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**The European Union and China in the framework of
the United Nations Conference on Trade and Development**

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Summary: 1. Introduction – 2. Preliminary remark – 3. The final acts of the UNCTAD XIII - 4. The position papers of the EU and of China – 5. The national statements of China and of the EU member states – 6. Conclusions.

1. Introduction

The core of the last quadrennial United Nation Conference on Trade and Development (UNCTAD XIII), which took place in Doha in April 2012, was the development-centred globalization; in other words, the intergovernmental conference aimed to address the problem of re-shaping the globalisation and driving it towards a widespread development involving all the countries and the people.

Issues such as inclusive and sustainable development, North–South, South–South and triangular cooperation were included in the agenda. The Conference also highlighted the question of the gender inequality and the strategic role of women in development; these topics were discussed during round tables and a “High Level Event”. Two other high-level segments were dedicated to the action for the least developed countries and to the global economic crisis. While the “Committee of the Whole” was in charge of the negotiations in the draft of the final acts and to transmit the outcome to the intergovernmental conference for its adoption,¹ other parallel events took place, e.g. the panels on debt crises prevention and management, and the role of the Arab cooperation to sustain the Palestinian economy under occupation.

The UNCTAD XIII represented a special occasion of debate between developed countries, emerging economies and “least developed countries”(LDC), in the context of serious challenges and great expectations due to the impact of the global crisis upon the different economies. It recalls the session of the UNCTAD VII that was held during a period of uncertainty, when the recession of the 80s strongly affected the developing countries.² In the context of the UNCTAD XIII, determining the role played during the negotiations by the EU (as observer), the EU member states and China, can help to sketch out the current multipolar nature of the international community. Furthermore, in the year of the 50th UNCTAD's anniversary, it can provide a general perspective on the next intergovernmental conference, which is scheduled in Peru for 2016.

¹ Organization of the work of the Conference, Note by the UNCTAD secretariat, p. 2.

² S.M. Shafaeddin, A shift in thinking on world economic problems, in *Food Policy*, May 1988, 214-217, at 214.

2. Preliminary remark

The UNCTAD's membership is limited to governments, so the European Union (EU) attends the UNCTAD's meetings and conferences as an observer;³ however, it does not merely coordinate the positions of its member states before and during the negotiations, but it is also allowed to present its own position papers.

While numerous European countries have participated in these intergovernmental conferences since the first session in Geneva in 1964 (UNCTAD I), China was for the first time represented in UNCTAD III (in 1972). On the basis of the United Nations (UN) Resolution No.1994 of 1965, establishing the UNCTAD as a permanent organ of the UN General assembly, the member states were divided into different groups to facilitate the negotiations: the Afro-Asian countries (group A), the developed countries (group B), the Latin-American countries (group C) and the Socialist countries (group D). China was automatically included in the Afro-Asian group A; only later did it decided to join the group of 77 that, since the UNCTAD's establishment, has been a fundamental part of its structure.⁴ At the beginning China did not join any group, not even the socialist one, but it identified itself with the so called "Third World". Nevertheless, since the beginning the international community paid great attention to China: it participated in all the private meeting that took its interest (despite the fact that it was not a group member).⁵ During the General Debate of UNCTAD XIII, the Head of the Chinese Delegation reiterated that "China remains the largest developing country despite rising economic strength".⁶

³ John Peterson, Alasdair R. Young, *The European Union and the new trade politics*, Routledge 2007, 81.

⁴ Thomas G. Weiss, Rorden Wilkinson (eds.), *International Organization and Global Governance*, Routledge (2014), at 284.

⁵ Sydney Dell, *An appraisal of UNCTAD III*, in *World Development* 1(5), 1973, 1-13, at 9.

⁶ Statement at the General Debate of UNCTAD XIII by H.E.Mr. YU Jianhua, the Head of the Chinese Delegation Doha, Qatar, April 22, 2012.

3. The final acts of the UNCTAD XIII

During the entire conference the “Committee of the Whole” has worked unrelentingly on negotiating the text previously discussed in Geneva, in order to establish the UNCTAD's mandate for the next four years. The UNCTAD member states, following the track outlined by the UNCTAD XII, at the closing plenary adopted two outcome documents: the “Doha Mandate”, which is the main text setting out the UNCTAD's agreed priorities, and the “Doha Manar” (“beacon” in Arabic, i.e. “a source of strong, shining light”⁷), a political declaration.

The Doha mandate turned out to be a compromise between different groups of interests. The United States (US), on the one hand, did not succeed in reshaping and reducing the role of UNCTAD; the G77C, on the other hand, did not obtain as much as it wished on the theme of the global financial crisis and the technological transfer.

A political conflict arose around the UNCTAD's role between the JUSSCANNZ group, guided by the US⁸, and certain developing countries, which are called “dynamic developing countries” within the UNCTAD negotiations; more generally in the field of the international economics they are denominated BRICS (Brazil, Russia, India, China and South Africa); with the exception of Russia, they are included in the G77C. The UNCTAD Secretary-General Supachai Panitchpakdi⁹ supported the position of G77C to widen the scope of the mandate; the EU tried to mediate between the two blocks, although its interests lay on the side of the US. A great gulf separated the official statements of the governments' representatives, rich in good intentions to solve the historical gap between the developed countries and the developing countries, and the negotiations within the Committee of the Whole, which terminated with the adoption of a text undermined by numerous compromises. Both the official statements and the

⁷ UNCTAD, The Doha Manar, at 1; available from <<http://unctad.org/en/pages/MeetingDetails.aspx?meetingid=58>>.

⁸ JUSSCANNZ groups the non-EU developed countries; it includes Japan, the United States, Switzerland, Canada, Australia, Norway and New Zealand. However, it is an informal negotiation group which only occasionally work together and prepare joint position papers or declarations; as a consequence also its formation is not stable and other countries may participate. Felix Dodds and Michael Strauss, *How to Lobby at Intergovernmental Meetings*, Routledge 2004, at 28. In UNCTAD XIII JUSSCANNZ includes also Island and Liechtenstein.

⁹ Supachai Panitchpakdi was the UNCTAD Secretary-General during the XIII session in 2012; Mukhisa Kituyi succeeded and took office on 1 September 2013.

global challenges mentioned appeared to be quite similar to those expressed during the previous UNCTAD XII.

The 2012 negotiations, unsurprisingly, turned out to be harder than those of the preceding sessions, not only because of the crisis, but also because of increasing awareness among the emerging economies of their political power. A certain number of sensitive questions demanded by the G77C (concerning in particular the Palestinian situation, the embargos, climate change, energy, migration, transit, the extension of the Accra's mandate and the investigation on the financial crisis's causes) originated strong oppositions. Only at the last moment, after a long night of discussion, a compromise was achieved at 6.00am on the 26 April, and in the late afternoon the agreed texts were adopted.

It was observed that UNCTAD, as much as other international or supranational organizations such as the World Trade Organization (WTO) and the EU, had suffered for the trade-off between legitimacy and effectiveness: "the more inclusive they become, the less able they are to perform their functions and to achieve their goals".¹⁰ Although UNCTAD, unlike other international organizations, has always been characterised by the voting rule "one country - one vote",¹¹ the emerging economies have only recently begun to show a real bargaining power and to be seriously able to oppose the developed block. The 13th session of UNCTAD proved to be very close to failure because of the impossibility to come to an agreement; the *impasse* was not so different compared to the WTO negotiations (the so called "Doha Blue"),¹² notwithstanding the diverse enforceability of the WTO and UNCTAD commitments. Both the Doha Mandate and the Doha Manar include generic commitments that cannot be imposed and enforced among the member states; thus they are unable to produce incisive changes in the international economic situation.

In order to understand the interests at stake it is opportune to recall that the developed countries had opposed the inclusion of monetary and financial topics in the

¹⁰ John Toye, UNCTAD at 50: A Short History, UNCTAD Report, Geneva 2014, at 120.

¹¹ UN Resolution No.1994 of 1965, establishing the UNCTAD as a permanent organ of the UN General assembly, Article 24. See also the Rule 49 of the UNCTAD Rules of Procedure of 1987.

¹² Kent Jones, The Doha Blues - Institutional Crisis and Reform in the WTO, Oxford University Press, 2010, at 3.

UNCTAD's mandate since its creation in the 60s; they preferred to attribute a sort of exclusive competence to the Bretton Woods institutions (namely, the World Bank and the International Monetary Fund - IMF), where the voting systems depended upon the economic power of the participants. As a matter of fact, in the Trade and Development Report of 2009¹³ the UNCTAD criticised those policy-makers who facilitated the deregulation of the financial markets. The developed countries and, especially, the US, fortified by the critics addressed by the United Nation Joint Inspection Unit against certain UNCTAD's management practices,¹⁴ during the UNCTAD XIII tried again to exclude from its mandate the monetary and financial issue.¹⁵

A comparative analysis between the negotiating text of January 2012 and the Doha Mandate adopted on the 26th of April 2012 shows that the introductory remarks in the policy analysis concerning the need to reaffirm the Accra Accord's commitments and go beyond them, in order to face the challenges of a new world shaken by the financial crisis, was dropped. Similarly, reference to the fact that the crisis was originated in the advanced countries was eliminated. What remained was the statement that finance should support the real economy, but in the final text the fact that deregulating financial market is dangerous was not mentioned further.

Another sensitive issue concerned the UNCTAD's role. The Accra Accord remained valid and represented the basis on which the new mandate was built. Unlike the negotiating text, the final mandate listed sets of specific objectives for each theme and sub-theme on which the UNCTAD should work for the following four years; as a consequence its mandate was precisely delimited and clarified. Again, the acknowledgement of the financial crisis's origin was dropped, as well as the analysis of its causes; the crisis became merely a fact that should be taken into consideration carrying out the study on prospects of developing countries. The critics against the financial deregulation were converted in a call for "adequate regulation and supervision" of the financial markets and debt management. The idea that studying the

¹³ UNCTAD, Trade and Development Report, Geneva 2009, at 102; available from <<http://unctad.org/en/Pages/Publications/TradeandDevelopmentReport.aspx>>.

¹⁴ Review of management and administration in the United Nations Conference on Trade and Development, JIU/REP/2012/1, UN Joint Inspection Unit, Even Fontaine Ortiz, 2012, at V.

¹⁵ John Toye, UNCTAD at 50: A Short History, UNCTAD Report, Geneva 2014, at 111.

causes of the financial crisis could help to prevent the occurrence of a new crisis in the future was abandoned, for example: the suggestion that “UNCTAD should consider, within its areas of competence, the need to improve the coherence and governance of the international monetary, financial and trade systems, including more effective participation of developing countries”.

The European Union was satisfied with the compromise achieved: firstly, on the basis of the final text, the impacts and not the causes of the financial crisis were included in the matters to be investigated by UNCTAD; secondly, the provisions concerning the technological transfer were downsized in comparison with the negotiations of UNCTAD XII; finally, the subject of “good governance” was included.

On the other hand, the G77C was able to confirm in the new mandate what established in Accra during the UNCTAD XII about migration, remittances, rural poverty, landlocked countries and the least developed countries.

4. The positions of the EU and of China

The following analysis focuses on the position papers presented by the European Union, on one hand, and of Group of 77 and China (G77C), on the other.¹⁶ In light of the issues at stake above mentioned, we can better understand the rhetoric and the priorities expressed before the conference.

The G77C's paper opening pointed the finger to the irresponsible policies of the developed countries, which demonstrated well the imperfections of the current economic global order; moreover, it highlighted that, as a consequence of the crisis, some developed countries were implementing those policies that they had previously been denied to the developing countries, i.e. the counter-cyclical policies and the

¹⁶ The Group of 77 (G-77) was established in 1964 by 77 developing countries during the first session of the UNCTAD in Geneva. Today the group counts 133 countries, but the original name is maintained for historic reasons. The group's objectives (in general, protecting the developing countries interests) are available from <<http://www.g77.org/doc/>>. From the UNCTAD IX China has appeared associated to the Group of 77; see the Report of the UNCTAD on its ninth session held in Midrand, South Africa, from 27 April to 11 May 1996, available from <<http://unctad.org/en/pages/MeetingsArchive.aspx?meetingid=4290>>.

direct intervention of the state in the economy. Since the opening statements the strong stance of China and the other developing countries appear clear.

The EU's introductory remarks focused on the UNCTAD's core mandate. It is composed of three main activities, consensus-building, research and technical assistance, but it is up to the member states to determine which priorities they are concerned with. Such themes will then constitute the UNCTAD work programme for the following four years. The EU did not go into the substance of the topic, it just underlined that these three pillars should be kept as reference during the intergovernmental conference. At the end the EU recalled its contribution for development, being the "world's largest trading partner, the largest donor of development assistance and the biggest contributor to multilateral trade related assistance programmes". In brief, the EU position was quite neutral with regard to the sensitive issues at stake and the last remark aimed rather to promote the image of the EU in the international community.

The G77C's position paper initially dealt with the definition of development provided by the UN Declaration on the Right to Development of 1986;¹⁷ on the basis of this act the notion of development should be related to the improvement of the people's lives, to empower of people and to a country-specific methodology to avoid any dogmatic prescription.

Both the EU and the G77C identified main objectives, which only partially coincided. In particular, their positions stressed the need of practical results, the EU referring to "outcome-oriented approach", the G77C to "pragmatic plans of actions" and, more generally, to "new approaches". The EU considered the need of achieving these goals within the mandate and resources of the UNCTAD, in line with both the Accra Accord and the results of the other major international conferences, in order to coordinate the UNCTAD's efforts with the other relevant summits. The G77C urged for identifying the root causes of the problems and aiming for a "joint ownership of the global economic system", granted that the traditional assistance to developing countries was not enough.

¹⁷ UN Declaration on the Right to Development, adopted by the United Nations General Assembly on 4 December 1986 as A/RES/41/128.

On one hand the EU indicated the inclusive and sustainable development as priority (which implied good governance, market focus, dialogue between private and public sector, green economy and social protection), with a special attention for the least developed countries. It pressed to address the UNCTAD efforts towards several areas of intervention, i.e. investments, economic diversification, south-south and triangular cooperation, regional integration, commodities, private sector and, again, good governance.

On the other hand the G77C presented a series of "specific expected outcomes", distinguishing the main theme (development-centred globalisation) and the sub-themes, in line with the conference's program. It stressed the relevant role of the state to preserve stability and to mitigate market failures. It highlighted the importance of an enabling environment at the global level. It pointed out that the efforts of the developing countries had been in the past undermined by the actions of developed countries, in particular with regard to the global financial crisis. The G77C underlined the importance of achieving a conclusion of the WTO negotiations (both on trade and agriculture) and to address the problem of the persisting unilateralism in the international system. In particular it criticized the unilateral measures undertaken by developed countries against the developing ones. It emphasized that south-south cooperation should be considered complementary and should not replace the north-south cooperation: donors were asked not to reduce but to increase their aid to 0.7% of their Gross Domestic Product (GDP). Special attention was given to the transfer of technology (the G77C proposed the draft of an UNCTAD code of conduct) and to the least developing countries, including the landlocked developing countries. About the fight against climate change, certain asymmetries between developed and developing countries were mentioned: the historical responsibility of developed countries about concentration of gas emissions in the atmosphere, the capacity of developed countries to move to green economy, and the strong impact of climate change on developing countries, because of their "geographical situation and vulnerability". Finally, the G77C included in its position paper a reference to the link between development and migration, a very sensitive topic that is usually treated at the bilateral level.

In conclusions, while the G77C presented the main sensitive issues that would be at stake during the conference, the EU kept a rather neutral position and it developed the topics in a more concise way, avoiding sharp stances. This is consistent with the role of mediator that it played during the negotiations. It is also in accordance with the image of “normative power” while promoting itself at the international level. Yet, the decisive role to move on and to find a final agreement was actually played by the trade Ministers of India and South-Africa; nor the EU or its member states shined as key-negotiators: notwithstanding its primacy in trading, the path to affirm itself as a strong political power at the international level is still long. In addition, the mere lecture of the G77C's position makes it difficult to understand the individual contribution of China; however, in the different round tables and events China appeared to be more inflexible and less open to compromise than other leading emerging economies, such as India and South Africa.

5. The national statements of China and of the EU member states

During the General Debate, the UNCTAD member states pronounced their national statements. The analysis of these speeches allows the addition of further remarks about the role of China and the EU member states, going beyond their “belonging to determined blocks”. It is true that some countries (i.e. Czech Republic, Ireland, Italy and Luxembourg) aligned themselves with the position of the EU and the other member states, but the rest of the states did not mention this and all the statements were quite different from each other.

The French statement was very diplomatic: it suggested that the UNCTAD should focus on its original mandate, and at the same time urged UNCTAD to re-shape itself on the principles of renovated global governance.

Others governments' representatives, on the contrary, were more straightforward and did not hesitate to talk directly about sensitive issues: Germany explicitly thanked the Secretary-General of UNCTAD and the Ambassador of Lesotho “for their efforts to generate solutions” about the UNCTAD's mandate. For Germany the main topic of the

Conference should be the reduction of poverty in the least developed countries; it identified, as fundamental instruments to pursue the development, most of the sensitive issues among numerous developing countries: the human rights protection, the good governance, the rule of law, the corruption, and the governments' responsibility for their own people. Moreover, Germany openly raised the delicate issue of the Report by the UN Joint Inspection Unit on UNCTAD and affirmed that it attached "great importance to the recommendations being implemented as soon as possible".

Similar observations were made also by Sweden and the United Kingdom, which called for transparency and accountability in the UNCTAD functioning.

Certain speeches reiterated that a gap developed between those economies that were able to keep growing despite the crisis, and the least developed countries, which became even more vulnerable, implicitly inferring that the developing countries should be consequently treated in different ways (e.g. the Hungarian and the Italian statements). For Hungary UNCTAD should focus primarily on the African countries ("targeted beneficiaries").

In this regard we observe a contrast with the remarks made by China, which considers itself a developing country despite its economic growth rate. It is known that this apparent contradiction is due to the discrepancy of wellness among its population and the extremely poor conditions of its rural areas, compared with the richer urban areas.

The Italian statement specifically referred to the role of UNCTAD, which "should not overlap with, and be consistent with the work of other UN organizations, the WTO, the World Bank, the IMF and the OECD, ensuring close cooperation with them". Italy also expressed its appreciation for the independent analysis of UNCTAD.

Also the Luxembourg's representative appreciated the independent contribution of UNCTAD in the field of research; moreover, referring to a study published by UNCTAD and the International Labour Organization (ILO), and financed by the EU, it highlighted that the trade liberalisation does not necessarily lead to job creation, thus

this problem should be discussed by the UNCTAD member states.¹⁸ It is interesting to notice that Luxembourg, thanks to its good economic performance, was able to dedicate more than 1% of its Gross National Income to the development aid, thus it urged the other developed countries to respect of international commitments in this field.

This examination of the national statements shows that the individual contributions of the EU member states to the General Debate barely coincide with the EU position paper; the analysis provides evidence of the reduced part of the EU within the UNCTAD framework, compared with the strongest role that it plays in the WTO where, in comparison, the member states assist the meeting but do not intervene: it is up to the European Commission's representatives to make the official statements. The lack of unity in the field of foreign policies of the EU member states is still evident.

The Chinese statement appears detailed, coherent and sharp; the insistence on the fact that China is still far from its development goal represent the theoretical basis on which the negotiation is then carried out by the Chinese representatives; with this point of view it seems more comparable to the German statement than to the interventions of the other member states.

6. Conclusions

After 50 years of UNCTAD, what lies in the background of the negotiations is the role of the international organizations established to improve the economic global governance.

The critics addressed to UNCTAD about its outcome and impact are not a novelty; a certain disappointment, maybe due to the high expectation about the UNCTAD's mandate and objectives, has been expressed since the early years of

¹⁸ Marion Jansen, Ralf Peters, José Manuel Salazar-Xirinachs, Trade and Employment - From Myths to Facts, Geneva 2011, available from < http://ilo.org/employment/areas/trade-and-employment/WCMS_162297/lang--en/index.htm>.

UNCTA.¹⁹ Although many countries consider this forum still important to counterbalance the power of the World Bank and the International Monetary Fund, its weakness suggests that maybe other ways should be found.

To this regard, it is very interesting to witness the recent agreement of the leaders of the BRICS countries to establish the New Development Bank, during the VI BRICS Summit that took place in Fortaleza (Brasil) in July 2014. The new organization, which will be located in Shanghai, will finance infrastructure projects in the BRICS countries and other emerging countries. The current weak multilateralism is facing a rising of regionalism: new forms of south-south cooperation are established. The emerging economies are becoming more and more important in the global financial system, and they demand a larger role in the international financial governance.

The role of China, the EU and its member states during the UNCTAD XIII, analysed above, allow us to draw four main conclusions. Firstly, China benefits enormously by joining forces with the G77, not only for the goals that it is able to achieve, but also for its image: it was greatly involved in the negotiations and it firmly kept its stance. Secondly, the EU behaves as a mediator within the UNCTAD framework, in line with its qualification as "normative power", but it does not have a primary role like in the WTO. Thirdly, the EU member states show low degree of coordination among themselves and they do not appear as a solid block. Within the United Nation system the persisting independence of the national foreign policy is evident. This attitude will not likely change in the current structure of the EU as a supranational organization; the only way to overcome this problem would be with the creation of a federation of states in Europe, this is not in the current perspectives. Finally, although the respective positions of China, of the EU and of its member states were very different, all of them wanted UNCTAD to continue its mission, unconditionally. In this regard, the US pressure for a severe expenditure review and the related proposals were isolated.

However, this common ground was clearly insufficient to lead to an EU-China coalition. The European fragmentation and the Chinese convenience to align with the developing countries let likely forecast that in the forthcoming UNCTAD XIV, which will

¹⁹ Sydney Dell, An appraisal of UNCTAD III, in World Development 1(5), 1973, 1-13, at 12.

be held in Lima in 2016, a similar scenario will take place. Considering the outcome of UNCTAD XIII and the compromises achieved, probably the UNCTAD's management will continue to be under examination, but it is unlikely that the financial crisis will remain one of the main issues at stake.