. Moreover, the fact that the application of the precautionary principle can be a political decision enhances American concerns. Isaac and Kerr (2003, 1088-1089) explain the American-European differences towards “risk” as the difference between a “social rationality perspective” (the EU) versus the “scientific rationality perspective” (the USA). The authors argue that the former approach holds that “science and technology cannot be left to the competitive economic forces of the market.” In this method, the precautionary principle gets utilized both as a “risk assessment” and a “risk management” tool. In contrast, the “scientific rationality perspective” differentiates between the two stages of handling risk, and utilizes the precautionary principle only in the “risk assessment” stage and strictly for scientific reasons (1088).

Moreover, Europeans focus on *process* as opposed to *product* in determining food safety. According to the American method of regulation, the safety of the GM product relies on the safety of a similar *product* already in existence (Buckingham and Phillips 2001). Basically, the American method judges safety by whether the

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end product is “substantially equivalent” to an existing product (8). The American regulations judge GM products to be “substantially equivalent.”

Nevertheless, some important qualifications to these descriptions of the US and EU methods of utilizing precaution should be made. Wiener and Rogers (2002) rightly point out that it is not possible to say that the EU has always been more precautionary than the USA. In certain issue areas, such as drug approval, the USA appears more precautionary than Europe. Second, these authors underscore that “the US and the EU are probably both at the highly precautionary end of the spectrum” relative to the rest of the world (323). Overall, though, when it comes to GMOs, the Americans and the Europeans not only disagree on how to *determine what is safe* but also on *what is actually safe*.<sup>60</sup>

### 5.3 Systemic Level Manifestations of the Divergence

Now the discussion turns to the systemic level ramifications of the divergence between the USA and the EU over GMOs.

The USA launched the GMO dispute in 2003 by seeking WTO consultations. Interestingly, the US elevated the disagreement to the WTO level, just as new European directives (for instance, Regulation (EC) No 1830/2003) that paved the way for the release of GMOs into the European market were in the works. In this respect, the timing of the dispute was surprising, as noted by some commentators (see, for example, Isaac and Kerr 2003, 1083). However, the timing mirrored that of the timing of the banana clash—it coincided with the spilling of the EU’s stance on GMOs over to other parts of the world.<sup>61</sup> The USA pursued the WTO path after Zambia refused American food aid in 2002 because it contained GMOs. Zambia’s

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<sup>60</sup> This divergence does not only manifest itself over GMOs (see Chapter 3, case study selection for examples).

<sup>61</sup> To recall, the banana dispute also came after the EU successfully negotiated Banana Framework Agreements with Central and Latin American countries (Chapter 4).

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embrace of the European attitude symbolized the spread of the European methods of approaching and handling GMOs to other parts of the world. From the American perspective, this response indicated that the agricultural biotechnology business dominated by American firms, such as Monsanto, could not easily permeate other markets (Interview, Brussels). As noted by Shaffer and Pollack (2004, 27), the US-patented GM varieties had picked up in countries, such as Australia, Brazil and China, increasing the USA's commercial interest. GMO-type disagreements between the two sides of the Atlantic had already been underway for a long time, as will be elaborated below with the analysis of the beef hormone dispute. The perpetuation of the European *de facto* moratorium on GM products and the influence the European stance began to have on other parts of the world suggested that the European method was globalizing. Hence the multilateral level became the battleground.

The USA took the EU to the WTO on the grounds that the EU's trade barriers, the so-called moratorium against GMOs, constituted protectionism and hence violated WTO rules. The USA also argued that the EU applied different protection levels to biotech products and "biotech processing aids" and thus established an "arbitrary or unjustifiable" system of regulating biotech products ("First Submission of the [USA]" 2004, 51). From the American perspective, the European stance on GMOs constitutes a discriminatory trade barrier. On the other hand, from the European perspective the application of the precautionary principle in raising this impediment to trade is justified and hence the matter is not about protectionism *per se*. Nevertheless, this putative market barrier forms the basis of the dispute between the USA and the EU on the WTO level.

### 5.3.1 Competitive International Settings

What is distinct about the dispute between the USA and the EU on GMOs is that several different international agreements can potentially pertain to the issue. To begin with, within the WTO there is the Agreement on the Application of Sanitary and Phyto-sanitary Measures (SPS) and the Agreement on Technical Barriers to

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Trade (TBT). The SPS Agreement relies on the Codex for the harmonization of the domestic rules and regulations of member countries and bases its dispute settlement decisions on it, as will be mentioned below (Spriggs and Isaac 2001, 23). Most recently, a fourth international body born out of another agreement has complemented as well as challenged these agreements: the Cartagena Protocol. The section below will discuss the role of each of these international organizations to contend that the WTO and the Cartagena Protocol provided “competitive multilateral settings” through which the USA and the EU tried to shape the global rules differently.

### *The Codex*

One of the earliest and most important international agreements/bodies to address the issue of food safety and standards was the Codex system. The Codex Alimentarius Commission exists as a joint-committee of the Food and Agricultural Organization of the United Nations (FAO) and the World Health Organization (WHO) and was endorsed by these organizations in 1961 and 1963 respectively. Its mandate is “to develop international standards, guidelines and codes of practice on issues of food safety and food quality” (Spriggs and Isaac 2001, 17). The Codex’s self-proclaimed aims include the protection of “the health of consumers and ensuring fair practices in the food trade” (Article I (a)). Of importance to the discussions in this chapter, the Codex regards itself as the framework for the harmonization of international standards and rules concerning the trade of food and food safety.

The Codex indicates that it has been paying increasing attention to consumer participation. Although consumer participation has been a component of the Codex Commission meetings since 1965, since the early nineties, the leadership of the Codex—like other organizations—claims to have enhanced its cognizance of the requirements of a new type of global politics as consumer groups have become better organized and more demanding (see “Codex and Consumers” on the Codex



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website).<sup>62</sup> According to Spriggs and Isaac (2001), under pressure primarily from the EU, the Codex was amended in July 1995. These changes diluted the strictly scientific analysis in the Codex's decision-making by permitting "other legitimate factors" relevant for the health protection of consumers to play a role in rule-making (23-24).

### *WTO's SPS Agreement*

The main international agreement which has endorsed the Codex and has taken it as a reference point for the resolution of trade disputes is the WTO Agreement on Sanitary and the Phyto-sanitary Measures (SPS). The SPS Agreement of the WTO aims at affirming the principle that:

No Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade. (see text of the SPS Agreement)<sup>63</sup>

With this, the WTO encompasses an increasingly important issue—the ability, or otherwise, of governments to provide for human health and the environment. The SPS agreement also aims to maintain the essential WTO concern with trade conducted under the principles of non-discrimination and most-favoured nation status. By taking the Codex as the basis for SPS decisions, the SPS Agreement envisions enhanced trade facilitation by "further[ing] the use of harmonized sanitary and phyto-sanitary measures between Members." However, the wording of the SPS agreement does not exclusively point to the Codex. The Agreement refers to

relevant international organizations, including the Codex Alimentarius Commission, the International Office of

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<sup>62</sup> [http://www.codexalimentarius.net/web/index\\_en.jsp](http://www.codexalimentarius.net/web/index_en.jsp).

<sup>63</sup> [http://www.wto.org/english/tratop\\_e/sps\\_e/spsagr\\_e.htm](http://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm).

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Epizootics, and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention. (see text of the SPS Agreement)

All in all, the SPS Agreement aims to facilitate trade without denying participants the right to take measures towards the protection of the environment, human health, and other relevant concerns. Trade remains the primary concern. Moots (2005, 492)<sup>64</sup> argues that the SPS agreement is disputably the “most stringent” WTO argument in terms of its demands of “scientific assessment” in proving that health and safety concerns justify the interruption of trade. Nevertheless, the author contends that the agreement allows for “extensive space for precautionary action.” As the discussions will show, the debate centres on how and the extent to which the EU’s precautionary approach can be embodied by the SPS.

### *WTO’s TBT Agreement*

The other WTO agreement of importance in the GMO dispute and any other issue related to the sanitary and phyto-sanitary measures is the TBT.

The relationship between the SPS and the TBT is expressed through a provision of the SPS which indicates that “nothing in [the SPS Agreement] shall affect the rights of Members under the Agreement on [TBT] with respect to measures not within the scope of [the SPS Agreement]” (text of the SPS Agreement).<sup>65</sup> Hence the WTO denies the TBT Agreement any influence over situations in which the SPS Agreement grants Members rights to impose trade barriers. By the same token, if something is judged to fall outside the scope of the SPS Agreement, the TBT has jurisdiction over it. This approach ensures the TBT re-iterates the primary spirit of

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<sup>64</sup> Moots is a counselor at the WTO, but the article indicates that he is writing in personal capacity. Nevertheless, it is fair to assume that an expression of his personal opinion in a major journal in the field of political economy is not likely to include a diversion from the dominant WTO perspective.

<sup>65</sup> Article 1.5 of the TBT Agreement also refers to the relationship between the SPS and the TBT Agreements: “The provisions of [the TBT Agreement] do not apply to sanitary and phyto-sanitary measures as defined in Annex A [of the SPS Agreement].”

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the WTO: “technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade” (text of the TBT Agreement).<sup>66</sup>

Moreover, the TBT Agreement reinforces the need to apply the concepts of science, risk and risk assessment in a “stringent” manner, as in the SPS Agreement. While allowing for environmental, sanitary measures as well as national security requirements to potentially lead to trade barriers, the TBT agreement underscores the central role of “available scientific and technical information, related processing technology or intended end-uses of products.” The only way in which the agreement envisages the nature and the extent of these technical barriers to change is through the discovery of new or different information which can alter the circumstances of decision-making (most relevant articles of the TBT Agreement are: Articles 2.1, 2.2, 2.3, 2.4, 2.5).

In essence, the TBT Agreement acknowledges the existence of factors which would lead to trade barriers, but through this recognition it also aims to limit their influence and maintain the facilitation of trade as the ultimate goal. In this spirit, it embraces a trade-oriented approach, just like the SPS.

### *The Cartagena Protocol*

The approach of the Cartagena Protocol stands in contrast to that of the SPS and the TBT Agreements in terms of its emphasis on the trade-off between trade and the environment. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity was born out of the Convention on Biological Diversity, which was finalized in June 1992 and entered into force in December 1993.

The Convention primarily aimed to address biodiversity issues. In its 1995 meeting, the parties to the Convention decided to establish a group to delineate bio-safety

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<sup>66</sup> [http://www.wto.org/english/tratop\\_e/tbt\\_e/tbt\\_e.htm](http://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm).

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issues, as they arise from the movement of “any living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity” (text of the Cartagena Protocol, 1).<sup>67</sup> The parties to the Convention adopted the Cartagena Protocol in December 2000, hoping to have created an “international regulatory framework to reconcile the respective needs of trade and environmental protection with respect to a rapidly growing [biotechnology industry]” (text of the Cartagena Protocol).

While the Protocol in essence aims to balance the issues of trade, environment, and biotechnology, because its core lies in an agreement on biological diversity, its mindset tends to be more “green” than business- or trade-oriented. Importantly for the purposes of this analysis, the Protocol endorses the precautionary approach of the Rio Declaration on Environment and Development (text of the Cartagena Protocol, 2). The inclusion of the precautionary approach ensures that modern biotechnology is utilized without overlooking “adequate safety measures for the environment and human health,” while maintaining biological diversity.

The Protocol’s relationship with existing or potential multilateral agreements is neither clearly worded nor explicitly expressed. As a matter of fact, the Protocol embraces two statements which potentially contradict each other. On the one hand, by stating that “this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements,” the Protocol recognizes other international agreements. In principle, by seeking to avoid undermining the ability of the signatories to fulfil their aims as outlined in these other agreements, the Protocol aims to complement and not contradict them.

On the other hand, the Protocol notes that this statement “is not intended to subordinate this Protocol to other international agreements.” Hence, the Protocol envisions itself to be at least on equal footing with other agreements, without explaining how disagreements between different multilateral commitments can be

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<sup>67</sup> <http://www.biodiv.org/biosafety/default.aspx>.

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resolved. Overall, the Protocol is in principle complementary to as well as competitive with other existing agreements.

The relationship of the Protocol to other international agreements, Safrin (2002) contends, “was one of the last issues resolved and one of the few that, by itself, could have prevented the successful completion of the Protocol” (607). One can safely assume, as Safrin does, that from early on the Protocol pitted itself against the SPS. Safrin argues that there are two main areas in which the two agreements are likely to contradict each other: a) doubts as to whether science was the basis of the decisions of a country to restrict or allow the import of GMOs; b) and “whether a country could use the Protocol to either discriminate between LMO [living modified organism] imports from different countries or to favor its domestic industries” (611). While the latter concern underlines anxieties about maintaining “most favoured nation” status and the principle of non-discrimination in the spirit of the WTO, the former concern arises from the suspicion that factors other than science can compel so-called protectionist policies.

### *5.3.2 The Cartagena Protocol: Fault Line between the USA and the EU*

The relationship of the Protocol to other international agreements caused a rift between the USA and the EU. As Safrin reports, the issue of a “savings clause”—that is the encapsulation of the Protocol’s relation to other international agreements within the Protocol—was a source of contention between the USA and the EU leading up to the negotiations on the Protocol. The USA campaigned for the inclusion of a savings clause. Safrin explains that this largely stemmed from the USA’s concern that the Protocol would hamper other agreements. She articulates these US concerns as follows:

given the breadth of biotechnology, which encompasses, inter alia, microbes, medicine, food, forests, and fish, as well as research and commerce, the negotiations faced a palpable risk

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of unintentionally modifying other agreements through the provisions of the Protocol. (614)

In this regard, by hoping to render the influence of the Protocol on other agreements minimal (if not non-existent), the USA emphasized its preference to rely on existing international organizations where possible. From the US perspective, the SPS adequately addressed the trade of GMOs and hence another agreement was not necessary. By aiming to curb the influence of the Protocol on other international agreements, the USA also tried to avoid efforts to bring agreements other than the SPS in conformity with the Protocol.

It was not just the Protocol's relationship to other agreements that caused a rift between the USA and the EU. The content of the agreement also divided the two powers. On the issue of risk assessment, for instance, the Protocol murkily states that the risk assessment "should be carried out in a scientifically sound and transparent manner" and "lack of scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk" (see Annex III in the text of the Agreement). Also, the Protocol devotes at least two articles to public involvement in the decision-making on GMOs. With Article 23, the Protocol declares "[the] Parties...consult the public in the decision-making process regarding [LMOs] and shall make the results of such decisions available to the public." In Article 26, the Protocol further locates the notion of the trade of LMOs in the real-life context of communities by allowing the parties to take into account "...socio-economic considerations...., especially with regard to the value of biological diversity to indigenous and local communities." Coupled with the sensitivities about the role of the public in the decision-making process, the Protocol's approach to risk assessment marks its difference from the SPS and the TBT. The Protocol aims to harmonize trade with the existing social norms, habits, and perceptions. On the other hand, the SPS and the TBT assess the role of such factors with a view to trade. As Isaac and Kerr note:

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Given the characteristics of the Cartagena Protocol, the trade tensions are created because, while the EU socially rational regulatory approach is consistent with the protocol and its focus on PPMs [process and production methods], the scientifically rational North American approach is consistent with the WTO and its focus on end-use products. (2003, 1091)

The above discussions have highlighted the divergent US and EU positions on what constitutes a risk and consequently what is safe with reference to these authors' categories of "socially rational" versus "scientifically rational" approaches. Essentially, the Cartagena Protocol does not resolve these tensions between the USA and the EU. Rather, it has exacerbated them, *despite* or *because of* letting the EU have a systemic outlet for its position.

Most EU Directives concerning GMOs have endorsed the Protocol. Directive 2001/18/EC, which was amended in 2003, not only envisions harmony with the Protocol but also dedicates itself to this harmonization process. Article 32 of this Directive requires the Commission to draft a proposal for "implementing in detail the Cartagena Protocol on biosafety." This proposal would "complement and, if necessary, amend the provisions of this Directive." Similarly, the common position adopted by the Council and the European Parliament on March 17, 2003 in regards to the regulation of genetically modified food and feed, states: "The content of this regulation takes account of the international trade commitments of the European Communities and of the requirements of the [Cartagena Protocol]" (2001/0173 (COD) 14). Other parts of the common position also contain clear references to the Protocol (see Article 5, 3(c)). The common position also commits the Commission to providing information related to the authorization of GMOs to the Biosafety Clearing-House established by the Cartagena Protocol. Regulation 1830/2003 of September 2003 also endorses the Cartagena Protocol. In this regulation, the EU takes a further step and asks for the potential importers of GMOs into the EU to include in their application "information...for the purpose of complying with...[the Cartagena Protocol]" (Article 5, 2(c)).

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In sum, the evidence demonstrates that the EU initially advocated the Cartagena Protocol and later on embraced it as a reference point for its regulations on GMOs. Falkner rightly claims that although the Cartagena Protocol “does not add significantly to the EU’s existing regulatory system, it does provide it with greater international legitimacy” (2000, 313). The EU has worked hard to create an alternative framework for tackling the issues concerning GMOs and has succeeded in establishing the Cartagena Protocol.

In contrast, the USA remains at best sceptical towards the Cartagena Protocol. Because the predecessor to the Cartagena Protocol, the 1992 Convention on Biological Diversity (CBD), is still awaiting confirmation at the US Senate, the USA is not a party to the Protocol.<sup>68</sup> As implied in the above discussions, the USA’s non-party status has not prevented it from participating in the negotiations leading up to the Protocol. In these negotiations, the USA belonged to the “Miami Group,” alongside Argentina, Australia, Canada, Chile, and Uruguay. The USA’s close involvement with the Protocol primarily highlighted both a commercial concern and, relatedly, a political motivation. This is captured in a US Congressional Research Service report:

As the number one producer and exporter of biotechnology, the United States is already in a position of strength to set market rules. Some critics [of the Protocol were] concerned other nations could use the Protocol provisions as *disguised protectionism*.” (Segarra and Fletcher 2001, 3, emphasis added)

With its emphasis on the precautionary principle, the Protocol raises fears in some observers that forces outside the USA can potentially shape market rules in a manner adverse to the American interest. Given the American position in the global biotechnology sector, intellectual property rights emerges as a major concern for the USA. According to some observers close to Congress, the Protocol remains

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<sup>68</sup> The Bush Snr. Administration was particularly concerned with the CBD due to the lack of protection for intellectual property rights.



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controversial in Congress because it “does not prescribe explicit liabilities for failures to protect intellectual property” (5). The Protocol neither suits the prevalent American understanding of the role of science and risk assessment in human health and food safety (by virtue of being pro-precautionary principle), nor does it assuage American anxieties about the Protocol’s potential interference with the biotechnology market. Given the Protocol’s incompatibility with US interests, the USA has embraced the Codex standards, guidelines, and recommendations, advocating the WTO’s SPS and TBT Agreements as frameworks of reference in the GMO case.

As a matter of fact, the US-EU divide on the relevance of the SPS to GMOs can at times be remarkably wide. When I asked a European administrator who is directly involved in the Commission’s work on GMOs about the putative tension between the SPS and other agreements over GMOs, s/he challenged me by posing the following question: “Are you sure SPS is relevant to GMOs?” From the European perspective, the relationship between the SPS and GMOs is “so grey” that at best only some of the provisions of the SPS can be relevant. In contrast to the EU, the USA advocates the inevitable relevance of the SPS for the regulations of GMOs. Hence the USA alleges “product-specific moratoria are ‘sanitary [or] phyto-sanitary measures’ that ‘affect international trade’ and, thus, are covered by the SPS agreement” (“First Submission of the [USA]” 2004, 49).

Table 14 below summarizes the US-EU divergence over GMOs.

**Table 14- US-EU Divergence over GMOs**

	USA	EU
<b>What is safe?</b>	GMOs are safe because essentially they are the same "product" as non-GMO substances.	GMOs are not safe because the "process" in creating GM-foods and crops is different from the process in creating non-GM products.
<b>How to determine what is safe</b>	Scientific risk assessment, where risk assessment and management are different. Science should be the only deciding factor.	Reliance on "precautionary principle." Risk assessment and risk management are carried out together. Public concerns and environmental concerns are important in decisions.
<b>Appropriate International Platform for dealing with the GMO issue</b>	The WTO is the most appropriate platform and the SPS Agreement governs the trade of GMOs. It is a trade issue, not an environment.	GMOs pose an "environmental question." Cartagena Protocol is the most appropriate platform.

*5.3.3 Can the WTO Be Substituted by the Protocol?*

*The "Substitutability" of the WTO*

The "competitive multilateral settings" approach I have so far set out, to some degree argues against the "substitutability" of the different international fora with one another. Some works (such as Drezner 2002; and Princen 2005) imply the "substitutability" of different multilateral settings. These authors essentially argue that "non-hierarchically ordered forums with different memberships and mandates" govern on some issues of global importance, such as the GMO case (Princen 2005, 52). Thus, the suggestion is that impact on one platform, or the utilization of one forum, is basically the same as influence on other forums. Hence the notion of non-hierarchy. Although Princen acknowledges major actors turn to different platforms depending on their interest calculations, he finds such use does not lead to "competitive multilateral settings." Specifically writing on the GMO issue, Princen explains,

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Still, this manoeuvring [by major actors] between forums has not resulted in deadlock or openly competitive relationships between forums. Both the forums themselves and the states participating in them have generally sought to avoid direct conflicts between different forums. (70)

Although Drezner's depiction of the systemic level manifestations of the WTO is similar to the account I provided in this chapter, he also essentially argues for "substitutability" of the different international fora involved in the GMO dispute. As Drezner summarizes, "as the issue heated up, the [USA] and the [EU] competed to develop regulatory standards....In doing so, both great powers relied on their friendly international fora for codification" (2004b, 11).<sup>69</sup> Drezner also argues that the EU made an effort to entice countries into the Cartagena Protocol, whereas the USA made an effort to lure them away from that forum back into the arms of the WTO's SPS. Hence, according to Drezner, the story of global governance in the case of GMOs is one of "rival standards," where the great powers concentrate on friends who they can woo into their circle. By virtue of choosing to deal with GMOs on different multilateral platforms, Drezner (2004b, 5) claims, the great powers have engaged in "forum-shopping."<sup>70</sup> Yet the implications of "forum shopping" remain disputable. Drezner explains that this type of competition between the USA and the EU on the multilateral platform leads to "two different nodes" of regulation, where the international community is neatly divided (2004b, 22). Drezner's argument would imply that whenever the WTO does not suit the American or the European interest, the two powers could shop for other forums. Thus when a disagreement occurs they would stay clear of each other. Sure, they would lead to "rival forums" but the implication would be that each power would stick solely to their forum and try to attract as many allies to that forum as possible. This dynamic would in turn suggest

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<sup>69</sup> The author provided me with a chapter on GMOs from his book manuscript, following our interview in September 2004 (see Appendix C). This manuscript for *Who Rules? The Regulation of Globalization* was previously accessible at [www.danieldrezner.com](http://www.danieldrezner.com). See also Drezner 2004a for a condensed version of the author's synopsis of the GMO case.

<sup>70</sup> According to him, great powers rely on different types and levels of governance in pursuit of their interests. Hence "forum shopping." For instance, they may choose to delegate responsibility to NGOs on certain issues. On other issues, they may rely on IGOs.

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that the different forum do not “contaminate” each other; that is, they do not influence each other.

### *The “Non-substitutability” of the WTO*

I argue that to a great extent the WTO is non-substitutable. In other words, the shift of the dispute to other platforms would not relieve the WTO of the pressure to find accommodation for the USA’s and the EU’s divergent viewpoints. On the contrary, it would increase the pressure on the WTO to address the US-EU divergence. Such non-substitutability does not imply that the WTO does not have competition. In fact, I have already argued the existence of “competitive multilateral settings.” Rather, the non-substitutability thesis suggests that in the case of “competitive multilateral settings,” where a number of institutions could potentially be the right platform for setting disagreements on a given issue, the WTO would ultimately be affected. If it could be substituted, it would remain relatively immune to impact.

First, disputes occur precisely because the two powers would like to rely on the WTO and remain committed to it. The perseverance of multilateral trading rounds, despite serious disagreements between different members, supports this point. Recently, the WTO has grown to include major trading powers, such as China. The WTO platform has a membership of about 150 countries. The WTO also continues to provide the most effective platform for dealing with trade and trade-related issues. Also, on an ideational basis, the USA and the EU remain committed to the WTO (interviews confirmed this point). This ideational commitment to the WTO also suits the interests of the two powers. Given its rules-based nature and reliance on consensus among its members, the WTO provides the right platform for the USA and the EU to deal not just with each other. It also allows them to rein in other powers. For example, dealing with China as a part of the institutional legalized framework of the WTO suits the interests of the two powers. The alternative of addressing tensions in a looser framework with fewer rules is a relatively more risky strategy in dealing

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with the emerging giants (Interviews). It is precisely because of the importance of the WTO that the USA and the EU would like it to be as close to their own policy positions as possible. The two powers' "survival" (understood in the wide sense, see Chapter 2) rests on shaping the external world as much as possible in accordance with their own outlooks.

Second, as much as the Cartagena Protocol has served the purpose of leading the debate on GMOs away from the WTO, it has also increased the already existing pressures on the WTO to accommodate the EU perspective. These pressures have been apparent since the beef hormone dispute, which will be discussed below. In fact, the argument could be that the EU's aim in utilizing the Cartagena Protocol is not to simply find international "legitimacy" for its approach. In finding this legitimacy, it also aims to influence the WTO. This point is hard to illustrate clearly. Nevertheless, a closer look at the EU's understanding of SPS provides some evidence to this point. The "Commission's Communication on the precautionary principle" states, "the SPS leaves leeway for interpretation of what could be used as a basis for a precautionary principle" (COM (2000) 1, 12). On the other hand, the EU has relied on the Cartagena Protocol for addressing the questions concerning the GMOs, implicitly challenging the significance of SPS. This point suggests that the EU has not ruled out the WTO's SPS as the right platform. In fact, it finds the inclusion of the precautionary principle *à la* EU-style into the SPS possible. The WTO's clarification of the role of the precautionary principle in the SPS could serve this purpose if it were to embrace the principle.

Third, the WTO itself could not risk moving a trade-related matter (the trade of GMOs) to a non-trade platform (the Cartagena Protocol). The "autonomy" of the institution and its interest in self-perpetuation suggest this point. The demonstration of the validity of these two claims—that the WTO will be impacted by the Cartagena Protocol and the WTO will try to incorporate the EU perspective—remains speculative to some degree, as the WTO has not ruled on the GMO dispute.

However, the WTO has ruled on the beef hormone dispute, which foresaw the GMO clash. An analysis of that dispute helps better illustrate the GMO conflict.

#### **5.4 The Beef Hormone Dispute: The Predecessor to the GMO Fight**

The “beef hormone dispute” denotes the WTO dispute brought by the USA and Canada (with Australia, New Zealand and Norway as “third participants”) against the EU’s “prohibition of imports of meat and meat products derived from cattle to which either the natural hormones: oestradiol-17 $\beta$ , progesterone or testosterone, or the synthetic hormones: trenbolone acetate, zeranol or melengestrol acetate (“MGA”), had been administered for growth purposes” (WT/DS26/AB/R 1998, 1). The European ban went into effect with three different directives (two in 1981 and one in 1988) that were enacted by January 1995.

Kerr and Hobbs (2002, 288-289) explain that the EU decision to ban the hormones was based primarily on consumer choice. Because of concerns in Europe (particularly in Italy) of the adverse affects of hormones, European governments took a risk-averse decision towards hormones. The authors highlight that neither the USA nor the EU had a strong commercial interest in taking their respective positions (285-288). The controversy stemmed from the fact that despite scientific studies in the USA, Canada and other countries which showed the hormones to be not damaging to human health, the EU refused to allow for hormones in beef (285; see discussions below). In this regard, the EU has embraced a “precautionary approach” in the beef hormone dispute (see also Wiener and Roger 2002).

Thus, at the heart of the USA’s contention of the EU regime at the WTO were the tensions that are present in the GMO clash: the balance between “scientific” and “societal” factors in determining and managing risk. As Wiener and Rogers (2002, 323) explain, the beef hormone dispute encompassed a number of diverse issues, ranging from concerns for animal and human welfare to the effects of the hormone

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technology on small farms. The authors also discuss (2002, 332) how the European governments' responses to the beef hormone crisis was neither quick nor decisive, exacerbating public anxieties. The public's concerns with the government's handling of this dispute, which is identical in its dynamics to the GMO dispute, helps explain the EU reaction to the GMO issue. In this respect, the beef hormone dispute set the precedent for the GMO dispute.

### *5.4.1 The WTO Ruling: The EU in Violation of the SPS Agreement*

The WTO panel to address the US complaint against the EU ban was assembled in May 1996 and the Panel circulated its decisions to WTO members in August 1997. In essence, the Panel ruled that the EU was in violation of the SPS Agreement by:

- Maintaining standards which stemmed from decisions other than risk assessment.
- “Adopting arbitrary or unjustifiable distinctions in the levels of sanitary protection it considers to be appropriate in different situations,” hence violating the non-discrimination principle of the WTO and erecting hidden trade barriers.
- Endorsing sanitary measures “which are not based on existing international standards without justification under Article 3.3” of the [SPS]. (WT/DS26/AB/R 1998, 3)

Because the EU did not comply with the WTO ruling in the given time frame, both the USA and Canada gained WTO authorization to suspend concessions to the EU totalling 116 million US dollars and 11.3 million Canadian dollars. At the time of the writing of this chapter, such concessions continue to be suspended. In the latest phase of this dispute, the EU requested WTO consultations and subsequently the formation of a panel, seeking to have the US retaliation removed. At the time of the completion of this dissertation, the WTO Panel has still not ruled on the issue. The

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EU claims that the USA should remove the retaliatory measures because the EU has complied with the ruling of the Appellate Body.

The EU considers that it has complied with the WTO ruling because it has followed scientific advice, specifically the findings of the Scientific Committee on Veterinary Measure relating to Public Health (SCVPH), an independent body commissioned by the European Commission (WT/DS26/22 2003). The Commission asked this independent body to assess the “potential adverse effects of human health from hormone residues in bovine meat and meat products.” According to the EU, the 2003 report by the Scientific Committee indicated that “a risk to the consumer has been identified with” the six different hormones mentioned above. The varying degrees of certainty with which the Scientific Committee ruled on the six hormones compelled the EU to maintain the “permanent prohibition” on oestradiol-17 $\beta$  and “provisionally apply the prohibition on the other five hormones” (WT/DS26/22 2003). The USA considers that the EU has not relied on science in its decision to continue prohibiting the hormones.

The beef hormone dispute provides insights into the utilization of “retaliation.” The EU prohibited the use of the hormones despite the retaliatory measure by Canada and the USA from 1997-2003. In 2003, instead of allowing the use of hormones, the EU relied on scientific studies of its own to continue the ban on the hormones. When weighed against potential health affects and damage to consumer confidence, the suspension of the American and Canadian concessions has mattered less to European policy-makers. This demonstrates that retaliation, as Chapter 4 suggested, is a contextual weapon. Its efficacy depends on the specific circumstances.

### *5.4.2 In Violation of SPS but with Some Justification: the Appellate Body Ruling on the EU's Ban*

The WTO Panel ruling on the beef hormone case, as emphasized above, endorsed an understanding of risk assessment based on scientific criteria. Moreover, it found the



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EU to be in violation of international standards. Speaking from a trade perspective, the WTO judged the EU ban to be a violation of the EU's commitments under the WTO. The Cartagena Protocol did not exist at the time of the beef hormone dispute, and the EU's ruling did not comply with the essence of the Codex and with respect to the SPS. Thus, there was at that time no international platform that could legitimize the EU's position existed (Falkner 2000).

Nevertheless, the EU's precautionary position found acceptance in the ruling of the WTO's Appellate Body on the beef hormone dispute. The Appellate Body in its review of the WTO Panel's decision basically upheld the Panel verdict. Most crucially, the Body assessed that the EU had "established itself a level of protection higher, or more exacting, than the level of protection implied in the relevant Codex standards, guidelines, or recommendations, [the EU] was bound to comply with the requirements established in Article 5.1." Overall, the Body recognized the right of members to establish the appropriate level of protection with regards to SPS but denied the members the right to fail to comply with other responsibilities envisioned by the SPS. Specifically, the Body agreed with the Panel that the European risk assessment (relevant to Article 5.1) was counter to the SPS and that the EU failed to demonstrate "sufficient scientific evidence" (explained in Article 2.2) to justify its SPS measures. In this regard, according to the Panel and the Body, the EU violated the Codex and subsequently the SPS Agreement. Hence, the EU's policy was illegitimate.

Yet, the Appellate Body amended the Panel's findings in important ways, potentially paving the way for the future inclusion of the EU viewpoint. The Appellate Body's ruling was as lengthy and as steeped in legal terminology as the ruling by the Panel. Here, the discussions highlight only some of the conclusions reached by the Appellate Body, with the aim of demonstrating how the ideas behind the appellate ruling mirror some of the crucial principles of the Cartagena Protocol, as opposed to the SPS Agreement. I am not making a strict legal comparison here; rather, I am interested in capturing the political implications of the ruling.

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The Appellate Body's ruling on the EU's use of the precautionary principle, while agreeing with the Panel's decision, revealed the increasing importance of the principle. The Body once again drew attention to the fact that the principle found expression in Article 5.7 of the SPS Agreement. The Body went further on this issue and agreed with the EU that the principle is not merely encapsulated in Article 5.7 of the SPS but "reflected also in the sixth paragraph of the preamble in Article 3.3" (WT/DS26/AB/R 1998, 46-7). By underlining these provisions of the SPS Agreement, the Body emphasized the role of national (in the case of the EU, supranational) bodies in deciding the risk factor in food safety. After all, the Body concluded that the mentioned articles "explicitly recognize the right of Members to establish their own appropriate level of sanitary protection, which level may be higher...than that implied in existing international, standards, guidelines and recommendations" (47).

In addition, it emphasized the point made by Canada that while the precautionary principle is not yet a component of public international law, it is "an *emerging* principle of law" (WT/DS26/AB/R, 23). This statement runs counter to the USA's wish to allow for precaution but avoid its inclusion as a principle. Overall, the Body endorsed the idea that states (and the state-like EU) could regulate more strictly than the incumbent international agreements, standards, and understandings. While agreeing with the Panel that the use of the precautionary principle by the EU was unjustified, the Body dwelled at length on the meaning of the principle and provided ample ground for its inclusion within and outside the bounds offered by the SPS Agreement.

By disagreeing with the Panel's interpretation of Article 3.1 of the SPS, the Body's report yet again provided more flexibility to states when deciding on issues related to SPS. Here, judging that the Panel's ruling would transform the *standards, guidelines, and suggestions* outlined in Article 3.1 into *norms*, the Body rejected the Panel's reading of the article. Instead, the Body claimed that the SPS Agreement

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does not indicate any inclination on the part of Member States to create norms but merely recommendations and guidelines:

We cannot lightly assume that sovereign states intended to impose upon themselves the more onerous, rather than the less burdensome, obligation by mandating *conformity* or *compliance with* such standards, guidelines and recommendations. (67)

This decision allows one to make inferences about the role of the SPS Agreement, hence the WTO. By arguing that conformity or compliance may not have been intended by the Agreement, it granted the Agreement a relatively weak role. Also, by permitting flexibility on this issue, the Body implicitly opened the door for members to consult and even rely on other international agreements. If the SPS was not the norm, then the possibility of other guidelines and recommendations to be taken seriously by members legitimately existed.

Another important way in which the Body's ruling provided support for the EU method related to the question of "risk assessment and the notion of 'risk'" (73). On this point the Body disagreed with the Panel's use of the word *probability* rather than *potential* when discussing the negative effects the meat containing the disputed hormones might have on human health. It argued that the term probability "[implied] a higher degree or a threshold of potentiality or possibility;" and as a consequence introduced a "quantitative dimension of the notion of risk" (74). The Body was uneasy with the insertion of a quantitative dimension because in their opinion such a notion did not appear in the SPS Agreement. By permitting the notion of risk to have a non-quantitative dimension, the Body ended up leaving the term open to interpretation.

Similarly, the Body asserted that Article 5.2, which included a list of the factors relevant to risk assessment, was not an exhaustive list. The Body stressed that this Article could include risks that are not "ascertainable in a science laboratory operating under strictly controlled conditions, but also risk in human societies as they

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actually exist” (75-6). By allowing a relatively loose definition to the concept of risk and by allowing non-laboratory (one could interpret this as “non scientific”) factors to influence the risk assessment, the Body sympathized with the EU’s approach to the notion of risk in this case. Howse and Mavroidis (2005) interpret that “in the relevant Appellate Body case-law, a risk assessment is a process whereby the likelihood of entry of a disease will be ascertained” (9). Hence, Appellate Body case-law in general acknowledges a “certain margin of discretion” on the part of the member state. Overall, the Appellate Body finding recognized the legitimacy of the EU’s position in more than one way. As a matter of fact, the EU has precisely interpreted the Appellate Body ruling to serve this purpose. An official EU document emphasizes “the Appellate Body on EC measures concerning meat and meat products (Hormones)...states that [the precautionary principle] finds reflection in Article 5.7 of [the SPS] Agreement” (COM (2000)1, 27). It is in this spirit that some authors have emphasized that the SPS makes room for the precautionary approach (for instance, Motaal 2005).

This brief overview of the Beef Hormone dispute demonstrates that GMO-style tensions between the USA and the EU had been long underway before the GMO dispute at the WTO level. Many of the struggles which the disagreements over the GMO dispute revealed had already surfaced in the beef hormone dispute, influencing the course of future events. What are the implications of these discussions for the primary research question? How, if at all, do the two powers impact upon globalization divergently?

### **5.5 Globalization and the GMO Dispute**

The exploration of how the two powers have (tried to) impact upon globalization in divergent ways first requires an examination of the way in which the GMO dispute involved globalization. I argued in Chapter 1 that the concept of globalization can be operationalized by focusing on the main “manifestations of globalization”

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(summarized in Table 1). Here, the discussions will re-visit these manifestations in the context of the GMO dispute to assess the ways in which this case allows us to capture globalization.

### *Manifestations of Globalization*

The GMO dispute displayed the importance of supranational institutions. As the above discussions revealed, a number of international organizations involved themselves in establishing the rules on biotechnology. The significance of these organizations was demonstrated by the fact the two powers tried to achieve “legitimacy” for their policy preferences via different international settings (see Falkner 2000). The discussions below will address the extent to which these organizations managed to shape the USA’s and the EU’s pursuit of their interests and preferences. Of note here is that the GMO case provided for ample opportunity to observe one of the primary manifestations of globalization—the pronounced presence of supranational organizations.

As discussed in Chapters 1 and 2, globalization embodies the interdependence of politics and economics. Alongside enhanced interdependence, the increasing importance of non-state actors marks the era of globalization. In addition, the literature on globalization (see Chapter 2) underlines the increasing importance of interlocking issues, and the diminishing demarcation between the “foreign” and the “domestic.” The GMO dispute has revealed the importance of the “issue.”

### *The Issue Factor*

In a globalized food system, new issues that play into multilateral trade negotiations have mushroomed. Both the beef hormone and GMO issues have stemmed from and precipitated a debate on food safety and trade. As issues become more complex and multi-faceted, triggering a whole range of other concerns, it becomes easy for different parties to focus on different aspects of the same issue. It is in the nature of

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issues such as GMOs to contain a great degree of interconnectivity to other issues. For instance, the trade of GMOs affects a whole range of issues ranging from trade itself to the environment to consumer rights and preferences. New types of issues in the global age invite in a diversity of actors, whose visions, goals, and institutional settings differ. In addition, intellectual property rights concerning biotechnology create new challenges, as will be addressed below.

The “issue factor” matters in studying the dispute between the USA and the EU on GMOs because it stimulates a discussion that extends beyond this specific case to other potential cases. Specifically, the conflicts spawned by the GMO case are now potentially contained in other issues due to the spread of science and technology to previously untouched areas as well as an increased consumer voice expressing strong preferences over certain issues in developed countries. By provoking new debates and reaching previously unaffected corners of policy-making, these issues do not simply challenge governments, non-governmental organizations, and multilateral institutions to come up with new solutions.

The above discussions also bring to mind the point that analyzing the state-globalization relationship on a “temporal spectrum” (Chapter 2) is useful. Chapter 2 suggested that the state-globalization interaction could produce different observations at different points in time. A snapshot of the dilemmas contained in the GMO dispute at the beginning of the beef hormone disagreement would suggest that globalization trumps the powers of the state. At that specific juncture, “manifestations of globalization” would be seen to be interfering with the way in which governments regulate food safety. However a snapshot at a further point in time shows that “the state” manages to mitigate the manifestations of globalization. As the chapter discussed, not only did the Appellate Body show sympathy to the EU perspective, but the creation of the Cartagena Protocol institutionalized the EU approach on the international level. The state-globalization relationship is evolving over time and can vary from one issue area to the next.

## **5.6 Analyzing the Dispute Along the Dimensions of the Dissertation**

### *5.6.1 The Core of the Dispute*

This chapter opened with a discussion of the roots of the GMO dispute. The discussion synthesized and expanded upon the literature to show that the USA and the EU experienced substantially different domestic dynamics. In exploring the potential causes of the dispute, the chapter claimed the dispute stems from a number of “domestic” disagreements that later translated to the systemic level.

Such disagreements include the different governmental responses to different food safety scandals on the two sides of the Atlantic. Moreover, studies show that while environmental concerns have managed to gain access to the EU institutions, they do not enjoy a similar role on the American side of the Atlantic. In the USA one witnesses relatively closer business and government relations. In this regard, the two sides have been “captured” by different influences. In addition to these societal factors and institutional dynamics, differing political cultures (Jasanoff 2002) have contributed to the divergent attitudes of the USA and the EU. All in all, domestic factors go a long way in explaining how the two powers’ regulatory approaches and frameworks differ on this issue. As the chapter explained, the beef hormone dispute also had a “domestic” core.

### *5.6.2 Competing Outlooks*

The GMO dispute has revealed divergences in the way in which the two powers approach and handle the same issue.

To recap, the dispute has demonstrated the following “competing outlooks:”

a) The two powers endorse and promote divergent understandings of “what is safe” and the methods for determining safety for consumers and the environment. The

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most divisive issue that has emerged from these different agreements on the multilateral forum concerns risk assessment and the role of science versus other factors, such as environmental, ethical, and socio-economic concerns. The differences between the USA and the EU over the precautionary principle embody the essence of the divergences between the two powers.

Such differences, the chapter explained, not only highlight the different experiences with various public food safety scandals, but also institutional dynamics and “cultural” differences between the two sides of the Atlantic. In the EU environmental concerns have gained a strong voice in the formation of biotechnological policy, whereas in the USA business groups have managed to find inlets into policy-making. The unequalled global position of American firms in the field of biotechnology reinforced these trends. These domestic differences between the USA and the EU translated on to the systemic level.

The “competing outlooks” have also related to a discussion about trade and the environment. For those who consider the facilitation of trade and environment as inherently harmonious and that the protection of the environment from trade should not be a priority concern, risk assessment should merely be based on what science knows. This position captures the essence of the USA’s stance on the matter. In contrast, a more environmental approach would also consider what science does not know—that is the potential harms to humans, animals, and the environment in general—potentially curbing trade for the possible but unknown negative effects it may have on the environment. Woven into a complex set of public concerns, this latter understanding explains the EU’s proclaimed position.

b) The two powers disagree as to what constitutes legitimate governmental barriers to trade. The EU has relied on the precautionary principle and the inclusion of societal factors in deciding the safety of GM foods. The USA has criticized the European approach for being non-scientific. In this regard, the USA has considered the European barriers to the trade of GM foods as illegitimate trade barriers. Thus,



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what was regarded as valid governmental responses to a new technology on one side of the Atlantic was protectionism on the other side of the Atlantic. The same point can be made in reference to the “beef hormone” dispute as well.

c) The dispute also revealed disagreements between the USA and the EU over the potential role of biotechnology in development and the alleviation of hunger (Conway 2003). On both sides of the Atlantic there are commentators who argue biotechnology could help alleviate hunger in the developing world. And there are those that believe the spread of biotechnology could only further benefit the rich countries. Proponents of this technology argue that biotechnologically-altered crops are pest-resistant and produce greater per hector yields (Conway 2003, 2). Those that oppose the technology point to the “mixed” results, emphasizing that GM crops do not always do better than their non-GM counterparts (Orton 2003). Moreover, the research and infrastructure demands of biotechnology are expensive, making it difficult to foresee how poor developing country farmers could utilize this technology towards the eradication of hunger (Orton, 3). Also, as Conway points out, the intellectual property laws that govern the licensing of the technology further complicate the access of developing countries to these technologies (3). Commentators that remain sceptical about any good biotech crops can bring to the developing world emphasize that the GM industry is big-business-dominated with little understanding of small farmers’ needs (Orton 2003). The ambiguity embedded in the questions surrounding GM crops point to the potentially dubious role of new technologies.

The official US position has been to advocate the utilization of biotechnology for the alleviation of hunger in the developing world and thus the USA considers the EU position on the issue to damage development efforts in impoverished parts of the world. Jack Bobo (2005), a trade policy adviser at the US Department of State, explains that biotech crops “...may not solve problems such as starvation and malnutrition, but can be a major tool in combating them.” The USA position argues that food production could be much more efficient if crops were rendered more

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resilient to pests and diseases, and that biotechnology serves exactly that purpose (First Submission of the [USA] 2004, 10). In this regard, the EU's position hampers efforts to tackle famine in the developing world. Overall, the GM debate also constitutes a sub-set of the general debate about development. The commercial interests and societal concerns of the major players are interwoven into a larger debate about how trade and technology can, if at all, improve the living conditions of the less fortunate. In this regard, the dispute between the USA and the EU has important implications for different regions of the world.

### 5.7 Conclusions: Strong Case of Rival Globalizations

#### 5.7.1 Impact on the WTO

In assessing "rival globalizations," the dissertation set out to explore the impact on the WTO by asking whether the dispute led to a change in the rules, regulations, or the approach of the WTO and whether this putative change resulted from the USA's and the EU's clash. The two powers' *divergent impact on international organizations other than the WTO* (that is, the second variable of interest in "rival globalizations") essentially determined the impact on the WTO.

Since the WTO has not ruled on the GMO dispute, it is not possible to argue about the exact impact of the dispute on the WTO. Nevertheless, it is possible to deduct that however the WTO rules, the WTO's ruling will impact itself. In other words, through the dispute, the two powers will have impacted on the WTO. There are three possible scenarios for how the WTO decision could pan out:

1. The WTO can deny the EU approach towards GMOs by unequivocally finding the EU in violation and by limiting the future scope of the precautionary approach *à la* EU. This outcome would suggest that the EU would continue utilizing platforms other than the WTO for issues regarding the trade of GMOs. As explained, because

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the issue remains domestically entrenched, the EU is likely to follow the path it took on beef hormones and pursue its own methods of risk assessment and management. In the short term, the EU's utilization of the Cartagena Protocol could remove pressure from the WTO. However, in the long term, the WTO would also risk losing influence over this issue and also any similar type of issue that may arise related to the use of science in society.

2. The WTO may partially endorse the EU perspective. Such a ruling would resemble the outcome of the beef hormone dispute. The chapter has argued that the Appellate Body's ruling on the beef hormone case envisioned a role for the precautionary principle. In this manner, it has not ruled out future reliance on this method preferred by the EU. In addition, the Appellate Body envisaged state discretion in determining safety of food when public health is of concern. The Appellate Body also indicated non-scientific factors could potentially play a role in deciding what is safe. In these respects it did not rule out the inclusion of the methods and concerns of the EU on related regulatory questions into WTO operations.

3. The WTO could accept the EU approach by denying the validity of the USA's and Canada's case against the EU. In this case also, the dispute will have impacted the WTO. As suggested by the above discussions, such an outcome would lead to a re-interpretation of the scope of the precautionary principle in the SPS Agreement. It would also re-assess the relationship of trade and environment.

All in all, it is reasonable to expect a modification of WTO rules, regulations, or approach to incorporate elements of the EU's approach.

*5.7.2 Divergent Utilization of Other Supranational/International Organizations by the USA and the EU?*

Even without reference to the potential outcomes of the WTO, it is possible to argue that the dispute has already impacted on the WTO because the dispute involved the two powers' divergent utilization of international/supranational organizations other than the WTO. The presence of the Cartagena Protocol, as already implied, has impacted the WTO.

To begin with, the dispute has shifted the terms of the debate on GMOs from being a discussion on the trade of biotech products only to a struggle about maintaining the right balance between trade, on the one hand, and consumer demands and environment, on the other hand. Thus, the dispute has forced a new issue on the WTO. Isaac and Kerr (2003, 1084) claim that through the dispute, the USA and Canada "would like the WTO to implicitly determine whether or not the Cartagena Protocol is trade compliant."

As argued, if the "substitutability" of the WTO is accepted, a fight at the WTO would have been unnecessary because the Cartagena Protocol would have already allowed for the EU to pursue its outlook on the issue more effectively. One would expect from the "substitutability" argument that such an international outlet for the EU's stance on the issue would relieve the pressures on the WTO. The USA's preference to keep the WTO unharmed would have been fulfilled to a great extent by the EU's reliance on a different platform. Nevertheless, to most commentators' surprise—for instance, Falkner argued the Cartagena Protocol had decreased the chances for an "open trade conflict over GMOs" (2000, 313)—an open dispute between the USA and the EU broke out at the WTO.

Moreover, the WTO is likely to resist its "substitutability" in the GMO case. As the chapter claimed, the WTO needs to accommodate major players to some extent. Based on the evidence provided in the beef hormone dispute, the expectation is that

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instead of allowing for the EU's position on the GMO issue to find expression in a different platform altogether, the WTO would somehow strive to accommodate the EU's position. In this regard, the WTO itself would resist "substitutability." With such strong public resistance to GMOs in the EU, the WTO can only effectively attract the EU back to its side if it can make some room for EU-style regulatory approaches.

In defining the theoretical framework for the dissertation, Chapter 2 suggested that international organizations, though of increasing importance and able to constrain the way in which great powers pursue interests, can not go as far as defining these interests. The GMO case meets this theoretical expectation in the sense that although supranational organizations, particularly the WTO, played an important role in shaping the behaviour of the two powers, it did not go as far as defining these interests for the two powers. Although the presence of the WTO affected the actions of both the USA and the EU, the institution itself could not remain immune to impact by the two powers.

### *5.7.3 Divergent Utilization of Bilateral and Regional Trading Partners?*

The analysis on the dispute provides some insights into how the two powers have utilized their bilateral and regional trading partners divergently. Canada and Argentina have joined the USA as complainants of the EU policy in this dispute. Moreover, the timing of the dispute coincided with the EU's trading partners in Africa rejecting American food aid that contained GM food. Some authors see these divisions in the GMO dispute as the beginnings of "regulatory regionalism" (see Drezner's arguments above; and Isaac and Kerr 2003, 1093). Isaac and Kerr note that the WTO decision may lead to a fragmentation of the international market and:

force countries to choose between a North American/WTO-style approach or an EU/Cartagena Protocol-style approach to regulating GMOs, depending on which side of the Atlantic is

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deemed the more important market. Countries wishing to export their own products to the EU will not welcome either GMO products or GMO technologies. (2003, 1093)

What contributed to the GMO dispute producing a strong case of rival globalizations was the way in which the two powers' "competing outlooks" managed to globalize. The different domestic political impulses strengthened the two powers' embrace of their competitive perspectives and tools to tackle the GMO issue. Unlike the banana dispute, where an internal process of change had been triggered in the EU towards the WTO-position, the GMO dispute displayed a different dynamic. Although the EU's directives on the trade of GMOs and labelling now make it almost certain that the EU's borders will soon be open to GM foods, public scepticism remains.<sup>71</sup> Isaac and Kerr claim:

[The] EU enjoys considerable domestic support for its position while the WTO has been vilified as an unaccountable tool of multinational corporations that aims to undermine European health and safety regulations. (2003, 1089)

The EU does not need to have a *de facto* moratorium on GMOs for the USA and the EU to have different perspectives on the GMO issues. In fact, in the midst of public scepticism, some member states have prohibited GMOs. For instance, GM maize known as Bt-11 sweet corn, was approved by the Commission and the European Food Safety Authority, a scientific body that aids the decisions of the Commission and the Council. Nevertheless, member states stopped its commercial use (Shaffer and Pollack 2004, 38; see this publication for an in-depth description of how the European decision-making process works).

The USA also lacks an internal push that could bring it closer to the EU position. As the chapter mentioned, while the American public has over time become more sceptical towards the GM foods, this internal dissent has so far been contained. The strong US business interest in the biotechnology sector serves to keep domestic

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<sup>71</sup> Currently, the EU imports biotech products from the USA, but these have been used in field trials and have not been released for commercial use yet (Bobo 2005).

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dynamics static. Although a radical event—such as an equivalent to the BSE crisis in the USA—could tip the American regulatory approach closer to the EU end, at the moment the divergent domestic dynamics within the USA and the EU contribute to the creation of strong “rival globalizations” on the systemic level.

The chapter has overall demonstrated that the “competitive system” of international relations perseveres (Waltz 1979, 128), despite the growing complexities embodied in globalization. Conflicts between the main players of global political economy determine the outcomes of important features of globalization. In this case, the USA and the EU have tried to manoeuvre the WTO in accordance with their own different interests and preferences. The chapter argued that the dynamics of the GMO dispute can be better illustrated with reference to the beef hormone dispute, which foresaw the GMO clash. Given the differing political impulses within the USA and the EU (domestic “core of the dispute”), the two powers’ “competitive outlooks” have remained strong throughout the dispute. The two powers have utilized different international platforms to pursue and consolidate their perspectives on the issue. The chapter explained that the two powers’ utilization of organizations other than the WTO has potentially affected the approach of the institution. The GMO dispute has also shifted the terms of the debate on GMOs from a discussion on the trade of biotech products only to a struggle about maintaining the right balance between trade, on the one hand, and consumer demands and environmental concerns, on the other hand. In this regard, the dispute confronts the WTO with a new and possibly intractable challenge. The chapter proposed to understand the GMO clash as a case of strong “rival globalizations.” The divergence between the two powers at the start of the dispute has remained substantial throughout the clash, drawing in the two powers’ partners and international bodies into the conflict.

Table 15 below summarizes the discussions of this chapter.

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**Table 15- The US-EU Conflict Over GMOs**

(Analyzed in conjunction with some observations based on the Beef Hormone dispute)

<b>Rival Globalizations?</b>		
<b>Outcome: Strong Case of Rival Globalizations</b>		
Divergent impact on the WTO?	Divergent utilization of international organizations other than the WTO?	Divergent utilization of bilateral and regional trading partners?
<p>Yes, the two powers have tried to impact on the WTO divergently. The two powers' <i>divergent impact on international organizations other than the WTO</i> (that is, the second variable of interest in "rival globalizations") essentially determined the impact on the WTO. Insights from the beef hormone dispute suggest that the WTO's position will over time incorporate aspects of the European approach.</p>	<p>The dispute involved the two powers' divergent utilization of international/supranational organizations other than the WTO.</p>	<p>The analysis on the dispute provides some insights into how the two powers have utilized their bilateral and regional trading partners divergently. Some commentators have claimed this divergent utilization leads to rival "regulatory regionalism."</p>
	<p>What contributed to the GMO dispute producing a strong case of rival globalizations was the way in which the two powers' "competing outlooks" managed to globalize (untamed "competing outlooks"). Moreover, the domestic "core of the dispute" continues to maintain the differences between the two powers.</p>	



## **Chapter 6: Case Study on the USA's and the EU's Regional and Bilateral Trade Agreements (RTAs)**

### **Chapter Summary**

The preceding two chapters discussed specific disputes at the WTO level: the clashes over bananas and GMOs. This chapter focuses on the USA's and the EU's regional and bilateral trading agreements (RTAs). If, as the dissertation asserts, the great powers operate within a common multilateral framework but struggle to bend the rules in accordance with their own divergent perspectives and interests, then related questions arise: Does this sort of a rivalry exist on the bilateral and regional levels, referred to as the "sub-multilateral" arena? And if so, what are the implications of "sub-multilateral" divergences for the multilateral level? There is a rich literature on whether the two levels, the "sub-multilateral" and the multilateral, are compatible. The chapter will engage with this literature in light of the USA's and the EU's RTAs.

The chapter will analyze the interaction of different "dimensions of analyses" in the dissertation. Specifically, it will examine how/whether the two powers' "competing outlooks" affect their utilization of their bilateral and regional trading partners. Following on from this point, it will analyze how both of these variables affect the "impact on the WTO." Chapter 1 inserted a note of caution about cause and effect, arguing that something that may at *time one* appear as a cause may be an effect at another point. In essence, this chapter examines the inter-relationship of different variables of analysis from a different perspective than the first two case studies. At the same time, it expands upon the discussions in the previous case studies, elaborating the USA's and the EU's links with different regions.

## 6.1 Introduction

One of the defining features of the world trading system since the 1990s has been the meteoric rise of bilateral and regional trade agreements (RTAs).<sup>72</sup> Between January and February 2005 alone, the WTO received notification for 43 RTAs (Crawford and Fiorentina 2005, 1). While in the beginning of the 1980s the number of notified RTAs in goods was four, by the early 1990s the same number had increased to 21 and between 2003-2005 to 33 (Crawford and Fiorentina 2005, 5). Today, the WTO estimates more than 50 per cent of world trade is between countries belonging to bilateral and/or regional free trade agreements (FTAs) (cited in de Jonquières 2002a).

Unlike previous waves of RTA creation, which typically were between geographically proximate and developed countries, the current generation of RTAs link developed and developing economies and increasingly involve countries that are not geographically proximate, with the EU-Chile and US-Morocco agreements as examples. Often trading agreements involve regional blocs themselves, such as the EU negotiations with Mercosur (trade zone between Brazil, Argentina, Uruguay, Paraguay), or a developed country and a region, such as the USA and the Central American Free Trade Agreement (CAFTA). Furthermore, RTAs encompass aspects of trade that the multilateral level has not addressed, such as investment (see, for instance, Bouzas 2005).

These remarkable movements in the world trading system have sparked intense policy debates over the compatibility of RTAs with the multilateral management of the political economy through the WTO. The now well-charted academic territory of RTAs raises complex questions on the conditions that engender these agreements and their likely repercussions. While some authors find the relationship of RTAs and the

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<sup>72</sup> In this chapter the term RTA is used to cover anything from customs union agreements to regional and bilateral free trade agreements to trade cooperation agreements, which include trade provisions that cover services. These agreements may or may not be notified to the WTO. Where important, a distinction between those notified to the WTO and those not will be made. Also the discussions refer to agreements that have been enforced as well as those that have not been put into force yet. Again a distinction is made when pertinent.

multilateral system to be marked with discord, others believe RTAs and the multilateral system are compatible. Still others emphasize that bilateral and regional liberalization motivates liberalization on the multilateral level (see below for a discussion). What remains less emphasized in analyses is the extent to which the bilateral and regional levels, herein referred to as the “sub-multilateral level,” shape the multilateral system in particular and hence the contours of the global political economy in general.

The chapter expands upon the existing discussions on RTAs by drawing attention to the bilateral and regional trade agreements negotiated by the USA and the EU. Specific focus on these two economic superpowers is warranted beyond the boundaries of this dissertation, given that the two powers are not only involved in a great number of the existing RTA agreements, but initiated the agreements. The remarkable involvement of the two powers in RTAs leads to the following questions: Does a rivalry exist on the sub-multilateral arena? And if so, what are the implications of sub-multilateral divergences for the multilateral level? In other words, do the two powers interact with the sub-multilateral setting divergently and therefore impact upon the multilateral setting and thus globalization differently? Moreover, the chapter expands upon crucial discussions raised in previous chapters, most significantly the role of preferential trading agreements.

The chapter primarily contends that the USA and the EU’s RTAs either inevitably (without deliberate action) or consciously (as an intentional strategy) affect the multilateral political-economic system in different ways. To begin with, the regional structures the USA and the EU prefer and encourage differ, potentially affecting either already existing regional arrangements or ushering in new ones. Moreover, the RTA-partners chosen by the two sides may more explicitly determine the types of coalitions within the WTO. Finally, RTAs may constitute fault lines along which disagreements between the two partners deepen. In these important respects, divergences in the two powers’ RTAs produce divergent paths to globalization.

The rest of the chapter is organized as follows. First, I provide a brief overview of the relevant academic literature on RTAs, further clarifying the approach of this chapter. Secondly, in three parts, the chapter compares and contrasts the RTAs of the USA and the EU. Building on the second part, the final section of the chapter concludes that the USA and the EU generally aspire to create different types of sub-multilateral structures.

## **6.2 Brief Overview of the Debate**

The discussions on RTAs display two main disparate strands of analyses: one looking at the economic repercussions of RTAs and the other focusing on non-economic aspects of these agreements. In both cases, the literature has generally explored the compatibility of the sub-multilateral level with the multilateral system.

A substantial part of the literature has assessed RTAs in terms of trade creation versus diversion. The issue of trade creation/diversion has great significance, since the neo-liberal economic thinking assumes free trade increases welfare in the absence of diversions. Thus, inspired by Viner's seminal work (1950), the economic-based approaches have primarily analyzed whether regional agreements are trade creators or trade diverters without reaching a consensus on the matter. For instance, Lawrence (1995, 4) indicates that a possible trade diversion within the regional union might occur if the regional agreement expands the production of less efficient members and reduces the production of more efficient outsiders. Krugman (1991), on the other hand, takes a more sceptical view, questioning any potential impact of RTAs on welfare and trade. With a similar doubt but a different analysis, Bhagwati (1999, 17) claims that free trade agreements "will lead to considerable trade diversion (because of modern methods of protection, which are inherently selective and can be captured readily for protectionist purposes)..." Bhagwati and Panagariya (1996) and Mansfield and Milner (1999) survey the conditions under which preferential trading arrangements contribute to trade, demonstrating RTAs' qualified compatibility with a liberal world trading system.

Despite the above academics' concerns over RTAs' contribution to world trade, recent studies have in general found RTAs harmonious with the liberal multilateral trading system. The most prominent regional trading agreement, the EU, has not on the whole impeded world trade liberalization. On the contrary, as Hanson (1998) points out, since the 1980s, when European integration gained increased momentum, Europe has liberalized due mostly to the timing and scope of European integration spurring unintended consequences. These unintended consequences constrained actors, such as national governments, pushing them away from protectionism towards the direction of further liberalization. Ethier (1998), within the confines of his model, finds positive impacts of RTAs in that they usher in reforms towards trade liberalization in small-country participants. Regional trade agreements, the literature also finds, are utilized especially by the USA and the EU to liberalize markets elsewhere. For instance, by easing the way for domestic reform, the North American Free Trade Agreement (NAFTA) contributed to the liberalization of the Mexican economy (see Baldwin 1999). Through a quantitative assessment of net trade and welfare effects, a study by Sampson and Woolcock (2003, 4) indicate RTAs support world trade. Similarly, Frankel (1996) also remains optimistic about the capacity of RTAs to serve as "building blocks" to multilateral trade liberalization. According to Hettne (2000), regional agreements have eased the manner in which different countries trade with one another by providing a liberal economic structure. From this perspective, RTAs generate an aura of liberalization on the sub-multilateral level, eventually trickling up to the global multilateral level. While doubt remains regarding the compatibility of RTAs and a multilateral trading system, a growing body of evidence supports the contention that RTAs do not hamper the world trading system and perhaps even contribute to its growth.

The literature also focuses on non-economic, predominantly political, dimensions of RTAs. Here, different streams of analysis are present: some works analyze the politics motivating and perpetuating the formation of RTAs and others analyze the political repercussions of such arrangements. To provide a few examples, Gowa and

Mansfield (1993, 408) argue free trade is “more likely within, rather than across political-military alliances.” Mansfield and Milner (1999, 602-605) focus on how domestic politics, such as the balance of different interest groups within a country, translate into RTA-making. Other works emphasize the political repercussions of RTAs. Bergsten (1999) discusses how RTAs can possibly alter the way economic liberalization occurs: “it has turned out to be less time-consuming and less complicated to work out mutually agreeable arrangements with a few neighbours than” with the large membership in the WTO. In this regard, a shift of focus from the main multilateral forum to sub-multilateral levels has taken place. Also, underscoring the consequences of RTAs for the making of trade rules, Sampson and Woolcock (2003) address the regulatory ramifications of RTAs, paying considerable attention to the potential differences of regulatory approach between the USA and the EU. Clearly once the political dimension is added on to the economic analyses of RTAs, the compatibility of these with the multilateral trading system becomes more complicated, leading to indefinite conclusions. The non-economic (mostly non-numerical) aspects of these agreements are relatively harder to pinpoint. At this stage, further deliberation on the political aspects of RTAs remains critical.

This chapter proposes that RTAs do not just constitute tools for reacting to the global political economy and its multilateral management. They also contribute profoundly to the shaping of that environment, playing an instrumental role for states. The instrumental role of RTAs has been suggested in previous studies. Gamble and Payne (1996, 2) have proposed an understanding of regionalism as a “statist project.” Similarly, Grugel (2004) explains, “new regionalism...is best understood as a state strategy designed to minimize risks in the uncertain conditions of economic globalization by promoting activities at the meso-level of the region” (605). In a perspective similar to these authors, this chapter perceives regionalism, as spawned by RTAs, as a tool to interact with the political-economic multilateral system. Yet, slightly different from these authors, it emphasizes how RTAs are not simply “reactionary” tools for better coping with the external environment, but rather how they contribute to the creation of that environment. In this analysis, the sub-

multilateral and multilateral levels do not really occupy two separate spheres of influence (coexistence); they inhabit the same space (overlapping existence<sup>73</sup>).

A natural place to start the exploration of how states can utilize RTAs to shape the multilateral system is the analysis of the USA's and the EU's trade agreements. These two economic giants have negotiated a great portion of the RTAs. I will argue that there is the need for a macro understanding—the big picture approach—to the USA's and the EU's RTAs. Focusing on the general picture, as opposed to zooming in on the particularities of each agreement, allows us not only to locate the role of RTAs in a broader *political*-economic context, but it also contributes to a synthesis of the different strands in the literature. Specific case studies of different agreements negotiated by the USA and the EU have already been studied elsewhere (for instance, Sampson and Woolcock 2003). While such case-by-case analyses remain very useful, we would also benefit from a macro-examination, which exposes the underlying patterns and allows for generalizations. Having now further defined the approach of the chapter, the chapter will examine the patterns of RTA-making by the USA and the EU.

### 6.3 General Patterns of US and EU RTA-making

This section extracts the general patterns of RTA-making, comparing the two powers' approaches and tactics. The two powers do not initiate all of these RTAs, at times they are merely responding to requests for agreements from others. In addition, within the USA and the EU, the role of RTAs and their degree of desirability do not go undisputed. Both the USA and the EU remain in the process of understanding what role RTAs play and *should* play in their overall external relations. Nevertheless, not only does it remain possible to explicate the USA's and the EU's RTA-making patterns, but doing so helps discern some of the changes to the role RTAs have played for the two powers.

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<sup>73</sup> Overlapping does not necessarily imply a perfect fit. If one thinks of the regional and the multilateral level as mathematical sets, then an overlap does not suggest about the size of these sets but rather about their positions.

*6.3.1 The Regionalist EU, the Bilateralist USA?*

Table 16 below illustrates that compared to the USA the EU relies more on regional agreements than bilateral ones. For the EU the distinction between bilateral and regional relations matters greatly, with the use of the latter dating back to the 1960s. As emphasized by Edwards and Regelsberger (1990), the EU's "group-to-group" relations have constituted the main political instrument with which the EU has responded to foreign policy challenges in certain regions (4-13). The establishment of predominantly political but also economic links with former colonies of the European states nurtured region-to-region links. One example is the Lomé Convention, which, like its successor the Cotonou Agreement, conducted the EU's relations with its former colonies with a regional, as opposed to bilateral, approach. Some observers have concluded "had it not been for the Lomé Convention, the [African, Caribbean and Pacific (ACP) group] would certainly not exist" (Schmuck 1990, 49). Such regional ties have granted the EU a unique tool for conducting external relations. Edwards and Regelsberger's volume discusses the different reasons why the EU has relied on such a strategy. As the volume emphasizes, it makes logical sense for the EU as a regional entity with a colonial past to form regional links. The USA, however, lacks a similar existential push for region-to-region ties, as a single country naturally inclined towards creating agreements with other single countries. The EU's relative emphasis on regional links is captured less by the numbers (Table 16) but more by the story behind the numbers. These regional relations encompass a great number of countries.



**Table 16- The USA's and the EU's RTAs**

		<b>The USA's and the EU's Bilateral/Regional Trade Agreements (Number of New Agreements Per Decade)</b>					
		<i>1960s</i>	<i>1970s</i>	<i>1980s</i>	<i>1990s</i>	<i>2000s</i>	<i>Total</i>
<b>EU</b>	<i>Bilateral</i>	0	0	0	11	2	13
	<i>Regional</i>	1	0	1	3	3	8
<b>USA</b>	<i>Bilateral</i>	0	0	2	0	16	18
	<i>Regional</i>	0	0	1	3	2	6

Source: Table collated from the USTR's and the EU Commission DG Trade's websites in January 2005. In conceptualization of regions versus countries, I relied on the categories provided by these two official bodies. In calculations, candidate countries to the EU (Bulgaria, Romania, Croatia, Turkey), as well as those in the European Economic Area (EEA) and Switzerland, were excluded.

[http://www.ustr.gov/Trade\\_Agreements/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Section_Index.html).

[http://www.europa.eu.int/comm/trade/index\\_en.htm](http://www.europa.eu.int/comm/trade/index_en.htm).

More information about the table is included in the Appendix.

Table 16 above also demonstrates the following: a) bilateral agreements have gained importance for the EU over time and especially in the last two decades, and b) the number of bilateral and regional trade agreements negotiated by the USA, specifically the former, has skyrocketed within the last five years. Considering that the period 2000-2004 is less than half of a decade these trends become even more pronounced.

Why has the EU increased its utilization of bilateral agreements? A number of reasons appear to underlie this trend. The extent of its existing region-to-region links leaves little room for the EU to negotiate new regional links. After all, the EU already has substantial connections with regions which encompass many countries, such as the Mediterranean region, Mercosur, and the Andean Community. While the EU may continue to conceptualize certain parts of the world as regions, such as "the Caucasus," it has *bilateral* and *not regional* agreements with these localities. Also, the EU has been compelled to negotiate more bilateral agreements as a response to US bilateralism. For instance, the EU has aimed for "damage control" in places where the USA has well-established agreements. The EU-Mexico agreement was an attempt to restore commercial links jeopardized by NAFTA. Moreover, the EU's bilateral links reflect an effort to maintain links with high-growth regions and

important markets. Ties with economies such as South Korea, China, India, and Chile are intended to achieve trade deals as favourable for European domestic constituencies as possible. Finally, other bilateral agreements serve to further the EU's foreign policy goals in countries which do not belong to a wider regional grouping, such as Iran. It is fair to say that the increase in the number of the EU's bilateral agreements also highlight that the EU pursues a regional approach with bilateral agreements. In linking itself to regions, the EU forms bilateral links with countries of a particular region (see Notes at the end of this chapter for an explanation). Although the motivations behind the EU's bilateral agreements seem disparate, the overall trends reveal the relative importance of economic objectives rather than political aims, as the majority of these agreements emphasize commercial concerns.

As Table 16 also demonstrates, the EU activity on both the bilateral and regional fronts has exhibited little movement in the last four years. While it would be premature to make conclusive remarks, this trend may be attributed primarily to the doubts raised by RTAs. Concerned with the potential distortion effects of RTAs on multilateral trade relations (see, for instance, Sapir 1998, 730-1), under Commissioner Pascal DG Trade has instituted a "moratorium" on *new* FTAs, with the exception of negotiations with Mercosur (Interviews at the EU Commission; see Appendix C for a list of interviews). While the EU builds on existing agreements constantly—the evolution of the agreements with ACP countries serves as a good example—it has avoided making new agreements. The deceleration in the creation of new agreements is primarily due to the "moratorium," but it is also partially because of the extent of the agreements already in existence. It is worth noting that the relative increase in the number of bilateral agreements has occurred against this backdrop.

As Table 16 also illustrates, the USA has substantially increased the number of both bilateral and regional agreements in recent decades. Combined with the changing multilateral structure of trade marked by the emergence of a large WTO, the presence

of the EU explains this development. Today, new deals at the WTO level are cumbersome to negotiate primarily because of the complexity of issues facing an ever-growing membership. This problem has increased the attractiveness of the bilateral/regional route. While negotiations have become harder for everyone on the multilateral level, this problem is particularly pronounced for the USA, as it is traditionally used to having considerable influence at the multilateral levels. American tendencies to sub-multilateral agreements have partially stemmed from a desire to pursue the USA's interests more effectively, as some American academics and officials have begun to find the multilateral arena cluttered with a cacophony of voices (Bhagwati 1999, 10-11). The emergence of the EU as an international actor has exacerbated the USA's frustration with the multilateral arena. As Bergsten (1999) explains, in the sixties and seventies, the USA initiated the Kennedy Round of global trade negotiations in order to "counter the discrimination inherent in the creation of the European Common Market" and to "counter additional discrimination from the [European] Community's expansion to include the United Kingdom" during the Tokyo Round. Hence, the initial US strategy relied on multilateral rounds to rein the EU in and maintain a liberal trading system globally. Yet, over time, the evolution of the EU into a strong international actor on trade, one with at times conflicting interests to those of the USA, encumbered the multilateral setting further, contributing to a lessening of the US allegiance to the multilateral arena. For instance, NAFTA, the Enterprise for the Americas Initiative, and the Asia-Pacific Economic Cooperation (APEC) acted as new platforms from which the USA could gain a stronger voice against the EU in GATT rounds. In 1993 the USA devoted the APEC summit to formulating a common approach to the then upcoming GATT round, in which the USA and the EU were in dispute over the CAP (Kahler 1996, 11, 23; Frost 1997, 73-75). The gradual growth of US reliance on sub-multilateral levels found a strong new voice in the Bush Jr. administration's embrace of "competitive liberalization." This principle explains that the USA will pursue trade agreements on whichever level—bilateral, regional, or multilateral—is possible. According to Bergsten, "competitive liberalization" has increased the need for RTAs, since such

negotiations are usually bolder in terms of the elimination of barriers and thus avoid the cumbersome multilateral bargaining process (Bergsten 1999; Zoellick 2002).

As mentioned before, RTAs by one power beget RTAs by the other power: the utilization of RTAs as a political-economic tool by the EU has compelled the USA to embrace a similar tactic. This dynamic also explains the increase in the number of the USA's RTAs. In a clear articulation of this phenomenon, the former US Trade Representative Robert Zoellick remarked as follows:

Other countries are moving forward with trade agreements while the [USA] has stalled. The [EU] has free trade or special customs agreements with 27 countries, and 20 of these agreements have been signed since 1990. Moreover, the EU is proceeding with 15 more. Of the 130 free trade agreements in force globally, the United States is a party to only two. (2001, 7)

Since the bilateral/regional agreements negotiated often embody *preferential* access,<sup>74</sup> in theory a rush to RTAs by one power spurs a race to RTAs between the two powers (see also Sapir 1998, 727-728 in particular). For instance, the EU's FTA with Chile was followed by an FTA between the USA and Chile.

In addition to the emphasis on "competitive liberalization," the increased use of trade agreements as foreign policy tools during the Bush administration has also contributed to the recent sharp rise in the USA's RTAs. Looking at Southeast Asia and the Middle East, where the USA did not previously have trade or investment agreements, this point becomes apparent. Here, the G.W. Bush administration has rewarded allies in the War on Terror; trade and investment-based agreements with Pakistan and Afghanistan constitute examples. Agreements with Morocco and

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<sup>74</sup> Krueger (1997) explains that there is an important distinction between customs union and free trade agreements because "rules of origin (ROO) are a far more central features of free trade agreements than they are of customs unions" (14) and because ROO are prone to raise protectionist measures either by discriminating against non-members of the agreement, or due to their lack of transparency. Thus, it is important to note that different types of regional agreements may have different implications in terms of preferences.

Bahrain also contain a strong political element. At first sight, the agreements in the Western Hemisphere suggest a different picture: here NAFTA and other agreements, which constitute “building blocks” for the Free Trade Area of the Americas (FTAA), predate the G.W. Bush era. Nevertheless, the FTAA has recently incorporated a strong political dimension, utilizing the trade agreements for tackling drug trafficking and immigration issues (see Grugel 2004). American policy-makers regard trade as an essential ingredient to nurturing “freedom and democracy” in the region (for instance, see Zoellick 2001). With the future of the FTAA in doubt over fundamental disagreements over market access issues, the political nature of these agreements gains greater importance. This is not to suggest that the G.W. Bush administration has only negotiated agreements for political ends—the conclusion of an FTA with Singapore proves otherwise. The point is that the economic yield from these agreements has been unclear, either from the US perspective or from the perspective of the partner.<sup>75</sup>

To what extent does the rush to RTAs point to a systemic dynamic and to what extent will it remain a legacy of the Bush administration? Although a definite answer to this question is out of reach, some observations, based on the discussions above, are possible. The rise in the bilateral and regional trade agreements of the USA reveals important transformations in world politics. The EU’s rise as an economic superpower challenges US power, which remains unsurpassed in other realms, such as military. The implications of the forceful presence of the EU are two-fold. First, the EU makes it difficult for the accomplishment of US objectives on the multilateral level. While the EU is not the only factor contributing to the difficulties American power faces at multilateral negotiations, it is one of the most important ones. Second, in participating in an increasing number of bilateral and regional trade agreements, the USA has been responding to a trend generated by the EU itself and the example-setting nature of the EU’s presence (for instance, ASEAN was inspired by the EU). In these respects, the G.W. Bush administration’s reliance on RTAs is a

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<sup>75</sup> The agreement with Australia due to its exclusion of sugar raised considerable doubt about the economic benefits it delivered.

response to systemic changes, which are likely to survive his administration. In general, despite partisan differences, politics of established states like the USA are consistent. Just as the Bush administration continued a move to RTAs that started before his administration,<sup>76</sup> administrations to follow will likely stick to this path, within the limitations imposed by Congress and external developments in world political economy.

In conclusion, the first distinction one can make about the general patterns of RTA-making by the USA and the EU is the comparative importance of regional agreements for the EU, especially in the past. Also, the USA has substantially increased the utilization of both bilateral and regional trade and investment agreements in recent decades. As discussed, these developments both stem from and in turn reflect the different political impulses, motivations, and structural constraints imposed by their respective political systems, within which the two powers operate. The following sections expound on these findings, before leading to an interpretive analysis of the implications of the divergent paths of RTA-making by the USA and the EU.

### *6.3.2 Regional Integration in the EU's RTAs*

The second primary difference between the bilateral/regional agreements preferred by the USA and the EU lies in that the latter explicitly aspires to induce regional integration within the regions with which it negotiates.

Since 2000, when new guidelines for the EU's development policy came into existence, the EU has aimed to link trade and development more closely in order to "ensure that development policies and trade and investment policies are complementary and mutually beneficial" (3).<sup>77</sup> Towards this goal, the EU envisions

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<sup>76</sup> For instance, plans for a bilateral trade agreement with Singapore had commenced during the second Clinton administration.

<sup>77</sup> The pillars of the EU's development strategy comprises support for macroeconomic policies, access to social services, advancement of transportation, attainment of food security and sustainable

employing a number of instruments designed to insert development goals into trade. Preferential market access to the developed world constitutes one of these tools. As a matter of fact, this tool dates back to the pre-EU era; the UK and France relied on it heavily in relations with their former colonies in the ACP region. The idea to use trade as a means of development got transferred to the EU during its formation. The extent to which preferential market access ensures the development of the ACP economies remains disputable with results varying from country to country.<sup>78</sup> Nevertheless, it is worthwhile to note that the EU continues to regard preferential market access as a part of a larger strategy for aiding the development of these economies.

Presently, the way in which the EU intends to connect trade and development has changed to accommodate the WTO's rules and regulations. In order to reform its preferential trading agreements, in September 2002 the EU launched the Economic Partnership Agreements (EPAs) with seventy-six ACP countries. The EPAs constitute a part of the Cotonou Agreement, which replaced the Lomé Convention, and govern EU-ACP relations. The EPAs aim to render the trade component of the Cotonou Agreement WTO-compliant. The last set of WTO rulings on the EU's banana regime in 2001 played an important role in prompting such a change. The incompatibility of the EU's previous banana regime with the WTO lay at the heart of the banana dispute between the USA and the EU (see Chapter 4). Though reformed, the banana regime continues to reflect the essence of the EU's relations with these regional partners. As an EU official document states, "the [EU] will maintain a preference for [ACP] countries, in a manner respecting entirely the EU's obligations and commitments towards all interested parties" (IP/05/118 January 31, 2005). Gasiorek and Winters (2004, 1335-1336) explain that despite incorporating special and differential treatment, the EPAs increase the level of reciprocity between

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development, institutional capacity building, and regional integration alongside complementary existence of trade and development.

[http://europa.eu.int/comm/development/body/legislation/docs/council\\_statement.pdf](http://europa.eu.int/comm/development/body/legislation/docs/council_statement.pdf).

<sup>78</sup>One has to acknowledge the complicated and self-contradictory nature of the EU's pursuit of development. For instance, as Hilary Benn (2005), the UK Secretary of State for International Development, cites "African banana exports could increase by \$410 million a year if the EU used internationally accepted standards on pesticide residue, rather than their own."

the EU and its partners. In this spirit, the EU has taken on the delicate task of achieving WTO-compliance to avoid disputes, while preserving preferential market access for ACP countries.

Also, as a part of the development-via-trade strategy, the EU regards regional integration as a key contributor to the incorporation of developing countries into the world economy.<sup>79</sup> In this spirit, with the EPAs the EU has encouraged a process of regional integration within the ACP countries and negotiates with them in regional groupings. A Green Paper on EU-ACP relations written in 1996 indicates that trade policy provisions could be used to promote regional integration (Green Paper 1996, 55). Regional organizations that the EU has since supported within the Lomé framework include the UEMOA (West African Economic and Monetary Union), SADC (Southern African Development Community), and the Cross-Border Initiative in Eastern and Southern Africa and the Indian Ocean (54). Similarly, the Agadir Initiative of 2004 fosters regional integration between certain Mediterranean countries. As a building block towards the Euro-Mediterranean FTA by 2010, the EU has encouraged Egypt, Morocco, Jordan, and Tunisia to form an FTA with each other, known as the Agadir Agreement. The Agadir Initiative builds on the Association Agreements, which all Mediterranean partners negotiate with the EU. The steps towards a Euro-Mediterranean FTA, then, consist of not only the bilateral Association Agreements between the EU and the countries of a region, but also agreements between different countries within the region. The Agadir plan demonstrates what the EU names “South-South” integration: the opening of markets of developing countries to one another. The EU’s agreements in the Balkans also explicitly mention the countries of the region should integrate amongst themselves. Outside of Europe, the EU has recently utilized this method in South America. It has advocated that Mercosur further liberalize its internal borders before forming cross-regional ties with the EU. The EU has also adopted a similar strategy with the Andean Community as well as Central American countries. Box 1 below

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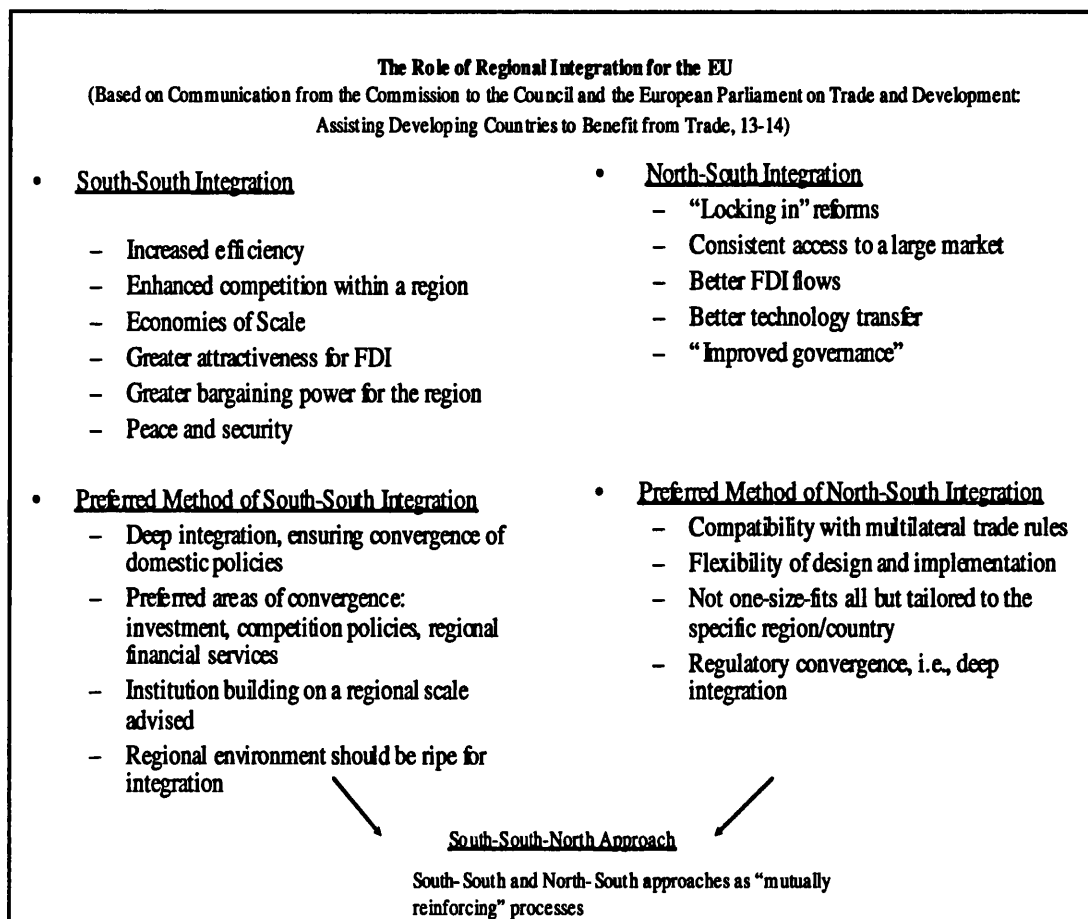
<sup>79</sup> For instance, see COM(2002)513 final and [http://europa.eu.int/comm/development/body/legislation/docs/council\\_statement.pdf](http://europa.eu.int/comm/development/body/legislation/docs/council_statement.pdf).



## Chapter 6: RTAs

summarizes the way in which the EU fosters regional integration in other places and then links these regions to itself—the “South-South-North” method. This approach, especially, sets the European utilization of RTAs apart from that of the USA.

**Box 1- The Role of Regional Integration for the EU**



The EU relies on this gradual, step-by-step method of RTA-making for a number of different reasons. As mentioned, from a development perspective, the EU hopes to facilitate closer links within a region. Such closer links ensure the gradual elimination of borders. Developing countries, European officials believe, would benefit greatly from the elimination of borders amongst themselves. The EU’s past experience with Mediterranean countries demonstrated to European policymakers that individually linking a number of disparate developing countries to a developed country does not work (Interviews at DG Trade and DG Relex (External Relations))

at the EU Commission). The initial design of the EU's relations with the Mediterranean countries relied on such a hub-and-spoke system,<sup>80</sup> which attracted criticism from influential voices, such as Andre Sapir, who argued that this method put the weaker party at a further disadvantage (1998, 727, 730). Moreover, the EU envisions integration will ensure stability and peace in these regions, thereby, positively affecting development efforts.

In addition to the putative benefits for developing countries, the "South-South-North" approach makes practical sense, since it allows the EU to deal with a single entity, as opposed to a number of disparate countries, at the negotiating table. The EU also finds regional integration, especially prior to negotiating an RTA, desirable given that large market size renders regions more attractive to European FDI. Here, the EU regards the regulatory environment as critical, in that regional integration fosters "a stable regulatory framework with positive potential impact for both foreign and domestic investment."<sup>81</sup> Also, the EU finds the circulation of European goods and services in one market with a single set of rules and regulations much more efficient and profitable than operating with different national systems within the same region. Such calculations provided the main impetus for the EU's encouragement of Mercosur to regionally integrate as a first step to linking to the European common market. It is also for precisely such commercial motives that the EU now prefers to negotiate with a region as a whole and not as a number of different countries.

Also, philosophically, the "South-South-North approach" with its embrace of "deep integration" and regional institution building (see Box 1) invokes the EU's own style and method of existence. The emphasis on regional integration replicates the stability-through-integration approach, which has inspired the EU, elsewhere. This point is not intended to suggest that the unique historical, cultural, and political circumstances of Europe can be duplicated elsewhere (Wallace 1994), but only to emphasize that the EU perpetuates itself by promoting the model of its existence in

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<sup>80</sup> The USA acts as the center (hub) and its trading partners connect to it individually (spokes) without the USA necessarily encouraging links between the different trading countries.

<sup>81</sup> [www.europe.eu.int/comm/trade/issues/bilateral/regions/andean/index\\_en.htm](http://www.europe.eu.int/comm/trade/issues/bilateral/regions/andean/index_en.htm).

other regions. Overall, pragmatically the EU's interest is served well when it negotiates with an integrated region; philosophically and ideologically, its dedication to multilateralism and developmental trade is maintained through the avoidance of disconnected bilateral links within a region.

An interesting question arises as to whether the EU can effectively encourage regional integration and whether this will prove to be a genuine long-term strategy. Gauging the extent to which the EU is "genuine" about pursuing regional integration remains problematic. Not only would assessing the EU's sincerity in pursuing development through regional integration prove an elusive endeavour, but the results of the EU's encouragement of this goal cannot be fully observed at this moment given the time lag between the adoption of the policies and their actual effects on regions. Nevertheless, it is worthwhile to emphasize that the EU's encouragement of regional integration does not imply encouraging power parities, as the EU no doubt remains predominant. Moreover, as already pointed out, interest calculations, such as the potential benefits to European businesses, rather than philanthropy, can be seen to underlie the EU's motivation in pursuing "South-South-North" strategy. Implying power disparities, Baert's (2003, 110) analysis of the Euro-Med agreements portrays a hub-and-spoke pattern, with the EU as the hub. Baert's analysis better explains the early stages of the Euro-Med relationship and thus cannot grasp the inspiration underlying its current phase, but his study rightly draws attention to the lack of power parity between the EU and its partners.<sup>82</sup> Also, raising doubt about the third-party benefits of the EU's strategy, Gasiorek and Winters (2004) find that multilateral liberalization rather than liberalization through the Economic Partnership Agreements (EPAs) would provide more benefits for ACP countries. Despite the EU's relative strength, its success in encouraging regional integration depends on whether the EU holds the upper hand in negotiations. For instance, as one observer

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<sup>82</sup> As mentioned, I have left accession countries out of the analyses in this chapter, since they are a special category in the EU's "external" relations. Yet, as Rosamond points out, "there is a clear aspiration to make the EU the central hub of (intra-European) development strategy. The EU is here 'imagined' or discursively constructed, as an entity with which other subregions have economic relations and which is itself more or less secure" (2004, 74). In this regard, the power disparities become more pertinent when we consider the EU's approach only with respect to pre-accession countries.

notes, it is because Central America has been the “demandeur” with the EU that the EU has had political leverage in setting up the rules of that relationship (Grabendorff 1990, 87). Despite these potential pitfalls, the EU documents identify regional integration as an objective and experience has demonstrated the intentions of EU officials to take it seriously, rendering the study of this unique EU approach to RTAs crucial in evaluating long-term impacts of RTAs on the multilateral level.

More importantly, the “South-South-North” strategy fits the EU’s overall emerging foreign policy style. According to Grugel (2004), the analysis of the strategies of the USA versus the EU in Latin America shows:

The new inter-regionalism [of the EU] attempts to go beyond economic governance to embrace political and institutional reform and social exclusion and, at the same time, seeks a discursive mediation of the power inequalities between Europe and the South. It is, therefore, more explicitly concerned with politics and institution-building than the US market-led pattern of new regionalism and endorses a North-South model of global cooperation in which the “the North” assumes some responsibilities for the development of “the South.” (608)

While the discussion above draws attention to the danger of analyzing the EU as merely a benign actor with little self-interest and the discussion below will point to the danger of posing the USA in stark contrast to this evangelical EU, Grugel rightly underscores the way in which the trade agreements go much beyond trade and expose a unique European style.<sup>83</sup> The emphasis on institution-building and the incorporation of social equity principles in the EU’s RTAs with Latin American countries corresponds to the EU’s projected global image as a “soft power.” Smith (2003) claims that the EU’s distinctive role as an international actor stems from its reliance on “persuasion, legal agreements, dialogue, and positive incentives” in the international arena (107). Overall, the “South-South-North” model fits neatly with the way in which the EU exercises power globally.

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<sup>83</sup> Grugel herself emphasizes elsewhere (2004, 618) that business groups have had privileged access in Mercosur-EU negotiations.

The American style of RTA-making generally lacks the EU promotion of regional integration and its emphasis on development. In the Middle East, for example, while the USA has not ruled out a free trade area with the whole region (the Middle Eastern FTA *Initiative* [emphasis added]), the USA in fact only has trading ties with individual countries, such as Israel, Bahrain, Jordan and Morocco. A similar hub-and-spoke picture re-emerges in different parts of the world. In South Asia, the USA has FTAs with its political allies, such as Pakistan and Afghanistan. The choice of the trading partner reflects a range of American concerns, some of which have already been discussed above. At first sight the USA's policy within the Western Hemisphere may appear to induce regional integration, as the USA aspires to create a free trade zone for the entire Hemisphere (with the exception of Cuba) through the FTAA. Yet, the regional structure of the FTAA entails the USA acting as a hub with other regions as the spokes—a picture which contrasts with the EU's aspiration for further integration within regions. Given serious disagreements over the nature and the extent of the FTAA, the US reliance on only the willing spokes may become inevitable.

In addition, the USA does not emphasize development in the trade agreements as much as the EU. This observation does not necessarily suggest that Americans care less about the development of their weaker partners. It, does, however, probably point to the American neo-liberal understanding that the benefits of free trade will necessarily spread to other realms, ameliorating the unfavourable economic conditions in developing countries. As Payne explains (2004, 4), the neo-liberal thinking posits development will be achieved “provided that the ‘market’ [is] allowed to assert itself over the ‘state’.” In such an understanding, trade agreements do not explicitly need to foster development, as development would eventually emerge out of the benefits engendered by trade.

Finally, the US Executive finds itself constrained in tailoring trade agreements to suit other ends. In the USA, because the Executive has to receive TPA from Congress, it has to placate Congressional concerns and negotiate regional trade agreements which

it can sell to members of Congress. Its ability to be creative (for instance, tailoring different agreements for a specific region in the Western Hemisphere or the choice of sectors aimed in a certain agreement) has remained restricted. The Executive has to emphasize repeatedly to Congress that it works diligently towards “new market access for U.S. consumer and industrial products” as well as “new opportunities for U.S. farmers and ranchers” with the RTAs (see summaries of RTAs, such as Central American Free Trade Agreement (CAFTA), and U.S.-Chile FTA, [www.ustr.gov](http://www.ustr.gov)).<sup>84</sup> Because the Bush administration has negotiated agreements with clear political objectives but with ambiguous economic returns, Congressional willingness to approve RTAs has been strained. For instance, the latest House of Representatives approval, the voting on CAFTA, passed with a margin of only two votes (Andrews 2005). In this regard, it can be conjectured that the USA has reached a saturation point after the recent surge in its trade agreements. Overall, given their different foreign policy concerns and structural restraints and requirements, the USA and the EU have differed on the priorities for and expectations of their RTAs.

#### *6.4.3 Different Geographies?*

The overview of the USA’s and the EU’s RTAs also allows for an argument on the geographical concentration of their bilateral and regional ties to be made. The basic pattern here is that while the two economic powers have begun to initiate links outside their traditional political-economic partners, these links still remain fairly scarce and/or weak, allowing most historical-political ties to persevere.

The USA’s geo-political-economic ties remain primarily confined to the Western Hemisphere, although the present decade has witnessed substantial diversification in the USA’s geo-political-economic connections. Table 17 below confirms this

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<sup>84</sup> It is worth noting that the Commission in the EU faces a similar constraint and check on its power via the Council. Similar to the USTR, the European Commission operates with a mandate from the Council on trade policy. While member states have increased their trust and respect for the Commission over the years and the Commissioner for Trade has earned himself an influential voice on behalf of the Union, the member states can still limit and influence the powers of the Commission (Tsoukalis 1997).

synopsis and provides an interesting picture. As the above discussions already highlighted, new foreign policy concerns have taken the USA's RTAs to new regions, such as the Middle East and Southeast Asia. The table also stresses the findings in the above discussions that the last two decades have witnessed a quantitative increase in the USA's RTAs.

**Table 17- The USA's RTAs (Bilateral and Regional) by Region and Decade**

<b>Region</b>	<b>1980s</b>	<b>1990s</b>	<b>2000s</b>	<b>Total</b>
Americas	1	3	4	7
North Asia	0	0	0	0
South Asia	0	0	3	3
Southeast Asia and the Pacific	0	0	5	5
East Asia	1	0	1	2
Middle East and Mediterranean	1	0	3	4
Russia and the NIS	0	0	0	0
Africa	0	0	2	2
<b>Total</b>	<b>3</b>	<b>3</b>	<b>18</b>	<b>24</b>

Source: Table collated from [http://www.ustr.gov/Trade\\_Agreements/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Section_Index.html). As above, I have relied on the way in which the USTR defines different regions of the world. It is telling, in and of itself, to see which parts of the world are defined as regions of political-economic concern for the USA.

Despite this quantitative increase in the USA's regional links and the diversification in the geographic location of such relations, the USA's main geo-political-economic sphere of activity continues to be North (due to NAFTA) and South America, preserving long-established historical-political-economic links. O'Loughlin and Anselin (1996, 141) find that "US exports to Latin America are three and a half times as much as would be expected from Latin America's ratio of world imports." The authors calculate that the US propensity to export to Latin America has grown in the past two-to-three decades, while the propensity to export to Europe and Africa as well as Asia has decreased. The authors explain that rather than having a strong regional ideology as its motivator, this asymmetry owes its existence to Europe and Asia being the fastest growing economies and the high value of the dollar relative to



European and Asian currencies, especially during the late 1980s (143). Nevertheless, their findings suggest the “intensification of long-established trade links” between the USA and its neighbours in the Americas. Table 18 below displays the US Merchandise trade with different regions. The Table demonstrates that although the USA has recently begun to strengthen trade ties outside of its traditional trading partners in the Americas (note AGOA for instance), its main geo-political-economic relations continue to be in the Western Hemisphere. Previous discussions in this chapter contended that while the commercial nature of the USA’s links in the Western Hemisphere have weakened due to the precarious health of economies in, especially, Latin America, political concerns such as controlling migration, drug trafficking and entrenching democracies have replaced such commercial imperatives.

**Table 18- US Merchandise Trade with Regions**

Regions	<i>Imports</i>		<i>Exports</i>	
	Change from 1990-1995	Change from 1995-2000	Change from 1990-1995	Change from 1995-2000
AGOA	33%	12%	0%	86%
ANDEAN	90%	-5%	11%	80%
APEC	61%	38%	61%	38%
CACM	105%	50%	130%	101%
CAFTA	97%	49%	116%	74%
CARICOM	23%	26%	-8%	59%
CIS	n/a	-6%	n/a	148%
EFTA	19%	52%	48%	49%
EU25	21%	33%	34%	69%
FTAA	63%	57%	60%	76%
GCC	59%	0%	-11%	81%
MERCOSUR	154%	24%	11%	60%
NAFTA	55%	67%	70%	77%
SAARC	22%	-5%	93%	84%
SACU	56%	16%	29%	92%

Source: Table collated from data found at <http://tse.export.gov/NTDChart.aspx?UniqueURL=rms10f00y15gz455zzal45-2006-3-21-4-14-11>. Last accessed in March 2005. The percentage changes were calculated from amounts provided in US dollars. APEC= Asia Pacific Economic Cooperation; CACM= Central American Common Market; CARICOM= Caribbean Community and Common Market; EFTA= European Free Trade Association; GCC= Gulf Corporation Council; CIS= Commonwealth of Independent States. SAARC=South Asian Association for Regional Corporation; SACU=Southern African Customs Union. The rest of the abbreviations have already been denoted.

Based on historical-political ties, the EU's economic tendencies embrace geographic Europe<sup>85</sup> and its neighbours (such as Mediterranean countries) and the ACP countries. The data compiled and presented in Table 19 below supports this point. Although the role of the ACP has declined as a share of the total EU trade, trade between the EU and both Central and Eastern European Countries (CEECs) and the ACP has outpaced EU's trade with the rest of the world.

**Table 19- EU Trade with Regions**

	<i>Share of World Trade ( per cent)</i>					
	Imports			Exports		
	1980	1990	2001	1980	1990	2001
<b>ACP</b>	3	2.9	2.4	3.1	3	2.4
<b>Andean Community</b>	1.4	0.7	0.9	2.1	1.3	1.1
<b>APEC</b>	42.5	51.2	53.6	41.9	50.6	59
<b>Candidate Countries (13)</b>	3.6	3.3	4.9	2.6	3	3.6
<b>Central America</b>	0.4	0.3	0.5	0.3	0.2	0.4
<b>EFTA</b>	3.7	3.8	2.7	3.6	4.1	3.1
<b>Med. (12)</b>	3.1	3.3	3	2.5	2.3	2.4
<b>Mercosur</b>	2.6	1.2	1.8	2.1	1.9	2
<b>Mexico</b>	1.1	1.3	3.1	1.1	1.1	3.2
<b>NAFTA</b>	22.2	25.9	31.6	21.4	22.3	24.6
<b>USA</b>	17.1	19.4	23.7	15.6	15.9	15.8

<sup>85</sup> I left out of the above discussions the EU's ties with candidate countries and continental partners (such as Switzerland and Norway) who are effectively a part of the EU economic space.

Table 19- EU Trade with Regions Continued

	<i>Share of total EU Trade ( per cent)</i>					
	Imports			Exports		
	1980	1990	2001	1980	1990	2001
<b>ACP</b>	10.4	6.4	4.6	11.5	5.3	4.1
<b>Andean Community</b>	1.3	1.1	0.8	1.3	0.9	0.8
<b>APEC</b>	35.3	48.4	54.6	28.6	42.8	50.4
<b>Candidate Countries (13)</b>	7	9.6	13	9.7	11.7	15.6
<b>Central America</b>	0.4	0.4	0.3	0.2	0.3	0.4
<b>EFTA</b>	10	13.4	10.6	16.1	15	10.6
<b>Med. (12)</b>	5.3	6.4	6.6	10.3	8.8	7.8
<b>Mercosur</b>	2.8	3.3	2.4	2.9	1.4	2.5
<b>Mexico</b>	0.7	0.7	0.7	1.3	1.1	1.5
<b>NAFTA</b>	21.6	23.5	21.5	17.8	24.6	28.1
<b>USA</b>	18.4	20.5	19	14.6	20.9	24.4

Source: Data for this table was compiled from <http://europa.eu.int/comm/trade/bilateral/data.htm> on March 13, 2003.

While overall the EU continues to emphasize geographical ties with traditional partners, it has recently begun to diversify this trend and forge links with the USA's traditional commercial partners, such as countries in the Americas. Nevertheless, as Vaillant and Ons's analysis (2002) concludes, the EU's ties with South America, with few exceptions, remain weak. The authors find that the USA continued to be a more important partner for these countries in the 1990s. In this era, "the growth rate of LAIA total imports (15 per cent) was greater than the growth rate of imports from the EU (10.3 per cent)" (1436).<sup>86</sup> Exports between the EU and South America exhibited a similar pattern, in which the USA accounted for more than half of LAIA exports, whereas the EU accounted for 12 per cent and the growth rate of total exports from LAIA to the USA was higher than the growth rate of exports to the EU. While the overall importance of the EU in South America is low, it has stronger

<sup>86</sup> LAIA (Latin American Integration Association) includes Argentina, Brazil, Paraguay, Uruguay, MERCOSUR, Chile, Bolivia, Colombia, Ecuador, Peru, Venezuela, the Andean Community, South America, and Mexico (Vaillant and Ons 2002, 1437).

partnerships with some countries than others. In terms of imports, the EU accounts for higher than 17.5 per cent of the imports of MERCOSUR and Chile. MERCOSUR has become an important destination for EU exports as well (Vaillant and Ons 2002). Here, Vaillant and Ons reveal interesting data, showing that the EU's "geographical bias index (GBI)" towards Brazil has shown a "remarkable increase" (1439). While no conclusions can be reached in this chapter as to why EU interdependence with Brazil differs from the EU's relation with other South American countries, it is curious to note the relative strength of the EU's links to Brazil compared to the USA's relations with that country. The EU's, as well as the USA's, relationship with Latin America will depend on the continued willingness and ability of the developing countries to gain market access to the developed world (1461).

Overall, some evidence points to different geo-political-economic spheres perpetuated by the USA and the EU. Yet, at the same time, instead of witnessing a neat demarcation between the USA's and the EU's geo-political-economic spheres, a more complicated picture in which the two powers have begun forming relations with each other's traditional political-economic partners emerges. This point may be crucial for future research and practice, especially if American and European methods differ substantially in areas of overlapping political-economic ties. Krueger (1997), for instance, discusses how rules of origin in overlapping trade areas can create challenges for the easy conduct of free trade.

#### **6.4 Beginnings of Convergence or Exchange of Tactics?: Resemblance in US and EU RTA-making**

A third general pattern one can observe in the USA's and the EU's RTAs is the beginnings of the Europeanization of the American approach and, to a lesser extent, the Americanization of the European approach. The two powers have, over time, begun mimicking each other's tactics. Yet, rather than the two powers' strategies

converging at the same moment, one observes an exchange of tactics. For instance, as discussed above, the USA has recently emphasized the political dimension of its RTAs, in addition to its traditionally commercially-minded agreements, such as those with Mexico and Canada. Traditionally, political concerns can be associated more with the EU's first set of RTAs, such as those with the ACP region and Mediterranean countries. Also, as previously underscored, the EU has recently displayed a move towards commercially-minded agreements. With the most recent enlargement in 2004, the EU's political interests have diversified beyond its traditional trading partners. In the near future, the trend may be to more heavily concentrate on commercially-minded strategic agreements.

Contributing to the picture of the Europeanization of the USA's RTA-making, in some of its most recent RTAs, the USA includes explicit reference to regional integration. For instance, a USTR document indicates, "[the USA] continues to encourage and support *regional economic integration* efforts in sub-Saharan Africa as a means of stimulating economic growth by improving economies of scale and reducing transaction costs for the region as well as for international businesses" (Comprehensive Report 2004, 19, emphasis added). Towards this end, the USA provides financial assistance towards regional integration. This strategy echoes the European desire to ensure regional integration. The USA has also begun to integrate trade capacity building provisions and the involvement of the civil society into its trade agreements more intensively, emphasizing the concerns of the developing countries more explicitly. For instance, it has been contributing funds for trade-capacity building through the South African Customs Union. The agreement with CAFTA also includes trade capacity building provisions as well as provisions regarding the inclusion of civil society. The FTAA meetings have included a civil society component. Perhaps responding to criticisms about its one-size-fits-all approach, in the Middle East Free Trade Initiative, the USA aims to tailor the investment and trade initiatives according to the development level and the needs of the country in question. In these ways, the most recent American policy resembles the European approach. It is an interesting fact to note that as the final touches are

being put on this chapter, the USTR has added a “Trade and Development” section to its website, focusing on the development component of the aforementioned agreements.

As the USA and the EU struggle to negotiate trade agreements with developing countries, they also need to compete with each other in marketing these agreements. Thus, it is likely that the two sides will imitate each other within the boundaries of the constraints created by their political systems and economic imperatives. In this context, third parties and how the USA and the EU manage to be attractive partners to them will continue to gain importance. The ultimate economic allure of the USA’s and the EU’s RTAs will depend on the agreements’ contribution to developing country economies. For instance, when services are concerned, what will be of importance will be how agreements deliver on areas of key interest to developing countries—labour mobility (out of these countries) and investment flows (into these countries) (Whalley 2004).

### **6.5 Implications of RTAs: Concluding Remarks**

This chapter postulates the following: the USA and the EU engage with the sub-multilateral level, understood as bilateral and regional levels, as a tool to shape the multilateral level. (The chapter explained this is of course not the exclusive purpose of RTAs). States do not employ bilateral and regional relations merely to better adapt to the multilateral level and global political economy (for instance, as explained above, regional alliances can help states better shield negative influences of the global political economy). Great powers utilize sub-multilateral deals to manipulate the multilateral level in accordance with their state-level (in the case of the EU, union-level) priorities. The study of the divergences in the way in which the USA and the EU utilize the sub-multilateral level does not just offer a comparative analysis of these two powers’ relations with the rest of the world, it also allows one to examine some of the key developments at the multilateral level.

So far, with due attention to the way in which the USA and the EU imitate each other's RTA-making, the chapter emphasized the differences in the roles bilateral and regional trade agreements may play for the USA and the EU and delineated the ways in which these two powers' RTAs differ. Now the chapter turns to how the USA and the EU may be able to produce different multilateral political-economic outcomes via their RTAs.

The proliferation of RTAs and the above discussion of their importance reveal that the pursuit of free trade does not necessarily involve the pursuit of multilateralism. Both the USA and the EU remain ultimately committed to trade liberalization, especially as long as it does not involve their politically sensitive sectors. Multilateralism, embodied at the WTO, and free trade—in its imperfect and not-so-free form—will survive in the foreseeable future.

However, in the long run analyses may need to de-couple multilateralism and free trade. Tussie and Woods (2000) argue that the recent spread of economic openness through the mushrooming of regional free trade deals is not necessarily conducive to multilateralism. This point may come as a challenge to the liberal institutionalist thought, as Tussie and Woods contend, since it generally regards multilateralism and openness as complementary movements. The liberal institutionalist perspective tends to assert that multilateralism gains strength from the integration of countries into the world market. Yet, the regional agreements discussed above, while potentially allowing for the integration of certain regions into the global economy, do not appear to promote multilateralism as an ultimate goal. Thus, as Tussie and Woods rightly claim, "it may even be the case that globalization and multilateralism are diverging rather than reinforcing each other" (2000, 55).

Moreover, the kind of trade liberalization that occurs may differ depending on the USA's and the EU's regional paths. The chapter already discussed the primary way in which the USA and/or the EU affect the global political-economic environment: the type of regional structure produced may rely on which power manages to mark its

influence in a certain region. As was explained, the evolution of Mercosur, which exists with its own set of unique regional goals, may be influenced by whether it adopts the American versus the European preferences for integration. The difference between the two economic powers' models may not simply be about the latter ushering in more regional integration. It may also determine the type of integration.<sup>87</sup> In NAFTA, Baldwin explains, the USA opted for *shallow integration*, focusing primarily on tearing down barriers to free trade and opening up markets; choosing not to embrace the EU style of *deep integration*, which involves the modification of domestic laws, regulations, and practices (1999, 484). Also, divergent ideas of development-in-trade may flourish in the regions in which the two powers exert influence.

RTAs can shape the type of trade liberalization also by functioning as a filter for issues which surface on the multilateral level. Because sub-multilateral negotiations are generally easier than multilateral ones, achieving liberalization in this manner may remain attractive. Both the USA and the EU utilize RTAs to advance issues for which the WTO seems unprepared at the moment. The USA has conceded FTAs can serve as

laboratories for liberalization and models for global negotiations by establishing innovative new disciplines, especially to deal with fresher topics on the globalization agenda—such as e-commerce, intellectual property in a digital economy, labour and environmental cooperation and expanding services trade. (“Background Information on the U.S.-SACU FTA 2003”)

Similarly, Pascal Lamy (2002, 1408-1410) writes that in the EU's trade relations the following areas of rule-making will gain increasing importance: standards and technical regulations, intellectual property rights, services, investment, competition, government procurement, rules of origin, and trade defence instruments. In this regard, the RTAs provide testing grounds for new issues of globalization which strain

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<sup>87</sup> Some of the literature on regional integration (see Mattli 1999, for instance) could be re-visited from this perspective, focusing on the “top-down” reasons for countries to regionally integrate.



the WTO. Since these issue areas remain contested between the USA and the EU (see Chapter 3, 5 and Appendix B), by relying on RTAs in this manner the two powers shape the global agenda in accordance with their own competing priorities.

RTAs can lead to the formation of partnerships on sub-multilateral levels, influencing bargaining power on the multilateral platform. While further research is necessary to fully engage this point, RTAs could determine coalition-formations within the WTO. For instance, the USA envisions Sub-Saharan Africa will become increasingly important as a potential block of allies in the WTO: “AGOA facilitates U.S.-African cooperation in the [WTO]...The 38 sub-Saharan African members of the WTO constitute the largest regional bloc in that body” (Comprehensive Report 2004, 3). The pursuit of these regional ties also provides political ammunition in multilateral negotiations when the USA and the EU clash. In the launching of disputes, coalitions forged through RTAs may also matter: the 2002 US tariffs on steel excluded the USA’s regional trading partners, such as Mexico, and heavily penalized Europe and Japan (Hufbauer and Goodrich 2003). In the dispute over GMOs, regional partners have rallied behind the USA and the EU, leading to the formation of “regulatory regionalism” (see Isaac 2003, Chapter 5). RTAs do not have to lead to conflict in the multilateral arena. In fact, they could gradually prepare the multilateral level for the managing of new issues (*The Economist* November 30, 2000). Yet, because these issues, such as the trade of GMOs, remain ripe for discord, it becomes even more important to analyze how the partnerships forged by the RTAs translate into political bargaining tools at the already over-burdened WTO.

A deeper understanding of how RTAs potentially promote American versus European methods ultimately requires an analysis of business behaviour and the type of business model that prevails across Europe. Here the “varieties of capitalism” literature provides some insights. As noted by Stubbs (2000, 233), Western European economic governance still rests more on government intervention than the American system, and the social ramifications of economic policy, though less than before, are still relatively more important. Such ideological differences have already

manifested themselves in the diverging characteristics of the USA's and the EU's regional formations. On the one hand, NAFTA discourages government intervention and encourages the Anglo-American ethic of independent markets. On the other hand, in the EU, as van Apeldoorn explains (2000, 241), the "dominant strategic and ideological outlook of Europe's transnational business elite...has moved...towards neo-liberalism [of the Anglo-American sort], but without adopting the pure *laissez-faire* model." In general, the US capitalist model, relative to its European counterpart, contains fewer social safety nets and focuses on profitability, consequently being more tolerant of lay-offs. The European system continues to maintain its welfare-state characteristics, using income distribution as a means to attain social cohesion (Bergsten 1999). Moreover, largely following continental European tradition, the EU has maintained a heavy regulatory hand, instead of developing a more invisible one.<sup>88</sup> In this regard, the nature of trade liberalization differs between the American and the European models.

Through charting the salient political trends in RTA formation this chapter suggests the presence of a dynamic process in which divergent paths taken by the USA and the EU to trade liberalization can produce divergent ends, pointing to the complex and rich nature of issues which take us far beyond the question of multilateral trade liberalization. This chapter has found that, despite some similarities, the USA and the EU employ RTAs in their interaction with the multilateral setting differently. RTAs and the regionalism they generate naturally raise questions concerning the compatibility of sub-multilateral levels with the multilateral setting. Yet, in order to expand upon our understanding of the role of RTAs, it is crucial to analyze the ways in which great powers utilize them as tools in shaping their external environments. As in other aspects of the current political economic system, the great economic powers' abilities to shape their external environments stands out, even in the era of globalization (see also Mattli and Büthe 2003; Drezner 2002, 2003, 2004). Nevertheless, as always, a more holistic grasp of the nature and the trajectory of the

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<sup>88</sup> Hall and Soskice's (2001) analysis on firm behaviour offers similar insights.

## Chapter 6: RTAs

global political economy from this perspective will have to incorporate developing-developing country agreements.

This chapter has explored the inter-relationship between different variables of analysis in the dissertation. It has demonstrated that the “competing outlooks” of the USA and the EU affect the sub-multilateral level as well (previous two chapters demonstrated how “competing outlooks” can grow into an impact on the multilateral level). The chapter has also argued that it is not just that what happens at the WTO has repercussions elsewhere, but that the two powers can utilize the sub-multilateral level in order to influence the WTO in divergent ways. Overall, the chapter approached the question of “rival globalizations” from a general perspective. It has shown that “rival globalizations” exist beyond specific clashes between the two economic powers.

**Notes to Chapter 6- Explanation of Methodology to Table 16**

Distinguishing between the EU's bilateral and regional agreements was a difficult task. Therefore, I explain the methodology here. In the first place, I made a list of all "regions" and all "countries" the EU lists on the DG Trade's website. Then, I examined what kind of agreements governed the EU's relations with both "regions" and "countries." Looking at regions, the following picture emerges:

**Table 20- The EU's relations with regions**

<b>Region</b>	<b>Decade</b>	<b>Type of Agreement</b>
ACP	1960s	1960-first Yaunde Conference. Today the relationship is governed by EPA agreements signed in Cotonou in 2000
Andean Community of Nations (CAN)	1990s	Framework Co-operation Agreement
ASEAN	2000s	Trans-Regional EU-ASEAN Trade Initiative
Balkans: bilateral agreements with Albania, Bosnia-Herzegovina, Macedonia, and Serbia and Montenegro	2000s	Stabilization and Association Agreements (some are ongoing at the time of writing)
Caucasus: Armenia, Azerbaijan, Georgia	1990s	Partnership and Cooperation Agreements (PCA) with each country
Central America	1990s	Framework Co-operation Agreement with the whole region
Central Asia: Kazakhstan, Kyrgyzstan, and Uzbekistan	1990s	PCA with each country
Mediterranean Region	1990s	Euro-Med Partnership launched with Barcelona Process in 1995
Gulf Cooperation Council	1980s	Cooperation Agreement
Mercosur	2000s	ongoing negotiations for Association Agreement

Table 20 demonstrates that the EU has a “regional approach.” It pursues this approach with bilateral agreements. The EU’s relationship with the Balkans is an example to this point. Despite the bilateral nature of the EU agreements with the Balkan countries, I have counted the EU’s relationship with these countries as *regional* and not bilateral. Not only does the EU have a regional agenda for the Balkans through the Stability Pact, it also urges these countries to negotiate bilateral agreements with each other, in effect forming a region (see the regional integration point above and The Memorandum of Understanding on Trade facilitation and Liberalisation between the countries listed in Table 20). Where such a regional approach was missing, as in the Caucasus, I included the agreements under the bilateral count. This same logic applies to the way in which I counted the EU’s agreements in Central Asia.

Table 21 below counts the EU’s relations with “countries.” In this count, I excluded the countries with which the EU trades and cooperates within a regional framework. Examples to this are the EU’s relations with Egypt which are governed by Euro-Med relations and also Uruguay, which are governed by Mercosur. In the final count of the EU’s bilateral relations, I included only the countries indicated in bold below in Table 21. The type of agreement determined this final count—I excluded agreements that are in effect a series of cooperation agreements (for instance, with Japan) and included relatively more encompassing agreements that aimed to govern the whole of the trade relationship and beyond (for instance, the FTA with Mexico and the Partnership Cooperation Agreements [PCAs]).

**Table 21- The EU's Relations with "Countries"**

<b>Country</b>	<b>Decade</b>	<b>Type of Agreement</b>
Canada	1970s	Framework Agreement for Commercial and Economic Cooperation
Chile	2000s	Association Agreement Cooperation Agreement (on trade and other matters, for instance environment)
India	1990s	
Iran	2000s	Negotiations started for cooperation on trade and other matters
Japan	2000s	Mutual Recognition Agreement and Cooperation and Anti-Competitive Practices Agreement
Kazakhstan	1990s	Partnership and Cooperation Agreement (PCA)
S.Korea	2000s	Framework Agreement on Trade and Cooperation
Mexico	2000s	FTAs
Moldova	1990s	PCA
Russia	1990s	PCA
South Africa	1990s	Trade, Development and Co-operation Agreement (TADC)
Ukraine	1990s	PCA
<b>plus Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan</b>		

## Chapter 7: Conclusions

### Chapter Map

The chapter recapitulates the main arguments of the dissertation, focusing primarily on the common findings. It also discusses the extent to which the findings of this dissertation apply to other aspects of the US-EU relationship and sketches out a plan for future work that would expand upon them.

#### 7.1 Brief Summary of the Dissertation

There is an ongoing debate about globalization and its putative benefits as well as ills. The dissertation argues that while it may be too difficult to agree on an exact definition of globalization, focusing on “manifestations of globalization”—the changes globalization appears to have accelerated or instigated—serves as a working definition (Table 1). Although accepting globalization is complicated and multi-faceted, the dissertation proposes to analyze globalization as a two-tiered phenomenon. It claims that the first tier of globalization remains out of the reach of actors in that high-impact unintended consequences challenge actors, generating tremendous uncertainty about the direction of globalization. The dissertation contends that it is the second tier of globalization—“globalization as a political project”—that remains less uncertain (see Chapter 1 in particular).

Building on these conceptualizations, the primary question of interest in the dissertation was: in what ways do the USA and the EU, as two great political-economic powers, (try to) impact upon globalization in divergent manners? In other words, do these great powers produce rival globalizations? “Rival globalizations” did not necessarily mean there is one globalization under the influence of the USA or produced by the USA and another one by the EU. Rather, the thesis explored the ways in which the USA, a state, and the EU, a state-like entity (Chapter 2), try to

## Chapter 7: Conclusions

shape the same structure differently. In this regard, the thesis argued that conflicts continue to matter and it utilized the WTO disputes as a basis to understand the clashes between the two powers.

The chapters of the thesis centred on three aspects of the research question. First, the dissertation examined the assumption inherent in the question: Do the USA and the EU impact upon globalization in divergent ways? The discussions on the primary features of these putative “rival globalizations” constituted the second concern of the dissertation. Third, the thesis enquired as to whether in some situations the presence of rival globalizations is relatively more pronounced. The dissertation did not concern itself with intentionality in that it did not try to prove whether or not the two powers were purposefully affecting globalization in divergent ways.

In order to detect divergent approaches to and influences on globalization by the two powers, the dissertation explored the presence of “competing outlooks” and the “core of the dispute” in each case study. Nevertheless, each chapter also paid attention to other variables. In exploring “rival globalizations,” the dissertation used the dispute’s impact on the WTO as a basis to understand the (potential) influence of the two powers’ clashes on the multilateral political economic system. Moreover, the thesis further explored the two powers’ divergent utilization of international/supranational platforms other than the WTO. Also, in gaining a better sense of the “rival globalizations,” the case studies analyzed the two powers’ utilization of their trading partners. The reliance on these dimensions of analyses centred the case studies and allowed for a more systemic exploration of the research question.

Instead of re-iterating the points encapsulated in each chapter, I would like to focus here on answers to two questions:

- a) What are some of the common observations across the case studies?



- b) Can one ascertain the pattern of how the two powers impact upon globalization? In other words, can one roughly define what globalization looks like under the USA as opposed to under the EU?

## 7.2 The Common Findings in the Dissertation

For the free world, it is a necessity to have a good understanding between the US and the EC. This is more important than soybeans and hormones...than the vanity of heads of states; it's the model for freedom, for liberty, for the future of the world.

*Jacques Delors*

(cited in Featherstone and Ginsberg 1993, 90).

Delors's statement underlines a number of aspects of the US-EU relationship. Delors emphasizes the fact that the USA and the EU agree on some major issues such as the importance of freedom and liberty (discussions below will point out the differences in the two powers' perspectives on how best to maintain liberty). It is fair to say that the two powers more or less agree on the basic architecture of the world system. For instance, as this thesis underscored, despite occasional violations, both powers remain generally committed to free trade. Delors also claims that fights over soybeans and hormones are secondary concerns to larger issues such as liberty—a point with which it is hard to disagree.

However, Delors's synopsis contains at least two other assumptions that are disputable: a) secondary conflicts are unimportant; b) what determines the future of the world is an agreement based on the basics (issues of utmost importance) only. To begin with, the first assumption needs to be substantiated—that is, without analyzing the disputes and exploring whether the two powers differ in their priorities for and tools to interact with the world, one actually cannot conclude whether the fights are just about “soybeans and hormones.” It is now a well-argued point that the end of the Cold War and the demise of the Soviet security threat for the “West” removed the lid on disputes. Still, the question remains: do these disputes reveal great powers' differences over the global order? This dissertation analyzed the extent to which

Delors's first assumption continues to hold true. Additionally, the dissertation questioned the second assumption of Delors's remarks and supposed that in times of peace, secondary issues have great significance for the future (in times of war, I assume everything except survival in the strictest sense becomes a secondary issue). The sections below consider the common conclusions of the dissertation across the case studies. It is important to emphasize that generalizing from these conclusions would be dangerous. Nevertheless, highlighting some common conclusions and dynamics is important not just for the purposes of this study but for being able to "test" these propositions in other studies.

### *7.2.1 Competing Outlooks*

*The disputes reveal that the USA and the EU have endorsed some "competing outlooks" consistently across different situations.*

To begin with, the two case studies on the disputes demonstrated, and the findings of the third case study on RTAs confirmed, that the two powers have different understandings of whether/how trade policy achieves and should achieve a development aspect. Although the positions of the two powers were not static on this issue, the two powers had different tools as well as outlooks in dealing with developing countries (see Chapters 4 and 6 in particular). Generally speaking, while the EU foregrounds a development element in trade policy, the USA does not; it considers the effects of trade alone sufficient to foster improvement in local economies. The inherent implication in the US policy is that development will naturally result from trade liberalization. Since this dissertation did not contain an assessment of the impact of US and EU policies on other countries, it is not possible to reach conclusions as to how the two powers' policies exactly impact upon the developing world.

However, the two powers have, to some extent, imitated each other's tactics over time. During the writing of this dissertation, the EU policy has shifted to more

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strongly emphasize the liberalization component, while the US policy has moved to emphasize the development angle. As emphasized in Chapters 4 and 6, the EU's agreements with developing countries have become more "reciprocal" and less preferential. Nevertheless, as those chapters also mentioned, the EU has retained its own unique methods of dealing with the developing world. For instance, the EU agreements emphasize the necessity for regional integration not just for commercial interests but also with a view to aid its weaker partners. At the same time, the USA has also recently begun to stress the developmental role trade plays. Chapter 6 discussed a number of agreements in which the USA emphasizes developmental concerns, such as trade capacity building. Although the two powers concur that liberal markets (as opposed to closed ones) can foster better living conditions through economic growth, they rely on divergent assumptions as to "how" to liberalize and the extent of liberalization, at least in some cases (see Chapters 4 and 5).

Moreover, the USA's and the EU's notions of free trade versus protectionism have begun to differ in certain ways. This does not mean one power is more protectionist than the other one, or one side would like free trade, while the other side would not. Both the USA and the EU appear to remain committed to free trade within the parameters of what Ruggie defined as "embedded liberalism" (see discussions below and Chapter 2), despite occasional violations of their commitments under the WTO. However, the two sides have begun to differ on which issues fall under the scope of free trade considerations and which issues do not. The dispute over bananas included a larger debate on the conditions under which free trade is desirable. The chapter discussed the ways in which both certain official circles as well as the publics in Europe preferred the Caribbean mode of banana production because they believed the working conditions in the Caribbean were better compared to Latin America. In the GMO dispute as well, different understandings of what constitutes a valid barrier to trade have surfaced. While the Europeans regard the GMO case more as an environmental and consumer issue, the Americans judge it as a trade issue and find the EU in violation of the liberal laws of the WTO (Chapter 5). The dissertation

suggests that new challenges face free trade, as the meaning and scope of free trade is still subject to further debate (see also Chapter 3).

### *7.2.2 Divergent Utilization of the Sub-Multilateral Level*

*The case study analyses highlight that the two powers utilize their bilateral and regional relationships—the “sub-multilateral” level—differently.*

Globalization has accompanied increased activity on the “regional” level (for instance, see McGrew 1992, 314). Yet, at the same time, as Chapters 4, 5, and 6 emphasized what happens at the sub-multilateral arena, the bilateral and regional levels, retains great significance for the outcomes on the multilateral level. The dissertation discussed a number of different ways in which the two powers’ divergent impact on the regional/bilateral levels can be observed. For instance, the EU in general thinks “regionally,” while the USA continues to act bilaterally. Also, the discussions on the GMO disputes demonstrated that the two powers rely on different trading partners in their clashes. These trading partners have helped the two powers utilize different international platforms effectively. By posing the question of GMOs more as an environmental issue, instead of a trade-related matter, and utilizing the Cartagena Protocol, and not the WTO, the EU has had an effect on the dynamics on the multilateral level.

Also, the case studies endorse the continued importance of historical political-economic links. Chapter 4 on the banana dispute revealed how the USA’s and the EU’s different historical-political commitments clashed on the multilateral level. Although the two powers have begun to act “globally” in that they have started establishing links with other parts of the world, they still concentrate relatively more heavily on their own backyards (see Chapter 6).<sup>89</sup> The EU’s historical political-economic links with its former colonies continue to contribute to the common

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<sup>89</sup> This point possibly applies more to the EU than the USA.

European identity (see Chapter 4 and 6). Nevertheless, the EU's primary focus of interest is the European continent and its neighbours. The USA has also struggled to retain its historical political economic links with Central and Latin America (see Chapters 4 and 6). The War on Terrorism has also diversified the regions with which the USA has ties.<sup>90</sup> Also, since the commencement of the War on Terrorism specifically, the focus of US trade agreements has been more political than economic in character. The USA's and the EU's historical political-economic connections continue to influence some of the key discussions (such as on development policy in trade) over the management of the interdependent world.

### *7.2.3 The Inter-Relationship of Different Dimensions of Analysis*

The discussions above highlighted the common findings across case studies with reference to two of the variables of analyses—"competing outlooks" and the two powers' "utilization of their bilateral and regional relationships." Chapter 1 had set out "competing outlooks" as a potential cause (an independent variable), and the utilization of the USA's and the EU's bilateral and regional relations as a possible effect (dependent variable). However, Chapter 1 emphasized that the cause-effect relationship remains tentative. In the first place, the discussions do not really emphasize "causes" and "effects" but rather how certain situations lead to "rival globalizations." In underlining the difficulties of a strict cause-effect analysis, Chapter 1 also underscored that a variable may appear as an instigator of divergences at one point and as an outcome of those divergences at another point. Particularly, the case studies yielded the following observations:

- *"The Impact on the WTO" (a component of "rival globalizations") hinged upon both the strength of the competing outlooks and the core of the dispute. When the core of the dispute was "domestic," competing outlooks produced*

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<sup>90</sup> It is worth noting that the USA's struggle to maintain Latin America as a reliable business base and an ally will run into greater difficulties if governments in that region continue to go in a left direction while the USA remains under the control of the right. During the writing of this dissertation left-wing parties rose to power in, for instance, Brazil, Peru, and Colombia.

*an impact on the WTO. When the core of the dispute was “foreign,” when combined with other factors, “competing outlooks” remained mitigated during the dispute (see conclusions of Chapters 4 and 5).*

- *The two powers tended to utilize bilateral and regional trading partners differently. In turn, this divergent utilization directly impacted the WTO (see Chapters 4 and 6).*
- *Also, the timing of the disputes can be explained by the spill-over of the two powers’ “competing outlooks” to their bilateral and regional trading partners. In both the banana and the GMO disputes, the real clash began when the competing outlooks globalized by affecting the USA’s and the EU’s partners differently.*
- *The two powers’ divergent utilization of different international platforms depended on a combination of “competing outlooks” (strong competing outlooks) and the “core of the dispute” (domestic). Coupled with the pressures created by “domestic” politics, when the perspectives and the tools of the two powers were too diverse to reconcile, the two powers sought “legitimacy” for their positions on different international platforms.*
- *The brief summary of the beef hormone dispute (Chapter 5) and the discussions on the GMO dispute revealed that both disputes contained “domestic” cores and in both cases the EU relied on the precautionary approach in balancing science and societal concerns. Yet, while the beef hormone dispute remained contained in the WTO and did not spill over to other international organizations, the analysis on the GMO case emphasized the spill-over to other international bodies. How can one account for this difference, despite other similarities between the two cases? While a definite answer is elusive, the difference can be explained based on the “temporal spectrum” argument (see Chapter 2). Since the beef hormone dispute preceded the GMO case, by the time the GMO case came around, the state-globalization relationship had evolved. The beef hormone experience prepared the EU for the GMO case. Moreover, it can be argued that the “competing outlooks” were stronger in the GMO case, as it involved not just*

*health concerns but also relatively stronger environmental concerns (Wiener and Rogers [2002] find an environmental angle to the beef hormone case as well). Finally, the beef hormone dispute is “narrow” and “distributional plus” (see Chapter 3); whereas the GMO case is “wide” and “distributional plus,” making it an issue with far-reaching consequences.*

#### 7.2.4 Theoretical Implications

The discussions of the dissertation also highlight that in order to understand global trade relations and the politics underlying them, it may be necessary to de-link multilateralist trade policy and free trade in our analyses. At first sight, disassociating multilateralism and free trade in the context of the WTO seems unlikely. The multilateral character of the WTO and its declared aim of “ensur[ing] that trade flows as smoothly, predictably and freely as possible” suggests a strong association between multilateralism and free trade (“WTO in brief”). The assumption is that if the WTO’s multilateralism works smoothly, it will effectively engender free trade; otherwise, free trade will be jeopardized.<sup>91</sup> Yet this dissertation demonstrates that multilateralism and free trade can not only progress at different speeds but can also follow different paths. Regional economic links can ensure free trade prevails on the “sub-multilateral level.”

At the same time, the WTO may remain a multilateral platform without necessarily promoting free trade. As the above discussions suggest, the US versus the EU methods of interpreting and running multilateralism may provide for a different fate for free trade. It may even affect how free trade is defined in terms of what kind of issues relate to trade and what kind of issues fall outside the scope of it. It may be the case that in an EU-dominated WTO, preferential trade agreements based on historical-political ties would prevail and trade policy would be pursued on a

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<sup>91</sup> The WTO does have obvious failures as regards engendering free trade. For instance, subsidies in the agricultural markets of the USA and the EU create serious market access issues for the developing world. But, what I mean with the WTO pursuing free trade relates to a more general point that emphasizes the continued dominance of the free trade paradigm at the multilateral level.

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preferential basis with developing countries. For instance, Article 24 of the GATT, which sets out the conditions for the formation of preferential agreements, would cease to exist as it is. Also, as Chapter 5 claimed, environmental and societal concerns, such as those which emerged in the GMO debate may find a stronger voice in the WTO, free trade or not. In short, one should neither presuppose a permanent bond between multilateralism and free trade nor should one rule out the prevalence of free trade in non-multilateral settings.

The case studies also demonstrate that Ruggie's (1982) "embedded liberalism" captures most economic relations of the post-Cold War period but there is a need to re-visit the ingredients of Ruggie's analysis in order to understand the type of embedded liberalism which persists today. Ruggie borrowed from economic historian Karl Polanyi the notion that trade can never be free and that it always remains encircled, restricted, and modulated by society. According to Polanyi (1944; 2001), "the outstanding discovery of recent historical and anthropological research is that man's economy, as a rule, is submerged in his social relationships" (48). And, as Polanyi explained, if those social relations are to survive, they have to control the market. In this spirit, Ruggie observed that while free markets mark the post-World War II design, governments intervene in their economy to ensure social goods, primarily employment. Because they are allowed to do so, they have accepted the multilateral design of liberalism. Relying on Ruggie's notion of "embedded liberalism" and Ikenberry's (2001) depiction of a "constitutional order," Chapter 2 emphasized that the USA and the EU operate in a rules-based system. In this regard, the dissertation has also dwelled on the extent to which the manoeuvrings of the two powers are within this rules-based multilateral liberal trading system and the extent to which the two powers' manipulations are about the nature of the system.

The discussions in this dissertation show that as globalization, represented by the liberal multilateral connection between states, has strengthened and has begun to permeate their social systems of interference in the market, the pressures on them to emphasize their unique social systems on the multilateral level has increased. In this



regard, the domestic system no longer props up the multilateral one. To a certain extent, the domestic system has to control the multilateral level in order to continue to support “embedded liberalism.” As Ruggie underscores in his more recent work, the global market today needs to be entrenched in a set of common social values and institutions (2003, 95). Against this need to re-emphasize a shared set of values and institutions on the multilateral level, this dissertation has found that globalization also increases the pressure on states to express their differences.

Ruggie suggests that embedding the global market within multilateral values would facilitate the taming of the anti-globalization movement. This dissertation did not discuss the backlash against globalization. But the findings of this dissertation focus on the alternative paths to globalization (the American versus the European ways). Having such alternatives may mitigate the backlash against globalization. Hence, the dissertation raises questions as to whether it will be viable to expect a single paradigm of globalization to survive, as the divergent outlooks and demands of the societies of the USA and the EU (and other societies across the world) make it exceedingly difficult for policy-makers to accommodate their differences within the same paradigm.

### **7.3 Why Are the Findings Not Consistent Throughout the Case Studies?**

As the above discussions imply, the case studies share some common findings but do not produce consistent results; that is, they do not expose a definite pattern for the way in which the USA and the EU impact upon globalization. It is not easy to say globalization under the USA has this specific shape and form, while globalization under the EU has this other specific shape and form. What accounts for this phenomenon?

There is no easily discernable American versus European paradigms of globalization because no one set of principles (no definite list of doctrines) explains the behaviour

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of each of the two powers in the three case studies. Nevertheless, as the discussions above underscored, the same differences surface in different disputes, such as the idea of pursuing development through trade policy. Yet, it is difficult to determine a blueprint for the actions of the two powers, except to say they pursue their interests and these interests have differed, as I will further discuss below.

Also, the difficulty in determining the US versus the EU ways for shaping globalization stems from the fact that the world is undergoing significant complex changes. It is a world in flux. Although the dissertation claimed that globalization can be captured to some extent, it did not assert one can fully determine the trajectory of globalization. Such a contention would mean globalization equals what great powers want it to be, as some realists have suggested (see Chapter 2). Rather, the dissertation proposed to observe the intersection of great powers and globalization in order to better understand the course of globalization. Also, Chapter 2 suggested analyzing the state-globalization relationship on a temporal spectrum, implying the fluctuating nature of politics in the contemporary era. The “temporal spectrum” argument claims that observations at different points on the spectrum can yield different results.

Another important caveat to the findings of this dissertation concerns the fact that the EU itself appears to be in flux. I have already explained the reasons for using the EU as a unitary external actor (see Chapter 2), attributing it a good deal of coherence. Yet, during the time of the writing of this dissertation the EU’s future appeared at risk. For instance, the EU Constitution was voted down by two member states, France and the Netherlands. On the one hand, the critical scrutiny the EU project has begun to receive from the EU publics raises questions as to whether the European project can survive. With so many hiccups, there is still the possibility that this fragile project may seriously derail. On the other hand, the public discontent with the EU project can be seen to signal that a re-shaping and not a dismantling of the EU is underway. The public reactions to the EU also point to the fact that the EU has reached enough political maturity to receive close public scrutiny. While up to this

point the EU has mostly been an elite-driven entity, it is currently under increasing pressure to respond to public demands.

I see a substantial reversal of European integration to be unlikely. Independent EU institutions, such as the European Central Bank, will fight to keep their supranational nature. Moreover, politically, constitutionalization on the European level has been underway for decades now, despite room for shocks and reversals.<sup>92</sup> Some authors have argued that the EU sees integration as a tool to “acquire power and project geopolitical ambition for Europe” and thus find it irreversible for the foreseen future (Kupchan 2003a, 211). Even if time proves the sceptics right and the EU dissolves or loses its coherence even in commercial policy, the conclusions of this dissertation would still retain their validity. In such an unlikely case, the dissertation would contribute to the understanding of the EU-globalization relationship at certain periods.

During the course of this research project, not just the EU but also the USA seemed to be in flux. At the time of writing, the internal political divisions within the USA at times reached levels comparable to the divergences within the EU. The 2004 Presidential election results revealed such a divided America that on a number of issues it left one wondering whether there really was a single USA.

#### **7.4 Why Do the Two Powers (Try to) Impact upon Globalization Divergently?**

The discussions above highlighted the divergences between the USA and the EU as well as the difficulties involved in pinpointing the precise categories under which these differences can be grouped. The empirical analyses throughout the dissertation focused on how the fault-lines between the two powers have emerged. But the larger question of why the two powers have diverged is yet to be addressed in greater detail.

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<sup>92</sup> Support for the EU declined in the 1990s as well. Calleo (2001), analyzing Europe’s economic troubles (such as high unemployment and the decline in the welfare state), claims that the European public’s waning support for European integration in the nineties stemmed largely from the fact that governments seemed to be losing to globalization (207).

The all-inclusive explanation as to why the USA and the EU have diverged is “interests.” In addition to the specific reasons outlined in the chapters of this dissertation, *general* phenomena help explain the divergence of their interests. First, the EU’s growth as an actor is occurring in a world where rules were primarily established by the USA. The case studies show that the EU’s journey of self-definition and maturation as an international actor precipitates an inevitable rivalry with the USA on certain fronts. Moreover, the EU’s survival as an entity depends on perpetuating certain features that are integral to its identity. This is an obvious point to make—surely every polity needs to maintain its idiosyncratic characteristics to survive. But, given the EU’s size and internal diversity, the maintenance of the characteristics that generate intra-EU unity translates strongly on to the international level, challenging the *status quo*. For instance, in order for the EU to preserve its preferential trading agreements with its ex-colonies, it has to ensure the WTO system endorses these agreements. The status quo is closer to the US position than the EU position, given the fact that the USA enjoyed hegemonic access to world markets until the challenge posed by the EU and other substantial actors, such as Japan and China.<sup>93</sup> This observation meets the expectations of some other studies. For instance, utilizing a completely different methodology, Meunier argues that

When the collective position of the EU is closer to the status quo than that of its opponent, the supranational competence mitigated the extremes and rendered the conclusion of an international agreement more likely. (Meunier 2000, 131)<sup>94</sup>

Meunier’s claim suggests that agreement (between the EU and its trading partners) on the multilateral level depends on the extent to which the *status quo* resembles the EU position. The discussions in this dissertation emphasize that if the multilateral *status quo* (especially the WTO) is far away from the EU position in the first place, the EU will in the long run try to impact upon that equilibrium, shifting the position

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<sup>93</sup> The dissertation accepted that the world is “unipolar” in other realms, particularly in the military sphere.

<sup>94</sup> Meunier defines bargaining power as “the ability to obtain the most from [one’s] opponent while conceding the least, other things being equal” (2000, 104).

of the “status quo.” As Chapter 5 on the GMO dispute reveals, the *status quo* of certain international rules and approaches are in flux today because globalization embodies a host of complicated issues (such as the role of biotechnology in society) for which equilibriums are very tough to reach.

Overall, the USA and the EU have inherently different interests in globalization because the two powers operate in different “survival modes.” To reiterate, the EU’s survival concern is to ensure the systemic level endorses and includes its unique set of external arrangements and priorities, prompted by the internal level. In contrast, the USA prefers to maintain the status quo, pursuing access to foreign markets as a primary goal. To cloak this analysis in the terminology of the realist theory, while the USA generally aims for “defensive” strategies with the goal of preserving its status and the non-interference of other actors in the international realm, the EU aims for “offensive” behaviour that leads to a change in its position (see Grieco 1997; and Mearsheimer 2001 for differences between “defensive” and “offensive” realism).

The law of “balance of power,” which authors find to be an integral part of international relations, can also help explain the US-EU divergence. Wight explains (1963, 173) “balance of power” as follows: “The original meaning of the phrase is *an even distribution of power*, a state of affairs in which no power is so preponderant that it can endanger others.” Thus, the dynamic underlying the US-EU divergence may also result from the inherent tendency of international politics to move against “unipolarity.” By utilizing its powers where it can, in the political-economic realm, the EU has balanced American power to some extent. This thesis did not set out to find whether the EU was imposing its own unique perspective on globalization for the sake of balancing American power. In any case, Wight explains the balancing of power as an “inherent tendency of international politics,” without necessarily dwelling on intentionality involved on the parts of the balancing states. Waltz (1979, 119), on the other hand, explains that “balances of power tend to form whether some or all states consciously aim to establish and maintain a balance, or whether some or all states aim for universal domination.” Even in the Waltzian understanding of balance of power, there is ambiguity with regards to intentionality because it suffices

for one state to aim for supremacy—the other states may “consciously” or inadvertently lead to the balance of power. Waltz also acknowledges that the theory of balance of power rests on “assumptions” (122) and therefore it does not really “explain” state behaviour. The divergences between the USA and the EU can also be attributed to the laws of balance of power.

### **7.5 Can the Findings of this Dissertation Be Generalized?**

The discussion has already highlighted the shortcomings associated with case study methodology and warned against making generalizations based on sample sizes that are too small, such as the number of US-EU trade disputes. This would imply that a strict generalization of the conclusions of this dissertation is not possible. However, the findings of the dissertation do not stand in isolation. In order to demonstrate this point, in this section I would like to place the findings of this dissertation within: a) the broader US-EU trade relationship, and b) the whole of the US-EU relationship.

#### *7.5.1 The Rest of the US-EU Trade Relationship: Does One Always Observe Rival Globalizations?*

The extent to which the conclusions of this dissertation can be generalized to the overall US-EU trade relationship requires the reconciliation of the broad conclusion of the dissertation based on the three case studies—the two powers do promote and produce rival globalizations—with the fact that many other case studies do not seem to present evidence for the “rival globalizations” thesis (see Chapter 3 on the overview of US-EU trade disputes and the “representativeness” of the choice of the case studies). After all, if some disputes reveal the two powers are trying to shape the global system in divergent manners, reasoning would suggest that they want to shape the system differently in other types of disputes, in other areas, as well. How does one account for the fact that they may not?

The assumption that if certain disputes involve fights over the parameters of globalization, other disputes should too holds true if the assertion in the first place is that the two powers' ultimate goal is to shape globalization. The two powers' impacts on globalization may diverge not necessarily because they are trying to fashion globalization but because the pursuit of their different interests inevitably leads to a divergence. Again, the thesis does not concern itself with intentionality. Thus, the question of whether the USA and the EU purposefully shape globalization actually falls outside the scope of the study. The dissertation simply focuses on the way in which, and the extent to which, the USA and the EU promote and produce "rival globalizations." It explores a certain set of reasons that fuel the production of "rival globalizations" but does not claim the universality of these reasons.

Nevertheless, the co-existence of disputes which contain "rival globalizations" and those that do not can be explained. These seemingly contradictory observations co-exist because there are two types of global rivalry between the USA and the EU. One type of rivalry concerns well-known distributional issues related to the market—who gets how many slices of the pie. These types of disputes typically involve competition between the two powers for a larger share of the global market. The competition for the sales of commercial aircraft between the two powers constitutes a good example (see Chapter 3 for a discussion, and Appendices A and B for a summary, of all major US-EU trade disputes).

The second type of rivalry, essentially the kind that is present in all the cases studied, is over the ingredients of the pie or even what kind of a pie should exist—a competition about the nature of the multilateral political economic system and/or its features. The second type of disputes usually present a later stage in the evolution of first type of disputes, or are more commonly found in new issues of globalization, such as the biotechnology debate. The point is that the disputes that encompass conflicts over globalization co-exist with distributional concerns. Both the banana and the GMO disputes as well as the case study on RTAs demonstrate that different

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types of rivalries prevail, sometimes within the same dispute (see Chapter 3 for further discussions).

A larger concern may be not about the co-existence of “rival and non-rival globalizations” but rather about the underlying contention of the dissertation that the USA and the EU can shape globalization. Some recent works confirm the findings of the case studies that the USA and the EU, as great powers, are able to shape globalization. Hence, the conclusions of other authors substantiate the point that choosing other case studies would not have invalidated the underlying conclusions of the dissertation (see Chapter 3). For instance, Drezner (2004c, 478) studies the regulation of the Internet, where the USA and the EU have been very active, and finds that “states, particularly the great powers, remain the primary actors for handling the social and political externalities created by globalization and the Internet.” Drezner’s work on other case studies, such as money-laundering and intellectual property rights, also finds that great powers matter the most to the type of global regulatory scheme which emerges on a given issue (see Drezner 2003).<sup>95</sup> Chapter 2 discussed in greater detail other works that postulate that the USA and the EU shape globalization to some degree.

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<sup>95</sup> Differences between Drezner’s approach and mine have been discussed in Chapters 1, 2, and 5.



## **7.6 Implications of Trade Conflicts for Other Areas of the US-EU Relationship**

In exploring the extent to which the conclusions of this dissertation can be generalized, or rather the extent to which they do not stand in isolation, an overview of the rest of the US-EU relationship is useful.

### *7.6.1 Do Trade Conflicts Lead to Other Conflicts? Or, Do Other Conflicts Lead to Trade Conflicts?*

In assessing whether the trade conflicts between the USA and the EU extend over to other issues, one can analyze the linkage between trade issues and non-trade-related concerns. The dissertation has already demonstrated that the banana and the GMO disputes (Chapters 4 and 5) stemmed partially from the USA's and the EU's "competing outlooks," which include non-trade concerns. In addition, the chapter on RTAs has claimed that the USA and the EU contribute to the formation of different types of regional structures, partially because of the differences in the two powers' political systems and divergent foreign policy concerns.

There have also been some examples where trade issues have directly involved foreign policy disagreements between the USA and the EU. In 1996 with the Helms-Burton Act, the US Congress threatened sanctions against European firms that invested in Cuba. (Wallace 2001, 23; Haass 1999). The two powers' dealings with Cuba lay at the heart of yet another dispute. The EU complained at the WTO that Section 201 of the Omnibus Appropriations Act violated the USA's commitments under the TRIPS agreement. This Act prevented the registration/renewal of a trademark within the USA if that trademark had previously been "abandoned by a trademark owner whose business and assets have been confiscated under Cuban law" (Dispute DS176). Another foreign policy disagreement that involved trade was the EU complaint against the state of Massachusetts. The state issued an Act, which prohibited state companies from doing business with Burma (Myanmar). The EU argued that this act violated the USA's commitments under Generalized Preferences

Agreement, designed to provide benefits to developing countries (Dispute DS88). These examples demonstrate the ways in which divergent understandings in other areas surface in the trade realm.

Moreover, US-EU struggles at the WTO stage are also present at other international institutions. The issue of voting weights at the IMF seems to be of particular concern. In April 2002, the erstwhile EU Commissioner for Economic and Monetary Affairs, Pedro Solbes, urged EU member state governments to demand more weight in the voting procedures of the IMF. Currently, as the largest shareholder—with 17.2 per cent of the stakes—the USA holds the only right of veto and the European countries vote separately. The Solbes initiative envisions that European countries will vote as a single entity, giving them 15 per cent of the votes and hence the power to veto. This issue does not currently concern the IMF's immediate agenda. In any case, past evidence shows that the USA is likely to block the EU initiative by using its veto power (Hofheinz 2002). In addition, the EU led efforts to oust the USA from the UN Human Rights Commission in 2001 (Kupchan 2003a, 212). In short, the WTO is not the only major international institution where a US-EU rivalry is unfolding.

Although conflicts in the political economic realm are associated with drifts between the USA and the EU in other realms, a conclusive causal thread between these two observations remains absent. Many authors acknowledge the impact trade disputes could have on other aspects of the US-EU relationship. For instance, de Jonquières notes:

US-EU disputes matter, not just because of the volume of trade directly affected, but because of the political tensions they are capable of generating. These are often out of all proportion to the economic importance of the issues ostensibly at stake and threaten to spill over into other areas of bilateral relations. (email communication 2004, 1)<sup>96</sup>

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<sup>96</sup> This communication with De Jonquières is listed in Appendix C, the list of interviews.

Similarly, as Bergsten emphasizes (2001, 18), a “transatlantic economic conflict may also exacerbate potential security tensions.” In the same spirit, in 2001 Richard Morningstar, a previous U.S. Ambassador to the EU, stated that the protracted trade disputes were “beginning to overshadow the rest of the relationship” (cited in CRS May 25, 2001). Yet, without clear evidence it is hard to determine whether trade disputes in fact produce other types of tensions as well.

But what about US-EU tensions beyond the trade realm?

### *7.6.2 US-EU Differences Beyond the Trade Realm*

In the first half a decade of the twenty-first century the USA and the EU have had different international standings—not a surprising development historically-speaking but a change from the Cold War period.<sup>97</sup> Historically, American national identity, emerging at a time of rampant European imperialism, was grounded in a vision of America as the antithesis of European great-power, hence imperialism. It was actually this anti-imperialist spirit of the American identity—coupled with the US ability to project power—that killed the concept of empire in the post-WWII period. Yet American leaders’ emphasis on the spread of self-determination and democracy to the rest of the world (especially from the times of President Jefferson onwards) binds the USA in an ironic dynamic. The USA acts in an imperial fashion when it can justify it with the pretext of protecting democracy abroad (Tucker 1990). The division of the Cold War period pitted the West against the Soviet Union distracting the attention from the historical divisions within the West.<sup>98</sup> Today with the close bond of the Cold War gone, Americans and Europeans once again find themselves at opposing ends on some crucial issues. On the one hand, contemporary American policies raise questions concerning the emergence, or rather the consolidation, of a new type of empire (Cox 2004). On the other hand, the Europeans appear

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<sup>97</sup> Here, the discussions inevitably involve generalizations.

<sup>98</sup> Even during the Cold War the West was not united without frictions. European deviations from the frameworks of American hegemony during the Cold War include Germany’s Ostpolitik as well as France’s Gaullism. In this regard, the European versus American divide also existed during the Cold War.

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exceedingly anti-empire. As American governments receive increasing criticism due to their unilateralist policies, Europeans carry the multilateralist flag (see, for instance, Smith 1992; Cox 2003b; Kupchan 2003a; also Chapter 6).

### *The Use of Military Power*

One of differences between the two powers has been over the use of military force. Because Europeans' historical experiences have rendered them generally sceptical of military power, defence spending has been in decline in Europe since 1945. This picture contrasts with US defence spending levels that have remained at relatively high levels throughout the post-Cold War period. Wallace (2002) emphasizes that Europe's involvement with the world is qualitatively different from the USA's, which focuses relatively more on military action. He notes that since the wars in former-Yugoslavia ended, Europe has supplied 80 per cent of peacekeeping troops on the ground and more than 70 per cent of the funds for reconstruction. In addition, Europe's contribution to the UN budget exceeds the USA's contribution.

In addition, Cox (2005) identifies three developments in the post-Cold War world that reveal a unified West should no longer be taken for granted. First, as Cox explains, the Europeans and the Americans differed on their stances towards Bosnia (212). The experience of Bosnia demonstrated to the Americans not only that Europeans could not be relied on to effectively address situations in their own backyards, Cox claims, but it also emphasized the continued importance of military power in a world where civil wars erupt frequently. Secondly, Cox highlights that the Americans and the Europeans have disagreed on how to tackle other regional problems, such as the Israeli-Palestinian conflict and the Kosovo case. Thirdly, Cox underscores the "growing worries on the continent about an American inclination to deal with problems in ways that often showed little sensitivity to allies, and even less to that entity known as the 'international community'" (213). Similar to other commentators, Cox draws attention to the strong emergence of major differences of opinion between the USA and the EU since G.W. Bush's election. Although such

divergences were already in the making prior to the second Bush era in the White House, rifts over substantial issues such as the American intervention in Iraq have become very pronounced during his administration (218). Coupled with other disagreements between the two powers, Cox contends that the sooner scholars contemplate a “beyond the West” scenario, the more intellectually equipped they will be to understand a world under substantial change.

Risse (2004) underlines the role of domestic coalitions in forging divergent types of policy on the two sides of the Atlantic. During the War on Iraq, in Europe two European foreign policy groups that are generally opposed—European liberal internationalists and European Gaullists—were united against the war. On the other hand, American neo-conservatives dominated the US agenda (229-230). Risse explains that the primary division between the Americans and the Europeans on the question of Iraq stemmed from the fact that the Europeans promoted multilateral solutions. But the Americans did not “believe in the values and the norms of the security community anymore” (233). Risse claims that this erosion of faith in the “security community” raises serious challenges for the US-EU security community. Although he finds that “collective identity” and “interdependence” remain intact in US-EU security relations, he contends that the other pillar of the transatlantic community—adherence to multilateral institutions—has eroded since the crisis over Iraq (222-224). Overall, Risse argues that domestic changes and trends in foreign policy-making help illustrate the divergences between the USA and the EU and emphasizes that such divergences may not be temporary (see Kupchan 2003b for another pessimistic account of the future of the US-EU alliance).

According to Kagan (2002, 2003), Europe, which is short on military power, utilizes its non-aggressive assets, such as its supranational design, to promote a world of “persuasion” rather than “cohesion.” This diagnosis, which is now widespread, is on the whole accurate. However, Kagan’s conclusions about “power” and the reasons for the contrasting way in which the USA and the EU utilize it are less convincing. Kagan’s underlying assumption that “if the Europeans were not so disabled militarily

or had a different modern history, they would act more like the Americans” remains questionable (Cox 2003a, 529). This assumption rules out the possibility that European decisions may be based on values and preferences and a “different set of assumptions” about the world (531).

Kagan (2002) argues that in Europe’s multilateral world power does not matter. Europeans want to “constrain US power without wielding power themselves.” He is less clear on how Europe will constrain power without power. The EU can, as he suggests it does, try to manufacture disgust against power, but even that strategy eventually involves Europe possessing some sort of power to be able to manufacture discontent. While Kagan might be right to suggest that the USA and the EU seek different types of influence, his judgment that the EU can reject power remains less convincing.

Moreover, Kagan’s understanding of power remains very narrow, encompassing primarily military capabilities. This definition of power does not foresee much room for the EU’s “soft power,” the attractiveness of its unique culture and values (Nye 2002). It overlooks the tremendous changes the allure of the EU has generated in countries like Turkey, which has been modifying domestic laws with the distant hope of EU accession. No doubt the sustainability of the EU’s power as such is contingent upon whether it can maintain the commitment to “perpetual peace” in its internal and external relations (Moisi 2001). Nevertheless, as this dissertation has demonstrated, the EU has successfully wielded enough power to affect the contours of the political-economic realm.

Also, Kagan’s analysis does not adequately account for dynamism; it predicts the future merely on the basis of a current “power problem:” US military strength and the European weakness in this realm. To begin with, the current reality of the military gap may cease to exist some distant day in the future. If the EU manages to

build its defence unit,<sup>99</sup> which is currently in the making, it may start relying on “hard” as well as “soft power.” The EU has already launched its own satellite network, called Galileo, beginning to reduce its dependence on the US technology (Kupchan 2002). In addition, the EU possesses power in the sense which Kagan understands it—power as force. Even without military power, certain EU policies are at times forceful enough to be perceived as imperial from outside of the EU. For instance, as Wallace (2001) acknowledges,

the EU stance towards its neighbors to the east and south conveys many of the same [that is US like] hegemonic pitfalls: setting conditions on human rights, the status of minorities, public administration, and border controls that are far stricter than those of the EU (32).

Moreover, discussions preceding Poland’s and other Eastern European countries’ ascendance to the EU sparked debates about the double standards the EU imposes on the latecomers. Pre-accession proposals suggested that given Poland’s large agricultural population and land, it should be subject to lower levels of CAP assistance (*The Economist*, January 31, 2002). Although such proposals were later dropped, they nevertheless demonstrated the power disparity between the EU and its junior partners. Overall, not only is Europe prone to exhibit hegemonic tendencies to the outside world, but internally the possibility of second-class citizenship remains.

Although substantial differences exist in the way in which the USA and the EU approach the world, the picture contains important nuances. The differences between the USA and the EU are not simple enough to make Europeans from Venus and Americans from Mars, as Kagan contends. It is fair to say that the differences in the way in which the USA and the EU project themselves on to the global stage do not simply stem from a power deficit caused by the weakness of the latter. The discussions in this dissertation suggest that if the EU were ever to become a global

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<sup>99</sup> At the Helsinki European Council in December 1999 the EU member states embraced the vision of a Europe with deployable military forces, to be operational by 2003 (Wallace 2002). The beginnings of this vision date back to the Western European Union (WEU), an intergovernmental defence unit created in 1954. WEU has spent its life under the shadow of NATO (Guay 1999, 23).

hegemon with supremacy over all “sources of power” (not just political economy), there is a good chance it would be a qualitatively very different hegemon.<sup>100</sup>

### *Beyond the Military Security Realm*

Beyond the military-security realm, other important issues regarding the global political order divide the USA and the EU. Some of the problems that impede a frictionless relationship between the two powers include the US resistance to the Kyoto Treaty, the International Criminal Court, and abolishment of capital punishment. Although religion has found revamped importance in American politics, European politics remain relatively more secular. Given all these differences, as a recent commentary concluded, “the two sides approach the world with different mindsets” (*The Economist* June 7, 2001). Hence the competing outlooks that this dissertation found in the trade realm prevail over other critical areas of world politics as well.

### *Differences in Public Opinion*

A brief overview of recent public opinion surveys strongly suggest that the elite differences on different sides of the Atlantic are shared, to some degree, by their publics (see also Risse 2004, 222 for a similar point).

Worldviews 2002 Transatlantic Questionnaire finds that the European publics are generally opposed to increasing military spending; whereas, the US public shows either support for existing levels of military spending or prefers expansion.<sup>101</sup> Table 22 below displays (in percentages) what the respondents thought of national and EU-level military spending levels.

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<sup>100</sup> Europe has a demographic disadvantage compared to the USA. It is estimated that the US population will exceed that of Europe by 2040. Europe’s protracted decline of fertility rates has implications for its military strength as well. Europe’s success, or otherwise, in integrating its immigrant populations will remain critical (*The Economist* August 22, 2002).

<sup>101</sup> Survey was conducted jointly by the Chicago Council on Foreign Relations (CCFR) and the German Marshall Fund of the United States (GMF) and can be found at [www.worldviews.org](http://www.worldviews.org).



**Table 22- US/EU Public Reactions to Military Spending Levels (%)**

	Great Britain	France	Germany	Netherlands	Italy	Poland	USA
Expand	24	28	14	6	12	45	44
Cut back	21	23	45	38	52	14	15
Kept about the same	53	47	38	53	33	36	38
Don't Know/Other	3	2	2	2	2	6	3

Source: The information in this table was compiled from Table of Question 13b 1 on page 29 of the Comparative Report found at [www.worldviews.org](http://www.worldviews.org).

Although exhibiting variation (for instance, the Poles would like to see an increased military budget), the results yield an overall transatlantic divide of opinion. While on average approximately 21.5 per cent of the Europeans would like to see the government's military budget expanded, the same number for the USA remains at 44 per cent. Whereas on average approximately 43 per cent of the Europeans would like to see their military budgets cut, the same number for the USA is 15 per cent.

The same survey asked the following question: "Which of the following do you think is more important in determining a country's overall power and influence in the world—a country's economic strength or military strength?" The question elicited the responses summarized in Table 23.

**Table 23- US/EU Comparisons between Economic versus Military Power (%)**

	Great Britain	France	Germany	Netherlands	Italy	Poland	USA
Economic Strength	81	89	80	89	88	83	66
Military Strength	15	9	16	7	10	11	27
Don't Know/Other	3	3	5	4	3	6	7

Source: The information in this table was compiled from the Table for Question 8 on page 23 of the Comparative Report found at [www.worldviews.org](http://www.worldviews.org).

As the table displays, on both sides of the Atlantic, publics assessed economic strength to be more important than military strength. Nevertheless, while the average

European response favoured economic strength to military strength by respectively 85 per cent to 11 per cent, the same numbers for the USA were 66 per cent and 27 per cent. These numbers suggest that the European public supports the EU's "soft power" image. By the same token, American power can afford to have a strong military component to it, as the American public at the very least remains accepting of it. Overall, public opinion does not stand divorced from official policies by the USA and the EU.<sup>102</sup>

### *7.6.3 Implications of this Section for the Overall Dissertation*

The above discussions, though by no means comprehensive, help locate the empirical findings of the case studies of the dissertation in a wider context. These discussions demonstrate that differences between the two powers may point to widespread and/or frequent disagreements rather than contained explosions.

Nevertheless, the rivalry between the two powers hardly parallels the type of ideological rivalry that existed between the USA and the Soviet Union. The USA and the EU continue to share a lot in common. As a matter of fact, this dissertation did not contend that the core of the system will change. For instance, the dissertation argued that a fundamental attachment to the WTO will likely survive. The dissertation, however, emphasized sub-systemic shifts in the *status quo*. To re-iterate, the EU's ability to challenge the USA remains limited to the political economic realm, particularly, trade and its ability to utilize "soft power" based on its economic power.

The chapter now turns to discuss some major developments in world politics that will likely impact on the US-EU trade relationship in particular.

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<sup>102</sup> It is not inconceivable that the EU has found a "convenient other" in the USA—European opposition to US policies has contributed to the coherence of the EU in foreign policy.

## 7.7 The Future of US-EU Tensions<sup>103</sup>

### 7.7.1 *The International Economic Situation*

First, the international economic environment matters dramatically for the future of US-EU trade disputes. As resources get exceedingly scarce, geopolitical and economic—geo-political-economic—competition will intensify. The decline in trade disputes between the USA and the EC during the 1980s and 1990s, compared to intense competition in the 1970s, can partially be attributed to the steady decline in the price of commodities such as petroleum. Thus, easily purchasable and secure resources decrease the pressure for competition (Kahler 1996, 2-3). The scarcity of oil and the fact that it remains locked in politically volatile territories will compound to disputes between the USA and the EU. The current debate on whether America's second war on Iraq has been a legitimate way to deal with that country is revealing not only about how European foreign policy choices (in this case preferring negotiation to force) differ from the USA. It also underlines the different manner in which the powers handle access to the world's scarce resources.

### 7.7.2 *The Global Monetary Structure*

Secondly, the release of the common European currency (euro) into world markets has changed the monetary landscape markedly, since the currency emerged as a competitor to the dollar. Strange (1987) argues that even during the eighties, which allegedly witnessed the decline of the USA as a hegemonic power, the USA had structural control of the world economy. One of the reasons for this structural supremacy stemmed from the USA's ability to control the credits generated in dollars. The dollar acted as a world currency. This structural power dated back to the 1944 Bretton-Woods (BW) system of exchange rates. The BW system pegged the currencies of forty-four states to the dollar, which, in turn, was convertible into

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<sup>103</sup> These brief points merely acknowledge some important elements that will increasingly play into trade policy on both sides of the Atlantic.

gold at a fixed price. This system broke down in the seventies, largely due to the weakening of the budget and increasing US trade deficit with other countries. The collapse of the BW system also had political roots. The Vietnam War and other US international engagements had created an additional burden on the US economy. The diminished Soviet threat to the EC, coupled with the recovery of European and Japanese economies, reduced the incentive to maintain BW. Nevertheless, even after 1973, governments did not let the American and EC currencies float. During the eighties, the dollar was over-valued to the extent that it had implications for the EC economy and corrective measures had to be taken at the G7<sup>104</sup> meetings (Featherstone and Ginsberg 1993, 155-8). Although the abandonment of the BW system and the subsequent arrangement of floating rates revealed that the dollar experienced declining supremacy, it did not alter the structural position of the USA.

This structural position may now be altered with the euro as a significant international actor. As early as July 2002, the euro's strength against the dollar alarmed US business confidence and markets. More significantly, by allowing European markets to be less sensitive to the vagaries of the dollar, the new balance might "lower European interest in global policy coordination" (Kahler 1996, 32). Judging from past evidence on the affect of currency rates on trade disputes, the recent rampant upsurge of the euro against the dollar is also likely to exacerbate the trade disputes between the two countries. In the 1980s, the overvalued dollar and its primacy in world markets caused an increase in imports and capital into the USA, feeding the US trade deficit. The enhancement of the trade deficit, in turn, contributed to the protectionist tendencies and hence escalation in trade complaints against the EC and other major trading partners of the USA (Featherstone and Ginsberg 1993, 159). Today, with a sky-high trade deficit in the USA, the old concerns are once again relevant.

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<sup>104</sup> Group of 7 (G7) refers to high-level economic diplomacy amongst the strongest capitalist economies in the world. The USA, Japan, Germany, Italy, Britain, France, and Canada plus the President of the EU, occasionally joined by Russia—making it G8—participate in the meetings (Gill 2001, 340).

### *7.7.3 Political Will and Commitment to Multilateralism*

The third factor that will likely affect the future trajectory of US-EU trade clashes is the degree of political will and commitment to the maintenance of multilateral institutions. This thesis has claimed that both powers remain committed to the multilateral platform of the WTO but would like to affect it as much in accordance with their interests and preferences as possible. The effectiveness of international institutions, such as the WTO, in preventing and addressing the disputes will matter. But many authors also concur on the point that deliberation and commitment on the part of politicians to multilateralism will remain critical to the smooth running of the world economic system. Putnam (1993b), for instance, emphasizes that the EU and the USA “must together think boldly about how to create new institutional frameworks of collaboration” (82). Similarly, Nye (1993) claims that

as interdependence and the diffusion of power to non-state actors and small states grow, the implications for stability and welfare will depend heavily on whether the largest state takes a lead in forming coalitions and developing institutions to promote international order. (93)

Featherstone and Ginsburg rightly put that “the key to the future of US-[EU] relations is...the will and capability of US and [EU] member-state leaders to adapt to change, handle trade disputes judiciously to avoid wide-spread damage” (1993, 199). In short, political will for cooperation remains essential to an unproblematic relationship. On a similar note, personal ties on different sides of the Atlantic can also hamper or motivate the trade relationship. Many commentators note that tense relations between Charlene Barshefsky and Leon Brittain, respectively the then USTR and EU Commissioner for trade, exacerbated the US-EU conflicts of the time. In contrast, EU Commissioner Pascal Lamy’s close relationship with USTR Robert Zoellick is credited with ironing out some tensions (Interviews with trade officials in Brussels and Washington DC; See Appendix C for details).

Here it is important to point out that political will itself in the first place depends on the nature of the disagreements. Chapter 3 emphasized the change in the nature of US-EU trade disputes. Based on the discussions in that chapter, it is important to emphasize that political will can easily help with “narrow” type disagreements. For instance, political will may persuade the American President not to raise tariffs against European steel imports. Yet, in disagreements over “wider” and “distributional plus” issues, political will may be of little leverage. As Europeans re-emphasize the uniqueness of their past and identity, and as Americans struggle to guard off their traditional spheres of influence (see Chapter 4 for discussion on this), political will to iron out tensions may vanish slowly. Moreover, Chapter 5 suggests that even if the EU would want to see a change in its biotechnology policy concerning food (latest EU Directives pave the way for GMOs release into European markets contingent upon strict labelling rules), public reactions may undercut political will. As issues concern “domestic” policies of the USA and the EU, solutions on the multilateral level will depend on the extent to which the USA and the EU domestically agree on certain issues. The thesis suggests that agreement as such should neither be taken for granted nor expected. Analyzed in the context of broader trends in US-EU relations, outlined briefly in this chapter, political will will retain its significance. Yet it remains doubtful whether it will be able to exert the necessary influence to prevent tensions.

#### *7.7.4 Globalization*

“Manifestations of globalization” will likely exacerbate the divergences between the USA and the EU. It has already been highlighted there is a backlash against globalization. The so-called “anti-globalization” movement contains diverse influences and encompasses many issues that are sometimes not very well articulated by the protesters. Nevertheless, the supposed maladies of globalization are increasingly the focus of debate in societies, pressuring governments to address what their societies regard as horrors of globalization. As the two powers struggle to deliver what their societies demand as shelter from globalization, they are likely to

## Chapter 7: Conclusions

emphasize their “domestic” exigencies that often put them in opposing corners. Thus, the anti-globalization movement has direct implications for US-EU relations. Future research could explore this observation in greater detail.

Finally, crises contain the potential to aggravate or diminish the drift between the USA and the EU. For instance, the terrorist attacks of September 11 against the USA have had an impact on the US-EU relationship (see Cox 2003b and 2004). Not only has the US policy become more militaristic after the attacks, but also, as commentators have pointed out, the Europeans have not adequately grasped just how much of an influence the attacks have had on the American psyche. Others argue September 11 has been more of a window of opportunity for, rather than an instigator of, US policies post-terrorist attacks (Cox 2004, 31-32). Nevertheless, it signifies a milestone in the USA’s relationships with the rest of the world. Although the USA and the EU have disagreed on how best to wage a “war” on terrorism, it is hard to predict the kind of changes a terrorist attack of the scale of September 11 would bring to Europe. Such a tragedy could reduce the rift between the USA and the EU. Crises of any sort, for instance an energy crisis, could impact the US-EU relationship.

### **7.8 Further Research that Could Strengthen the Results of the Dissertation**

The case studies of this dissertation should be supplemented with one additional case study in order to strengthen the results. My future work on this project will concentrate on this point. The most suitable candidate for an additional case study is the dispute over the Foreign Sales Corporation (FSC) tax between the USA and the EU. As Chapter 3 discussed, this dispute has generated a long-term disagreement between the two powers. Moreover, since the EU launched this WTO dispute against the USA, the dissertation could more substantially address any potential concern that the two case studies chosen here were both launched by the USA (this point was addressed in Chapter 3).

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I have been unable to find in-depth studies of the US-EU investment relationship. As Chapter 1 emphasized, trade influences other policy areas, such as investment (Irwin 2002). Although some authors have argued that “foreign investment is the backbone of the transatlantic economy, not trade,” there is still a lack of thorough understanding of how the strength of US-EU investment ties affects their trade relationship, or vice versa (Quinlan 2003, Executive Summary). As Quinlan (2003) mentions, the investment relationship is closely tied to the success of Mergers and Acquisitions, which are in turn affected by the US-EU competition policy. The two powers have achieved substantial collaboration over competition policy but deep issues that divide the two on this subject still remain (see Appendix B). Continued US-EU cooperation on competition policy is important specifically because mergers and acquisitions play a vital role in the American investment in Europe (Quinlan 2003, 14). Calleo (2001) argues that the European states behave offensively in their FDI relations: they are “eager to penetrate other economies through FDI but reluctant to see a corresponding penetration of their own” (227-228). How Calleo’s contention plays into the EU’s investment ties with the USA would be interesting to explore. Future work on the subject could analyze the way in which the strength of the US-EU investment relationship impacts upon the frictions in other parts of their relationship.

Further research could also utilize a different approach to see whether the USA and the EU produce rival globalizations. One such approach could be to analyze officials’ speeches and quantify the frequency of the usage of the term globalization by applying statistical analysis. This in the first place would prove the pervasiveness of the term in official rhetoric. In addition, the different meanings of the term could be studied in official rhetoric. Building on this quantification, the study could outline some phrases common to each power’s official rhetoric for the sake of comparing and contrasting the putatively different utilizations of the concept of globalization.

Another tool that could enrich the discussions of this dissertation would be a clear sense of private companies’ struggles over globalization. A look at rivalries between



companies would be useful. One such way of doing this would be to utilize the US International Trade Commissions (ITC)'s extensive database on lawsuits between companies. The ITC allows American companies which feel unfairly disadvantaged by their foreign competitors to sue these foreign counterparts. Both sides—the American as well as the foreign—are represented at the ITC. An interesting spin-off from this research could aim to arrive at an across-time sense of the frequency with which the US firms have sued their counterparts and the reasons for doing so. Such research could help extract patterns between investment and trade conflicts, allowing for the conclusions of this research to be grasped in a larger context.

Also, in a wider study, it would be interesting to analyze to what extent transatlantic non-governmental groups like the Transatlantic Business Dialogue (TABD)—which identifies barriers to trade and investment—affect governmental policy (Peterson 2001).

The theoretical framework of the dissertation could be expanded upon to a candidate theory initially and a fully-fledged theory later. The dissertation set out a theoretical framework that served the purpose of revealing the conceptualizations behind the research project. This theoretical framework also began to critically engage with the literature. This engagement could be elaborated to more systemically look at the ways in which realism and transformationalism could be linked together. The aim of the dissertation was not to test out the theoretical propositions outlined in Chapter 2 (even though the chapters re-visited some of the ideas expounded in the theoretical framework), but a future extension on the thesis could test some theoretical propositions. A long-term future project on comparing theories of international relations and theories of globalization would be beneficial.

## **7.9 Final Remarks**

The empirical work in this dissertation substantiated claims regarding US-EU rivalry by engaging in detailed case studies. The evidence in the empirical work suggests

## Chapter 7: Conclusions

the presence of US-EU divergences over globalization. The thesis demonstrated and recognized the complexity of situations in our globalized world. It has acknowledged the difficulty of reducing tensions between great powers to simple categories. Yet, the dissertation also aimed to show that in our messy world, great powers continue to matter. Making sense of the post-Cold War era necessitates analyzing the intersection of great powers and globalization.

During the completion of this thesis, the world once again witnessed riots as the members of the WTO gathered in Hong Kong in December 2005 to discuss revisions to global trade rules. The theme on the streets of Hong Kong was one that has by now become commonplace—the continued exploitation of the poor nations by the rich, specifically the USA and the EU acting through the WTO. This dissertation has emphasized, however, that this view of the rich nations controlling the WTO (or globalization for that matter) for their own purposes is incomplete. The contestations over globalization remain not just between the rich and the poor, but also amongst the poor, and, as this thesis has focused on, amongst the rich and between the rich and “globalization.” The trajectory of globalization will remain closely linked to these struggles and those that the world is yet to witness.

**Appendix A****US-EU WTO Disputes 1995-November 2005**

(Date for Request for Consultations Indicated in Table 24 below. Information first compiled from www.wto.org "Disputes" section in November-December 2002 and then updated in November-December 2005.) The WTO wording of the disputes was used for the sake of consistency. Unless otherwise indicated, all of the disputes were between the USA and the EU (referred to as European Communities in the WTO Dispute Settlement records). When disputes aimed at specific countries within the EU, I made an indication. The WTO lists two separate requests for consultations for the banana dispute, but the dispute is the same conflict over the EU's regime of banana importation.

**Table 24- Summary of Disputes**

<b>Against the EU by the USA</b>	<b>Against the USA by the EU</b>
European Communities and certain Member States: October 2004: Measures affecting trade in large civil aircraft.	November 2004: Continued Suspension of Obligations in the EC-Hormones Dispute.
September 2004: Selected customs matters.	November 2004: Section 776 of the Tariff Act of 1930.
May 2003: Measures affecting the approval and marketing of biotech products (Joined by Canada).	October 2004: Measures affecting trade in large civil aircraft.
May 2002: Provisional safeguard measures on imports of certain steel products.	June 2003: Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing").
January 2001: Tariff-rate quota on corn gluten feed from the USA.	July 2002: Sunset Reviews of Anti-Dumping and Countervailing Duties on Certain Steel Products from France and Germany.
against Belgium: October 2000: Administration of measures establishing customs duties for rice.	April 2002: Definitive safeguard measures on imports of certain steel products.
June 1999: Measures relating to the protection of trademarks and geographical indications for agricultural products and foodstuffs.	February 2001: Anti-Dumping duties on Seamless Pipe from Italy.
May 1999: Measures relating to the development of a flight management system.	December 2000: US-Offset Act (Byrd Amendment).
January 1999: Regime for the importation, sale and distribution of bananas (II) (Joined by	December 2000: Definitive safeguard measures on imports of steel wire rod and circular welded

Appendix A: US-EU WTO Disputes

Guatemala, Honduras, Mexico, Panama)	carbon quality line pipe.
Against France, Ireland, Greece, Netherlands, Belgium: May 1998, Measures affecting tax treatment for imports and exports.	June 2000: Section 306 of the Trade Act of 1974 and amendments thereto. <sup>105</sup>
Against Greece: May 1998, Enforcement of intellectual property rights for motion pictures and TV programmes.	November 2000: Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany
October 1997: Measures affecting the exportation of processed cheese.	November 2000: Countervailing measures concerning certain products from the EC.
Against Sweden, Denmark: June, May 1997, Measures affecting the enforcement of intellectual property rights.	January 2000: Section 337 <sup>106</sup> of the Tariff Act of 1930 and amendments thereto.
Against Denmark: May 1997, Measures affecting the enforcement of intellectual property rights.	July 1999: Section 211 Appropriations Act.
Against Belgium: May 1997, Measures affecting commercial telephone directory services.	March 1999: Definitive safeguard measures on imports of wheat gluten.
Against United Kingdom: February 1997, Customs classification of certain computer equipment.	February 1999: Section 110(5) of the US Copyright Act.
November 1996: Customs classification of certain computer equipment.	November 1998: Sections 301-310 of the Trade Act of 1974.
February 1996: Regime for the importation, sale and distribution of bananas. (joined by Ecuador, Guatemala, Honduras, Mexico).	November 1998: Measures affecting textiles and apparel products (II).
January 1996: Measures concerning meat and meat products (hormones).	July 1998: Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating from the United Kingdom.
September 1995: Regime for the Importation, sale and distribution of bananas. (Joined by Guatemala, Honduras, Mexico).	June 1998: Anti-Dumping Act of 1916.
July 1995: Duties on Imports of Grains.	July 1998: Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating from the United Kingdom.
	February 1998: Harbour maintenance tax.
	January 1998: Measures affecting the grant of copyright and neighbouring rights.
	November 1997: Tax treatment for "Foreign Sales Corporations" [FSC].
	August 1997: Measures affecting imports of poultry products.
	June 1997: Measures affecting government procurement.
	June 1997: Measures affecting textiles and apparel products.

<sup>105</sup> See footnote 37.

<sup>106</sup> See footnote 38.

Appendix A: US-EU WTO Disputes

	December 1996: Anti-dumping measures on imports of solid urea.
	May 1996: Tariff increases on products from the EC.
	May 1996: The Cuban Liberty and Democratic Solidarity Act.

## **Appendix B**

### **US-EU Trade Tensions—Some Highlights in Brief**

This section does not mention all trade tensions between the USA and the EU; rather it provides details on some of the disputes discussed in the dissertation, in particular in Chapter 3. This Appendix also includes an overview of some other key tensions that not only help locate the tensions studied in this dissertation in a broader context but also allow for some preliminary work on future case studies to expand upon this dissertation.

#### **Disputes over Agriculture:**

The EU's CAP has been a common source of tension between the USA and the EU. Briefly, CAP started off as an agricultural price support mechanism in the post-WWII period when Europe desired agricultural self-sufficiency. Politically, it aimed to integrate the farmer population, prone to fascist and communist tendencies, into the emerging European welfare state. In the long run, CAP led to over-production and hence decreasing world prices and depressed developing country markets. It also became a constant source of dispute between the USA and the EU at the WTO. Despite these maladies, CAP has generally proved reform-resistant due to a number of domestic obstacles. Agricultural lobbies and their representatives have infused the supranational bodies of the EU. In the Council of Ministers sit the agricultural ministers from the member states. These ministers' chances of re-election in their country depend, to some extent, on how well they represent national agricultural concerns at the supranational level. In the other executive leg of the EU, the Commission, the supranational lobby of European farmers (COPA being the largest lobby) is well represented (Hix 1999 for this summary of the CAP). Farmers, as opposed to other groups, form an integrated, forceful lobby group because agricultural subsidies affect their livelihood (Olson 1965). In general, they are single-issue voters and thus governments regard them as a formidable voting base. Since CAP reform would mean losing this voter base, member state politicians have

## Appendix B: Overview of US-EU Trade Tensions

faced difficulty pushing CAP reform. For instance, during the negotiations for the 1988 CAP reform package German Chancellor Kohl was preparing for elections, and French President Mitterand faced an election in five months. Thus, the reform initiative called the “stabilizers” did little to remedy the maladies of CAP. Compounding the reform-resistant nature of the CAP is the decision-making process in the Council. Agricultural decisions require unanimity, thus every member state needs to support reform. However, as the German enlargement has started putting pressures on the German budget, Germany’s willingness to pay for the CAP budget has waned.

Coupled with the contention of this policy by developed and developing countries alike, the CAP has been undergoing reform (Hix 1999; Grant 1997; *The Economist* January 31, 2002). The CAP has been one of the most contentious issues between the USA and the EU. Americans had all along been pressing for Europeans to change from price to income support in helping their farmers (Featherstone and Ginsberg 1993, 172-174). Also, European resistance to reform almost caused GATT negotiations of the Uruguay Round to break down. Yet, not wanting to risk their negotiation stand on other issues during these trade negotiations, the Europeans agreed to implement reforms. In the midst of the Uruguay Round, the Europeans agreed to MacSharry reforms (1992), which began to transform the CAP from being a price-support mechanism with little regard to the environment to an income-support system with environmental sensitivities. In 1997, through the Fischler reforms, named after the EU Commissioner on agriculture, the EU began to advance the provisions of the MacSharry reforms. These reforms are currently underway. Commissioner Fishler’s reforms de-link production and payments. In addition, they reduce direct payments to farmers, putting these savings into a fund for rural development. Overall, then, the EU is reforming the CAP from being primarily a price-support mechanism to a device for income-support (Hix 1999; Grant 1997; *The Economist* January 31, 2002).

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Nevertheless, current reform initiatives do not necessarily mean that the EU will easily succumb to pressures for decreased protection of its agricultural sector. The difficulty of engineering internal EU bargains might render the Europeans “more reluctant to risk their hard-won internal agreements in the give-and-take of Atlantic negotiation” (Putnam 1993b, 81).<sup>107</sup> Some of the Fischler reforms still face opposition from France and other member states who heavily subsidize their farmers (Mann 2002; Dombey and Alden 2002). According to one count, the EU is still “by far the biggest user of export subsidies” in agriculture. While expressing commitment to the elimination of these subsidies, the EU also would like to see other countries concomitantly abolish their export subsidies (Williams 2003c).

The beginnings of reform of the CAP have not eliminated agriculture from being a source of contention between the USA and the EU. In May 2002, the USA passed a bill that foresees the spending of more than \$190 billion over the following years to support not more than 2 million US farmers. In response to this protectionist measure, Pascal Lamy, the then EU trade commissioner, emphasized that the protectionists within the EU would use the US bill as an excuse to hamper CAP reforms (Mann 2002). In the Doha Round of trade negotiations, agriculture once again constituted a major obstacle to consensus on the future of world trade. On this platform, once again the USA and the EU clashed. While the USA and Cairns group advocated a radical opening of world agricultural markets, the Commission argued for a more gradual approach. The EU justified this approach by pointing out the EU had already cut subsidies beyond the requirements of the Uruguay Round and the US Farm Bill itself had slowed down progress made on agricultural liberalization (Dombey and Alden 2002). Hence, the issue of agriculture continues to be a concern between the USA and the EU and between these two countries and the rest of the world.

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<sup>107</sup> Michael Moore’s study (1996) on steel shows that the US steel industry enjoys a power similar to that of the European agricultural sectors.



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The abrupt ending of the Cancun ministerial meeting of the Doha Round without an agreement amongst participating nations in September 2003, amongst other repercussions, has stirred uncertainty as to the fate of the “peace clause.” This clause provides a legal cover for subsidies, which would otherwise be illegal under WTO rules, as long as countries comply with subsidy-reduction requirements agreed under the agreement on agriculture of the Uruguay Round. While it remains unclear when the peace clause expires, it may be the case that when it does, developing countries will challenge the American and European subsidies on products such as sugar, rice, and cotton. Hence not only does the fight between the USA and the EU on agriculture drag on, but agriculture continues to be a contentious issue between these two countries and the rest of the world (Williams 2003a). During the writing of this dissertation, the Doha Round is still unfolding, with agriculture a tension between the developed and the developing world. (Chapter 3 interprets the disputes over agriculture in its discussions of Case Study Selection.)

**Commercial Aircraft Disputes:** Airbus, a European manufacturer of commercial aircraft, and Boeing, its American counterpart, dominate the world commercial aircraft industry and compete with each other for a bigger share of this market. EADS systems, the European Aeronautic Defence and Space Company, and its English counterpart, BAE systems, own a large portion of Airbus. In the midst of competition between Airbus and Boeing, both sides claim the aircraft industry of the other side receives governmental support, making competition unfair. The USA contests the practices of Airbus, since it believes that government subsidies, as opposed to competitive innovation, nurture Airbus’s success. (CRS July 27, 2001). The EU, on the other hand, claims that under military and space program spending, the US Department of Defense and the National Aeronautics and Space Administration (NASA) provide subsidies to American aerospace firms. The aerospace industry is particularly politically sensitive because the industry relates to national (in the case of the EU, supranational) security interests, and national airlines are a symbol of prestige (Guay 1999, 61, 81).

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At the time of the writing of this thesis, US/EU tensions over commercial aircraft have escalated on to the WTO stage, with both sides bringing suits against the other. First, claiming the EU could no longer justify its subsidies to Airbus as protection of an infant industry, the Americans pulled out of the 1992 Agreement between the USA and the EU on Government Support of Civil Aircraft. Later, the USA filed a complaint at the WTO's DSM that the European subsidies violated the WTO SCM Agreement. The American side claimed Airbus had received "\$15 billion in low-cost, no-risk loans for new projects since 1992." Returning the accusations, the European side claimed that the USA had provided "\$23 billion in subsidies for Boeing since 1992, including local tax breaks, infrastructure support, and defense contracts and NASA research" (Sparshott 2004). At the time of the writing of this dissertation, the WTO is reviewing both cases.

**Steel:** The first steel dispute between the USA and the EU dates back to the sixties; it was resolved when the two parties decided on a voluntary restraint agreement (VRA), which limited and regulated steel trade between them (Featherstone and Ginsberg 1993, 176). Nevertheless, as worldwide demand for steel increased, the agreement became harder to maintain and resulted in another dispute in the early eighties. The dispute arose when American companies complained against the EC's subsidies to steel firms for restructuring. The dispute resulted in a number of accords. The first, the Carbon Steel Agreement (1982-5), limited steel imports from the EU into the USA in order to allow US domestic industries to re-invigorate. This accord proved of little help in easing tensions, since the USA violated the agreement. The USA relied on Section 201 to limit specialty steel products, such as pipes and tubes, into the USA. In retaliation, the EC imposed quotas on certain US imports.<sup>108</sup> The renewal of the accord expanded restrictions on European steel and steel related imports into the USA. Nevertheless, a unilateral imposition of quotas by the USA on semi-finished steel products set off another retaliatory measure by the EC. Aiming to break the vicious circle of retaliation and counter-retaliation, in 1989 the two

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<sup>108</sup> Section 201 is also known as the "escape clause." GATT laws (Article XIX) and US laws allow the US government to provide "import relief" for domestic producers that are under pressure from import competition (Destler 1995, 311).

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countries renewed the VRA and declared a commitment to liberalize steel trade (this section summarized based on information from: Feathersone and Ginsburg 1993; CRS July 27, 2001; Moore 1996).

Yet, the steel ghost re-emerged in the nineties only to assert itself as a major issue between the two countries in the twenty-first century. In February 2000 President Clinton imposed tariff-rate quotas on certain steel wire rod imports to give US producers relief from competing imports and help them adjust to import competition and return to profitability. During President George W. Bush's administration, the US International Trade Commission (ITC) called for further protectionist measures to which the Bush administration replied by curbing steel imports from the EU and other major importers of steel, such as Japan and Korea. While striving to protect the ailing steel industry, the Bush plan also required the steel companies to restructure in order to increase their competitiveness. Moreover, the Bush plan envisions the steel companies contribute to the retirement funds of their workers (Alden and Daniel 2003). In order to lessen retaliatory measures by other countries, the USA exempted countries that are in bilateral/regional agreements with the USA (such as Mexico), and other developing countries. Thus Europe and Japan accrued the largest costs from the steel barriers (De Jonquières 2002b; Daniel 2002a, 2002b; Hufbauer and Goodrich 2002; [www.useu.be/categories/trade/Nov2301SteelQuotasWireRod.html](http://www.useu.be/categories/trade/Nov2301SteelQuotasWireRod.html)). The Bush Jr administration later on repealed the steel tariffs in the wake of a WTO finding in favour of the EU. In rescinding the steel tariffs, the administration also had an interest in relieving steel-using industries from the burden of hiked-up prices.

### **Foreign Sales Tax Incentive, Tax Treatment for FSC:**

The origin of this discord lies in the early days of the GATT system. In 1971, the USA introduced the Domestic International Sales Corporation scheme (known as "Disc"). The EU brought Disc to the GATT, complaining that it was an export subsidy. In 1976 the GATT ruled in favour of the EU, prompting the USA to replace Disc with FSC in 1984 (Williams 2002).

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The FSC allows US exports to enjoy tax exemption as high as thirty per cent. The USA believes taxes of the sort endorsed in the FSC bolster exports. From the American perspective, instead of giving American firms an advantage over other countries, the tax exemptions are “needed to level the playing field with European competitors, which do not pay taxes on income earned abroad” (Alden et al. 2002). On the other side, the EU regards such tax exemptions as an illegal trade subsidy. Moreover, the EU claims that this subsidy benefits American giants, such as Boeing and Microsoft.

In 1997, the EU filed a complaint in the WTO about the FSC, arguing that the FSC constitutes an export subsidy, which is incompatible with free trade rules. In 2000, the WTO, in line with previous rulings, made a decision in favour of the EU and against the FSC. This ruling compelled the replacement of the FSC with the Extraterritorial Income Exclusion Act (ETI). In 2001 another panel ruled on whether the ETI was in conformity with the WTO rules and found the law still “inconsistent” with certain WTO provisions. Following the endorsement by the Appellate Body of the Panel’s decision, in August 2002 the WTO Arbitrator determined that the EU could suspend concessions worth approximately \$4 billion per year (DS108, [www.wto.org](http://www.wto.org)). This sanction exceeded any other amount in previous trade disagreements between the USA and the EU. Instead of imposing the sanctions immediately, the EU opted to wait and monitor American compliance until May 2003. At that time the EU announced it would continue to wait only until the end of September 2003 before it began to impose the sanctions (Buck 2003a, 2003b; CRS July 27, 2001; *The Wall Street Journal* January 16, 2002).

Although the American legislators have initiated new laws towards compliance since the suspension of concessions by the EU, the EU has continued to find the legislation replacing the ETI (namely, the American JOBS Creation Act) as still non-compliant with the USA’s obligations under the WTO. Hence the EU has requested the formation of another panel, citing that consultations between the two parties had

failed (DS108, [www.wto.org](http://www.wto.org)). During the time of the completion of this dissertation, this panel had been formed.

### **Competition Policy:**

Competition policy is currently not included in the WTO, although the WTO contains provisions which relate to it. Moreover, while the EU has struggled to have competition included under WTO rules, currently it has not achieved this aim. On the American side, the Department of Justice and the Anti-Trust Division take primary responsibility for competition policy. On the European side, the Competition Directorate of the Commission undertakes competition policy.

While there has not been a formal clash of the EU's and the USA's competition policies, the two sides have come into conflict in specific cases. The most visible discord between the US and EU antitrust laws was the General Electric-Honeywell case, in which the EU refused to accept General Electric's proposed acquisition of Honeywell International—a merger to which the US anti-trust officials had given their approval (Drozdiak 2001). Some authors have interpreted the GE-Honeywell case to represent “fundamental substantive and economic differences in doctrine” between the merger regimes of the two powers (Patterson and Shapiro 2001). Such authors have attributed the difference between the two regimes to stem from deep-rooted methods of assessment. For instance, while the US side welcomed the potential low prices that the merger could offer, the Europeans concentrated on “portfolio effects,” fearing that such low prices could push other companies out of business. The decision-making processes in the two powers' competition units also differ markedly in perspective. As an *Economist* article succinctly stated, the differences of approach between the USA and the EU, to some extent, boils down to respectively whether direct effects on competition, or “dominance” should guide merger decisions. While the Europeans seem to pay more attention to a proposed merger's potential market share, its estimated “dominance” in the market, Americans tend to rely on its calculated influence on competition within the market (*The*

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*Economist* December 11, 2001). In the words of an American official, the GE-Honeywell case illustrates “the legal standards or analytical processes are significantly different” on different sides of the Atlantic (James 2002).

One should note here that some observers interpret US-EU cooperation in this realm as effective and constructive. Competition policy is seen as the poster child of the US-EU cooperation. The 1991 Antitrust Cooperation Agreement constitutes the basis of the transatlantic cooperation in competition policy. The US-EU working group formed for the purposes of cooperation currently works on issues related to mergers (James 2002). The 1998 Positive Comity Agreement, which allows for one side to initiate an investigation into anti-competitive practices at the encouragement of the other side, and the 1999 Administrative Attendance Arrangements on Attendance Hearings have also eased cooperation (Pollack 2003, 96). Competition policy appears to be one area where thanks to cooperation, trust-building on both sides of the Atlantic has been possible (Mehta 2003, 287, 289). According to a top American anti-trust official, over time the EU has begun to verge upon the American approach to competition. Americans believe the Europeans have been focusing lately more on economic principles and considerations in anti-trust cases. The same official remarks, “the Commission now has made it clear, even to us, that it shares our view that the ultimate goal of antitrust policy must be consumer welfare, and that it views merger-generated efficiencies positively” (James 2002). US-EU bilateral cooperation frameworks seem to have successfully diffused tensions.

While, given the efforts of cooperation on both sides, convergence remains a viable option, competition policy nonetheless retains its importance and still promises to challenge both sides. Mehta’s comprehensive analysis (2003) on US-EU interaction over competition policy finds numerous cases of cooperation in mega-mergers in the early days of the twenty-first century. Nevertheless, the author ends on a cautious note, arguing that

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it is perhaps not surprising that quantitative measures of case cooperation would support the conclusion that EU-US competition relations are characterized 'regulatory cooperation' aimed at achieving optimally a common enforcement goal. However it is in the category of transactions where the relevant market is global that the issue of potential conflict can arise and reveal policy divergences that would test the conflict management provisions of the co-operation agreement. (290)

Competition policy will be increasingly important for transatlantic relations for two primary reasons. First, under NAFTA, the USA and Canada are trying to harmonize their anti-trust laws and shape Mexico's laws in accordance with their own laws. On the European side, the European Economic Agreement Area, with the exception of Switzerland and EU Association states, has aligned these countries' competition laws with those of the EU's. Hence, the alleged divergence in US-EU laws has wider implications beyond these two countries. This point has been noted by Youri Devuyt (2001). He underscores that both the USA and the EU have made an effort to spread their own anti-trust policies on to their trading partners: while the EU has been utilizing Association Agreements towards this end, the USA hopes to engender increased cooperation of competition authorities via the FTAA (133). It is clear that unobstructed trade will eventually require a multilateral effort and consensus, yet aforementioned differences between the USA and the EU may block such an agreement. Secondly, competition policy is intertwined with other policies—such as, industrial, intellectual property, trade policy, investment, and extraterritoriality—where protectionism poses a threat to smooth EU-US relations (Rosenthal and Nicolaidis 1997). The historical differences (see Kolasky 2002 for a discussion on this) underlying divergent competition policies enhance the challenge of undertaking smooth cooperation in such a complicated and multi-faceted area.

### **Sarbanes-Oxley Act:**

This Act requires European auditors to register in the USA. Although this act could have potentially opened another dispute front in the US-EU trade relations,

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collaboration seems to have prevented such a rift. Initially, the Act frustrated certain European officials and companies. For instance, the then European commissioner for the single market, Frits Bolkestein, was reported to judge the Act as an “over-reaction” to corporate scandals, such as Enron and Worldcom, in the USA (Guerrera 2002). Nevertheless, the EU and the USA manage to negotiate successfully and agree on the terms of the American “oversight of European firms that audit companies whose stocks trade in the [USA]” (Schroeder 2003).

**Electronic commerce** has emerged as another disputed topic between the USA and the EU. According to Mann (2000), the two sides differ on treatment of some key issues which surround electronic commerce: trade flows, tax regimes, and protection of personal data. Mann argues that the EU and the USA diverge on the trade aspects of electronic commerce because the EU categorized “electronic transmissions” under GATS. Mann contends this provides for a less liberal trading environment than the USA, or trade liberalists, would have hoped for, since market access under GATS remains restricted to sectors to which the signatories have committed (3-4).

Mann states that the two sides also approach the issues of taxes differently. The Europeans would like to have non-EU firms “establish their tax identity within an EU locality in order to determine which rate of tax to charge when selling business-to-business.” In contrast, the US firms are governed under the 1988 Internet Tax Freedom Act, which does not distinguish between goods and services (10).

Finally, Mann explains that while the USA tends to leave data protection to the self-regulation of firms, the European laws on data protection are relatively strict, prohibiting the use of personal data for commercial purposes (15, 18). The issue of data protection has arisen in other circumstances. For instance, the 2003 American acts on Enhanced Transportation and Border Security allow American authorities to gain access to information about passengers and crew. Because such access violates European data protection laws, Europeans and Americans negotiated an “interim



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agreement,” which envisages only the CIA and the National Security Agency having access to such data on Europeans (Naylor 2003).

**Intellectual Property Rights** will also be an important issue to follow, even though both sides primarily agree on TRIPS, endorsed during the Uruguay Round of the GATT. Intellectual Property Rights encompass patents, licenses, trademarks and copyrights around the world (Hudec 2001). TRIPS most visibly divided attitudes within the WTO during the Doha Round, when the USA blocked a December 2002 WTO deal to permit poor countries to import generic versions of patented drugs. The EU had adopted a different stance than the USA, drafting a proposal intended to allow developing countries access to cheap drugs. The USA feared these drugs would be resold in the developed world at high prices, or that such an agreement would not be utilized in “good faith,” perpetuating the production of generic brand drugs which are not essential to public health in the developing world (Williams 2003b). Eventually a compromise deal succeeded.

## Interviews

Throughout this research project, I conducted interviews with policy-makers and experts who had been involved with trade policy-making. A list of these interviewees (minus those who asked to remain anonymous) is included in Table 25 below. I aimed to interview people from diverse backgrounds from both sides of the Atlantic. Given the busy schedules of interviewees, I could not conduct all the desired interviews. Nevertheless, I found the quantity and the quality of interviews more than satisfactory.

Since I did not utilize the interviews for a statistical analysis, I did not ask every interviewee the same questions. Rather, I utilized the interviews in order to gain a sense of the topics of the dissertation from the perspective of those that were directly involved in trade negotiations or decision-making. For instance, some of the interviews were high-level officials (Charlene Barshefsky was the USTR during part of the banana dispute) during the disputes. The interviews also directed my attention to sources that would otherwise have been difficult for me to notice.

I was aware of the potential pitfalls of gathering information through interviews. *“The informant’s statement represents merely the perception of the informant, filtered and modified by his cognitive and emotional reactions and reported through his personal usages”* (Dean and Whyte 1970, 120). “Informants can and do hold conflicting sentiments at once time and they hold varying sentiments according to the situation in which they find themselves” (128). Potential distortions to the information gathered in the interviews include: a) “implausibility” of the information provided, b) “unreliability of the informant”, and c) the “informant’s mental set” (126-127). These potential distortions were not an issue in any of the interviews I conducted.

Nevertheless, in order to avert any potential shortcomings and for the sake of the quality of the information, I prepared well ahead of the interview, paying particular

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attention to the position and the organization of the interviewee. After the interviews, I sought to double-check the information I gathered in interviews with written materials, or with other interviews (128). Also, I asked the same question in different ways, if I had difficulty grasping, or attaining, the answer in the first place. While I started off taping my interviews, I soon became aware that this made even the most experienced interviewee too conscious. It detracted from the momentum of the interview. In any case, I did not quote any interviewees in this dissertation, keeping my promise that I would not quote directly. However, the interviews helped confirm or change some of the points when analyzed in conjunction with supplementary materials that supported them.

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Table 25- List of Interviews

	Name (alphabetical order by first name)	Position at the time of the Interview	Date of the Interview	Location	Notes
1	Andre Sapir	Professor of Economics, ECARES, Universite Libre de Bruxelles	21-Feb-05	Brussels	
2	Astrid Schomaker	European Commission, External Relations, RELEX/G/3	10-May-04	Brussels	
3	Charlene Barshefsky	Ex-USTR, Second Clinton Administration	28-Apr-05	Phone Int.	
4	Christopher Wilson	US Mission to the EU, Economic Affairs	8-May-04	Brussels	I interviewed Mr. Wilson again on 18-Feb-05. These were email exchanges, and not an in-person interview. Mr. Grantham provided me with works that he had written.
5	Cliff Grantham	UNILEVER, Co-Director of the Transatlantic Business Dialogue (TABD)	2-Feb-05	Email Exchange	
6	Daniel Drezner	Associate Professor, University of Chicago	Sept-04	Chicago	
7	Doriane Givord-Strassel	DG Agriculture, EU Commission	8-Feb-05	Brussels	
8	Edmund Hosker	Member of Committee 133,	24-Feb-05	London	

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9	Eduard Auer	External Relations, Asia, DG Commission	10-May-04	Brussels	
10	Elizabeth Siracusa	DG Agriculture, EU Commission	8-Feb-05	Brussels	
11	Gordon Myers	Caribbean Banana Exporters Association, UK	20-Sep-03	London	
12	Grant Aldonas	Undersecretary, Department of Commerce, USA	14-Apr-05	Washington, D.C.	
13	Guy de Jonquières	<i>Financial Times</i> columnist, with expertise in transatlantic trade relations	2-Nov-04	Email Exchange	This was an email exchange, in which Mr. de Jonquières sent me an essay on the subject of my proposed interview.
14	Ian Vollbracht	First Secretary Trade Policy and Transatlantic Relations, UK Permanent Representation in Brussels	21-Feb-05	Brussels	
15	Jack Bobo	US Mission to the EU, Deputy Chief, Biotechnology and Textile Trade Policy Division	12-Apr-05	Brussels	
16	Jean Ferriere	DG Trade, EU Commission, Agriculture, Fisheries, Sanitary and Phyto-sanitary measures, Biotechnology Unit	7-May-04	Brussels	
17	Joakim Reiter	DG Commission Trade, RTA-strategy	21-Feb-05	Brussels	

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18	Joseph Nye	Professor and Dean, Kennedy School of Government	22-Jan-03	London	Sandra Clark and Joyce Rabens interviewed at the same time due to time constraints.
19	Joyce Rabens	Acting Deputy Chief of Mission for The American Embassy	23-Feb-05	London	
20	Karl Friedrich-Falkenberg	DG Trade Commission, Deputy Director	10-May-04	Brussels	
21	Martin Dihm	DG Commission Trade, specific expertise in EU-ACP relations	10-May-04	Brussels	
22	Matthew Baldwin	DG Trade, EU Commission, EU-Canada Relations	21-Feb-05	Brussels	
23	Michael D.C. Johnson	Consultant and expert on US-EU Trade Relations	9-Aug-03	London	
24	Michelangelo Margherita	DG Commission Trade, Transatlantic Relations	7-May-04	Brussels	
25	Patrick Sutton	European Consumers Union	21-Feb-05	Brussels	
26	Peter Chase	US Department of State, Director, European Union and Regional Affairs	13-Apr-05	Washington, D.C.	
27	Peter Hakim	President, Inter-American Dialogue	12-Apr-05	Washington, D.C.	
28	Philip Marsden	Director, The Competition Law Forum	19-Sep-03	London	

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29	Richard Carden	DG Commission Trade	See Notes	London	Mr. Carden and I spoke periodically about the progress of my work. I interviewed him a number of times. Hills and Company is the company of Carla A. Hills, the ex- USTR and her associates.
30	Robert Fischer	Managing Director, Hills and Company	14-Apr-05	Washington, D.C.	
31	Sandra Clark	Deputy of Director for Economic Affairs, EU Affairs, US Embassy in London	1-Mar-05	London	
32	Stan Cohen	US Mission to the EU, USDA, Biotechnology	18-Feb-05	Brussels	
33	Sue Saarnio	US Department of State, EU Affairs	13-Apr-05	London	
34	Walter Kennes	DG Development, EU Commission	17-Feb-05	Brussels	
35	Warren Strauss	Consumer Traits and Food Policy, Monsanto Company	14-Apr-05	Washington, D.C.	

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### **Interviews:**

See Appendix C for a list of interviewees.