

Informal Dispute Resolution in Preferential Trade Agreements

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Noting that very few disputes have been adjudicated, many scholars have expressed doubts whether the dispute settlement mechanisms of preferential trade agreements (PTAs) will ever be used. This article argues that looking only at the number of formal disputes (i.e. disputes that lead to the adoption of a decision by third party adjudicators) tells an incomplete story about dispute resolution in PTAs (i.e. resolution of disputed issues). Focusing on the PTAs concluded by the European Union (EU), this article contends that the framework established by the PTAs can have a complementary role to litigation. Like the committees at the World Trade Organization, the committees established by the PTAs can foster dialogue and find technical solutions to disputed issues. By looking at the text of the EU PTAs as well as at available documents on their implementation, this article shows how these committees can tackle disputes.

1 INTRODUCTION: THE FORTUNES AND MISFORTUNES OF THE DISPUTE SETTLEMENT MECHANISMS OF PREFERENTIAL TRADE AGREEMENTS

The dispute settlement mechanisms of preferential trade agreements¹ (PTA DSMs) are lying dormant. Yet, PTA DSMs have the potential to be a success story. PTAs are increasingly relevant for international trade, with almost than 300 currently in force.² Moreover, the scope for litigation under a PTA is broader than under the World Trade Organization (WTO), as PTAs' competence encompasses not only (1) obligations that are substantially equivalent to WTO obligations, but also (2) obligations that are outside the mandate of the WTO, such as environment or labour commitments (WTO-X

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¹ This paper uses the term 'preferential trade agreement' (PTA) to indicate any agreements concluded between two or more countries to strengthen and enhance their trade relations beyond the framework of the World Trade Organization. Depending on their characteristics and on the context, these agreements are also referred to as 'free trade agreements', 'regional trade agreements', or 'trade blocs'.

² WTO, Regional Trade Agreement Database, <http://rtais.wto.org/UI/PublicAllRTAList.aspx> (accessed 21 June 2018).

obligations), and (3) obligations that are within the mandate of the WTO, but which deepen the multilateral commitment (WTO+ obligations).³

With an increasing number of PTAs, and an increasing scope for litigation, one could expect a high number of disputes. In spite of their potential, however, PTA DSMs continue to slumber. Only 33 concluded disputes are known (i.e. disputes for which a final decision has been issued).⁴ Apart from the exceptional experience of Latin American agreements,⁵ some PTAs only report a few cases, while most PTAs do not report litigation at all.

Several authors have tried to explain the reasons of the lack of use of PTA DSMs. Davey has mainly attributed it to the problems of legitimacy of PTA DSMs.⁶ In his opinion, the WTO is always perceived as more legitimate because, in many ways, and ‘in spite of apparent similarities’, it is ‘more adjudicative in nature and therefore less power-based’ than PTA DSMs.⁷ Similarly, Porges has explained that the WTO, along with its institutions and its history, offers a much more stable and predictable – and hence attractive – *forum* than any PTA DSM.⁸ Using a vast set of interviews, Trommer has shown the preference that trade practitioners have for the infrastructure and institutional support offered by the WTO.⁹ Explanations on the political implications of litigating before a PTA DSM as opposed to before the WTO have been offered by other authors. Pierola and Horlick have focused their analysis on the soft power that the WTO system can ensure in the resolution of a dispute, especially through the role of third-parties.¹⁰

³ Horn, Mavroidis, & Sapir, *Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements*, 33 *The World Economy* 1565 (2010).

⁴ To the knowledge of the present author, the most comprehensive list of disputes under PTAs is available on the website of the Law Offices of Amelia Porges, <http://www.porgeslaw.com/rta-disputes/> (accessed 20 June 2018). The list I present excludes, however, cases from the DSMs that have evolved in very sophisticated courts where disputes go beyond the state-to-state model, and whose jurisdiction can hence be triggered by individual applicants, domestic courts, or surveillance bodies. These are: the Court of Justice of the European Union (CJEU), the Court of the European Free Trade Agreement (EFTA Court), and the Court of Justice of the Andean Community. It has been reported that African PTAs have active courts (James Thuo Gathii, *African Regional Trade Agreements as Legal Regimes*, Cambridge University Press 2013), but these have not been included as it is not clear how many cases are state-to-state trade disputes.

⁵ Laura Gomez-Mera & Andrea Molinari, *Overlapping Institutions, Learning, and Dispute Initiation in Regional Trade Agreements: Evidence from South America*, 58 *Int'l Stud. Q.* 269 (2014).

⁶ William Davey, ‘Dispute Settlement in the WTO and RTAs: A Comment’ [2006] *Regional Trade Agreements and the WTO Legal System* 343.

⁷ *Ibid.*

⁸ Amelia Porges, ‘Dispute Settlement’, *Preferential Trade Agreement Policies for Development: a Handbook* (The World Bank 2011).

⁹ Silke Trommer, *The WTO in an Era of Preferential Trade Agreements: Thick and Thin Institutions in Global Trade Governance*, *World Trade Rev.* 1 (2017).

¹⁰ Fernando Piérola & Gary Horlick, *WTO Dispute Settlement and Dispute Settlement in the North-South Agreements of the Americas: Considerations for Choice of Forum*, 41 *J. World Trade* 883 (2007).

As PTAs cannot guarantee the same peer pressure, States would always opt to litigate at the WTO.

Nevertheless, these contributions tell only part of the story. While they offer comprehensive explanations on why the WTO may be a better-placed *forum* than PTA DSMs for litigating violations of substantially equivalent obligations, they do not explain the lack of litigation on violations of PTA obligations that could not be brought to the WTO: WTO+ and WTO-X obligations. Why aren't these obligations litigated in the DSMs of PTA? Recent research has highlighted that the text of PTAs often excludes these areas from the competence of PTA DSMs.¹¹ Moreover, not all PTA obligations contain clear and strong undertakings that could be successfully invoked in a dispute. According to the classification made by Horn et al, the PTAs concluded by the United States (US), and even more by the European Union (EU), contain a significant number of vague, or non-enforceable, obligations.¹² Moreover, even if the WTO was a better *forum* for dispute resolution, PTA partners do not use it: as Mavroidis and Sapir have shown, the signature of a PTA tends to be correlated with a lower number of disputes among PTA partners before the WTO as well.¹³

Yet, PTA partners have implementation issues, and voice them. In the recent report on implementation of EU PTAs, for example, the EU Commission has highlighted the outstanding issues in the relations with trade partners.¹⁴ Against this background, one can wonder: if the PTA DSMs fail to perform their dispute resolution function, how do PTA partners resolve their disputes? Looking only at the number of formal disputes (i.e. disputes that lead to the adoption of a decision by third party adjudicators) tells an incomplete story about dispute resolution in PTAs (i.e. resolution of disputed issues). As it has been effectively described for the WTO, formal disputes are 'not just the tip, but the tip of the tip of the iceberg'.¹⁵ Part of the dispute resolution may happen already during the negotiations phase: as it has been described, PTA partners try to resolve their outstanding issues while negotiating the PTA.¹⁶

¹¹ Marc D Froese, *Mapping the Scope of Dispute Settlement in Regional Trade Agreements: Implications for the Multilateral Governance of Trade* 15 *World Trade Rev.* 563 (2016).

¹² Horn, Mavroidis & Sapir, *supra* n. 3.

¹³ Petros C. Mavroidis & André Sapir, *Dial PTAs for Peace: The Influence of Preferential Trade Agreements on Litigation between Trading Partners*, 49 *J. World Trade* 351 (2015).

¹⁴ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements, 9 Nov. 2017 COM(2017) 654 final, at 35–36 ('EU Commission, Report on Implementation of Free Trade Agreements 2017').

¹⁵ Henrik Horn & Petros C. Mavroidis, 'A Survey of the Literature on the WTO Dispute Settlement System' [2006] IFN Working Paper, No. 684.

¹⁶ Jorge Alberto Huerta-Goldman, Mexico in the WTO and NAFTA: Litigating International Trade Disputes (Kluwer Law International 2010), as quoted in: Petros C. Mavroidis & André Sapir, *Dial*

By the same token, some scholars have also noted the complementary role that the committees established by the PTAs can play in the settlement of disputes.¹⁷ However, no research has been done on their design and functioning. In this article, I examine the dispute settlement role of these committees, focusing on the PTAs concluded by the EU with its trade partners. The EU is a good case study, insofar as it has concluded more than 30 PTAs (some of which are already quite old), but it has never used their DSMs.¹⁸

In the next Section, I analyse the design and the functioning of the committees established in EU PTAs, with a view to understanding their possible complementary role in dispute resolution. In the third Section, I outline the outcome and limitations of this analysis. In the fourth Section, I describe a paradigmatic example of how the EU and Colombia tried to resolve a dispute first by negotiating, then in the committees, and finally at the WTO. Although eventually this dispute was not resolved in the framework of the PTAs, it is an important example of how trade partners can resolve a dispute in this framework. Finally, in the last section I draw some conclusions.

2 INFORMAL DISPUTE RESOLUTION: THE COMMITTEES OF EU PTAS

Committees in trade agreements are not only a characteristic of PTAs. In addition to the General Council, about forty committees and working groups have been established at the WTO with the task of overseeing the functioning of the WTO agreements.¹⁹ Research on the committee on sanitary and phytosanitary measures (SPS) and on the committee on technical barriers to trade (TBT) has highlighted that these committees can perform a role in conflict resolution.²⁰ In these committees, WTO members can raise ‘specific trade concerns’ on the difficulties that their producers and exporters

PTAs for Peace: The Influence of Preferential Trade Agreements on Litigation between Trading Partners, 49 J. World Trade 351 (2015).

¹⁷ Davey, *supra* n. 6; Ignacio Garcia Bercero, *Dispute Settlement in European Union Free Trade Agreements: Lessons Learned?*, in *Regional Trade Agreements and the WTO Legal System* (Lorand Bartels & Federico Ortino eds, Oxford University Press 2006); Amelia Porges, *supra* n. 8.

¹⁸ EU Commission, Report on Implementation of Free Trade Agreements 2017, at 36, *supra* n. 14.

¹⁹ Bernard Hoekman, *The WTO: Functions and Basic Principles, in Development, Trade, and the WTO: A Handbook* (World Bank 2002, at 41).

²⁰ Joanne Scott, *The WTO Agreement on Sanitary and Phytosanitary Measures: A Commentary* (Oxford University Press 2009); Henrik Horn, Petros C. Mavroidis & Erik N. Wijkstrom, *In the Shadow of the DSU: Addressing Specific Trade Concerns in the WTO SPS and TBT Committees*, 47 J. World Trade 729 (2013); Marianna B. Karttunen, *Transparency and Dispute Settlement: A Study of the Agreements on Sanitary and Phytosanitary Measures and Technical Barriers to Trade (Unpublished Thesis)* (European University Institute 2016).

encounter in accessing foreign markets. Sometimes these concerns are resolved without need to trigger formal litigation proceedings. Several factors can explain why these committees manage to resolve some of the concerns. The fact that these concerns are raised in a multilateral *forum* and ‘name-shame’ the infringers is the first reason that explains the mechanisms that make these committees perform a dispute resolution function. But it is not the only one. Their ‘expert-driven approach’ has been cited as another reason for their functioning.²¹ Moreover, it has been suggested that the fact that they allow for ‘argument and persuasion’ may also explain how many issues are resolved.²²

Like the WTO, PTAs typically establish one or more committees. The following two sub-Sections describe, respectively, how the committees of EU PTAs are designed, and how trade concerns are addressed within them. To this end, I analyse two sets of documents: the text of EU PTAs, and the available documents on their implementation.

The EU has concluded different types of PTAs that bear different names: (1) agreements with future EU countries or close neighbours, (2) agreements with near-bordering countries, (3) agreements with developing countries, and the (4) agreements with distant countries.²³ Another way of classifying EU PTAs is to divide them between a ‘first’ and a ‘second’ generation, whose watershed point is represented by the launch of the Global Europe strategy in 2006.²⁴ The list of PTAs analysed in this article, along with a list of abbreviations, is provided in Annex 1.

It should be stressed that the four categories of EU PTAs outlined above are very different from each other, as they comprise EU PTAs with very different characteristics, goals and scope. In particular, the EU PTAs in category (1) and (2) are the agreements with strategic partners with a strong political component. EU PTAs of category (3), those with developing countries, are PTAs characterized by a development component, and hence, asymmetry of power. Overall, the EU PTAs in category (1), (2), and (3) are politically sensitive and/or characterized by asymmetry of power. Therefore, it can be expected that dispute resolution to be more relevant with respect to EU PTAs in category (4). Yet, it is possible that informal dispute resolution takes place within the EU PTAs in category (1), (2), and (3) as well. The

²¹ Horn, Mavroidis & Wijkstrom, *supra* n. 20.

²² Scott, *supra* n. 20, at 75.

²³ Raymond J. Ahearn, *Europe's Preferential Trade Agreements: Status, Content, and Implications* (CRS Report for Congress 2011), <https://fas.org/sgp/crs/row/R41143.pdf> (accessed 3 Feb. 2016).

²⁴ European Commission, *Global Europe: A Stronger Partnership To Deliver Market Access For European Exporters* COM(2007) 183 final (2007).

nature of these agreements may make their parties less likely to start formal dispute settlement proceedings, but still willing to discuss their implementation issues. In this context, informal dispute resolution may be the only avenue to address their concerns. Another difference among these agreements is that the Court of Justice of the European Union has recognized, on a case-by-case basis, direct effect to some of their provisions; but this trend has become less important in the past ten years.²⁵

In addition to the text of the agreements, I have reviewed all the available documents on implementation of EU PTAs. Some documents on the implementation of EU PTAs have been published on the EU Commission's website. For EU-Korea, EU-Colombia/Peru, and EU-Central America, the EU Commission has the obligation to publish an annual report on implementation, which includes a section on the activities of the committees.²⁶ Moreover, in November 2017, for the first time, the EU Commission published a comprehensive report on implementation of PTAs, which also includes a brief summary of the work of the committees.²⁷ Moreover, following a request under Regulation 1049/2011,²⁸ I have obtained partial access to the minutes of the main committee established under the EU-Colombia/Peru PTA. Additional documents have been used, and are referred to in the footnotes.

2.1 THE DESIGN OF EU PTA COMMITTEES

All EU PTAs have what I call a 'governing committee', which is the committee typically held at ministerial level, or at the level of senior civil servants. The governing committee can have different tasks, but its main one is to oversee and monitor the implementation of the agreement. Depending on whether additional committees are established, the structure of committees in EU PTAs can be divided into three main groups. A table representing these three groups is provided below, while a detailed list of all the known committees established under EU PTAs is provided in Annex 2.

²⁵ Christopher Vajda, *The EU and Beyond: Dispute Resolution in International Economic Agreements* 29 Eur. J. Int'l L. 205 (2018).

²⁶ Regulation (EU) No. 511/2011 of the European Parliament and of the Council of 11 May 2011, Art. 13(1); Regulation (EU) No. 19/2013 of the European Parliament and of the Council of 15 Jan. 2013; Regulation (EU) No. 20/2013 of the European Parliament and of the Council of 15 Jan. 2013.

²⁷ EU Commission, Report on Implementation of Free Trade Agreements 2017, *supra* n. 14.

²⁸ Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, L145/43.

Table 1 EU PTAs divided according to the number of committees established

<i>Committees Established</i>	<i>EU PTAs</i>
Only governing committee	EU-Syria; EU-Andorra; EU-Faroe Islands; EU-FYROM; EU-San Marino; EU-ESA; EU-Cameroon; EU-Ghana; EU-Côte d'Ivoire; EU-Pacific
Governing committee and managing committee	EU-Turkey; EU-Albania; EU-CARIFORUM; EU-Montenegro; EU-Bosnia and Herzegovina; EU-SADC; EU-Kosovo
Several sub-committees	Not foreseen in the text: EU-Switzerland; EEA; EU-Palestinian Authority; EU-Israel; EU-Tunisia; EU-Morocco; EU-Jordan; EU-Egypt; EU-Lebanon; EU-Algeria; EU-Serbia Foreseen in the text: EU-Mexico; EU-Chile; EU-Korea; EU-Central America; EU-Colombia/Peru; EU-Moldova; EU-Georgia; EU-Ukraine; EU-Canada

This first group of EU PTAs comprises agreements do not show any institutional structure beyond the governing committee. This group includes some old (pre-2006)²⁹ or interim³⁰ PTAs, as well as a PTA with two small developing partners.³¹

The second group comprises the EU PTAs that establish an institutional framework where the governing committee is supported in its work by a managing committee, which typically meets at the level of senior civil servants. This group comprises different types of PTAs: agreements with neighbouring, near-neighbouring, and developing countries (the categories (1), (2), and (3) described above).³² Some of these are old (pre-2006), but some are more recent. The lack of an institutional framework with several committees for these agreements may be explained by several factors. Some of these agreements are old, with a limited scope, or temporary. Moreover, the choice of a simpler institutional structure may also depend on the parties' willingness to keep the dialogue at the level of ministers of senior civil servants.

²⁹ EU-Syria; EU-Andorra; EU-Faroe Islands; EU-FYROM; EU-San Marino.

³⁰ EU-ESA; EU-Cameroon; EU-Ghana; EU-Côte d'Ivoire.

³¹ EU-Pacific.

³² EU-Turkey; EU-Albania; EU-CARIFORUM; EU-Montenegro; EU-Bosnia and Herzegovina; EU-SADC; EU-Kosovo.

Finally, the last group comprises the EU PTAs that, in addition to the governing and the managing committee, establish a set of sub-committees and/or working groups specialized in areas such as SPS, TBT, customs, geographical indications, intellectual property or financial services. While the text of the PTAs typically clarifies that the governing committee and the managing committee should meet at, respectively, ministerial and senior civil servants' level, the composition of sub-committees is never specified. Nevertheless, a contextual reading of the provisions and of the documents available suggests that these committees are mostly made up of technical experts. This group includes two sub-groups.

The first sub-group includes the EU PTAs whose text does not foresee specific sub-committees, but that, according to the information available,³³ have over time established a set of sub-committees.³⁴ No information is available on when and how the establishment of these sub-committees was decided. It is possible that these sub-committees have been in place since the PTAs started being applied. It is equally possible that the sub-committees were developed over time, when the parties realized that they had many outstanding technical implementation issues to discuss. This sub-group comprises mostly pre-2006 PTAs with bordering or near-bordering countries (category (1) and (2) described above).

The second sub-group includes the EU PTAs whose text foresees the establishment of sub-committees. It should be remarked that the framework established by these agreements generally provides for more and more specialized sub-committees than the ones of the first sub-group. This sub-group is the most homogeneous: it comprises all the PTAs with distant countries (category (4) described above) as well as the PTAs with Ukraine, Georgia and Moldova (deep and comprehensive post-2006 PTAs that fall within the category (2) described above).³⁵ It is interesting to note that the first EU PTA that foresees this developed institutional structure is EU-Mexico, followed by EU-Chile. The fact that these agreements are included in this sub-group excludes the possibility that sub-committees are typical of the modern post-2006 EU policy. A developed structure of sub-committees seems instead characteristic of the deepest and most comprehensive trade agreements signed by the EU with distant or near-bordering countries.

³³ Commission Staff Working Document, Country reports and info sheets on implementation of EU Free Trade Agreements, accompanying the document *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements* (9 Nov. 2017), SWD(2017) 364 final ('Commission Staff Working Document, Country reports and info sheets on implementation of EU Free Trade Agreements 2017').

³⁴ EU-Switzerland; EEA; EU-Palestinian Authority; EU-Israel; EU-Tunisia; EU-Morocco; EU-Jordan; EU-Egypt; EU-Lebanon; EU-Algeria; EU-Serbia.

³⁵ EU-Mexico; EU-Chile; EU-Korea; EU-Central America; EU-Colombia/Peru; EU-Moldova; EU-Georgia; EU-Ukraine; EU-Canada.

An overview of Table 1 shows that the committees of EU PTAs within the same category tend to be quite similar. This is not surprising. A textual analysis of a broader set of PTAs has shown that ‘copy-and-paste’ is often used in trade negotiations: on average, a PTA reproduces 2/3 of the language of the closest PTA.³⁶

2.2 THE DIALOGUE WITHIN EU PTA COMMITTEES

Can all these PTA committees play a role in resolving disputes? Some EU PTA committees are given an explicit dispute resolution function.³⁷ For the other committees, a dispute resolution role, while not explicit, seems nonetheless implied in their tasks: overseeing and monitoring the implementation and application of the agreement, as well as taking the appropriate decisions and measures.

The documents available show that EU PTA committee meetings take place annually, and they discuss implementation issues extensively.³⁸ This is true for all the PTAs from the three groups described in the Section above, including old PTAs that only have a governing committee and a managing committee such as EU-Turkey. For the EU PTAs with a developed institutional framework (the third group described above), the bulk of the work is placed on the technical sub-committees. The governing or managing committee, conversely, takes stock of the work of the sub-committees, and re-discusses the most critical issues at a higher political level.

Based on the minutes that I obtained through access to documents, the table below lists all the issues discussed during the meetings of the governing committee of the EU-Colombia/Peru PTA, and traces their evolution over three years. I reported all the issues that were discussed specifically, and that were introduced as ‘points’, ‘issues’, or ‘concerns’. I did not include issues in relation to which the parties only sought clarification or more information. The last column reports the opinion of the EU Commission in their document on implementation of PTAs published in 2017.³⁹

³⁶ Todd Allee & Manfred Elsig, *Are the Contents of International Treaties Copied-and-Pasted? Evidence from Preferential Trade Agreements*, [2016] NCCR Trade Working Papers, <http://boris.unibe.ch/89220/3/Are%20the%20Contents%20of%20International%20Treaties.pdf> (accessed 1 May 2017).

³⁷ E.g. EU-Colombia/Peru, Art. 13(1)(g); EU-Korea, Art. 15.1(3)(e); EU-Canada, Art. 26.1(4)(c).

³⁸ Commission Staff Working Document, Country reports and info sheets on implementation of EU Free Trade Agreements 2017, *supra* n. 33.

³⁹ EU Commission, Report on Implementation of Free Trade Agreements 2017, at 12, *supra* n. 14.

Table 2 List of Issues Discussed During the Meetings of the Governing Committee (Trade Committee) of the EU–Colombia/Peru PTA in the Years 2014–2016. A Sign ‘–’ Means that the Issue was not Discussed in the Document Concerned. In the Last Column, Some Cells are Left Blank as the Report was not Supposed to Cover them at all: the EU Commission Report on Implementation of FTAs only Reports Implementation Issues from the Point of View of the EU.

<i>Issue</i>	<i>Country Concerned</i>	<i>Sub-Committee Concerned</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>Report by the EU Commission in 2017</i>
Direct transport	Peru and Colombia	Customs	–	Discussed	Discussed	<u>Still a concern</u>
Registration of geographical indications (GIs)	EU	Intellectual Property	Discussed	Discussed	Discussed	
Mistakes in issuing GI certificates	Peru	Intellectual Property	Discussed	Discussed	–	
Registration of Oporto GI in Peru	Peru	Intellectual Property	Discussed	Discussed	Discussed	<u>Still a concern</u>
Public performance rights on public transportation	Colombia	Intellectual Property	–	–	Discussed	<u>Still a concern</u>
Patentability of pharmaceuticals	Colombia	Intellectual Property	–	–	Discussed	–
Market restrictions on truck scrapping	Colombia	Market Access	Discussed	Discussed	Resolved	–
Obligation for imported beers to attach strip stamps	Colombia	Market Access	–	–	Discussed	–
Duty drawback	Peru	Market Access	–	–	Discussed	–
Taxes for spirits	Colombia	Agriculture	Discussed	Discussed	Resolved	–
Taxes for spirits	Peru	Agriculture	Discussed	Discussed	Discussed	<u>Still a concern</u>
Market access to sub-central levels	Colombia	Government Procurement	–	Discussed	Discussed	<u>Discussion moved in a positive direction'</u>

<i>Issue</i>	<i>Country Concerned</i>	<i>Sub-Committee Concerned</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>Report by the EU Commission in 2017</i>
Standards in technical specifications	Peru	Government Procurement	-	-	-	-
Unspecified implementation issues with respect to SPS obligations	Peru and Colombia	Sanitary and Phytosanitary Measures	Discussed	-	-	<u>Progress</u>
Pre-listing	Colombia	Sanitary and Phytosanitary Measures	Discussed	Resolved	-	<u>Resolved</u>
Market access of bivalve mollusc	EU	Sanitary and Phytosanitary Measures	Discussed	-	-	
Regulations on novel foods	EU	Sanitary and Phytosanitary Measures	-	-	Discussed	
Composite products	EU	Sanitary and Phytosanitary Measures	-	-	Discussed	
Short-term working visa	Peru	Services	Discussed	-	-	-

The table above shows that several specific concerns were raised and discussed by the parties. The dispute resolution dynamic between the sub-committees and the governing committee could be tentatively described as follows. When the issue is purely technical, it is solved in the context of the sub-committees. This is for example the case of the acceptance by Colombia and Peru of the implementation of the so-called ‘regionalisation principle’ in SPS matters. This issue is reported as resolved in the third meeting of the SPS sub-committee,⁴⁰ and in the EU Commission report on implementation of EU PTAs.⁴¹ Yet, it was never mentioned in the minutes of the governing committee.

When the issue is more controversial, and cannot be resolved at the technical level, the parties can decide to re-discuss it in the governing committee. In doing

⁴⁰ EU Commission, Report from the Commission to the European Parliament and the Council, Third Annual Report on the Implementation of the EU-Colombia/Peru Trade Agreement (10 Oct. 2017), COM(2017) 585 final, at 8.

⁴¹ EU Commission, Report on Implementation of Free Trade Agreements 2017, at 12, *supra* n. 14.

so, the parties probably seek to increase political pressure. As shown by Table 2, some of the issues that were raised in the first or second meeting of the governing committee have disappeared by the third. One issue (pre-listing) was reported as resolved during the second meeting. No news is available with respect to the other issues: they might have been resolved, or they might have simply lost relevance, and have been put aside. Conversely, some of the issues raised in the first or third meeting of the governing committee keep being discussed up to the third meeting. The fact that an issue keeps re-appearing in the discussion of the governing committee is a sign that the dispute has not been resolved. Most of these recurring issues, indeed, correspond to the issues that the EU Commission has highlighted as persisting concerns in its report on implementation of EU PTAs, as shown in the fourth column of Table 2.

These documents show that PTA Committees meet, discuss, and resolve some issues. Sometimes they handle difficult issues. This was the case, for example, of the market of truck scrappage in Colombia. The minutes of the governing committee show that the EU raised concerns with respect to the lack of access to this market.⁴² However, this issue was considered a particularly sensitive issue in Colombia. Despite its political willingness to resolve it, Colombia reportedly found it difficult to regulate a sector that was the livelihood of thousands of families.⁴³ Nevertheless, one year later, Colombia adopted a reform that eliminated market restrictions in the sector, and thus the issue was considered resolved.⁴⁴ Another difficult issue was the Colombia taxation system on spirits. As described in section 4, however, this could not be resolved within the framework of the PTA.

3 INFORMAL DISPUTE RESOLUTION: ASSESSMENT AND LIMITATIONS

The available documents reveal interesting facts about the functioning of EU PTAs and the dialogue that takes place within the committees. Considered together, they show the potential dynamics of informal dispute resolution within the PTAs. Although they provide some interesting information, it should be stressed that the documents available for this research are limited in scope, and thus they should only be considered a point of departure.

⁴² Acta de la segunda reunión del comité de comercio, acuerdo comercio entre Colombia y Peru, y la Unión Europea; Bogotá, viernes 19 de junio 2015, at 3/6 ('Acta de la segunda reunión del comité de comercio EU-Colombia/Peru, 2015'). On file with the author.

⁴³ *Ibid.*

⁴⁴ Minutes of the third meeting of the trade committee of the EU-Colombia/Peru Trade Agreement, 9 Dec. 2016, Brussels, at 3/7 ('Minutes of the third meeting of the trade committee of the EU-Colombia/Peru Trade Agreement 2016'). On file with the author.

First of all, the documents are focused only on the EU, and many of them (with the exception of the minutes of the EU-Colombia/Peru governing committee) represent mainly the point of view of the EU. Moreover, the documents on implementation of EU PTAs published by the EU Commission are only partial, and little information is available on the establishment of additional sub-committees and their work. A review of the dialogue within the EU PTA committees would benefit from including the minutes of committees other than that of the EU-Colombia/Peru PTA. Unfortunately, the minutes are not public and difficult to obtain. In addition to the minutes of the EU-Colombia/Peru agreement, I requested access to some more documents in the EU under Regulation 1049/2011.⁴⁵ However, due to the necessity to seek the other State's consent, the process of requesting access to the PTA documents is long, unpredictable, and likely to be rejected.⁴⁶

The lack of transparency seems, regrettably, a characteristic of PTAs. PTAs escape the fairly transparent system provided by the WTO.⁴⁷ We cannot possibly know everything that the WTO delegates discuss, but a substantial amount of publications and data can be found on the WTO website. As discussed in section 2, for example, access to the documents of the WTO committees has allowed research on their role in settling disputes. The information available on PTAs pales in comparison to this. Yet, transparency increases scrutiny, accountability, and understanding. Attention to transparency is growing in international law in general,⁴⁸ as well as in dispute settlement and international economic law.⁴⁹ In spite of the recent emphasis on transparency in the negotiations of EU PTAs,⁵⁰ little has been said on transparency in the implementation phase. This phase is not less important, since, as shown in this

⁴⁵ Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, L145/43.

⁴⁶ I have requested access to the minutes of the main committee of four EU PTAs: EU-Mexico, EU-Chile, EU-Colombia/Peru, and EU-Korea. The outcome has been quite varied: one request was partially accepted (EU-Colombia/Peru); one request was rejected (EU-Korea); one request was rejected but supplemented with other documents (EU-Mexico: I have received the press releases), and for the last request (EU-Chile) I was informed that the minutes are non-existent.

⁴⁷ Petros C. Mavroidis & Robert Wolfe, *From Sunshine to a Common Agent: The Evolving Understanding of Transparency in the WTO* *The World Trade Organization at Twenty* 21 Brown J. World Aff. 117 (2014).

⁴⁸ Andrea Bianchi & Anne Peters, *Transparency in International Law* (Cambridge University Press 2013).

⁴⁹ Emilie M. Hafner-Burton, Sergio Puig & David G. Victor, *Against Secrecy: The Social Cost of International Dispute Settlement*, 42 *Yale J. Int'l L.* 279 (2017).

⁵⁰ As a result of the calls for transparency, the EU Commission published a factsheet on transparency in trade negotiations, http://trade.ec.europa.eu/doclib/docs/2013/june/tradoc_151381.pdf (accessed 14 Feb. 2018). Moreover, the EU Commission has recently published the proposals and draft texts of the negotiated PTAs.

article, the parties discuss the interpretation of the agreements, and negotiate further arrangements and technical regulations.

Against this background, it seems very difficult to conclude to what extent the PTA committees can be considered an effective way of resolving disputes. First, it should be stressed that by definition it is impossible to affirm that a simple dispute (i.e. a disagreement among the parties), if not resolved, would become a formal dispute (i.e. trigger litigation procedures). Previous research has shown that the choice to bring a particular trade dispute to formal dispute settlement depends on multiple political and institutional factors.⁵¹ Accordingly, this article does not attempt to affirm that the framework established by the PTAs resolves disputes that would otherwise trigger the DSMs or would be litigated at the WTO. Rather, it points at the fact that formal dispute resolution is only one part of the broader dispute resolution that takes place in the framework established by the PTAs.

A second difficult and related question on effectiveness is whether these committees solve issues that would be solved in any bilateral meeting, or whether their design and special role in the PTAs architecture makes them an effective *forum* to solve disputes. PTA committee meetings constantly monitor the implementation of the PTAs. This can foster dialogue, understanding, and mutual trust. In this respect, the establishment of a formal setting, along with rules of procedure and periodic meetings, could make the resolution of disputes within PTA committees more likely than in an ordinary bilateral meeting. PTA committees have one obvious difference from the WTO committees: they are not embedded in an institutionalized multilateral organization. Yet, at the same time, as shown above, advanced and comprehensive PTAs tend to reproduce the structure of the many specialized WTO committees and their main features: expert-driven approach and close dialogue.

The methodological challenges highlighted above make it difficult to test these hypotheses. Accordingly, this article can only lay a stepping stone in this direction, by showing how EU PTA committees are designed, and how dialogue takes place within them.

⁵¹ Henrik Horn et al., *Is the Use of the WTO Dispute Settlement System Biased?* vol. 2340 (Centre for Economic Policy Research 1999), <http://www.econ-law.se/Papers/Disputes000117.PDF> (accessed 19 Nov. 2015); Eric Reinhardt, *Aggressive Multilateralism: The Determinants of GATT/WTO Dispute Initiation, 1948–1998* (Citeseer 2000), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.513.8591&rep=rep1&type=pdf> (accessed 19 Nov. 2015); Chad P. Bown, *Participation in WTO Dispute Settlement: Complainants, Interested Parties, and Free Riders*, 19 *World Bank Econ. Rev.* 287 (2005); Andrew T. Guzman & Beth A. Simmons, *Power Plays and Capacity Constraints: The Selection of Defendants in World Trade Organization Disputes*, 34 *J. Legal Stud.* 557 (2005); Christina L. Davis, *Why Adjudicate?: Enforcing Trade Rules in the WTO* (Princeton University Press 2012).

4 A PARADIGMATIC EXAMPLE: THE DISPUTE ON TAXATION OF SPIRITS BETWEEN THE EU AND COLOMBIA

The case of taxation of spirits in Colombia mentioned above seems a good example to illustrate how disputes can be tackled within the framework of PTAs. Although the dispute was *not* resolved, this case demonstrates how the trade partners sought to resolve a dispute in the framework of a PTA.

Before starting the negotiations of the EU-Colombia/Peru PTA, Colombia had a system of taxation that allegedly discriminated against imported spirits. Its national and local taxes on spirits were divided into two brackets, the division point of which was fixed at 35% of alcoholic content. As a result of this ‘artificial’ split, the EU argued, most imported spirits fell into the higher bracket, whilst national spirits fell into the lower.⁵² When the negotiations of the PTA were concluded in 2011, Colombia undertook a specific commitment to end this taxation system by August 2015.⁵³ By doing so, Colombia and the EU demonstrated that, as argued by Mavroidis and Sapir, some disputes are addressed during the negotiations of PTAs.⁵⁴

This negotiated solution, however, did not work: Colombia failed to respect it. As a consequence, the issue started being discussed in the sub-committees and in the governing committee of the EU-Colombia/Peru PTA between 2014 and 2015, with the EU urging Colombia to respect its commitment.⁵⁵ Colombia explained that two obstacles prevented it from abiding by the commitment: the equilibrium of the tax system, and the risk of smuggling.⁵⁶ At the same time, Colombia reaffirmed its willingness to overcome these obstacles, and stated that to this end it had asked for technical assistance to European States.⁵⁷ The EU recognized the political willingness of Colombia. However, it also stated that the bill presented did not yet comply with Colombia’s obligations.⁵⁸ In this respect, the EU and Colombia proved willing to engage in a dialogue within the PTA committees. Nevertheless, they were unable to resolve the conflict in this *forum*.

⁵² EU Commission, press release, EU requests WTO consultations over Colombia’s discrimination against imported spirits (13 Jan. 2016), <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1432&title=EU-requests-WTO-consultations-over-Colombias-discrimination-against-imported-spirits> (accessed 16 Feb. 2018).

⁵³ *Ibid.*

⁵⁴ Mavroidis & Sapir, *supra* n. 13.

⁵⁵ Acta, Acuerdo Comercial entre el Perú y Colombia por una Parte, y la Unión Europea y sus Estados Miembros por Otra; Primera Reunión del Comité de Comercio, at 2/7 (‘Acta de la primera reunión del comité de comercio EU-Colombia/Peru, 2014’). On file with the author.

⁵⁶ Acta de la segunda reunión del comité de comercio EU-Colombia/Peru (2015), at 2/6, *supra* n. 42.

⁵⁷ *Ibid.*, at 3/6.

⁵⁸ *Ibid.*

A few months before the expiry of the August 2015 deadline, the EU declared that it was considering legal action.⁵⁹ It did not clarify which *forum* it was considering, but, in January 2016, it requested consultations at the WTO.⁶⁰ It alleged, *inter alia*, a violation of Article III:1, III:2, and III:4 of the General Agreement on Tariffs and Trade (GATT). In August 2016, when the consultations failed, the EU promptly requested the establishment of a panel.⁶¹ The panel was never composed, but the issue was promptly resolved anyway. The minutes of the meeting of the governing committee of the EU-Colombia/Peru PTA show that in December 2016 Colombia was in the process of adopting a new law that was approved by the EU.⁶² The EU Commission's report on the implementation of EU PTAs of November 2017 confirmed that the dispute was resolved.⁶³ In this case, recourse to the WTO resolved a dispute that the parties could not resolve in the framework of the PTA.

A discussion on the reasons why the EU chose to have recourse to the WTO rather than the PTA DSM goes beyond the scope of this article. Three minor remarks on these proceedings can be nonetheless made. First, the DSM of the EU-Colombia/Peru PTA did not prove inefficient, it was simply neglected. The DSM had a pre-approved list of arbitrators from which the EU could have drawn the names of the arbitrators if Colombia refused to appoint them.⁶⁴ Second, the EU had a choice between the two *fora*, because, in addition to not having respected one of the commitments embedded in the PTA, the challenged measure could be easily understood as a violation of GATT obligations. However, as noted in the introduction, not all the violations of PTA obligations can be brought to the WTO. Third, Colombia showed the political willingness to act, which was recognised by the EU, as it waited until the expiry date before starting the WTO proceedings. A difficult outstanding question remains: why did they resort to litigation, if in the end they resolved the dispute before it was adjudicated? This question does not have easy answers. The soft power that the WTO exercises through its multilateral membership might have helped.⁶⁵ Moreover, recourse to WTO litigation might have simply been a strategy to signal to the domestic industries the importance that both the EU and Colombia attached to the issue.⁶⁶

⁵⁹ *Ibid.*, at 2/6.

⁶⁰ Colombia – Measures Concerning Imported Spirits, Request for consultations by the European Union, WT/DS502/1 (18 Jan. 2016).

⁶¹ Colombia – Measures Concerning Imported Spirits, Request for the establishment of a panel by the European Union, WT/DS502/6 (23 Aug. 2016).

⁶² Minutes of the third meeting of the trade committee of the EU-Colombia/Peru Trade Agreement 2016, at 5/7, *supra* n. 44.

⁶³ EU Commission, Report on Implementation of Free Trade Agreements 2017, at 12, *supra* n. 14.

⁶⁴ Acta de la primera reunión del comité de comercio EU-Colombia/Peru (2014), at 5/7, *supra* n. 56.

⁶⁵ Piérola & Horlick, *supra* n. 10.

⁶⁶ Davis, *supra* n. 52.

Another remark that can be made about this dispute is that Peru appears to have in place a very similar taxation system for spirits, and similarly in violation of PTA and GATT obligations. During the first two meetings of the governing committee of the EU-Colombia/Peru PTA, the EU expressed concerns with respect to both Colombia and to Peru.⁶⁷ The threat of litigation was equally addressed to both.⁶⁸ However, at the moment of starting WTO proceedings, the EU decided to lodge a complaint only against Colombia. Many reasons may lie behind this choice, including some as simple as the size and the strategic importance of the market. Aside from this, it will be interesting to see whether and how Peru will decide to comply with its obligations. The EU Commission has recently affirmed that the Peruvian taxation system for spirits is in violation of the PTA, and it is a ‘matter of priority’.⁶⁹

For the purposes of this article, it is important to highlight that, although the framework established by the PTA failed to resolve the dispute, the EU tried to use it to this end. First, it had Colombia undertake a specific commitment during the negotiations of the PTA, as suggested by previous scholarship.⁷⁰ Then, it used the meetings of the committees to solicit compliance. By employing these two approaches, and by waiting for the deadline of August 2015 to expire before starting legal proceedings, the EU showed trust in the fact that this dispute could be solved in this framework. The EU could well have started WTO proceedings back in 2011, but it chose to wait.

This story shows how a dispute can be tackled within the framework of a PTA. Many other similar issues may have been tackled and resolved in the framework of PTAs. As we cannot make counterfactuals, we cannot know whether other PTA informal disputes could have become WTO disputes. However, this case shows that a dispute that the PTA parties unsuccessfully tried to resolve through the framework of a PTA eventually became a WTO dispute.

5 CONCLUSIONS

By focusing on EU PTAs, this article has shown that, as it is the case for the WTO committees, the committees established by the PTAs can have a complementary role to litigation.

The design and number of the committees of EU PTAs varies, but they all foresee the establishment of at least a governing committee, tasked with overseeing

⁶⁷ Acta de la primera reunión del comité de comercio EU-Colombia/Peru (2014), at 2/7, *supra* n. 56; Acta de la segunda reunión del comité de comercio EU-Colombia/Peru (2015) at 1–2/6, *supra* n. 42.

⁶⁸ Acta de la segunda reunión del comité de comercio EU-Colombia/Peru (2015), at 1–2/6, *supra* n. 42.

⁶⁹ EU Commission, Report on Implementation of Free Trade Agreements 2017, at 36, *supra* n. 14.

⁷⁰ Mavroidis & Sapir, *supra* n. 13.

the implementation of the agreement. The most advanced and comprehensive EU PTAs provide for a more sophisticated institutional structure made up of several sub-committees, where close and expert-driven dialogue can take place.

An analysis of the minutes of the EU-Colombia/Peru PTA has shown how the PTA partners discuss and resolve some trade concerns in the dialogue between the governing committee and the sub-committees. While not all issues are resolved, the EU Commission has reported progress in some areas. The lack of transparency on the activities of these committees make it hard for the moment to conclude whether and to what extent resolution of disputes takes place in all the committees of EU PTAs.

It is even more difficult to answer the question of whether these committees are an effective mean of resolution of disputes, or simply resolve issues that would be resolved in any ordinary bilateral meeting. The establishment of a framework for continuous technical and political dialogue could make the resolution of disputes more likely, but we cannot know whether, if this framework did not exist, some of the issues could trigger formal dispute proceedings.

Although we cannot know which issues addressed in the EU PTA committees could become formal disputes, this article has provided an example of a formal WTO dispute that has first been tackled in the context of an EU PTA committees. This is the dispute on taxation of spirits that the EU has lodged against Colombia in 2016. Although in this case the PTA failed to resolve the dispute, it is interesting to observe how the EU tried to use the EU-Colombia/Peru PTA to constrain Colombia to change its tax system.

ANNEX 1 LIST OF EU PTAS

This list comprises all the PTAs currently applied between the EU and its trade partners. The list has been compiled by retrieving the necessary information from the website of the Directorate-General of Trade of the EU Commission.⁷¹ It should be noted that the agreements are always referred to as agreements between the EU and its partners, even when in fact the agreement had been concluded by the European Community.

The fourth column classifies the EU PTAs in the four categories described in the methodology section: (1) agreements with future EU countries or close neighbours, (2) agreements with near-bordering countries, (3) agreements with developing countries, and the (4) agreements with distant countries. It is based on the classification provided by: *Raymond J. Ahearn, 'Europe's Preferential Trade*

⁷¹ DG Trade, negotiations and agreements, <http://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/> (accessed 16 Feb. 2018).

Agreements: Status, Content, and Implications' (CRS Report for Congress 2011), <https://fas.org/sgp/crs/row/R41143.pdf>.

<i>Abbreviation used in the article</i>	<i>Partner(s)</i>	<i>Name of Agreement</i>	<i>Category</i>	<i>Applied Since</i>
EU–Turkey	Turkey	Association Agreement with a Customs Union from 1996	1	1963
EU–Switzerland	Switzerland	Agreement and additional bilateral agreements concluded afterwards	1	1972
EU–Syria	Syria	Cooperation agreement	2	1977
EU–Andorra	Andorra	Customs Union	1	1991
EEA	Norway, Iceland, Liechtenstein	Agreement on the European Economic Area	1	1994
EU–Israel	Israel	Association Agreement	2	1996
EU–Palestinian Authority	Palestinian Authority	Interim Association Agreement	2	1997
EU–Faroe Islands	Faroe Islands	Agreement	1	1997
EU–Tunisia	Tunisia	Association Agreement	2	1998
EU–Mexico	Mexico	Global Agreement with a Free Trade Agreement	4	2000
EU–Morocco	Morocco	Association Agreement	2	2000
EU–FYROM	FYROM	Stabilization and Association	1	2001
EU–Jordan	Jordan	Association Agreement	2	2002
EU–San Marino	San Marino	Customs Union	1	2002

<i>Abbreviation used in the article</i>	<i>Partner(s)</i>	<i>Name of Agreement</i>	<i>Category</i>	<i>Applied Since</i>
EU–Chile	Chile	Association Agreement	4	2003
EU–Egypt	Egypt	Association Agreement	2	2003
EU–Lebanon	Lebanon	Association Agreement	2	2003
EU–Algeria	Algeria	Association Agreement	2	2005
EU–Albania	Albania	Stabilization and Association Agreement	1	2006
EU–CARIFORUM	Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Surinam, Trinidad, Tobago, the Dominican Republic	Economic Partnership Agreement	3	2008
EU–Serbia	Serbia	Stabilization and Association Agreement	1	2008
EU–Pacific	Papua New Guinea, Fiji (from 2014)	Economic Partnership Agreement	3	2009
EU–Montenegro	Montenegro	Stabilization and Association Agreement	1	2010
EU–Korea	South Korea	Free Trade Agreement	4	2011

<i>Abbreviation used in the article</i>	<i>Partner(s)</i>	<i>Name of Agreement</i>	<i>Category</i>	<i>Applied Since</i>
EU–ESA	Madagascar, Mauritius, the Seychelles, Zimbabwe	Interim Economic Partnership Agreement	3	2012
EU–Central America	Central America Association	Association Agreement	4	2013
EU–Colombia/Peru	Peru, Colombia, Ecuador (from 2017)	Trade Agreement	4	2013
EU–Cameroon	Cameroon	Interim Economic Partnership Agreement	3	2014
EU–Moldova	Moldova	Association Agreement with a Deep and Comprehensive Free Trade Area	2	2014
EU–Georgia	Georgia	Association Agreement with a Deep and Comprehensive Free Trade Area	2	2014
EU–Bosnia and Herzegovina	Bosnia and Herzegovina	Stabilization and Association Agreement	1	2015
EU–SADC	Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland	Economic Partnership Agreement	3	2016
EU–Côte d’Ivoire	Côte d’Ivoire	Stepping Stone Economic Partnership Agreement	3	2016
EU–Ghana	Ghana	Stepping Stone Economic Partnership Agreement	3	2016

<i>Abbreviation used in the article</i>	<i>Partner(s)</i>	<i>Name of Agreement</i>	<i>Category</i>	<i>Applied Since</i>
EU-Ukraine	Ukraine	Association Agreement with a Deep and Comprehensive Free Trade Area	2	2016
EU-Kosovo	Kosovo	Stabilization and Association Agreement	1	2016
EU-Canada	Canada	Comprehensive Economic Trade Agreement	4	2017

ANNEX 2 LIST OF THE KNOWN COMMITTEES ESTABLISHED UNDER EU PTAS

The list of the committees established in EU PTAs is drawn primarily by an analysis of the text of the agreements, and accordingly reports the articles whereby they are established.

This list is complemented with the information recently made available by the EU Commission on the implementation of EU PTAs in: *Commission Staff Working Document, Country reports and info sheets on implementation of EU Free Trade Agreements, accompanying the document 'Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements', 9.11.2017, SWD(2017) 364 final*. This working document reports the existence of some sub-committees that are not foreseen by the text of the PTA. This list is not exhaustive: other sub-committees may have been established but not reported in the abovementioned document, which does not cover all EU PTAs.

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU-Turkey	Association Council (Article 22)	Customs Union Joint Committee (Decision 1/95 of the Association Council, Article 52)	–

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU–Switzerland	Joint Committee (Article 29)	–	Joint Committees established under the bilateral agreements (EU Commission Staff Working Document 2017 at 72)
EU–Syria	Cooperation Council (Article 35)	–	–
EU–Andorra	Joint Committee (Article 17)	–	–
EEA	EEA Joint Council (Article 89)	EEA Joint Committee (Article 92)	Four sub-committees on: free movement of goods, free movement of capital and services including company law, free movement of persons and horizontal and flanking policies (EU Commission Staff Working Document 2017 at 59)
EU–Israel	Association Council (Article 67)	Association Committee (Article 70)	Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agriculture and Fisheries; Sub-Committee on Customs Cooperation and Taxation (EU Commission Staff Working Document 2017 at 89)

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU–Palestinian Authority	Joint Committee (Article 63)	–	Sub-committee on Trade and Internal Market, Industry, Agriculture and Fisheries, and Customs (EU Commission Staff Working Document 2017 at 106)
EU–Faroe Islands	Joint Committee (Article 31)	–	–
EU–Tunisia	Association Council (Article 78)	Association Committee (Article 81)	Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agricultural and Fisheries Products; Sub-Committee on Customs Cooperation and Taxation (EU Commission Staff Working Document 2017 at 110–111) Special Committee on Customs Cooperation and Rules of Origin (Article 17(4) of the Decision no. 2/2000 of the Joint Council); Special Committee on Standards and Technical Regulations (Article 18(6) of the Decision no. 2/2000 of the Joint
EU–Mexico	Joint Council (Article 45)	Joint Committee (Article 48)	

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
			Council); Special Committee on Sanitary and Phytosanitary Measures (Article 20 (2) of the Decision no. 2/2000 of the Joint Council); Special Committee on Steel Products (Article 24 of the Decision no. 2/2000 of the Joint Council); Special Committee on Government Procurement (Article 32 of the Decision no. 2/2000 of the Joint Council); Special Committee on Intellectual Property Matters (Article 40 of the Decision no. 2/2000 of the Joint Council).
EU–Morocco	Association Council (Article 78)	Association Committee (Article 81)	Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agricultural and Fisheries Products; Sub-Committee on Customs Cooperation (EU Commission Staff Working Document 2017 at 102).

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU-FYROM	Joint Committee (Article 31)	–	–
EU-Jordan	Association Council (Article 89)	Association Committee (Article 92)	Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agriculture and Fisheries; Sub-Committee on Customs Cooperation (EU Commission Staff Working Document 2017 at 93).
EU-San Marino	Cooperation Committee (Article 23)	–	–
EU-Chile	Association Council (Article 3)	Association Committee (Article 6)	Customs Cooperation and Rules of Origin (Article 81); Special Committee on Technical Regulations, Standards and Conformity Assessment (Article 88); Special Committee on Financial services (Article 127). Sub-Committee on Trade, Industry, Services and
EU-Egypt	Association Council (Article 74)	Association Committee (Article 77)	Investment; Sub-Committee on Agricultural and Fisheries Products; Sub-Committee on

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
			Customs Cooperation (EU Commission Staff Working Document 2017 at 85). Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agriculture and Fisheries; Sub-Committee on Customs Cooperation and Taxation (EU Commission Staff Working Document 2017 at 97). Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agricultural and Fisheries Products;
EU–Lebanon	Association Council (Article 75)	Association Committee (Article 78)	Sub-Committee on Customs Cooperation and Taxation (EU Commission Staff Working Document 2017 at 97). Sub-Committee on Trade, Industry, and Services; Sub-Committee on Agricultural and Fisheries Products;
EU–Algeria	Association Council (Article 92)	Association Committee (Article 95)	Sub-Committee on Customs Cooperation (EU Commission Staff Working Document 2017 at 81).
EU–Albania	Stabilization and Association Council (Article 116)	Stabilization and Association Committee (Article 120)	–
EU–CARIFORUM	Joint CARIFORUM-EC Council (Article 227)	Trade and Development Committee (Article 230)	–

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU–Serbia	Stabilization and Association Council (Article 120)	Stabilization and Association Committee (Article 122)	Sub-committee on Trade, Industry, Customs and Taxation (EU Commission Staff Working Document 2017 at 64).
EU–Pacific	Trade Committee (Article 68)	–	–
EU–Montenegro	Stabilization and Association Council (Article 119)	Stabilization and Association Committee (Article 122)	–
EU–Korea	Trade Committee (Article 15.1)	–	Committee on Trade in Goods, Committee on Sanitary and Phytosanitary Measures, Customs Committee, Committee on Trade in Services, Establishment and Electronic Commerce, Committee on Trade and Sustainable Development, Committee on Outward Processing Zones on the Korean Peninsula (Article 15.2). Working Group on Motor Vehicles and Parts, Working Group on Pharmaceutical Products and

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
			Medical Devices, Working Group on Chemicals, Working Group on Trade Remedy Cooperation, Working Group on MRA, Working Group on Government, Working Group on Geographical Indications (Article 15.3).
EU-ESA	EPA Committee (Article 64)	–	–
EU-Central America	Association Council (Article 4 and 345)	Association Committee (Articles 7 and 346)	Sub-Committee on Market Access for Goods (Article 91); Sub-Committee on Customs, Trade Facilitation and Rules of Origin (Article 123); Sub-Committee on Technical Barriers to Trade (Article 139); Sub-Committee on Sanitary and Phytosanitary Matters (Article 156); Sub-Committee on Intellectual Property (Article 274).
EU-Colombia/Peru	Trade Committee (Article 12)	–	Sub-committee on Market Access,

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
			Sub-committee on Agriculture, Sub-committee on Technical Obstacles to Trade, Sub-committee on Customs, Trade Facilitation and Rules of Origin, Sub-committee on Government Procurement; Sub-committee on Trade and Sustainable Development, Sub-committee on Sanitary and Phytosanitary Measures, Sub-committee on Intellectual Property (Article 15).
EU–Cameroon	EPA Committee (Article 92)	–	–
EU–Moldova	Association Council (Article 434)	Association Committee (Article 438)	Sanitary and Phytosanitary Sub-Committee (Article 191); Customs Sub-Committee (Article 200); Geographical Indications Sub-Committee (Article 306); Trade and Sustainable Development Sub-Committee (Article 376).

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU–Georgia	Association Council (Article 404)	Association Committee (Article 407)	Sanitary and Phytosanitary Sub-Committee (Article 65); Customs Sub-Committee (Article 74); Geographical Indications Sub-Committee (Article 179); Trade and Sustainable Development Sub-Committee (Article 240).
EU–Bosnia and Herzegovina	Stabilization and Association Council (Article 116)	Stabilization and Association Committee (Article 119)	–
EU–SADC	Joint Council (Article 101)	Trade and Development Committee (Article 103)	–
EU–Côte d’Ivoire	EPA Committee (Article 73)	–	–
EU–Ghana	EPA committee (Article 73)	–	–
EU–Ukraine	Association Council (Article 461)	Association Committee (Article 464)	Sanitary and Phytosanitary Management (SPS) Sub-Committee (Article 74); Customs sub-committee (Article 83); Sub-Committee on Geographical Indications (Article 211); Trade and Sustainable Development Sub-Committee (Article 300).

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
EU-Kosovo	Stabilization and Association Council (Article 126)	Stabilization and Association Committee (Article 129)	– Committee on Trade in Goods and its sub-committees (Committee on Agriculture, Committee on Wines and Spirits, and Joint Sectoral Group on Pharmaceuticals); Committee on Services and Investment (and under it Joint Committee on Mutual Recognition of Professional Qualifications); Joint Customs Cooperation Committee; Joint Management Committee for Sanitary and Phytosanitary Measures; Committee on Government Procurement; Financial Services Committee; Committee on Trade and Sustainable Development;
EU-Canada	CETA Joint Committee (Article 26.1)	–	

<i>EU PTA</i>	<i>Governing Committee</i>	<i>Managing committee</i>	<i>Sub-Committees</i>
			Regulatory Cooperation Forum; CETA Committee on Geographical Indications (Article 26.2).
