

## BRIEFING

# The United Nations and the EU Trade Policy: the case of UNCTAD

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## 1 Introduction

The United Nations Conference on Trade and Development was set up in the 1960s as the UN's focal point for trade and development.

UNCTAD started as a tool to discuss developing countries' economic development problems in a global economic forum.

The United Nations Conference on Trade and Development (UNCTAD) is a specialised agency of the United Nations, created in 1964 as a permanent intergovernmental body. Its mandate, reaffirmed at its thirteenth quadrennial conference in Doha in 2012, is to be 'the focal point in the UN system for trade and development, together with related issues in the areas of investment, finance, technology, enterprise development and sustainable development'<sup>2</sup>.

UNCTAD was created at the time of decolonisation in the 1960s, when the UN engaged, through its Special Committee on Decolonisation, in the monitoring of the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the UN General Assembly on 14 December 1960<sup>3</sup>. The origin of this organisation is linked to the desire of developing countries to discuss their economic development problems in a global forum other than that of existing international organisations such as the GATT, the International Monetary Fund (IMF) or the World Bank (WB). On 15 June 1964, the Group of 77 was established in the framework of UNCTAD. This was a group of developing countries pledging to promote equality in the international economic and social order and promote the interests of the developing world. The strong

<sup>1</sup> This paper was drafted by Francesco Tenuta (intern) under the guidance of Barbara Barone.

<sup>2</sup> About UNCTAD', UNCTAD, retrieved 16 November 2015, <http://unctad.org/en/Pages/AboutUs.aspx>.

<sup>3</sup> Full text available at <http://legal.un.org/avl/ha/dicc/dicc.html>.

role that UNCTAD played during the early stages of the G77 group has decreased over time as the group has become increasingly more heterogeneous. It now encompasses extremely diverse countries as far as their levels of development, structure of their economies and interests are concerned. Members range from middle-income level countries and emerging economies such as China, India, and Brazil to least developed countries such as Benin.

The role of UNCTAD in helping to set internationally agreed development goals was revamped following the 2008 ministerial conference in Accra.

The role of UNCTAD was revamped in 2008, as a consequence of the UNCTAD XII ministerial conference held in Accra, Ghana. The outcome of this conference was the Accra Accord, in which the UNCTAD Member States called for a relaunch of the 'Global commodities agenda as a stepping stone towards the Millennium Development Goals, particularly in commodity-dependent regions', and for 'donors to ensure that their commitments to multilateral debt initiatives are in addition to existing aid flows'<sup>4</sup>.

## 2 How UNCTAD works

UNCTAD's work is based on three pillars: consensus-building, research and analysis, and technical assistance.

UNCTAD's main functions, commonly referred to as "three pillars", include:

- 1) A forum for intergovernmental deliberations and consensus-building;
- 2) A think tank for research and analysis on key and emerging development issues;
- 3) A provider of technical assistance to respond the needs of developing countries.

UNCTAD is a forum for discussion and offers technical assistance to enhance developing and least developed countries' integration in the global economy.

In brief, UNCTAD is a forum where representatives of 194 countries, engage in dialogue and discuss ways for developing countries to participate in and take benefit from the global economy. It also offers direct technical assistance to developing countries and countries with economies in transition, to assist in building the capacities they need to become integrated into the global economy and improve the well-being of their populations<sup>5</sup>.

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The highest decision-making body of UNCTAD is the **quadrennial conference**, at which Member States 'make assessments of current trade and development issues, discuss policy options and formulate global policy responses'<sup>6</sup>. The conference also sets the organisation's mandate and work priorities. The next Conference, UNCTAD XIV, will be held in Nairobi/Kenya in July 2016.

A '**Trade and Development Board**', was established as a permanent

<sup>4</sup> 'UNCTAD XII: Accra Accord and the Accra Declaration', UNCTAD, p. iii, retrieved 10 November 2015, [http://unctad.org/en/Docs/iaos20082\\_en.pdf](http://unctad.org/en/Docs/iaos20082_en.pdf).

<sup>5</sup> *Ibid.*

<sup>6</sup> 'UNCTAD conferences', UNCTAD, retrieved 16 November 2015, <http://unctad.org/en/Pages/Meetings/UNCTAD-Conferences.aspx>.

subsidiary organ of the Conference. It "carries out the tasks of the Conference between the quadrennial sessions and reports to the conference and to the UN General Assembly".<sup>7</sup>

The decision-making bodies of UNCTAD are supported in their work by the **UNCTAD secretariat**. The secretariat is headed by a **Secretary-General** and

provides substantive and technical services to the intergovernmental bodies of UNCTAD in their discussions and deliberations. [...] undertakes research, policy analysis and data collection to provide substantive inputs for the discussions of the experts and Government representatives in these intergovernmental bodies. [and] It also provides a series of technical assistance programmes and projects in support of developing countries, paying particular attention to the special needs of the least-developed countries, the small islands and landlocked countries as well as to countries with economies in transition<sup>8</sup>

The bulk of the Secretariat's work is carried out by five divisions that deal with different macro-areas:

The UNCTAD Secretariat's work is carried out by five divisions:

1. International Trade and Commodities,
2. Investment and Enterprise,
3. Africa, Least Developed Countries and Special Programmes (ALDC),
4. Globalization, Interdependence and Development,
5. Technology, Innovation and Trade Logistics.

- The **International Trade and Commodities** division<sup>9</sup>, with a role to promote inclusive and sustainable development through international trade<sup>10</sup> and consists of 13 sub-programmes, such as the '**Project on Dispute Settlement in International Trade**', which aims to help developing countries in building "a permanent capacity in countries for dispute settlement in WTO, and also in ICSID, WIPO and the UNCITRAL"<sup>11</sup>; the '**Services, Trade and Development**', programme which aims to assist "developing countries in developing their services sectors, increasing their participation in services trade and realizing development benefits"<sup>12</sup>; the '**Trade, Gender and Development**', which aims to "support[s] its member countries to assess the distinct effect of macro-economic policies on men and women, boys and girls"<sup>13</sup>; the '**Competition Law and Consumer**

<sup>7</sup> 'Review of management and administration in the United Nations Conference On Trade And Development', United Nations, Geneva, 2012, p. 5, retrieved 2 December 2015, [https://www.unjui.org/en/reports-notes/JIU%20Products/JIU\\_REP\\_2012\\_1\\_English.pdf](https://www.unjui.org/en/reports-notes/JIU%20Products/JIU_REP_2012_1_English.pdf).

<sup>8</sup> *Ibid*, p. 20.

<sup>9</sup> More information available at <http://unctad.org/en/pages/DITC/DITC.aspx>.

<sup>10</sup> 'International Trade and Commodities; UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/pages/DITC/DITC.aspx>.

<sup>11</sup> 'Dispute Settlement in International Trade, Investment and Intellectual Property' UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DITC/DisputeSettlement/Project-on-Dispute-Settlement-in-International-Trade,-Investment-and-Intellectual-Property.aspx>.

<sup>12</sup> 'Service, Trade and Development', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DITC/Trade-in-Services.aspx>.

<sup>13</sup> 'Trade, Gender and Development', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DITC/Gender-and-Trade/Trade,-Gender-and-Development.aspx>.

The International Trade and Commodities division promotes inclusive and sustainable development through different international trade programmes.

The Investment and Enterprise division provides expertise in research and policy analysis on foreign investment.

The ALDC division provides expertise and support to economic development in Africa.

**Protection Policy'**, which provides analysis and capacity building in competition and consumer protection laws and policies in developing countries<sup>14</sup>; and the **'Trade Negotiations and Commercial Diplomacy'** programme, which aims to help developing countries and economies in transition to transform themselves into "an open, equitable, rule-based, predictable, and non-discriminatory multilateral trading and financial system"<sup>15</sup>.

- The **Investment and Enterprise** division, which provides international expertise in research and policy analysis<sup>16</sup>, consists of 21 sub-programmes, among which the **World Investment Report**, which "[focuses on trends in foreign direct investment (FDI) worldwide, at the regional and country levels and emerging measures to improve its contribution to development"<sup>17</sup>; the **Investment Policy Reviews** which aim to "provide an objective evaluation of the country's legal, regulatory and institutional framework for FDI to attract increased foreign and direct investment"<sup>18</sup>; and the **Corporate Social Responsibility**, which "analyse policies [...] with a view to identifying best practices for maximizing the development impact of corporate activities"<sup>19</sup>. The division also organises the well-known **World Investment Forum**, a high-level, biennial, multi-stakeholder gathering designed to facilitate dialogue and action on the world's key emerging investment-related challenges<sup>20</sup>.
- The **Africa, Least Developed Countries and Special Programmes (ALDC)** division, which focuses on the poorest and most vulnerable developing countries in the world<sup>21</sup>, consists of six sub-programmes, such as the **'Landlocked Developing Countries (LLDCs)'**, which aims to provide expertise and support to such countries for which the lack

<sup>14</sup> 'Competition Law and Consumer Protection Policy', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DITC/CompetitionLaw/Competition-Law-and-Policy.aspx>.

<sup>15</sup> 'Trade Negotiations and Commercial Diplomacy', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DITC/TNCD/Trade-Negotiations-and-Commercial-Diplomacy-.aspx>.

<sup>16</sup> 'Investment and Enterprise', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/pages/DIAE/DIAE.aspx>.

<sup>17</sup> 'World Investment Report', UNCTAD, retrieved 2 December 2015, [http://unctad.org/en/Pages/DIAE/World%20Investment%20Report/World\\_Investment\\_Report.aspx](http://unctad.org/en/Pages/DIAE/World%20Investment%20Report/World_Investment_Report.aspx).

<sup>18</sup> 'Investment Policy Reviews', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DIAE/Investment%20Policy%20Reviews/Investment-Policy-Reviews.aspx>.

<sup>19</sup> 'Corporate Social Responsibility', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DIAE/Corporate-Social-Responsibility.aspx>.

<sup>20</sup> 'World Investment Forum', retrieved 2 December 2015, <http://unctad-worldinvestmentforum.org/about/>.

<sup>21</sup> 'Africa, Least Developed Countries and Special Programmes (ALDC)', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/pages/ALDC/ALDC.aspx>.

of territorial access to the sea poses persistent challenges to growth and development<sup>22</sup>, and the '**Promoting Economic Development in Africa**' programme, which "examines African economic development from global context, builds consensus at the international level on the challenges facing the African countries, and assists in the mobilization of international support measures to promote economic development in Africa."<sup>23</sup>

The Globalization, Interdependence and Development division helps countries develop appropriate administrative, institutional and legal structures for effective debt management and policies for South-South cooperation.

- The **Globalization, Interdependence and Development** division, promotes policies at the national, regional and international level that are conducive to stable economic growth and sustainable development and consists of seven sub-programmes, such as the **Debt Management and Financial Analysis System (DMFAS)**, which helps developing countries and countries with economies in transition develop appropriate administrative, institutional and legal structures for effective debt management<sup>24</sup>, and the unit on **Economic Cooperation and Integration among Developing Countries**, which seeks to play an important role in shaping policies to foster the development of the South-South cooperation<sup>25</sup>.
- The **Technology, Innovation and Trade Logistics** division, which aims to enhance the economic development and competitiveness in developing countries and LDCs through "efficient trade logistics services and transit transport systems; science, technology and innovation, [...]; and training and capacity-building programmes for local institutions"<sup>26</sup>, is formed by four sub-programmes, among which the **ASYCUDA**, UNCTAD's largest technical cooperation programme, which aims to improve customs' administration in LDCs and developing countries<sup>27</sup>, and **Transport and Trade Logistic**, which "address challenges and capitalize on opportunities in the areas of transport infrastructure, trade facilitation and logistics, related

The Technology, Innovation and Trade Logistics division helps developing countries and LDCs to improve trade logistics services and transit transport systems and to foster science, technology and innovation.

<sup>22</sup>'Landlocked Developing Countries (LLDCs)', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/ALDC/Landlocked%20Developing%20Countries/UN-recognition-of-the-problems-of-land-locked-developing-countries.aspx>.

<sup>23</sup>'Promoting Economic Development in Africa', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/ALDC/Development%20of%20Africa/Economic-Development-of-Africa.aspx>.

<sup>24</sup>'Debt Management and Financial Analysis System (DMFAS)', UNCTAD, retrieved 2 December 2015, [http://unctad.org/en/Pages/GDS/Debt%20and%20Development%20Finance/Debt-Management-and-Financial-Analysis-System-\(DMFAS\).aspx](http://unctad.org/en/Pages/GDS/Debt%20and%20Development%20Finance/Debt-Management-and-Financial-Analysis-System-(DMFAS).aspx).

<sup>25</sup>'Economic Cooperation and Integration among Developing Countries', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/pages/gds/Economic%20Cooperation%20and%20Integration%20among%20Developing%20Countries/Economic-Cooperation-and-Integration-among-Developing-Countries.aspx>.

<sup>26</sup>'Technology, Innovation and Trade Logistics', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DTL/Technology,-Innovation-and-Trade-Logistics.aspx>.

<sup>27</sup>'ASYCUDA', retrieved 2 December 2015, <http://www.asycuda.org/>.

administrative, procedural and legal frameworks, and customs automation"<sup>28</sup>.

UNCTAD's reports and statistics support decision-making in the international development arena.

UNCTAD seeks to promote debate on the issues that it scrutinises through the publication of reports and statistics, which compile relevant information to be made available to Member States' governments and stakeholders. Among these instruments is '**UNCTADStat**' which produces 'more than 150 indicators and statistical time series essential for the analysis of international trade, economic trends, foreign direct investment, external financial resources, population and labour force, commodities, information economy, maritime transport' for almost all the world's economies<sup>29</sup>.

### 3 UNCTAD's influence on EU Trade Policy

The European Union and its Member States are the world's biggest donor of development funds.

The European Union and its Member States are the world's biggest donors of development funds. According to the latest statistics, the total amount of European Official Development Assistance (ODA) provided in 2014 amounted to EUR 58.2 billion, 0.42 % of total EU Gross National Income (GNI)<sup>30</sup>. Therefore, 'the EU contributes to all three pillars of UNCTAD and provides funding to almost all of UNCTAD's activities through its relevant institutions, in particular the European Commission'<sup>31</sup>.

Since the entry into force of the Lisbon Treaty the EU Delegation in Geneva has served as regional coordinator of the EU Member States and represents them in the organisation's bodies.

Since the entry into force of the Lisbon Treaty, 'the role of the EU [...] has been upgraded. The EU Delegation [in Geneva] now functions as the regional coordinator of the EU Member States and represents them in all the bodies and proceedings of the organisation'<sup>32</sup> except when it comes to statements in the Working Party on the Strategic Framework and the Programme Budget. All the EU Member States are also members of UNCTAD and contribute to its budget.

In the past, UNCTAD has influenced EU trade policy.

For instance, the idea of a **Generalised System of Preferences (GSP)** was first theorised at the UNCTAD II Conference in New Delhi in 1968. In light of

<sup>28</sup> 'Transport and Trade Logistic', UNCTAD, retrieved 2 December 2015, <http://unctad.org/en/Pages/DTL/Trade-Logistics-Branch.aspx>.

<sup>29</sup> 'About UNCTAD Statistics', UNCTAD, retrieved 16 November 2015, <http://unctad.org/en/Pages/Statistics/About-UNCTAD-Statistics.aspx>.

<sup>30</sup> 'The EU remains the world's largest aid donor in 2014', European Union Delegation to the United Nations, retrieved 10 November 2015, [http://eu-un.europa.eu/articles/en/article\\_16293\\_en.htm](http://eu-un.europa.eu/articles/en/article_16293_en.htm).

<sup>31</sup> 'Working with UNCTAD', *op. cit.*

<sup>32</sup> 'Working with UNCTAD', European External Action Service, retrieved 16 November 2015, [http://eeas.europa.eu/delegations/un\\_geneva/eu\\_un\\_geneva/economic\\_social/unctad/index\\_unctad\\_en.htm](http://eeas.europa.eu/delegations/un_geneva/eu_un_geneva/economic_social/unctad/index_unctad_en.htm).

UNCTAD has influenced EU trade policy in the following ways:

- The idea of the Generalised System of Preferences (GSP), the cornerstone of EU trade and development policy, was first developed at the UNCTAD II Conference.
- The EU is party to the UNCTAD agreement on competition policy.
- The EU backs the 'UNCITRAL transparency rules' on the Investor-to-State Dispute Settlement (ISDS) system.

UNCTAD's role has become increasingly marginal.

this initiative, 'selected products originating in developing countries are granted reduced or zero tariff rates over the MFN rates'<sup>33</sup>. The European Community then adopted the first GSP scheme in 1971, which after several reviews is still ongoing<sup>34</sup>. In addition, UNCTAD pioneered the idea of trade in services, which was then put on the table of the GATT negotiations<sup>35</sup>. UNCTAD is also responsible for implementing the '**Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices**', a multilateral agreement on competition policy<sup>36</sup>. "[t]he EU actively participates in work on international investment conducted in international fora" such as UNCTAD<sup>37</sup>. In addition, the work of the United Nations Commission on International Trade Law (UNCITRAL), operating under the umbrella of UNCTAD, has been involved in the evolution of the Investor-to-State Dispute Settlement (ISDS) system. As an example, the EU decided to back the '**UNCITRAL transparency rules**', a set of procedural rules for making publicly available information on investor-State arbitrations arising under investment treaties, agreed on February 2013, which now apply to all EU trade agreements.<sup>38</sup>

However, despite its importance in the past, the role of UNCTAD in contributing not only to EU but also international trade policy has become increasingly marginal. There are several reasons for this.

For instance, 'the GATT/WTO has become a more universal institution, with its membership multiplying many times over since the 1960s, encompassing both developing countries and economies in transition' and '[m]any UNCTAD ideas, such as special and differential treatment for developing countries, have been incorporated into the GATT/WTO'<sup>39</sup>.

Moreover, it has not been able to deliver tangible results so far, owing to the great differences between its membership and stakeholders.

<sup>33</sup> 'About GSP', UNCTAD, retrieved 10 November 2015, <http://unctad.org/en/Pages/DITC/GSP/About-GSP.aspx>.

<sup>34</sup> 'The European Union's Generalised System of Preferences', European Commission, p. 3, retrieved 10 November 2015, [http://trade.ec.europa.eu/doclib/docs/2004/march/tradoc\\_116448.pdf](http://trade.ec.europa.eu/doclib/docs/2004/march/tradoc_116448.pdf).

<sup>35</sup> 'Enhancing the development role and impact of UNCTAD', UNCTAD, Geneva, June 2006, p. 6, retrieved 10 November 2015, <https://www.globalpolicy.org/images/pdfs/0606unctad.pdf>.

<sup>36</sup> 'Provisions on international relations in EU competition policy', European Commission, retrieved 16 November 2015, <http://ec.europa.eu/competition/international/legislation/multilateral.html>.

<sup>37</sup> 'Investment', European Commission, retrieved 2 December 2015, <http://ec.europa.eu/trade/policy/accessing-markets/investment/>.

<sup>38</sup> 'EU backs new transparency standards for investor-state dispute settlement', European Commission, retrieved 2 December 2015, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=868>.

<sup>39</sup> <https://www.globalpolicy.org/images/pdfs/0606unctad.pdf>, p. 7.