

Shaping a New International Trade Order:
Competition and Co-operation among
the European Union, the United States, and China

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Abstract

Following the establishment of the World Trade Organisation in January 1995, American and European trade relationships were for a time characterised by ‘competitive interdependence’, as the US and EU simultaneously aimed to advance their commercial interests in third countries. Under conditions of competitive interdependence, trade actors resort to certain policy choices to gain advantage for their producers while restricting others’ ability to enter a market (Sbragia, 2010). In the last decade, however, European and American trade policymakers have faced the challenges of a more competitive world and the emergence of newer trade powers such as China. Both actors have veered away from multilateral deals as their preferred trade policy choices. In this paper, we use the Sbragia (2010) framework to analyse the trade policy shifts made by the EU and the US in the last decade. We argue that what had been a competitive interdependence relationship has recently changed to a trilateral structure in which both the EU and the US have focused their attention on countering Chinese competition. Moreover, China’s emergence has also pushed the US to reinvigorate the role of unilateralism and the EU to bolster bilateralism as they both seek to secure their commercial shares worldwide.

Keywords

Trade Policy, Patterns, Typology, Unilateralism, Multilateralism

A version of this paper with a more theoretical focus is under review as an academic publication with the title “Trilateral Competitive Interdependence: European and American trade policy choices and the rise of China”, in Nils Ringe and Jae-Jae Spoon, eds., The European Union and Beyond: Multilevel-Governance, Institutions and Policy-Making.

1. Introduction

Following the establishment of the World Trade Organisation (WTO) in 1995, the US and the EU became engaged in a process known as ‘competitive interdependence’ (CI). Sbragia (2010) coined this term for the structural competition between the US and the EU. In this scenario, the world is seen as a game of chess, defined by the steps made by one trade actor to secure its trade deals. The game involves multilateral forums (the General Agreement on Tariffs and Trade (GATT) and Doha negotiation rounds are examples) and/or it involves bilateral ones, which eventually conclude in free trade agreements (FTAs). Trade actors might also resort to more unilateral strategies to advance their interests. Sbragia argues that CI operates through the interplay of trade institutions that regulate countries’ commercial relationships. CI logic seeks to establish global trading rules, which cannot be monopolised by one actor only. This action limits the access of third actors to those markets with existing agreements.

Scholars have concluded that CI between the EU and the US was predominant between 1995 and 2009 (Sbragia, 2010; Heron and Siles-Brügge, 2012). In this period, the EU-US relationship was shaped by the dynamic of co-operation and competition within WTO rules. While the EU tried to constrain the US through the WTO, the US opted for a more bilateral approach. More recently, both players’ policy choices have favoured bilateralism, and the US has also moved towards unilateralism.

In this paper we argue that these changes are in part responses to China’s growing role in the international trade arena. We consider that most of the current American and European trade policies seek to secure their global market shares from Chinese competition. In doing so, they have changed their attitudes towards established, and ongoing, multilateral initiatives by adopting a more strategic stance which combines bilateralism with a ‘selective’ multilateralism. We label this process a *trilateral competitive interdependence* relationship.

Under this new logic, the US and the EU have responded to China’s rise. In the US, President Obama initially opted for a “pragmatic multilateral approach” which employed the Trans-Pacific Partnership (TPP) as a framework to rebalance US relationships in the Pacific, with a special focus on China. At the same time, he also sought a bilateral agreement concerning China’s intellectual property violations through a special binational commission. Under President Trump, US trade policy has taken a markedly unilateral stance. He announced in August 2018 a set of progressive tariffs worth \$250bn to China, while he also withdrew from various multilateral treaties by claiming that they were damaging to US trade policy (*The Wall Street Journal*, 2019). He also criticised the WTO’s dispute settlement—especially the Appellate Body—because it does not rapidly translate in changes in law or practice, thus damaging US trade policy sovereignty. He declared then that the US is under no obligation to follow the WTO’s rulings (USTR, 2017: 2).

The EU, meanwhile, sought to ‘rebalance’ its relationship with China through both multilateral and bilateral strategies by deepening commercial links, pursuing robust reciprocal policies, and the

strengthening of European investments in the Asian country. The recently released ‘EU-China: A Strategic Outlook’ strategy document considers China as both a partner and a competitor, and thus regards as crucial the negotiations for a level playing field for both actors’ investors.

We present our arguments in three stages. First, based on a brief review of historical trade relations between the EU and the US (and other countries) we present a typology of their most common existing trade policy strategies (unilateral, pure multilateral, competitive liberalising, and pragmatic multilateral). In the second stage, this framework is used as a reference point for the analysis of changes in both actors’ trade policies in relation to China’s emergence as a major trade power. In this section, we argue that China’s growing relevance in the trade arena in the last decade might underlie both the EU’s selective bilateralism, and the novel unilateralism of US trade policies. Finally, we discuss this paper’s conclusions and implications.

2. Theoretical standpoint

This section presents a typology of the most common trade policies employed by both the EU and the US. This typology is based on two axes. One concerns whether a trade policy is multilateral and the other focuses on whether it is co-operative. This classification is important to understand how they have been used interchangeably in the context of EU-US relationships with China.

2.1. The trade policy choice set

The international trade system is governed by state (and non-state actors), rules, and competition strategies (Irwin, 2018; Cass, 2005; Hudec, 1975). Based on these elements, a trade actor—being a country, and/or a bloc such as the EU—chooses the type of relationship it seeks to establish with others. These relationships can be unilateral, bilateral, or multilateral (De Ville and Siles-Brügge, 2018; Corbet, 2018; Sally, 2007).

In general terms, actors seeking forum-oriented trade...are likely to opt for a multilateral policy, while those searching to only advance purely commercial interests are likely to choose the unilateral or possibly also bilateral policies.

To decide which policy option to employ, a trade actor weighs a set of elements: the circumstances of the international economy, its relative power position in the international community, and potential competitors’ actions (Corbet, 2018; Sally, 2007; Sally, 2008). As a result, an actor might either aim to promote its commercial interests through multilateral forums, while also attempting to create a system of values (i.e. pursue the promotion of democracy and strengthen international organisations), and/or to focus only on purely commercial interests. In general terms, actors seeking forum-oriented trade, which also strengthens international institutions and rules, are likely to opt for a multilateral policy, while those

searching to only advance purely commercial interests are likely to choose the unilateral or possibly also bilateral policies (Rodrik, 1995: 1459).

This classification has its roots in the liberal vs realist debate of International Relations theory. Walt (1998, 2018) and other authors (Meissner, 2018; Cohen, 2019) argue that trade policy—as part of foreign policy—operates in an anarchical international system which is dominated by the exercise of relative power by rational trade actors.

In the realist perspective, Walt (2018) considers that a trade actor influences the chaotic international arena through its economic, diplomatic, and military weight. To realists, factors such as a country's market size and its relative military position in the world might influence its choices for co-operation and the degree of multilateralism it opts for. Realists consider that trade actors would be less likely to co-operate if they see others as adversaries competing for the same markets (and resources). Arguably, for advocates of realism, international anarchy fosters competition between states, therefore inhibiting co-operation.

Liberals, in turn, argue that international anarchy can be governed by institutions. They consider that countries (and trade actors) are more likely to co-operate by establishing sound rules to enhance shared prosperity (e.g. the GATT, the WTO, etc.). A liberal's main argument is that trade actors can maximise their “individual absolute gains” through joint action (Grieco, 1988: 487). Liberals also consider that trade actors have shared interests, which can open conditional co-operation channels that aid them in reducing uncertainty about others' intentions (Viotti and Kauppi, 2019: 63). Furthermore, liberals regard co-operation as conducive to ‘peace’ (Sally, 2007: 44), to a more predictable world, and to boosting economic growth (Viotti and Kauppi, 2019: 61-70). Undoubtedly, they would prefer multilateral (or regional) strategies in lieu of unilateral (or bilateral) ones.

Yet the international scenario is much more complex than either the realist or the liberal allows, and trade actors can also advance their commercial interests simultaneously by wielding power (military or economic) and participating in the construction of institutions. Most trade actors resort to hybrid trade policies which combine multilateral and bilateral (or unilateral) strategies. Table 1 summarises them, while also including a distinction between ‘pragmatic’ and ‘pure’ typologies within the ‘multilateral’ category.

Table 1: A typology of trade policy choices

		Commercial interests only	System of values
Degree of Multilateralism	-	Unilateral liberalisation	Bilateral competitive liberalisation
	+	Pragmatic multilateralism	Pure multilateralism

Source: Own elaboration based on Sally (2007, 2008), Corbet, (2018), Baldwin (2010), Irwin (2018), and Walt (1998, 2018)

To clarify further the implications of each trade policy choice a brief description is in order:

2.2. Unilateral liberalisation

Unilateral liberalisation refers to the action taken by a country (or trade bloc) without a previous negotiation or expectation of a reciprocal partner response. For instance, Sally (2007), Baldwin (2010), and Baldwin and Forslid (2016) stress that through this strategy, trade actors can:

- (i) Attract foreign decentralised production to their shores, while
- (ii) Incentivising their local economies.

This policy has largely been used by developing countries since the 1980s to capture value-chain enterprises which can produce at lower labour prices, thus providing them with competitive advantages (Filho, 1998). The World Bank reports that between 1983 and 2003 developing nations unilaterally lowered their tariffs by 14 percent. This means that almost 65 percent of developing countries' tariff liberalisation has been unilaterally decided (Baldwin, 2010: 10-15).

Among the best examples of this trade policy are Chile (1974–1990s) (see Edwards and Lederman, 1998), China before its accession to the WTO (Sally, 2008: 37), and the US, which through its 1994 Trade Act created a 'Generalised System of Preferences' to open commercial opportunities for developing countries (USTR, 2018). Moreover, the WTO recognises this type of trade policy under the label of Preferential Trade Agreement (PTA), through which "countries grant non-reciprocal preferential schemes" to other nations. To date, the WTO reports the existence of 34 PTAs (WTO, 2019).

2.3. Pure multilateralism

The idea of a negotiated multilateral system emerged as a reciprocal way for countries (or trade blocs) to implement non-discriminatory tariffs and rules. Initially, many countries supported the creation of multilateral organisations that were thought to bring order to a chaotic international structure. In 1945, this idea evolved into a proposal to create the International Trade Organisation (ITO), which was later ratified in 1948 by 56 countries at the UN Conference of Trade and Employment held in La Havana. Although the US Congress did not ratify the agreement, 23 countries still adopted a revised version of the ITO, known as the GATT (Irwin, 1994b: 133).

The GATT permitted its participant countries to engage in further negotiations (called 'rounds') to deepen their trade ties. The first of these were the Kennedy rounds, which took place between 1964 and 1967. These rounds led to the reduction of GATT members' tariff rates by about a half. Other important outcomes were anti-dumping resolutions and special "constructive remedies" for developing economies (OAS, 2019).¹

¹ http://www.sice.oas.org/Trade/ur_round/PreWTO/Antidumping_Tokyo.pdf

The following Tokyo rounds (1973–79) focused on reducing “invisible non-tariff barriers”, among them: distorting health and safety standards, discriminatory government procurement, and protectionist customs valuations (Letiche, 1982: 413). Finally came the Uruguayan rounds, which are considered the “most successful of the GATT negotiations”. These rounds started in Punta del Este, Uruguay (hence the name), in 1986, and concluded in Marrakesh in 1994. The Uruguayan rounds achieved important agreements, especially in the agricultural sector, by setting a more market oriented system (the agreement compelled countries to curb subsidies to the sector); it established a dispute settlement system; introduced intellectual property rules (US Congress, 1994); and agreed the creation of the WTO.

In the post-war era, Europeans and Americans demonstrated a notable commitment to multilateral co-operation. In this context, countries sought to institutionalise clear trade rules among post-war allies, pursue transparency, and bring order to a chaotic trade system. They actively searched for the means to avoid repeating the commercial wars of the 1930s (Irwin, 1994b: 133).

2.4. Pragmatic multilateralism

Another version of multilateralism adopts a more pragmatic stance. It is less concerned with strengthening international rules or the promotion of democratic values, and is more practical in seeking to advance trade actors’ interests.

Desker (2004) identifies East Asian countries—in the aftermath of the failed Doha (2001–05) rounds—as examples of actors which have changed from pursuing purely multilateral strategies to adopting more pragmatic ones. He also mentions that the US parallel negotiations of the North American Free Trade Agreement (NAFTA) during the Uruguayan rounds (1986–94), the subsequent Asian financial crisis of 1997/98, and the necessity to reactivate the economy, pressured East Asian nations to abandon a “purist view committed to economic multilateralism” and transformed them “into [taking] a more pragmatic view, inclined towards economic regionalism and bilateralism while supporting multilateralism” (Desker, 2004: 10).

Korea provides an important example of simultaneous employment of bilateral and multilateral strategies. Initially reluctant to do bilateral deals, and focused on protectionist policies, the country opened to foreign investment after suffering its financial crisis in 1997/98 (Desker, 2004: 11). In accordance with the International Monetary Fund’s (IMF) directions, the country liberalised its capital market, and as a consequence several foreign actors increased their participation in the Korean financial sector (Kihwan, 2006: 13). Moreover, Korea also started negotiations in 2008 for a FTA with Japan, known as JKFTA. The agreement aimed to reach “comprehensive and substantial” liberalisations which, at the same time, could also “serve as an exemplary model for other regional economic integrations in East Asia...”, thus “embarking in serious discussions on pursuing the EAFTA (Comprehensive Economic Partnership for East Asia)” (Ministry of Foreign Affairs of Japan, 2003). JKFTA negotiations stopped in 2008, only to

resume in a trilateral format in 2012, when Japan, Korea, and China launched negotiations for a trilateral FTA.

Other countries also started bilateral negotiations while pursuing multilateral ventures. For instance, in 2000, Japan started negotiations with Singapore for a future FTA. Almost immediately, it also promoted the Comprehensive Economic Partnership with ASEAN countries (AJCEP), which came into force in 2008 (Ministry of Foreign Affairs of Japan, 2008). Arguably, most East Asian countries have moved from their prior rejection to “discriminatory preferential trades” (essentially FTAs), and currently use them as “complementary tools for (multilateral) trade liberalisation” (Desker, 2004: 8).

2.5. Bilateral competitive liberalisation

A bilateral competitive approach considers trade agreements as an end in themselves, and they are not espoused to foster ‘value creation’ or strengthen international institutions.

While multilateral trade policies require commitment and a disposition to align competing countries’ interests, they usually involve a long-term negotiation process which is often overtaken by the pace of economic and technological advances (Sally, 2008). In consequence, some countries seek ‘fast-track’ agreements, which can shorten laborious multilateral negotiations. This type of trade policy has been termed ‘bilateral competitive liberalisation’ (Baldwin, 1997; Chorev, 2009; Sbragia, 2010).

The term describes a trade actor’s willingness to promote bilateral agreements to advance its interests and gain “first entry advantage” (Heron and Siles-Brugge, 2012). It is characterised by the employment of one-to-one provisions to ensure economic partnerships (namely FTAs and Economic Partnership Agreements (EPAs), among others).

A bilateral competitive approach considers trade agreements as an end in themselves, and they are not espoused to foster ‘value creation’ or strengthen international institutions. Countries such as the US have championed this strategy, notably under President Bush between 2001 and 2008. Other countries have also followed the US example. China, for instance, has already concluded FTAs with Chile (2006), Costa Rica (2010), Peru (2010), Switzerland (2014), and Australia (2015). Bilateral agreements have also gained importance in the EU, which has recently concluded negotiations with Japan (2017)—labelled as the most ambitious and comprehensive to date—and with Canada (CETA, in 2017) (European Commission, 2019b).

In sum, a variety of trade policies have been traditionally employed at different times and under different circumstances. The next section of this paper analyses the patterns that the EU and the US have followed to champion trade agreements in a more competitive and chaotic environment marked by the increasing commercial relevance of China.

3. American and European trade policy choices

In this section, and considering our policy choice set, we briefly address Sbragia's (2010) claim that the EU and the US engaged in a competitive interdependence relationship between 1995 and 2009. We explain how China has changed the international trade scenario and pressured both actors to change their policy choices: in the US case, towards a novel unilateral stance, and in the case of the EU, to a selective bilateralism.

3.1. A brief review of EU-US competitive interdependence (1995–2009)

Sbragia (2010) considers that for some 15 years after the creation of the WTO both the EU and the US engaged in a competition co-operation dynamic to advance their commercial interests. Moreover, she argues that these actors operated through two clearly differentiable mechanisms: they resorted to the 'WTO authority', to constrain each other's commercial advancements, and they also advanced their territorial influence. To do so, the EU and the US consciously defined and elaborated trade policies (strategies) to promote their interests and challenge each other.

In addition, Sbragia mentions that these trade actors challenged each other at two different moments. Initially, the author argues that the Rome Treaty (1957) and the Maastricht Treaty (1992) challenged the US, since both allowed Europeans to advance their territorial reach to 27 effective members. Accordingly, the expansion of the European Customs Union was also accompanied by its increasing influence in former colonies. She quotes the 'African, Caribbean and Pacific (ACP) and European Development Cooperation partnership' as an example that guarantees the export of a 'European model' of trade (also see Manchin, 2006). The US responded to European 'multilateral' expansion by fast-tracking NAFTA in 1993, which helped the US to consolidate its territorial influence in the Americas. Moreover, President Clinton proposed an even more ambitious Free Agreement of the Americas (FATA), although this did not materialise (Holmer and Bello, 1992: 188).

A second particular moment of the EU-US competitive engagement started when Europeans responded to the NAFTA agreement by initiating negotiations with the MERCOSUR² in 1995 (concluded in June 2019). In that year, the bloc also subscribed to the 'EU-Israel Association Agreement', which established market entry conditions for a partnership with the eastern Mediterranean country (it entered into force in 2000).

The EU search for commercial partnerships was not continuous, however. In 1997, it stopped due to the adoption of Commissioner Pascal Lamy's (1999–2004) 'Managed Globalisation' strategy. This strategy epitomised the European pure multilateral commitment (Heron and Siles-Brugge, 2012) in part because

² Common Market of the South (MERCOSUR) is a commercial integration initiative founded in by Argentina, Paraguay, Brazil, and Uruguay in 1991.

Lamy self-imposed a moratorium on pursuing new FTA deals, which he deemed detrimental to the WTO multilateral forum.

However, while Europeans adopted a pure multilateral stance, Americans rapidly gained momentum by fast-tracking FTA agreements. In this context, the US led a race against the EU to secure its investors access to third markets. Most of these processes occurred under the Bush administration (2000–08) when the US government created a sense of urgency about the necessity of FTAs. Bush and his trade representatives believed that the US was “lagging behind” in terms of trade. By the end of his mandate in 2008, the number of FTAs had risen from three to 16.

Sbragia’s analysis extends until 2009, at which point she foresaw a further convergence in both trade actors’ policy choices in favour of bilateralism. Later publications have confirmed this trend. De Ville and Siles-Brugge (2018), for instance, claim that EU trade policy has adopted a clear competitive bilateral stance as a response to the US challenge posed by President Bush. In fact, upon the failed Cancun (2003)

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conferences, the EU reconsidered its ‘Managed Globalisation’ strategy. In the words of Pascal Lamy: “... there [was] no way to structure and steer discussions among 146 members in a manner conducive to consensus” (Jaura, 2003).

Although authors have divergent opinions about exactly when Europe transited to a more bilaterally oriented trade policy, it is evident that this has been the case over the past decade. For the US the trend is clear: by the end of the Obama administration, the US had transited to a more

unilateral stance, characterised by the imposition of tariffs, the withdrawal from multilateral initiatives, and the preference for one-to-one negotiations. Why is this the case?

We argue that the growing important commercial role of China explains in part European and American trade policy choices after Sbragia’s period of competitive interdependence.

3.2. Trilateral competitive interdependence: The EU, the US, and the China factor (2010–18)

EU-US trade policy choices changed amid China’s rise in the international trade arena. Since its inclusion in the WTO, China’s share of total world exports has more than doubled, simultaneously harming the commercial positions of both the EU and the US. Recent figures released by the European Commission (2019f) shows that the bloc’s global trade of goods and services has declined by about 1 percent to 16.7 since 2008. In turn, the US position, which barely increased a half point from 13.5 to 14 percent in the same period, is currently challenged by China’s rise from 8.8 to 13.8 percent. Most notably, in terms of

total exports of goods and services, China currently holds 14.2 percent of the world's share, while the US is behind by 5 percentage points, holding 12.7 percent (European Commission 2019f: 21-22).

Commercial deficits have also soared. The US Census Bureau (2019) reports that its commercial balance deficit in relation to China reached \$429bn in 2018; this is a fivefold increase since China's inclusion in the WTO in 2001. In the case of the EU, the deficit is 180 billion euros, representing a relatively small increase since 2007, when the deficit reached 179 billion euros (Eurostat, 2019).

The role of China has been crucial in pressuring both American and European policy choices, ultimately making the competitive interdependence relationship between them shift towards securing their market shares in third countries from Chinese competition. We address this dynamic in the following sections.

4. The European Union

We analyse how the EU has eased its commitment to pure multilateralism. To do so, we explore the EU's recent trade strategies, especially the 'Global Europe Competing in the World' and the 'Trade for All' statements which illustrate these changes, most notably in relation to China and the US.

4.1. Pragmatic multilateralism

After the failed WTO Cancun (2003) negotiation rounds, the EU reconsidered its previous allegiance to multilateralism. In 2006, it released a new trade approach, the 'Global Europe Competing in the World' strategy, through which the bloc aimed to:

- (i) Promote the 'right' internal European policies responsive to external competitive challenges;
- (ii) Ensure EU market openness;³ and
- (iii) Adopt FTAs as a "faster and effective" previous step towards a posterior multilateral outcome (European Commission, 2006a).

This strategy set the criteria for Europe to establish future commercial relationships: a country's economic size, growth, and the level of protection extended to EU export interests (tariffs and non-tariff barriers) (European Commission, 2006a: 11).

Although the EU started to search for bilateral relationships, the 'Global Europe' approach was still considered complementary to—and not a replacement for—multilateral efforts. In fact, the then new

³ The EU refers to emerging markets as Brazil, India, and China, countries that combine economic growth with higher barriers to EU products: "the EU is open to exports from developing countries yet it's ready to go further". In addition, the EU also aims to build a focus in promoting certain areas: (i) non-tariff barriers; (ii) access to resources; (iii) services (which at the time represented 77 percent of GDP); and (iv) public procurement (European Commission, 2006: 8).

trade commissioner Peter Mandelson (2004–08) stated that “no European retreat from multilateralism” would occur (European Commission, 2006b). He claimed that his new trade policy sought to promote European involvement in the WTO as an additional platform to pursue agreements only if they were in line with European interests. It was an optional arena to fight third countries’ tariffs and limitations to trade. It was at its core—following our typology—a pragmatic stance.

Applied to China, the EU’s pragmatic multilateralism partially ensured the implementation of China’s commitments made on its accession to the WTO.⁴ Seven years after China’s inclusion in the WTO, however, the country had failed to comply with its commitments in relation to respect for intellectual property and subsidies to its industries. Moreover, the EU was especially concerned about China’s internal trade barriers to European investors: China requires that 51 percent of a total joint venture in the automaker and communication industries should be controlled by a local (Chinese) partner (European Parliament, 2011: 21). The EU considered this requirement particularly troublesome for its investors. Peter Mandelson worried that China could gain ‘market economy status (MES)’ by 2016 (as its accession protocol suggests) prior to having fully implemented its WTO commitments, although his preoccupation did not translate—unlike in the US (which set a Congressional Executive Commission on China)—into a specific task force to monitor the implementation of Chinese WTO commitments.

One of the major challenges for the determination of a coherent trade policy to constrain China is the EU’s flawed capacity to convey a unitary perspective.

Apart from the external limitations imposed by China, the EU also faced internal divergent voices. One of the major challenges for the determination of a coherent trade policy to constrain China is the EU’s flawed capacity to convey a unitary perspective. An evaluation conducted by the EU on its relationship with China—‘EU-China Trade Relationships’ (European Parliament, 2011: 21)—stresses that “without a strong consensus of member states to back the European Commission in its efforts to achieve reciprocal market access, the balance of power will remain overwhelmingly with China...The Commission does not possess the same political and economic power of an authoritarian and centralised state as China”.

In 2008, following the resignation of Peter Mandelson as trade commissioner, the ‘Global Europe’ strategy was replaced by the ‘Trade, Growth and World Affairs’ document. This new trade policy, presented by the trade commissioner Karel de Gucht (2010–14), pledged continuity, yet it also recognised China’s growing trade power as Europe’s main capacity test.

⁴ The commitments include: reduction in tariffs to an average of 10 percent by 2005; tariff rate quota to bring tariffs related to agriculture close to zero; elimination of quotas and licences in relation to imports; reduced participation of the state in the economy; and opening of critical sectors such as communications, banking, insurance, and asset management. The protocol also includes commitments in relation to respect for intellectual property. See Lardy, N. (2001), *Issues in China’s WTO Accession* (Brookings Institution). Online: <https://www.brookings.edu/testimonies/issues-in-chinas-wto-accession/>

In his relationship with China, de Gucht argued to reopen the previously cancelled ASEAN region-to-region agreements, although this time in a bilateral format (European Commission, 2010). He thought that engaging in FTAs at a faster rate in the ASEAN region would help to secure European investments and access to the government procurement market in China. He further mentioned that “[The EU] must deliver the multilateral and bilateral trade deals already underway or on the starting block” (European Commission, 2010: 1).⁵ He also advocated for a reciprocal policy with China which focused on three priorities: the dismantling of trade barriers that prevent EU exports, the promotion of European companies in China, and potential engagement. Through this strategy the EU also sought to establish institutional channels of co-operation and communication with China, among the suggestions being: annual summits at the level of the head of state (either in Beijing or Brussels), executive meetings (at the level of the European Commission president and the Chinese premier), regular meetings with the EU High Representative for Foreign and Security Policy and the Chinese counterpart, and regular annual meetings between other minor officials and directorates (e.g. political directors and Asia-Pacific Affairs).

In sum, European pragmatic multilateralism set the initial priorities for its future relationship with China. During this period the EU relationship with China was mainly multilateral, yet in the following years it changed towards a more bilateral oriented—although still selective—relationship.

4.2. Bilateral competitive liberalisation

Towards the end of the de Gucht period in 2014, the EU’s trade policy gradually shifted to a clearer bilateral stance. Important to mention is that scholars still disagree on whether Europe’s transition to a more bilateral oriented trade policy occurred during de Gucht’s administration or right after he resigned from office.

Heron and Siles-Brugge (2012) argue that European trade policy during the Mandelson era (2004–08) had already embraced a bilateral ‘competitive’ tendency. Similarly, De Ville and Siles-Brugge (2018: 249) contend that while the ‘Global Europe’ strategy still presented a multilateral focus, ‘Trade, Growth and World Affairs’ clearly searched for partnerships at the bilateral level, thus being closer to the definition of bilateral ‘competitive liberalisation’.

Despite these doubts about precisely when the EU shifted towards a bilateral stance, it is still clear that, since Lamy’s ‘pure multilateralism’, Europe has transitioned to a more bilaterally oriented trade policy. This approach was officially confirmed in the new ‘Trade for All’ strategy forged under the administration of

⁵ As they mention: “Getting EU exporters better access to the ASEAN market is a priority for the EU. Negotiations for a region-to-region trade and investment agreement between the EU and ASEAN were launched in 2007. These talks were then paused by mutual agreement in 2009 to give way to a bilateral format of negotiations. These bilateral trade and investment agreements were conceived as building blocks towards a future region-to-region agreement” (European Commission, 2019d: 1).

Cecilia Malmström (2014–date). In this document, she openly advocates the FTA path as an effective method to open markets for EU goods and services.⁶ She argues:

...to boost the EU's capacity to benefit from trade and investment, [we] have developed a trade agenda that complements EU engagement in the WTO...While FTAs in force covered less than a quarter of the EU ten years ago, that is not the case for more than a third of EU trade. It could reach to two-thirds if all ongoing negotiations are concluded. (2015: 9)

Malmström's new bilateral trade policy is a response to the intensifying competition brought by the emergence of China as a trade power. She continues with the de Gucht strategy to secure FTAs, especially in the ASEAN region, which is considered "crucial to European Commercial interests" (2015: 31). In that sense, the EU currently regards as 'top priority' the negotiations with countries such as Japan (started in 2013 and signed in 2017), Vietnam (started in 2009 and a first agreement concluded in 2018), and Singapore (started in 2010 and concluded in 2018). Furthermore, the European Commission authorised, in May 2018, the negotiation of future FTAs with Australia and New Zealand.

Also, the Malmström administration has changed the EU's previous commitment to multilateral organisations, namely the Doha ministerial conferences (officially in impasse since the 2009 Potsdam meeting). It went from Mandelson's "Doha remains our priority" to the pragmatic Malmström's "turning the page on it" approach (European Commission, 2015: 9-10).

However, when it comes to China, the EU still simultaneously pursues bilateral and multilateral approaches. The 'Trade for All' document claims to 'rebalance' the EU-China relationship, in terms of market access, investment limitations, and transparency. At the multilateral level, the EU seeks to bind China through WTO pacts in order to secure a better playing field for European firms. These pacts

The EU has already been making consistent steps on the way to its goal of setting a more level playing field with China... [The] bloc has changed its approach to China; it has adopted more selective bilateral negotiations, while it continues efforts to constrain China at the multilateral level.

include: the Technology and Information Agreement (which aims to eliminate tariffs on IT products), the Trade in Services Agreement (which aims to liberalise transport, health care, and banking), as well as the Government Procurement Agreement (which aims for transparency in the procurement market) (European Commission, 2019b). At the bilateral level, the EU also wants a bilateral investment agreement. It aims to reduce pending limitations to European investors in the Chinese market, and to improve transparency concerning licensing

and authorisation procedures. This measure is deemed to be the start of a balanced protection of European investors in China, whose participation in joint ventures is restricted to 49 percent of a

⁶ Which makes 40 percent of total exports and 70 percent of GDP (European Commission, 2015: 9).

company's ownership; in Europe, in contrast, Chinese investors went from controlling 5,000 firms in 2007, to 28,000 in 2017. The EU formally started negotiations in 2014 (European Commission, 2013a: 6).

Notwithstanding the EU's initial steps to engage bilaterally with China, it is not yet considering an FTA. Europe still expects some Chinese domestic reforms concerning intellectual property and transparency (European Commission, 2010: 2).

As part of the new 'rebalance' effort, on 12 March 2019, the EU released its 'EU-China: A Strategic Outlook' which complements the already existing '2020 Strategic Agenda for Cooperation with China' and the 'Trade for All' strategy, by analysing the challenges and opportunities China as a trading power represents for the EU (European Commission, 2019b). In this document, the bloc considers that China should no longer be considered as a 'developing country'; instead, *it should be considered as a trade and technological power, and therefore be treated by the EU as a co-operating partner, an economic competitor, as well as a systemic rival*. In Sbragia's (2010) terms, the EU has established a competitive interdependence relationship with China. Moreover, the newly released EU strategy proposes that future negotiations should rely on three clear principles:

- (i) The deepening of commercial links, although following EU multilateral principles (most notably in terms of climate change);
- (ii) The pursuit of robust and reciprocal policies (to secure the EU's interest in China); and;
- (iii) The internal adaptation of the EU to fast-changing economic realities (in special technological challenges).

Furthermore, during the 2019 EU-China summit, both actors agreed to three Memorandums of Understanding (MoUs) which set the basis for their future relationship. They have addressed topics concerning:

- (i) state aid/control and fair competition;
- (ii) expert dialogues on anti-trust law and enforcement; and
- (iii) initial topics for negotiations in relation to energy policy and climate change (European Council, 2019).

Undoubtedly, the EU has already been making consistent steps on the way to its goal of setting a more level playing field with China. Under the Malmström administration, the bloc has changed its approach to China; it has adopted more selective bilateral negotiations, while it continues efforts to constrain China at the multilateral level.

5. The United States

At the end of the Bush era, and under President Obama's administration, the US adopted a more pragmatic stance, seeking to advance its trade interests by reinvigorating the role of multilateralism, while also revising some of the FTAs deemed harmful to the American economy (i.e. NAFTA's labour provisions). More recently, President Donald Trump has led US trade policy to a novel, unilateral stance, and taken a harsh line with China (and, indeed, with many other trading partners). We now describe how the US opted for different trade choices in the last decade.

5.1. Pragmatic multilateralism

Upon the election of Barack Obama as US president, the previous bilateral liberalisation doctrine championed by President Bush faced strong criticism. The presumed benefits of FTAs to American industries were called into question.⁷ Cooper (2014: 11), for instance, reports that some interest groups (e.g. United Auto Makers—UAW) considered that FTAs "...undermine the ability of governments in the region to regulate their economies in the interests of their citizens and intensify the downward pressure on workers' incomes through competition for jobs and investments. Other actors also expressed concerns: US steel manufacturers, for instance, argued that the South Korea FTA agreement (KORUS) would potentially damage US trade through countervailing duty laws. A similar claim came from the American Federation of Labor and Congress of Industrial Organisation (AFL-CIO) (Williams et al., 2014).

Obama responded to these concerns by proposing a 'new template' to establish future bilateral negotiations (Zepeda et al., 2009: 2). In his inaugural Trade Policy Agenda in 2009, President Obama announced a revision of NAFTA's labour section, which was considered damaging to US industry as it neither included workers' rights nor income schemes sections (in relation to Mexico's flawed labour regulations).⁸

Eventually, Obama's reconsideration of FTAs gradually evolved into a full-blown doctrine. In 2016, the president's Trade Policy Agenda coined a term for his approach: '*pragmatic multilateralism*' (USTR, 2016: 26). As presented in Table 1, this concept elicits the pragmatic usage of multilateral institutions to

⁷ Although President Bush's bilateral trade policy received strong criticism from the upcoming Obama administration, the Democrat-controlled US Congress—after a period of reconsideration during the 110th and 111th legislatures—approved pending FTAs with Colombia, Panama, and South Korea (USTR, 2008; Arregui, 2015) that the Bush administration had negotiated.

⁸ President Obama stated: "*We will also work with Canada and Mexico to identify ways in which NAFTA could be improved without having an adverse effect on trade. We will do this in a collaborative spirit and emphasise ways in which this process can benefit the citizens of all three countries. And, we will consider proposals for new bilateral and regional agreements when they promise to deliver significant benefits consistent with our national economic policies. If new negotiating authority is required, we will seek that from Congress*" (USTR 2009: 4).

advance a country's interests. In practice, while the US considered bilateral relationships crucial, it also "opted for a multi-faceted regional and economic relationship" which could project an international image of a "competent and committed partner" (USTR 2016: 26). In other words, the US opted to advance its interests both through bilateral and multilateral schemes.

Applied to China, US pragmatism operated at two levels. On the multilateral level, the Obama administration committed to finalising the TPP negotiations as a mechanism to counter China's expansion, by setting strict trade rules with Asian partners (e.g. anti-piracy laws and intellectual property regulations), while at the same time the US repeatedly challenged China's trade practices in the WTO. In 2010, the US formulated a dispute against China over its blockade of American electronic payment firms—a yearly market of \$1tn (USTR, 2015: 13). Also, in 2011, the US opened another dispute in the WTO against China, claiming that the country must align with the General Procurement Agreement Pact (GPA) to guarantee US access to China's large government 'procurement market' (USTR, 2015: 13). In one of his administration's last actions against China, the US opened a dispute concerning the limitations imposed on the export of 'rare earth materials' (tungsten and molybdenum). China produces 97 percent of all these materials, which are important for 'advanced electronics' (Arregui, 2015; USTR, 2016).

On the bilateral level, in turn, President Obama established a Joint Commission on Commerce and Trade (JCCT) that sought to reach formally a co-ordinated solution to issues concerning China's Internet piracy, its violation of intellectual property rights (IPR), and wind energies. Furthermore, in 2016, the US raised the possibility of a Bilateral Investment Treaty (BIT), which could have eased the prior requirement on American companies to partner with Chinese ones in order to penetrate its market (USCBC, 2014).

Arguably, most US trade policy changes were a response to China's emergence as a pre-eminent trade power. Yet Obama's pragmatic stance extended to the EU as well,⁹ although more so in his first term. Between 2009 and 2013, the US Trade Policy Agenda shows that President Obama actively searched for a mutual partnership based on the Transatlantic Trade and Investment Partnership (TTIP) (USTR, 2013). However, since 2014, references to the TTIP have declined and it was barely mentioned in the 2015 and 2016 US Trade Policy Agendas. Most recently, in 2019 the European Council (2019: 3) reported that after

⁹ In 1995, the US and the EU agreed on the New Transatlantic Agenda (NTA), which sought joint action for their participation in the Uruguayan round, while also opening talks for a multilateral OECD trade agreement, named the Transatlantic Marketplace (Bown and Crowley, 2016). Subsequently, in 2000, both actors set up the Transatlantic Economic Partnership (TEP) conveying on issues such as the elimination of regulatory barriers and preparing the ground for future multilateral negotiations in the WTO (European Commission, 2002). Following these efforts, in 2007, they also set up the Transatlantic Economic Council (TEC) which was deemed conducive to high-level negotiations. It was integrated by three advisory groups: legislator's dialogue, consumer dialogue, and business dialogue. But it was not until 2013 that this entity—along with the US-UE High Level Working Group on Jobs and Growth—chaired by Ron Kirk, US trade representative, and Karel de Gucht, European commissioner for trade, started negotiations towards a comprehensive Transatlantic Trade and Investment Partnership (TTIP). The TTIP aimed to: (i) reduce barriers to trade in goods (tariffs and tariff-rate quotas); (ii) eliminate barriers in goods services and investment; (iii) enhance compatibility of regulations and standards; (iv) eliminate 'behind the border' non-tariff barriers to trade in all categories; and (v) improve regulation (European Commission, 2002: 5-10).

15 negotiation rounds “the negotiation directives of the TTIP have become obsolete”, meaning that conversations have stopped indefinitely.

5.2. Unilateralism

In 2016, following the election of Donald Trump, the US adopted a trade policy characterised by strong unilateralism (Brinkley, 2018). The 2017 US Trade Policy Agenda establishes four clear objectives:

*Applied to China,
President Trump's
unilateral framework
translates into economic
sanctions.*

- (i) To consider US trade policy as a national security issue, meaning that any action (sanctions, tariffs, or retaliation measures) to secure favourable trade deals would be taken (these actions are possible under WTO national security exceptions);
- (ii) A special focus on strengthening US exports of goods and services, with mercantilist overtones, which means any possible policy to encourage positive trade balances would also be taken;
- (iii) The renegotiation of existing deals (in particular NAFTA) while simultaneously searching for better deals worldwide; and
- (iv) The reform of the multilateral trade system towards a country-to-country (one-to-one) relationship basis (USTR, 2017).

In practice, American new unilateralism promotes the withdrawal from various ongoing multilateral negotiations, including most prominently the TPP and TTIP. On the former, the administration advocates direct negotiation of FTAs following a bilateral basis given that the TPP has “...no way to [be] fixed” (CNBC, 2018). On the latter, the administration mentions that there has been a lack of interest from Europe to conclude negotiations.¹⁰

Moreover, the Trump administration’s preference for direct negotiations, different from Bush’s ‘competitive bilateralism’ or Obama’s ‘multilateral pragmatism’, involves the rejection of existing multilateral organisations that the president considers biased in favour of third countries (especially China). Thus, the new US unilateralism rejects the WTO’s dispute settlement panel arguing that “it does not automatically translate in changes, [therefore] posing a threat to US trade sovereignty”. Henceforth, the adoption of a “unilateral action [should] support the country’s effort to enforce US laws” (USTR, 2018: 1), not leaving everything to the agreements eventually reached in WTO ministerial conferences.

¹⁰ Moreover, it was also mentioned that: “As a general matter we [Trump’s Administration] believe that goals [...] can be accomplished by focusing on bilateral negotiations rather than multilateral and revising trade agreements when our goals are not being met” (USTR, 2017: 1).

Applied to China, President Trump's unilateral framework translates into economic sanctions. He has imposed tariffs on China's imports worth \$250bn, which started in September 2018 at a rate of 10 percent, reaching 25 percent in January 2019 (CNBC, 2018). These tariffs aim to bring China to the negotiating table—a tactic that could follow the framework of previous negotiations conducted during President Obama's administration, namely the suggested BIT. President Trump also commissioned an investigation of the US Trade Representative (USTR) under Section 301 of the 1974 Trade Act to determine whether China's policies related to technology transfer, intellectual property, and innovation are discriminatory (USTR, 2018: 16). A 'Section 301' investigation determines whether a country

- (i) Violates or is inconsistent with US trade agreements, and;
- (ii) Creates an unjustifiable burden to US commerce.

The results of the investigation should produce a dispute under WTO terms, and in cases when the disputed country violation relates to intellectual property or is bounded by an FTA, the USTR determines retaliation measures in the form of increased tariffs. Also, on 5 May 2019 the president announced his intention to slap a 25 percent tariff on another \$200bn worth of Chinese imports.

Perhaps one of the most recent and notable cases was the levy imposed on the Chinese telecom firm Huawei as part of US retaliation measures. US authorities have cast doubt on Huawei's independence from the Chinese Communist Party, and worried that it could use its newly developed 5G technology as an 'espionage network' (*The New York Times*, 2019).

The US blacklisted Huawei in May 2019 and restricted its access to technology developed by American-based firms, including Google, which supports Huawei mobile phones' operative systems. Despite some reconciliatory overtones during the G-20 Osaka meetings in June 2019 (in which the US promised to reverse the levy imposed on Huawei in exchange for more agricultural purchases by China), the US has further restricted Huawei from employing US technology (i.e. Google) on its new 5G flagship phone released in September 2019 (*The Economist*, 2019). This restriction also extends to future Huawei releases.¹¹

Through these measures, the US aims to force talks with China in search for a more comprehensive agreement which involves settling China's disputed intellectual property policies. Since the early 1990s, China's trade policy (particularly as it pertains to IPR) has been the object of Section 301 investigations in the US. In 1992, the US launched an investigation into China's IPR and threatened to apply tariffs of up to \$3.9bn. In 2010, the US launched another investigation about presumed limitations to US firms' investments in the Chinese market and wind power subsidies. These cases "resulted in bilateral

¹¹ Moreover, the US announced a new increase of the rate of tariffs by 5 percent against China in September 2019 and December 2019. Also, existing punitive levies on Chinese goods worth \$250bn have been raised to 30 percent. China has retaliated by slapping 10 percent tariffs on all US products, the freezing of further US agricultural purchases, and a new 5% tariff on US-imported oil (*The Wall Street Journal*, 2019).

agreements before tariff hikes were implemented” (US Congress, 2019). In March 2018, President Trump announced a series of measures to retaliate against China’s “economic aggression”, based on tariffs on China’s imports (which he implemented in September 2018), initiated a WTO dispute on China’s discriminatory licensing (filed in March 2018), and set investment restrictions to China’s acquisition of US firms working on sensitive technologies (*Economist Times*, 2018).

In addition to IPR concerns, the US has also repeatedly asserted that China artificially undervalues the renminbi (RMB) to “inflate its net exports” (Mosbasher Institute, 2018). In fact, in August 2019, the US Treasury Department finally designated China as a “currency manipulator” and argued that it has a history of “protracted large interventions in the foreign exchange market despite having large foreign exchange reserves” (US Treasury, 2019: 1). President Trump seconded these claims and threatened new \$300bn tariffs on Chinese products; in response, China devalued its currency by about 8 percent in comparison to 2018 (US Treasury 2019: 39).

The US aims to force talks with China in search for a more comprehensive agreement which involves settling China’s disputed intellectual property policies

President Trump’s approach has provoked spirited debates among scholars. While some argue that Trump’s unilateralism is novel and resembles early 19th-century protectionist policies (Irwin, 2017; Noland, 2018), others argue that US trade policy under Trump presents clear continuities, although by different means to those employed under Presidents Obama and Bush. His reliance on a ‘one-to-one’ scheme might be a response to a long story of unresolved disputes with China’s subsidies and lack of enforcement of IPR policies. What is undeniable, however, is that in the current US trade policy, China plays a major role.

6. Conclusion

Has the previous competitive interdependence between the EU and the US become tripolar by including China? The revision of both actors’ trade policies after Sbragia’s analysis (1995–2009) seems to confirm this path.

Previous EU-US relationships, where each actor adjusted their policies relative to the other, are currently facing the challenge of China’s inexorable rise. Recent figures show that China’s export power expansion has had an impact on both EU and US global markets shares.

This scenario has provoked a re-evaluation of the trade strategies of these two actors. Previously focused on constraining each other either multilaterally through the WTO or bilaterally through FTAs, both Europeans and Americans have redirected their efforts to contain China’s impact; therefore they have modified their trade choices accordingly. We believe that this process also has a number of important implications for the structure, competition, and co-operation underpinning international trade.

First and foremost, a gradual abandonment of multilateral forums—or their eventual employment as complementary rather than primary channels of negotiations—is one of the most important consequences. Between 2009 and 2018, Europeans and Americans gradually reduced their commitment to multilateralism by adopting more bilateral trade policies. Analysts have blamed the failure of the WTO Doha and Cancun rounds as the underlying causes, but multilateral disenchantment also responds to the failed efforts of the Europeans and Americans to counter Chinese commercial expansion. They have subsequently failed to make the Asian country accountable to WTO rules (e.g. through the Trade in Services Agreements, Government Procurement Agreement, and other bilateral negotiations such as the Bilateral Trade Agreement). Instead, more recently both trade actors have resorted to new strategies to counter Chinese competition.

The EU, for instance, has recently released its ‘EU-China: A Strategic Outlook’ document, in which the bloc openly considers China as both a partner and a competitor. This new strategy also reveals that further negotiations with the Asian power will involve reciprocal policies in terms of investment. The US, in turn, has gradually adopted a more radical approach. Under President Obama, the US adopted a pragmatic multilateralism strategy, which combined the bilateral and multilateral simultaneously. On the one hand, he searched for a multilateral deal to expand US influence to Asia through the TPP, while also challenging China in the WTO’s Appellate Body for its restrictive government procurement policies. On the other, he also searched for a bilateral agreement (the BIT). Under President Trump, however, the US has adopted a tougher line against China. The US accused China of prejudicial intellectual property policies, and discriminatory practices against American companies’ participation in its market. So far, the US approach has been tariff-based, looking to accelerate bilateral negotiations with the final objective to reach a deal that facilitates US industries’ participation in China’s digital market (a negotiation that actually started during the Obama era under the BIT).

A second implication is more theoretical, and we consider it deserves further scholarly attention. The change of the structure of trade competition and co-operation from bilateral to trilateral, along with the loss of interest in multilateral initiatives, signals the rupture of the post-war institutional order. The GATT, born in 1947, sustained multiple negotiation rounds which served as the basis for the global trade liberalisations of the 20th century. The underlying idea of the GATT responded to the need to create a predictable, rule-based international order and preventing commercial war scenarios emerging similar to those of the 1930s. Yet building institutions also depends on members’ transparency, and their capacity to enforce agreements and rules. This has not been the case with China. Since its inclusion in the WTO, China has repeatedly challenged intellectual property policies, resorted to dumping to boost its exports, and manipulated its currency to obtain competitive advantages. It is important to mention again that China has been the object of ‘Section 301’ investigations in multiple years (1992, 2010, and 2012), and avoided tariff impositions by resorting to bilateral agreements which have not been properly enforced. Other trade actors, especially the US, increasingly consider China’s trade policies to be in clear violation of the multilateral agreements, and have questioned the WTO’s rule enforcement potential. This new

scenario might allow other powerful countries, and other trade actors, to reject established institutions, thus enhancing international anarchy and leading to more conflictive and unstable world trade.

Finally, and as a third implication, we consider that the EU faces important internal challenges to conveying its collective stance with a unitary voice. Although the Maastricht Treaty grants the European Commission the power to define a common trade policy, the EU-27 still faces internal divergent interests: on the one hand, Italy has signed a non-binding MoU, opening its participation in China's *Belt and Road* initiative;¹² on the other, Emmanuel Macron reacted by inviting the European Commission president, Jean-Claude Juncker and the German chancellor, Angela Merkel, to his bilateral summit with the Chinese president Xi Jinping in March 2019. While President Macron aims to give a clear message that the bloc will follow a 'co-ordinated' strategy with the Asian giant, the (former) Italian prime minister, Matteo Salvini, searched for one-to-one based negotiations. In sum, the EU's internal politics might represent an important challenge to its foreign policy, especially when faced with an authoritarian state such as China.

Undoubtedly then, both the EU and the US have turned their bilateral competitive interdependence relationship into a much more complex trilateral structure that includes China.

¹² *The Guardian* (2019): 'Italy and China in plan for new Silk Road-style trade network'. Accessed 04.04.2019. Online: <https://www.theguardian.com/world/2019/mar/23/italy-china-new-silk-road-belt-and-road-g7>

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