

# A right to consent

Louise Rowntree assesses how the Lisbon treaty could affect EU trade policy

Much has been written about what impact the Lisbon treaty will have on the European parliament's powers, particularly in relation to trade policy. Currently, article 133, which sets out the rules for EU trade decision making, doesn't mention the parliament, only the European commission and Council. Trade is one of few policy areas where parliament has a power of assent (right to veto) but not of co-decision (right to an institutionalised consultation process, to propose amendments and to veto).

The impact of parliament's limited powers on trade is felt particularly strongly in the context of the current Doha development agenda negotiations, where it has knock on effects on the EU's trade policy at the World Trade Organisation (WTO). While the European Community is a WTO member, parliament has little say on EC policy at the WTO. In terms of the internal EU decision making process on WTO related matters, parliament's right of veto is essentially theoretical and its only real influence is a political one: it exerts pressure on the commission by asking it questions, drafting non legally binding reports, and sending delegations to WTO ministerials. In terms of the EU's external decision making within the WTO itself, parliament sits on a WTO parliamentary steering committee – which meets at each WTO ministerial – but has no legal WTO powers. Ironically, current WTO rules provide that interest groups and NGOs have more of a formal role to play than the European or national parliaments.

Current restrictions on the power given to MEPs over EU trade policy are driven by concerns of over-politicisation, protectionism and, more simply, a reluctance to slow down an already long decision making process. As one former senior EU competition official said, "I fear that having to not only get the approval



World Trade Organisation director general Pascal Lamy

of [all] EU member states, but that of the European parliament, would be too testing for the skills of any trade commissioner." However, the Lisbon treaty, in theory, increases the powers of parliament in three main ways. First, it gives MEPs a right of consent over EU trade agreements and a formal right to be kept informed. The commission will have to report to parliament's international trade committee as it currently reports to the Council's 133 (EU member state trade representatives) committee. The logic is that parliament is unable to use its current right of veto as it has no formal opportunity to cite initial objections beforehand to the commission and that Lisbon will legitimise this right.

Second, parliament will share powers with the Council to adopt measures which define the framework for implementing EU external trade policy. Third, there will be no more mixed competence trade agreements – only EU ones. This means that issues that were previously not EU competencies – such as foreign direct investment, services, and intel-

lectual property – will, subject to certain exceptions, only need to be ratified at EU, not at national, level. This will decrease the powers of national parliaments (which currently have to ratify mixed trade agreements according to the rules of their member state) while increasing the powers of MEPs.

However, regarding the procedure for adopting EU external agreements – both multilateral and bilateral – the commission already regularly consults MEPs on EU external trade deals, and parliament already has the power of assent. Parliament will still not have the right to modify the results of trade negotiations post-Lisbon, but would be able to adopt or reject them as a whole. This begs two questions: first, whether in practice the changes proposed by Lisbon in relation to the EU's external trade agreements will significantly alter the status quo. Second, whether the proposed changes are sufficient.

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