

The Geopoliticization of European Trade and Investment Policy

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Introduction

The academic debate about trade policy in the EU has been dominated of late by claims about the new politicization of trade. After many decades of insulation from domestic politics, trade policy has erupted into public discourse with the unprecedented mobilization against the Transatlantic Trade and Investment Partnership (TTIP) and Wallonia's coup in blocking the implementation of the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada. As a result, a body of academic scholarship has emerged that looks at the causes and implications of this politicization and variations across time and issue areas, as well as the nature of agreements and likely trends for future policies.

In this review contribution, we push back argue against this prevailing diagnosis on two counts. Firstly, internal politicization is nothing new. For decades trade agreements may not have had much public salience, nor played a role in creating political cleavages during electoral campaigns, but behind the scenes member states have been engaged in a hard political fight over competences and interests. Moreover, some salient and, arguably, successful public mobilization has happened before, notably in the late 1990s.

Second, it is our contention that, rather than simple politicization, the most important recent development has been the geopoliticization of trade and investment policy. Call it the China syndrome or the Trump effect, tariffs, retaliatory measures and counter-retaliation have featured prominently in the news in 2018, and the rhetoric of trade negotiations has given way to the language of economic battlefields and trade warfare. This geopoliticization of trade may pose a serious challenge to interdependence and multilateralism, which the EU has long safeguarded, but it is simply here to stay.

This diagnosis also has important implication for EU power *tout court*. Is the EU equipped institutionally and politically to respond to Trump's tit-for-tat threats and to resist attempts by China to divide and rule through targeted investments? By its very nature and its insistence on multilateralism, the EU may seem ill-equipped to thrive in this new world. But we argue that it is actually better positioned than common wisdom suggests and has become a major player in this geopoliticization game nonetheless. For the EU, the external politicization of trade is no longer about trying to change countries from within through trade power, as it tried to do in the previous two decades. Instead, it has become able to change the global balance of power through trade and to use economic statecraft to compete on a level playing field when the breakdown of multilateralism has fragmented the world into regions and rival powers. A series of policies adopted or discussed in the EU in 2018, ranging from concluding trade negotiations with Japan to

launching them with Australia and to creating a novel framework for screening foreign investment, suggest as much.

The rest of this contribution is organized as follows. The first section introduces and challenges recent research on the politicization of European trade policy by arguing that politics has always been at its core. Section Two briefly recalls how, in the past, the EU has imposed domestic political and social conditions to third countries in exchange for preferential single market access and shows how this ‘power through trade’– has waned in recent years. In Section Three we argue that trade has become geopoliticized of late and consider how the EU may fare in this context where regions deploy economic statecraft for geopolitical purposes. The last section focuses on the role played by Brexit in this new trade geopolitical strategy.

I. Politics in Trade: The New Politicization of Trade Policy?

Scholars of European integration have argued that the EU has become more politicized in the past decade, as evidenced by a growing polarization of opinions and public salience of policies (De Bruycker, 2017; De Wilde, 2011; Schimmelfennig *et al.*, 2015). Trade is no exception: the TTIP negotiations provoked unprecedented mobilization in several European countries, starting in Germany, followed by the politicization of the CETA negotiations between the EU and Canada (Bouza and Oleart, 2018; Chan and Crawford, 2017; De Bièvre and Poletti, 2017; De Ville and Siles-Brügge, 2017; Laursen and Roederer-Rynning, 2017; Magnette, 2017; Young, 2016, 2017). EU trade policy literature has been trying to unpack the causes and implications of this process (De Bièvre and Poletti, 2019; Eliasson and Huet, 2019; Garcia-Duran *et al.*, 2019; Laursen and Roederer-Rynning, 2017; Young, 2017).

We challenge this characterization of the growing politicization of trade in three ways. Firstly, the degree of politicization of EU trade policy differs across member states and agreements. While hundreds of thousands of activists marched on the streets of Berlin and Barcelona to denounce chlorinated chickens and the investor–state dispute settlement process in 2016, few protested in Finland, Greece or even France, though it was a hotbed of anti-globalization activism in the late 1990s. Moreover, for all the media coverage of anti-TTIP and CETA mobilization, little attention has been paid to other trade and investment negotiations that have taken place before, during and after these contentious agreements, such as the EU–Japan Economic Partnership Agreement signed in December 2017 and entered into force in February 2019; the EU–Singapore Agreement negotiated between 2010 and 2014; and the EU–Vietnam free trade agreement negotiated mostly in 2015, concurrently with the TTIP.

Secondly, some contemporary trade and investment deals may be politicized today but it is not the first time that European publics pay attention to a policy area that has by design been mostly insulated from domestic politics (Meunier and Czesana, Forthcoming). Anti-globalization trade protests started in the 1990s, notably with the nongovernmental organization mobilization against the multilateral agreement on investment negotiated under the auspices of the Organisation for Economic Co-operation and Development in 1998 and against the launch of the new round of multilateral trade talks in Seattle in 1999. In both cases, this public mobilization was followed by the failure of the multilateral negotiations (Hopewell, 2015; Kobrin, 1998; Tieleman, 2000).

Thirdly, trade has always been a political issue, even if this has not been visible to the wider public. In the EU, member states have been in conflict on two fronts. On one hand, national governments have bargained at the intergovernmental level over the scope and context of EU trade mandates such as the cultural exception (Meunier, 2005). On the other hand, member states have fought back against the gradual transfer of trade and investment competences to the supranational level (Meunier, 2017; Meunier and Nicolaïdis, 1999). This inter-institutional politicization is more visible today because of the new role acquired by the European Parliament in making trade policy through the 2009 Lisbon Treaty (Meissner and Rosen, 2019; Rosen, 2017).

Thus, reports of the new politicization of trade policy in the EU may be overblown. Technology and recent institutional changes have certainly brought about more transparency in trade policy, making it easier to follow – and contest. But trade has always been politicized, as this policy area is fundamentally about altering the prevailing distribution of costs and benefits among individuals, among economic sectors and among countries.

II. Politics through Trade: The Waning of Conditionality

In addition to the politicization of trade inside Europe, the EU has also politicized trade during the post-cold war era by using it as a tool of foreign policy – what we have called ‘power through trade’ (Meunier and Nicolaïdis, 2006). While trade became a means to transform the nature of the EU’s partners, this form of power through trade has been waning in recent years.

Trade is the core instrument of the EU’s civilian power and, therefore, of its political influence on the rest of the world (Damro, 2012; Meunier and Nicolaïdis, 2017; Moravcsik, 2017). The EU has long been a formidable trade negotiator because of the sheer size of the European single market, which can be used as a reward or as a threat to the outside world both for the possibilities it offers and from fear of being excluded. This market power has enabled the EU to expand its own regulatory practices to the rest of the world and therefore impose its values and politics, forged through its own internal compromises (Bradford, 2012; Egan and Nicolaidis, 2001; Newman and Posner, 2011; Young, 2015). Beyond what the World Trade Organization (WTO) calls product standards, the EU has leveraged its trade power to try to enforce changes in the domestic arena of its trading partners (akin to process standards writ large) throughout the 1990s and 2000s by generalizing the practice of linking access to the ever-expanding EU market to human rights, to labour and environmental standards, to development policies and to stands against the death penalty (Hafner-Burton, 2009; Smith, 1998).

While this political linkage has been a feature of EU trade agreements for the last three decades (albeit an unforced one), Article 207 of the 2009 Lisbon Treaty enshrined it into law by assigning for the first time non-commercial objectives to the common commercial policy, which ‘shall be conducted in the context of the principles and objectives of the Union’s external action’ (European Union, 2009). As per Article 21 of the Treaty on European Union, these include, among others, the consolidation and support of democracy, the rule of law, and human rights, as well as efforts to improve the environment and promote multilateral cooperation (European Union, 2016).

This transnational politicization of trade, however, has been challenged by recent external and internal developments. Externally, the growth of emerging economies, notably

China, has provided the EU with new markets but also enhanced competition. Economically, the relative trade power of the EU has diminished as that of others has risen. Politically, alternative options are now available to the trading partners that used to be at the receiving end of EU trade conditionality and that interpreted it as neo-colonialism: they can afford to be less acquiescent to EU requests for changes to their domestic politics now that China is willing to provide trade and investment without political conditions attached – notably for countries that fall in the path of the Chinese Belt and Road Initiative. Local actors that accumulate unsustainable debt are starting to realize that conditionality is not only a constraint but may be a warrant of quality, but the shifts that may follow are still ahead of us.

Internally, the EU has suffered from a series of crises that have weakened its ability to give political lessons to the rest of the world. During the euro crisis, the EU forced austerity on its southern members even as they had been hit the hardest by the crisis. As seen from the rest of the world, is that an attractive, righteous EU? Moreover, the erosion of the rule of law in some member states, which continued to deepen in 2018, and more generally, increasing regime heterogeneity in the EU have weakened both member states' demands for good governance conditionality and the credibility of the EU externally, as accusation of double standards fly (Meunier and Vachudova, 2018). How can the EU tell its trade partners to respect the independence of the judiciary, for instance in light of Polish or Hungarian backsliding? And to top it all, the 2016 Brexit vote has showcased to the world the dramatic contestation from within of the European project – contestation that has expanded far beyond Britain, as the 2019 European parliamentary elections have attested. In short, in light of the Chinese trade and investment offensive, other countries have started to question the EU's position: 'do what I say, not what I do', especially as its own swerve towards greater illiberalism has further eroded its normative power.

III. The Geopoliticization of European Trade and Investment Policy

In 2018 the news was full of talk of trade warfare and strategic investment. Relative, rather than absolute, gains seemed to be the order of the day, as the American and Chinese governments engaged in a trade war that may be costly to the multilateral system but is also about enforcing the rules of this system (for example, procurement and intellectual property). In this context, trade and investment policies are becoming essential tools of geopolitics, partly as a result of the electoral success of populists in many advanced democracies advocating 'taking back control' and partly as a result of the growth of the Chinese economy under state management. We call this the geopoliticization of trade. While the EU may seem institutionally and politically ill-equipped to thrive in this new world of trade relations, we argue that it has already become a major player in this geopoliticization game.

From a hegemonic post-cold war world dominated by the USA, the world seems to be fragmenting into large regions, or at least spheres of influence, which determine alliances and rivalries that either emanate from economic competition or spill over from security concerns. Unlike in military power, where the USA may still reign supreme, when it comes to trade and investment patterns of codependence and structural rivalry are still in flux among three zones roughly equivalent in size – the USA, the EU and China. In other words, in a world of economically based geopolitical rivalry the EU is an equal

player. The question continues to be how it exercises its trade power, no longer to change domestic politics but to affect global politics.

The term, geopoliticization of trade, could be deemed a tautology. After all, if geopolitics is global politics as influenced by geographical factors, we know from gravity models that trade patterns tend to be heavily influenced by geography. In this sense, trade is necessarily a component of global geopolitical configuration at a given point in time. Here, however, we use the idea of geopoliticization in a strategic sense, to characterize the external face of economic statecraft whereby trade policies come to be embedded in power rivalries. This is a policy space where geo-economics is both a product and a tool of security policies. In this sense, geopoliticization can designate the discursive construction of an issue as a geopolitical problem (Cadier, 2019), whereby policy instruments come to be used to win over allies, overcome foes and restructure the global balance of power.

Arguably, China, with its state management of the economy, has weaponized trade and investment strategies as instruments of geopolitics for a long time (Wong, 2019). Chinese efforts to deploy various tools of economic statecraft at the service of security goals have accelerated in the last decade. These include, among others; unfair trade practices, such as dumping and subsidies; the 'going out' strategy enjoining Chinese firms to invest abroad; an opaque review regime for inward foreign investments and obligations for foreign firms to partner with local firms, leading to forced transfers of know-how and technology; the signature of the Belt and Road Initiative, which may lead to debt traps; infrastructure investment in developing economies, notably through the Asian Infrastructure Investment Bank; industrial policy, most recently through the 'Made in China 2025' programme; and currency manipulation. Views in the West differ widely as to whether China should now be considered a foe. But most agree that it is at least a non-allied superpower with ambitious geopolitical goals that could put it at odds with at least some European countries that are wary of China's ultimate economic motives, including dual-use technology and strategic leverage. As a result, the EU is no longer earnestly trying to use its trade power to affect change within China, such as to improve the latter's human rights. Instead, its geopolitical goals focus on affecting the incentives China faces in remaining a responsible stakeholder in the multilateral trading system.

In 2018 the EU has also started to be concerned in earnest by the US administration's retreat from multilateralism and use of economic statecraft, including through the imposition of protectionist tariffs (for example, on steel and washing machines), tightened foreign direct investment review and the renegotiation of bilateral or regional agreements on a tit for tat basis. The concern is especially warranted if the EU interprets the election of Donald Trump not as a cause of these developments but as a symptom of the wider trend: 'My country first'. The President's very first action was to withdraw the USA from the Trans-Pacific Partnership (TPP), followed by more than a hundred threats to withdraw from the WTO. These developments are not only the result of the President's transactional and zero-sum vision of the world. Many in the USA – even beyond Trump's base – believe that their country has been duped by the promises of multilateralism, a perception that is bound to persist, and that it ought to fight back with whatever instruments at its disposal.

As trade wars became a fixture of the global landscape in 2018, Europeans have had to confront the question: what can we do to preserve multilateralism while addressing some

of the underlying geopolitical issues, such as the national security and the economic implications of China catching up; and of the challenges by the USA to long-standing alliances and commitments? In the recent past, the EU would have sided with the USA and tried to balance China through the use of multilateral instruments. By 2018, however, facing a US president who has branded the EU as the ‘greatest foe’ (sic) of the USA, and two strongmen, Trump and Xi Jin Ping, neither of whom is ready to yield first (Wolf, 2019), the EU was looking after for itself and secondarily for the multilateral system.

One tool in the EU’s geopolitical arsenal is to forge trade alliances that discriminate against non-members. To this end, the EU has accelerated the negotiation of trade agreements with a variety of partners in recent years. CETA has been provisionally applied since 2017. The EU has been active to secure partnerships in the Association of South-East Asian Nations region: it has signed trade and investment agreements with Singapore and Vietnam (neither of which have been ratified at the time of writing), has continued negotiations with Mexico and the Southern Common Market, MERCOSUR, and launched serious negotiations with Australia and New Zealand.

A telling example of this shift towards the geopoliticization of trade lies in the EU–Japan agreement. While these negotiations had lasted for many years (Ponjaert, 2015), they were suddenly concluded in 2018 and implemented in February 2019, while the issues that had hampered their conclusion were still clearly present. There is little doubt that both the EU and Japan saw this agreement as a geopolitical move following Trump’s defection from the TPP, a project in which Japan had invested much hope and resources in its balancing strategy towards China. While Japan continues to hope that this is only a blip before Trump loses power, the US defection served as a catalyst for the agreement, trumping domestic consideration on both sides. The EU was clearly all too willing to oblige, given its own woes inflicted by the Trump administration. Hence the demise of the TPP ushered in a formal agreement in 2017 and significant concessions from both sides during the final legal clean up in 2018 to ensure the agreement passed. This would be the EU’s Pacific trump card.

Most importantly, in this atmosphere of geopolitical urgency, Japan insisted on and obtained an agreement that the linkage between the two strategic and trade agreements be broken. In other words, political agreements over issues such as labour rights and the environment ceased to be formally linked to trade relations. It is important to note also that for the first time, Japan accepted the inclusion of mutual recognition in its agreements: Europe obtained phytosanitary mutual recognition and geographical appellations that in the end are in Japan’s interest too – perhaps as the price to pay for this geopolitical prize.

Another novel tool of trade geopolitics for Europe involves inward foreign direct investment. In February 2019 the EU introduced a mechanism to scrutinize, and in some cases, reject incoming foreign direct investments deemed dangerous to national security and critical European interests through the adoption of the ‘Framework for the Screening of Direct Investments into the Union’ (European Union, 2019). This new European policy will facilitate the sharing of information on planned non-EU investment in critical technology and infrastructure (such as electric batteries and ports). It will allow any member state, and in some cases the Commission, to voice concerns about a proposed investment. Ultimately, however, the host country of foreign investment will make its own screening decision (Meunier, 2019). Though this new policy does not enable the EU to screen and

block inward investment on its own, equally it does not force individual countries to screen at the national level (currently only 14 out of the 28 member states have some national screening legislation in place). It is a first step towards reining in investment with geostrategic motives – above all from China. Specific details of the new policy will be filled in during the implementation phase throughout 2019 and 2020.

Indeed, the new investment screening framework is included in the broader recent EU's Chinese strategy, a comprehensive 10-point action plan designed to improve reciprocity with China, labelled as a 'systemic rival', and to end European 'naivete' (European Commission, 2019). In addition to foreign direct investment, the strategy proposes new rules for European public procurement and industrial policies (which would enable the EU to create European giants able to compete with China's state-owned enterprises) This strategy also involves the negotiation of a comprehensive agreement on investment with China. These policies are all designed to restore a level playing field and force reciprocity, but they are highly controversial both inside and outside the EU and are likely to prompt some political and ideological fights in Europe in the coming years.

By the end of 2018, the EU's foray into the geopolitics of trade continued to be mitigated. For a start, it is less visible than that of its mega-rivals, China and the USA, and tends to be broadly reactive. Moreover, the EU is still, at least rhetorically, committed to safeguarding the multilateral system, in spite of the decline of the WTO's ability to deliver negotiated trade liberalization (De Bièvre and Poletti, 2017). Squaring the circle would mean for instance, convincing the Trump administration to frame its trade weapons as a means of enforcing existing multilateral rules. It could also mean imagining new multilateral mechanisms within which geopolitical considerations could be embedded and tamed – such as the creation of a multilateral investment court. In the meantime however, the EU's strategic acumen is being tested in its own patch.

IV. Brexit as a Test of the Geopoliticization Argument

While at the time of writing no-one knows whether the results of the 2018 negotiations over a withdrawal agreement will ever be implemented, the first phase of the Brexit negotiations forms a key part of our argument. For it can be argued that these negotiations provide the ultimate test for the emergence of this new geopoliticization of trade and the use of economic statecraft by the EU in dealing with the rest of the world. If the UK actually leaves with a so-called clean break, the EU will be amputated from one of its largest limbs (the fifth largest economy in the world) and will therefore have less leverage vis-à-vis third countries. Nevertheless, can the EU turn Brexit into a geopolitical advantage or at least minimize its geopolitical costs?

Two implicit geostrategic visions clash in the Brexit negotiations. On one hand, the EU – or at least, the Commission and some member states led by France – is determined to only put on offer a deal that makes visible the strategic value of EU membership. This in practice means that the EU has been ready to maintain a tough line on trade – willing to grant the UK a 'third country status' with few added privileges. On the other hand, the UK government has tried to promote the idea that the UK should remain a central strategic partner for the EU, which in practice means that the trade negotiations and the broader security relationship between the two sides cannot be delinked.

With hindsight, there is little doubt that ideological Brexiteers entered these negotiations with deeply flawed assumptions about the nature of trade deals with the EU, assumptions that were only partially corrected by the technocrats who conducted them. Above all, they held the misguided belief that agreeing to tariff-free trade between the EU and the UK (but with no other member of the WTO) was possible in the absence of an agreement that covers ‘substantially all trade’ (Article 24 of the General Agreement on Tariffs and Trade), while avoiding ‘rules of origin’ checks if its import from the rest of the world were to fall under an autonomous trade policy. Moreover, they had little sense of the core ecosystem of the EU single market predicated on the elimination of non-tariff barriers – safety standards, technical specifications and so on – as if these non-trade barriers were imposed by other countries and were easy to set aside, rather than being a simple product of regulatory differences. More generally, they failed to grasp the fact that the EU club is governed by a sense of diffuse reciprocity – the expectation that each country will gain over time, across issues and across trading partners. In such a world, little can be achieved unilaterally or bilaterally.

Nevertheless, the EU, too, has been found lacking until now in its approach to future EU–UK trade relations (Brexit 2.0). Arguably, as a country that has forged the managed mutual recognition regime that characterized the single market, and as a country whose sociopolitical constraints would preclude a deregulatory race to the bottom, the UK is best placed for a truly ambitious trade deal with the EU (Nicolaidis, 2018). Indeed, if we understand Brexit as a grand exercise in a translation between internal and external trade law, it would be strange for the EU to insist on trade deliberalization with the UK while continuing to present itself as the guardian of multilateral trade liberalization. Witness already the great concern prevalent in third countries with the prospect of having to choose between the EU and the UK when it comes to negotiating or renegotiating trade deals.

In short, both sides can be seen to be misguided: the EU for its strategic myopia, or the assumption that a bad outcome on the trade side would not hinder the broader strategic (both regional and bilateral) relation. And the UK for its strategic wishful thinking, epitomized by its alleged ‘cakism’ (having your cake and eating it), or the misconception that the EU would be ready to budge on its demands for a special relationship. Instead, a geostrategic vision of Brexit does require the conceptualization of a new and unique relationship between the EU and the UK, acknowledging the reality of a state which will become the first former EU member state (Nicolaidis, 2019). Time will show whether and how such a strategic understanding of the Brexit challenge comes to prevail in European capitals.

Conclusion

The geopoliticization of trade seems to be here to stay. At first sight, the EU may appear to be at a competitive disadvantage in a world where the management of trade and investment has become an instrument for competition among big powers rather than a force for moderation. We have argued, however, that the EU has started to adapt to this brave new world in order to maintain its power through trade. Nevertheless, the greatest danger for Europe in the longer term could reside within rather than outside its borders; namely, the risk of ideological contagion as its electoral base becomes receptive to the Trumpian

argument that multilateralism has been a fool's bargain and should be abandoned. The challenge for the EU in the next few years will be to reconcile the rising geopoliticization of trade with its continued management under multilateral institutions.

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