

Chapter 1

Condemned to Cooperate?

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1. Introduction

In our interdependent world surely further cooperation on policymaking between large economic blocs, such as the United States (US) and the European Union (EU), is inevitable? And does not the recent global economic crisis point to the necessity of transatlantic economic cooperation in establishing a less volatile foundation for the world economy? Furthermore, cannot a transatlantic partnership provide the stimulus necessary to address long-standing global challenges — such as completing the Doha Round of multilateral trade negotiations — and nascent ones, such as climate change?

Sentiments such as these are expressed frequently on both sides of the Atlantic, yet rarely do they translate into concrete policy decisions.¹ The contrast between the rhetoric and results has become so stark that it is about time to ask whether it is really the case that the United

¹ Recognition of the limited prospects for further transatlantic cooperation — at least in the near term — has been given as one of the reasons for US President Obama's decision not to attend the EU–US summit in May 2010. Whether the European reaction to this decision spurs the identification of joint projects across the Atlantic remains to be seen.

States and the European Union are “condemned to cooperate,” as former European Commissioner McGreevy put it? The purpose of this volume is to revisit the assumptions and arguments used to advance transatlantic solutions to common problems. For what class of societal problems is a transatlantic approach the optimal response?

One might immediately ask “optimal for whom?” The world economy is no longer bipolar (or tripolar, if one includes Japan), so the question arises as to whether transatlantic initiatives might come at the expense of other nations or compromise established multilateral principles of state conduct? Therefore, in assessing the merits and prospects of transatlantic cooperation at the beginning of the second decade of the twenty-first century, it is not enough to understand the internal logic of transatlantic cooperation but also its systemic consequences. The chapters in this volume — written by experts drawing upon different sectoral expertise and intellectual traditions — attempt to do exactly that.

The emphasis on the systemic consequences of potential transatlantic cooperation should appeal to those policymakers and analysts that are not solely concerned with European and American decision-making. If the reasons for the paucity of transatlantic cooperation in recent years can be established and those reasons turn out not to be particular to European and North American circumstances, then they may reveal something about the likelihood of successful forms of policy cooperation between other poles of the world economy.

At a time when multilateral approaches to global problem solving appear to be falling short (witness the ongoing Doha Round of trade negotiations and the discord at the climate change conference in Copenhagen in December 2009), interest is bound to grow in other forms of international cooperation and the temptation of some economic poles to “forge ahead” in small groups may grow. The recent experience with transatlantic cooperation might be salutary in this regard.

The remainder of this introductory chapter is organized as follows. The next section discusses the multi-faceted relationship between economic interdependence, transatlantic cooperation, and multilateralism. In so doing a number of questions are raised that are picked up in

subsequent chapters of the book. The third section summarizes the main findings of chapters that follow. As will become clear, there is no “corporate” view on the merits and prospects of transatlantic cooperation from the contributors to this book; rather the objective was to see where the logic of various arguments for cooperation would take us. This approach enables readers to see where transatlantic means best serve different policy objectives. The final section offers some concluding remarks on the wider significance of some of the findings of this volume for economic and regulatory cooperation among major trading nations in what remains of the first quarter of the twenty-first century.

2. Economic Interdependence, Transatlantic Cooperation, and Multilateralism

2.1. *From economic interdependence to the Merkel Initiative*

It is customary to start most discussions on transatlantic cooperation on economic matters by referring to a barrage of statistics that point to the degree of interdependence between the economies of the European Union and the United States.² From these statistics it is typically asserted that “much is at stake” in properly managing transatlantic economic relations.

Moreover, one or two significant events are typically referred to — at the current time it might refer to the apparent global economic recovery and the goal of avoiding widespread resort to protectionism as well as the need to rewrite the regulations of the financial sector so as to avoid another sharp downturn, like that experienced in 2008 and 2009 — and the imperative for transatlantic cooperation is established, or so we are told. In some accounts the subtle juxtaposition

²For such a barrage see pages 3 and 4 of Stokes and Paeman (2009, pp. 3–4). As part of the background research for this chapter, the degree of economic interdependence, as reported in Stokes and Paeman and in comparable publications, was confirmed. Sapir’s chapter in this volume presents some of the key statistics in an appendix table.

of the shared interests in the postwar years with the future uncertainties associated with the shift of economic power to Asia and appeals to “leadership” and “vision”³ further bolsters the diplomatic and geopolitical case for transatlantic initiatives.

Business interests often appeal to the costs of fragmented markets — or the consequences of more open markets, that is, economies of scale, greater incentives to innovate, and less time and money spent on regulations — to make the corporate case for closer transatlantic cooperation. From time to time, some have gone further and made the case for a transatlantic free trade area or at least for widespread mutual recognition of national regulations. Reference here is typically made to a widely publicized study by the Organisation for Economic Co-operation and Development (OECD, 2005) that included estimates of 2.5% and 3% per capita income gains for Americans and Europeans from the widespread elimination of tariffs and non-tariff barriers.⁴

Ever since the conclusion of the Uruguay Round of multilateral trade negotiations, and with the fall of the Berlin Wall ending the ideological competition over national economic systems, the above arguments have been employed to foster closer transatlantic economic ties. For example, in 1995 European and American leaders agreed on a

³It not being clear what these terms actually mean.

⁴More recent estimates of the effects of transatlantic elimination of tariffs can be found in Erixon and Pehnelt (2009) (essentially of the order of 7–18 billion euros for welfare and 1.5–4.5% for bilateral trade volumes). Their colleague, Sally (2009), concludes on the basis of these numbers and other considerations that:

Nevertheless, tariff elimination on its own might not be worth the candle. Large political capital would be needed to deliver quite modest gains, while sidelining the WTO and perhaps undermining multilateral rules. Rather a shallow-integration agreement should be seen as a stepping-stone to a much bigger prize, a “deep-integration” TAFTA that would tackle non-tariff barriers and seriously liberalise trade in goods, services and investment. Gains from regulatory liberalisation would be much, much larger, especially in services. But this is precisely where the major technical and political obstacles lie, as the TEC record shows. The advantage of doing a deal on tariffs is that it might, finally, generate momentum to tackle regulatory barriers.

New Transatlantic Agenda which included proposals for the creation of a Transatlantic Market Place. There were similar such announcements at the transatlantic summits that followed.

The most recent — and arguably most extensive — initiative saw the creation of the Transatlantic Economic Council (TEC) in 2007. This was part of the Framework for Advancing Transatlantic Economic Integration that was signed by US and EU leaders at a summit in 2007. Much of the impetus for this initiative came from the German government that held the Presidency of the EU Council at the time, and is often referred to as the Merkel Initiative. This initiative has the following three objectives:

1. To remove or reduce prevailing non-tariff impediments to transatlantic commerce.
2. To amicably and expeditiously resolve current and future commercial disputes between the US and the EU.
3. To establish joint EU–US approaches to certain commercial matters of global importance.

With these ends in mind, consultations by EU and US officials have been held in various fora, including the TEC, between peer agencies, and in the High Level Regulatory Cooperation Forum.⁵ Reports on the resulting consultations have been prepared for subsequent EU–US summits. A typical example of the latter is the “TEC Report to the EU–US Summit 2008: Review of progress under the framework for advancing transatlantic economic integration between the European Union and the United States of America” (EU–US 2008). This report noted that the TEC had established procedures for working with stakeholders, which includes legislators, that influence regulatory processes and laws on both sides of the Atlantic. As many of the authors in this volume will make clear, the involvement of legislators is critical to further progress.

⁵This Forum comprises the heads of regulatory agencies on both sides of the Atlantic (or their representatives) and engages in the exchange of views on best practices.

Many incremental steps — often involving processes by and initiating dialogue between regulators — were listed in this report, EU–US (2008). Perhaps the best known step was the decision in November 2007 by the US Securities and Exchange Commission (SEC) to end the requirement that foreign companies employing the International Financial Reporting Standards (IFRS) need to reconcile their accounts with the US Generally Accepted Accounting Principles (GAAP). The report also lists the 2007 “Open Skies” accord between the US and the EU as an accomplishment; doing so highlights a difficulty in interpreting the TEC’s accomplishments, as this negotiation was already underway when the TEC was created.⁶ The report also describes how certain longstanding disputes between the EU and the US are being dealt with.⁷

In reviewing the assessments of the Merkel Initiative, it is striking how cautious many are about the accomplishments to date, what it

⁶This raises, of course, the question as to what is the counterfactual. In the absence of the TEC would the conclusion of the Open Skies Accord, for example, have been impossible? In general, when interpreting the contribution of the Merkel Initiative it is surely a mistake to infer that every instance of regulatory cooperation since April 2007 can be credited to this Initiative. Surely some cooperation, even if more limited, would have occurred in the absence of this initiative.

⁷For example, on the ongoing poultry dispute between the US and EU, the report notes:

At the TEC meeting in November 2007, the subject of the treatment of poultry meat with pathogen reduction substances was discussed. The European Commission has undertaken to act on this issue before the next EU–US Summit, after receiving scientific advice. In this sense, the Commission consulted the European Food Safety Authority on the possible effects of the treatment on antimicrobial resistance and the Scientific Committee on Health and Environment and the Scientific Committee on Emerging and Newly Identified Health Risks on the environmental risk and on the risk of emergence of microbial resistance associated with the use of these substances. The Commission has reviewed these scientific opinions and, in the light of those opinions, which provide no scientific basis for the continuation of the import ban, it will in the coming weeks come forward with a proposal for allowing the use of pathogen reduction treatments for poultry meat in the EU Member States and in imported poultry products. In line with its previous commitment, the Commission will actively solicit Member State and European Parliament support and will make best endeavours to achieve the final adoption of the relevant EU legislation before the next TEC meeting, planned for autumn 2008.

takes to make progress, and likely future progress.⁸ Even the officials associated with the TEC process do not downplay some of the challenges ahead. For example, the conclusion to the report referred to above (EU–US 2008) includes the following statement:

The TEC's working arrangements have proved to be a successful innovation which has given new political impetus to EU–US economic cooperation with the objective of overcoming disagreements. A number of goals identified in the 2007 Framework have been achieved in the first year of its work. However, much remains to be done. The first year has confirmed that regulatory cooperation and economic integration entail arduous technical work to be successful and require the continued attention of and commitment by the political leadership to press for progress. This is a long-term project (page 25).

Prominent supporters of further transatlantic cooperation too are dissatisfied with the rate of progress under the Merkel Initiative. Stokes and Paeman (2009), for example, argue:

While the TEC has advanced some transatlantic regulatory cooperation, it has not produced the deeper economic integration that is its core purpose. The reasons for failure are many. Most important, the effort has lacked a broad strategic vision. The transatlantic dialogue has far too often allowed itself to be stymied by disagreements on technical trade issues, most recently over safety standards for poultry.

As will become clear, some of the contributors to this volume offer tougher assessments of the TEC and point to structural reasons for its limited success.

Adding to concerns about the lack of progress has been the perception that the Obama administration is unsure what to make of the TEC process. Apparently, the TEC has support at high levels within the current US administration, yet no clear agenda for it has been established. Vague suggestions have been made to focus on longer-term, more forward-looking issues, which could be read as either an

⁸This caution is all the more striking when contrasted with the optimistic remarks about the probability and benefits of completing the Doha Round of multilateral trade negotiations.

attempt to develop a grander vision for transatlantic economic relations or an attempt to avoid the difficult choices associated with resolving certain ongoing transatlantic disputes. The apparent desire on the Obama administration's part to appoint labor union representatives to the Group of Advisors of the TEC is perhaps the only concrete process-related suggestion made to date, and may well provide more evidence of the influence of the American labor movement over US trade policy. Overall, a sense of drift prevails. In situations such as these it may make sense to revisit the very foundations of transatlantic interdependence and national decision-making processes to see what, if any, basis they provide for deeper transatlantic cooperation. The purpose of the remainder of this section is to do exactly this.

2.2. Economic interdependence and the case for transatlantic cooperation

It is often argued that the high levels of economic interdependence *per se* imply that there is “much at stake” (presumably a large economic payoff) to transatlantic collaborative initiatives. Surely this is the wrong way to motivate such collective action. After all, low levels of trade between the US and the EU could be indicative of high barriers to trade and supportive of a case for transatlantic liberalization of commerce. What matters is not the prevailing level of interdependence or the size of trade barriers *per se*, but the impact that changes in policies on one side of the Atlantic could have on the welfare of parties living on the other side of the Atlantic. Since this argument applies to cases where the welfare impact is positive or negative, the identification of policy changes — and combinations of policy changes — likely to generate substantial impact is central to identifying potentially meaningful transatlantic cooperation.

On top of this welfare filter, of course, must be added a political economy filter. Namely, bearing in mind any differences in the effectiveness of interest groups in the domestic policymaking process, the basis for any “deal” between the US and the EU must then be identified. This in turn raises the question as to whether more can be accomplished by bundling (sometimes unrelated) issues together to form an

acceptable package to both parties — or establishing a sequence of initiatives that over time effectively delivers such a package — rather than dealing with each issue sequentially. A related concern here is that an interest group (potentially including a group of state officials) might try to hold up the deal-making process in order to advance a single matter.

On the basis of these considerations, it would seem that one necessary condition for a successful transatlantic initiative is that a number of higher impact potential policy innovations be identified before the process begins, combinations of which may provide the basis for a deal as the initiative unfolds over time. Different permutations may limit the likelihood of hold-up. In addition, whatever process is adopted will have to accommodate the inevitable unanticipated events that disrupt policymakers' plans, and in this case may alter the basis of future cooperative initiatives.

However, in thinking through the relationship between economic interdependence across the Atlantic and the case for transatlantic cooperation, given the paucity of the latter in the recent past, how did the former arise? This question is important because it points to alternative initiatives that may have the effect of promoting both transatlantic economic interdependence and welfare in the EU and in the US.

Since no transatlantic free trade agreement has been signed, the only policy instruments that can be credited with promoting the prevailing transatlantic economic ties are the clutch of prevailing bilateral investment treaties and the multilateral trade accords negotiated initially at the General Agreement on Tariffs and Trade (GATT) and now at the World Trade Organization (WTO). Rising incomes and similar per capita incomes no doubt account for some of the growth of transatlantic trade too.

Moreover, transatlantic economic ties have proved to be remarkably robust over time. Sharp diplomatic disputes (such as over the merits of invading Iraq for a second time) did not lead to a deterioration in commercial policy relations. Particularly contentious commercial policy disputes between the EU and the US have been taken to the WTO's Dispute Settlement mechanism and *even in cases when one party has disliked the outcome* such outcomes have not spread unduly to other

aspects of commercial policymaking, or markedly affected diplomatic relations more generally.

While it is certainly the case that extant multilateral trade accords and bilateral investment treaties are far from complete — that is, they do not prevent every form of discrimination or bias against foreign commercial interests — at a minimum these accords do embody principles that, by and large, appear consistent with how governments on either side of the Atlantic would prefer to see their commercial interests treated by the other. It would seem, then, that to make the case for a bilateral transatlantic approach it is necessary to establish that *in the absence of prevailing constraints at the multilateral level* the EU and US would have taken binding global trade accords much further. The latter provides a further filter for identifying policies and state practices where a collaborative transatlantic initiative would generate value-added (over multilateral approaches).⁹

That transatlantic interdependence has strengthened so much over time in the absence of significant transatlantic commercial initiatives outside of the multilateral trading system has another implication. Surely the benchmark — against which any transatlantic initiative is compared — should build in a natural intensification of transatlantic commerce over time? How much growth in trade, investment, etc., would have to be established empirically. Postwar experience would suggest that a zero growth benchmark for no policy change is inappropriate. Hence, the hurdle that a proposed transatlantic initiative should pass before being taken forward is probably more stringent than some analysts imply. Again, the point is to clearly establish the value-added of a transatlantic initiative, bearing in mind the existence of other negotiating fora and supply-side developments.

Moreover, the fact that firms often have more than one way to enter a foreign market implies that the removal of a barrier on any one mode of entry into a foreign market may merely induce a substitution between modes of entry. Under these circumstances the impact of a

⁹This is not the same thing as demonstrating that such an initiative has no adverse effects on other trading partners.

transatlantic initiative on commercial flows is likely to be larger than that on welfare — and, of course, it is the latter that ultimately matters. For sure, the reform may create a lower cost mode of entry (that enhances efficiency on standard economic metrics), however, the benefits to consumers may be slight (as they are already served by the foreign firms in question) and the net impact on measured interdependence, ambiguous (as one form of interdependence — exports, say — diminishes as another grows — such as foreign direct investment).

Having discussed the different ways in which the prevailing, high levels of economic interdependence across the Atlantic begs questions concerning the appropriate design and evaluation of transatlantic commercial initiatives, attention now turns to the potential relationships between such initiatives and the multilateral trading system.

2.3. The impact of transatlantic initiatives on the multilateral trading system, and vice versa

One matter analyzed in many of the contributions to this volume is the systemic consequences of previous and potential future transatlantic initiatives. Specifically, what are the potential relationships between the multilateral trading system, as embodied by the World Trade Organization agreements and associated secretariat and dispute mechanisms, and transatlantic initiatives on commercial and regulatory policies? Here the goal is to sketch out the two-way nature of that relationship.

The experience of the United States and the European Commission in working within the existing WTO structures and initiatives has arguably provided some of the impetus for a transatlantic initiative. Delays in completing the Doha Round of multilateral trade negotiations, the emphasis on agricultural subsidy and tariff cuts in those negotiations and their sensitivities in Washington DC and in national capitols in Europe, plus the end of the US's and EU's dominance of multilateral trade talks may have added to the perceived benefits of cooperating in a different forum.

The current set of multilateral disciplines — which effectively define the boundaries or reach of the WTO — may also be seen as inadequate

in dealing with some of the pressing commercial policy challenges facing firms as they do business across the Atlantic. After all, the existing WTO accords were negotiated on the basis of an agenda agreed in 1986, nearly a quarter of a century ago. Much business practice and technology has changed since then — and in certain situations existing multilateral accords may provide no basis upon which to resolve international disputes or to guide policy choice. This argument should not be taken too far. While it is true that there are not specific WTO accords on every aspect of government behavior relating to modern business practices, the WTO accords do embody key principles (such as national treatment and most favored nation treatment) that could usefully guide transatlantic cooperation. In sum, it would be going too far to assert or assume that inter-governmental cooperation outside the WTO — transatlantic or, for that matter, other — as being or having to be completely uninformed by multilateral trade principles.

Still, it would be remiss to ignore the long-standing concerns about the consequences of bilateral and regional trade reform. The potential for a transatlantic initiative to discriminate in favor of firms located inside¹⁰ the EU and the US against firms located elsewhere triggers worries about trade and investment diversion and the associated loss in efficiency in the allocation of resources. Perhaps more worrying would be the adoption of common standards by the EU and the US — or mutual recognition of each other's standards — that involved unnecessary costs for firms from third parties to comply with. These standards could be related to technical matters (e.g., voltage used) or to health and safety matters. Given the low levels of tariffs on transatlantic manufacturing trade, concerns about standards setting and the symmetric enforcement of standards are probably of greater commercial relevance.

The prospect of EU and US producers and officials setting standards for half of the world economy is unlikely to be welcomed in

¹⁰With cross-border investment, of course, such discrimination could involve an overseas subsidiary of an EU or US multinational being disadvantaged compared to an EU- or US-based subsidiary of a firm headquartered in a third country. This is a reminder that acting on simplistic notions of who is “us” and who is “them” is a recipe for likely harming some of one's own commercial interests!

the growing manufacturing powerhouses of Asia; not only are the latter bound to feel that whatever standards set were not chosen with their circumstances in mind, they are also likely to resent the outlays demonstrating compliance with those standards. Of course, such Asian firms may be tempted to set their own technical standards and the like, and force EU- and US-based exporters to pay adoption costs. This is not the place to review the steps that countries can take to limit the unnecessary costs associated with the adoption of technical and other standards; still, the principle of limiting and avoiding such costs, where possible, should be borne in mind.

Even though much of the economic literature on preferential trade reform has emphasized the adverse consequences of violating the most favored nation principle, it should be acknowledged that bilateral and plurilateral cooperative initiatives can be implemented on a non-discriminatory basis. Some may think it naïve that two trading blocs — such as the US and EU — would automatically grant the same privileges to third parties, receiving nothing in return. However, two considerations may persuade policymakers to implement measures in a non-discriminatory manner. The relevance of each consideration is likely to vary across regulations and policy area. First, the cost of maintaining two regulatory regimes (one for EU–US firms and associated commerce and one for third parties) may be large compared to the apparent benefits of discrimination. Second, US and EU firms may have subsidiaries in third countries that they do not want to see discriminated against when supplying customers on either side of the Atlantic. For both reasons, non-discriminatory approaches ought to be considered.

The resolution of transatlantic disputes is another purported benefit of EU–US cooperation. This too has ambiguous systemic consequences. On the one hand, the resolution of a dispute and putting an end to the associated discord is, on the face of it, desirable. (Indeed, many diplomats may view the absence of discord in and of itself a desirable outcome.) However, the terms upon which a dispute is settled are important, especially if they are at odds with existing multilateral principles and obligations. Furthermore, by stopping a dispute from being resolved by the WTO's Appellate Body, useful precedents may

be forgone.¹¹ The latter argument applies, however, to any instance when two or more WTO members settle a case, and therefore cannot be elevated into a specific disadvantage of EU–US cooperation.

Another form of transatlantic cooperation that could have implications for the multilateral trading system is when the European Community (EC) and US develop common positions on matters that are — or could be placed — on the WTO agenda.¹² It has been argued that this would help forge common positions on matters that the rising powers of Asia and elsewhere may take different views on — or on issues that are new to the rest of the WTO membership. Without doubting that a combined EC and US position on a matter may look impressive — and indeed carry some diplomatic heft — however, it is important to remember that the WTO proceeds on the basis of consensus and that, as the Doha Round has amply demonstrated, the leading emerging markets plus certain groups of smaller developing countries have effectively exercised vetoes in the past and can do so in the future.

Worse, to the extent that a joint EC–US position is seen to demonstrate that both parties really want an issue addressed, then others may demand a higher price in order to acquiesce to the joint demands of the EC and US. Procedural factors may exacerbate the price paid. For example, even if the EC and US were able to persuade WTO members to launch a negotiation on a plurilateral accord on a matter of interest to them, the WTO membership may then demand the right to review, and potentially veto, the final accord. Avoiding that outcome may involve the EC and US “paying” again in negotiating capital.

¹¹According to some trade diplomats the rulings of the WTO’s Appellate Body do not have precedential value. However, since that Body is comprised of judges that sit for many years they are probably not minded to contradict their earlier rulings. In which case each ruling may help WTO members predict how the Appellate Body might rule in similar, subsequent cases. By settling a dispute, so the argument goes, the WTO Appellate Body is denied the opportunity to develop a precedent, or reinforce an existing one.

¹²A variant on this argument is that an accord between the EC and US on some commercial matter that is regarded as successful and not particularly harmful to third parties may — at some later point in time — become a model or template for a plurilateral or multilateral accord.

In short, given the bizarre zero-thinking that has erupted from time to time during the Doha Round negotiations, no strong assumptions of negotiating strength or numbers converting into positive outcomes seem warranted. Consequently, one might be doubtful of the likelihood that any transatlantic initiatives translate ultimately into plurilateral or multilateral accords, unless as part of some grand bargain.

The purpose of this sub-section has been to highlight the multifaceted, two-way nature of the relationship between transatlantic commercial initiatives and the multilateral trading system. Reducing this matter to one of potential trade diversion and trade creation (which could be important) overlooks other important potential determinants and consequences of transatlantic cooperation. Indeed, some of the enduring impetus for such cooperation is driven by frustrations with multilateral decision-making processes.

2.4. Transatlantic cooperation and cosmopolitan regulation

Much of the cooperation mentioned in proposals for transatlantic initiatives relates not to formal trade barriers (such as tariffs, quotas, investment restrictions and the like) but to cooperation between regulators on both sides of the Atlantic. Here progress has been slower and less ambitious than many have liked (as witnessed by the statements of senior governmental officials and business associations). Yet there are fundamental reasons for this outcome that do not appear to have been taken on board, let alone addressed.

The starting point is to recall that since the 1980s there has been a systemic trend towards the creation of regulators that are supposed to be independent of both central government executive and of the legislature. Arguments about “taking politics out of regulation” were advanced in support of this trend. These contentions are not without merit. After all, the objectivity, predictability, and even-handedness of regulatory decision-making is likely to be compromised by interventions by politicians on behalf of specific interested parties. Ring-fenced budgets, agency officials with fixed terms and limited opportunities for

reappointment, and the like were supposed to limit the opportunities for political interference.

What the creators of independent regulators probably did not anticipate was the fact that — as international economic interdependence grew — then regulatory decisions were likely to have knock-on effects in other jurisdictions. Likewise, market outcomes and welfare at home are likely to be affected by regulatory decisions abroad. Moreover, most independent regulators were established with legal mandates that made them responsible for matters within their national borders; it is as if their responsibilities ceased at the border. While these matters account for the potential for adverse knock-on effects from national regulatory decision-making, it is the absence of any obligation on the part of an independent regulator to cooperate that typically prevents the identification and implementation of mutually advantageous solutions. Cosmopolitan regulation, that is, regulation that takes account of knock-on effects across borders, is thereby frustrated. The creation of independent regulators may have solved one problem (that of political interference in domestic regulatory matters) but the manner of its implementation has created another problem in a globalized world.

The problem is made worse by the fact that firms in a given sector will make investment and other longer-term plans on the basis of the regulatory structure overseeing their sector. So while some firms may wish their sectoral regulator took a more cosmopolitan approach (perhaps because those firms seek to tap more opportunities in foreign markets), other firms may be less willing to see regulations that might enhance competition from abroad. If conforming with a regulator's rulings requires outlays by firms, then once a firm has made those outlays it may be very reluctant to see any reform in which subsequent potential entrants to the sector have to pay less — or no — such outlays. The corporate constituency for cosmopolitan regulation may in effect be smaller than originally thought.

To the extent that the regulators cherish their powers and prerogatives, then they may be reluctant to forgo their rights to review certain commercial practices, plans, etc., as part of an international accord. Regulators typically have mandates that involve non-price and non-efficiency matters, such as security of supply, safety, etc. In which

case, regulators can play to the public's and politicians' fears about such matters, in an attempt to justify retaining full national control over regulation.

In sum, it would be naïve to suppose that there is some simple technical fix that will unleash a lot more cooperation between regulators on both sides of the Atlantic. Policymakers and analysts should be cognizant of the interests of regulators and incumbent firms in preserving the status quo, that is, in resisting cosmopolitan regulation that takes account of those cross-border knock-on effects that are almost inevitable in a world of relatively integrated markets. Put another way, transatlantic initiatives that are designed without making changes to the mandates and incentives of national regulators are likely to see limited results.

3. Contributions to this Volume

Experts from both sides of the Atlantic, from different sectors of the economy, and from different disciplines contributed to this volume, many making reference to the themes summarized above. In his chapter on banking, for example, De Grauwe implicitly takes a problem-and-solution approach, identifying the regulatory structure and implied international cooperation necessary to reduce the probability of a future banking crisis along the lines of what was witnessed in 2007 and 2008 (Chapter 2). Here the appropriate international initiatives are global rather than transatlantic.

Sapir, in contrast, sees a role for transatlantic cooperation on rebuilding the institutions of global economic governance and promoting liberalization of trade and investment barriers at the global level (Chapter 3). Sapir's review of prior transatlantic cooperation usefully highlights the pitfalls facing policymakers and argues that future cooperation will need to take account of the rise of the emerging powers in the developing world.

The menu of binding and non-binding options facing policymakers on both sides of the Atlantic is usefully described and analyzed in the chapter by Shaffer and Pollack (Chapter 4). Interestingly, they argue that even when the EU and US agree on an approach to regulation

they are not in a position anymore to ensure that such approaches are accepted without question by other, smaller parties. Asymmetric distributional consequences are often relevant to the design of cross-border regulatory initiatives.

The systemic consequences of transatlantic cooperation are further analyzed by Hoekman and Nicita (Chapter 5). They examine the consequences of different possible transatlantic initiatives for the trading patterns of developing countries. While they do not doubt the Merkel Initiative would generate some gains (especially if administrative costs at and behind the border could be reduced), they argue that US–EC cooperation to complete the Doha Round would have the greatest payoff to the world economy.

Chapters on different sectors and types of regulatory instrument follow. Wilber and Eichbrecht (Chapter 6) show the complex web of different regulations on safety, environment, and energy confronting automobile makers in the US and the EU. The desire to exploit economies of scale and to limit regulatory uncertainty provide the rationale for transatlantic cooperation. These rationales appear to have been accepted and the authors show what progress has been made in establishing so-called global technical regulations. Still, in their view, there is much more that can be accomplished.

The potential for cooperation and discord on the enforcement of competition law is the subject of Chapter 7 by Anderson. He reviews the record of transatlantic cooperation on competition law, including the occasional sharp disagreements, and notes the tendency for the jurisdiction with the stricter interpretation to prevail. Looking forward, like Sapir, he emphasizes the rise of the emerging economies (in particular China and India) and the potential for disagreements as global transactions are reviewed by many more competition agencies. Anderson is doubtful of the benefits of bilateral cooperative instruments and advances the WTO principle of national treatment as a useful benchmark for national enforcement agencies.

The challenges in promoting transatlantic cooperation in chemicals are described by Quick (Chapter 8). The unilateral adoption of the REACH initiative by the European Commission and member states in 2003 put an end, he argues, to any hopes of regulatory cooperation and

convergence — unless there is a profound change in the value judgments underlying regulatory design. Still, in the near-term he does see value in encouraging — where possible — transatlantic cooperation in the drafting of new regulations. Moreover, given the central role that legislators play in shaping regulatory structures, by resolving transatlantic disputes the TEC could build the confidence of legislators, which in turn might open the door for closer cooperation over time.

Accounting practices are the subject of Chapter 9 by Nölke. As noted earlier, one of the instances of transatlantic cooperation hailed by officials relates to the changes in rules on “reconciliation” that foreign firms face from the US Securities and Exchange Commission. Nölke explains why the continental European nations were prepared to accept this change, given the differences in their corporate governance structures with Anglo-Saxon economies. Opposition has grown since this rule was announced, and Nölke draws out its consequences in potentially limiting future transatlantic cooperation. This case study, therefore, reminds readers that transatlantic cooperation is not static and that regress is possible as well as progress.

Regulatory cooperation and competition in pharmaceuticals is the subject of Chapter 10 by Maskus and He. The multifaceted nature of national regulatory regimes is described, as is the evolution of bilateral, regional, and transatlantic cooperation. The authors identify tangible successes in cooperating over drug approval processes, which they argue have created savings for incumbent firms. More cooperation is possible, however. The authors identify differences in national propensities to develop new pharmaceuticals as a reason for divergent approaches to regulatory matters, reinforcing the point that national regulatory structures are outcomes of national political-economy processes and, in turn, this conditions the likely degree of transatlantic cooperation.

4. Concluding Remarks

In drawing the findings together, one starting point might be to ask what the prospects are for transatlantic economic cooperation in the near to medium term? If potential economic gains adjusted by the

likelihood of successful conclusion of negotiations and subsequent implementation is the metric to guide policymaking, then the prospects do not look good. As in many potential reforms, the likely gains from successful implementation are positively correlated with the height of the obstacles to reform in the first place. Apart from a few tariff peaks, tariff rates on transatlantic trade are at low levels, where the ultimate gains from liberalization have been shown to be small.¹³ In contrast, reforms to service sector regulations and other inside-the-border policies are likely to be much larger, but the combination of incumbent firms keen to stave off additional competition and national regulators jealous of their prerogatives make cooperative initiatives harder to pull off.

Seen in this light, a litmus test for evaluating the likely impact of any future transatlantic initiative is the determination of heads of governments and ministers to take on the vested interests, regulators, and the legislators that support those interests and the existing regulation that does so much to fragment national markets across the Atlantic and, for that matter, within Europe. Otherwise, transatlantic initiatives will probably be confined to “putting out fires” associated with bilateral commercial disputes between the EU and the US as well as to developing, where possible, joint proposals for matters of serious international or global interest, such as completing the Doha Round and climate change negotiations. (And, as argued earlier, the EU and US may find in some fora that the negotiating price of pursuing a joint initiative is too high. Therefore, even when the US and EU’s interests are aligned, joint initiatives will not necessarily be taken forward.) All this bodes poorly for transatlantic economic cooperation, at least in so far as it takes current modalities as a starting point.

But should defenders of the multilateral trading system and those third parties that fear being harmed by transatlantic initiatives be relieved? On the face of it the likelihood of significant new forms

¹³Where tariffs do remain high — as in agriculture and products facing import competition from developing countries — there are domestic incumbents on both sides of the Atlantic that are very effective in defending their privileged positions.

of discrimination arising from transatlantic initiatives seems small. Yet the factors responsible for this outcome (the difficulties in liberalizing services vis-à-vis goods commerce, the presence of non-cosmopolitan independent regulators, etc.) are just at work on either side of the Atlantic. Indeed, these factors stymie closer and far-reaching economic cooperation, whether it be bilateral, regional, or multilateral. The current constraints on transatlantic policymaking may be those that will subsequently bite in other fora, which in turn has implications for how far the current wave of regional integration can really go, the likely outcome of any cooperative initiatives between the rising economic powers of Asia and elsewhere, and the likely scope of any future multilateral trade negotiations.

Perhaps the ultimate lesson from disappointing recent transatlantic economic cooperation is that the next phase of economic integration, if there is to be one, will be so intrusive of national regulatory and governance processes that national leaders will have to prize integration and its consequences over many other (possibly worthy) goals, will have to strengthen trade ministries and governing coordinating bodies so as to ensure that major economic policy and regulatory initiatives are aligned with the goal of integration, and be prepared to set aside the objections of many interests (producer, bureaucratic, and possibly some consumer) that to this day continue to benefit from fragmented markets.

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