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INTRODUCTION



EU trade policy in the twenty-first century: change, continuity and challenges

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ABSTRACT

This is the introduction to a special collection of contributions that analyse key features of the European Union's (EU) trade policy in the twenty-first century, notably its politicization. As such, it examines the degree to which EU trade policy and its environment have changed over the last 20 years. More specifically, it begins with a brief review of the main changes to the structure of international trade and the resulting impacts on trade agreements. Second, it describes the institutional changes (notably the Lisbon Treaty) that have affected the EU's trade policy-making. Third, it discusses how the above-mentioned changes have affected the EU's trade policy. Finally, it summarizes the special collection's key contributions to our improved understanding of EU trade policy in the twenty-first century as well as pinpoints new issues that scholars of EU trade policy should pay close attention to in their future research agendas.

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Introduction

Over the last 20 years, the European Union (EU) has conducted an active trade policy, negotiating a multitude of bilateral trade agreements and being strongly involved in negotiations at the World Trade Organization (WTO) (e.g., Doha Round, Agreement on Trade Facilitation, Trade in Services Agreement). It has also expanded the scope of the trade agreements that it negotiates, with regulatory cooperation, labour and environmental standards, investment, government procurement and competition policy now core features of such agreements. The comprehensive nature of the EU's trade agreements has raised concerns among politicians, non-governmental organizations (NGOs) and the general public about the state's ability to regulate

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economy and society according to democratic principles and process: they fear that such agreements provide even more privileges to business than before, thereby exacerbating the costs associated with globalization.

As a result, the EU's trade policy, like other areas of EU policy-making (Costa 2019; Hutter et al. 2016; Schmidt 2019), has become more politicized. This was certainly best exemplified by the high-profile cases of the Comprehensive Economic and Trade Agreement (CETA) with Canada and the Transatlantic Trade and Investment Partnership (TTIP) with the United States. In response, the EU has attempted to make trade agreements and negotiations more transparent. It has also been looking at ways in which it can make such agreements more 'progressive' by finding the appropriate balance between obstacle-free trade and the so-called 'right to regulate', in order to address people's concerns and make 'free trade' more legitimate and acceptable politically.

In this introductory contribution, we describe the main changes to the structure of international trade and the resulting impacts on trade agreements. We also describe the institutional changes (notably the Lisbon Treaty) that have affected the EU's trade policy-making. In turn, we discuss how the above-mentioned changes have affected the EU's trade policy. Finally, we summarize the special collection's key contributions to our improved understanding of EU trade policy in the twenty-first century as well as pinpoint new issues that scholars of EU trade policy should pay close attention to in their future research agendas (e.g., great power relations and international security as well as the implementation of trade agreements). For instance, this special collection finds that the politicization in EU trade negotiations is not consistent and, in fact, has been quite limited. It also concludes that the EU's policy response to the perceived politicization of its trade policy is not a major shift from previous trade strategies.

Trade in the twenty-first century

International trade has experienced three major structural changes since the 1990s. The first change is the 'servicification' of trade. In other words, services are increasingly being traded across borders. The second key phenomenon affecting trade has been the globalization of firms' value (or production) chains, whereby intermediate rather than final goods (and services) are also traded internationally. Finally, with the economy's digitization, goods and services are increasingly traded in digital rather than physical form. As a result, international trade agreements have evolved to reflect these changes, which is why we now talk of third-generation free trade agreements (FTAs).

According to the WTO, '[o]ver the past 20 years, trade in services has become the most dynamic segment of world trade, growing more quickly than trade in goods' (WTO 2015). Between 1995 and 2014, exports of services

increased from just over one trillion US dollars to close to five trillion US dollars (WTO 2015). As a result, services now represent around 20 per cent of global trade. In value-added terms, however, services account for 40 per cent of world trade (Lanz and Maurer 2015). Services are also embedded in goods that are traded internationally (Cernat 2015): they include, for example, logistics, design, engineering or accounting that are necessary inputs in the manufacturing process. This type of trade is referred to as the 'servicification of manufacturing' (Lanz and Maurer 2015; Lodefalk 2017). In Europe, it is estimated to be worth over €300 billion and accounts for about one third of total EU goods exports (Cernat 2015).

Along with the rise of trade in services, firms have also globalized their so-called value chains: '[t]hrough outsourcing and offshoring, they have sliced up their production processes and dispersed their production activities across multiple countries, leading to global value chains (GVCs)' (Van Assche [forthcoming](#)). As a result, trade in intermediate goods and services now dominate trade in final goods and services. It also means that exports now rely on imported inputs (Van Assche [forthcoming](#)). GVCs have also been accompanied by a rise in foreign direct investment, whereby firms invest abroad not only to seek new markets but also to increase the efficiency of their operations (Van Assche [forthcoming](#)).

A third structural change to international trade in the last 20 years is the economy's increasing digitization and the associated rise in electronic commerce and data flows across borders. The McKinsey Global Institute has estimated that around 50 per cent of the world's traded services are now in digital form while electronic commerce accounts for approximately 12 per cent of all goods traded across borders (Manyika et al. 2016). Trade policy has been slow to recognize how the regulation of cross-border data flows can have an impact on trade in both physical and digital goods and services (Aaronson and Leblond 2018). Although trade agreements negotiated in the last decade have provisions on electronic commerce, these provisions tend to be very limited in nature, mostly prohibiting tariffs on electronic transmissions (Aaronson and Leblond 2018).¹

In addition to tariffs generally becoming low as a result of successive GATT (General Agreement on Tariffs and Trade) negotiation rounds, the three above-mentioned structural changes to the nature of international trade have pushed trade policy to focus increasingly on reducing regulatory barriers to trade and investment. Over the last two decades, trade negotiations – whether bilateral, plurilateral or multilateral – have increasingly focused on 'beyond-the-border' barriers to trade.² This has raised public concerns about how trade agreements may limit governments' ability to regulate society and economy as they see fit. It also makes implementation a much more important issue. With agreements focused mainly on tariffs, implementation is easy: customs administrations just have to publish new tariff

schedules on the day the agreement comes into effect. As a result, once such agreements were signed, politicians, bureaucrats and businesses moved on. This can no longer be the case. Agreements with provisions on regulatory and administrative matters require significant and sustained cooperation between the parties to the agreement if the latter's benefits are to be realized (see Leblond 2016). Agreements must, therefore, plan for such cooperation to take place once the agreement has come into force. Institutional mechanisms have to be devised to ensure that cooperation and coordination occurs.

Institutional changes affecting the EU's trade policy-making

The Lisbon Treaty brought important changes to the EU's trade policy process. Firstly, the EU trade policy was brought under the EU's external action. This implies that external trade must be conducted in accordance with the principles specified by Chapter 1 of Title V of the Treaty on the Functioning of the European Union (TFEU): democracy, rule of law and human rights and natural resources sustainability. This means that EU trade agreements are more than just about economic liberalization. They also help 'export Europe's high standards for food safety, workers' rights, the environment and consumer rights far beyond our borders' (European Commission 2018). Secondly, according to Article 207(1) TFEU all aspects of external trade – including services, commercial aspects of intellectual property and foreign direct investment³ – are under exclusive EU competence. These areas require qualified majority voting⁴ in the EU's Council of Ministers for the negotiation and conclusion of international trade agreements. Thirdly, the Lisbon Treaty enhanced the European Parliament's (EP) role in the EU's external policy-making. The EP now shares responsibility with the Council for developing regulations for implementing the common external policy. This means that the Lisbon Treaty extended the EP's power over the conventional bilateral trade agreements and to unilateral EU trade policy (Woolcock 2010).

Some of the EU's recent trade agreements are considered mixed agreements: CETA (Canada–EU Comprehensive Economic and Trade Agreement) and the EU–Singapore trade agreement. In the latter case, the Court of Justice of the EU (CJEU) concluded that it is a mixed agreement, whereby the EU has exclusive competence except for two areas: portfolio investment and investor-state dispute settlement, which are under shared competence (Court of Justice of the EU 2017). Provisions under exclusive competence require ratification only by the Council and the EP. Under shared competences, ratification is done by individual EU member states (i.e., national parliaments and, in some cases, regional ones [e.g., Belgium]). Trade agreements can be implemented provisionally after the ratification process at the EU level, while the issues that are under shared competence are implemented only once all the member states have ratified them (e.g., CETA).

The EU has become one of the most important advocates of a deep trade agenda at the multilateral and regional levels.⁵ The EU's inability to advance a deep trade agenda at the multilateral level in the early 2000s, as a result of the failed Doha Round at the WTO, resulted in a shift in its trade strategy in favour of bilateral agreements with key partners and a more assertive policy towards countries that protect their goods and services, especially through non-tariff barriers (Kerr and Viju-Miljusevic 2019). The *Europe 2020* and *Trade for All* trade strategies have strengthened this approach (European Commission 2010, 2015). The shift in the EU's trade agenda can be explained by two reasons (Young and Peterson 2014): all forms of international exchanges have expanded at a fast pace and international exchanges have become more diversified, as explained in the previous section. Thus, one of the EU goals in its trade negotiations has been regulatory coordination, which implies a change in domestic policy (Meunier and Nicolaidis 2006). Whether the EU is putting effort into achieving this goal is still debated in the literature (Young 2015). Schmidt-Felzmann (2019) in her analysis of the EU's trade and energy relations with Russia over the last two decades, demonstrates that the EU's ability to influence the standards and practices of an important economic partner remains limited, against what Dür et al. (2019) call the 'conventional wisdom'.⁶ As such, the EU's trade relations with Russia highlights more continuity than change, although Russia's accession to the WTO has provided the EU with some new leverage to influence Russian market regulations. Schmidt-Felzmann's analysis also underlines that seeking deep and comprehensive trade agreements with some countries (e.g., Ukraine, Moldova and Georgia) can upset its relations with other partners (i.e., Russia).

Consequences for EU trade policy in the twenty-first century

As a result of structural and institutional changes outlined above, the EU's trade policy has become increasingly politicized,⁷ even if it remains resilient (De Bièvre 2018). However, as Meunier and Czesana (2019) point out, the politicization of trade deals in Europe varies over time, across negotiations and across member states (see also Young 2019). This raises the important question as to why trade policy is much more contested in some cases than in others. For instance, trade relations with the United States have been much more contested by the public than relations with China and Russia. One could think that the scope of the agreement being negotiated would determine the degree of politicization but, as the EU's recent trade agreements with Japan and Mexico show, such is not the case. Other factors are at play: values, identity, culture, institutions, economic competition and new technologies. Meunier and Czesana (2019) offer a list of complementary explanations, including the comprehensive nature of trade agreements, globalization, transformation of the media landscape, Lisbon institutional changes, the role of the

US and interference from third parties. Duina (2019), for his part, argues that trade politicization relates to the fundamental values and identities associated with particular EU trade agreements (e.g., food quality and traditions, consumer health, the environment, or animal rights), depending on the scope of their provisions.

Although the politicization of the EU's trade policy is actually more limited than it appeared in the CETA and TTIP contexts, the legitimacy of the EU trade policy has nevertheless been questioned. In response, the EU has attempted to make its trade agreements and negotiations more transparent. The European Commission has implemented a series of changes such as publishing explanatory documents, textual proposals and third-party correspondence as well as making public results of meetings with stakeholders and policy officials (Gheyle and De Ville 2017). Transparency has become one of the three main pillars of the EU's latest trade strategy, *Trade for All*, which is a response to the intense debate on trade in the EU (European Commission 2015). Other direct responses to politicization of trade policy are the European Commission's *Reflection Paper on Harnessing Globalisation* (European Commission 2017a) and *A Balanced and Progressive Trade Policy to Harness Globalisation* (European Commission 2017b), which highlight the positive effects as well as the challenges of globalization, arguing that the latter is one of the important triggers of populist parties' rise. To address globalization's challenges and make 'free trade' more 'balanced' and acceptable politically, the Commission wants to make the EU's trade agreements more 'progressive' by finding the appropriate balance between obstacle-free trade and the so-called 'right to regulate' (e.g., to protect the environment or labour rights, even if such regulation creates obstacles to trade).

As Young (2019) argues, the 'balanced' elements of the EU's new trade strategy are related to ensuring that trade partners respect their obligations and unfair practices are addressed, while the 'progressive' elements are focused on defending and exporting EU regulations and norms, increased transparency of negotiations and implementing a new framework for screening foreign direct investment. However, he also concludes that those changes are not significantly different from the ones proposed by previous trade strategies and, thus, they will ultimately have a limited impact on reducing politicization, when and where it occurs.

Conclusion

The politicization of EU trade policy is a recent phenomenon that has received little academic attention until now, which is why it is a key focus of this special collection of articles on the EU's trade policy in the twenty-first century. It is not sufficient to analyse the contested nature of EU trade politics in particular trade agreement negotiations (e.g., Hübner et al. 2017); the politicization

process and its impact on EU trade policy require more systematic and deeper analysis across all EU trade negotiations. As such, it is necessary to examine the factors that give rise to politicized trade negotiations in some cases but not others. As Dür et al. (2019) contend, it is also important to analyse how politicization (or not) influences the EU's bargaining power during trade negotiations.

One of the main conclusions advanced by this special collection is that, contrary to what the existing literature suggests, the politicization in EU trade negotiations is not consistent and, in fact, has been quite limited. Moreover, the authors have proposed various explanations for the varying degrees of politicization (Duina 2019; Meunier and Czesana 2019). Another key take away from this special collection is that the EU's policy response to the perceived politicization of trade policy does not actually represent a major shift from previous trade strategies and, thus, it is limited in its effects on politicization (Young 2019).

But EU trade policy's varying degree of politicization is not the only consequence of the structural changes to international trade in the twenty-first century described herein. As Dür et al. (2019) note, GVCs also affect trade and non-trade preferences in the EU, which in turn influence the latter's bargaining power in international trade negotiations. The EU's relative trade bargaining power is particularly relevant at a time when the WTO is facing an existential crisis as a result of the United States blocking the appointment of new members to the Appellate Body and invoking national security as a reason for adopting protectionist measures. The EU sees itself as a pivotal actor in ensuring that international trade rules are respected and improved so that borders remain open to goods, services, capital, ideas and data/information (Malmström 2018). One could argue that the EU's position reflects the importance of GVCs for its economy. However, as in the Russian case analysed by Schmidt-Felzmann (2019), GVCs may not matter much for the EU's bargaining power when dealing with major economic partners such as China and the USA, whose governments are currently challenging existing trade rules to promote GVC network domination by their country's firms – on a regional (if not global) basis, most especially in high-tech sectors associated with the digital economy (Ciuriak 2019). This means that, in addition to GVCs and politicization, great power relations and international security are key twenty-first century issues that scholars of EU trade policy should pay particular attention to in their future research agenda.

Finally, in an era of 'third-generation' trade agreements, focusing scholarly analysis on preferences and bargaining power in the context of trade negotiations is no longer sufficient (e.g., Dür et al. 2019). Trade politics and policy do not end when an agreement has been reached. With new trade agreements being increasingly about regulatory cooperation, it is crucial to understand how such agreements are implemented once they have come

into force. If there are differences in the degree (or quality) of implementation between agreements and/or between the EU and its trade partners, it is important to know why that is the case. In other words, there is a need to understand the factors that influence the implementation of deep and comprehensive trade agreements. The study of trade agreement implementation should thus also be added to the EU trade policy in the twenty-first century research agenda (e.g., Leblond 2016).

Notes

1. The Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP) and the United States-Mexico-Canada Agreement (USMCA) are exceptions, as they have extensive provisions on digital trade.
2. Recent trade agreements such as CETA, TTIP, CPTPP and USMCA are referred to as 'third-generation' agreements. In comparison, the GATT and its successive negotiations rounds is a 'first generation' agreement, limited to reducing tariffs and quotas, while the North American Free Trade Agreement (NAFTA) is a 'second generation' agreement because it also includes provisions to address beyond-the-border barriers to trade and investment, but more limited in scope than today's agreements.
3. With the exception of portfolio investment and dispute settlement.
4. With certain exceptions: audio-visual, health, educational and social services (see Article 207[4] TFEU).
5. The deep trade agenda includes so-called WTO-plus commitments (e.g., the administration of a country's trade regime in terms of transparency and judicial review or the application of market economy principles) and 'WTO-extra' obligations (competition policy, data protection, the environment, labour and human rights, investment).
6. According to the 'conventional wisdom', the EU is a powerful actor in international trade that influences the global trade agenda according to its trade and non-trade interests.
7. Politicization is defined as 'increasing polarization of opinions and public salience' whereas public salience concerns the significance or urgency that the general public gives to a given policy issue Meunier and Czesana (2019).

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