

EU in Global Affairs: Constrained Ambition in an Unpredictable World?

Sebastian SANTANDER^{*} & Antonios VLASSIS^{**}

The European Union (EU) has a number of different powers in its toolbox. One of these policies lies at the core of the EU's external competences – the common commercial policy (CCP) or common trade policy. This enables the EU to 'speak as one voice' in multilateral bodies and with third parties. The CCP, which has become stronger over the years, has developed into one of the bloc's key international projection levers. However, the EU's place and role in globalization are today being shaken chiefly by three major political factors: the rise of new powers, the United States (US)' neo-mercantilist policies, and political divisions within the EU. Together, these three external and internal factors may be hastening a crisis for the EU. This raises the question: to what extent can the bloc influence its own destiny during this stormy period?

Keywords: European union, international actor, common commercial policy, global trade, internal divisions, neomercantilism, diffusion of power

1 INTRODUCTION

Recent decades have seen multiple upheavals and changes in the structures of the global order. The bipolar world's collapse for a while resulted in a unipolar world, now replaced by an increasingly multipolar order. Worldwide there has been a speeding up of the spread of power, as well as of the globalization that exacerbates international competition. Given these changes, international players – including the European Union (EU) – are seeking to find their marks. The EU has a number of different powers in its toolbox. Its international field of action ranges from addressing environmental issues to civil crisis management, humanitarian action and development assistance. Moreover the bloc has strategies to ensure its presence in multilateral (World Trade Organization) organizations or fora (G20¹

^{*} Full professor in political science/international relations, Director of the *Center for International Relations Studies* (CEFIR) and Chair of the Political Science Department at the University of Liège (Belgium). Email: sebastian.santander@uliege.be.

^{**} Senior Researcher at the *Center for International Relations Studies* (CEFIR) and Lecturer at the Political Science Department of the University of Liege. Email: avlassis@uliege.be.

¹ International forum comprising the governments and central banks of nineteen countries (South Africa, Germany, Saudi Arabia, Argentina, Australia, Brazil, Canada, China, South Korea, United States, France, India, Indonesia, Italy, Japan, Mexico, United Kingdom, Russia, Turkey) and the EU,

or G7²) as a member or observer (United Nations Organization),³ and to develop a deep network of relations with regional organizations plus developing countries and major powers.⁴ One of these policies lies at the core of the EU's external competences – the common commercial policy (CCP) or common trade policy. This enables the EU to 'speak as one voice' in multilateral bodies and with third parties. The CCP, which has become stronger over the years, has developed into one of the bloc's key international projection levers.

However, the EU's place and role in globalization are today being shaken chiefly by three major political factors: the rise of new powers, the United States (US)' neo-mercantilist policies, and political divisions within the EU. Together, these three external and internal factors may be hastening a crisis for the EU.⁵ A crisis here can be understood in the Chinese sense of the term, where uncertain periods are seen as opportunities to reconsider the future in a different way. This raises the question: to what extent can the bloc influence its own destiny during this stormy period?

With the above in mind, this article has chosen to focus mainly on the actions undertaken by the EU in commercial policy. Initially, it will look at the springs of the EU's commercial policy in terms of external influence. Secondly, it will assess the avenues taken by the bloc to forge its own place in globalization. The last part of the article will analyse the three factors (diffusion of power, trade war, centrifugal forces) that are undermining the EU's commercial strength. A further aim of this article is to highlight the EU's responses to the potential risks of seeing its place and influence changed on the international stage. The conclusion includes an assessment of the EU's future as a commercial power in the current European and international contexts.

2 EU TRADE POLICY AS A LEVER OF GLOBAL INFLUENCE

The EU is an economic, institutional and political entity *sui generis* based on the voluntary membership of its States. Over the last thirty years, the bloc's construction has seen many different pitfalls and crises (political, financial,

and representing 85% of global GDP, 2/3 of the world's population, 75% of global trade, 80% of global investment and 92% of global expenditure on R&D.

² The group includes Germany, Canada, United States, France, Italy, Japan and the United Kingdom. The EU has been associated with the G7's work since 1977. This group represents 40% of global GDP and 10% of the world's population.

³ H. Ojanen, *The EU's Power in Inter-Organisational Relations* 231 (London, Palgrave Macmillan 2018).

⁴ S. Santander, *L'Union européenne, l'interrégionalisme et les puissances émergentes: le cas du partenariat 'euro-brésilien'*, 39 *Politique européenne* 106–135 (2013).

⁵ I. T. Berend, *The Contemporary Crisis of the European Union: Prospects for the Future* 170 (London, Routledge 2017).

economic, security or migration).⁶ Yet oddly, this is the period when it has enjoyed the biggest expansion and deepening in its history. The treaties of Maastricht (1992), Amsterdam (1997), Nice (2000) and Lisbon (2009) each contributed to building today's EU and further enlarging its competencies, thus enabling the bloc to increasingly assert itself as an actor on the global stage.

The EU's tools allow it to take action in the fields of security and defence, to play a role in international trade, development and humanitarian areas, and to foster close links with other actors that are geographically close or far away, such as through the bloc's enlargement and neighbourhood policies or its diplomatic relations. Furthermore, several of the EU's internal policies include an external part (euro, environment, single market, and visas). In short, the EU today boasts a wide range of policies covering the key challenges of current international action.⁷

These assets enable the bloc to play a role globally, but its actions do not all have the same impact in every area of foreign policy. Although some of the EU's policies struggle to make an impact, others allow the EU to project itself as an international power, as underlined by the CCP.⁸ This policy can be found in almost all of the EU's external policies and it is part of the bloc's exclusive competencies – thanks to which the bloc can participate in international trade talks, on behalf of its Member States. As a result of its weight in the international economy (15% of global trade and the biggest exporter of agricultural goods, manufactured goods and services) – plus its capacity to speak with one voice and to act in a united fashion in this area – the EU is recognized by the rest of the world as a leading trade power. All this in spite of the increasingly decentralized power of the global political economy due to the rise of (re) emerging powers and the new trade agenda of the US under Donald Trump (see below).

⁶ *Europe's Crises* 476 (M. Castells et al. eds, Polity Pres, 2017).

⁷ Cf. C. Bretherton & J. Vogler, *The European Union as a Global Actor* 273 (Routledge 2006); F. Petiteville, *La politique internationale de l'Union européenne* 280 (Paris, Les Presses Sciences Po 2006); M. Telò & F. Ponjaert, *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?* 248 (Ashgate 2013); *La Unión Europea en las Relaciones Internacionales* 443 (E. Barbé ed., Madrid, Tecnos 2014); S. Keukeleire & T. Delreux, *The Foreign Policy of the European Union* 408 (New York, Palgrave Macmillan 2014); M. Smit, S. Keukeleire & S. Vanhoonaker, *The Diplomatic System of the European Union* 310 (Routledge 2016).

⁸ J. Orbie, *The European Union's Role in World Trade: Harnessing Globalisation?*, in *Europe's Global Role* 35–66 (J. Orbie ed., Ashgate 2008); P. A. Messerlin & P. Boulanger, *La politique commerciale*, in *L'Union européenne* 289–300 (R. Dehousse ed., La documentation française 2014); S. Meunier & K. Nicolaïdis, *The European Union as a Trade Power*, in *International Relations and the European Union* 209–234 (C. Hill, M. Smith & S. Vanhoonaker eds, 3d ed., Oxford, Oxford University Press 2017).

3 EU AT THE FOREFRONT OF GLOBALIZATION

3.1 THE MULTILATERAL WAY

Aware of the strong attraction of its single market on outside actors, the EU makes full use of this in its relations with the rest of the world. The European Commission, as the body in charge of the CCP, negotiates access to the EU's single market in exchange for the protection of intellectual property, access to public procurement, liberalization of investments and services, legal security for European companies as well as the acceptance of its industrial and trade standards.⁹ To that end, the EU has no hesitation in pursuing a dual-track strategy or in using two main paths: the multilateral path and the bilateral/interregional one.

Firstly, any investment in developing global interdependence depends on one's commitment to trade multilateralism. Clearly, since the setting up of the World Trade Organization (WTO, 1995), the EU's trade policy has become proactive regarding trade multilateralism. The EU's institutions identify themselves with multilateralism to the extent that they view this as a set of peaceful mechanisms for managing and monitoring international affairs as well as for safeguarding against unilateral temptations. The EU and its Member States consider multilateralism as the main way to frame globalization and thus as a means for boosting their international influence. This explains why the bloc seeks to play key roles in the development and legitimization of multilateral economic institutions such as the WTO.

Therefore, the EU today increasingly opts for multilateral negotiations at the WTO, with a view to creating common standards in e-commerce. These negotiations – which place the WTO at the heart of international rule-making for a form of trade that has grown exponentially over the last two decades – started in late January 2019, including the EU and forty-eight other members of the organization. Moreover the EU has emerged as the main international driving force for establishing a multilateral investment tribunal. This judicial system would be tasked with resolving disputes under future and existing investment treaties. Likewise, the EU is charting the multilateral path to reform of international tax rules. This reform would be tailored to the realities of the digital economy, in order to establish a closer link between how value is created and where it is taxed. Here the EU supports the Organization for Economic Co-operation and Development

⁹ L. Cohen-Tanugi, *The European Union's International Normative Influence: A Constrained Ambition?*, Ifri 56 (2002); Z. Laidi, *Norm Over Force. The Enigma of European Power* 179 (Palgrave Macmillan 2008); B. Hettne & F. Söderbaum, *Civilian Power or Soft Imperialism? EU as a Global Actor and the Role of Interregionalism*, 10(4) Eur. Foreign Aff. Rev. 535–552 (2005); s. Santander, *Le régionalisme sud-américain, l'Union européenne et les États-Unis* 280 (Éditions de l'Université de Bruxelles 2008).

(OECD) as an international institution capable of hosting a legal instrument to regulate digital globalization.¹⁰

3.2 BILATERAL AND INTERREGIONAL CHANNELS

The EU also involves itself in world trade through other channels. The gradual exhaustion of the WTO's multilateral negotiating model¹¹ has encouraged leading commercial powers like the EU to focus their trade policy priorities at other levels,¹² without necessarily abandoning multilateralism completely.¹³ While striving to make as few agricultural concessions as possible, the EU thus seeks to impose its ambitious agenda through multiple agreements that it signs with countries or regional groups in the Western Balkans, Eastern Europe, Latin America, Asia, and the African, Caribbean and Pacific (ACP) nations. From 2008 to 2019, the EU therefore concluded a series of major bilateral or interregional preferential trade agreements, notably with the Caribbean Forum of African, Caribbean and Pacific States (CARIFORUM)¹⁴ (2008), South Korea (2010), Central American countries¹⁵ (2012), Colombia, Ecuador and Peru (2014), Canada (2016), the Southern African Development Community (2016),¹⁶ Japan (2017), Singapore (2018) and Vietnam (2019).

Recently and notably in the aftermath of the uncertainties affecting the WTO and world trade as well as the twin threats posed by Brexit and the US' neo-mercantilist policy towards European cohesion (see below), the EU has committed to speed up the upgrading of its trade alliances and to further diversify its trade agreements. This is true for its relations with governments in Asia as well as

¹⁰ A. Vlassis, *Partenariats transrégionaux, technologies numériques et culture: de la convergence numérique aux divergences normatives*, in *Génération TAFTA. Les nouveaux partenariats de la mondialisation* 211–223 (C Deblock & J. Lebullenger, PUR 2018).

¹¹ S. Woolcock *European Union Economic Diplomacy the Role of the EU in External Economic Relations* 220 (Routledge 2012); F. Petiteville, *Les négociations multilatérales à l'OMC: l'épuisement d'un modèle*, in *Négociations internationales* 345–371 (F. Petiteville & D. Placidi-Frot eds, Presses de Sciences Po 2013); D. Colgan, D. Jeff & R. O. Keohane, *The Liberal Order Is Rugged*, *Foreign Aff.* 36–45 (May/June 2017).

¹² T. Renard, *Partnerships for Effective Multilateralism? Assessing the Compatibility Between EU Bilateralism, (Inter-)Regionalism and Multilateralism*, 29(1) *Cambridge Rev. Int'l Aff.* 18–35 (2015); M. Telò, *L'Union européenne face à la multiplication des interconnexions commerciales interrégionales et à leurs implications politiques*, in Deblock & Lebullenger, *supra* n. 10, at 37–54.

¹³ European Commission, *A Global Actor in Search of a Strategy: European Union Foreign Policy Between Multilateralism and Bilateralism*, Directorate-Gen. Res. & Innovation 63 (2014); R. Bendini, *The Future of the EU Trade Policy*, European Parliament PE 549.054, 28 (July 2015).

¹⁴ Group bringing together fifteen Caribbean countries: the CARICOM countries and Dominican Republic.

¹⁵ Costa Rica, Guatemala, Honduras, Nicaragua, Salvador.

¹⁶ The Southern African Development Community comprises Botswana, Lesotho, Mozambique, Namibia, South Africa and Eswatini (formerly Swaziland).

Oceania and Latin America. For instance, in 2018 European negotiators started commercial talks with Australia and New Zealand with the goal of further reducing the existing customs barriers and optimizing access to those countries' services and public procurement. From a European standpoint, these trade agreements should above all promote sectors like automotive equipment, machines, chemical products, food industry and services. However, the EU also has interests that it wants to defend and protect. Hence the mandates for negotiation given to the European Commission aim to provide full protection for EU agriculture from Australian and New Zealand competition. The Commission also has a mandate to negotiate with these two countries on relational frameworks based on the strictest standards for the protection of workers, security, the environment and consumer protection.¹⁷

Since 2016, the EU has been busy negotiating with countries in South-East Asia, in order to complete a Comprehensive Economic Partnership Agreement (CEPA) with Indonesia. The objective is to facilitate and generate new opportunities for market access. European negotiators are pushing for a whole range of standards to be adopted with regard to health and plant health measures as well as for rules of origin and investment.¹⁸

European authorities are making the most of Latin America's greater openness to economic and trade liberalism since 2015, by working on new trade discussions.¹⁹ The EU has launched new rounds of negotiations with the aim of modernizing this trade pillar of the association agreements that the bloc has had with Chile and Mexico²⁰ since 2005 and 2000 respectively. With Chile, the EU wants to extend the agreement to cover aspects of trade and investment that the EU negotiators consider 'important' for the interests of Europeans. This would cover specific provisions on investment, non-tariff barriers, intellectual property protection, safeguarding certain European geographical indications or contributing to sustainable development.²¹ For the negotiations with Mexico, European authorities are eager to remove a series of non-tariff barriers (Mexican restrictions on

¹⁷ Council of the EU, *Trade with Australia and New Zealand: Negotiating Directives Made Public*, Council of the European Union (25 June 2018), <https://www.consilium.europa.eu/en/press/press-releases/2018/06/25/trade-with-australia-and-new-zealand-negotiating-directives-made-public/> (accessed 20 June 2019).

¹⁸ Council of the EU, *EU-Indonesia Free Trade Agreement: Negotiations to Start*, Council of the European Union (18 July 2016), <https://www.consilium.europa.eu/en/press/press-releases/2016/07/18/eu-indonesia-free-trade-agreement/> (accessed 20 June 2019).

¹⁹ S. Santander, *Latinoamérica y la Unión Europea. Sus vínculos para un nuevo despertar*, 19(1) Foreign Aff. Latinoamérica 59–66 (2019).

²⁰ In contrast with most Latin American countries, Mexico elected (2018) a centre-left president, although it seems unlikely this will affect negotiations with the EU.

²¹ European Commission, *EU-Chile Trade Talks: Commission Releases Its Proposals and Reports About Progress*, European Commission (6 Feb. 2018), <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1793> (accessed 20 June 2019).

European food products or problems linked to the protection of intellectual property in Mexico) as well as to get tariffs lowered on agricultural products, protection of geographical indications (food specialities and drinks typical of certain regions in the EU), plus opening new markets in the fields of services and public procurement, and protecting European investments.²²

Given the trade war that is being driven by the US' neo-mercantilist policy under Trump, the Juncker Commission aimed to prioritize trade talks with Mercosur. For that purpose, the EU authorities sought to take advantage of the 'rightwards shift' of Mercosur countries,²³ a shift that has led to the election of pro-business governments with corporate projects that are market-oriented and favourable for policies of economic openness and structural adjustment. The Juncker Commission's determination to conclude a trade agreement with Mercosur paid off, as this was concluded in June 2019. This was a real feat for the European Commission, not least because the EU and Mercosur negotiated this agreement for twenty years exactly. For the Commission, this achievement will only be fully realized on the day when the agreement is ratified, which is unlikely to be easy (see below). However, once it comes into force, this agreement will create a free-trade area of 770 million citizen-consumers, with a GDP of over USD 20,000 billion. In doing so, the EU has succeeded in projecting itself as the spearhead of global free trade, while securing a place in Latin America's largest market against Chinese and US competitors. However this agreement comes with quotas: some South American products that are considered too competitive will be taxed from a certain threshold (beef, poultry, and sugar). It will also provide for a system of phasing out tariffs on exports of EU food and drink, so it covers issues as varied as agricultural goods, manufactured products (automotive industry), direct foreign investment, liberalization of services, rules on protecting investment and services, public procurement, geographical indications for agricultural products as well as intellectual property rights.²⁴

As shown by the content of these tricky talks, the strategic challenge for the EU is more linked to non-tariff issues than the tariff ones. The aim then is to get the third parties to accept the EU's preferences on trade and industrial standards. This strategy for disseminating international standards that regulate the European market must enable the bloc to better position itself in the power play of the international political economy and competition that pits the EU against the

²² European Commission: *New EU-Mexico Agreement. The Agreement in Principle*, European Commission 18 p (23 Apr. 2018).

²³ Mercosur includes Argentina, Brazil, Paraguay and Uruguay. Venezuela is the fifth member of Mercosur. However, it was suspended from the bloc in 2017. The country has also never been part of the trade negotiations between the EU and Mercosur.

²⁴ European Commission, *Key Elements of the EU-Mercosur Trade Agreement*, European Commission (28 June 2019).

world's major powers. So the spearhead role played by the EU and its Member States, through the European Commission, in developing global competition and its regulation helps to promote liberal economic policies that govern the European single market. Moreover this role seeks to legitimize the need to integrate all the world's nations into the global market. This initiative closely matches the announced objectives of the European treaties, which view European trade policy as a lever for developing world trade (see Article 206, TFEU). Furthermore, European Commission communications in 2010²⁵ and 2015,²⁶ the 'new generation' agreements²⁷ it is negotiating, as well as the 'Trade Package' announced by the Commission in September 2017,²⁸ aim to boost the promotion of the EU's trade agenda internationally and to strengthen its power in world trade.

Finally, it is worth noting here two points related to the implications of Brexit in the CCP and in the EU role at the forefront of the globalization: first, as an independent trade policy actor, the United Kingdom (UK) should negotiate the terms and concessions of the trade agreements already concluded by the EU. The UK does not have the EU's attractiveness in terms of economic size and of consumer buying power. In that sense, this process will be slow-moving, long-time spending and hesitant depending on the UK negotiating influence and the willingness and trade agenda of other countries. Second, the common wisdom is that the loss of the free-trader UK will push the EU in a somewhat less liberal policy direction. Taking into account that the UK represents 16% of the Gross Domestic Product of the EU, Brexit could have an implication in the EU international negotiating leverage. However, since 2016, the Brexit impact on the trade discourse and practice of the EU has the opposite effect.²⁹ The Brexit, seen as an isolationist practice, has represented the need for the European trade policymakers to become passionate political entrepreneurs promoting both EU economic attractiveness and free trade based on reciprocity, principle of predictability and loyalty to mutual rules. As stressed by Cecilia Malmström the former trade Commissioner, 'we made clear where we stand – progressive, open, global traders. Responsible traders. Since flying that flag, countries are lining up with us, and our trade agenda has never been busier'.³⁰ In this view, Brexit

²⁵ European Commission, *Trade, Growth and World Affairs. Trade Policy as a Core Component of the EU's 2020 Strategy*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Brussels COM(2010) 612 final (2010), 22 p.

²⁶ European Commission: *Trade for All. Towards a More Responsible Trade and Investment Policy*, European Union, 40 p (2015).

²⁷ Agreements aimed at lowering the tariff and non-tariff barriers.

²⁸ European Commission, *State of the EU 2017 – Trade Package*, European Union (14 Sept. 2017).

²⁹ F. De Ville & G. Siles-Brügge, *The Impact of Brexit on EU Trade Policy*, 7(3) Pol. & Governance 7–18 (2019).

³⁰ C. Malmström, *Transforming Trade* (Humboldt University, Berlin 15 Oct. 2018), https://trade.ec.europa.eu/doclib/docs/2018/october/tradoc_157443.pdf (accessed 8 Nov. 2019).

has so far strengthened the EU's determination to deploy an ambitious foreign trade policy, in the recent conclusion of major free-trade agreements as well as for preserving multilateralism.

4 THE EU, A SHAKEN COMMERCIAL POWER

In recent years, three key political factors have shaken up the objectives and influence of the CCP. There is a risk of further disruption of the EU's trade power by these factors: the fast rise of new trade and economic powers, such as China; the new neo-mercantilist policy of the US under the Trump administration; and the centrifugal actions and political divisions within the EU.

4.1 THE RISE OF NEW POWERS: THE CHINESE CHALLENGE

The first international factor at play here is the diffusion of power in the global political economy. So far, this has been to the disadvantage of the traditional powers and especially of Europe's national economies. This diffusion of power can notably be seen in the rise of new powers. They are led by powers in Asia, including China and India, which are seeking to develop their presence on the world's different continents and to maximize their respective economic and trade interests, to diversify their external relations, to forge new international alliances and to encourage changes in the international economic and political structures with a view to achieving a more balanced share of global power.³¹ The EU and its Member States increasingly face this competition and are losing markets in Africa, Latin America and Asia to the new trading powers. For instance, China's expansion in Latin America over the last fifteen years has resulted in China displacing the Europeans as that continent's second trade partner behind the US. More specifically, Chinese-Latin American trade exchange stood at USD 250 billion in 2017 compared with USD 10 billion in 2000. China is strengthening its presence on the continent by signing bilateral trade agreements, in addition to making loans and investments worth several dozen billion euro. For several countries in Latin America, China is now the main trading partner – especially Brazil, Chile and Peru. Similarly, Chinese-African trade was below USD 4 billion in 1995. Today it's around USD 170 billion.³²

³¹ S. Santander, *The EU and the Shifts of Power in the International Order: Challenges and Responses*, 19(1) Eur. Foreign Aff. Rev. 65–81 (2014); M. Rewizorski, *The European Union and the BRICS. Complex Relations in the Era of Global Governance* 192 (New York, Springer 2015).

³² G. G. Müller, J. Wouters, J.-C. Defraigne, S. Santander & K. Raube, *The EU-Latin American Strategic Partnership: State of Play and Ways Forward*, European Parliament: Directorate-General for External Relations, PE 578.028, 89 (July 2017); L. Chen, *China, Africa Trade Volumes Rises 14% to 170b*, China Daily (29 Aug. 2018).

Moreover, the key strategic pillar of China's trade policy is now based on the 'New Silk Road' project or the 'Belt and Road Initiative' (BRI).³³ This plan includes two projects: 'an economic silk road' stretching from China to Europe through Central Asia and 'a maritime silk road' from South East Asia to the Mediterranean via the Indian Ocean, the Gulf and Suez Canal and now towards the East by extending its influence as far as Latin America. Launched by Chinese President Xi Jinping in 2013, this initiative is a flagship mega-project for interstate trade exchange. It will stimulate the flow of capital, goods and services between China and 126 trading partners. The BRI notably focuses on the development and reinforcement of interconnected infrastructures plus road, energy, rail and port projects. As the US pulled out of the Trans-Pacific Partnership³⁴ in 2017 and as negotiations on a transatlantic trade and investment partnership between the US and the EU are on hold,³⁵ the BRI is the only mega-project for regional trade cooperation being turned into a reality.

In light of frequent changes to this Chinese project and its scale, nobody can yet predict how it will evolve. Is it simply an initiative for economic regionalization designed to create commercial opportunities for large state groups and Chinese businesses that have reached production overcapacity? Or is it a project for political and strategic integration aimed at restructuring the scales of regional and international cooperation? Given China's trade ambitions, the EU and its Member States are looking to come up with answers and to roll out a strategy. Nevertheless, the EU's current strategy is noticeably ambivalent. China is the target of strong criticism from the EU, as the bloc's authorities believe that European companies often face 'discriminatory, unpredictable and burdensome' trade procedures as well as restrictions on their investments and mandatory technology transfers that benefit the Chinese market³⁶; these criticisms have also been addressed to China by US authorities in the Trump administration. It is revealing that the 2019 report from the Commission on Trade and Investment Barriers explicitly stressed that 'China has taken over as the country with the highest stock of recorded barriers, with 37 obstacles hindering EU export and investment opportunities'.³⁷

³³ W. A. Callahan, *China's 'Asia Dream': The Belt Road Initiative and the New Regional Order*, 1(3) Asian J. Comp. Pol. 226–243 (2016); P. Braga & K. Sangar, *Strategy Amidst Ambiguity: The Belt and Road and China's Foreign Policy Approach to Eurasia*, 1 J. Cross-Reg. Dialogues (2019).

³⁴ A. Vlassis, *Le projet du partenariat transpacifique: vers une restructuration des échelles de coopération régionale et internationale ?*, in *Concurrences régionales dans un monde multipolaire émergent* 285–298 (S. Santander ed., Peter Lang, 2016).

³⁵ F. de Ville, *T.T.I.P.: The Truth About the Transatlantic Trade and Investment Partnership* 192 (Cambridge, Polity Press 2016).

³⁶ European Commission, *EU-China – A Strategic Outlook*, European Commission and HR/VP contribution to the European Council, 6 (12 Mar. 2019).

³⁷ European Commission, *Report from the Commission to the Parliament and the Council on Trade and Investment Barriers 1 January 2018–31 December 2018* 6 (Brussels 2019).

On this topic, at the EU-China Summit in April 2019 – and after Europe applied pressure – the Chinese prime minister Li Keqiang pledged to help strengthen international rules for industrial subsidies under the WTO reform. In a similar vein, since 2013, the EU and China have negotiated a Comprehensive Investment Agreement. The latter is an EU immediate priority ‘towards the objective of deepening and rebalancing its relationship with China’.³⁸ The goal of the agreement is to design common standards for investment protection and predictable long-term access to EU and Chinese markets, replacing the existing investment treaties between China and EU Member States with one single agreement covering all EU Member States. However, the BRI illustrates a lack of consensus among the EU Member States. They decided to advance in scattered order and to join the Chinese initiative separately, preferring bilateral trade partnerships with China instead of promoting a common and global strategy on this issue (see below).

4.2 US NEO-MERCANTILIST POLICY

A second international factor affecting the EU and its Member States is the Trump administration’s ‘America first’ policy.³⁹ It is intentionally nationalist, unilateralist and unpredictable – meaning it rejects the multilateral order based on compromise, negotiation, cooperation and respect for international law. Because of this world view – which is based on power relations, reason of State and the unilateral use of force – the Trump administration dismisses the usefulness and effectiveness of international and regional organizations. This calls into question the institutionalization of multilateralism in all its forms, as seen for example in this administration’s willingness to undermine the operations of the WTO’s Dispute Settlement Body (DSB) by blocking the reappointment of its judges.⁴⁰ This attitude is a major concern for European bodies, as indicated by the response of Cecilia Malmström, the EU Trade Commissioner under the Juncker Commission (2014–2019), who said the US could effectively be ‘killing the WTO from the inside.’⁴¹ Moreover the US, which for a long time supported the construction of the EU, is now banking on the bloc’s destabilization or even its crumbling, if we are to believe the

³⁸ European Commission, *Elements for a New EU Strategy on China*, JOIN(2016) 30 final, 6 (Brussels 2016).

³⁹ J. Solal-Arquet & D. Tersen, *Trump et l’avenir de la politique commerciale européenne*, 1 *Politique étrangère* 85–97 (2017).

⁴⁰ R. McDougall, *Crisis in the WTO. Restoring the WTO Dispute Settlement Function*, 194 *CIGI Papers* 28 (Oct. 2018).

⁴¹ L. Doncel, *Cuenta atrás para evitar el fin del gran juez del comercio mundial* (El País 24 June 2019).

messages of Donald Trump or his former political mentor, Stephen Bannon, as sent to Europe's populist and Europhobe parties.⁴²

For the Trump administration, the EU – in much the same way as China – is an 'enemy', in other words a competitor threatening US industry and therefore US economic and commercial interests. The world is viewed as a zero-sum game with winners and losers. Therefore, unlike a liberal-inspired cooperation based on the search for absolute gains and a collective optimum that is inaccessible by unilateral behaviour, the Trump administration fears that its partners are overtaking the US in terms of relative capacities. So it views international relations as a game based on exclusively relative gains that cannot be increased for two or more states at the same time.⁴³

The EU is among the main actors targeted by the Republican government's neo-mercantilist policies, which highlight a radicalization of commercialism free from reciprocity and multilateralism. Built around a purely transactional strategy, these policies are designed to stimulate growth of the domestic market, to promote US companies' exports and to discourage imports by imposing customs barriers.

The EU quickly responded to the trade war launched by the US administration and its policy of raising US tariffs on European products (steel and aluminium). It adopted retaliatory measures against US goods – some of which are very iconic (jeans, bourbon, Harley-Davidson motorbikes) and which are made in US States that voted for Trump – and it brought the case before the WTO's DSB. However, the EU ensured a channel remained open for bilateral dialogue with the US, in order to try and find amicable solutions.

To defuse transatlantic tensions, the EU and its Member States are also eager to restart negotiations with the US. The aim is to revive a project dating back to the 1990s, for the conclusion of an ambitious trade agreement based on sharing and mutual respect for common rules. These were the words of European Commission President Juncker during his visit to President Trump in July 2018. The EU and US agreed not to announce new sanctions as long as the transatlantic negotiations are re-engaged and agreed that they would aim to reduce tariffs on industrial goods – such as cars, regulatory cooperation, an increase in European imports of liquefied natural gas, and reform of the WTO. The movement in this direction has continued through other meetings between the US Trade Representative Robert Lighthizer and the EU Trade Commissioner. The negotiators aim not to exclude any subject from the agenda.

⁴² C. Maza, *Exiled by Trump, Steve Bannon Could Be About to Rise Again in Europe*, Newsweek (25 May 2019).

⁴³ Santander, *supra* n. 19, at 62–63.

However, before concluding a transatlantic trade agreement, the parties will also have to get beyond the Trump government's distrust in the EU and numerous hurdles that the former administrations on both sides of the Atlantic have been incapable of overcoming. On the American side, public procurement is still a very thorny subject, as the authorities are influenced by the 'buy American' thinking rooted in the doctrine of 'America first'. For the Europeans, agriculture remains a very sensitive subject, due to phytosanitary issues raised by chlorinated chickens, genetically modified organisms or beef treated with growth hormones – all from US farms.

Continued US pressure on the EU also does not help. In seeking to promote its neo-mercantilist policy, the US is adopting measures that aim to inconvenience or even destabilize the bloc. An example was the decision taken in December 2018 by the Trump government to downgrade, without notifying the interested party, the diplomatic status of the EU delegation in Washington to that of a simple international organization. Yet since 2016, this delegation had been accorded a status comparable to that of a State. The US also increased commercial pressure on Europe and this pressure reached a new peak. After receiving from its Department of Commerce a report that said European cars pose a 'threat to US national security', the Trump administration announced that it wanted to impose new sanctions on this sector. This sparked new panic in the EU, notably because these threats divide more than they unite its various bodies.

4.3 CENTRIFUGAL EFFECTS AND POLITICAL DIVISIONS

Europe is struggling to come up with a plan to deal with this US intimidation and China's destabilizing ambitions – which have even created a centrifugal effect in the bloc. This underlines the limits facing the EU in its international work and relations with other powers. The great challenge for the EU is to act together and to formulate a coordinated response under pressure and in a hurry: a situation like this is far less common for a traditional state-type power.

In this tussle between the EU and US, the bloc is at a disadvantage, being weighed down by its bureaucracy and institutions. As such, the European Commission depends on the Council of the EU to get its negotiating mandate. The Commission also relies on the Council and the European Parliament to ratify any agreements that it negotiates. Yet the Council and Parliament are often divided on issues and these divisions are increasing in line with the pressure being exerted by the Trump administration on Europe. In the Council, some States, among them Germany, are very worried about their car industry, and have called for a quick decision so that the Commission can start negotiations with the

US. Yet those backing this approach supported by the Commission are forgetting that the Europeans had committed to comply with the Paris climate agreement as a precondition to any new free-trade agreement. Following France's lead, other experts reckon there is no great hurry and that Europe's agricultural interests must be protected. The planned trade agreement with the US has also divided the European Parliament, which has not yet managed to adopt a common position on the official opening of transatlantic trade talks.⁴⁴ The Parliament only has a consultative role on this subject, but it will have the final say once the free-trade agreement has been concluded, because the Parliament must ratify it.⁴⁵

The 'BRI' is another area highlighting political tensions between the Member States. The EU response to China's political offensive has revealed a variable geometry in the bloc's action. In 2012, China signed memoranda of understanding with sixteen Central and East European countries, including eleven EU Member States⁴⁶ and five countries in the Western Balkans.⁴⁷ For the BRI mega-project, this alliance – known as the '16+1' – has made promoting trade and investments one of its major priorities. Similarly the European Commission and several European countries, such as France and Spain, are keen to forge coordinated EU action in the face of China's initiatives: this will require the necessary reciprocity in the bilateral economic relationship between the EU and China. Nor do these countries envisage joining the Chinese project. On the other hand, European countries such as Greece, Portugal and just recently Italy have decided to be part of this major Chinese geopolitical and economic project, in the hope of benefiting from Chinese investments, destabilizing the EU's common trade policy and undermining the EU's capacity to 'speak as one voice'. Consequently, supporters of a unified approach to China, such as the European Commission and its European External Action Service, have begun to be more critical of the BRI project.⁴⁸ In blunt terms, they see it as a threat to European unity.⁴⁹

The trade agenda promoted by the Commission and Member States also has its critics. Discontent is growing among some societal groups and members of both national and European parliaments. They are challenging the EU's trade policy for its lack of transparency and the opaque nature of trade negotiations. This has led to

⁴⁴ While a majority of MEPs refused to give the negotiation mandate to the Commission, another majority afterwards was opposed to definitively abandoning the talks.

⁴⁵ On the Parliament's powers see A. Ripoll Servent, *The Role of the European Parliament in International Negotiations After Lisbon*, 21(4) J. Eur. Pub. Pol'y 568–586 (2014).

⁴⁶ Bulgaria, Czech Republic, Estonia, Croatia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia and Slovakia.

⁴⁷ Albania, North Macedonia, Bosnia-Herzegovina, Montenegro and Serbia.

⁴⁸ See European Commission, *supra* n. 36.

⁴⁹ See European Parliament, *China, the 16+1 Format and the EU*, European Parliament, PE 625.173, 3 (Sept. 2018).

uncertainty about the process of ratifying and implementing agreements that have been or are being concluded. As an example, the European Parliament rejected the Anti-Counterfeiting Trade Agreement in 2012, even though this was signed off by the European Commission and most EU Member States.

We should also mention the Parliament of Wallonia, which was opposed to some provisions in the EU-Canada Comprehensive Economic and Trade Agreement (CETA). In October 2016, it blocked ratification of the agreement for several days, resulting in a controversy about the powers and role of national and sub-national parliaments in the process. The sub-national parliaments wanted more parliamentary control over the negotiation of such agreements. So the EU recently considered addressing investment provisions in separate agreements. It therefore distinguishes between agreements on the basis of the sharing of commercial competencies with the Member States. Against that background, in 2018 the EU set up an expert group on free-trade agreements, with a view to strengthening dialogue with civil society organizations and thus improving the transparency of decision-making.

Fragmentation of the ninth legislature of the European Parliament, which opened on 2 July 2019, can also be seen as an illustration of centrifugal effects. For the first time, the European People's Party and the Progressive Alliance of Socialists and Democrats lost their absolute majority in the Parliament and thus their historical domination. So the new legislature is notable for the rise of political groups which, in spite of their ideological differences and divergent political origins, could very well act as brakes on the development and setting up of the bloc's CCP.⁵⁰

First of all, the new legislature has seen the consolidation of eurosceptic groups such as the 'Europe of Nations and Freedom' (recently renamed 'Identity and Democracy') and 'Europe of Freedom and Direct Democracy'. Although they have different views on other political issues, they all tend to distrust the EU institutions and any coordinated action by the EU Member States on trade. Their goal is to limit the bloc's CCP and to oppose the conclusion of preferential agreements, because they are against the setting up of any common European action.

The Group of the Greens/European Free Alliance, followed by the Confederal Group of the EU Left – Nordic Green Left, see free-trade agreements as a threat to European standards on the environment, employment, health and food security. With 116 MEPs, these two groups can influence the orientation of

⁵⁰ Regarding the European political groups and trade agreements, see also A. Vlassis, *The European Parliament as an Actor in the Global Governance of Culture: From Voice to Influence?*, in *Culture, Sociétés et Numérique* 13–46 (M. Rioux, D. Tchêhouali & F. Verdugo eds, Montréal, Editions IEIM 2017).

debates in the Parliament and demand significant concessions. Take for example their fierce opposition to the plan to include a dispute settlement system between investors and States in the trade agreements negotiated by the EU with third parties.

Lastly, given a steady decline in the number of MEPs, the Progressive Alliance of Socialists and Democrats may gradually change its attitude along with the development of the CCP. In the Parliament, this group formed an atypical alliance with the European People's Party, the European Conservatives and Reformists, and the Alliance of Liberals and Democrats for Europe (recently renamed 'Renew Europe') – in favour of strengthening the CCP and promoting economic partnerships. However, the socialist group could now stand apart from this alliance, by becoming increasingly critical of certain aspects of the CCP. Signs of this split have been more and more visible in recent Parliament votes on European trade agreements. In February 2017, during the vote on an economic partnership with Canada and going against the group's instructions, sixty-six socialist MEPs voted against and thirteen MEPs abstained. Secondly, in December 2018, during the vote on the trade agreement with Japan, the group recorded thirty-two votes against this and fifteen abstentions. Thirdly, in February 2019 and again not following the group's instructions, sixty-one socialist MEPs voted against the trade agreement between the EU and Singapore, while ten abstained.⁵¹

Within the European Parliament, there has also been some reluctance to sign the trade agreement with Mercosur. There is no universal enthusiasm for this agreement⁵². The concerns expressed here by MEPs have not been limited to globalization and the spearheading role that the European Commission seeks to play in this field. Plus there are many other players deeply worried about the EU/Mercosur trade agreement – among them European farmers fearful of unfair competition from South American countries. The European agriculture lobby represented by Copa-Cogeca has always opposed such an agreement and is now organizing to block its ratification. Some European civil society groups are also highly critical of this trade deal, as underlined by an open letter sent by 340 NGOs to the EU authorities just before the conclusion of negotiations.⁵³ They worry about the negative consequences of an agreement like this on the climate and they are not convinced the trade deal includes sufficient guarantees on respecting human rights. Lastly, this agreement has also raised concerns among several EU

⁵¹ Authors' research results based on Vote Watch Europe data.

⁵² See S. Santander, *Can Regional Blocs (Still) Talk with Each Other? The Euro-Mercosur Relationship*, 2/33 (459), *World Affairs* 83-92 (2016).

⁵³ Open Letter, *340+ Organisations Call on the EU to Immediately Halt Trade Negotiations with Brazil*, Friends of the Earth of Europe (17 June 2019), http://www.foeeurope.org/sites/default/files/eu-us_trade_deal/2019/joint-letter-brazil-eu-mercotur.pdf (accessed 29 June 2019).

Member States, especially France, Ireland, Poland and Belgium. Most likely the entry into force of this agreement will prove difficult, as it must be ratified by each one of the EU's Member States as well as the European Parliament and the national parliaments.

5 CONCLUSIONS AND PERSPECTIVES

The three factors we have analysed (the rise of new powers, the USs' neo-mercantilist policies, and political divisions within the EU) have shaken up the scope and objectives of the CCP. However, they have also reinforced the EU's determination to continue deploying an offensive foreign trade policy, in the negotiation of bilateral and interregional free-trade agreements as well as for preserving multilateralism. There are certainly doubts about the bloc's ability to provide quick and effective responses to the challenges posed by the decentralization of global power – especially due to the bureaucratic nature of the EU's institutions and divisions within the bloc itself (the rise of critics and euroscepticism). Yet we cannot overlook the fact the EU is losing ground due to globalization – a trend forcing the bloc to rethink, relaunch and/or update its trade alliances. Furthermore, recent initiatives driven by the EU's need for strategic autonomy should be seen as attempts to respond to China's commercial ambitions and to the USs' neo-mercantilist shift as well as the threats posed by that country to global interdependence.

Consequently, the EU's prospects of remaining a top trading power may be shaped by three main challenges. Firstly, the steady rise of euroscepticism and neo-mercantilist pressures could seriously hinder the CCP's formulation and implementation. The reinforcement of eurosceptic parties in the European Parliament – plus political groups increasingly reticent about and critical of the promotion of trade agreements – could shake up the ambitious agenda and priorities of the CCP internationally. Secondly, unlike the Trump administration, the EU promotes trade that is regulated by common standards, collective decision-making procedures, convergence of partner expectations and the principle of predictability. Without doubt, the CCP's strategies and the EU's international influence in its foreign economic relations will largely depend on the scope, intensity and duration of the foreign trade policy turnaround of the US. Last but not least, China's increasingly dynamic commercial expansion could encourage the EU to forge more and more bilateral and interregional trading partnerships with the rest of the world, while also encouraging the bloc to toughen the CCP. Additionally, given China's trade policy – which has repeatedly been accused of unfair practices (i.e. forced technology transfer) and unfair competition (government subsidies to Chinese companies) – the EU seems willing to adopt retaliatory measures but also to pursue a trade path based on reciprocity and loyalty to mutual rules.

